

*Status: Point in time view as at 01/02/1993.*

*Changes to legislation: There are currently no known outstanding effects for the Friendly Societies Act 1992, SCHEDULE 17. (See end of Document for details)*

## SCHEDULES

### [<sup>F1</sup>SCHEDULE 17

Section 97.

#### AMENDMENTS OF POLICYHOLDERS PROTECTION ACT 1975]

##### Textual Amendments

**F1** Schs. 17-19 shall cease to have effect (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*prosp.*) by virtue of S.I. 2001/2617, arts. 2(a), 8(1), 13(1), Sch. 3 para. 130 (with art. 13(3), **Sch. 5**) and are repealed (*prosp.*) by S.I. 2001/2617, arts. 2(b), 13(2), Sch. 4 (with art. 13(3), **Sch. 5**)

1 (1) In section 1 (the Policyholders Protection Board), in subsection (2), after paragraph (a) there shall be inserted the following paragraph—

“(aa) to take the measures provided for by sections 8A to 16 below for the purpose of indemnifying (in whole or in part) or otherwise assisting or protecting—

[<sup>F2</sup>(i) members of friendly societies who have entered into contracts of insurance with societies of which they are members;]

(ii) others who have been or may be prejudiced in consequence of the inability of friendly societies to meet their liabilities under such contracts; and

(iii) persons who have entered into contracts of insurance with friendly societies for the provision of group insurance benefits to the members of a group scheme (within the meaning of section 11 of the Friendly Societies Act 1992);

but, in relation to benefits provided by a friendly society in pursuance of such a scheme, a person falling within sub-paragraph (iii) above is not entitled to be indemnified, assisted or protected if the members of the scheme are required to be members of the society.”

(2) In paragraph (b) of that subsection, after the word “companies” there shall be inserted “friendly societies”.

##### Textual Amendments

**F2** Sch. 17 para. 1(1) words substituted (19.3.1997) by 1997 c. 18, ss. 20, 23(2), **Sch. 4 para. 1**

1 (1) In section 1 (the Policyholders Protection Board), in subsection (2), after paragraph (a) there shall be inserted the following paragraph—

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- “(aa) to take the measures provided for by sections 8A to 16 below for the purpose of indemnifying (in whole or in part) or otherwise assisting or protecting—
- (i) members of friendly societies carrying on insurance business in the United Kingdom who have entered into contracts of insurance with societies of which they are members; and
  - (ii) others who have been or may be prejudiced in consequence of the inability of friendly societies to meet their liabilities under such contracts; and
  - (iii) persons who have entered into contracts of insurance with friendly societies for the provision of group insurance benefits to the members of a group scheme (within the meaning of section 11 of the Friendly Societies Act 1992);

but, in relation to benefits provided by a friendly society in pursuance of such a scheme, a person falling within sub-paragraph (iii) above is not entitled to be indemnified, assisted or protected if the members of the scheme are required to be members of the society.”

- (2) In paragraph (b) of that subsection, after the word “companies” there shall be inserted “friendly societies”.

2 After section 3 there shall be inserted the following section—

**“3A Authorised and other friendly societies.**

- (1) The functions of the Board under this Act shall be exercisable in relation to persons such as are mentioned in section 1(2)(aa) above only in cases where the friendly societies in question are qualifying friendly societies.
- (2) Friendly societies are qualifying friendly societies if—
  - (a) they are authorised friendly societies;
  - (b) the Board is satisfied that they fall within subsection (3) or (4) below; or
  - (c) the Board has at any time been so satisfied.
- (3) A society falls within this subsection if—
  - (a) it is required by section 48 of the Friendly Societies Act 1992 to maintain a margin of solvency; and
  - (b) it possesses the margin of solvency which it is required to maintain.
- (4) A society falls within this subsection if—
  - (a) it is not required by section 48 of the Friendly Societies Act 1992 to maintain a margin of solvency; but
  - (b) the value of its assets exceeds its liabilities.
- (5) It shall be the duty of the Commission to send the Board any abstract or other information required by the Board to enable it to perform the functions conferred on it by this section.”

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- [<sup>F3</sup> (1) Section 4 (protection confined to insurance under qualifying policies of protected risks or commitments) shall be amended as follows.
- (2) In subsection (2), at the end there shall be inserted ,
- (c) a contract of insurance with a friendly society entered into through an establishment in—
- (i) the United Kingdom,
- (ii) another EEA State, or
- (iii) the Channel Islands or the Isle of Man.”
- (3) In subsection (3)—
- (a) in paragraph (a), after “above” there shall be inserted “, or a contract falling within subsection (2)(c)(i) above”,
- (b) in paragraph (b), after “above” there shall be inserted “, or a contract falling within subsection (2)(c)(ii) above”, and
- (c) in paragraph (c), after “above” there shall be inserted “or a contract falling within subsection (2)(c)(iii) above”.]

#### Textual Amendments

**F3** Sch. 17 para. 3 substituted (19.3.1997) by 1997 c. 18, ss. 20, 23(2), Sch. 4 para. 2

- 3 In section 4 (protection confined to United Kingdom policies) after subsection (2) there shall be inserted the following subsection—

“(3) A contract of insurance with a friendly society is a United Kingdom policy for the purposes of this Act at any time when the performance by the society of any of its obligations under the contract would constitute the carrying on by the society in the United Kingdom of insurance business of any class.”

- 4 In the heading preceding section 5 (duties of the Board in case of companies in liquidation) after the word “companies” there shall be inserted “ and friendly societies ”.

- 5 After section 5 there shall be inserted the following section—

#### “5A Application of sections 8A, 10 and 11.

- (1) The functions of the Board under sections 8A, 10 and 11 below are exercisable in the case of a registered friendly society if—
- (a) an order has been made for the winding up of the society on a petition under section 87 of the <sup>M1</sup>Friendly Societies Act 1974;
- (b) it has terminated under paragraph (a) of subsection (1) of section 93 of that Act upon the happening of an event;
- (c) it has been dissolved in accordance with paragraph (b) of that subsection; or
- (d) an award has been made under section 95 or section 95A of that Act.

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- (2) The functions of the Board under sections 8, 10 and 11 below are exercisable in the case of an incorporated friendly society if—
- (a) an instrument of dissolution has been approved under section 20 of the Friendly Societies Act 1992;
  - (b) a special resolution that it be wound up voluntarily has been passed under section 21 of that Act; or
  - (c) an order has been made for the winding up of the society on a petition under section 22 or 52 of that Act.
- (3) In this Act “closing society” means a friendly society in the case of which the Board’s functions are exercisable under subsection (1) or (2) above.
- (4) References in this Act to the beginning of the liquidation of a closing society are references—
- (a) in a case falling within paragraph (a) of subsection (1) above, to the date of the order;
  - (b) in a case falling within paragraph (b) of that subsection, to the date of the happening of the event;
  - (c) in a case falling within paragraph (c) of that subsection, to the date of signature of the instrument of dissolution;
  - (d) in a case falling within paragraph (d) of that subsection, to the date of the award;
  - (e) in a case falling within paragraph (a) of subsection (2) above, to the date of signature of the instrument of dissolution;
  - (f) in a case falling within paragraph (b) of that subsection, to the date of the passing of the special resolution; and
  - (g) in a case falling within paragraph (c) of that subsection, to the date of the order.”

#### Marginal Citations

**M1** 1974 c. 46.

- 6 (1) In section 8 (general policies other than compulsory policies), in subsection (1) after the word “policy”, in the first place where it occurs, there shall be inserted “ issued by an [<sup>F4</sup>insurance company to which this Act applies] ”.
- (2) In subsection (4) of that section, for the words “ this Act ” there shall be substituted “ the application of this Act to [<sup>F5</sup>insurance companies which are not friendly societies] ”.

#### Textual Amendments

**F4** Words in Sch. 17 para. 6(1) substituted (19.3.1997) by 1997 c. 18, ss. 20, 23(2), Sch. 4 para. 3(2)

**F5** Words in Sch. 17 para. 6(2) substituted (19.3.1997) by 1997 c. 19, ss. 20, 23(2), Sch. 4 para. 3(3)

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- 6 (1) In section 8 (general policies other than compulsory policies), in subsection (1) after the word “policy”, in the first place where it occurs, there shall be inserted “ issued by an authorised insurance company ”.
- (2) In subsection (4) of that section, for the words “ this Act ” there shall be substituted “ the application of this Act to authorised insurance companies ”.
- 7 After section 8 there shall be inserted the following section—

**“8A General contracts made by friendly societies**

[<sup>F6</sup>(1)]Subject to sections 13 and 14 [<sup>F6</sup>and subsection (2)] below, where the Board’s functions are exercisable in relation to a closing society, it shall be the duty of the Board to secure that a sum equal to ninety per cent of the amount of any liability of the society to a private policyholder (within the meaning of section 6(7) above) under the terms of a contract the effecting of which constituted the carrying on of general business of any class and which [<sup>F7</sup>is a qualifying policy] is paid to the member as soon as reasonably practicable after the beginning of the liquidation.”

- [<sup>F8</sup>(2) The duty of the Board under subsection (1) above shall only apply if the liability is in respect of a protected risk]

**Textual Amendments**

- F6** Words in [Sch. 17 para. 7](#) (inserting 8A(1) in the 1975 Act) inserted (19.3.1997) by [1997 c. 18, ss. 20, 23\(2\)](#), [Sch. 4 para. 4](#)
- F7** Words in [Sch. 17 para. 7](#) (inserting 8A(1) in the 1975 Act) substituted (19.3.1997) by [1997 c. 18, ss. 20, 23\(2\)](#), [Sch. 4 para. 4](#)
- F8** Words in [Sch. 17 para. 7](#) (inserting 8A(2) in the 1975 Act) inserted (19.3.1997) by [1997 c. 18, ss. 20, 23\(2\)](#), [Sch. 4 para. 4](#)

- 7 After section 8 there shall be inserted the following section—

**“8A General contracts made by friendly societies**

Subject to sections 13 and 14 below, where the Board’s functions are exercisable in relation to a closing society, it shall be the duty of the Board to secure that a sum equal to ninety per cent of the amount of any liability of the society to a private policyholder (within the meaning of section 6(7) above) under the terms of a contract the effecting of which constituted the carrying on of general business of any class and which was a United Kingdom policy at the beginning of the liquidation is paid to the member as soon as reasonably practicable after the beginning of the liquidation.”

- 8 (1) In section 10 (long term policies), in subsection (1) for the words “this Act” there shall be substituted “ the application of this Act to insurance companies ”.
- (2) At the end of that section there shall be added the following subsection—

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“(3) In this Act references to a “long term policy” include, in relation to a friendly society, references to a contract the effecting of which constituted the carrying on of long term business of any class, not being a contract of reinsurance.”

9 In section 11 (special provision for future benefits under long term policies) after [F9 subsection (3A)] there shall be inserted the following subsection—

[F10“(3B)] This section applies to a long term policy of a closing society as it applies to a long term policy of a company in liquidation but—

(a) with the addition at the end of subsection (3) above of the words “subject to the giving up of any right to a payment on dissolution of the society”; and

[F11(b) in subsection (5)(b) below, with the insertion after the words “this Act applies” of the words “or authorised friendly society”]; [F12] and in subsection (5)(a) for “another” there shall be substituted “an”]

#### Textual Amendments

**F9** Words in Sch. 17 para. 9 substituted (19.3.1997) by 1997 c. 18, ss. 20, 23(2), Sch. 4 para. 5(a)

**F10** Words in Sch. 17 para. 9 renumbered (19.3.1997) by 1997 c. 18 ss. 20, 23(2), Sch. 4 para. 5(b)

**F11** Words in Sch. 17 para. 9 substituted (19.3.1997) by 1997 c. 18, ss. 20, 23(2), Sch. 4 para. 5(b)

**F12** Words in Sch. 17 para. 9 inserted (19.3.1997) by 1997 c. 18, ss. 20, 23(2), Sch. 4 para. 5(c)

9 In section 11 (special provision for future benefits under long term policies) after subsection (3) there shall be inserted the following subsection—

“(3A) This section applies to a long term policy of a closing society as it applies to a long term policy of a company in liquidation but—

(a) with the addition at the end of subsection (3) above of the words “subject to the giving up of any right to a payment on dissolution of the society”; and

(b) in subsection (5) below, with the insertion after the words “insurance company” of the words “or friendly society”.”

10 After section 11 there shall be inserted the following section—

**“11A Application of provisions to closing societies.**

Sections 12, 13, 14(2) to (9) and 15 shall apply to a closing society as they apply to a company in liquidation.”

11 At the end of section 16 (companies in financial difficulties) there shall be added the following subsection—

“(10) This section applies to a friendly society, not being a closing society—

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- (a) with the substitution of the following subsections for subsection (1)  
—
- [<sup>F13</sup>(aa) with, in subsection (3), the substitution for “another” of “an”];
- (“) A friendly society, not being a closing society, is a society in financial difficulties for the purposes of this section if—
  - (a) it is required by section 42 or 46 of the Friendly Societies Act 1992 to send abstracts of actuaries’ reports to the Commission and the most recent abstract so sent shows that it has ceased to fall within subsection (2) or subsection (3) of section 3A above;
  - (b) it fails to comply with a direction of the Board under subsection (1A) below;
  - (c) a provisional liquidator of the society has been appointed under section 135 of the Insolvency Act 1986 or, as the case maybe, Article 115 of the Insolvency (Northern Ireland) Order 1989; or
  - (d) it has been proved on a winding-up petition to be unable to pay its debts.
- (1A) A direction under this subsection is a direction that a society, not required by section 42 or 46 of the Friendly Societies Act 1992 to send abstracts of actuaries’ reports to the Commission, satisfy the Board that it possesses sufficient assets to meet its liabilities.
- (1B) It shall be the duty of the Commission to send the Board any information required by the Board to enable it to determine whether it is satisfied that a society to which a direction under subsection (1A) above has been given possesses sufficient assets to meet its liabilities.”; and
  - (b) with the omission of subsection (6)(a).”

#### Textual Amendments

**F13** Words in [Sch. 17 para. 11](#) inserted (19.3.1997) by [1997 c. 18, ss. 20, 23\(2\)](#), [Sch. 4 para. 6](#)

- 11 At the end of section 16 (companies in financial difficulties) there shall be added the following subsection—
- “(10) This section applies to a friendly society, not being a closing society—
    - (a) with the substitution of the following subsections for subsection (1)  
—
    - (“) A friendly society, not being a closing society, is a society in financial difficulties for the purposes of this section if—
      - (a) it is required by section 42 or 46 of the Friendly Societies Act 1992 to send abstracts of actuaries’ reports to the Commission and the most recent abstract so sent shows that it has ceased to fall within subsection (2) or subsection (3) of section 3A above;
      - (b) it fails to comply with a direction of the Board under subsection (1A) below;
      - (c) a provisional liquidator of the society has been appointed under section 135 of the Insolvency Act 1986 or, as the case maybe, Article 115 of the Insolvency (Northern Ireland) Order 1989; or

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(d) it has been proved on a winding-up petition to be unable to pay its debts.

(1A) A direction under this subsection is a direction that a society, not required by section 42 or 46 of the Friendly Societies Act 1992 to send abstracts of actuaries’ reports to the Commission, satisfy the Board that it possesses sufficient assets to meet its liabilities.

(1B) It shall be the duty of the Commission to send the Board any information required by the Board to enable it to determine whether it is satisfied that a society to which a direction under subsection (1A) above has been given possesses sufficient assets to meet its liabilities.”; and

(b) with the omission of subsection (6)(a).”

12 In section 17 (special provision with respect to long term business of a company in financial difficulties) at the end of subsection (8) there shall be added the words “and this section applies to friendly societies in financial difficulties as it applies to companies in financial difficulties”.

13 In section 18(1)(a) (definition of “general business expenditure”), for the words “or 8” there shall be substituted “ 8 or 8A ”.

14 At the end of section 19 there shall be inserted the following subsection—

“(11) This section, Schedule 2 to this Act and section 20 below apply to a closing society as they apply to a company in liquidation and to a society in financial difficulties as they apply to a company in financial difficulties.”

.....  
[<sup>F14</sup>15]

**Textual Amendments**

**F14** Sch. 17 para. 15 repealed (19.3.1997) by 1997 c. 18, ss. 22, 23(2), Sch. 5

15 At the end of section 21 ( levies on authorised insurance companies) there shall be added the following subsection—

“(10) This section and Schedule 3 apply to qualifying friendly societies as they apply to authorised insurance companies carrying on general business in the United Kingdom, except that contributions in respect of discretionary benefits shall be disregarded in the application of subsections (4), (5) and (6) above by virtue of this subsection.”

[<sup>F15</sup>16 In section 25 (application of surplus funds by the Board), in subsection (1), after the word “applies”, there shall be inserted “and to qualifying friendly societies carrying on business in the United Kingdom”.]



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### Textual Amendments

**F15** Sch. 17 para. 16 substituted (19.3.1997) by 1997 c. 18, ss. 20, 23(2) Sch. 4 para. 7

- 16 In section 25 (application of surplus funds by the Board), in subsection (1), after the words “United Kingdom”, there shall be inserted “ and to qualifying friendly societies carrying on such business ”.
- 17 At the end of section 27 (disclosure of documents and information to the Board) there shall be added the words “ in relation to companies ”.
- 18 (1) Section 32 (interpretation) shall be amended as follows.
- (2) In subsection (1), at the appropriate places in alphabetical order, there shall be inserted the following definitions—
- F16** . . .
- ““closing society” has the meaning given by section 5A(3) above;”
- ““the Commission” means the Friendly Societies Commission;”
- ““friendly society” has the same meaning as in the Friendly Societies Act 1992;”
- ““incorporated friendly society” means a friendly society incorporated under the Friendly Societies Act 1992;”
- ““qualifying society” is to be construed in accordance with section 3A(2) above;.”
- [<sup>F17</sup>(3) In subsection (2), for “subsection (2ZA)” there shall be substituted “subsections (2ZA) to (2ZC)”.]
- (4) After [<sup>F18</sup>subsection (2ZA)] there shall be inserted the following subsections—
- [<sup>F19</sup>“(2ZB)] Any reference to a policy holder in this Act is to be construed, in the application of this Act to friendly societies, as a reference to a person who has entered into a contract of insurance with that society.
- [<sup>F19</sup>(2ZC)] References in this Act to insurance business of any class are references, in the application of this Act to friendly societies, to insurance business of a class specified in head A or head B of Schedule 2 to the Friendly Societies Act 1992.”
- [<sup>F20</sup>(4A) In subsection (2A), in paragraph (c)—
- (a) after “policies” there shall be inserted “, or contracts,”, and
- (b) at the end there shall be inserted “, or entered into the contract”.
- (4B) In subsection (2B), after “policy”, in both places, there shall be inserted “or contract”.]
- (5) After subsection (4) there shall be inserted the following subsection—

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“(4A) For the purposes of this Act, a liability of a closing society towards a member arising otherwise than under the terms of the member’s contract with the society shall be treated as a liability under the terms of the contract if the liability of the society arises from any failure on the part of the society to perform an obligation under the contract to provide any services or facilities on the occurrence of any event to which the risk under the contract relates.”

#### Textual Amendments

- F16** Words in Sch. 17 para. 18(2) repealed (19.3.1997) by 1997 c. 18, ss. 22, 23(2), Sch. 5
- F17** Sch. 17 para. 18(3) substituted (19.3.1997) by 1997 c. 18, ss. 20, 23(2), Sch. 4 para. 8(2)
- F18** Words in Sch. 17 para. 18(4) substituted (19.3.1997) by 1997 c. 18, ss. 20, 23(2), Sch. 4 para. 8(3)(a)
- F19** Sch. 17 para. 18(4): subsections (2ZB)(2ZC) (previously (2A)(2B)) renumbered (19.3.1997) by 1997 c. 18, ss. 20, 23(2), Sch. 4 para. 8(3)(b)
- F20** Words in Sch. 17 para. 18(4) inserted (19.3.1997) by 1997 c. 18, ss. 20, 23(2), Sch. 4 para. 8(4)

- 18 (1) Section 32 (interpretation) shall be amended as follows.
- (2) In subsection (1), at the appropriate places in alphabetical order, there shall be inserted the following definitions—
- ““authorised friendly society” means a society authorised under section 32 of the Friendly Societies Act 1992 to carry on in the United Kingdom insurance business such as is mentioned in section 31 of that Act;”
- ““closing society” has the meaning given by section 5A(3) above;”
- ““the Commission” means the Friendly Societies Commission;”
- ““friendly society” has the same meaning as in the Friendly Societies Act 1992;”
- ““incorporated friendly society” means a friendly society incorporated under the Friendly Societies Act 1992;”
- ““qualifying society” is to be construed in accordance with section 3A(2) above;.”
- (3) In subsection (2), after the word “above”, there shall be inserted “ but subject to subsections (2A) and (2B) below ”.
- (4) After subsection (2) there shall be inserted the following subsections—
- “(2A) Any reference to a policy holder in this Act is to be construed, in the application of this Act to friendly societies, as a reference to a person who has entered into a contract of insurance with that society.
- (2B) References in this Act to insurance business of any class are references, in the application of this Act to friendly societies, to insurance business of a class specified in head A or head B of Schedule 2 to the Friendly Societies Act 1992.”
- (5) After subsection (4) there shall be inserted the following subsection—

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“(4A) For the purposes of this Act, a liability of a closing society towards a member arising otherwise than under the terms of the member’s contract with the society shall be treated as a liability under the terms of the contract if the liability of the society arises from any failure on the part of the society to perform an obligation under the contract to provide any services or facilities on the occurrence of any event to which the risk under the contract relates.”

19 (1) In Schedule 3 (additional provisions with respect to levies on authorised insurance companies) after paragraph 4 there shall be inserted the following paragraphs—

“4A In the application of this Schedule to a friendly society—

- (a) paragraph 4 above shall have effect with the substitution for any reference to the Secretary of State of a reference to the Commission; and
- (b) paragraph 9 below shall be omitted.”

“4B (1) Any person who causes or permits to be included in a statement sent to the Commission under paragraph 4 above as applied by this paragraph any information which he knows to be false in a material particular or recklessly causes or permits to be so included any information which is false in a material particular 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 to both;
- (b) on summary conviction, to a fine not exceeding the statutory maximum.

(2) Any friendly society which makes default in complying with paragraph 4 above as so applied shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.”

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