

Status: Point in time view as at 01/04/2013.

Changes to legislation: There are currently no known outstanding effects for the Friendly Societies Act 1992, SCHEDULE 4. (See end of Document for details)

SCHEDULES

SCHEDULE 4 U.K.

Section 6.

INCORPORATION OF REGISTERED FRIENDLY SOCIETIES: SUPPLEMENTARY

Preliminary

- 1 (1) This Schedule has effect in relation to an incorporated friendly society (“the incorporated society”) which was formerly a registered friendly society (“the registered society”); and in this Schedule “incorporation” means the incorporation of that society.
- (2) In this Schedule “branch”, in relation to the registered society, means any registered or unregistered branch of the society and, in relation to the incorporated society, means a group of members provided for by the rules of the society—
 - (a) which is under the control, and bound to contribute to the funds, of the society; and
 - (b) which has its own funds and other property vested in trustees and administered (in accordance with its rules) by the members of the group themselves, or through its own committee or other officers.
- (3) In this Schedule references to an agreement include references to any agreement (whether in writing or not) and any deed, bond or other instrument.
- (4) Nothing in section 6 above or this Schedule shall be taken as affecting any power or liability of a branch of a registered friendly society to secede or to be expelled from that society.

Schemes under section 6(5)

- 2 (1) This paragraph applies to a registered society with branches which proposes—
 - (a) that the incorporated society will have branches; and
 - (b) that any of those branches is to be treated as a continuation of a branch of the registered society.
- (2) The registered society may, by the procedure required to amend the rules of the society, approve a scheme under subsection (5) of section 6 above (a “scheme”) identifying property, rights and liabilities of a branch which are to continue to be property, rights and liabilities of the branch (as a branch of the incorporated society) and so are to be excluded from transfer under subsection (4) of that section.
- (3) A scheme—
 - (a) may deal with property, rights and liabilities of one or more branches of the registered society; and
 - (b) may, instead of specifying any property, rights and liabilities of a branch of the registered society, refer to all the property, rights and liabilities referable to such part of its activities as is specified in the scheme.

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- (4) A scheme may not identify for exclusion from transfer under section 6(4) above any property, rights or liabilities of a branch of the registered society which are referable only to an activity of the branch which a branch of the incorporated society would (by virtue of section 7(5) above) be unable to carry on on its own behalf.
- (5) On making a scheme the registered society shall send to the [F¹FCA]—
- (a) 4 copies of the scheme, each signed by the secretary;
 - (b) a statutory declaration by the secretary that the scheme was duly approved by the society;
 - (c) in the case of a scheme identifying any property, rights or liabilities of a branch which was (immediately before incorporation) carrying on any insurance or non-insurance business, a certificate from the appropriate actuary that the incorporated society will, on incorporation, possess sufficient assets to meet such of the liabilities to be transferred to the society from that branch as are referable to that business.
- (6) On receiving copies of a scheme, the [F¹FCA] shall, if satisfied that the society has duly approved the scheme—
- (a) retain and register one copy of the scheme;
 - (b) return another copy to the secretary of the registered society, together with a certificate of registration;
 - (c) keep another copy in the public file of the registered society and, after incorporation, in the public file of the incorporated society;
- and the [F¹FCA] shall not register the incorporated society under this Act until after it has registered the scheme.

Textual Amendments

- F1** Word in [Sch. 4 para. 2](#) substituted (1.4.2013) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2013 \(S.I. 2013/496\)](#), art. 1(1), [Sch. 9 para. 52](#) (with [Sch. 12](#))

Effect of incorporation on registered society

- 3 (1) Subject to the provisions of this Act, the incorporated society shall be treated after incorporation as the same person as the registered society.
- (2) Without prejudice to the generality of sub-paragraph (1) above, any agreement made, transaction effected or other thing done by, to or in relation to the registered society which is in force or effective immediately before incorporation shall have effect as if made, effected or done by, to or in relation to the incorporated society; and, accordingly, references to the society—
- (a) in any agreement;
 - (b) in any process or other document issued, prepared or employed for the purposes of any proceeding before any court or other tribunal or authority; and
 - (c) in any other document whatsoever (other than an enactment) relating to or affecting any property, right or liability of the society,
- shall be taken as referring to the incorporated society.
- 4 On incorporation of the registered society—

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- (a) a person who was immediately before incorporation a member of the registered society shall be a member of the incorporated society;
- (b) any appointment as trustee or treasurer of the society shall determine; and
- (c) all other persons who were officers of the registered society shall become officers, holding corresponding offices, of the incorporated society;

but paragraph (c) above is without prejudice to anything done by the society after incorporation as respects the election or appointment of members of its committee of management and its other officers.

5 Any agreement made by the registered society which is in force immediately before incorporation shall have effect as if—

- (a) for references to members of the registered society there were substituted references to members of the incorporated society;
- (b) for references to officers of the registered society (other than its trustees or treasurer) there were substituted references to the corresponding officers of the incorporated society;
- (c) for references to the trustees of the registered society there were substituted references to the incorporated society; and
- (d) for references to the treasurer of the registered society there were substituted references to such person as the incorporated society may appoint or in default of appointment to the officer of that society who corresponds as nearly as may be to the treasurer.

6 It is hereby declared for the avoidance of doubt that—

- (a) any contract of employment with the registered society in force immediately before incorporation is merely modified by the substitution of the name of the incorporated society as the employer (and is not terminated or varied in any other way);
- (b) any period of employment with the registered society shall count for all purposes as a period of employment with the incorporated society; and
- (c) the rights and liabilities referred to in section 6 above include any rights and liabilities subsisting immediately before incorporation—
 - (i) under any agreement or arrangement for the payment of pensions, allowances or gratuities; or
 - (ii) under the law of any country or territory outside the United Kingdom.

7 (1) The final financial year of the registered friendly society shall be such period not exceeding 12 months as expires immediately before its incorporation.

(2) Anything which, if it had not been incorporated, would be required to be done by the registered society at a time after its incorporation shall be done by the incorporated society.

(3) If the incorporated friendly society fails to do anything which it is required to do by virtue of sub-paragraph (2) above, the society and its officers shall be subject to the sanctions to which the registered friendly society and its officers would have been subject if the society had failed to do it.

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Effect of incorporation on branches of registered society

- 8 (1) This paragraph applies where the property, rights and liabilities of a branch of the registered society (“the branch”) are all transferred to the incorporated society by section 6(4) above.
- (2) The provisions of paragraphs 3 to 7 above shall apply in relation to the branch as they apply in relation to the registered society—
- (a) with the omission from paragraph 4 of the words following “shall determine”; and
 - (b) in paragraph 5, with the substitution for references to the members, officers, trustees or treasurer of the society of references to the corresponding officers of the branch;
- and the branch shall be deemed to be dissolved immediately after the transfer of its property, rights and liabilities to the incorporated society.
- 9 (1) This paragraph applies where the property, rights and liabilities of a branch of the registered society are all excluded by virtue of a scheme from transfer to the incorporated society.
- (2) On incorporation of the registered society, the property, rights and liabilities of the branch shall continue as property, rights and liabilities of the branch (as a branch of the incorporated society).
- (3) The branch of the incorporated society shall be treated as a continuation of the branch of the registered society; and so on incorporation—
- (a) any member of the branch shall continue as a member; and
 - (b) any trustee, treasurer or other officer of the branch immediately before incorporation shall continue in office;
- but paragraphs (a) and (b) above are without prejudice to anything done after incorporation as respects the membership and officers of the branch.
- 10 (1) This paragraph applies where some of the property, rights and liabilities of a branch of the registered society are transferred to the incorporated society by section 6(4) above and some are excluded from transfer by virtue of a scheme.
- (2) As respects the property, rights and liabilities transferred from the branch to the incorporated society, the provisions of paragraphs 3, 5, 6 and 7 above shall apply in relation to the branch as they apply in relation to the registered society—
- (a) with, in paragraph 5, the substitution for references to the members, officers, trustees or treasurer of the society of references to the corresponding officers of the branch; and
 - (b) with the omission of paragraph 7(1).
- (3) On incorporation of the registered society, the property, rights and liabilities of the branch which are excluded from transfer shall continue as property, rights and liabilities of the branch (as a branch of the incorporated society).
- (4) As respects the property, rights and liabilities so excluded, the branch shall, after incorporation of the registered society, be treated as a continuation of the branch of the registered society; and so on incorporation—
- (a) any member of the branch shall continue as a member; and
 - (b) any trustee, treasurer or other officer of the branch shall continue in office;

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but paragraphs (a) and (b) above are without prejudice to anything done after incorporation as respects membership and officers of the branch.

Consequences of transfer

- 11 No transfer effected by section 6 above shall give rise to any liability to stamp duty.
- 12 (1) The action mentioned in the following provisions of this paragraph shall be taken not later than the end of the period of 90 days beginning with the day on which the registered society is incorporated.
- (2) The persons who were the trustees and treasurer of the registered society immediately before its incorporation shall deliver to the incorporated society—
- (a) any property of the society held by them; and
 - (b) any documents relating to the property, rights and liabilities of the registered society or its financial affairs.
- (3) The persons who were the trustees and treasurer of any branch of the registered society immediately before its incorporation shall deliver to the incorporated society—
- (a) any property (formerly property of the branch) which is transferred to the society by section 6(4) above; and
 - (b) any documents relating to such of the property, rights or liabilities of the branch as are so transferred.
- (4) The Public Trustee shall, if he held property on trust for the registered society immediately before its incorporation, deliver to the incorporated society any property so held by him and any documents relating to it.
- [^{F2}(4A) A person required by this paragraph to deliver a document does not satisfy the requirement by sending the document in an electronic form except in so far as the document is held by that person in that electronic form.]
- (5) Nothing in this Act shall have effect to relieve the former trustees or treasurer of a registered friendly society or branch or the Public Trustee from any liability arising from acts or omissions before the incorporation of the society.

Textual Amendments

- F2** Sch. 4 para. 12(4A) inserted (12.4.2011) by [The Mutual Societies \(Electronic Communications\) Order 2011 \(S.I. 2011/593\)](#), arts. 1(1), 12

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