

*Status: Point in time view as at 17/08/2001.*

**Changes to legislation:** Friendly Societies Act 1992 is up to date with all changes known to be in force on or before 02 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

## SCHEDULES

### <sup>F1</sup>SCHEDULE 1

Section 1.

#### THE FRIENDLY SOCIETIES COMMISSION

##### Textual Amendments

- F1** Sch. 1 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 Pt. I para. 119 (with art. 13(3), **Sch. 5**) and is repealed (*prosp.*) by S.I. 2001/2617, arts. 2(b), 13(2), Sch. 4 (with art. 13(3), **Sch. 5**)

##### Commencement Information

- I1** Sch. 1 wholly in force at 8.6.1992 see s. 126(2) and S.I. 1992/1325, **art. 2(b)**.

#### *Status*

- 1 The Commission shall be a body corporate.

##### Commencement Information

- I2** Sch. 1 wholly in force at 8.6.1992 see s. 126(2) and S.I. 1992/1325, **art. 2(b)**.

#### *Tenure of office of member*

- 2 (1) Subject to the provisions of this paragraph, a person shall hold and vacate office as a member or the chairman or deputy chairman of the Commission in accordance with the terms of the instrument appointing him to that office.
- (2) A person may at any time resign office as a member or the chairman or deputy chairman of the Commission by giving the Treasury a signed notice stating that he resigns that office.
- (3) When a member becomes or ceases to be the chairman or deputy chairman, the Treasury may vary the terms of his appointment so as to alter the date on which he is to vacate office as a member.
- (4) If the chairman or deputy chairman ceases to be a member, he shall cease to be the chairman or deputy chairman, as the case may be.
- (5) If the Treasury are satisfied—
- (a) that a member has been absent from meetings of the Commission for a period longer than three consecutive months without the permission of the Commission, or

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- (b) that a member has become bankrupt or made an arrangement with or granted a trust deed for his creditors, or
- (c) that a member's estate has been sequestrated, or
- (d) that a member is incapacitated by physical or mental illness, or
- (e) that a member is otherwise unable or unfit to discharge the functions of his office,

the Treasury may declare his office as a member vacant, and shall notify the declaration in such manner as they think fit; and thereupon the office shall become vacant.

**Commencement Information**

**I3** [Sch. 1](#) wholly in force at 8.6.1992 see [s. 126\(2\)](#) and [S.I. 1992/1325](#), [art. 2\(b\)](#).

- 3 No person who has attained the age of 70 years is eligible to be or to remain a part-time member of the Commission.

**Commencement Information**

**I4** [Sch. 1](#) wholly in force at 8.6.1992 see [s. 126\(2\)](#) and [S.I. 1992/1325](#), [art. 2\(b\)](#).

*Remuneration and pensions, etc. for part-time members*

- 4 The Commission shall pay to its part-time members such fees for services and such allowances in respect of expenses as may be determined by the Treasury.

**Modifications etc. (not altering text)**

**C1** [Sch. para. 4](#): functions of the Treasury transferred to the Minister (1.4.1995) by [S.I. 1995/269](#) art. 3, [Sch. para. 20](#)

**Commencement Information**

**I5** [Sch. 1](#) wholly in force at 8.6.1992 see [s. 126\(2\)](#) and [S.I. 1992/1325](#), [art. 2\(b\)](#).

- 5 (1) If the Treasury so determine in the case of any person who is or has been a part-time member of the Commission, the Commission shall pay or make arrangements for the payment of such pensions to or in respect of that person as the Treasury may determine.
- (2) Where a person who is a part-time member of the Commission ceases to be a member otherwise than on the expiry of his term of office and it appears to the Treasury that there are special circumstances which make it right for that person to receive compensation, the Treasury may direct the Commission to make to that person a payment of such amount as the Treasury may determine.

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**Modifications etc. (not altering text)**

- C2** [Sch. para. 5](#): functions of the Treasury transferred to the Minister (1.4.1995) by [S.I. 1995/269](#) art. 3, [Sch. para. 20](#)

**Commencement Information**

- I6** [Sch. 1](#) wholly in force at 8.6.1992 see [s. 126\(2\)](#) and [S.I. 1992/1325](#), [art. 2\(b\)](#).

*Parliamentary disqualification*

- 6 (1) In Part II of Schedule 1 to the <sup>M1</sup>House of Commons Disqualification Act 1975 (bodies of which all members are disqualified under that Act) there shall be inserted at the appropriate place the entry: “ The Friendly Societies Commission ”.
- (2) A corresponding amendment shall be made in Part II of Schedule 1 to the <sup>M2</sup>Northern Ireland Assembly Disqualification Act 1975.

**Commencement Information**

- I7** [Sch. 1](#) wholly in force at 8.6.1992 see [s. 126\(2\)](#) and [S.I. 1992/1325](#), [art. 2\(b\)](#).

**Marginal Citations**

- M1** 1975 c. 24.  
**M2** 1975 c. 25.

*Staff*

- 7 The Commission may appoint such staff as the chairman of the Commission thinks fit, subject to the approval of the Treasury as to numbers and as to terms and conditions of service.

**Commencement Information**

- I8** [Sch. 1](#) wholly in force at 8.6.1992 see [s. 126\(2\)](#) and [S.I. 1992/1325](#), [art. 2\(b\)](#).

*Proceedings*

- 8 The quorum of the Commission and the arrangements relating to its meeting shall be such as the Commission may determine.

**Commencement Information**

- I9** [Sch. 1](#) wholly in force at 8.6.1992 see [s. 126\(2\)](#) and [S.I. 1992/1325](#), [art. 2\(b\)](#).

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- 9 The validity of any proceedings of the Commission shall not be affected by any vacancy among the members or by any defect in the appointment of a member.

**Commencement Information**

**I10** Sch. 1 wholly in force at 8.6.1992 see s. 126(2) and S.I. 1992/1325, art. 2(b).

*Performance of functions*

- 10 (1) With the exception specified in sub-paragraph (2) below, the Commission may authorise any member or members of the Commission to perform on behalf of the Commission such of the Commission's functions (including the power conferred by this paragraph) as are specified in the authorisation.

(2) The Commission shall not delegate any power exercisable by statutory instrument.

**Commencement Information**

**I11** Sch. 1 wholly in force at 8.6.1992 see s. 126(2) and S.I. 1992/1325, art. 2(b).

- 11 The <sup>M3</sup>Statutory Instruments Act 1946 shall apply to all powers of the Commission of making statutory instruments under this Act as if the Commission were a Minister of the Crown.

**Commencement Information**

**I12** Sch. 1 wholly in force at 8.6.1992 see s. 126(2) and S.I. 1992/1325, art. 2(b).

**Marginal Citations**

**M3** 1946 c. 36.

- 12 In Schedule 2 to the <sup>M4</sup>Parliamentary Commissioner Act 1967 (which lists the departments etc. subject to investigation under that Act) there shall be inserted in the appropriate place in alphabetical order the words " Friendly Societies Commission "

**Commencement Information**

**I13** Sch. 1 wholly in force at 8.6.1992 see s. 126(2) and S.I. 1992/1325, art. 2(b).

**Marginal Citations**

**M4** 1967 c. 13.

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### *Instruments*

- 13 The fixing of the common seal of the Commission shall be authenticated by the signature of the chairman or deputy chairman or by some other person authorised by the Commission to act for that purpose.

#### **Commencement Information**

**I14** Sch. 1 wholly in force at 8.6.1992 see s. 126(2) and S.I. 1992/1325, art. 2(b).

- 14 (1) A document purporting to be duly executed under the seal of the Commission shall be received in evidence and shall, unless the contrary is proved, be deemed to be so executed.
- (2) A document purporting to be signed on behalf of the Commission shall be received in evidence and shall, unless the contrary is proved, be deemed to be so signed.

#### **Commencement Information**

**I15** Sch. 1 wholly in force at 8.6.1992 see s. 126(2) and S.I. 1992/1325, art. 2(b).

### *Execution of documents in Scotland*

- 15 (1) This paragraph shall have effect as regards the execution of documents in Scotland.
- (2) For any purpose other than those mentioned in sub-paragraph (3) below, a document is validly executed by the Commission if it is signed on its behalf by the chairman or deputy chairman or by a person authorised to sign the document on its behalf.
- (3) For the purposes of any enactment or rule of law relating to the authentication of documents, a document is validly executed by the Commission if it is subscribed on its behalf by being executed in accordance with the provisions of sub-paragraph (2) above.
- (4) A document which bears to have been executed by the Commission in accordance with sub-paragraph (3) above shall, in relation to such execution, be a probative document if—
- (a) the subscription of the document bears to have been attested by at least one witness; or
  - (b) the document bears to be sealed with the seal of the Commission.

#### **Commencement Information**

**I16** Sch. 1 wholly in force at 8.6.1992 see s. 126(2) and S.I. 1992/1325, art. 2(b).

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## SCHEDULE 2

Sections 5 and 7.

### THE ACTIVITIES OF A FRIENDLY SOCIETY

A. Long term business of one or more of the following classes:

<i>Number</i>	<i>Description</i>	<i>Nature of business</i>
I	Life and annuity	Effecting and carrying out contracts of insurance on human life or contracts to pay annuities on human life, but excluding (in each case) contracts within Class III below.
II	Marriage and birth	Effecting and carrying out contracts of insurance to provide a sum on marriage or on the birth of a child, being contracts expressed to be in effect for a period of more than one year.
III	Linked long term	Effecting and carrying out contracts of insurance on human life or contracts to pay annuities on human life where the benefits are wholly or partly to be determined by reference to the value of, or the income from, property of any description (whether or not specified in the contracts) or by reference to fluctuation in, or in an index of, the value of property of any description (whether or not so specified).
IV	Permanent health	Effecting and carrying out contracts of insurance providing specified benefits against risks of persons becoming incapacitated in consequence of sustaining injury as a result of an accident or of an accident of a specified class or of sickness or infirmity, being contracts that:  (a) are expressed to be in effect for a period of not less than five years, or until the normal retirement age for

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		the persons concerned, or without limit of time, and
		(b) either are not expressed to be terminable by the insurer, or are expressed to be so terminable only in special circumstances mentioned in the contract.
V	Tontines	Effecting and carrying out tontines.
VI	Capital redemption	Effecting and carrying out capital redemption contracts.
VII	Pension fund management	Effecting and carrying out— (a) contracts to manage the investments of pension funds; or (b) contracts of the kind mentioned in paragraph (a) above that are combined with contracts of insurance covering either conservation of capital or payment of a minimum interest.

B. General business of one or more of the following classes:

<i>Number</i>	<i>Description</i>	<i>Nature of business</i>
1	Accident	Effecting and carrying out contracts of insurance providing fixed pecuniary benefits or benefits in the nature of indemnity (or a combination of both) against risks of the person insured: (a) sustaining injury as the result of an accident or of an accident of a specified class, or (b) dying as the result of an accident or of an accident of a specified class, or (c) becoming incapacitated in consequence of disease or of disease of a specified class, inclusive of contracts relating to industrial injury and occupational disease but

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2	Sickness	<p>exclusive of contracts falling within Class 2 below or within Class IV in head A of this Schedule (permanent health).</p> <p>Effecting and carrying out contracts of insurance providing fixed pecuniary benefits or benefits in the nature of indemnity (or a combination of the two) against risks of loss to the persons insured attributable to sickness or infirmity, but exclusive of contracts falling within Class IV in head A of this Schedule.</p>
3	Miscellaneous financial loss	<p>Effecting and carrying out contracts of insurance against any of the following risks, namely:</p> <p>(a) risks of loss to the persons insured attributable to their being unemployed, or</p> <p>(b) risks of loss to the persons insured attributable to their being in distressed circumstances, or</p> <p>(c) risks of loss to the persons insured attributable to sickness or infirmity,</p> <p>but exclusive of contracts falling within Class 2 above or Class IV in head A of this Schedule.</p>

C. Business, not falling within the descriptions of insurance business in head A or B above, consisting of the effecting and carrying out of contracts in accordance with which benefits are provided—

(a) for the relief or maintenance of any persons during sickness or when in distressed circumstances; or

(b) to meet the funeral expenses of any persons.

D. Activities carried out in accordance with the society's rules (or with arrangements made under the rules) whereby discretionary benefits are provided—

(a) for the education of any persons;



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(b) for the relief or maintenance of any persons during sickness, when out of employment or when in distressed circumstances; or

(c) for the funeral expenses of any persons.

### SCHEDULE 3

Section 5.

#### ESTABLISHMENT, INCORPORATION AND CONSTITUTION OF INCORPORATED FRIENDLY SOCIETIES

##### *Requirements for establishment and incorporation*

- 1 (1) Any 7 or more persons may establish a society under this Act by taking the following steps—
- (a) agreeing upon the purposes of the society and upon the extent of its powers in a memorandum the provisions of which comply with the requirements of this Schedule;
  - (b) agreeing upon rules for the regulation of the society which comply with the requirements of this Schedule; and
  - (c) sending to the [<sup>F2</sup>Authority] 3 copies of the memorandum and the rules, each copy signed by at least 7 of those persons (or, if there are only 7, by all of them) and (unless the secretary is to be elected) by the intended secretary.
- (2) Where two or more friendly societies propose to amalgamate under section 85 above, they shall establish their successor society by—
- (a) agreeing upon the purposes of their successor and upon the extent of its powers in a memorandum the provisions of which comply with the requirements of this Schedule;
  - (b) agreeing upon rules for the regulation of their successor which comply with the requirements of this Schedule;
  - (c) each approving the memorandum and the rules by special resolution; and
  - (d) sending to the [<sup>F2</sup>Authority] 3 copies of the rules and of the memorandum, each copy signed by the secretary of each of the societies participating in the amalgamation.
- (3) Where copies of the memorandum and the rules are sent to the [<sup>F2</sup>Authority] in accordance with sub-paragraph (1)(c) or (2)(d) above, the [<sup>F2</sup>Authority], if satisfied that—
- (a) the memorandum and the rules are in conformity with this Act; and
  - (b) the intended name of the society is not, in its opinion, undesirable,
- shall register the society and issue it with a certificate of incorporation.
- (4) The [<sup>F2</sup>Authority] shall not register a society as the successor society to any friendly societies proposing to amalgamate unless it [<sup>F3</sup>is satisfied that the Commission] has confirmed the proposed amalgamation under section 85 above.
- [<sup>F4</sup>(5) The [<sup>F2</sup>Authority] shall not register a society which, if it were registered [<sup>F5</sup>and authorised], would be a society to which section 37(2) or (3) above applies if the

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[<sup>F2</sup>Authority] is satisfied that the principal place of business of the society is to be situated outside the United Kingdom; [<sup>F6</sup>and in this sub-paragraph “authorised” has the same meaning as in Part IV of this Act.]]

#### Textual Amendments

- F2** Words in Sch. 3 para. 1 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. 120(a) (with art. 13(3), Sch. 5)
- F3** Words in Sch. 3 para. 1(4) omitted (17.8.2001 for specified purposes and otherwise *prosp.*) by virtue of S.I. 2001/2617, art. 2(a), 8(1), 13(1), Sch. 3 para. 120(b) (with art. 13(3), Sch. 5) and repealed (*prosp.*) by S.I. 2001/2617, arts. 2(b), 13(2), Sch. 4 (with art. 13(3), Sch. 5)
- F4** Sch. 3 para. 1(5) inserted (18.7.1996) by S.I. 1996/1669, reg. 14(2)
- F5** Words in Sch. 3 para. 1(5) 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. 120(c)(i) (with art. 13(3), Sch. 5) and repealed (*prosp.*) by S.I. 2001/2617, art. 2(b), 13(2), Sch. 4 (with art. 13(3), Sch. 5)
- F6** Words in Sch. 3 para. 1(5) 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. 120(c)(ii) (with art. 13(3), Sch. 5) and repealed (*prosp.*) by S.I. 2001/2617, arts. 2(b), 13(2), Sch. 4 (with art. 13(3), Sch. 5)

#### Commencement Information

- I17** Sch. 3 para. 1 wholly in force; Sch. 3 para. 1 not in force at Royal Assent see s. 126(2); Sch. 3 para. 1 in force at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 3

- 2 (1) A registered friendly society may be incorporated under this Act only if the following steps are taken—
- (a) the proposal to apply for incorporation is submitted to the members of the society for their consent by the procedure required for a proposal to amend the rules (or, in the case of a society with branches, the general rules) of the society;
  - (b) consent to the application is given in accordance with that procedure;
  - (c) the society agrees, in accordance with that procedure—
    - (i) upon the purposes of the society after incorporation, and upon the extent of its powers, in a memorandum the provisions of which comply with the requirements of this Schedule; and
    - (ii) upon rules for the regulation of the society after incorporation which comply with the requirements of this Schedule; and
  - (d) there are sent to the [<sup>F7</sup>Authority]—
    - (i) 3 copies of the memorandum and the rules, each signed by at least 7 members and by the secretary of the society; and
    - (ii) a statutory declaration by the secretary that the steps mentioned in paragraphs (a) and (b) above were taken.
- (2) Where copies of the memorandum, the rules and the statutory declaration are sent to the [<sup>F7</sup>Authority] in accordance with paragraph (c) of sub-paragraph (1) above, the [<sup>F7</sup>Authority], if satisfied that—
- (a) the steps mentioned in sub-paragraph (1)(a) and (b) were taken;
  - (b) the provisions of the memorandum and the rules are in conformity with this Act; <sup>F8</sup> . . .
  - (c) the name proposed for the society after incorporation is not, in its opinion, undesirable,

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shall register the society and issue it with a certificate of incorporation.

[<sup>F9F8</sup>and

- (d) in the case of a society to which section 37(2) or (3) above applies, the principal place of business of the society is situated in the United Kingdom,]

#### Textual Amendments

- F7** Words in Sch. 3 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. 120(a) (with art. 13(3), Sch. 5); S.I. 2001/3538, art. 2(1)
- F8** Word in Sch. 3 para. 2(2)(b) omitted (18.7.1996) by virtue of S.I. 1996/1669, reg. 14(3)
- F9** Sch. 3 para. 2(2)(d) and the word “and” immediately preceding it inserted (18.7.1996) by S.I. 1996/1669, reg. 14(3)

#### Commencement Information

- I18** Sch. 3 para. 2 wholly in force; Sch. 3 para. 2 not in force at Royal Assent see s. 126(2); Sch. 3 para. 2 in force at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 3

- 3 On registering a society under paragraph 1 or 2 above, the [<sup>F10</sup>Authority] shall—
- retain and register one copy of the memorandum and of the rules;
  - return another copy to the secretary of the society, together with a certificate of registration; and
  - keep another copy, a copy of the certificate of incorporation and a copy of the certificate of registration of the memorandum and the rules, in the public file of the society.

#### Textual Amendments

- F10** Words in Sch. 3 para. 3 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. 120(a) (with art. 13(3), Sch. 5); S.I. 2001/3538, art. 2(1)

#### Commencement Information

- I19** Sch. 3 para. 3 wholly in force; Sch. 3 para. 3 not in force at Royal Assent see s. 126(2); Sch. 3 para. 3 in force at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 3

#### *The memorandum*

- 4 (1) The memorandum of an incorporated friendly society shall—
- specify the name of the society;
  - state whether the registered office of the society is to be situated in England and Wales, or in Scotland, or in Northern Ireland;
  - specify the address of its registered office;
  - state the purposes of the society and the extent of its powers; and
  - if any of those purposes are to include the carrying on of any business outside the United Kingdom, state with respect to those purposes that that is the case.
- (2) The choice stated in a society’s memorandum in pursuance of sub-paragraph (1)(b) above may not be altered by the society.

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- (3) In this Act, in relation to an incorporated friendly society, “memorandum” means the memorandum registered under paragraph 3 above, including the record of any alteration under paragraph 6 below.

#### **Commencement Information**

**I20** Sch. 3 para. 4 wholly in force; Sch. 3 para. 4 not in force at Royal Assent see s. 126(2); Sch. 3 para. 4 in force at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 3

#### *The rules*

- 5 (1) The rules of an incorporated friendly society shall provide for the matters specified in the Table in sub-paragraph (3) below.
- (2) Nothing in this paragraph shall be taken to authorise any provision in the rules of a society which is inconsistent with, or rendered void by, this Act (or any instrument made under it).
- (3) The Table referred to in sub-paragraph (1) above is as follows:—

#### TABLE OF MATTERS TO BE COVERED BY THE RULES

- (1) The terms of admission of members and the manner in which membership is to cease.
- (2) If the terms on which a benefit is provided are not in the rules, the manner in which they are to be determined.
- (3) Any forfeitures which may be imposed on any member.
- (4) The consequences of non-payment of any subscription.
- (5) The manner of remunerating the auditors.
- (6) As respects the officers—
  - (a) the manner of their election or appointment and their removal;
  - (b) the manner of remunerating them; and
  - (c) the circumstances in which pensions may be awarded to persons by virtue of their office and the method of determining the terms of such pensions.
- (7) The powers and duties of the committee of management.
- (8) The investment of the funds of the society.
- (9) The manner in which disputes are to be settled.
- (10) If the society has a common seal, the form, custody and use of the seal.
- (11) The calling and holding of meetings and, in particular—
  - (a) the right to requisition meetings;
  - (b) the right to move resolutions at meetings;
  - (c) the manner in which notice of meetings, and of any resolutions to be moved at meetings, is to be given;
  - (d) the procedure to be observed at meetings;
  - (e) the form of notice for the convening of a meeting;
  - (f) the voting rights of members, the right to demand a poll and the manner in which a poll is to be taken.

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- (12) The entitlement of members to participate in the distribution of any surplus assets after payments to creditors, on the winding up, or dissolution by consent, of the society.
- (13) The procedure for altering the society's memorandum and rules.

#### Commencement Information

**I21** Sch. 3 para. 5 wholly in force; Sch. 3 para. 5 not in force at Royal Assent see s. 126(2); Sch. 3 para. 5 in force at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 3

#### *Requirements for alteration of memorandum and rules*

- 6 (1) An incorporated friendly society may in the manner prescribed by its rules alter the memorandum or rules of the society by the addition, rescission or variation of any provision.
- (2) Sub-paragraph (1) above does not apply to any alteration to which section 13(6) above applies or which is prohibited by paragraph 4(2) above.
- (3) An alteration to the name or registered office of an incorporated friendly society shall (instead of being effected under this paragraph) be effected under paragraph 9 or 12 below; and it is not necessary to alter the memorandum or rules of such a society by reason only that its name or registered office is changed.
- (4) Where a society makes an alteration of its memorandum or rules under this paragraph, it shall send to the [FII Authority]—
  - (a) 3 copies of a record of the alteration signed by the secretary; and
  - (b) a statutory declaration by the secretary that the alteration was made in accordance with the procedure prescribed by the society's rules.
- (5) On making an alteration of its memorandum or rules under this paragraph the society shall determine the date on which it intends the alteration to take effect; and the record of the alteration shall specify that date (in this paragraph referred to as "the specified date").
- (6) Where copies of a record of an alteration of a society's memorandum or rules are sent to the [FII Authority] under sub-paragraph (4) above and the [FII Authority] is satisfied that the alteration is in conformity with this Act, the [FII Authority] shall—
  - (a) retain and register one of the copies;
  - (b) return another to the secretary of the society together with a certificate of registration of the alteration; and
  - (c) keep another copy, together with a copy of the certificate of registration of the alteration, in the public file of the society.
- (7) An alteration of the memorandum or rules of a society under this paragraph shall not take effect until the specified date or, if the alteration is registered under sub-paragraph (6) above on a later date, the date on which the certificate of registration is issued.
- (8) If an incorporated friendly society arranges for the publication in consolidated form of its memorandum or rules as altered for the time being—
  - (a) it shall send a copy to the [FII Authority]; and

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

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(b) the [FII Authority] shall keep the copy in the public file of the society;  
but the [FII Authority] shall not register the copy.

(9) If an incorporated friendly society fails, within the period of 3 months beginning with the date on which an alteration to its memorandum or rules is made, to comply with sub-paragraph (4) above, the society shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

#### Textual Amendments

**F11** Words in [Sch. 3 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. 120(a)** (with art. 13(3), [Sch. 5](#)); [S.I. 2001/2617](#), **art. 2(1)**

#### Commencement Information

**I22** [Sch. 3 para. 6](#) wholly in force; [Sch. 3 para. 6](#) not in force at Royal Assent see [s. 126\(2\)](#); [Sch. 3 para. 6](#) in force at 1.2.1993 by [S.I. 1993/16](#), art. 2, **Sch. 3**

### *Membership*

- 7 A person under 18—
- (a) may, if the rules do not otherwise provide, be admitted as a member of an incorporated friendly society and, if he is over 16 by himself, and if he is under 16 by his parent or guardian, execute all instruments and give all receipts necessary to be executed or given under the rules;
  - (b) may not vote or hold any office in the society; and
  - (c) may not nominate, or join in nominating, a person for election as a member of the committee of management, or (if the secretary is elected) as secretary, of the society.

#### Commencement Information

**I23** [Sch. 3 para. 7](#) wholly in force; [Sch. 3 para. 7](#) not in force at Royal Assent see [s. 126\(2\)](#); [Sch. 3 para. 7](#) in force at 1.2.1993 by [S.I. 1993/16](#), art. 2, **Sch. 3**

### *Liability of members*

- 8 (1) The liability of a member of an incorporated friendly society is limited to the amount of any subscription to the society which is outstanding.
- (2) No subscription of a member of an incorporated friendly society shall be recoverable at law except on the winding up of the society.

#### Commencement Information

**I24** [Sch. 3 para. 8](#) wholly in force; [Sch. 3 para. 8](#) not in force at Royal Assent see [s. 126\(2\)](#); [Sch. 3 para. 8](#) in force at 1.2.1993 by [S.I. 1993/16](#), art. 2, **Sch. 3**

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*Name*

- 9 (1) The name of an incorporated friendly society must have “Limited” as its last word, except that, if the society is to be registered with a memorandum stating that its registered office is to be situated in Wales, the name may have “cyfyngedig” (the Welsh equivalent of “Limited”) as its last word.
- (2) <sup>F12</sup> . . . . .
- (3) If the society has a common seal, it shall bear the registered name of the society.
- (4) An incorporated friendly society may change its name by a resolution of the society in general meeting after the giving of such notice as is required for a special resolution.
- (5) Where a society changes its name under this paragraph, notice of the change shall be sent to the [<sup>F13</sup>Authority] and, unless it is of the opinion that the changed name is undesirable, the [<sup>F13</sup>Authority] shall—
- (a) register the notice of the change of name;
  - (b) issue the society with a certificate of registration; and
  - (c) keep a copy of the certificate of registration in the public file of the society.
- (6) A change of name shall not take effect until the date on which the certificate of registration under sub-paragraph (5) above is issued or such later date as may be specified in the certificate.
- (7) A change of name shall not affect the rights and obligations of the society, of any of its members or of any other person concerned.

**Textual Amendments**

**F12** Sch. 3 para. 9(2) repealed (1.8.1996) by S.I. 1996/1188 art. 7

**F13** Words in Sch. 3 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. 120(a) (with art. 13(3), Sch. 5); S.I. 2001/3538, art. 2(1)

**Commencement Information**

**I25** Sch. 3 para. 9 partly in force; Sch. 3 para. 9 not in force at Royal Assent see s. 126(2); Sch. 3 para. 9(1) (3)-(7) in force 2.1.1993 by S.I. 1993/16, art. 2, Sch. 3

- 10 (1) Every incorporated friendly society shall have its name mentioned in legible characters—
- (a) in all its business letters, its notices and its other official publications;
  - (b) in all its bills of parcels, invoices, receipts and letters of credit; and
  - (c) in all bills of exchange, promissory notes, endorsements, cheques and orders for money or goods purporting to be signed by or on behalf of the society.
- (2) Where the name of an incorporated friendly society does not include the words “friendly society”, the fact that it is an incorporated friendly society shall be shown in legible characters in all documents such as are mentioned in sub-paragraph (1) above.

**Commencement Information**

**I26** Sch. 3 para. 10 wholly in force; Sch. 3 para. 10 not in force at Royal Assent see s. 126(2); Sch. 3 para. 10 in force at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 3



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*Offences relating to society's name*

- 11 (1) If an incorporated friendly society—
- (a) fails, within the period of 3 months beginning with the date on which a resolution changing its name is passed, to send to the [<sup>F14</sup>Authority] the notice required by paragraph 9(5) above; or
  - (b) fails to comply with paragraph 10(1) or (2) above;
- the society shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (2) If an officer of an incorporated friendly society or a person on its behalf—
- (a) issues or authorises the issue of any business letter, notice or other official publication of the society or any bill of parcels, invoice, receipt or letter of credit of the society in which the society's name is not mentioned as required by paragraph 10(1) above; or
  - (b) signs or authorises to be signed on behalf of the society any bill of exchange, promissory note, endorsement, cheque or order for money or goods in which the society's name is not so mentioned,
- he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale; and, in the case of the conduct mentioned in paragraph (b) above, he is further personally liable to the holder of the bill of exchange, promissory note, cheque or order for money or goods for the amount of it (unless it is duly paid by the society).
- (3) If an officer of an incorporated friendly society whose name does not include the words "friendly society" or a person on its behalf—
- (a) issues or authorises the issue of any such document as is mentioned in sub-paragraph (2)(a) above, and the fact that it is an incorporated friendly society is not shown in legible characters in the document; or
  - (b) signs or authorises to be signed on behalf of the society any such document as is mentioned in sub-paragraph (2)(b) above, and the fact that it is an incorporated friendly society is not shown in legible characters in the document,
- he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale; and, in the case of the conduct mentioned in paragraph (b) above, he is further personally liable to the holder of the bill of exchange, promissory note, cheque or order for money or goods for the amount of it (unless it is duly paid by the society).

**Textual Amendments**

**F14** Word in *Sch. 3 para. 11(1)(a)* 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. 120(a)** (with art. 13(3), *Sch. 5*); S.I. 2001/3538, **art. 2(1)**

**Commencement Information**

**I27** *Sch. 3 para. 11* wholly in force; *Sch. 3 para. 11* not in force at Royal Assent see s. 126(2); *Sch. 3 para. 11* in force at 1.2.1993 by S.I. 1993/16, art. 2, **Sch. 3**



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### *Change of registered office*

- 12 (1) An incorporated friendly society may change its registered office in such manner as its rules prescribe or, if the rules do not provide for that matter, by a resolution of the society in general meeting after the giving of such notice as is required for a special resolution.
- (2) Notice of any such change shall be sent to the [F15Authority] and the [F15Authority] shall—
- (a) register the notice of the change of registered office;
  - (b) issue the society with a certificate of registration; and
  - (c) keep a copy of the certificate of registration in the public file of the society.
- (3) A change of registered office shall not take effect until the date on which the certificate of registration under sub-paragraph (2) above is issued or such later date as may be specified in the certificate.
- (4) If an incorporated friendly society fails, within the period of 3 months beginning with the date on which a resolution changing its registered office is passed, to send to the [F15Authority] the notice required by sub-paragraph (2) above, the society shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

#### **Textual Amendments**

**F15** Words in [Sch. 3 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. 120\(a\)](#) (with [art. 13\(3\)](#), [Sch. 5](#)); [S.I. 2001/3538](#), [art. 2\(1\)](#)

#### **Commencement Information**

**I28** [Sch. 3 para. 12](#) wholly in force; [Sch. 3 para. 12](#) not in force at Royal Assent see [s. 126\(2\)](#); [Sch. 3 para. 12](#) in force at 1.2.1993 by [S.I. 1993/16](#), [art. 2](#), [Sch. 3](#)

### *Societies to supply copies of rules etc*

- 13 (1) An incorporated friendly society shall, on demand, give a copy of its statutory documents—
- (a) free of charge, to any member of the society to whom a copy of those documents has not previously been given; and
  - (b) to any other person, upon payment of such fee as the society may require, not exceeding the prescribed amount.
- (2) The reference in sub-paragraph (1) above to a copy of an incorporated friendly society's statutory documents is a reference to—
- (a) a printed copy of the society's rules for the time being, with a copy of the certificate of incorporation of the society annexed to it; and
  - (b) a printed copy of the memorandum of the society for the time being.
- (3) If an incorporated friendly society fails to comply with the requirements of sub-paragraph (1) above, the society shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (4) In sub-paragraph (1) above the "prescribed amount" means £1 or such other amount as the [F16Treasury prescribe] by order.

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#### Textual Amendments

**F16** Words in [Sch. 3 para. 13\(4\)](#) 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. 120\(d\)](#) (with [art. 13\(3\)](#), [Sch. 5](#)); [S.I. 2001/3538, art. 2\(1\)](#)

#### Modifications etc. (not altering text)

**C3** [Sch. 3 para. 13\(4\)](#): 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\(1\)](#)

#### Commencement Information

**I29** [Sch. 3 para. 13](#) wholly in force; [Sch. 3 para. 13](#) not in force at Royal Assent see [s. 126\(2\)](#); [Sch. 3 para. 13](#) in force at 1.2.1993 by [S.I. 1993/16, art. 2](#), [Sch. 3](#)

### *Register of members*

- 14 (1) Every incorporated friendly society shall maintain a register of the names and addresses of the members of the society.
- (2) The register shall be kept at the registered office or at such other place or places as the committee of management thinks fit.
- (3) A society which was previously a registered friendly society need not enter in the register the address of a member who became a member before its incorporation while it has no address for him and his whereabouts are unknown.
- (4) Where it appears to an incorporated friendly society that the registered address shown in the register for a member is no longer current, the society—
- (a) may remove that address from the register; and
  - (b) need not enter in the register an address for that member while it has no address for him and his whereabouts are unknown.
- (5) If an incorporated friendly society contravenes sub-paragraph (1) above, the society shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (6) For the purposes of this Act “registered address”, in relation to a member of an incorporated friendly society, means—
- (a) the address shown in the register mentioned under this paragraph, except in a case where paragraph (b) below applies;
  - (b) where the member has requested that communications from the society be sent to some other address, that other address.

#### Commencement Information

**I30** [Sch. 3 para. 14](#) wholly in force; [Sch. 3 para. 14](#) not in force at Royal Assent see [s. 126\(2\)](#); [Sch. 3 para. 14](#) in force at 1.2.1993 by [S.I. 1993/16, art. 2](#), [Sch. 3](#)

### *Inspection of records by members*

- 15 (1) Subject to sub-paragraph (2) below, a member or person having an interest in the funds of an incorporated friendly society may inspect the records at all reasonable hours at the registered office of the society or at any other place where they are kept.

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- (2) Unless he is an officer of the society or is specially authorised by resolution of the society to do so, a member or such a person shall not have the right to inspect the loan account of any other member without the written consent of that member.

#### Commencement Information

**I31** Sch. 3 para. 15 wholly in force; Sch. 3 para. 15 not in force at Royal Assent see s. 126(2); Sch. 3 para. 15 in force at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 3

## SCHEDULE 4

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—

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- (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.
- (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 [F17Authority]—
- (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 [F17Authority] 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 [F17Authority] shall not register the incorporated society under this Act until after it has registered the scheme.

#### **Textual Amendments**

**F17** Words in *Sch. 4 para. 2(5)(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. 121*** (with art. 13(3), *Sch. 5*); *S.I. 2001/3538*, **art. 2(1)**

#### *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

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- (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—
- (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.
- (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.

## SCHEDULE 5

Section 7.

### ADDITIONAL ACTIVITIES OF INCORPORATED SOCIETIES

#### *Introductory*

- 1 An incorporated friendly society may do anything mentioned in the following provisions of this Schedule in the manner directed by the society's rules.

#### *Loans out of separate loan fund*

- 2 (1) An incorporated friendly society may, out of any separate loan fund to be formed by contributions or deposits from its members, make loans to members on their personal security, with or without sureties or, in Scotland, cautioners, subject to the restrictions in sub-paragraphs (2) to (4) below.
- (2) A loan shall not at any time be made out of money contributed otherwise than for the purpose of the loan fund.

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

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- (3) A member shall not be capable of holding any interest in the loan fund exceeding £800.
- (4) The society shall not—
- (a) make any loan to a member on personal security beyond the amount fixed by the rules, or make any loan which, together with any money owing by a member to the society, exceeds £200; or
  - (b) hold at any one time on deposit from its members any money beyond the amount fixed by the rules, and the amount so fixed shall not exceed two thirds of the total sums owing to the society by the members who have borrowed from the loan fund.
- (5) The [<sup>F18</sup>Treasury may by order] amend sub-paragraph (3) or (4) above to substitute, for the sum for the time being specified in that sub-paragraph, such greater sum as is specified in the order.

#### Textual Amendments

**F18** Words in *Sch. 5 para. 2(5)* 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. 122(a)** (with art. 13(3), *Sch. 5*); *S.I. 2001/3538*, **art. 2(1)**

#### Modifications etc. (not altering text)

**C4** *Sch. 5 para. 2(5)*: 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)**

#### *Power to set up funds for purchasing Government Securities*

- 3 (1) An incorporated friendly society may set up and administer a fund for the purchase, on behalf of members contributing thereto, of Defence Bonds, National Savings Certificates, Ulster Savings Certificates or such other securities of Her Majesty's Government as the [<sup>F19</sup>Treasury] may prescribe.
- (2) A society may allow persons to become members of the society for the purpose only of contributing to a fund set up by virtue of this paragraph.
- (3) Any securities prescribed, before the commencement of this paragraph, for the purposes of section 47 of the 1974 Act shall be treated as having been prescribed under sub-paragraph (1) above.

#### Textual Amendments

**F19** Words in *Sch. 5 para. 3(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. 122(b)** (with art. 13(3), *Sch. 5*); *S.I. 2001/3538*, **art. 2(1)**

#### Modifications etc. (not altering text)

**C5** *Sch. 5 para. 3(1)*: Functions of the Friendly Societies Commission transferred (1.12.2001) to the Treasury by *S.I. 2001/2617*, art. 2(b), 4(1), **Sch. 1 Pt. II** (with art. 5); *S.I. 2001/3538*, **art. 2(1)**



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*Investment of funds in housing association*

- 4 (1) An incorporated friendly society may invest funds of the society in subscribing for any of the share or loan capital of a housing association (within the meaning of the Housing Associations Act 1985) other than shares or debentures not fully paid up at the time of issue.
- (2) This paragraph has effect without prejudice to any power the society may have by virtue of section 14 above.

*Accumulation of members' surplus contributions*

- 5 An incorporated friendly society may accumulate at interest, for the use of any member, any surplus of his contributions to the funds of the society which may remain after providing for any assurance in respect of which they are paid and for the withdrawal of the accumulations.

*Subscriptions to other bodies*

- 6 An incorporated friendly society may subscribe out of its funds to any hospital, infirmary, charitable or provident institution, any annual or other sum which may be necessary to secure to members of the society and their families the benefits of that institution.
- 7 An incorporated friendly society may contribute to the funds and take part in the government of any other friendly society.

SCHEDULE 6

Section 7.

MAKING OF CONTRACTS AND EXECUTION OF  
DOCUMENTS BY INCORPORATED FRIENDLY SOCIETIES

*England and Wales and Northern Ireland*

- 1 Under the law of England and Wales and Northern Ireland a contract may be made—
- (a) by an incorporated friendly society, by writing under its common seal; or
  - (b) on behalf of an incorporated friendly society, by any person acting under its authority, express or implied;
- and any formalities required by law in the case of a contract made by an individual also apply, unless a contrary intention appears, to a contract made by or on behalf of an incorporated friendly society.
- 2 (1) The following provisions have effect with respect to the execution of documents by an incorporated friendly society under the law of England and Wales and of Northern Ireland.
- (2) A document is executed by an incorporated friendly society by the affixing of its common seal.
  - (3) An incorporated friendly society need not have a common seal, however, and the following sub-paragraphs apply whether it does or not.

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- (4) A document signed by a member of the committee of management and the secretary of an incorporated friendly society, or by 2 members of the committee of management, and expressed (in whatever form of words) to be executed by the society has the same effect as if executed under the common seal of the society.
- (5) A document executed by an incorporated friendly society which makes it clear on its face that it is intended by the person or persons making it to be a deed has effect, upon delivery, as a deed; and it shall be presumed, unless a contrary intention is proved, to be delivered upon its being so executed.
- (6) In favour of a purchaser a document shall be deemed to have been duly executed by an incorporated friendly society if it purports to be signed by a member of the committee of management and the secretary of the society, or by 2 members of the committee of management, and, where it makes it clear on its face that it is intended by the person or persons making it to be a deed, to have been delivered upon its being executed.
- (7) In sub-paragraph (6) above a “purchaser” means a purchaser in good faith for valuable consideration and includes a lessee, mortgagee or other person who for valuable consideration acquires an interest in property.

#### *Scotland*

- 3 (1) The following provisions have effect with respect to the execution of documents by an incorporated friendly society under the law of Scotland.
- (2) For any purpose other than those mentioned in sub-paragraph (3) below, a document is validly executed by an incorporated friendly society if it is signed on behalf of the society by a member of the committee of management or by the secretary of the society or by a person authorised to sign the document on its behalf.
- (3) For the purposes of any enactment or rule of law relating to the authentication of documents under the law of Scotland, a document is validly executed by an incorporated friendly society if it is subscribed on behalf of the society by—
  - (a) 2 members of the committee of management of the society;
  - (b) a member of that committee and the secretary of the society; or
  - (c) 2 persons authorised to subscribe the document on behalf of the society,
 notwithstanding that such subscription is not attested by witnesses and the document is not sealed with the society’s common seal.
- (4) A document which bears to be executed by an incorporated friendly society in accordance with sub-paragraph (3) above is, in relation to such execution, a probative document.
- (5) Notwithstanding any other provision of this paragraph, an incorporated friendly society need not have a common seal.
- (6) For the purposes of any enactment providing for a document to be executed by an incorporated friendly society by affixing its common seal or referring (in whatever terms) to a document so executed, a document signed or subscribed on behalf of the society by—
  - (a) 2 members of the committee of management of the society;
  - (b) a member of the committee and the secretary of the society; or
  - (c) 2 persons authorised to subscribe the document on behalf of the society,

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shall have effect as if executed under the common seal of the society.

- (7) In this paragraph “enactment” includes an enactment contained in a statutory instrument.
- (8) Sub-paragraphs (2) and (3) above are—
- (a) without prejudice to any other method of execution of documents by incorporated friendly societies permitted by any enactment or rule of law; and
  - (b) subject to any other enactment making express provision, in relation to incorporated friendly societies, as to the execution of a particular type of document.

## SCHEDULE 7

Section 13.

### ACTIVITIES WHICH MAY BE CARRIED ON BY A SUBSIDIARY OF OR BODY JOINTLY CONTROLLED BY AN INCORPORATED FRIENDLY SOCIETY

#### *Activities*

- 1 The establishment and management of personal equity plans within the meaning of the <sup>M5</sup>Finance Act 1986.

#### **Marginal Citations**

**M5** 1986 c. 41.

- [<sup>F20</sup>1A The establishment and management, or arranging for the establishment and management, of individual savings accounts; and in this paragraph “individual savings accounts” means plans of a kind referred to in section 333(1A) of the Income and Corporation Taxes Act 1988 <sup>F21</sup>.]

#### **Textual Amendments**

**F20** Sch. 7, para. 1A inserted (19.10.1998) by S.I. 1998/2328 art. 2

**F21** 1988 c. 1. Subsection (1A) was added to s. 333 by section 75(1) of the Finance Act 1998 (c. 36). The Individual Savings Accounts Regulations 1998 (S.I. 1998/1870) make detailed provision for the operation of individual savings accounts. Other relevant regulations are S.I.s 1998/1869, 1998/1871 and 1998/1872.

- 2 The establishment and management of unit trust schemes within the meaning of the <sup>M6</sup>Financial Services Act 1986.

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#### Marginal Citations

**M6** 1986 c. 60.

- 3 The carrying on of long-term or general business.
- 4 Arranging for the provision of, or giving advice as to, insurance of any description.
- 5 Arranging for the provision of credit, whether as agents for the borrower or the person providing credit and the provision of services in connection with current loan agreements to the person providing credit.
- 6 The provision of fund management services for trustees of pension funds [<sup>F22</sup>or for friendly societies or for other bodies whose business consists of any activity falling within paragraphs 1 to 5 above or paragraphs 7 to 14 below].

#### Textual Amendments

**F22** Words in [Sch. 7 para. 6](#) added (6.1.1997) by [S.I. 1996/3009](#) art. 2(a)

- 7 The administration of estates and the execution of trusts of wills.
- 8 The provision of executry services (within the meaning of Part II of the <sup>M7</sup>Law Reform (Miscellaneous Provisions) (Scotland) Act 1990) where the subsidiary or body is an executry practitioner (within the meaning of that Part of that Act) and the administration of testamentary trusts.

#### Marginal Citations

**M7** 1990 c. 40.

- 9 The establishment and management of—
- (a) sheltered housing,
  - (b) residential homes for the elderly,
  - (c) hospitals, or
  - (d) nursing homes or mental nursing homes (within the meaning of the <sup>M8</sup>Registered Homes Act 1984) or, in Northern Ireland, nursing homes (within the meaning of the <sup>M9</sup>Nursing Homes and Nursing Agencies Act (Northern Ireland) 1971),
- and the provision of medical, administrative or other services for persons owning or managing any of them.

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#### Marginal Citations

- M8** 1984 c. 23.  
**M9** 1971 c. 32 (N.I.).

- 10 The provision of administrative services for friendly societies or other bodies whose business consists of any activity falling within paragraphs 1 to 9 above [<sup>F23</sup> or paragraph [<sup>F24</sup> 11 to 15] below].

#### Textual Amendments

- F23** Words in Sch. 7 para. 10 substituted (6.1.1997) by virtue of S.I. 1996/3009 art. 2(b)  
**F24** Words in Sch. 7 para. 10 substituted (1.12.1998) by virtue of S.I. 1998/2696 art. 2(a)

- [<sup>F25</sup>11 The carrying on of a business which is a deposit-taking business within the meaning of the Banking Act 1987 <sup>M10</sup> but only to the extent that money which is received as a deposit, or money which is lent, is received from, or lent to, an individual.]

#### Textual Amendments

- F25** Sch. 7 para. 11 inserted (1.1.1996) by S.I. 1995/3062 art. 2(b)

#### Marginal Citations

- M10** 1987 c.22

- [<sup>F26</sup>12 The carrying on of insurance business which is general business within the meaning of the Insurance Companies Act 1982 <sup>M11</sup> but only to the extent that a contract of insurance which is effected or carried out is a contract which is effected with an individual.]

#### Textual Amendments

- F26** Sch. 7 para. 12 inserted (1.1.1996) by S.I. 1995/3062 art. 2(b)

#### Marginal Citations

- M11** 1982 c.50

- [<sup>F27</sup>13 The establishment and management of investment companies with variable capital falling within regulation 3(1) of the Open-Ended Investment Companies (Investment Companies with Variable Capital) Regulations 1996 [<sup>F28</sup> or within regulation 3(2) of the Open-Ended Investment Companies (Investment Companies with Variable Capital) Regulations (Northern Ireland) 1997] (an open-ended investment company).]

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**Textual Amendments**

- F27** Sch. 7 para. 13 inserted (6.1.1997) by S.I. 1996/3009, art. 2(c)  
**F28** Words in Sch. 7 para. 13 inserted (1.12.1998) by S.I. 1998/2696, art. 2(b)

- [<sup>F29</sup>14 The establishment and management of companies which are approved as investment trusts for the purposes of section 842 of the Income and Corporation Taxes Act 1988 <sup>M12</sup>.]

**Textual Amendments**

- F29** Sch. 7 para. 14 inserted (1.6.1997) by S.I. 1996/3009 art. 2(c)

**Marginal Citations**

- M12** 1988 c. 1.

- [<sup>F30</sup>15 Arranging for the provision of banking services by a UK institution or a European institution, and providing services in pursuance of such arrangements; and in this paragraph “UK institution” and “European institution” have the same meaning as in the Banking Co-ordination (Second Council Directive) Regulations 1992 <sup>F31</sup>, and “banking services” means such services as are ordinarily provided in the course of or in connection with a business which is a deposit-taking business for the purposes of the Banking Act 1987 <sup>F32</sup>.]

**Textual Amendments**

- F30** Sch. 7 para. 15 inserted (1.12.1998) by S.I. 1998/2696, art. 2(c)  
**F31** S.I. 1992/3218.  
**F32** 1987 c. 22.

SCHEDULE 8

Section 13.

PROVISIONS SUPPLEMENTARY TO SECTION 13

- 1 The provisions of this Schedule explain expressions used in section 13 above and otherwise supplement that section.
- 2 In section 13(9)(a) and (c) the references to the voting rights in a body corporate are to the rights conferred on shareholders in respect of their shares or, in the case of a body corporate not having a share capital, on members, to vote at general meetings of the body corporate on all, or substantially all, matters.
- 3 (1) For the purposes of section 13(9)(a) and (c) the reference to the right to appoint or remove a majority of the board of directors is to the right to appoint or remove

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directors holding a majority of the voting rights at meetings of the board on all, or substantially all, matters.

- (2) Without prejudice to the generality of subsection (9)(a) and (c) of section 13—
- (a) an incorporated friendly society shall be treated for the purposes of subsection (9)(a) as having the right to appoint to a directorship if—
    - (i) a person's appointment to it follows necessarily from his appointment as an officer of the society, or
    - (ii) the directorship is held by the society itself; and
  - (b) an incorporated friendly society and some other person together shall be treated for the purposes of section 13(9)(c) as having the right to appoint to a directorship if—
    - (i) in a case where that other person is a body corporate, a person's appointment to the directorship follows necessarily from his appointment both as an officer of the society and as a director of that body or, where it does not have directors, as a member of its managing body, or
    - (ii) the directorship is held jointly by the society and that other person; and a right to appoint or remove which is exercisable only with the consent or concurrence of another person shall be left out of account unless no other person has a right to appoint or, as the case may be, remove in relation to that directorship.

VALID FROM 01/12/2001

- [<sup>F33</sup>3A (1) A body is to be treated for the purposes of section 13(9) as having the right to appoint to a directorship if—
- (a) a person's appointment to the directorship follows necessarily from his appointment as an officer of that body; or
  - (b) the directorship is held by the body itself.
- (2) A body ("B") and some other person ("P") together are to be treated, for the purposes of section 13(9), as having the right to appoint to a directorship if—
- (a) P is a body corporate which has directors and a person's appointment to the directorship follows necessarily from his appointment both as an officer of B and a director of P;
  - (b) P is a body corporate which does not have directors and a person's appointment to the directorship follows necessarily from his appointment both as an officer of B and as a member of P's managing body; or
  - (c) the directorship is held jointly by B and P.
- (3) For the purposes of section 13(9), a right to appoint (or remove) which is exercisable only with the consent or agreement of another person must be left out of account unless no other person has a right to appoint (or remove) in relation to that directorship.
- (4) Nothing in this paragraph is to be read as restricting the effect of section 13(9).]

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### Textual Amendments

**F33** Sch. 8 para. 3A inserted (1.12.2001) by 2000 c. 8, ss. 334, 336, 338, **Sch. 18 para. 14(3)**; S.I. 2001/3538, art. 2(1)

- 4 Rights which are exercisable only in certain circumstances shall be taken into account only—
- (a) when the circumstances have arisen, and for so long as they continue to obtain, or
  - (b) when the circumstances are within the control of the person having the rights;
- and rights which are normally exercisable but are temporarily incapable of exercise shall continue to be taken into account.
- 5 Rights held by a person in a fiduciary capacity shall be treated as not held by him.
- 6 Rights held by a person as nominee for another shall be treated as held by the other; and rights shall be regarded as held as nominee for another if they are exercisable only on his instructions or with his consent or concurrence.
- 7 Rights attached to shares held by way of security shall be treated as held by the person providing the security—
- (a) where apart from the right to exercise them for the purpose of preserving the value of the security, or of realising it, the rights are exercisable only in accordance with his instructions;
  - (b) where the shares are held in connection with the granting of loans as part of normal business activities and apart from the right to exercise them for the purpose of preserving the value of the security, or of realising it, the rights are exercisable only in his interests.
- 8 Rights shall be treated as held by an incorporated friendly society if they are held by any of its subsidiaries; and nothing in paragraph 6 or 7 above shall be construed as requiring rights held by an incorporated friendly society to be treated as held by any of its subsidiaries.
- 9 For the purposes of paragraph 7 above rights shall be treated as being exercisable in accordance with the instructions or in the interests of an incorporated friendly society if they are exercisable in accordance with the instructions of or, as the case may be, in the interests of any subsidiary of that society.
- 10 The voting rights in a body corporate shall be reduced by any rights held by the body itself.
- 11 References in any provision of paragraphs 5 to 10 above to rights held by a person include rights falling to be treated as held by him by virtue of any other provision of those paragraphs but not rights which by virtue of any such provision are to be treated as not held by him.



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## SCHEDULE 9

Section 18.

### NOMINATIONS BY MEMBERS OF INCORPORATED FRIENDLY SOCIETIES AND RELATED MATTERS

- 1
- (1) Subject to the following provisions of this paragraph, a member of an incorporated friendly society who is not under the age of 16 years may by writing under his hand delivered at or sent to the registered office of the society, or made in a book kept at that office, nominate a person or persons to whom any sum of money payable by the society on the death of that member or any specified amount of money so payable, shall be paid at his decease.
  - (2) The total amount which may be nominated under this paragraph shall not exceed the relevant maximum, that is to say, £5,000 or such higher amount as, by virtue of an order under section 6 of the <sup>M13</sup>Administration of Estates (Small Payments) Act 1965, may for the time being apply for the purposes of the enactments specified in subsection (1) of that section.
  - (3) The sum payable on the death of a member by an incorporated friendly society shall include sums of money contributed to or deposited in the separate loan fund, together with interest on them, and any sum of money accumulated for the use of the member under the provisions of this Act, together with interest on it.
  - (4) A person nominated under this paragraph must not at the date of the nomination be an officer or employee of the society unless he is the husband, wife, father, mother, child, brother, sister, nephew or niece of the nominator.
  - (5) Nominations so made may be revoked or varied by any similar document under the hand of the nominator delivered, sent, or made as mentioned in sub-paragraph (1) above.
  - (6) The marriage of a member of the society shall operate as a revocation of any nomination previously made by that member under this paragraph.
  - (7) Where a society has paid money to a nominee in ignorance of a marriage subsequent to the nomination, the receipt of the nominee shall be a valid discharge to the society.

#### Marginal Citations

**M13** 1965 c. 32.

- 2
- (1) Subject to sub-paragraph (2) below, on receiving satisfactory proof of the death of a nominator, an incorporated society shall pay to his nominee or nominees the amount due to the deceased or, as the case may be, the amount specified in the nomination.
  - (2) The total amount paid by an incorporated friendly society by virtue of a nomination (whether in favour of one nominee or more) shall not exceed the relevant maximum referred to in paragraph 1(2) above.
  - (3) The receipt of a nominee over 16 years of age for any amount paid in accordance with this paragraph shall be valid.
- 3
- (1) If any member of an incorporated friendly society entitled from its funds to a sum not exceeding the relevant maximum referred to in paragraph 1(2) above dies without having made any nomination of that sum then subsisting, the society may, without letters of administration or probate of any will or, in Scotland, without any grant of

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confirmation, distribute the sum among such persons as appear to the society, upon such evidence as the society may deem satisfactory, to be entitled by law to receive that sum.

- (2) A payment made by an incorporated friendly society under this Schedule shall be valid and effectual against any demand made upon the society by any other person, but the next of kin or personal representatives of the deceased member shall have a remedy for recovery of the money paid under paragraph 2(1) above against the person who has received that money.

## SCHEDULE 10

Section 23.

### APPLICATION OF COMPANIES WINDING UP LEGISLATION TO INCORPORATED FRIENDLY SOCIETIES

#### PART I

##### GENERAL MODE OF APPLICATION

- 1 The enactments which comprise the companies winding up legislation (referred to in this Schedule as “the enactments”) are the provisions of—
- (a) Parts IV, VI, VII, XII and XIII of the <sup>M14</sup>Insolvency Act 1986, or
  - (b) Parts V, VI, XI and XII of the <sup>M15</sup>Insolvency (Northern Ireland) Order 1989, and, in so far as they relate to offences under any such enactment, sections 430 and 432 of, and Schedule 10 to, that Act or Article 373 of, and Schedule 7 to, that Order.

#### Marginal Citations

**M14** 1986 c. 45.

**M15** S.I. 1989/2405 (N.I.19).

- 2 Subject to the following provisions of this Schedule, the enactments apply to the winding up of incorporated friendly societies as they apply to the winding up of companies registered under the <sup>M16</sup>Companies Act 1985 or (as the case may be) the <sup>M17</sup>Companies (Northern Ireland) Order 1986.

#### Marginal Citations

**M16** 1985 c. 6.

**M17** S.I. 1986/1032 (N.I.6).

- 3 (1) Subject to the following provisions of this Schedule, the enactments shall, in their application to incorporated friendly societies, have effect with the substitution—
- (a) for “company” of “incorporated friendly society”;
  - (b) for “directors” of “committee of management”;
  - (c) for “the registrar of companies” or “the registrar” of “the [<sup>F34</sup>Financial Services Authority]”; and
  - (d) for “the articles” of “the rules”.

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- (2) Subject to the following provisions of this Schedule in the application of the enactments to incorporated friendly societies—
- [<sup>F35</sup>(aa) every reference to a company registered in Scotland shall have effect as a reference to an incorporated friendly society whose registered office is situated in Scotland;]
- (a) every reference to the officers, or to a particular officer, of a company shall have effect as a reference to the officers, or to the corresponding officer, of the incorporated friendly society and as including a person holding himself out as such an officer;
- (b) every reference to a director of a company shall be construed as a reference to a member of the committee of management; and
- (c) every reference to an administrator, an administration order, an administrative receiver, a shadow director or a voluntary arrangement shall be omitted.

#### Textual Amendments

- F34** Words in Sch. 10 para. 3(1)(c) 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. 123(a) (with art. 13(3), Sch. 5); S.I. 2001/3538, art. 2(1)
- F35** Sch. 10 para. 3(2)(aa) 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. 123(b) (with art. 13(3), Sch. 5); S.I. 2001/3538, art. 2(1)

- 4 (1) Where any of the enactments as applied to incorporated friendly societies requires a notice or other document to be sent to the [<sup>F36</sup>Authority], it shall have effect as if it required the [<sup>F36</sup>Authority] to keep the notice or document in the public file of the society and to record in that file the date on which the notice or document is placed in it.
- (2) Where any of the enactments, as so applied, refers to the registration, or to the date of registration, of such a notice or document, that enactment shall have effect as if it referred to the placing of the notice or document in the public file or (as the case may be) to the date on which it was placed there.

#### Textual Amendments

- F36** Words in Sch. 10 para. 4(1) substituted (17.8.2001 for specified purposes and otherwise 1.12.2001) by S.I. 2001/2617, art. 2, 8(1), Sch. 3 para. 123(c) (with art. 13(3), Sch. 5); S.I. 2001/3538, art. 2(1)

- 5 Any enactment which specifies a sum altered by order under section 416 of the <sup>M18</sup>Insolvency Act 1986 or Article 362 of the <sup>M19</sup>Insolvency (Northern Ireland) Order 1989 (powers to alter monetary limits) applies with the effect of the alteration.

#### Marginal Citations

- M18** 1986 c. 45.  
**M19** S.I. 1989/2405 (N.I.19).

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

*Changes to legislation: Friendly Societies Act 1992 is up to date with all changes known to be in force on or before 02 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## PART II

### MODIFIED APPLICATION OF INSOLVENCY ACT 1986 PARTS IV AND XII

#### *Preliminary*

6 In this Part of this Schedule, Part IV of the Insolvency Act 1986 is referred to as “Part IV”; and that Act is referred to as “the Act”.

#### *Members of a friendly society as contributories in winding up*

7 (1) Section 74 (liability of members) of the Act is modified as follows.

(2) In subsection (1), the reference to any past member shall be omitted.

(3) Paragraphs (a) to (d) of subsection (2) shall be omitted; and so shall subsection (3).

(4) The extent of the liability of a member of an incorporated friendly society in a winding up shall not exceed the extent of his liability under paragraph 8 of Schedule 3 to this Act.

8 Sections 75 to 78 and 83 in Chapter I of Part IV (miscellaneous provisions not relevant to incorporated friendly societies) do not apply.

9 (1) Section 79 (meaning of “contributory”) of the Act does not apply.

(2) In the enactments as applied to an incorporated friendly society, “contributory”—

- (a) means every person liable to contribute to the assets of the society in the event of its being wound up; and
- (b) for the purposes of all proceedings for determining, and all proceedings prior to the determination of, the persons who are to be deemed contributories, includes any person alleged to be a contributory; and
- (c) includes persons who are liable to pay or contribute to the payment of—
  - (i) any debt or liability of the incorporated friendly society being wound up; or
  - (ii) any sum for the adjustment of rights of members among themselves; or
  - (iii) the expenses of the winding up;
 but does not include persons liable to contribute by virtue of a declaration by the court under section 213 (imputed responsibility for fraudulent trading) or section 214 (wrongful trading) of the Act.

#### *Voluntary winding up*

10 (1) Section 84 of the Act does not apply.

(2) In the enactments as applied to an incorporated friendly society, the expression “resolution for voluntary winding up” means a resolution passed under section 21(1) above.

11 Section 88 shall have effect with the omission of the words from the beginning to “and”.

12 (1) Subsection (1) of section 89 shall have effect as if for the words from the beginning to “meeting” there were substituted the words—

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

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- “(1) Where it is proposed to wind up an incorporated friendly society voluntarily, the committee of management (or, in the case of an incorporated friendly society whose committee of management has more than two members, the majority of them) may at a meeting of the committee”.
- (2) The reference to the directors in subsection (2) shall be construed as a reference to members of the committee of management.
- 13 Section 90 shall have effect as if for the words “directors’ statutory declaration under section 89” there were substituted the words “ statutory declaration made under section 89 by members of the committee of management ”.
- 14 Sections 95(1) and 96 shall have effect as if the word “directors” were omitted from each of them.
- 15 In subsection (1) of section 101 (appointment of liquidation committee) of the Act, the reference to functions conferred on a liquidation committee by or under that Act shall have effect as a reference to its functions by or under that Act as applied to incorporated friendly societies.
- 16 (1) Section 107 (distribution of property) of the Act does not apply; and the following applies in its place.
- (2) Subject to the provisions of Part IV relating to preferential payments, an incorporated friendly society’s property in a voluntary winding up shall be applied in satisfaction of the society’s liabilities to creditors *pari passu* and, subject to that application, in accordance with the rules of the society.
- 17 Sections 110 and 111 (liquidator accepting shares, etc. as consideration for sale of company property) of the Act do not apply.

#### *Winding up by the court*

- 18 In sections 117 (High Court and county court jurisdiction) and 120 (Court of Session and sheriff court jurisdiction) of the Act, each reference to a company’s share capital paid up or credited as paid up shall have effect as a reference to the amount of the contribution or subscription income of an incorporated friendly society as shown by the latest balance sheet.
- 19 Section 122 (circumstances in which company may be wound up by the court) of the Act does not apply.
- 20 Section 124 (application for winding up) of the Act does not apply.
- 21 (1) In section 125 (powers of court on hearing of petition) of the Act, subsection (1) applies with the omission of the words from “but the court” to the end of the subsection.
- (2) The conditions which the court may impose under section 125 of the Act include conditions for securing—
- (a) that the incorporated friendly society be dissolved by consent of its members under section 20 above; or
  - (b) that the society amalgamates with, or transfers all or any of its engagements to, another friendly society under section 85 or 86 above, or
  - (c) that the society converts itself into a company under section 91 above,

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and may also include conditions for securing that any default which occasioned the petition be made good and that the costs, or in Scotland the expenses, of the proceedings on that petition be defrayed by the person or persons responsible for the default.

[<sup>F37</sup>22 .....]

**Textual Amendments**

**F37** Sch. 2 para. 22 repealed (N.I.) (7.2.1994) by 1993 c. 49, s. 182(1), Sch. 4 Pt.I; S.R. 1994/17, art. 2

[<sup>F38</sup>23 If, before the presentation of a petition for the winding up by the court of an incorporated friendly society, an instrument of dissolution under section 20 above is placed in the society's public file, section 129(1) (commencement of winding up by the court) of the Act shall also apply in relation to the date on which the notice is so placed and to any proceedings in the course of the dissolution as it applies to the commencement date for, and proceedings in, a voluntary winding up.]

**Textual Amendments**

**F38** Sch. 2 para. 23 repealed (N.I.) (7.2.1994) by 1993 c. 49, s. 182(1), Sch. 4 Pt.I; S.R. 1994/17, art. 2

- 24 (1) Section 130 of the Act (consequences of winding-up order) shall have effect with the following modifications.
- (2) Subsections (1) and (3) shall be omitted.
- (3) An incorporated friendly society shall, within 15 days of a winding-up order being made in respect of it, give notice of the order to the [<sup>F39</sup>Authority]; and the [<sup>F39</sup>Authority] shall keep the notice in the public file of the society.
- (4) If an incorporated friendly society fails to comply with sub-paragraph (3) above, it shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

**Textual Amendments**

**F39** Words in Sch. 10 para. 24(3) substituted (17.8.2001 for specified purposes and otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 8(10), 13(10), Sch. 3 para. 123(d) (with art. 13(3), Sch. 5); S.I. 2001/3538, art. 2(1)

- 25 Section 140 (appointment of liquidator by court in certain circumstances) of the Act does not apply.
- 26 In the application of sections 141(1) and 142(1) (liquidation committees), of the Act to incorporated friendly societies, the references to functions conferred on a liquidation committee by or under that Act shall have effect as references to its functions by or under that Act as so applied.
- 27 The conditions which the court may impose under section 147 (power to stay or sist winding up) of the Act shall include those specified in paragraph 21(2) above.
- 28 Section 154 (adjustment of rights of contributories) of the Act shall have effect with the modification that any surplus is to be distributed in accordance with the rules of the society.

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

*Changes to legislation: Friendly Societies Act 1992 is up to date with all changes known to be in force on or before 02 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- 29 In section 165(2) (liquidator’s powers) of the Act, the reference to an extraordinary resolution shall have effect as a reference to a special resolution.

*Winding up: general*

- 30 Section 187 (power to make over assets to employees) of the Act does not apply.
- 31 (1) In section 201 (dissolution: voluntary winding up) of the Act, subsection (2) applies without the words from “and on the expiration” to the end of the subsection and, in subsection (3), the word “However” shall be omitted.
- (2) Sections 202 to 204 (early dissolution) of the Act do not apply.
- 32 In section 205 (dissolution: winding up by the court) of the Act, subsection (2) applies with the omission of the words from “and, subject” to the end of the subsection; and in subsections (3) and (4) references to the Secretary of State shall have effect as references to the [F40 Authority].

**Textual Amendments**

**F40** Word in [Sch. 10 para. 32](#) substituted (17.8.2001 for specified purposes and otherwise 1.12.2001) by [S.I. 2001/2617, art. 2, 8\(1\), 13\(1\)](#), [Sch. 3 para. 123\(e\)](#) (with [art. 13\(3\)](#), [Sch. 5](#)); [S.I. 2001/3538, art. 2\(1\)](#)

*Penal provisions*

- 33 Sections 216 and 217 of the Act (restriction on re-use of name) do not apply.
- 34 (1) Sections 218 and 219 (prosecution of delinquent officers) of the Act do not apply in relation to offences committed by members of an incorporated friendly society acting in that capacity.
- (2) Sections 218(5) of the Act and subsections (1) and (2) of section 219 of the Act do not apply.
- (3) The references in subsections (3) and (4) of section 219 of the Act to the Secretary of State shall have effect as references to the [F41 Authority]; and the reference in subsection (3) to section 218 of the Act shall have effect as a reference to that section as supplemented by paragraph 35 below.

**Textual Amendments**

**F41** Word in [Sch. 10 para. 34\(3\)](#) 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. 123\(e\)](#) (with [art. 13\(3\)](#), [Sch. 5](#)); [S.I. 2001/3538, art. 2\(1\)](#)

- 35 (1) Where a report is made to the prosecuting authority (within the meaning of section 218) under section 218(4) of the Act, in relation to an officer of an incorporated friendly society, he may, if he thinks fit, refer the matter to the [F42 Authority] for further enquiry.
- (2) On such a reference to it the [F42 Authority] shall exercise its power under section 65(1) above to appoint one or more investigators to investigate and report on the matter.

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

*Changes to legislation: Friendly Societies Act 1992 is up to date with all changes known to be in force on or before 02 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (3) An answer given by a person to a question put to him, in exercise of the powers conferred by section 65 above on a person so appointed, may be used in evidence against the person giving it.

#### Textual Amendments

**F42** Words in [Sch. 10 para. 35\(1\)\(2\)](#) 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. 123\(e\)](#) (with [art. 13\(3\)](#), [Sch. 5](#)); [S.I. 2001/3538](#), [art. 2\(1\)](#)

#### *Preferential debts*

- 36 Section 387 (meaning in Schedule 6 of “the relevant date”) of the Act applies with the omission of subsections (2) and (4) to (6).

### PART III

#### MODIFIED APPLICATION OF INSOLVENCY (NORTHERN IRELAND) ORDER 1989

#### *Preliminary*

- 37 In this Part of this Schedule, Part V of the <sup>M20</sup>Insolvency (Northern Ireland) Order 1989 is referred to as “Part V”; and that Order is referred to as “the Order”.

#### Marginal Citations

**M20** [S.I. 1989/2405 \(N.I.19\)](#)

#### *Members of a friendly society as contributories in winding up*

- 38 (1) Article 61 (liability of members) of the Order is modified as follows.
- (2) In paragraph (1), the reference to any past member shall be omitted.
- (3) Sub-paragraphs (a) to (d) of paragraph (2) shall be omitted; and so shall paragraph (3).
- (4) The extent of the liability of a member of an incorporated friendly society in a winding up shall not exceed the extent of his liability under paragraph 8 of Schedule 3 to this Act.
- 39 Articles 62 to 65 and 69 of the Order (miscellaneous provisions not relevant to incorporated friendly societies) do not apply.
- 40 (1) Article 13 (meaning of “contributory”) of the Order does not apply.
- (2) In the enactments as applied to an incorporated friendly society “contributory”—
- (a) means every person liable to contribute to the assets of the society in the event of its being wound up; and



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- (b) for the purposes of all proceedings for determining, and all proceedings prior to the determination of, the persons who are to be deemed contributories, includes any person alleged to be a contributory; and
- (c) includes persons who are liable to pay or contribute to the payment of—
  - (i) any debt or liability of the incorporated friendly society being wound up; or
  - (ii) any sum for the adjustment of rights of members among themselves; or
  - (iii) the expenses of the winding up;

but does not include persons liable to contribute by virtue of a declaration by the court under Article 177 (imputed responsibility for fraudulent trading) or Article 178 (wrongful trading) of the Order.

#### *Voluntary winding up*

- 41 (1) Article 70 of the Order does not apply.
- (2) In the enactments as applied to an incorporated friendly society, the expression “resolution for voluntary winding up” means a resolution passed under section 21(1) above.
- 42 Article 74 shall have effect with the omission of the words from the beginning to “and”.
- 43 (1) Paragraph (1) of Article 75 shall have effect as if for the words from the beginning to “meeting” there were substituted the words—
  - “(1) Where it is proposed to wind up an incorporated friendly society voluntarily, the committee of management (or, in the case of an incorporated friendly society whose committee of management has more than two members, the majority of them) may at a meeting of the committee”.
- (2) The reference to the directors in paragraph (2) shall be construed as a reference to members of the committee of management.
- 44 Article 76 shall have effect as if for the words “directors’ statutory declaration in accordance with Article 75” there were substituted the words “statutory declaration made in accordance with Article 75 by members of the committee of management”.
- 45 Article 81(1) and 82 shall have effect as if the word “directors” were omitted from each of them.
- 46 In paragraph (1) of Article 87 (appointment of liquidation committee) of the Order, the reference to functions conferred on a liquidation committee by or under that Order shall have effect as a reference to its functions by or under that Order as applied to incorporated friendly societies.
- 47 (1) Article 93 (distribution of property) of the Order does not apply; and the following applies in its place.
- (2) Subject to the provisions of Part V relating to preferential payments, an incorporated friendly society’s property in a voluntary winding up shall be applied in satisfaction of the society’s liabilities to creditors *pari passu* and, subject to that application, in accordance with the rules of the society.
- 48 Articles 96 and 97 (liquidator accepting shares, etc. as consideration for sale of company property) of the Order do not apply.

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

*Changes to legislation: Friendly Societies Act 1992 is up to date with all changes known to be in force on or before 02 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

### *Winding up by the High Court*

- 49 Article 102 (circumstances in which company may be wound up by the High Court) of the Order does not apply.
- 50 Article 104 (application for winding up) of the Order does not apply.
- 51 (1) In Article 105 (powers of High Court on hearing of petition) of the Order, paragraph (1) applies with the omission of the words from “but the Court” to the end of the paragraph.
- (2) The conditions which the Court may impose under Article 105 of the Order include conditions for securing—
- (a) that the incorporated friendly society be dissolved by consent of its members under section 20 above; or
  - (b) that the society amalgamates with, or transfers its engagements to, another friendly society under section 85 or 86 above; or
  - (c) that the society converts itself to a company under section 91 above,
- and may also include conditions for securing that any default which occasioned the petition be made good and that the costs of the proceedings on that petition be defrayed by the person or persons responsible for the default.
- 52 Article 106 (power of court, between petition and winding-up order, to stay or restrain proceedings against company) of the Order has effect with the omission of paragraph (2).
- 53 If, before the presentation of a petition for the winding up by the High Court of an incorporated friendly society, an instrument of dissolution under section 20 is placed in the society’s public file, Article 109(1) (commencement of winding up by the High Court) of the Order shall also apply in relation to the date on which the notice is so placed and to any proceedings in the course of the dissolution as it applies to the commencement date for, and proceedings in, a voluntary winding up.
- 54 (1) Article 110 of the Order (consequences of winding-up order) shall have effect with the following modifications.
- (2) Paragraphs (1) and (3) shall be omitted.
- (3) An incorporated friendly society shall, within 15 days of a winding-up order being made in respect of it, give notice of the order to the [<sup>F43</sup>Authority]; and the [<sup>F43</sup>Authority] shall keep the notice in the public file of the society.
- (4) If an incorporated friendly society fails to comply with sub-paragraph (3) above, it shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

#### **Textual Amendments**

**F43** Words in *Sch. 10 para. 54(3)* 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. 123(d)* (with *art. 13(3), Sch. 5*); *S.I. 2001/3538, art. 2(1)*

- 55 Article 119 (appointment of liquidator by High Court in certain circumstances) of the Order does not apply.
- 56 In the application of Article 120(1) (liquidation committees), of the Order to incorporated friendly societies, the references to functions conferred on a

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liquidation committee by or under that Order shall have effect as references to its functions by or under that Order as so applied.

57 The conditions which the High Court may impose under Article 125 (power to stay winding up) of the Order shall include those specified in paragraph 51(2) above.

58 Article 132 (adjustment of rights of contributories) of the Order shall have effect with the modification that any surplus is to be distributed in accordance with the rules of the society.

59 Article 140(2) (liquidator's powers) of the Order, the reference to an extraordinary resolution shall have effect as a reference to a special resolution.

#### *Winding up: general*

60 Article 158 (power to make over assets to employees) of the Order does not apply.

61 (1) In Article 166 (dissolution: voluntary winding up) of the Order, paragraph (2) applies without the words from "and on the expiration" to the end of the paragraph and, in paragraph (3), the word "However" shall be omitted.

(2) Articles 167 and 168 (early dissolution) of the Order do not apply.

62 In Article 169 (dissolution: winding up by the High Court) of the Order, paragraph (1) applies with the omission of the words from "and, subject" to the end of the paragraph; and in paragraphs (2) and (3) references to the Department shall have effect as references to the [F44 Authority].

#### **Textual Amendments**

**F44** Word in [Sch. 10 para. 62](#) 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. 123\(e\)](#) (with [art. 13\(3\)](#), [Sch. 5](#)); [S.I. 2001/3538, art. 2\(1\)](#)

#### *Penal provisions*

63 Articles 180 and 181 of the Order (restriction on re-use of name) do not apply.

64 (1) Articles 182 and 183 (prosecution of delinquent officers) of the Order do not apply in relation to offences committed by members of an incorporated friendly society acting in that capacity.

(2) Articles 182(4) and 183(1) and (2) of the Order do not apply.

(3) The references in paragraph (3) and (5) of Article 183 of the Order to the Department shall have effect as references to the [F45 Authority]; and the reference in paragraph (3) to Article 182 of the Order shall have effect as a reference to that Article as supplemented by paragraph 65 below.

#### **Textual Amendments**

**F45** Word in [Sch. 10 para. 64\(3\)](#) 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. 123\(e\)](#) (with [art. 13\(3\)](#), [Sch. 5](#)); [S.I. 2001/3538, art. 2\(1\)](#)

65 (1) Where a report is made to the prosecuting authority (within the meaning of Article 182) under Article 182(5) of the Order, in relation to an officer of an incorporated

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friendly society, he may, if he thinks fit, refer the matter to the [<sup>F46</sup>Authority] for further enquiry.

- (2) On such a reference to it the [<sup>F46</sup>Authority] shall exercise its power under section 65(1) above to appoint one or more investigators to investigate and report on the matter.
- (3) An answer given by a person to a question put to him in exercise of the powers conferred by section 65 above on a person so appointed may be used in evidence against the person giving it.

#### Textual Amendments

**F46** Words in *Sch. 10 para. 65(1)(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. 123(e)* (with *art. 13(3), Sch. 5*); *S.I. 2001/3538, art. 2(1)*

#### *Preferential debts*

- 66 Article 347 (meaning in Schedule 4 of “the relevant date”) of the Order applies with the omission of paragraphs (2) and (4) to (6).

### PART IV

#### SUPPLEMENTARY

#### *Dissolution of incorporated friendly society after winding up*

- 67 (1) Where an incorporated friendly society has been wound up voluntarily, it is dissolved as from 3 months from the date of the placing in the public file of the society of the return of the final meetings of the society and its creditors made by the liquidator under—
- (a) section 94 or 106 of the <sup>M21</sup>Insolvency Act 1986 (as applied to incorporated friendly societies), or on such other date as is determined in accordance with section 201 of that Act; or
  - (b) Article 80 or 92 of the <sup>M22</sup>Insolvency (Northern Ireland) Order 1989 (as so applied), or on such other date as is determined in accordance with Article 166 of that Order.
- (2) Where an incorporated friendly society has been wound up by the court, it is dissolved as from 3 months from the date of the placing in the public file of the society of the liquidator’s notice under—
- (a) section 172(8) of the <sup>M23</sup>Insolvency Act 1986 (as applied to incorporated friendly societies) or on such other date as is determined in accordance with section 205 of that Act; or
  - (b) Article 146(7) of the Insolvency (Northern Ireland) Order 1989 (as so applied) or on such other date as is determined in accordance with Article 169 of that Order.

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

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#### Marginal Citations

- M21** 1986 c. 45.  
**M22** S.I. 1989/2405 (N.I.19)  
**M23** 1986 c. 45.

- 68 (1) Sections 654 to 658 of the <sup>M24</sup>Companies Act 1985 or Articles 605 to 609 of the <sup>M25</sup>Companies (Northern Ireland) Order 1986 (provisions as to corporate property as bona vacantia), shall have the same effect in relation to the property of a dissolved incorporated friendly society (whether dissolved under section 20 above or following its winding up) as they have in relation to the property of a dissolved company, but with the following modifications.
- (2) Paragraph 3(1) above shall apply to those sections for the purpose of their application to incorporated friendly societies.
- (3) Subsection (2) of section 654 and subsections (1) and (3) of section 655 apply without the words “or 653”; and the references in those subsections to section 651 shall have effect as references to section 25 above.
- (4) Paragraph (2) of Article 605 and paragraph (1) of Article 606 apply without the words “or 604”; and the references in those paragraphs to Article 602 shall have effect as references to section 25 above.

#### Marginal Citations

- M24** 1985 c. 6.  
**M25** S.I. 1986/1032 (N.I.6)

#### *Insolvency rules and fees*

- 69 (1) Rules may be made under—
- (a) section 411 of the Insolvency Act 1986; or
- (b) Article 359 of the Insolvency (Northern Ireland) Order 1989,
- for the purpose of giving effect, in relation to incorporated friendly societies, to the provisions of the applicable winding up legislation.
- (2) An order made by the competent authority under section 414 of the Insolvency Act 1986 may make provision for fees to be payable under that section in respect of proceedings under the applicable winding-up legislation and the performance by the official receiver or the Secretary of State of functions under it.
- (3) An order made by the competent authority under Article 361 of the Insolvency (Northern Ireland) Order 1989 may make provisions for fees to be payable under that section in respect of proceedings under the applicable winding-up legislation and the performance by the official receiver in Northern Ireland or the Department of Economic Development in Northern Ireland of functions under it.

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

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## SCHEDULE 11

Section 27.

## COMMITTEE OF MANAGEMENT: SUPPLEMENTARY

## PART I

## ELIGIBILITY AND RETIREMENT OF COMMITTEE MEMBERS

*Preliminary*

- 1 (1) This Part of this Schedule applies in relation to members of the committee of management of a friendly society (“the society”); and in this Schedule—
- “the committee” means the committee of management of the society;
- “the compulsory retirement age”, where the rules of the society make the provision authorised by paragraph 3(1) below, means the age prescribed for that purpose in its rules;
- “the normal retirement age” means 70 years or such lesser age as the rules of the society may prescribe as the normal retirement age for members of its committee.
- (2) For the purposes of this Act the date of a person’s election to office as a member of the committee, where the rules of the society provide for election by postal ballot, is the date of the meeting at which the declaration of the result of the ballot is made.

**Commencement Information**

**I32** Sch. 11 para. 1 wholly in force; Sch. 11 para. 1 not in force at Royal Assent see s. 126(2); Sch. 11 para. 1 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 11 para. 1 in force to the extent not already in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

*Eligibility to be elected committee member*

- 2 Subject to paragraph 3 below, paragraph 7 of Schedule 3 to this Act and to the rules of the society, any person is eligible to be elected as a member of the committee.

**Commencement Information**

**I33** Sch. 11 para. 2 wholly in force; Sch. 11 para. 2 not in force at Royal Assent see s. 126(2); Sch. 11 para. 2 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 11 para. 2 in force to the extent not already in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

- 3 (1) The rules of the society may require the members of the committee to retire at a prescribed age without eligibility for re-election or reappointment; and, if the age so prescribed is no greater than the age which is the normal retirement age for members of the committee, sub-paragraph (3) below shall have no application to the society.
- (2) If the rules of the society make the provision authorised by sub-paragraph (1) above, a person who has attained the age so prescribed shall not be eligible to be elected as a member of the committee.

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

*Changes to legislation: Friendly Societies Act 1992 is up to date with all changes known to be in force on or before 02 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (3) Except in the case mentioned in sub-paragraph (1) above, if a person has attained the normal retirement age for the society, he shall not be eligible to be elected as a member of the committee unless—
- (a) he has been approved as eligible to be so elected by resolution of the committee; and
  - (b) his age and the reasons for the committee's approval of his eligibility have been notified to every person entitled to vote at the election.
- (4) If a friendly society, in a case where its committee has approved as eligible for election a person who has attained the normal retirement age, fails to notify every person entitled to vote at the election, the society shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale; but no such failure shall invalidate the election.

#### Commencement Information

**I34** Sch. 11 para. 3 wholly in force; Sch. 11 para. 3 not in force at Royal Assent see s. 126(2); Sch. 11 para. 3 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 11 para. 3 in force to the extent not already in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

#### *Eligibility to be co-opted committee member*

- 4 No person may be co-opted as a member of the committee who has attained the normal retirement age or the compulsory retirement age (where that age is less than the normal retirement age).

#### Commencement Information

**I35** Sch. 11 para. 4 wholly in force; Sch. 11 para. 4 not in force at Royal Assent see s. 126(2); Sch. 11 para. 4 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 11 para. 4 in force to the extent not already in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

#### *Notice to society of age of committee member*

- 5 (1) A person who holds office as, or is to his knowledge nominated for election or proposed for co-option to the committee as, a member of the committee shall, not later than 28 days before he attains the normal retirement age or, as the case may be, the compulsory retirement age for members of the committee, give the society notice of the date on which he will attain that age.
- (2) A person who fails to give to a friendly society a notice required, in relation to that society, by sub-paragraph (1) above shall be guilty of an offence and liable on summary conviction—
- (a) to a fine not exceeding level 3 on the standard scale; and
  - (b) in the case of a continuing offence, to an additional fine not exceeding one-tenth of that level for every week during which the offence continues.



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**Commencement Information**

**I36** [Sch. 11 para. 5](#) wholly in force; [Sch. 11 para. 5](#) not in force at Royal Assent see [s. 126\(2\)](#); [Sch. 11 para. 5](#) in force for certain purposes at 13.1.1993 by [S.I. 1993/16, art. 2](#), [Sch. 1](#); [Sch. 11 para. 5](#) in force to the extent not already in force at 1.1.1994 by [S.I. 1993/2213, art. 2\(1\)](#), [Sch. 5](#)

*Retirement of elected committee members*

- 6 (1) A member of the committee shall retire from office—
- (a) in any case not provided for by paragraph (b) below, sub-paragraph (2) below or rules under sub-paragraph (3) below, at the fifth annual general meeting of the society following the date of his election; and
  - (b) in a case where he had attained the normal retirement age at his election, at the next annual general meeting following that date.
- (2) A member of the committee attaining the normal retirement age or, as the case may be, the compulsory retirement age shall, subject to any provision of the rules for earlier retirement, retire from office at the next annual general meeting of the society.
- (3) The rules of the society, if they provide for the retirement by rotation of members of its committee, may provide that a person elected to fill a vacant seat on the committee must retire at the annual general meeting at which, in accordance with the rules for retirement by rotation, the seat is to fall vacant.
- (4) Sub-paragraph (3) above applies to any vacancy arising when an elected member ceases to hold office for any reason before the annual general meeting at which (disregarding his age) the seat is due to fall vacant.

**Commencement Information**

**I37** [Sch. 11 para. 6](#) wholly in force; [Sch. 11 para. 6](#) not in force at Royal Assent see [s. 126\(2\)](#); [Sch. 11 para. 6](#) in force for certain purposes at 13.1.1993 by [S.I. 1993/16, art. 2](#), [Sch. 1](#); [Sch. 11 para. 6](#) in force to the extent not already in force at 1.1.1994 by [S.I. 1993/2213, art. 2\(1\)](#), [Sch. 5](#)

*Retirement of co-opted members*

- 7 (1) A person who is co-opted as a member of the committee shall cease to hold office at the end of the permitted period unless he is elected to office as a member of the committee within that period.
- (2) For the purposes of sub-paragraph (1) above “the permitted period”, with reference to the tenure of office of a co-opted member of the committee, is the period beginning with the date of his appointment and ending with the declaration of the next election of members of the committee conducted after his appointment or the expiration of the period of 16 months beginning with the date of his appointment, whichever first occurs.



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#### Commencement Information

**I38** Sch. 11 para. 7 wholly in force; Sch. 11 para. 7 not in force at Royal Assent see s. 126(2); Sch. 11 para. 7 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 11 para. 7 in force to the extent not already in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

## PART II

### DEALINGS WITH MEMBERS OF COMMITTEE OF MANAGEMENT

- 8 (1) Sections 312 (payment for loss of office etc) and 316(3) (supplementary) of the <sup>M26</sup>Companies Act 1985 shall have effect as if any reference in them to a director of a company included a reference to a member of the committee of management of a friendly society or a registered branch but with the substitution in section 316(3) of a reference to section 312 for the reference to sections 312 to 315.
- (2) Articles 320 (payment for loss of office etc) and 324(3) (supplementary) of the <sup>M27</sup>Companies (Northern Ireland) Order 1986 shall have effect as if any reference in them to a director of a company included a reference to a member of the committee of management of a friendly society or a registered branch but with the substitution in Article 324(3) of a reference to Article 320 for the reference to Articles 320 to 323.

#### Commencement Information

**I39** Sch. 11 para. 8 wholly in force; Sch. 11 para. 8 not in force at Royal Assent see s. 126(2); Sch. 11 para. 8 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 11 para. 8 in force to the extent not already in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

#### Marginal Citations

**M26** 1985 c. 6.

**M27** S.I.1986/1032 (N.I.6).

- 9 (1) The following provisions of the <sup>M28</sup>Building Societies Act 1986—
- (a) section 62 (prohibition of tax-free payments to directors);
  - (b) section 63 (disclosure of interests in contracts and other transactions);
  - (c) section 64 (substantial property transactions);
  - (d) section 65 (restriction on loans etc);
  - (e) section 66 (sanctions);
  - (f) section 68 (records of loans etc) with Schedule 9;
  - (g) section 69 (disclosure and record of related businesses); and
  - (h) section 70 (interpretation),
- shall have effect as if any reference to a director of a building society included a reference to a member of the committee of management of a friendly society or registered branch.
- (2) The provisions mentioned in sub-paragraph (1) above shall have effect in their application to such members with the substitution—
- (a) of a reference to a friendly society or registered branch for every reference to a building society; and

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- (b) of a reference to the committee of management for every reference to the directors or board of directors.
- (3) Section 65 shall in addition have effect in its application to them—
  - (a) with the omission of subsection (1)(c); and
  - (b) with the substitution in subsection (1)(d) of the words “ loan or disposal of property ” for the words “loan, disposal of property or payment”.
- (4) Section 69 shall in addition have effect with the substitution—
  - (a) of the following subsection for subsection (3)—
    - “(3) The following are relevant services—
      - (a) legal services;
      - (b) accountancy services;
      - (c) services of a broker in respect of the society’s insurance business;
      - (d) reinsurance of the society’s insurance business;
      - (e) any other services designated as relevant services.”; and
    - (b) of a reference to Part II of this Schedule for every reference in subsection (7) to Schedule 10 to the Building Societies Act.
- (6) The requisite particulars of the business of a business associate of a friendly society or registered branch are accordingly those set out in paragraphs 10 to 12 or 13 to 15 below.

**Commencement Information**

**I40** Sch. 11 para. 9 wholly in force; Sch. 11 para. 9 not in force at Royal Assent see s. 126(2); Sch. 11 para. 9 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 11 para. 9 in force to the extent not already in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

**Marginal Citations**

**M28** 1986 c. 53.

*Requisite particulars where no adoption of this Part*

- 10 Where the business associate of the society or branch provides legal services the requisite particulars of its business in any financial year are the following—
- (a) the aggregate amount of the fees paid to it by the society or branch concerned for the provision of legal services; and
  - (b) the aggregate amount of any fees paid to it by the society or branch in consideration of the provision of management services to the society or branch.

**Commencement Information**

**I41** Sch. 11 para. 10 wholly in force; Sch. 11 para. 10 not in force at Royal Assent see s. 126(2); Sch. 11 para. 10 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 11 para. 10 in force to the extent not already in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

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- 11 Where the business associate of the society or branch provides accountancy services the requisite particulars of its business in any financial year are the following—
- (a) the aggregate amount of the fees paid to it by the society or branch for the provision of accountancy services; and
  - (b) the aggregate amount of any fees paid to it by the society or branch in consideration of the provision of management services to the society or branch.

**Commencement Information**

**I42** Sch. 11 para. 11 wholly in force; Sch. 11 para. 11 not in force at Royal Assent see s. 126(2); Sch. 11 para. 11 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 11 para. 11 in force to the extent not already in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

- 12 Where the business associate of the society or branch arranges for the provision of insurance broking services, the requisite particulars of its business in any financial year are the following—
- (a) the aggregate of the amounts paid to it by the society or branch by way of commission; and
  - (b) the aggregate amount of any fees paid to it by the society or branch in consideration of the provision of management services to the society or branch.

**Commencement Information**

**I43** Sch. 11 para. 12 wholly in force; Sch. 11 para. 12 not in force at Royal Assent see s. 126(2); Sch. 11 para. 12 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 11 para. 12 in force to the extent not already in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

*Requisite particulars on adoption of this Part*

- 13 Where the business associate of the society or branch provides legal services, the requisite particulars of its business in any financial year are the following—
- (a) the prescribed band within which falls the estimated aggregate amount of the fees paid to it by the society or branch for the provision of legal services; and
  - (b) the prescribed band within which falls the estimated aggregate amount of any fees paid to it by the society or branch in consideration of the provision of management services to the society or branch.

**Commencement Information**

**I44** Sch. 11 para. 13 wholly in force; Sch. 11 para. 13 not in force at Royal Assent see s. 126(2); Sch. 11 para. 13 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 11 para. 13 in force to the extent not already in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

- 14 Where the business associate of the society or branch provides accountancy services the requisite particulars of its business in any financial year are the following—

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- (a) the prescribed band within which falls the estimated aggregate amount of the fees paid to it by the society or branch for the provision of accountancy services; and
- (b) the prescribed band within which falls the estimated aggregate amount of any fees paid to it by the society or branch in consideration of the provision of management services to the society or branch.

#### Commencement Information

**I45** Sch. 11 para. 14 wholly in force; Sch. 11 para. 14 not in force at Royal Assent see s. 126(2); Sch. 11 para. 14 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 11 para. 14 in force to the extent not already in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

- 15 Where the business associate of the society or branch provides insurance broking services the requisite particulars of its business in any financial year are the following—
- (a) the prescribed band within which falls the estimated aggregate of the amounts paid to it by or by way of commission; and
  - (b) the prescribed band within which falls the estimated aggregate amount of any fees paid to it by the society or branch in consideration of the provision of management services to the society or branch.

#### Commencement Information

**I46** Sch. 11 para. 15 wholly in force; Sch. 11 para. 15 not in force at Royal Assent see s. 126(2); Sch. 11 para. 15 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 11 para. 15 in force to the extent not already in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

#### *Power to prescribe bands*

- 16 (1) The [<sup>F47</sup>Treasury], with the consent of the Treasury, may by order prescribe, for the purposes of the provisions of this Part of this Schedule, series of monetary amounts by reference to limits specified in the order; and, in any such provision, “prescribed band” means, in relation to monetary amounts, any series of monetary amounts so prescribed for the purposes of that provision.
- (2) The power conferred by this paragraph includes power to prescribe different series of monetary amounts for the purposes of different provisions.

#### Textual Amendments

**F47** Word in Sch. 11 para. 16(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. 124 (with art. 13(3), Sch. 5); S.I. 2001/3538, art. 2(1)

#### Modifications etc. (not altering text)

**C6** Sch. 11 para. 16(1): Functions of the Friendly Societies Commission transferred (1.12.2001) to the Treasury by S.I. 2001/2617, arts. 2, 4(1), Sch. 1 Pt. II (with art. 5); S.I. 2001/3538, art. 2(1)

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#### Commencement Information

**I47** Sch. 11 para. 16 wholly in force; Sch. 11 para. 16 not in force at Royal Assent see s. 126(2); Sch. 11 para. 16 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 11 para. 16 in force for all remaining purposes at 13.9.1993 by S.I. 1993/2213, art. 2(1), Sch. 2

## SCHEDULE 12

Section 30.

### MEETINGS AND RESOLUTIONS

#### *Annual general meeting*

- 1 (1) Every friendly society and registered branch shall in each year hold a general meeting as its annual general meeting (in addition to any other meetings in that year).
- (2) Not more than 15 months shall elapse between the date of one annual general meeting and that of the next.
- (3) If an incorporated friendly society holds its first annual general meeting within 18 months of its incorporation, it need not hold it in the year of its incorporation or in the following year.
- (4) If a registered friendly society or registered branch holds its first annual general meeting within 18 months of its registration under the 1974 Act, it need not hold it in the year of its registration or in the following year.

#### Commencement Information

**I48** Sch. 12 para. 1 wholly in force; Sch. 12 para. 1 not in force at Royal Assent see s. 126(2); Sch. 12 para. 1 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 12 para. 1 in force to the extent not already in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

- 2 (1) A meeting to be held as the annual general meeting of a friendly society or registered branch shall be specified as such in any notice calling it.
- (2) Notwithstanding anything in the rules of a friendly society or registered branch, the business which may be dealt with at the annual general meeting includes any resolution (whether a special resolution or not).

#### Commencement Information

**I49** Sch. 12 para. 2 wholly in force; Sch. 12 para. 2 not in force at Royal Assent see s. 126(2); Sch. 12 para. 2 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 12 para. 2 in force to the extent not already in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

- 3 (1) If a friendly society or registered branch fails to hold a meeting as its annual general meeting in accordance with paragraph 1 above, the society or branch shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (2) If such default is made, the [<sup>F48</sup>Authority] may—

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- (a) call, or direct the calling of, an annual general meeting, and
  - (b) give such ancillary or consequential directions as it thinks expedient, including directions modifying or supplementing the operation of the rules of the society concerned in relation to the calling, holding and conducting of the meeting.
- (3) If default is made in complying with any directions of the [F48Authority] given under this paragraph, the society or branch concerned shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

#### Textual Amendments

**F48** Words in [Sch. 12 para. 3\(2\)\(3\)](#) 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. 125\(a\)](#) (with [art. 13\(3\)](#), [Sch. 5](#)); [S.I. 2001/3538](#), [art. 2\(1\)](#)

#### Commencement Information

**I50** [Sch. 12 para. 3](#) wholly in force; [Sch. 12 para. 3](#) not in force at Royal Assent see [s. 126\(2\)](#); [Sch. 12 para. 3](#) in force for certain purposes at 13.1.1993 by [S.I. 1993/16](#), [art. 2](#), [Sch. 1](#); [Sch. 12 para. 3](#) in force to the extent not already in force at 1.1.1994 by [S.I. 1993/2213](#), [art. 2\(1\)](#), [Sch. 5](#)

#### *Notice for calling meetings*

- 4 (1) A meeting of a friendly society or registered branch must be called by not less than 14 days' notice to members, or such longer period as the rules may require, expiring—
- (a) with the date of the meeting; or
  - (b) where proxy voting is permitted, with 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;
- and the notice to members of a meeting shall be given in such manner as is prescribed by the rules of the society or branch.
- (2) Where the rules of a friendly society do not provide for the giving of individual notices to those entitled (when the notice is given) to vote at meetings of any description, the rules may provide for the giving of notice of such meetings by advertisement.
- (3) If the rules provide for the giving of notice of any meetings by advertisement, the rules must include provision requiring the necessary advertisements to be inserted—
- (a) in at least one newspaper circulating in the areas in which the members of the society reside; or
  - (b) where the membership of the society is drawn from a professional body or wholly or mainly from persons who are or have been engaged in a particular trade, profession or vocation, in an appropriate professional journal,
- as the rules may provide.
- (4) The rules of a friendly society or registered branch may provide—
- (a) for adjourned meetings to be called without notice or with such notice as the rules may require;
  - (b) for meetings to be held at a specified time and place, on such dates as are prescribed by the rules, either without further notice or with such notice as the rules may require;

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and sub-paragraphs (1) to (3) above shall not apply to meetings held by virtue of such provision.

- (5) This paragraph is without prejudice to any requirement under the rules of a friendly society or registered branch as to the giving of notice of special resolutions to be moved, or any other business to be transacted, at a meeting of the society or branch.

#### Commencement Information

- I51** Sch. 12 para. 4 wholly in force; Sch. 12 para. 4 not in force at Royal Assent see s. 126(2); Sch. 12 para. 4 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 12 para. 4 in force to the extent not already in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

#### *Members' entitlement to vote on resolutions*

- 5 (1) Subject to sub-paragraph (2) below, any provision in the rules of a friendly society or registered branch is void to the extent that it would have the effect of making the voting rights conferred on members by the rules conditional upon the amount of their subscriptions.
- (2) Sub-paragraph (1) above shall not apply to any provision in the rules excluding or limiting the voting rights of members by reference to the amount of their subscriptions in such cases or circumstances as the [<sup>F49</sup>Treasury] may by regulations prescribe.
- (3) In this section “subscription” includes a contribution payment falling to be made by a member.

#### Textual Amendments

- F49** Word in Sch. 12 para. 5(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. 125(b) (with arts. 13(3), Sch. 5); S.I. 2001/3538, art. 2(1)

#### Modifications etc. (not altering text)

- C7** Sch. 12 para. 5(2): Functions of the Friendly Societies Commission transferred (1.12.2001) to the Treasury by S.I. 2001/2617, arts. 2, 4(1), Sch. 1 Pt. II (with art. 5); S.I. 2001/3538, art. 2(1)

#### Commencement Information

- I52** Sch. 12 para. 5 wholly in force; Sch. 12 para. 5 not in force at Royal Assent see s. 126(2); Sch. 12 para. 5 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 12 para. 5 in force to the extent not already in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

#### *Right to demand a poll*

- 6 (1) Any provision contained in the rules of a friendly society or registered branch shall be void in so far as it would have the effect either—
- (a) of excluding the right to demand a poll at a meeting of the society on any question other than the election of a chairman of the meeting or the adjournment of the meeting; or
- (b) of making ineffective a demand for a poll on any such question which is made by not less than 10 members who are entitled to vote at the meeting or,



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in the case of a society whose rules provide for delegate voting, 5 delegates who are so entitled.

- (2) The reference in sub-paragraph (1)(b) above to members includes a reference, where the rules allow the appointment of proxies, to persons who are duly appointed on behalf of members entitled to attend and vote at the meeting.

#### **Commencement Information**

**I53** Sch. 12 para. 6 wholly in force; Sch. 12 para. 6 not in force at Royal Assent see s. 126(2); Sch. 12 para. 6 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 12 para. 6 in force to the extent not already in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

#### *Special resolutions*

- 7 (1) No resolution of a friendly society shall be passed as a special resolution unless—
- (a) it is required to be so passed by or under any provision of this Act or the 1974 Act or by the rules of the society;
  - (b) at least 14 day’s notice, or such longer period as the rules may require, expiring—
    - (i) with the date of the meeting at which the resolution is to be moved; or
    - (ii) where proxy voting is permitted, with 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;
 is given to members in such manner as is prescribed by the rules; and
  - (c) any such notice (or, in the case of a postal ballot, the ballot papers) includes a statement that the resolution will not be effective unless it is passed as a special resolution;
- and, in this Act, “special resolution” means a resolution so passed.
- (2) Subject to sub-paragraph (3) below, a resolution of a friendly society shall not be effective as a special resolution unless it is passed by not less than three-quarters of the number of the members of the society entitled to vote on it and voting either (in person or by proxy) on a poll at a meeting of the society or in a postal ballot.
- (3) Where the rules of a friendly society provide for delegate voting, a resolution shall not be effective as a special resolution unless it is passed by not less than three quarters of the number of delegates entitled to vote on the resolution and voting on a poll at a meeting or in a postal ballot.
- (4) Where the rules of a friendly society do not provide for the giving of individual notices to those entitled (when the notice is given) to vote on special resolutions of any description, the rules may provide for the giving of notice by advertisement.
- (5) If the rules provide for the giving of notice of any special resolutions by advertisement, the rules must include provision requiring the necessary advertisements to be inserted—
- (a) in at least one newspaper circulating in the areas in which the members of the society reside; or



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- (b) where the membership of the society is drawn from a professional body or wholly or mainly from persons who are or have been engaged in a particular trade, profession or vocation, in an appropriate professional journal, as the rules may provide.
- (6) Proxy voting shall be permitted (notwithstanding anything to the contrary in a society's rules) on any resolution which is to be moved as a special resolution at any meeting of a friendly society other than a meeting of delegates; and the procedure adopted by the society for such proxy voting shall comply with any requirements prescribed in regulations by the [<sup>F50</sup>Treasury].

#### Textual Amendments

**F50** Word in *Sch. 12 para. 7(6)* substituted (17.8.2001 for specified purposes and otherwise 1.12.2001) by *S.I. 2001/2617, art. 2, 8(1), 13(1), Sch. 3 para. 125(b)* (with *art. 13(3), Sch. 5*); *S.I. 2001/3538, art. 2(1)*

#### Modifications etc. (not altering text)

**C8** *Sch. 12 para. 7(6)*: Functions of the Friendly Societies Commission transferred (1.12.2001) to the Treasury by *S.I. 2001/2617, arts. 2, 4(1), Sch. 1 Pt. II* (with *art. 5*); *S.I. 2001/3538, art. 2(1)*

#### Commencement Information

**I54** *Sch. 12 para. 7* wholly in force; *Sch. 12 para. 7* not in force at Royal Assent see *s. 126(2)*; *Sch. 12 para. 7* in force for certain purposes at 13.1.1993 by *S.I. 1993/16, art. 2, Sch. 1*; *Sch. 12 para. 7* in force for all remaining purposes at 13.9.1993 by *S.I. 1993/2213, art. 2(1), Sch. 2*

#### Postal ballots

- 8 (1) The rules of a friendly society or registered branch may provide for the voting—
- (a) in an election of the committee of management or, where applicable, of the secretary, or
- (b) on any resolution (whether special or not),
- to be conducted in all, or in any particular, circumstances by postal ballot; and in this Act “ballot” or “postal ballot” in relation to an election or a resolution of the society or branch, means a postal ballot taking place by virtue of those rules.
- (2) Where a postal ballot is to take place, the following provisions of this paragraph have effect.
- (3) Notice of a postal ballot shall be given not less than 14 nor more than 56 days before the date which the society or branch specifies as the final date for the receipt of completed ballot papers (referred to in this paragraph as “the voting date”).
- (4) Subject to the provisions of this Act, notice of a postal ballot shall be given to every member of the society or branch who would be entitled to vote in the election or on the resolution if the voting date for the election or the resolution fell on the date of the notice.
- (5) Notice of a postal ballot—
- (a) shall contain such other notices relating to the election or resolution; and
- (b) shall be accompanied by such other documents,
- as would be required to be given or sent to a member in connection with the election or resolution had it been intended to hold the election or vote on the resolution at a

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meeting instead of by postal ballot with the exception, however, of any notice relating to voting by proxy at a meeting.

**Commencement Information**

**I55** Sch. 12 para. 8 wholly in force; Sch. 12 para. 8 not in force at Royal Assent see s. 126(2); Sch. 12 para. 8 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 12 para. 8 in force to the extent not already in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

*Resolutions requiring special notice*

- 9 (1) Where by any provision of this Act special notice is required of a resolution, the resolution is not effective unless notice of the intention to move it has been given to the friendly society concerned at least 28 days before the meeting at which it is moved.
- (2) The friendly society concerned shall give its members notice of any such resolution at the same time and in the same manner as is required by its rules for notice of the meeting or, if that is not practicable, shall give them notice (either by advertisement in a newspaper having an appropriate circulation or in any other mode allowed by the society's rules) at least 14 days before the meeting.
- (3) If, after notice of the intention to move such a resolution has been given to the society, a meeting is called for a date 28 days or less after the notice has been given, the notice is deemed properly given, though not given within the time required.

**Commencement Information**

**I56** Sch. 12 para. 9 wholly in force; Sch. 12 para. 9 not in force at Royal Assent see s. 126(2); Sch. 12 para. 9 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 12 para. 9 in force to the extent not already in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

AUTHORISATION: SUPPLEMENTARY PROVISIONS

**Textual Amendments**

**F51** Schs. 13-13C shall cease to have effect (17.8.2001 for specified purposes and otherwise *prosp.*) by S.I. 2001/2617, arts. 2(a), 8(1), 13(1), Sch. 3 para. 126 (with arts. 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); S.I. 2001/3538, art. 2(1)

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## PART I

### APPLICATIONS FOR AUTHORISATION

#### *Preliminary*

- 1 (1) In this Part of this Schedule “application” means an application by a friendly society for authorisation and, in relation to any application, “the society” means the friendly society making the application.
- (2) For the purposes of this Part of this Schedule “officer”, in relation to a registered friendly society, does not include a trustee of the society.

#### **Commencement Information**

**I57** Sch. 13 wholly in force; Sch. 13 not in force at Royal Assent see s. 126(2); Sch. 13 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 13 in force for all remaining purposes at 13.9.1993 by S.I. 1993/2213, art. 2(1), Sch. 2

#### *Procedure for granting authorisation*

- 2 (1) An application shall be made in such manner as the Commission may specify, either generally or in any particular case.
- (2) Subject to sub-paragraph (3) below, the society must submit to the Commission such proposals as to the manner in which it proposes to carry on business, such financial forecasts and such other information as may be required by or in accordance with regulations made by the Commission with the consent of the Treasury.
- (3) Where the application is made under section 33 above the society shall, instead of submitting the information mentioned in sub-paragraph (2) above, furnish the Commission with the documents referred to in sub-paragraph (4) below and such other information as the Commission may request.
- (4) The documents referred to in sub-paragraph (3) above are—
  - (a) a statement by the society, signed by its secretary and certified by its appropriate actuary or some other independent person acceptable to the Commission, which describes—
    - (i) the insurance business carried on by the society in the United Kingdom immediately before the commencement of section 32 above (and stating, in relation to each description of insurance business, the class specified in head A or B of Schedule 2 to this Act into which that description falls); and
    - (ii) the non-insurance business carried on by it in the United Kingdom at that time;
  - (b) where any solvency requirements imposed by or under this Act are applicable to the society, a statement by the society’s appropriate actuary that, in his opinion, the society complies with those requirements; and

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- (c) a statement made jointly by each member of the committee of management, the secretary and the chief executive that the affairs of the society are directed in accordance with the criteria of prudent management and will continue to be so.
- (5) The Commission shall decide an application within 6 months of receiving the information referred to in sub-paragraph (2) above or, in the case of an application under section 33 above, the documents and other information mentioned in sub-paragraph (3) above.

#### Commencement Information

**I58** Sch. 13 wholly in force; Sch. 13 not in force at Royal Assent see s. 126(2); Sch. 13 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 13 in force for all remaining purposes at 13.9.1993 by S.I. 1993/2213, art. 2(1), Sch. 2

- 3 (1) If on an application the Commission proposes to impose conditions, the provisions of paragraphs 7 and 8 below shall apply.
- (2) If the Commission proposes to refuse to grant authorisation, it shall serve a notice on the society stating—
- (a) that it proposes to refuse to grant authorisation;
  - (b) the grounds for the proposed refusal; and
  - (c) that the society may make representations with respect to the proposed refusal within such period of not less than 28 days as may be specified in the notice and that, if the society so requests, the Commission will afford to it an opportunity of being heard by the Commission within that period.
- (3) If the grounds for the proposed refusal include the ground that a person is not a fit and proper person to hold office in the society, the Commission shall also serve the notice specified in sub-paragraph (2) above on the person concerned giving him the like right to make representations and to be heard with respect to his fitness and propriety for office.
- (4) If, on an application made by virtue of section 33 above, the grounds for the proposed refusal include the ground that the Commission is not satisfied that a statement referred to in paragraph 2(4)(b) or (c) above is accurate, it shall also serve the notice specified in sub-paragraph (2) above on the person or, as the case may be, each person who made the statement giving him the like right to make representations and to be heard with respect to the accuracy of his statement.
- (5) The Commission shall, before reaching a decision on the application, consider any representations made to it in accordance with sub-paragraph (2), (3) or (4) above.
- (6) If, on an application for authorisation, the Commission refuses to grant authorisation it shall serve—
- (a) on the society and each of its officers;
  - (b) on any other person on whom a notice was served under sub-paragraph (4) above,
- a notice stating the Commission's decision and the grounds for it.

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- (7) The non-receipt by an officer or other person of a notice of a matter under this paragraph does not affect the validity of any action on the part of the Commission.

#### Commencement Information

**I59** Sch. 13 wholly in force; Sch. 13 not in force at Royal Assent see s. 126(2); Sch. 13 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 13 in force for all remaining purposes at 13.9.1993 by S.I. 1993/2213, art. 2(1), Sch. 2

#### *Offences in connection with application*

- 4 (1) A friendly society which furnishes any information or makes any statement which is false or misleading in a material particular in connection with an application shall be guilty of an offence and liable—
- (a) on conviction on indictment, to a fine; and
  - (b) on summary conviction, to a fine not exceeding the statutory maximum.
- (2) Any person who knowingly or recklessly furnishes any information or makes any statement which is false or misleading in a material particular in connection with an application 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 both; and
  - (b) on summary conviction, to a fine not exceeding the statutory maximum.

#### Commencement Information

**I60** Sch. 13 wholly in force; Sch. 13 not in force at Royal Assent see s. 126(2); Sch. 13 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 13 in force for all remaining purposes at 13.9.1993 by S.I. 1993/2213, art. 2(1), Sch. 2

#### *Terms of authorisation: supplementary*

- 5 (1) On granting authorisation to a friendly society the Commission shall send a copy of the terms of the authorisation—
- (a) to the secretary of the society; and
  - (b) to the central office;
- and the central office shall keep a copy of those terms in the public file of the society.
- (2) Where the terms of a society's authorisation are superseded by the grant of authorisation—
- (a) on an application to which section 35 above applies, or
  - (b) on an application required by a direction under section 39 above,
- the central office shall, on placing the copy of the terms of the authorisation on the public file of the society under sub-paragraph (1) above, indicate on the copy of the previous terms kept on that file that they have been superseded.

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**Commencement Information**

**I61** Sch. 13 wholly in force; Sch. 13 not in force at Royal Assent see s. 126(2); Sch. 13 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 13 in force for all remaining purposes at 13.9.1993 by S.I. 1993/2213, art. 2(1), Sch. 2

**PART II**

IMPOSITION OF CONDITIONS AND WITHDRAWAL OF AUTHORISATION

*Preliminary*

- 6 (1) In this Part of this Schedule “the society” means—
- (a) in relation to the imposition of conditions on the grant of authorisation, the friendly society making the application for authorisation; and
  - (b) in relation to the imposition of conditions on a current authorisation, the friendly society on whose authorisation the Commission proposes to impose conditions.
- (2) For the purposes of this Part of this Schedule “officer”, in relation to a registered friendly society, does not include a trustee of the society.

**Commencement Information**

**I62** Sch. 13 wholly in force; Sch. 13 not in force at Royal Assent see s. 126(2); Sch. 13 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 13 in force for all remaining purposes at 13.9.1993 by S.I. 1993/2213, art. 2(1), Sch. 2

*Imposition of conditions*

- 7 (1) If the Commission proposes to impose conditions, it shall serve on the society and on each of its officers a notice stating—
- (a) that the Commission proposes to impose conditions;
  - (b) what conditions the Commission proposes to impose;
  - (c) the grounds for their imposition; and
  - (d) that the society may make representations with respect to the proposed imposition of the conditions within such period of not less than 14 days as may be specified in the notice and that, if it so requests, the Commission will afford to it an opportunity of being heard by the Commission within that period.
- (2) If any condition proposed to be imposed on the society includes a requirement for a person’s removal from office (whether an office in the society or in any registered branch of the society), the Commission shall also serve the notice specified in subparagraph (1) above on the person whose removal is proposed giving him the like

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right to make representations and to be heard with respect to his proposed removal from office.

- (3) The Commission shall, before reaching a decision on whether to impose conditions and, if so, what conditions, consider any representations made in accordance with sub-paragraph (1) or (2) above.
- (4) The Commission may not impose conditions on grounds other than those stated, or grounds included in those stated, in the notice served by it under sub-paragraph (1) above.
- (5) Except where paragraph 8 below applies, the Commission shall serve—
  - (a) on the society and each of its officers; and
  - (b) on every other person on whom a notice was served under sub-paragraph (2) above,a notice stating its decision and, where it has decided to impose conditions, specifying the conditions and stating the grounds for imposing them.
- (6) Where conditions are imposed on an authorisation which is already subject to conditions, the notice served on the society under sub-paragraph (5) above shall be accompanied by a statement of all subsisting conditions to which the authorisation is subject (including any that were otherwise unaffected by the decision); and the Commission shall send a copy of that statement to the central office.

#### Commencement Information

**163** Sch. 13 wholly in force; Sch. 13 not in force at Royal Assent see s. 126(2); Sch. 13 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 13 in force for all remaining purposes at 13.9.1993 by S.I. 1993/2213, art. 2(1), Sch. 2

- 8 (1) This paragraph applies where the Commission has decided to impose conditions but proposes to impose conditions different from and more onerous than those stated in the notice served by the Commission under paragraph 7(1) above.
- (2) The Commission shall serve on the society and on each of its officers a notice stating—
  - (a) what conditions the Commission proposes to impose;
  - (b) the grounds for their imposition instead of the conditions stated in the notice under paragraph 7(1) above; and
  - (c) that the society may make representations with respect to the conditions the Commission proposes to impose within such period of not less than 7 days as may be specified in the notice and that, if the society so requests, the Commission will afford to it an opportunity of being heard by the Commission within that period.
- (3) If any new or different condition proposed to be imposed on the society includes a requirement for a person's removal from office (whether an office in the society or in any registered branch of the society), the Commission shall also serve the notice specified in sub-paragraph (2) above on the person whose removal is proposed giving him the like right to make representations and to be heard with respect to his proposed removal from office.



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- (4) The Commission shall, before reaching a decision on whether to impose conditions different from those stated in the notice served under paragraph 7(1) above and, if so, what conditions, consider any representations made in accordance with sub-paragraph (2) or (3) above.
- (5) The Commission may not impose conditions on grounds other than those stated, or grounds included in those stated, in the notice served by it under sub-paragraph (2) above.
- (6) The Commission shall serve-
  - (a) on the society and each of its officers; and
  - (b) on every other person on whom a notice was served under sub-paragraph (3) above,
 a notice stating its decision and, where it has decided to impose conditions, specifying the conditions and stating the grounds for imposing them.
- (7) Where conditions are imposed on an authorisation which is already subject to conditions, the notice served on the society under sub-paragraph (6) above shall be accompanied by a statement of all subsisting conditions to which the authorisation is subject (including any that were otherwise unaffected by the decision); and the Commission shall send a copy of that statement to the central office.
- (8) The procedure in this paragraph may be repeated; and on any such repeat references in this paragraph to the notice under paragraph 7(1) above shall be construed as reference to the latest notice under sub-paragraph (2) of this paragraph.

#### **Commencement Information**

**164** Sch. 13 wholly in force; Sch. 13 not in force at Royal Assent see s. 126(2); Sch. 13 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 13 in force for all remaining purposes at 13.9.1993 by S.I. 1993/2213, art. 2(1), Sch. 2

#### *Imposition of conditions on appeal*

- 9 (1) The modifications of the provisions of paragraphs 7 and 8 above in their application to the imposition of conditions by the Commission in pursuance of a direction of an appeal tribunal under section 59 above are as follows.
  - (2) The notice under paragraph 7(1) above shall be served on the society and the other persons there specified within the period of 14 days beginning with the date on which the Commission received notice of the tribunal's decision under subsection (10) of that section; and a copy shall also be sent within that period to the tribunal.
  - (3) The notice under paragraph 7(1) above may specify, as the period within which representations may be made, a period of not less than 7 days.
  - (4) If the Commission serves a notice under paragraph 8(2) above on the society and other persons there specified it shall send a copy of the notice to the tribunal.



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

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#### Commencement Information

**I65** Sch. 13 wholly in force; Sch. 13 not in force at Royal Assent see s. 126(2); Sch. 13 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 13 in force for all remaining purposes at 13.9.1993 by S.I. 1993/2213, art. 2(1), Sch. 2

#### *Procedure for withdrawing authorisation*

- 10 (1) Subject to sub-paragraph (6) below, if the Commission proposes to give a direction under section 40 or section 41 above it shall serve on the society and on each of its officers a notice stating—
- (a) that the Commission proposes to give such a direction;
  - (b) the grounds for the proposed direction; and
  - (c) that the society may make representations with respect to the proposed direction within such period of not less than 14 days as may be specified in the notice and that, if the society so requests, it will be afforded an opportunity of being heard by the Commission within that period.
- (2) If the grounds for the proposed direction include the ground that a person is not a fit and proper person to hold office in the society, the Commission shall also serve the notice specified in sub-paragraph (1) above on the person concerned giving him the like right to make representations and to be heard with respect to his fitness and propriety for office.
- (3) Before reaching a decision on whether to give a direction, the Commission shall consider any representations made to it in accordance with sub-paragraph (1) or (2) above.
- (4) Except where the Commission proposes to impose conditions instead of giving a direction (in which case paragraphs 7 and 8 above apply), the Commission shall serve on the society and each of its officers a notice stating its decision and, where it has decided to give a direction, the grounds for the decision.
- (5) The Commission may not give a direction on grounds other than those stated, or grounds included in those stated, in the notice served under sub-paragraph (1) above.
- (6) Sub-paragraphs (1) to (5) above shall not apply in relation to a direction to a friendly society which is given at the request of the society or under section 40(2) or (3)(g) above; but the notice of any such direction sent to the secretary of the society shall state the grounds on which it is given.

#### Commencement Information

**I66** Sch. 13 wholly in force; Sch. 13 not in force at Royal Assent see s. 126(2); Sch. 13 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 13 in force for all remaining purposes at 13.9.1993 by S.I. 1993/2213, art. 2(1), Sch. 2

- 11 (1) On giving a direction in relation to a friendly society under section 40 or 41 above the Commission shall—

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- (a) publish notice of it in one or more of the London, Edinburgh and Belfast Gazettes, and in any such other ways as the Commission considers appropriate for notifying the public;
  - (b) send a copy of it to the secretary of the society concerned and to the central office;
  - (c) where it relates only to part of the business covered by the society's authorisation, send a copy of the terms of the authorisation, after taking account of the direction, to the secretary of the society and to the central office.
  - [<sup>F52</sup>(d) in the case of a direction given in relation to a society to which section 37(2) or (3) above applies which is or has been—
    - (i) carrying on insurance business in an EEA State other than the United Kingdom through an overseas branch in that State, or
    - (ii) providing insurance in an EEA State other than the United Kingdom through an establishment in another EEA State,
 notify the supervisory authority in that State, or, as the case may be, in each of those States of the direction.]
- (2) The central office—
- (a) shall keep the copy of a direction sent to it under sub-paragraph (1)(b) above on the public file of the society;
  - (b) where a copy of the terms of the society's authorisation is sent to it under sub-paragraph (1)(c) above, shall keep the copy on the public file of the society.

#### Textual Amendments

**F52** Sch. 13 para. 11(1)(d) inserted (1.9.1994) by S.I. 1994/1984, reg. 7(3)

#### Commencement Information

**I67** Sch. 13 wholly in force; Sch. 13 not in force at Royal Assent see s. 126(2); Sch. 13 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 13 in force for all remaining purposes at 13.9.1993 by S.I. 1993/2213, art. 2(1), Sch. 2

#### *Non-receipt of notice by officer*

- 12           The non-receipt by an officer of a friendly society or registered branch of a notice of a matter does not affect the validity of any action on the part of the Commission.

#### Commencement Information

**I68** Sch. 13 wholly in force; Sch. 13 not in force at Royal Assent see s. 126(2); Sch. 13 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 13 in force for all remaining purposes at 13.9.1993 by S.I. 1993/2213, art. 2(1), Sch. 2

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[<sup>F53F54</sup> [SCHEDULE  
13A TO 1992 ACT]

SUPERVISION OF CONTROLLERS OF FRIENDLY  
SOCIETIES TO WHICH SECTION 37(2) OR (3) APPLIES]

**Textual Amendments**

- F53** Schs. 13-13C shall cease to have effect (17.8.2001 for specified purposes and otherwise *prosp.*) by S.I. 2001/2617, arts. 2(a), 8(1), 13(1), Sch. 3 para. 126 (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**)
- F54** Sch. 13A inserted (1.9.1994) by S.I. 1994/1984, regs 1(1), 14(2), **Sch. 1**.

*Approval of person proposing to become controller*

- 1 (1) No person shall become a controller of a friendly society to which section 37(2) or (3) above applies unless—
- (a) he has served on the Commission a notice stating—
    - (i) that he intends to become a controller of the society; and
    - (ii) the details of the voting rights which he proposes to acquire; and
  - (b) either the Commission has, before the expiration of the period of three months beginning with the date of service of that notice, notified him that there is no objection to his becoming a controller of the society, or that period has elapsed without the Commission having served on him a notice of objection.
- (2) The Commission may serve a notice of objection under sub-paragraph (1) above on the ground—
- (a) that it appears to the Commission that the person concerned is not a fit and proper person to become a controller of the society; or
  - (b) that it appears to it that, if that person were to acquire such voting rights, the criteria of prudent management would not or might not continue to be fulfilled in respect of the society.
- (3) Before serving such a notice the Commission shall serve on the person proposing to become a controller a preliminary notice stating—
- (a) that the Commission is considering the service on that person of a notice of objection on that ground; and
  - (b) that the person may, within the period of one month from the date of service of the preliminary notice, make written representations to the Commission and, if that person so requests, oral representations to an officer of the Commission appointed for the purpose by the Commission.
- (4) The Commission shall not be obliged to disclose to any person any particulars of the ground on which he is considering the service on him of a notice of objection.
- (5) Where representations are made in accordance with this paragraph the Commission shall take them into consideration before serving the notice of objection.

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

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**Modifications etc. (not altering text)**

**C9** Sch. 13A para. 1(1)(a) modified (1.12.2001) by S.I. 2001/2637, arts. 1, 3(2)(d); S.I. 2001/3538, art. 2(1)

*Approval of acquisition of notifiable voting rights*

- 2 (1) No person who is a controller of a friendly society to which section 37(2) or (3) above applies shall acquire notifiable voting rights in the society unless—
- (a) he has served on the Commission a notice stating—
    - (i) that he intends to acquire such voting rights; and
    - (ii) the details of the voting rights which he proposes to acquire; and
  - (b) either the Commission has, before the expiration of the period of three months beginning with the date of service of that notice, notified him that there is no objection to his proposed acquisition of the voting rights, or that period has elapsed without the Commission having served on him a notice of objection.
- (2) The Commission may serve a notice of objection under sub-paragraph (1) above on the ground—
- (a) that it appears to the Commission that the person concerned is not a fit and proper person to acquire such voting rights; or
  - (b) that it appears to it that, if that person were to acquire such voting rights, the criteria of prudent management would not or might not continue to be fulfilled in respect of the society.
- (3) Sub-paragraphs (3) to (5) of paragraph 1 above shall, with the necessary modifications, apply for the purposes of this paragraph as they apply for the purposes of that paragraph.

**Modifications etc. (not altering text)**

**C10** Sch. 13A para. 2(1)(a) modified (1.12.2001) by S.I. 2001/2637, arts. 1, 3(2)(d); S.I. 2001/3538, art. 2(1)

*Provisions supplementing paragraphs 1 and 2*

- 3 (1) This paragraph applies where a person who proposes—
- (a) to become a controller of a friendly society to which section 37(2) or (3) above applies; or
  - (b) to acquire notifiable voting rights in such a society,
- has served notice on the Commission under sub-paragraph (1)(a) of paragraph 1 or 2 above (“the relevant paragraph”).
- (2) The Commission may by notice require the person serving the notice to provide such additional information or documents as the Commission may reasonably require for the purpose of deciding whether to serve—
- (a) a notice of objection under the relevant paragraph; or
  - (b) a notice imposing conditions under paragraph 5 below.

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- (3) Where additional information or documents are required from any person by a notice under sub-paragraph (2) above, the time between the giving of that notice and the receipt of the information or documents shall be added to the period mentioned in sub-paragraph (1)(b) of the relevant paragraph.
- (4) The notice shall be of no effect for the purposes of sub-paragraph (1) of the relevant paragraph if either the notice is withdrawn or—
  - (a) in the case of a notice under paragraph 1(1)(a) above, the person by whom it was served does not become a controller of the society; or
  - (b) in the case of a notice under paragraph 2(1)(a) above, the person by whom it was served does not acquire the voting rights specified in the notice, before the end of the period of one year beginning with the date mentioned in sub-paragraph (5) below.
- (5) The date referred to in sub-paragraph (4) above is as follows—
  - (a) in the case where the Commission has, before the end of the period mentioned in sub-paragraph (1)(b) of the relevant paragraph, given to the person serving the notice such a notification as is mentioned in that provision, the date of that notification;
  - (b) in a case where the Commission has, before the end of that period, served a notice imposing conditions on that person in accordance with paragraph 5 below, the date of the service of that notice; and
  - (c) in any other case, the date immediately following the end of that period.
- (6) The period mentioned in sub-paragraph (1)(b) of the relevant paragraph shall be deemed not to expire until fourteen days after the end of the period within which representations may be made in accordance with that paragraph.

*Notice of objection where requisite notice not given*

- 4 (1) This paragraph applies where a person—
  - (a) becomes a controller of a friendly society to which section 37(2) or (3) above applies; or
  - (b) acquires notifiable voting rights in such a society,
 in contravention of sub-paragraph (1)(a) of paragraph 1 or 2 above; and references in this paragraph to the person in breach shall be construed accordingly.
- (2) The Commission—
  - (a) may serve the person in breach with a notice of objection at any time within three months after it becomes aware of the contravention; and
  - (b) for the purpose of deciding whether to serve the person in breach with such a notice or with a notice imposing conditions under paragraph 5 below, may require that person by notice to provide such information or documents as the Commission may reasonably require.
- (3) Before serving a notice of objection under sub-paragraph (2) above, the Commission shall serve on the person in breach a preliminary notice—
  - (a) stating that the Commission is considering serving a notice of objection on the person in breach; and

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- (b) specifying the matters mentioned in sub-paragraph (5) below as respects which the Commission is not satisfied.
- (4) A person served with a preliminary notice under sub-paragraph (3) above may, within the period of one month from the date of service of that notice–
  - (a) make written representations to the Commission; and
  - (b) if that person so requests, oral representations to an officer of the Commission appointed for that purpose by the Commission.
- (5) The Commission shall not serve a notice of objection under sub-paragraph (2) above unless it appears to the Commission–
  - (a) that the person in breach is not or may not be a fit and proper person to be a controller of the society or to retain the notifiable voting rights in the society; or
  - (b) that the interests of members and potential members of the society are or may in some other manner be jeopardised by that person’s ability to influence the society.
- (6) Where representations are made in accordance with this paragraph the Commission shall take them into consideration before a notice of objection.
- (7) The Commission shall not be obliged to disclose to the person in breach any particulars of the ground on which he is considering the service of a notice of objection.
- (8) The period mentioned in sub-paragraph (2)(a) above shall be deemed not to expire until fourteen days after the end of the period within which representations may be made in accordance with this paragraph.

*Notices imposing conditions*

- 5 (1) This paragraph applies where either–
  - (a) paragraph 3 above applies and the Commission is entitled to serve a notice of objection under the relevant paragraph; or
  - (b) paragraph 4 above applies;
 and expressions in this paragraph which are also used in paragraph 3 or 4 above have the same meanings as in that paragraph.
- (2) If the Commission considers that, if certain conditions were complied with–
  - (a) by the person serving the notice under sub-paragraph (1)(a) of the relevant paragraph; or
  - (b) by the person in breach,
 the criteria of prudent management would continue to be or, as the case may be, would be fulfilled in respect of the society, it may, instead of serving a notice of objection under the relevant paragraph or paragraph 4 above, serve on that person a notice requiring those conditions to be complied with by that person (“the person concerned”).
- (3) Before serving a notice under sub-paragraph (2) above, the Commission shall serve on the person concerned a preliminary notice stating–

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- (a) that the Commission is considering serving a notice under sub-paragraph (2) above;
  - (b) the conditions which would be required by such a notice to be complied with by that person;
  - (c) the criteria of prudent management which it considers would not be fulfilled in respect of the society if neither such a notice nor a notice of objection were served on that person; and
  - (d) that the person may, within the period of one month from the date of service of the preliminary notice–
    - (i) make written representations to the Commission; and
    - (ii) if that person so requests, oral representations to an officer of the Commission appointed for the purpose by the Commission.
- (4) Where representations are made in accordance with this paragraph the Commission shall take them into consideration before serving a notice under sub-paragraph (2) above.
- (5) The Commission shall not be obliged to disclose to the person concerned any particulars of the ground on which it is considering service on that person of a notice under sub-paragraph (2) above or a notice of objection under the relevant paragraph or, as the case may be, paragraph 4 above.

#### *Objection to existing controller*

- 6
- (1) Where it appears to the Commission, as respects a friendly society to which section 37(2) or (3) above applies, that the criteria of prudent management are not or may not be fulfilled in respect of the society by reason of the ability of a person who is a controller of the society to influence the society, it may serve on that person a notice of objection to that person continuing to be a controller of the society.
  - (2) Before serving a notice of objection under this paragraph, the Commission shall serve on the person concerned a preliminary notice stating that the Commission is considering serving a notice of objection under this paragraph.
  - (3) A notice under sub-paragraph (2) above shall–
    - (a) give particulars of the rights conferred by sub-paragraph (4) below; and
    - (b) specify the criteria of prudent management which are not or may not be fulfilled in respect of the society.
  - (4) A person served with a notice under sub-paragraph (2) above may, within the period of one month beginning with the day on which the notice is served–
    - (a) make written representations to the Commission; and
    - (b) if that person so requests, oral representations to an officer of the Commission appointed for the purpose by the Commission.
  - (5) Where representations are made in accordance with this paragraph, the Commission shall take them into account in deciding whether to serve a notice of objection.
  - (6) The Commission shall not be obliged to disclose to the person concerned or to the society any particulars of the ground on which it is considering the service of a notice of objection.

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*Restrictions etc. as respects voting rights*

- 7 (1) This paragraph applies where a person—
- (a) has contravened paragraph 1 or 2 above by becoming a controller of a friendly society to which section 37(2) or (3) above applies, or by acquiring notifiable voting rights in such a society;
  - (b) having become such a controller or acquired such voting rights in contravention of paragraph 1 or 2 above, continues to be such a controller or to retain those voting rights after being served with a notice of objection under paragraph 4 above;
  - (c) having been served with a notice imposing conditions under paragraph 5 above, has failed to comply with any of the conditions specified in that notice; or
  - (d) having been served with a notice of objection under paragraph 6 above to his continuing to be such a controller, continues to be such a controller;
- and references in this paragraph to the person in breach shall be construed accordingly.
- (2) The Commission may by notice served on the person in breach direct that—
- (a) no voting rights shall be exercisable by that person;
  - (b) that any vote cast by that person shall be ineffective;
  - (c) that any resolution adopted, in relation to which that person voted, shall be ineffective and treated as void;
  - (d) any appointment of that person as a delegate shall be void;
  - (e) that person may be disqualified from membership of the society.
- (3) A copy of the notice served on the person in breach under sub-paragraph (2) above shall be served on the society to whose voting rights it relates.

*Notification of changes of controller*

- 8 (1) A person who becomes or ceases to be—
- (a) a controller of a friendly society to which section 37(2) or (3) above applies; or
  - (b) a 10 per cent. controller, a 20 per cent. controller, a 33 per cent. controller, a 50 per cent. controller or a majority controller of such a society,
- shall, before the expiration of the period of seven days beginning with the day next following that on which he does so, notify the society of that fact.
- (2) If, after ceasing to be a controller of any description mentioned in sub-paragraph (1) above, a person will still be a controller of the society, his notice under that sub-paragraph shall state the percentage of the voting power which he will (alone or with any associate or associates) hold or be entitled to exercise or control.
- (3) A friendly society to which section 37(2) or (3) above applies shall give notice to the central office of the fact that any person has become or ceased to be—
- (a) a controller of the society; or
  - (b) a controller of the society of any description mentioned in sub-paragraph (1) above;



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and that notice shall be given before the expiration of the period of one month beginning with the day next following that on which that fact comes to the society's knowledge.

- (4) Any notice under this paragraph shall state—
- (a) the person's full name and address;
  - (b) the date on which he became, or ceased to be, a controller of the society, or a controller of the society of any description mentioned in sub-paragraph (1) above; and
  - (c) in the case of a person becoming such a controller, the date of his birth.
- (5) Any person who fails to comply with sub-paragraph (1) or (3) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (6) On receipt of a notice under this paragraph, the central office shall record the name of the person to whom the notice relates and the date on which he became or, as the case may be, ceased to be a controller of any description, in the public file of the society.

[<sup>F55F56</sup> [SCHEDULE  
13B TO 1992 ACT]

RECOGNITION IN OTHER EEA STATES OF FRIENDLY  
SOCIETIES TO WHICH SECTION 37(2) OR (3) APPLIES]

**Textual Amendments**

- F55** Schs. 13-13C 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), Sch. 3 para. 126 (with art. 13(3), **Sch. 5**); S.I. 2001/3538, **art. 2(1)**
- F56** Sch. 13B inserted (1.9.1994) by S.I. 1994/1984 reg. 15(2), Sch. 2

**PART I**

FRIENDLY SOCIETIES CARRYING ON BUSINESS ETC, IN OTHER MEMBER STATES

*Requirements for carrying on insurance business*

- 1 (1) A friendly society to which section 37(2) or (3) above applies shall not carry on direct insurance business of a class or part of a class through an overseas branch in [<sup>F57</sup>an EEA State] other than the United Kingdom unless—
- (a) the society is authorised under section 32 above to carry on insurance business of that class or part of a class; and
  - (b) the requirements of this paragraph have been complied with in relation to that branch.
- (2) The requirements of this paragraph are—

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- (a) that the society has given to the Commission a notice containing both the requisite EC details and the requisite UK details;
  - (b) that the Commission has given to the supervisory authority in the [F57EEA State] in which the overseas branch is to be established ("the [F57EEA State] of the branch")—
    - (i) a notice which contains the requisite EC details; and
    - (ii) a certificate in accordance with sub-paragraph (3) below; and
  - (c) that either—
    - (i) that authority has informed the Commission of the conditions which, in the interest of the general good, must be complied with by the society in carrying on insurance business through the branch; or
    - (ii) the period of two months beginning with the day on which the Commission gave that authority the certificate mentioned in paragraph (b) above has elapsed.
- (3) A certificate is in accordance with this sub-paragraph if it—
- (a) attests that the society has the minimum margin of solvency calculated in accordance with such of the following as are appropriate—
    - (i) Articles 16 and 17 of the first general insurance Directive, and
    - (ii) Articles 19 and 20 of the first life Directive; and
  - (b) indicates the classes of insurance business which the society is authorised to carry on in the United Kingdom.
- (4) The Commission shall, within the period of three months beginning with the date on which the society's notice was received—
- (a) give the notice and certificate referred to in sub-paragraph (2)(b) above; or
  - (b) refuse to give either or both of those documents.
- (5) The Commission shall, within the period of three months referred to in sub-paragraph (4) above, notify the society—
- (a) that it has given the notice and certificate referred to in sub-paragraph (2) (b) above, stating the date on which it did so; or
  - (b) that it has refused to give either or both those documents, stating the reasons for the refusal.
- (6) The Commission shall not refuse to give the notice referred to in sub-paragraph (2) (b) above unless, having regard to the business to be carried on through the overseas branch, it appears to it that the criteria of prudent management would not or might not continue to be fulfilled in respect of the society.
- (7) Where the supervisory authority in the member State of the branch has informed the Commission as mentioned in paragraph (2)(c)(i) above, the Commission shall forward the information to the society.

#### Textual Amendments

**F57** Words in [Sch. 13B para. 1](#) substituted (1.1.1998) by [S.I. 1997/2849](#), [reg. 3](#)

- 2 (1) A friendly society to which section 37(2) or (3) above applies shall not change the requisite EC details of an overseas branch—

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- (a) which has been established by it in [<sup>F58</sup>an EEA State] other than the United Kingdom (“the [<sup>F58</sup>EEA State] of the branch”); and
  - (b) through which it carries on direct insurance business,
- unless the requirements of this paragraph have been complied with in relation to its making of the change.
- (2) Subject to sub-paragraph (3) below, the requirements of this paragraph are–
- (a) that the society has given a notice to the Commission, and to the supervisory authority in the [<sup>F58</sup>EEA State] of the branch, stating the details of the proposed change not less than one month before the change is to take place;
  - (b) that the Commission has sent to that authority a notice in accordance with sub-paragraph (4)(a) below; and
  - (c) that either–
    - (i) that authority has informed the society of any consequential changes in the conditions which, in the interest of the general good, must be complied with by the society in carrying on insurance business through the branch; or
    - (ii) the period of two months beginning with the day on which the society gave that authority the notice of the proposed change in accordance with paragraph (a) above has elapsed.
- (3) In the case of a change occasioned by circumstances beyond the society’s control, the requirements of this paragraph are that the society shall as soon as practicable (whether before or after the change) give a notice to the Commission, and to the supervisory authority in the [<sup>F58</sup>EEA State] of the branch, stating the details of the change.
- (4) The Commission shall, as soon as practicable after receiving a notice under sub-paragraph (2)(a) above–
- (a) give notice to the the supervisory authority in the [<sup>F58</sup>EEA State] of the branch informing it of the proposed change; or
  - (b) refuse to give such notice.
- (5) The Commission shall, as soon as practicable after making a decision under sub-paragraph (4) above, notify the society–
- (a) that it has given the notice referred to in that sub-paragraph, stating the date on which it did so; or
  - (b) that it refused to give the notice, stating the reasons for that refusal.
- (6) The Commission shall not refuse to give the notice referred to in sub-paragraph (4) (a) above unless, having regard to the proposed change, it appears to it that the criteria of prudent management would not or might not continue to be fulfilled in respect of the society.

#### Textual Amendments

**F58** Words in [Sch. 13B para. 2](#) substituted (1.1.1998) by [S.I. 1997/2849](#), [reg. 3](#)

- 3 (1) A friendly society to which section 37(2) or (3) above applies shall not change the requisite UK details of an overseas branch–

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- (a) which has been established by it in [<sup>F59</sup>an EEA State] other than the United Kingdom; and
  - (b) through which it carries on direct insurance business,
- unless the requirements of this paragraph have been complied with in relation to its making of the change.
- (2) Subject to sub-paragraph (3) below, the requirements of this paragraph are that the society has given a notice to the Commission stating the details of the proposed change not less than one month before the change is to take place.
- (3) In the case of a change occasioned by circumstances beyond the society's control, the requirements of this paragraph are that the society shall as soon as practicable (whether before or after the change) give a notice to the Commission stating the details of the change.

#### Textual Amendments

**F59** Words in [Sch. 13B para. 3](#) substituted (1.1.1998) by [S.I. 1997/2849](#) reg. 3

#### *Requisite details for purposes of paragraphs 1 to 3*

- 4 (1) The requisite EC details for the purposes of paragraphs 1 and 2 above are–
- (a) the [<sup>F60</sup>EEA State] in which the overseas branch is to be or has been established (“the [<sup>F60</sup>EEA State] of the branch”);
  - (b) the address of the branch and confirmation that that address is an address for service on the society's authorised agent;
  - (c) the name of the society's authorised agent;
  - (d) the classes and parts of classes of insurance business to be carried on, and the nature of the risks or commitments to be covered, in the [<sup>F60</sup>EEA State] of the branch;
  - (e) details of the structural organisation of the branch;
  - (f) the guiding principles as to reinsurance of business to be carried on in the [<sup>F60</sup>EEA State] of the branch, including the society's maximum retention per risk or event after all reinsurance ceded;
  - (g) estimates of the following, namely–
    - (i) the costs of installing administrative services and the organisation for securing business in the [<sup>F60</sup>EEA State] of the branch; and
    - (ii) the resources available to cover those costs;
  - (h) for each of the first three financial years following the establishment of the branch–
    - (i) estimates of the society's margin of solvency and the margin of solvency required, and a statement showing how both have been calculated;
    - (ii) in the case of a society which intends to carry on long term business, the details mentioned in sub-paragraph (2) below as respects the business to be carried on in the [<sup>F60</sup>EEA State] of the branch; and

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- (iii) in the case of a society which intends to carry on general business, the details mentioned in sub-paragraph (3) below as respect the business to be so carried on; and
  - (i) in the case of a society which intends to cover health insurance risks, the technical bases which will be used for calculating premiums in respect of such risks.
- (2) The details referred to in sub-paragraph (1)(h)(ii) above are–
  - (a) a statement showing, on both optimistic and pessimistic bases, for each type of contract or treaty–
    - (i) the number of contracts or treaties expected to be issued;
    - (ii) the total premium income, both gross and net of reinsurance ceded;
    - (iii) the total sums assured or the total amounts payable each year by way of annuity;
  - (b) a statement setting out, on both optimistic and pessimistic bases, detailed estimates of income and expenditure in respect of direct business, reinsurance acceptances and reinsurance cessions; and
  - (c) estimates relating to the financial resources intended to cover underwriting liabilities.
- (3) The details referred to in sub-paragraph (1)(h)(iii) above are–
  - (a) estimates relating to expenses of management (other than costs of installation), and in particular those relating to current general expenses and commissions;
  - (b) estimates relating to premiums or contributions (both gross and net of all reinsurance ceded) and to claims (after all reinsurance recoveries); and
  - (c) estimates relating to the financial resources intended to cover underwriting liabilities.
- (4) The requisite UK details for the purposes of paragraphs 1 and 3 above are–
  - (a) the names of the society's managers and main agents in the [F<sup>60</sup>EEA State] of the branch;
  - (b) particulars of any association which exists or is proposed to exist between–
    - (i) the committee of management and the controllers (if any) of the society; and
    - (ii) any person who will act as an insurance broker, agent, loss adjuster or reinsurer for the society in the [F<sup>60</sup>EEA State] of the branch;
  - (c) the names of the principal reinsurers of business to be carried on in the [F<sup>60</sup>EEA State] of the branch;
  - (d) the sources of business in the [F<sup>60</sup>EEA State] of the branch (for example, insurance brokers, agents, own employees or direct selling) with the approximate percentage expected from each of those sources;
  - (e) copies or drafts of the following, namely–
    - (i) any separate reinsurance treaties covering business to be written in the [F<sup>60</sup>EEA State] of the branch;
    - (ii) any standard agreements which the society will enter into with persons who will be sources of business in the [F<sup>60</sup>EEA State] of the branch;

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- (iii) any agreements which the society will enter into with persons (other than employees of the society) who will manage the business to be carried on in the [F60EEA State] of the branch;
  - (f) in the case of a society which intends to carry on long term business–
    - (i) the technical bases which the appointed actuary proposes to use for each class of business to be carried on in the [F60EEA State] of the branch, including the bases needed for calculating premium rates and mathematical reserves;
    - (ii) a statement by that actuary as to whether he considers that the premium rates that will be used in the [F60EEA State] of the branch are suitable;
    - (iii) a statement by that actuary as to whether he agrees with the information provided under sub-paragraphs (1)(f) and (2)(b) and (c) above; and
    - (iv) the technical bases used to calculate the statements and estimates referred to in sub-paragraph (2) above; and
  - (g) in the case of a society which intends to carry on general business, copies or drafts of any agreements which the society will have with main agents in the [F60EEA State] of the branch.
- (5) In this paragraph “authorised agent” means an agent or employee of the society who has authority–
- (a) to bind the society in its relations with third parties; and
  - (b) to represent the society in its relations with supervisory authorities and courts in the member State of the branch.

#### Textual Amendments

**F60** Words in [Sch. 13B para. 4](#) substituted (1.1.1998) by [S.I. 1997/2849](#) reg. 3

#### *Requirements for providing insurance*

- 5 (1) A friendly society to which section 37(2) or (3) above applies shall not provide insurance of any class or part of a class in [F61an EEA State] other than the United Kingdom unless–
- (a) the society is authorised under section 32 above to carry on insurance of that class or part of a class; and
  - (b) the requirements of this paragraph have been complied with in relation to the provision of the insurance in that [F61 EEA State].
- (2) The requirements of this paragraph are–
- (a) that the society has given to the Commission a notice containing the requisite details; and
  - (b) that the Commission has given to the supervisory authority in the [F61 EEA State] in which the insurance is to be provided–
    - (i) a notice which contains the requisite details; and
    - (ii) a certificate in accordance with sub-paragraph (3) below.

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

*Changes to legislation: Friendly Societies Act 1992 is up to date with all changes known to be in force on or before 02 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (3) A certificate is in accordance with this sub-paragraph if it—
- (a) attests that the society has the minimum margin of solvency calculated in accordance with such of the following as are appropriate—
    - (i) Articles 16 and 17 of the first general insurance Directive, and
    - (ii) Articles 19 and 20 of the first life Directive; and
  - (b) indicates the classes of insurance business which the society is authorised to carry on in the United Kingdom.
- (4) Where the society intends to provide insurance in more than one [F61EEA State], the requisite details may be contained in a single notification but must be set out separately in relation to each [F61an EEA State].
- (5) The Commission shall, within the period of one month beginning with the date on which the society's notice was received—
- (a) give the notice and certificate referred to in sub-paragraph (2)(b) above to the supervisory authority in the [F61an EEA State] in which the society intends to provide insurance; or
  - (b) refuse to give either or both of those documents.
- (6) The Commission shall, within the period of one month referred to in sub-paragraph (5) above, notify the society—
- (a) that it has given the notice and certificate referred to in sub-paragraph (2)(b) above to the supervisory authority in the [F61an EEA State] in which the society intends to provide insurance, stating the date on which it did so; or
  - (b) that it has refused to give either or both of those documents, stating the reasons for the refusal.
- (7) The Commission shall not refuse to give the notice referred to in sub-paragraph (2)(b) above unless, having regard to the insurance to be provided in the [F61an EEA State], it appears to it that the criteria of prudent management would not or might not continue to be fulfilled in respect of the society.

#### Textual Amendments

**F61** words in Sch. 13B para. 5 substituted (1.1.1998) by [S.I. 1997/2849, reg. 3](#)

- 6 (1) A friendly society to which section 37(2) or (3) above applies shall not change the requisite details of the provision of insurance in [F62an EEA State] other than the United Kingdom unless the requirements of this paragraph have been complied with in relation to its making of the change.
- (2) The requirements of this paragraph are—
- (a) that the society has given a notice to the Commission stating the details of the proposed change;
  - (b) that the Commission has sent to the supervisory authority in the [F62aEEA State] in which the insurance is provided a notice in accordance with sub-paragraph (4)(a) below.



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- (3) In the case of a change occasioned by circumstances beyond the society's control, the requirements of this paragraph are that the society shall as soon as practicable give a notice to the Commission stating the details of the change.
- (4) The Commission shall, as soon as practicable after receiving a notice under sub-paragraph (2)(a) above either—
- (a) give notice to the supervisory authority in the [<sup>F62</sup> EEA State] in which the insurance is provided informing it of the proposed change; or
  - (b) refuse to give such notice.
- (5) The Commission shall, as soon as practicable after making a decision under sub-paragraph (4) above, notify the society—
- (a) that it has given the notice referred to in that sub-paragraph, stating the date on which it did so; or
  - (b) that it has refused to give the notice, stating the reasons for the refusal.
- (6) The Commission shall not refuse to give the notice referred to in sub-paragraph (4) (a) above unless, having regard to the proposed change, it appears to it that the criteria of prudent management would not or might not continue to be fulfilled in respect of the society.

**Textual Amendments**

**F62** Words in [Sch. 13B para. 6](#) substituted (1.1.1998) by [S.I. 1997/2849, reg. 3](#)

*Requisite details for purposes of paragraphs 5 and 6*

- 7 The requisite details for the purposes of paragraphs 5 and 6 above are—
- (a) the [<sup>F63</sup> EEA State] in which the insurance is to be provided;
  - (b) the nature of the risks or commitments which the society proposes to cover in that State; and
  - (c) in the case of a society which intends to cover health insurance risks, the technical bases which will be used for calculating premiums in respect of such risks.

**Textual Amendments**

**F63** Words in [Sch. 13B para. 7](#) substituted (1.1.1998) by [S.I. 1997/2849, reg. 3](#)

*Requirement to notify cessation of business etc.*

- 8 A friendly society to which section 37(2) or (3) above applies which has ceased—
- (a) to carry on insurance business through an overseas branch in [<sup>F64</sup> an EEA State] other than the United Kingdom; or
  - (b) to provide insurance in such [<sup>F64</sup> an EEA State],
- shall as soon as practicable notify the Commission in writing that it has done so.



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

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**Textual Amendments**

**F64** Words in [Sch. 13B para. 8](#) substituted (1.1.1998) by [S.I. 1997/2849, reg. 3](#)

**<sup>F65</sup>PART II**

**FRIENDLY SOCIETIES PROVIDING INSURANCE IN EFTA STATES**

**Textual Amendments**

**F65** [Sch. 13B Pt. II](#) repealed (1.1.1998) by [S.I. 1997/2849, regs. 1\(1\), 5](#), [Sch.](#)

**PART III**

**FRIENDLY SOCIETIES PROVIDING INSURANCE IN THE UNITED KINGDOM THROUGH OVERSEAS BRANCHES IN OTHER EEA STATES**

- 11 (1) Where a friendly society to which section 37(2) or (3) above applies intends to provide insurance in the United Kingdom, it shall before doing so notify the Commission of its intention.
- (2) The notification shall indicate–
  - (a) the EEA State in which is situated the overseas branch through which the society intends to provide insurance in the United Kingdom; and
  - (b) the nature of the risks or commitments which the society proposes to cover in the United Kingdom.
- (3) <sup>F66</sup> .....
- (4) The society shall notify the Commission in writing if–
  - (a) it changes either of the details notified to the Commission under subparagraph (2) above; or
  - (b) it ceases to provide insurance in the United Kingdom.

**Textual Amendments**

**F66** [Sch. 13B Pt. III para. 11\(3\)](#) repealed (1.1.1998) by [S.I. 1997/2849, reg. 5](#), [Sch.](#)

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

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**PART IV**

**SUPPLEMENTAL**

*Offences*

- 12 (1) A friendly society to which section 37(2) or (3) above applies commits an offence if—
  - (a) it carries on insurance business in [<sup>F67</sup>an EEA State] other than the United Kingdom in contravention of paragraph 1 above;
  - (b) in contravention of paragraph 2 or 3 above, it changes the requisite EC details or, as the case may be, the requisite UK details of an overseas branch established by it in such [<sup>F67</sup>an EEA State];
  - (c) it provides insurance in such [<sup>F67</sup>an EEA State] in contravention of paragraph 5 above;
  - (d) in contravention of paragraph 6 above, it changes the requisite details relating to the provision of insurance in such [<sup>F67</sup>an EEA State]; or
  - (e) it makes default in complying with, or with a requirement imposed under, any other provision of this Schedule.
- (2) A person commits an offence if he causes or permits to be included in a notification sent to the Commission under paragraph 1, 2, 3, 5 or 6 above a statement which he knows to be false in a material particular or recklessly causes or permits to be so included a statement which is false in a material particular.
- (3) A person committing an offence under this paragraph shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

**Textual Amendments**  
**F67** Words in *Sch. 13B para. 12* substituted (1.1.1998) by *S.I. 1997/2849, reg. 3*

*Interpretation*

- 13 (1) In this Schedule—
  - (a) references in Part I to the provision of insurance in [<sup>F68</sup>an EEA State] other than the United Kingdom are references to the covering (otherwise than by way of reinsurance) of a risk or commitment situated in that [<sup>F68</sup>EEA State] through an establishment in another [<sup>F68</sup> EEA State];
  - <sup>F69</sup>(b) .....
  - (c) references in Part III to the provision of insurance in the United Kingdom are references to the covering (otherwise than by way of reinsurance) of a risk or commitment situated in the United Kingdom—
    - (i) through an establishment in another [<sup>F68</sup>EEA State]; <sup>F69</sup> . . .
    - <sup>F69</sup>(ii) .....
- <sup>F69</sup>(2) .....

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- (3) In this Schedule “health insurance risks”, in relation to <sup>F68</sup>an EEA State], means risks falling within class 2 of Schedule 2 to this Act (sickness) where—
- (a) insurance contracts covering those risks serve as a partial or complete alternative to the health cover provided by the statutory social security system in that State; and
  - (b) the law of that State requires such contracts to be operated on a technical basis similar to life assurance in accordance with all the conditions listed in the first sub-paragraph of Article 54(2) of the third general insurance Directive.

#### Textual Amendments

- F68** Words in Sch. 13B para. 13 substituted (1.1.1998) by S.I. 1997/2849, reg. 3
- F69** Sch.13B Pt. IV para. 13(1)(b) repealed (1.1.1998) by S.I. 1997/2849, reg. 5, Sch.  
Word in Sch. 13B Pt. IV para. 13(1)(c)(i) repealed (1.1.1998) by S.I. 1997/2849, reg. 5, Sch.  
Sch. 13B Pt. IV para. 13(1)(c)(ii) repealed (1.1.1998) by S.I. 1997/2849, reg. 5, Sch.  
Sch. 13B Pt. IV para. 13(2) repealed (1.1.1998) by S.I. 1997/2849, reg. 5, Sch.

## [<sup>F70F71</sup>SCHEDULE 13C TO 1992 ACT]

### INFORMATION FOR MEMBERS OF FRIENDLY SOCIETIES TO WHICH SECTION 37(2) OR (3) APPLIES

#### Textual Amendments

- F70** Schs. 13-13C shall cease to have effect (17.8.2001 for specified purposes and otherwise *prosp.*) by S.I. 2001/2617, arts. 2(a), 8(1), 13(1), Sch. 3 para. 126 (with art. 13(3), Sch. 5) and is repealed (*prosp.*) by S.I. 2001/2617, arts. 2(b), 13(2), Sch. 4
- F71** Sch. 13C inserted (1.9.1994) by S.I. 1994/1984, reg. 21(2), Sch. 3

#### *Information before contract of long term insurance*

- 1 (1) Subject to sub-paragraph (2) below, this paragraph applies to a contract entered into by a friendly society to which section 37(2) above applies the effecting of which constitutes—
- (a) the carrying on in the United Kingdom of long term business which is not reinsurance business; or
  - (b) the provision there of long term insurance.
- (2) This paragraph does not apply to a contract entered into by an authorised person the effecting of which constitutes the carrying on in the United Kingdom of investment business; and in this sub-paragraph expressions which are also used in the Financial Services Act 1986 <sup>M29</sup> have the same meanings as in that Act.

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

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- (3) Before entering into a contract to which this paragraph applies, the society shall furnish the other party to the contract in writing with the information required by sub-paragraph (4) below.
- (4) The information required by this sub-paragraph is–
- (a) the name and legal form of the society;
  - (b) a statement that the society’s registered office is the United Kingdom and, where appropriate, the [F72EEA State] in which is situated the overseas branch through which the contract is to be entered into;
  - (c) the address of the society’s registered office and, where appropriate, the address of the overseas branch through which the contract is to be entered into;
  - (d) a definition of each benefit and option;
  - (e) the term of the contract and the means by which it may be terminated;
  - (f) the method of paying premiums and the duration of the payments;
  - (g) the method of calculating bonuses and the distribution of bonuses;
  - (h) an indication of surrender and paid-up values and the extent to which such values are guaranteed;
  - (i) an indication of the premiums for each benefit, whether a main or supplementary benefit;
  - (j) in the case of a contract for a unit-linked policy, a definition of the units to which benefits are linked and an indication of the nature of the underlying assets;
  - (k) information as to the following, namely–
    - (i) the arrangements with respect to the period within which the other party may cancel the contract;
    - (ii) the tax arrangements applicable to the contract or any policy to be effected by it;
    - (iii) the arrangements for handling any complaints concerning the contract, whether by the other party or any other person who is a life assured or beneficiary; and
    - (iv) any compensation or guarantee arrangements which will be available if the society is unable to meet its liabilities under the contract; and
  - (m) whether the parties to the contract are entitled to choose the law applicable to the contract and–
    - (i) if so, the law which the society proposes to choose; and
    - (ii) if not, the law which will be so applicable.
- (5) Any information required by sub-paragraph (4) above shall be furnished in English except that, where the other party to the contract so requests, it may instead be furnished in an official language of [F72an EEA State] other than the United Kingdom.

#### **Textual Amendments**

**F72** Words in [Sch. 13c](#) substituted (1.1.1998) by [S.I. 1997/2849](#), [art. 3](#)

#### **Marginal Citations**

**M29** [1986 c. 60](#)

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

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*Information during contract of long term insurance*

- 2 (1) This paragraph applies where a friendly society to which section 37(2) above applies has, on or after 1st September 1994, entered into a contract the effecting of which constitutes—
- (a) the carrying on in the United Kingdom of long term business which is not reinsurance business; or
  - (b) the provision there of long term insurance.
- (2) If during the term of the contract there is any change in the information required by paragraphs (a) to (j) of paragraph 1(4) above, the society shall inform the other party to the contract in writing of the effect of the change.
- (3) If the contract provides for the payment of bonuses, the society shall, at least once in every calendar year except the first, inform the other party to the contract in writing of the amount of any bonus—
- (a) which has become payable under the contract, and
  - (b) of which that party has not been previously informed under this sub-paragraph.
- (4) There is a sufficient compliance with sub-paragraph (3) above if the society furnishes the other party to the contract with such information as will enable him to determine the amount of any such bonus as is mentioned in that sub-paragraph, or if the society informs that party of—
- (a) the rates of bonus which have been declared since that party was previously informed under this sub-paragraph; and
  - (b) the total value of the benefits (including bonuses) which have accrued under the contract.
- (5) In this paragraph “bonus” does not include a bonus the amount of which is specified in the contract.

*Information before contract of general insurance*

- 3 (1) This paragraph applies to a contract entered into by a friendly society to which section 37(3) above applies if—
- (a) the effecting of the contract constitutes—
    - (i) the carrying on in the United Kingdom of general business which is not reinsurance business; or
    - (ii) the provision there of general insurance; and
  - (b) the risk which is covered by the contract is situated in the United Kingdom.
- (2) Before entering into a contract to which this paragraph applies, the society shall, if the other party to the contract is an individual, inform that party in writing—
- (a) of any arrangements which exist for handling complaints concerning the contract including, where appropriate, the name and address of any body which deals with complaints from any party to the contract;
  - (b) that the existence of a complaints body does not affect any right of action which any party to the contract may have against the society; and,

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- (c) as to whether the parties to the contract are entitled to choose the law applicable to the contract and—
- (i) if so, of the law which the society proposes to choose; and
  - (ii) if not, of the law which will be so applicable.
- (3) If the information required by sub-paragraph (2) above is furnished otherwise than in writing before the time when the contract is entered into, there is a sufficient compliance with that sub-paragraph if it is also furnished in writing as soon as practicable after that time.
- 4 (1) This paragraph applies to a contract entered into by a friendly society to which section 37(3) above applies if the effecting of the contract constitutes the provision in the United Kingdom of general insurance.
- (2) Before entering into a contract to which this paragraph applies, the society shall inform the other party to the contract in writing of the [<sup>F73</sup>EEA State] in which is situated the establishment which will cover the risks; and any document issued to that party by the society shall also contain that information.
- (3) If the information required by sub-paragraph (2) above is furnished otherwise than in writing before the time when the contract is entered into, there is a sufficient compliance with that sub-paragraph if it is also furnished in writing as soon as practicable after that time.
- (4) Any relevant document issued by the society in relation to a contract to which this paragraph applies shall state the address of the establishment through which the risk is to be covered.
- (5) In this paragraph “relevant document”, in relation to a contract to which this section applies, means any proposal, policy, rules or other document which, or statements contained in which, will or may bind the other party to the contract.

**Textual Amendments**

**F73** Words in [Sch. 13C](#) substituted (1.1.1998) by [S.I. 1997/2849](#), [art. 3](#)

*Supplemental*

- 5 A friendly society which fails to comply with any provision of this Schedule 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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## SCHEDULE 14

Section 72.

## AUDITORS: APPOINTMENT, TENURE, QUALIFICATIONS AND REMUNERATION

*Appointment*

- 1 (1) The first auditors of a friendly society or registered branch may be appointed by the committee of management of the society or branch at any time before the first general meeting of the society or branch following the end of its initial financial year; and auditors so appointed shall hold office until the conclusion of that meeting.
- (2) If the committee of management fails to exercise its powers under sub-paragraph (1) above, those powers may be exercised by the society or branch in general meeting.

**Commencement Information**

**I69** Sch. 14 para. 1 wholly in force; Sch. 14 para. 1 not in force at Royal Assent see s. 126(2); Sch. 14 para. 1 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 14 para. 1 in force to the extent not already in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

- 2 The committee of management, or the society or branch in general meeting, may fill any casual vacancy in the office of auditor; but while any such vacancy continues, the surviving or continuing auditor or auditors (if any) may act.

**Commencement Information**

**I70** Sch. 14 para. 2 wholly in force; Sch. 14 para. 2 not in force at Royal Assent see s. 126(2); Sch. 14 para. 2 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 14 para. 2 in force to the extent not already in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

- 3 (1) If at any annual general meeting of a friendly society or registered branch no auditors are appointed or re-appointed, the [<sup>F74</sup>Authority] may appoint a person to fill the vacancy; and the society or branch shall, within one week of the power of the [<sup>F74</sup>Authority] becoming exercisable, give it notice of that fact.
- (2) If a society or branch fails to give the notice required by sub-paragraph (1) above, the society or branch shall be guilty of an offence and liable on summary conviction—
- to a fine not exceeding level 3 on the standard scale; and
  - in the case of a continuing offence to an additional fine not exceeding one-tenth of that level for every day during which the offence continues.

**Textual Amendments**

**F74** Words in Sch. 14 para. 3(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. 127(a) (with art. 13(3), Sch. 5); S.I. 2001/3538, art. 2(1)

**Commencement Information**

**I71** Sch. 14 para. 3 wholly in force; Sch. 14 para. 3 not in force at Royal Assent see s. 126(2); Sch. 14 para. 3 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 14 para. 3 in force to the extent not already in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

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### *Eligibility for appointment*

- 4 (1) Subject to paragraph 7 below, a person is eligible for appointment as the auditor of a friendly society or registered branch only if he—
- (a) is a member of a recognised supervisory body; and
  - (b) is not ineligible for the appointment under the rules of that body.
- (2) An individual or a firm may be appointed as auditor of a friendly society or registered branch.
- (3) In this Schedule—
- “firm” means a body corporate or a partnership; and
- “recognised supervisory body” means a body which is a recognised supervisory body for the purposes of Part II of the <sup>M30</sup>Companies Act 1989 or Part III of the <sup>M31</sup>Companies (Northern Ireland) Order 1990.

#### **Commencement Information**

**I72** Sch. 14 para. 4 wholly in force; Sch. 14 para. 4 not in force at Royal Assent see s. 126(2); Sch. 14 para. 4 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 14 para. 4 in force to the extent not already in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

#### **Marginal Citations**

**M30** 1989 c. 40.

**M31** S.I. 1990/593 (N.I.5).

- 5 (1) A person is ineligible for appointment as an auditor of a friendly society or a registered branch of the society under this Schedule if he is—
- (a) an officer or employee of the friendly society or any registered branch of the society;
  - (b) a partner or employee of such a person or a partnership of which such a person is a partner,
- or, in the case of an incorporated friendly society, if he is ineligible by virtue of section 27(1)(a) or (b) of the <sup>M32</sup>Companies Act 1989 or Article 20(1) of the <sup>M33</sup>Companies (Northern Ireland) Order 1990 for appointment as company auditor of a subsidiary of the society or of a body jointly controlled by the society and some other person.
- (2) For this purpose an auditor of a friendly society or branch shall not be regarded as an officer or employee of the society or branch.
- (3) A person is also ineligible for appointment as auditor of a friendly society or branch if there exists between him or any associate of his and the society or branch or, if it is an incorporated friendly society, any of its subsidiaries, a connection of any such description as may be specified by regulations made by the [<sup>F75</sup>Treasury].
- (4) In this paragraph “associate” has the meaning given by section 52 of the Companies Act 1989 or Article 54 of the Companies (Northern Ireland) Order 1990.



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### Textual Amendments

**F75** Word in [Sch. 14 para. 5\(3\)](#) 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. 127\(b\)](#) (with [art. 13\(3\)](#), [Sch. 5](#)); [S.I. 2001/3538, art. 2\(1\)](#)

### Modifications etc. (not altering text)

**C11** [Sch. 14 para. 5\(3\)](#): Functions of the Friendly Societies Commission transferred (1.12.2001) by 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\(1\)](#)

### Commencement Information

**I73** [Sch. 14 para. 5](#) wholly in force; [Sch. 14 para. 5](#) not in force at Royal Assent see [s. 126\(2\)](#); [Sch. 14 para. 5](#) in force for certain purposes at 13.1.1993 by [S.I. 1993/16, art. 2](#), [Sch. 1](#); [Sch. 14 para. 5](#) in force to the extent not already in force at 1.1.1994 by [S.I. 1993/2213, art. 2\(1\)](#), [Sch. 5](#)

### Marginal Citations

**M32** [1989 c.40](#).

**M33** [S.I.1990/593 \(N.I.5\)](#).

### *Appointment of partnerships*

- 6 (1) The following provisions apply to the appointment as auditor under this Schedule of a partnership constituted under the law of England and Wales or Northern Ireland, or under the law of any other country or territory in which a partnership is not a legal person.
- (2) The appointment is (unless a contrary intention appears) an appointment of the partnership as such and not of the partners.
- (3) Where the partnership ceases, the appointment shall be treated as extending to—
- any partnership which succeeds to the practice of that partnership and is eligible for the appointment; and
  - any person who succeeds to that practice having previously carried it on in partnership and is eligible for the appointment.
- (4) For this purpose a partnership shall be regarded as succeeding to the practice of another partnership only if the members of the successor partnership are substantially the same as those of the former partnership; and a partnership or other person shall be regarded as succeeding to the practice of a partnership only if it or he succeeds to the whole or substantially the whole of the business of the former partnership.
- (5) Where the partnership ceases and no person succeeds to the appointment under sub-paragraph (3) above, the appointment may with the consent of the recognised supervisory body be treated as extending to a partnership or other person eligible for the appointment who succeeds to the business of the former partnership or to such part of it as is agreed by the body shall be treated as comprising the appointment.

### Commencement Information

**I74** [Sch. 14 para. 6](#) wholly in force; [Sch. 14 para. 6](#) not in force at Royal Assent see [s. 126\(2\)](#); [Sch. 14 para. 6](#) in force for certain purposes at 13.1.1993 by [S.I. 1993/16, art. 2](#), [Sch. 1](#); [Sch. 14 para. 6](#) in force to the extent not already in force at 1.1.1994 by [S.I. 1993/2213, art. 2\(1\)](#), [Sch. 5](#)

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*Cases in which auditor need not be a member of a recognised supervisory body*

- 7 (1) A person who is not a member of a recognised supervisory body may be an auditor of a registered friendly society [<sup>F76</sup>or of a registered branch] if—
- (a) its receipts and payments in respect of the preceding financial year did not, in the aggregate, exceed £5,000; and
  - (b) the number of its members at the end of that year did not exceed 500; and
  - (c) the value of its assets at the end of that year did not, in the aggregate, exceed £5,000; [<sup>F77</sup>and]
  - [<sup>F77</sup>(d) it is not a collecting society.]
- [<sup>F78</sup>(2) A person who is not a member of a recognised supervisory body may be an auditor of a registered branch if—
- (a) the conditions mentioned in sub-paragraph (1)(a), (b) and (c) above are satisfied; and
  - (b) it is not a branch of a collecting society.]
- (3) A person who is not a member of a recognised supervisory body may also be an auditor of a registered branch if—
- (a) the conditions mentioned in sub-paragraph (1)(a) and (b) and sub-paragraph (2)(b) above are satisfied; and
  - (b) at the end of the preceding financial year at least 75 per cent of its assets had been transferred to the society of which it is a branch or to another registered branch of that society for the purpose of being invested, in accordance with the 1974 Act, by that society or other branch, and the value of its assets not so transferred did not, in the aggregate, exceed £5,000; and
  - (c) an auditor of the society or branch to which the assets were transferred must be a member of a recognised supervisory body.
- (4) Regulations made by the [<sup>F79</sup>Treasury] may—
- (a) substitute for any sum or number for the time being specified in sub-paragraph (1) above, or for any sum or percentage for the time being specified in sub-paragraph (3) above, such sum, number or percentage as may be specified in the regulations; and
  - (b) prescribe what receipts and payments of a body shall be taken into account for the purposes of those sub-paragraphs.
- (5) A registered friendly society or registered branch which, by virtue of this paragraph, may appoint a person who is not a member of a recognised supervisory body as an auditor in respect of any financial year is in this Schedule referred to as an exempt society or, as the case may be, an exempt branch, in respect of that financial year.
- (6) Subject to any direction given by the [<sup>F80</sup>Authority] under sub-paragraph (7) below, a society or branch which in respect of any financial year is an exempt society or, as the case may be, an exempt branch shall in respect of that year appoint—
- (a) one or more qualified auditors; or
  - (b) two or more persons who are not qualified auditors,
- to audit its annual accounts for that year.
- (7) The [<sup>F80</sup>Authority] may give a direction in the case of any particular society or branch which is an exempt society or branch in respect of any financial year that sub-

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paragraph (4) above shall apply to it in respect of that year as if it were not an exempt society or branch.

#### Textual Amendments

- F76** Words in Sch. 14 para. 7(1) inserted (17.8.2001 for specified purposes and otherwise *prosp.*) by S.I. 2001/2617, arts. 2(a), 8(1), 13(1), Sch. 3 para. 127(c)(i) (with art. 13(3), Sch. 5)
- F77** Sch. 14 para. 7(1)(d) and the word “and” immediately preceding omitted (17.8.2001 for specified purposes and otherwise *prosp.*) by virtue of S.I. 2001/2617, arts. 2(a), 8(1), Sch. 3 para. 127(c)(ii) (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)
- F78** Sch. 14 para. 7(2) 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. 127(c)(iii) (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)
- F79** Word in Sch. 14 para. 7(4) 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. 127(iv) (with art. 13(3), Sch. 5)
- F80** Words in Sch. 14 para. 7(6)(7) 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. 127(v) (with art. 13(3), Sch. 5)

#### Commencement Information

- I75** Sch. 14 para. 7 wholly in force; Sch. 14 para. 7 not in force at Royal Assent see s. 126(2); Sch. 14 para. 7(4) in force at 13.9.1993 by S.I. 1993/2213, art. 2(1), Sch. 3; Sch. 14 para. 7 in force to the extent not already in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 6

#### *Effect of ineligibility*

- 8 (1) No person shall act as an auditor under this Act if he is ineligible for appointment to the office.
- (2) If during his term of office an auditor appointed under this Schedule become ineligible for appointment to the office, he shall thereupon vacate office and shall forthwith give notice in writing to the society concerned that he has vacated it by reason of ineligibility.
- (3) A person who acts as auditor under this Act in contravention of sub-paragraph (1) above, or fails to give notice of vacating his office as required by sub-paragraph (2) above, is guilty of an offence and liable—
- (a) on conviction on indictment, to a fine; and
  - (b) on summary conviction, to a fine not exceeding the statutory maximum and, in the case of a continuing offence, to an additional fine not exceeding one-tenth of the statutory maximum for every day during which the offence continues.
- (4) In proceedings against a person for an offence under this paragraph it is a defence for him to show that he did not know and had no reason to believe that he was, or had become, ineligible for appointment.

#### Commencement Information

- I76** Sch. 14 para. 8 wholly in force; Sch. 14 para. 8 not in force at Royal Assent see s. 126(2); Sch. 14 para. 8 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 14 para. 8 in force to the extent not already in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

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### *Power of [<sup>F81</sup>Authority] to require second audit*

#### **Textual Amendments**

**F81** Words in Sch. 14 para. 9(1)(6) 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. 127(d)(i)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**

- 9 (1) Where a person appointed auditor under this Schedule was, for any part of the period during which the audit was conducted, ineligible for appointment to that office, the [<sup>F82</sup>Authority] may direct the friendly society or registered branch concerned to retain a person eligible for appointment as auditor under this Schedule—
- (a) to audit the relevant accounts again; or
  - (b) to review the first audit and to report (giving his reasons) whether a second audit is needed;
- and the society or branch shall comply with such a direction within 21 days of its being given.
- (2) If a second audit is recommended, the society or branch shall forthwith take such steps as are necessary to comply with the recommendation.
- <sup>F83</sup>(3) Where a direction is given to a society or branch under this paragraph the Authority shall place a copy of the direction in the public file of the society.
- (3A) Where a society or branch receives a report under sub-paragraph (1)(b) above, it shall within 21 days send a copy of it to the Authority to be placed in the public file.]
- (4) Any statutory or other provisions applying in relation to the first audit shall apply, so far as practicable, in relation to a second audit under this paragraph.
- (5) If a society or branch fails to comply with the requirements of this paragraph, it is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale; and in the case of a continuing offence to an additional fine not exceeding one-tenth of that level for every day during which the offence continues.
- (6) A direction under this paragraph is, on the application of the [<sup>F82</sup>Authority], enforceable by injunction or, in Scotland, by an order under section 45 of the <sup>M34</sup>Court of Session Act 1988.
- (7) If a person accepts an appointment, or continues to act, as an auditor under this Act at a time when he knows he is ineligible, the society concerned may recover from him any costs incurred by it in complying with the requirements of this paragraph.

#### **Textual Amendments**

**F82** Words in Sch. 14 para. 9(1)(6) 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. 127(d)(i)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**

**F83** Sch. 14 para. 9(3)(3A) substituted (17.8.2001 for specified purposes and otherwise 1.12.2001) for Sch. 14 para. 9(3) by S.I. 2001/2617, arts. 2, 8(1), 13(1), **Sch. 3 para. 127(d)(ii)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**

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#### Commencement Information

**I77** Sch. 14 para. 9 wholly in force; Sch. 14 para. 9 not in force at Royal Assent see s. 126(2); Sch. 14 para. 9 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 14 para. 9 in force to the extent not already in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

#### Marginal Citations

**M34** 1988 c. 36.

#### *Removal of auditors*

- 10 (1) A friendly society or registered branch may by ordinary resolution in general meeting remove an auditor before the expiration of his term of office, notwithstanding anything in any agreement between it and him.
- (2) Where such a resolution is passed, the society or branch shall within 14 days give notice of that fact to the [<sup>F84</sup>Authority].
- (3) If a friendly society or branch fails to give the notice required by sub-paragraph (2) above, it shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale and in the case of a continuing offence to an additional fine not exceeding one-tenth of that level for every day during which the offence continues.
- (4) Nothing in this paragraph is to be taken as depriving a person removed under it of compensation or damages that may be payable to him in respect of the termination of his appointment as auditor or of any appointment terminating with that as auditor.
- (5) An auditor of a friendly society or registered branch who has been removed has, notwithstanding his removal, the rights conferred by section 75 above in relation to any general meeting of the society or branch at which—
- his term of office would otherwise have expired; or
  - it is proposed to fill the vacancy caused by his removal.

#### Textual Amendments

**F84** Word in Sch. 14 para. 10(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. 127(e) (with art. 13(3), Sch. 5); S.I. 2001/3538, art. 2(1)

#### Commencement Information

**I78** Sch. 14 para. 10 wholly in force; Sch. 14 para. 10 not in force at Royal Assent see s. 126(2); Sch. 14 para. 10 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 14 para. 10 in force to the extent not already in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

#### *Rights of auditors who are removed or not re-appointed*

- 11 (1) Special notice is required for a resolution at a general meeting of a friendly society or registered branch—
- removing an auditor before the expiration of his term of office; or
  - appointing as auditor a person other than a retiring auditor.

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- (2) On receipt of notice of such an intended resolution the friendly society or branch shall forthwith send a copy of it to the person proposed to be removed or, as the case may be, to the person proposed to be appointed and to the retiring auditor.
- (3) The auditor proposed to be removed or (as the case may be) the retiring auditor may make with respect to the intended resolution representations in writing to the society or branch (not exceeding a reasonable length) and request their notification to members of the society.
- (4) The society or branch shall (unless the representations are received by it too late for it to do so)—
  - (a) in any notice of the resolution given to members of the society or branch, state the fact of the representations having been made;
  - (b) include in or with any such notice a copy of the representations; and
  - (c) make copies of them available to members at the meeting at which the resolution is to be moved.
- (5) If notice of any such representations is not given as required by sub-paragraph (4) above because received too late or because of the default of the society or branch, the auditor may (without prejudice to his right to be heard orally) require that the representations be read out at the meeting.
- (6) The steps required by sub-paragraphs (4) or (5) above need not be taken if, on the application of the society or branch or of any other person claiming to be aggrieved, the court is satisfied that the rights conferred by this paragraph are being abused to secure needless publicity for defamatory matter; and the court may order the costs of the society or branch on the application to be paid in whole or in part by the auditor, notwithstanding that he is not a party to the application.

#### **Commencement Information**

**I79** Sch. 14 para. 11 wholly in force; Sch. 14 para. 11 not in force at Royal Assent see s. 126(2); Sch. 14 para. 11 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 14 para. 11 in force to the extent not already in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

#### *Resignation of auditors*

- 12 (1) An auditor of a friendly society or registered branch may resign his office by depositing a notice in writing to that effect at the society's registered office.
- (2) The notice is not effective unless it is accompanied by the statement required by paragraph 14 below.
- (3) An effective notice of resignation operates to bring the auditor's term of office to an end as of the date on which the notice is deposited or on such later date as may be specified in it.
- (4) The society or branch shall within 14 days of the deposit of a notice of resignation send a copy of the notice to the [<sup>F85</sup>Authority].
- (5) If default is made in complying with sub-paragraph (4) above, the society or branch is guilty of an offence and liable—
  - (a) on conviction on indictment, to a fine; and

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- (b) on summary conviction, to a fine not exceeding the statutory maximum and in the case of a continuing offence, to an additional fine not exceeding one-tenth of the statutory maximum for every day during which the offence continues.

#### Textual Amendments

**F85** Word in [Sch. 14 para. 12\(4\)](#) 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. 127\(e\)](#) (with [art. 13\(3\), Sch. 5](#)); [S.I. 2001/3538, art. 2\(1\)](#)

#### Commencement Information

**I80** [Sch. 14 para. 12](#) wholly in force; [Sch. 14 para. 12](#) not in force at Royal Assent see [s. 126\(2\)](#); [Sch. 14 para. 12](#) in force for certain purposes at 13.1.1993 by [S.I. 1993/16, art. 2, Sch. 1](#); [Sch. 14 para. 12](#) in force to the extent not already in force at 1.1.1994 by [S.I. 1993/2213, art. 2\(1\), Sch. 5](#)

#### *Rights of resigning auditors*

- 13 (1) This paragraph applies where an auditor's notice of resignation is accompanied by a statement of circumstances which he considers should be brought to the attention of members or creditors of the society or branch.
- (2) He may deposit with the notice a signed requisition calling on the committee of management of the society or branch forthwith duly to convene an extraordinary general meeting of the society or branch for the purpose of receiving and considering such explanation of the circumstances connected with his resignation as he may wish to place before the meeting.
- (3) The society or branch shall, at the request of the auditor (unless the statement is received too late to comply)—
- in any notice of the meeting convened on his requisition or of any general meeting at which his term of office would otherwise have expired or at which it is proposed to fill the vacancy caused by his resignation, state the fact that the statement has been made;
  - include in or with that notice a copy of a statement in writing by him (not exceeding a reasonable length) of the circumstances connected with his resignation; and
  - make copies of the statement available to members at any such meeting.
- (4) If the committee of management does not within 21 days from the date of the deposit of a requisition under this paragraph proceed duly to convene a meeting for a day not more than 28 days after the date on which the notice convening the meeting is given, every member of the committee who failed to take all reasonable steps to secure that a meeting was convened as mentioned above is guilty of an offence and liable—
- on conviction on indictment, to a fine; and
  - on summary conviction, to a fine not exceeding the statutory maximum.
- (5) If notice of the statement mentioned above is not given as required because received too late or because of the default of the society or branch, the auditor may (without prejudice to his right to be heard orally) require that the statement be read out at the meeting in question.
- (6) The steps required by sub-paragraphs (3) and (5) above need not be taken if, on the application of the society or branch or of any other person who claims to be



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aggrieved, the court is satisfied that the rights conferred by this paragraph are being abused to secure needless publicity for defamatory matter; and the court may order the costs of the society or branch on such an application to be paid in whole or in part by the auditor, notwithstanding that he is not a party to the application.

- (7) An auditor who has resigned has, notwithstanding his resignation, the rights conferred by section 75 above in relation to any such general meeting of the society or branch as is mentioned in sub-paragraph (3) above; and in such a case, the references in that section to matters concerning the auditors as auditors shall be construed as references to matters concerning him as a former auditor.

#### Commencement Information

**I81** Sch. 14 para. 13 wholly in force; Sch. 14 para. 13 not in force at Royal Assent see s. 126(2); Sch. 14 para. 13 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; Sch. 14 para. 13 in force to the extent not already in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

#### *Statement by person ceasing to hold office*

- 14 (1) Where an auditor of a friendly society or registered branch ceases for any reason to hold office, he shall deposit at the registered office of the society or branch concerned—
- (a) a statement of any circumstances connected with his ceasing to hold office which he considers should be brought to the attention of the members or creditors of the society or branch; or
  - (b) if he considers that there are no such circumstances, a statement that there are none.
- (2) In a case falling within sub-paragraph (1)(a) above it shall also be the duty of the auditor, unless he receives notice of an application under sub-paragraph (4) below before the end of the period of 21 days beginning with the day on which he deposited the statement, to send the [F86 Authority] a copy within a further 7 days.
- (3) In the case of resignation, the statement shall be deposited along with the notice of resignation; in the case of failure to seek re-appointment, the statement shall be deposited not less than 14 days before the end of the time allowed for next appointing auditors; in any other case, the statement shall be deposited not later than the end of the period of 14 days beginning with the date on which he ceases to hold office.
- (4) If the statement is of circumstances which the auditor considers should be brought to the attention of the members or creditors of the society or branch, the society shall within 14 days of the deposit of the statement either—
- (a) send a copy of it to every member who is, when the statement is deposited, entitled to vote at a meeting of the society or branch; or
  - (b) apply to the court.
- (5) The society or branch shall if it applies to the court notify the auditor of the application.
- (6) If the court is satisfied that the auditor is using the statement to secure needless publicity for defamatory matter—
- (a) it shall direct that copies of the statement need not be sent out; and



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(b) it may further order the costs of the society or branch on the application to be paid in whole or in part by the auditor, notwithstanding that he is not a party to the application;

and the society or branch shall within 14 days of the court's decision send to the persons mentioned in sub-paragraph (4)(a) above a statement setting out the effect of the order.

(7) If the court is not so satisfied, the society or branch shall within 14 days of the court's decision—

(a) send copies of the statement to the persons mentioned in sub-paragraph (4) (a) above; and

(b) notify the auditor of the court's decision;

and the auditor shall within 7 days of receiving such notice send a copy of the statement to the [<sup>F86</sup>Authority].

#### Textual Amendments

**F86** Words in [Sch. 14 para. 14\(2\)\(7\)](#) 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. 127\(e\)](#) (with [art. 13\(3\), Sch. 5](#)); [S.I. 2001/3538, art. 2\(1\)](#)

#### Commencement Information

**I82** [Sch. 14 para. 14](#) wholly in force; [Sch. 14 para. 14](#) not in force at Royal Assent see [s. 126\(2\)](#); [Sch. 14 para. 14](#) in force for certain purposes at 13.1.1993 by [S.I. 1993/16, art. 2, Sch. 1](#); [Sch. 14 para. 14](#) in force to the extent not already in force at 1.1.1994 by [S.I. 1993/2213, art. 2\(1\), Sch. 5](#)

#### *Offences of failing to comply with paragraph 14*

- 15 (1) If a person ceasing to hold office as auditor fails to comply with paragraph 14 above, he is guilty of an offence and liable—
- on conviction on indictment, to a fine; and
  - on summary conviction, to a fine not exceeding the statutory maximum.
- (2) If a society or branch makes default in complying with paragraph 14 above, it is guilty of an offence and liable—
- on conviction on indictment, to a fine, and
  - on summary conviction, to a fine not exceeding the statutory maximum and in the case of a continuing offence, to an additional fine not exceeding one-tenth of the statutory maximum for every day during which the offence continues.

#### Commencement Information

**I83** [Sch. 14 para. 15](#) wholly in force; [Sch. 14 para. 15](#) not in force at Royal Assent see [s. 126\(2\)](#); [Sch. 14 para. 15](#) in force for certain purposes at 13.1.1993 by [S.I. 1993/16, art. 2, Sch. 1](#); [Sch. 14 para. 15](#) in force to the extent not already in force at 1.1.1994 by [S.I. 1993/2213, art. 2\(1\), Sch. 5](#)

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### *Remuneration of auditors*

- 16 (1) The remuneration of auditors appointed by a friendly society or registered branch in general meeting shall be fixed by the society or branch in general meeting or in such manner as the society or branch in general meeting may determine.
- (2) The remuneration of auditors appointed by the committee of management or the [<sup>F87</sup>Authority] shall be fixed by the committee of management or the [<sup>F87</sup>Authority] as the case may be.
- (3) There shall be stated in a note to the annual accounts of the society or branch the amount of the remuneration of the auditors in their capacity as such.
- (4) For the purposes of this paragraph “remuneration” includes sums paid in respect of expenses.
- (5) This paragraph applies in relation to benefits in kind as to payments in cash, and in relation to any such benefit references to its amount are to its estimated money value.
- (6) The nature of any such benefit shall also be disclosed.

#### **Textual Amendments**

**F87** Words in [Sch. 14 para. 16\(2\)](#) 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. 127\(f\)](#) (with [art. 13\(3\)](#), [Sch. 5](#)); [S.I. 2001/3538](#), [art. 2\(1\)](#)

#### **Commencement Information**

**I84** [Sch. 14 para. 16](#) wholly in force; [Sch. 14 para. 16](#) not in force at Royal Assent see [s. 126\(2\)](#); [Sch. 14 para. 16](#) in force for certain purposes at 13.1.1993 by [S.I. 1993/16](#), [art. 2](#), [Sch. 1](#); [Sch. 14 para. 16](#) in force to the extent not already in force at 1.1.1994 by [S.I. 1993/2213](#), [art. 2\(1\)](#), [Sch. 5](#)

### *Remuneration of auditors or their associates for non-audit work*

- 17 (1) The [<sup>F88</sup>Treasury] may make provision by regulations for securing the disclosure of the amount of any remuneration received or receivable by auditors appointed under this Schedule or their associates in respect of services other than those of auditors in their capacity as such.
- (2) The regulations may—
- (a) provide that “remuneration” includes sums paid in respect of expenses;
  - (b) apply in relation to benefits in kind as to payments in cash, and in relation to any such benefit require disclosure of its nature and its estimated money value;
  - (c) define “associate” in relation to an auditor; and
  - (d) require the disclosure of remuneration in respect of services rendered to subsidiaries.
- (3) The regulations may require the auditors to disclose the relevant information in their report or require the relevant information to be disclosed in a note to the accounts of the society or branch and require the auditors to supply the committee of management of the society or branch with such information as is necessary to enable that disclosure to be made.

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

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#### Textual Amendments

**F88** Word in [Sch. 14 para. 17\(1\)](#) 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. 127\(g\)](#) (with [art. 13\(3\)](#), [Sch. 5](#)); [S.I. 2001/3538, art. 2\(1\)](#)

#### Modifications etc. (not altering text)

**C12** [Sch. 14 para. 17\(1\)](#): 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\(1\)](#)

#### Commencement Information

**I85** [Sch. 14 para. 17](#) wholly in force; [Sch. 14 para. 17](#) not in force at Royal Assent see [s. 126\(2\)](#); [Sch. 14 para. 17](#) in force for certain purposes at 13.1.1993 by [S.I. 1993/16, art. 2](#), [Sch. 1](#); [Sch. 14 para. 17](#) in force for all remaining purposes at 13.9.1993 by [S.I. 1993/2213, art. 2\(1\)](#), [Sch. 2](#)

## SCHEDULE 15

Section 85.

### AMALGAMATIONS, TRANSFERS OF ENGAGEMENTS AND CONVERSION: SUPPLEMENTARY

#### PART I

##### 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 [<sup>F89</sup>Authority] 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 [<sup>F89</sup>Authority] 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 [<sup>F89</sup>Authority] may direct that the summary shall be sent

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separately from that statement within such period as the [<sup>F89</sup>Authority] may specify in the direction.

**Textual Amendments**

**F89** 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—
- (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 [<sup>F90</sup>Authority] under section 88 above; and
  - (e) any other matter which the [<sup>F90</sup>Authority] 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 [<sup>F90</sup>Authority].

**Textual Amendments**

**F90** 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 [<sup>F91</sup>Commission with the consent of the] Treasury; and
  - (b) such other matters as may be required by the [<sup>F92</sup>Authority] 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.

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#### Textual Amendments

- F91** Words in [Sch. 15 para. 3\(1\)\(a\)](#) 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\(b\)\(i\)](#) (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](#))
- F92** Word in [Sch. 15 para. 3\(1\)\(b\)](#) substituted (17.8.2001 for specified purposes and otherwise *prosp.*) by [S.I. 2001/2617, arts. 2\(a\), 8\(1\), Sch. 3 para. 128\(b\)\(ii\)](#) (with [art. 13\(3\)](#), [Sch. 5](#))

- 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 [<sup>F93</sup>Authority].

#### Textual Amendments

- F93** 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

### CONFIRMATION BY [<sup>F94</sup>AUTHORITY]

#### Textual Amendments

- F94** 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 [<sup>F95</sup>Authority]—
- (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 [<sup>F96</sup>the Authority may direct].
- (2) An application for confirmation of an amalgamation shall be made jointly by the friendly societies concerned.
- [<sup>F97</sup>(3) The [<sup>F98</sup>Authority] 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-

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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.

<sup>F97</sup>(4) A direction under sub-paragraph (3) above may be subject to conditions.

<sup>F97</sup>(5) A direction under sub-paragraph (3) above may be revoked by the [<sup>F98</sup>Authority] at any time; and the [<sup>F98</sup>Authority] may at any time vary any such direction on the application or with the consent of the society to which it applies.

<sup>F97</sup>(6) Where the [<sup>F98</sup>Authority]—

- (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.

<sup>F97</sup>(7) The register kept for the purposes of subsection (6) above shall be available for inspection on reasonable notice by members of the public.

<sup>F97</sup>(8) The [<sup>F99</sup>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,

[<sup>F100</sup>and the central office shall keep the copy] in the public file of the society to which it relates.]

#### Textual Amendments

**F95** Word in Sch. 15 para. 5(1) 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(e)(i) (with art. 13(3), Sch. 5)

**F96** Words in Sch. 15 para. 5(1) 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(e)(ii) (with art. 13(3), Sch. 5)

**F97** Sch. 15 para. 5(3)-(8) inserted (1.8.1996) by S.I. 1996/1188, art. 8

**F98** Words in Sch. 15 para. 5(3)-(6) 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(f) (with art. 13(3), Sch. 5)

**F99** Words in Sch. 15 para. 5(8) 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(g)(i) (with art. 13(3), Sch. 5)

**F100** Words in Sch. 15 para. 5(8) 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(g)(ii) (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)

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.

[<sup>F101</sup>(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 <sup>F102</sup> . . . -

<sup>F103</sup> . . . as regards any policy included in the proposed transfer, [<sup>F104</sup>an EEA State] other than the United Kingdom is the State in which the risk or commitment is situated;

<sup>F103</sup> . . .

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<sup>F105</sup>(b) .....the society shall also; if the [<sup>F106</sup>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 [<sup>F106</sup>Authority] with respect to the application;
- (b) specify a date determined by the [<sup>F106</sup>Authority] before which any written representations or notice of a person’s intention to make oral representation must be received by the [<sup>F106</sup>Authority]; and
- (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;

<sup>F107</sup>(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 [<sup>F106</sup>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 [<sup>F106</sup>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

**F101** Sch. 15 para.6(1A) inserted (1.9.1994) by S.I. 1994/1984, reg. 25, Sch. 4 para. 1(1)

**F102** Word in Sch. 15 Pt. II para. 6(1A) repealed (1.1.1998) by S.I. 1997/2849, reg. 5, Sch.

**F103** Words in Sch. 15 Pt. II para. 6(1A)(a) repealed (1.1.1998) by S.I. 1997/2849, reg. 5, Sch.

**F104** Words in Sch. 15 Pt. II para. 6 substituted (1.1.1998) by S.I. 1997/2849, reg. 3

**F105** Sch. 15 Pt. II para. 6(1A)(b) repealed (1.1.1998) by S.I. 1997/2849, reg. 5, Sch

**F106** 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)

**F107** 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 [<sup>F108</sup>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 [<sup>F108</sup>Authority] to that society;



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and the [F<sup>108</sup>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 [F<sup>108</sup>Authority] specifies in a notice to the society.

**Textual Amendments**

**F108** 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\(1\)](#)

*Confirmation by [F<sup>109</sup>Authority]: General*

**Textual Amendments**

**F109** 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 [F<sup>110</sup>Authority] of an amalgamation, transfer of engagements or conversion, the [F<sup>110</sup>Authority] 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 [F<sup>110</sup>Authority], 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 [F<sup>110</sup>Authority]—
- (a) shall not confirm the amalgamation or transfer; and
  - (b) where it has confirmed the amalgamation or transfer, shall [F<sup>111</sup>, by notice to the central office,] 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 [F<sup>110</sup>Authority] may have regard to any requirements of the law of a country or territory outside the United Kingdom which appear to the [F<sup>110</sup>Authority] to be relevant.

**Textual Amendments**

**F110** Words in [Sch. 15 para. 8](#) 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\(h\)](#) (with [art. 13\(3\), Sch. 5](#))

**F111** Words in [Sch. 15 para. 8\(2\)\(b\)](#) 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\(i\)](#) (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. 4](#))

- 9 (1) Subject to sub-paragraph (3) below, the [F<sup>112</sup>Authority] shall not confirm an amalgamation or transfer if it considers that—



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- (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 [F112Authority] 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;
  - (b) the vote on any resolution approving the conversion does not represent the views of the members eligible to vote;
  - [F113](c) there is a substantial risk, in the case of conversion into a company which will require to be authorised under Part I of the <sup>M35</sup>Insurance Companies Act 1982, that the company will not be so authorised; or]
  - (d) some relevant requirement of this Act or the rules of the society was not fulfilled.
- (3) The [F112Authority] 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 [F112Authority] that it could not have been material to the members' decision about the amalgamation, transfer or conversion and the [F112Authority] gives a direction that the failure is to be disregarded for the purposes of this paragraph.

#### Textual Amendments

**F112** Words in Sch. 15 para. 9 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(j) (with art. 13(3), Sch. 5)

**F113** Sch. 15 para. 9(2)(c) 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(j) (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)

#### Marginal Citations

**M35** 1982 c. 50.

- 10 (1) Where the [F114Authority] 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, [F115or]
  - [(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.

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

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- (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, [<sup>F116</sup>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 [<sup>F114</sup>Authority] with evidence that those steps have been taken; and if the [<sup>F114</sup>Authority] is satisfied that the steps have been taken and the defect or defects has or have been substantially remedied, [<sup>F117</sup>or (as the case may be) that the risk has been removed,] the [<sup>F114</sup>Authority] shall confirm the amalgamation, transfer or conversion.

#### Textual Amendments

- F114** 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)
- F115** 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)
- F116** 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)
- F117** 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)

#### [<sup>F118</sup> Confirmation of amalgamations]

#### Textual Amendments

- F118** Cross-heading 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(m) (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)

- [<sup>F119</sup>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

- F119** 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)

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

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### Confirmation of transfers of engagements

- 12 The [<sup>F120</sup>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

**F120** 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 [<sup>F121</sup>Authority] shall not confirm a transfer in any case where the transferee is required by section 87 above to furnish the [<sup>F121</sup>Authority] with a report unless it is satisfied that the transferee will (after taking the proposed transfer into account) [<sup>F122</sup>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 [<sup>F121</sup>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 <sup>M36</sup>Insurance Companies Act 1982 applies unless the [<sup>F123</sup>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.
- [<sup>F124</sup>(3) This paragraph [<sup>F125</sup>does] not apply to any transfer of engagements to which paragraph 15 or 15A below applies.]

#### Textual Amendments

- F121** 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)
- F122** 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)
- F123** 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)
- F124** Sch. 15 para. 13(3) inserted (1.9.1994) by S.I. 1994/1984 reg. 25, Sch. 4 para. 2
- F125** 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)

- C13** 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.

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**C14** 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

**M36** 1982 c.50.

- [<sup>F126</sup>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

**F126** 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)

- [<sup>F127</sup>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;
    - (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 [<sup>F128</sup>Authority] shall not confirm the transfer unless—
- (a) [<sup>F129</sup>.....]
  - (b) it is [<sup>F130</sup>... 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 [<sup>F131</sup>an EEA State] other than the United Kingdom, the [<sup>F128</sup>Authority] is satisfied—
    - (i) that the supervisory authority in that [<sup>F131</sup>EEA State] has been consulted about the proposed transfer; 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 <sup>F132</sup>. . . which is included in the proposed transfer, the risk is situated in a [<sup>F131</sup>an EEA State] other than the United Kingdom, the [<sup>F128</sup>Authority] shall not confirm the transfer unless it is satisfied–

- (a) that the supervisory authority in that [<sup>F131</sup>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.

<sup>F133</sup>(4) . . . . .

<sup>F134</sup>(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 [<sup>F128</sup>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.]

#### Textual Amendments

- F127** Sch. 15 para. 15 substituted (1.9.1994) by S.I. 1994/1984 reg. 25, Sch. 4 para. 3
- F128** 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)**
- F129** 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)**
- F130** 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)**
- F131** Words in Sch. 15 Pt. II para. 15 substituted (1.1.1998) by S.I. 1997/2849, **reg. 3**
- F132** Words in Sch. 15 para. 15(3) repealed (1.1.1998) by S.I. 1997/2849, **reg. 5, Sch.**
- F133** Sch. 15 para. 15(4) repealed (1.1.1998) by S.I. 1997/2849, **reg. 5, Sch.**
- F134** Sch. 15 para. 15(5) repealed (1.1.1998) by S.I. 1997/2849, **reg. 5, Sch.**

<sup>F135</sup>[15(A)] This paragraph applies to any transfer of engagements (other than contracts of reinsurance) where–

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- (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 [<sup>F136</sup>Authority] shall not confirm the transfer unless–
- [ it is satisfied that the transferee is, or will be immediately after the making of the confirmation–
  - <sup>F137</sup>(a)
    - (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 [<sup>F138</sup>an EEA State] other than the United Kingdom, the [<sup>F136</sup>Authority] is satisfied–
    - (i) that the supervisory authority in that [<sup>F138</sup> 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 <sup>F139</sup> . . . which is included in the proposed transfer, [<sup>F138</sup>an EEA State] other than the United Kingdom, is the State in which the commitment is situated, the [<sup>F136</sup>Authority] shall not confirm the transfer unless it is satisfied–
- (a) that the supervisory authority in that [<sup>F138</sup>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.
- <sup>F140</sup>(4) . . . . .
- <sup>F141</sup>(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 [<sup>F136</sup>Authority];
  - (b) if the transferee is a UK company, the Secretary of State;

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- (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

- F135** Sch. 15 para 15A substituted (1.9.1994) by S.I. 1994/1984, reg. 25, Sch. 4 para. 4
- F136** 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)
- F137** 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)
- F138** Words in Sch. 15 Pt. II para. 15A substituted (1.1.1998) by 1997/2849, reg. 3
- F139** Words in Sch. 15 Pt. II para. 15A(3) repealed (1.1.1998) by S.I. 1997/2849, reg. 5, Sch.
- F140** Sch. 15 Pt. II para. 15A(4) repealed (1.1.1998) by S.I. 1997/2849, reg. 5, Sch.
- F141** Sch. 15 Pt. II para. 15A(5) repealed (1.1.1998) by S.I. 1997/2849, reg. 5, Sch.

<sup>F142</sup>[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

- F142** 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)

*[<sup>F143</sup>Rights of policy holders]*

#### Textual Amendments

- F143** Sch. 15 para. 16A and Cross-heading inserted (1.9.1994) by S.I. 1994/1984, reg. 25, Sch. 4 para. 5

<sup>F144</sup>16(A) This paragraph applies where the Commission confirms a transfer in accordance with paragraph 15 above and <sup>F145</sup>. . . –

<sup>F146</sup>(0) as regards any policy included in the transfer, [<sup>F147</sup>an EEA State] other than the United Kingdom is the [<sup>F147</sup>EEA State] in which the risk is situated; <sup>F146</sup>. . .

<sup>F148</sup>(b) . . . . .

(2) The Commission shall direct that–



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- (a) notice of its decision, and of the execution of any instrument giving effect to the transfer, shall be published in the [F147EEA State]. . . ; 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 [F147EEA State]. . . in which the risk 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**

**F144** Sch. 15 para. 16A inserted (1.9.1994) by S.I. 1994/1984, reg. 25 Sch. 4 para. 5

**F145** Words in Sch. 15 para. 16A repealed (1.1.1998) by S.I. 1997/2849, reg. 5, Sch.

**F146** Words in Sch. 15 para. 16A(1)(a) repealed (1.1.1998) by S.I. 1997/2849, reg. (5), Sch.

**F147** Words in Sch. 15 para. 16A substituted (1.1.1998) by S.I. 1997/2849, reg. 3

**F148** Sch. 15 para. 16A(1)(b) repealed (1.1.1998) by S.I. 1997/2849, reg. 5, Sch.

- [F149]6B) This paragraph applies where the Commission confirms a transfer in accordance with paragraph 15A above and F150. . . –
  - F151(0) as regards any policy included in the transfer, [F152an EEA State] other than the United Kingdom is the State in which the commitment is situated; F151. . .
  - F153(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 [F152 EEA State]. . . 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 [F152 EEA State]. . . 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**

**F149** Sch. 15 para. 16B inserted (1.9.1994) by S.I. 1994/1984, reg. 25 Sch. 4 para. 6

**F150** Words in Sch. 15 para. 16B repealed (1.1.1998) by S.I. 1997/2849, reg. 5, Sch.

**F151** Words in Sch. 15 para. 16B(1)(a) repealed (1.1.1998) by S.I. 1997/2849, reg. (5), Sch.

**F152** Words in Sch. 15 para. 16B substituted (1.1.1998) by S.I. 1997/2849, reg. 3

**F153** Sch. 15 para. 16B(1)(b) repealed (1.1.1998) by S.I. 1997/2849, reg. 5, Sch.



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*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*

[<sup>F154</sup>18(1) In this Part of this Schedule expressions used which are defined in the Insurance Companies Act 1982 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;

“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.

<sup>F155</sup>(3) . . . . .]

**Textual Amendments**

**F154** Sch. 15 para. 18 substituted (1.9.1994) by S.I. 1994/1984, reg. 25, Sch. 4 para. 7

**F155** Sch. 15 para. 18(3) repealed (1.1.1998) by S.I. 1997/2849, reg. 5, Sch.

SCHEDULE 16

Section 95.

AMENDMENTS OF 1974 ACT

1 The 1974 Act shall be amended as follows.

2 (1) In subsection (1) of section 4—

- (a) after the word “Act” there shall be inserted the words “ and the 1992 Act ”; and
- (b) in paragraph (a), after the word “Wales,” there shall be inserted the words “ Northern Ireland, ”.

(2) After subsection (2) of that section there shall be inserted the following subsection—

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“(2A) The central office shall maintain separate registers under this Act or, as the case may be, the 1992 Act in relation to societies whose registered offices are in Northern Ireland.”

(3) In subsection (3) of that section, after the word “Act”, in each place where it occurs, there shall be inserted the words “ or the 1992 Act ”.

#### Commencement Information

**I86** Sch. 16 para. 2 wholly in force; Sch. 16 para. 2 not in force at Royal Assent see s. 126(2); Sch. 16 para. 2(1)(a)(3) in force at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 2; Sch. 16 para. 2(1)(b)(2) in force at 1.1.1994 by S.I. 1993/3226, art. 2(1), Sch. 2

[<sup>F1563</sup> Section 6(2) shall cease to have effect.]

#### Textual Amendments

**F156** Sch. 16 para. 3 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. 129 (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)

- 4 In section 7, in subsection (1)—
- (a) for the words “may be” there shall be substituted the words “ may remain ”;
  - (b) in paragraph (a), for the words from “any” to the end of the paragraph there shall be substituted the words “ any purpose falling within Schedule 2 to the 1992 Act ”; and
  - (c) after paragraph (f) there shall be inserted the words—
 

“but no society may become registered under this Act after the commencement of section 93 of the 1992 Act.”

#### Commencement Information

**I87** Sch. 16 para. 4 wholly in force; Sch. 16 para. 4 not in force at Royal Assent see s. 126(2); Sch. 16 para. 4(a)(c) in force at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 3; Sch. 16 para. 4(b) in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 6

- 5 In section 13(1), for the words from “except” to the end of the subsection there shall be substituted the words “ after the commencement of section 93 of the 1992 Act ”.
- 6 (1) For section 15 there shall be substituted the following section—

#### “15A Acknowledgement of registration and rules of new branch.

- (1) On being satisfied that a branch has complied with the provisions of this Act as to registration, the registrar shall issue to that branch an acknowledgement of registration.
- (2) An acknowledgement under subsection (1) above shall be conclusive evidence that the branch in question is duly registered under this Act, unless

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it is proved that the registration of the society of which it is a branch has been suspended or cancelled.

(3) An acknowledgement under subsection (1) above shall also constitute an acknowledgement, and be conclusive evidence, of the rules of the branch in force at the date of its registration.”

(2) Section 17 shall cease to have effect.

(3) Sub-paragraphs (1) and (2) above shall not affect the operation of section 15(2) and section 17 in relation to an acknowledgement of registration issued to a registered society under section 15(1).

7 In section 21, for the words “sum not exceeding 10p” there shall be substituted the words “reasonable fee”.

8 After section 23 there shall be inserted the following section—

*“ Reinsurance*

**23A Reinsurance.**

(1) The rules of a registered friendly society may provide for the carrying on by the society of any reinsurance business to which subsection (2) below applies but only to such extent or in such circumstances as may from time to time be approved by the appropriate actuary.

(2) This subsection applies to business consisting of the effecting and carrying out of contracts of reinsurance which—

- (a) are insured or to be insured by any other registered society or any incorporated friendly society; and
- (b) are of a class or part of a class of insurance business which the society carrying on the re-insurance business itself carries on.

(3) In this section “the appropriate actuary” has the same meaning as in the 1992 Act.”

9 For section 24 there shall be substituted the following section—

**“24 Trustees of registered societies and branches.**

(1) Every registered society and branch shall have one or more trustees.

(2) The trustees may be appointed—

- (a) by a resolution of the society or branch in general meeting; or
- (b) in such other manner as the rules of the society or branch may provide.

(3) If a trustee is appointed under subsection (2)(a) above, the society or branch shall send to the registrar a copy of the resolution appointing him, signed by the trustee so appointed and by the secretary of the society or branch.

(4) If a trustee is appointed under subsection (2)(b) above, the society or branch shall send to the registrar—

- (a) notice of his appointment signed by the secretary of the society or branch; and

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(b) an acceptance of office signed by the trustee so appointed.

(5) In the case of the appointment of a trustee of a branch, any document referred to in subsection (3) or (4) above shall be sent to the registrar through an officer appointed in that behalf by the society of which the branch forms part.

(6) The same person may not be a secretary or treasurer of a registered society or branch and also a trustee of that society or branch.”

10 For section 26 there shall be substituted the following section—

**“26 Proof of appointment of officers and trustees.**

If any such list as is referred to in section 12(1)(c) above is signed—

(a) by every trustee and other officer named in the list; and

(b) by the secretary of the branch,

then on the registration of the branch the list shall be evidence that the persons so named have been duly appointed.”

11 Sections 27 and 28 shall cease to have effect.

12 Sections 29 to 45 shall cease to have effect in relation to registered friendly societies and registered branches of such societies.

13 In section 35, after subsection (5) there shall be inserted the following subsection—

“(5A) In the application of subsection (4) above to a society whose registered office is in Northern Ireland, the reference to the High Court shall be construed as a reference to the High Court in Northern Ireland.”

14 In section 40, after subsection (2) there shall be added the following subsection—

“(3) For the purposes of regulations made by virtue of this section, section 10 of the Friendly and Industrial and Provident Societies Act 1968 shall be taken to extend to Northern Ireland.”

15 (1) In section 46, in subsection (1), paragraphs (a) and (b) shall be omitted.

(2) Sub-paragraph (1) above has effect without prejudice to the generality of paragraph (e) of that subsection.

(3) After subsection (2) of that section there shall be inserted the following subsection—

“(2A) Subsections (2) to (12) of section 14 of the 1992 Act shall apply in respect of the powers of investment of the trustees of a registered friendly society as they apply to the powers of investment of an incorporated friendly society; and the consent required for any such investment as is available to the trustees of a registered friendly society by virtue of this subsection shall be the same as that required under subsection (1) above.”

16 In section 49—

(a) in paragraph (b), for “£200” there shall be substituted “£800”; and

(b) in paragraph (c), for “£50” there shall be substituted “£200”.

17 In section 50, after subsection (2) there shall be inserted the following subsection—

“(2A) Subsection (2) above does not apply to advances made by a registered friendly society or a branch of such a society.”

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

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- 18 (1) In section 51—
- (a) at the end of subsection (2) there shall be added the words “ ; but those restrictions shall not apply to investments made by the trustees of a registered friendly society or of a branch of such a society ”; and
  - (b) at the end of subsection (4) there shall be inserted the words “ or Part II of the Housing (Northern Ireland) Order 1981. ”.

#### Commencement Information

**188** Sch. 16 para. 18 wholly in force; Sch. 16 para. 18 not in force at Royal Assent see s. 126(2); Sch. 16 para. 18(1)(a) in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 6; Sch. 16 para. 18(1)(b) in force at 1.1.1994 by S.I. 1993/3226, art. 2(1), Sch. 2

- 19 In section 53, for subsection (1) there shall be substituted the following subsection—

“(1) A registered society or branch may, if its rules so provide, acquire and hold land for the purpose of carrying on any of its activities in the names of its trustees and may dispose of, or otherwise deal with, any land so held; and—

- (a) no person shall be bound to enquire as to the authority of the trustees to dispose of or deal with land;
- (b) the receipt of the trustees shall be a discharge for all sums of money arising from, or in connection with, the disposal of or other dealing with land.”

- (2) Subsection (3) of that section shall be omitted.

- 20 In section 55, at the end of subsection (4) there shall be added the words “ or Northern Ireland ”.

- 21 After section 57 there shall be inserted the following section—

#### “57A Discharge of certain mortgages in Northern Ireland.

- (1) Where, in the case of any mortgage to a registered society or branch of any property, a receipt in full for any moneys secured thereby on that property is endorsed on or annexed to the mortgage, being a receipt—
  - (a) signed by the trustees of the society or branch and counter-signed by the secretary thereof; and
  - (b) in the form set out in Schedule 4 to this Act or in any other form specified in the rules of the society or branch or any schedule thereto, that receipt shall be fully effective to vacate the mortgage and vest in the mortgagor the estate of and in the property comprised in the mortgage.
- (2) If the mortgage is registered in accordance with the Registration of Deeds Act (Northern Ireland) 1970 the registrar under that Act shall—
  - (a) on production of the receipt mentioned in subsection (1) above make a note in the Abstract Book against the entry relating to the mortgage that the mortgage is satisfied; and
  - (b) grant a certificate, either on the mortgage or separately, that the mortgage is satisfied.
- (3) The certificate granted under subsection (2)(b) above shall—

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

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- (a) be received in all courts and proceedings without further proof; and
- (b) have the effect of clearing the register of the mortgage.

(4) In this section “mortgage” includes a further charge and “mortgagor”, in relation to a mortgage, means the person for the time being entitled to the equity of redemption.

(5) This section extends to Northern Ireland only.”

22 After section 63 there shall be inserted the following section—

**“63A Register of members of registered friendly societies.**

- (1) Every registered friendly society shall maintain a register of the names and addresses of the members of the society.
- (2) The register shall be kept at the registered office of the society or at such other place or places as the committee of management thinks fit.
- (3) A society need not enter in the register the address of a member who became a member before the commencement of this section while it has no address for him and his whereabouts are unknown.
- (4) Where it appears to a society that the address shown in the register for a member is no longer current, the society—
  - (a) may remove that address from the register; and
  - (b) need not enter in the register an address for that member while it has no address for him and his whereabouts are unknown.
- (5) If a society contravenes subsection (1) above, it shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.”

23 After section 65 there shall be inserted the following sections—

**“65A Group insurance business.**

- (1) If the rules of a registered friendly society expressly so direct, the society may carry on any group insurance business.
- (2) In this Act “group insurance business” means business (carried on in accordance with the society’s rules and subject to any regulations under section 11 of the 1992 Act) which—
  - (a) is of a description falling within Head A, or class 2 of Head B, of Schedule 2 to the 1992 Act; and
  - (b) is carried on as the business of providing benefits, in pursuance of a contract with a qualifying person, for or in respect of the members of a group scheme.
- (3) For the purposes of this section—
 

“group scheme” means a scheme or other arrangement under which benefits are to be provided for or in respect of persons who are members of the scheme and who qualify for membership by virtue of—

  - (a) being employees of a particular employer; or

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- (b) being members of some other group of persons of a description specified in regulations under section 11 of the 1992 Act;  
“qualifying person” means a person who has established or is otherwise responsible for the operation of a group scheme or a trustee of such a scheme;
- and “member”, in relation to a group scheme, includes any person for or in respect of whom benefits are to be provided under the scheme, whatever the terms in which such persons are described in the scheme.
- (4) Group insurance business may be carried on by a registered friendly society whether or not members of the group scheme are, or are required by the society to be, members of the society.
- (5) Where a registered friendly society carries on any group insurance business and the rules of the society so provide, any qualifying person with whom the society contracts (or his nominee) may be accorded the rights of a member of the society (including any right to vote) for the purpose of participating in the affairs of the society in the interests of the members of the group scheme with which he is concerned.
- (6) The rules of an incorporated friendly society may not prevent a person from being a member of the society in his private capacity by reason only of the fact that he has been accorded the rights of a member by virtue of subsection (5) above.
- (7) A person who is accorded the rights of a member of a society by virtue of subsection (5) above shall, for the purposes of any power which is conferred on the registrar or the Commission by this Act or the 1992 Act and is exercisable in the interests of members of the society, be treated as if he were a member of the society.
- (8) The Commission may make regulations under section 11(7) of the 1992 Act which apply to group insurance business carried on by registered friendly societies.

#### **65B Terms on which benefits are provided by friendly societies.**

- (1) The terms on which a registered friendly society provides any benefit shall be—
- (a) specified in its rules; or
  - (b) determined in a manner specified in its rules.
- (2) If they are not specified in the society’s rules, the society—
- (a) shall make copies of them available free of charge to members of the society at every office of the society; and
  - (b) shall send, free of charge, copies of them to any member of the society who demands them.
- (3) If, on demand made of it under subsection (2) above, a society fails, in accordance with that subsection, to make available or, as the case may be within 7 days of the demand, to send to a person a copy of the terms on which a benefit is to be provided, the society shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.”

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

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24 Sections 70 to 75 shall cease to have effect.

#### Commencement Information

**189** Sch. 16 para. 24 partly in force; Sch. 16 para. 24 not in force at Royal Assent see s. 126(2); Sch. 16 para. 24 in force to the extent specified at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 3

25 (1) Section 76 shall be amended as follows.

(2) In subsection (1)—

- (a) for the words “section 77 below” there shall be substituted the words “subsection (3A) below”; and
- (b) in paragraphs (c) to (e) the words “or branch” shall be omitted in each place where they occur.

(3) For subsection (3) there shall be substituted the following subsections—

“(3A) This section does not apply to a dispute if—

- (a) the registered society concerned is a registered friendly society; or
- (b) the registered branch concerned is a branch of a registered friendly society.

(3B) The county court or, in Scotland, the sheriff may hear and determine a dispute falling within subsection (1) above if the parties agree that it shall be so determined instead of being determined under the rules.”

(4) In subsection (4), at the end of paragraph (b) there shall be added the words “; and

- (c) does not include a dispute between the parties mentioned in subsection (1)(a) or (b) above which has arisen as a result of and incidentally to a dispute between a member, or a person aggrieved who has ceased to be a member, of a registered society or branch and a person claiming through him or under the rules of the registered society or branch.”

26 Section 77 shall cease to have effect.

27 In section 78(1), after the words “Act 1950” there shall be inserted the words “ or the corresponding provisions of the Arbitration Act (Northern Ireland) 1937 ”.

28 In section 80—

- (a) in subsection (1), at the beginning there shall be inserted the words “ Subject to subsection (1A) below, ”;
- (b) after subsection (1) there shall be inserted the following subsection—

“(1A) Subsection (1) above does not apply in any case where the lender is a registered friendly society or a branch of such a society.”

29 (1) Section 82 (amalgamation and transfer of engagements) shall be amended as follows.

(2) In subsection (2), after the word “transfer” there shall be inserted the words “ to any extent ”.

(3) In subsection (3)—

- (a) after the word “transfer” there shall be inserted the words “ to any extent ”; and



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(b) at the end there shall be added the words “ or to an industrial and provident society ”.

(4) After subsection (3) there shall be inserted the following subsections—

“(3A) A registered society, in order to transfer some but not all of its engagements, must in addition to passing the special resolution required by subsection (2) or (3) above resolve to do so by an affected members’ resolution, that is, a resolution passed by the appropriate majority of the members whose engagements with the society are included in the transfer and who, under the rules of the society, would be entitled to vote on a special resolution.

(3B) In subsection (3A) above, “appropriate majority” means a majority consisting of not less than three quarters of those members who vote.”.

(5) After subsection (7) there shall be added the following subsections—

“(8) This section does not apply to an amalgamation of or transfer of engagements by a registered friendly society.

(9) In this section “industrial and provident society” means a society registered or deemed to be registered under the Industrial and Provident Societies Act 1965 or the Industrial and Provident Societies Act (Northern Ireland) 1969.”

[<sup>F157</sup>30(1) . . . . .]

(2) In subsection (8) of that section, after the word “district” there shall be inserted “ or division ”.]

**Textual Amendments**

**F157** Sch. 16 para. 30 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. 129 (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**)

**F158** Sch. 16 para. 30(1) repealed (31.1.1997) by 1996 c. 23, s. 107(2), **Sch. 4** (with s. 81(2)); S.I. 1996/3146, **art. 3**

31 Section 84 shall cease to apply to registered friendly societies.

32 After section 84 there shall be inserted the following section—

**“84A Conversion of registered societies into industrial and provident societies.**

(1) A registered society other than a registered friendly society may apply for registration under the Industrial and Provident Societies Act 1965 if the proposal to apply for registration has been submitted to the members of the society for their consent by the procedure required for a proposal to amend the rules of the society and consent has been obtained in accordance with that procedure.

(2) On the registration under the Industrial and Provident Societies Act 1965 of a registered society all property held immediately before that registration by any person in trust for the society or any branch of the society (whether or

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not a registered branch) shall become by virtue of this subsection property of the industrial and provident society.

- (3) After its registration under that Act, the society shall continue to be entitled to all rights and subject to all liabilities to which it was entitled or subject immediately before registration.
- (4) It is hereby declared for the avoidance of doubt that—
  - (a) the reference in subsection (2)(a) above to property includes a reference to property situated outside the United Kingdom; and
  - (b) the reference to rights and liabilities of such a society or branch includes a reference and liabilities under the law of any country or territory outside the United Kingdom.
- (5) Not later than the end of the period of 90 days beginning with the day on which a registered society is registered under the Industrial and Provident Societies Act 1965—
  - (a) the trustees of the society shall deliver to the registered office of the industrial and provident society any property of the registered society or any branch of the registered society held by them and any documents relating to the property, rights and liabilities of the registered society or to its financial affairs;
  - (b) the trustees of any branch of the registered society shall deliver to that office any property of the branch or any other branch of the society held by them and any documents relating to the property, rights and liabilities of the branch or to its financial affairs; and
  - (c) if he holds property on trust for the society or any branch of the society, the Public Trustee shall deliver to that office the property so held by him and any documents relating to it;

but nothing in this Act shall have effect to relieve the trustees of a registered society or branch or the Public Trustee from any liability arising from acts or omissions before that registration.
- (6) If a registered society is registered under the Industrial and Provident Societies Act 1965, the registration of that society under this Act shall thereupon become void and shall be cancelled by the Chief Registrar or, under the direction of the Chief Registrar, by the assistant registrar for Scotland.
- (7) Schedule 6A to this Act shall have effect to supplement this section.
- (8) In the application of this section to Northern Ireland, references in this section and Schedule 6A to the Industrial and Provident Societies Act 1965 shall be construed as references to the Industrial and Provident Societies Act (Northern Ireland) 1969.”

#### Commencement Information

**I90** Sch. 16 para. 32 wholly in force; Sch. 16 para. 32 not in force at Royal Assent see s. 126(2); Sch. 16 para. 32 (except para. (8)) in force at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 3; Sch. 16 para. 32 (except subsection (8) of s. 84A) in force for all remaining purposes at 13.9.1993 by S.I. 1993/2213, art. 2(1), Sch. 2; Sch. 16 para. 32 (to the extent that it inserts section 84A(8) of the 1974 Act) in force at 1.1.1994 by S.I. 1993/3226, art. 2(1), Sch. 2

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- 33 In section 86—
- (a) in subsection (1), at the beginning there shall be inserted the words “ Subject to subsection (2A) below ” and, after the words “registered society”, there shall be inserted the words “ or branch ”;
  - (b) after subsection (2) there shall be inserted the following subsection—

“(2A) For the purposes of this Act “special resolution”, in relation to a registered friendly society, shall be construed in accordance with paragraph 7 of Schedule 12 to the 1992 Act.”

- 34 For section 87 there shall be substituted the following section—

*“ Winding-up, suspension of business and inspection*

**87 Power of Commission to apply for winding-up of registered friendly societies and branches.**

- (1) If, on receiving the report on the state and conduct of the activities of a registered friendly society from a person appointed under section 65 of the 1992 Act, it appears to the Commission that it is in the interests of the members of the society or of the public that the society should be wound up, then, unless the society is already being wound up by the court, the Commission may present a petition to the High Court or, in Scotland, to the Court of Session for the society to be wound up by the court in accordance with the Insolvency Act 1986 or, as the case may be, the Insolvency (Northern Ireland) Order 1989 if the court thinks it just and equitable that this should be done.
- (2) Subsection (1) above applies in relation to a registered branch of a registered friendly society as it applies in relation to such a society.”

- 35 Sections 88 and 89 shall cease to have effect.

- 36 Section 90 shall cease to have effect in relation to registered friendly societies.

- 37 In section 91(4), after the words “section 85(4) above” there shall be inserted the words “ or under any provision of the 1992 Act ”.

- 38 In section 93—

- (a) in subsection (1)(b), for the words from the beginning to “dissolution” there shall be substituted the words “ by an instrument of dissolution approved by a special resolution of the society or branch; ”;
- (b) in subsection (1)(c), after the words “section 95(3)” there shall be inserted the words “ or 95A(1) ”; and
- (c) in subsection (3), for the words from “to the county” to “within” there shall be substituted the words “—
  - (a) in England and Wales, to the county court for the district,
  - (b) in Scotland, to the sheriff of the sheriffdom, or
  - (c) in Northern Ireland, to the county court for the division,

within ”.

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

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#### Commencement Information

**191** Sch. 16 para. 38 wholly in force; Sch. 16 para. 38 not in force at Royal Assent see s. 126(2); Sch. 16 para. 38(a) in force at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 3; Sch. 16 para. 38(b)(c) (to the extent that it introduces paras. (a)(b) into section 93(3)) in force at 28.4.1993 by S.I. 1993/1186, art. 2(3), Sch. 3; Sch. 16 para. 38(c) (to the extent that it introduces para. (c) into s. 93(3) of the 1974 Act) in force at 1.1.1994 by S.I. 1993/3226, art. 2(1), Sch. 2

39 Section 95 shall cease to have effect in relation to registered friendly societies and, after that section, there shall be inserted the following section—

#### “95A Dissolution of registered friendly societies and branches by award.

- (1) Subject to subsection (2) below, if upon an investigation under section 65 of the 1992 Act it appears to the Commission—
  - (a) that the funds of a registered friendly society or of a registered branch of such a society are insufficient to meet the existing claims on them, or
  - (b) that the rates of contribution fixed in the rules of the society or branch are insufficient to cover the benefits assured to be given by the society or branch,

the Commission may, if it considers it expedient to do so, award that the society or branch be dissolved and its affairs wound up; and where such an award is made the Commission shall direct in what manner the assets of the society or branch shall be divided or appropriated.

- (2) Where the Commission makes an award under this section, it may suspend the operation thereof for such period as it may deem necessary to enable the society or branch to make such alterations and adjustments of contributions and benefits as will in its judgment prevent the necessity of the award of dissolution coming into operation; and where within that period the alterations and adjustments are made, the Commission may cancel the award.
- (3) The Commission proceeding under this section shall have the same powers and authorities, enforceable by the same penalties, as the Chief Registrar has under section 95 above.
- (4) Within twenty-one days after the making of an award under this section, the Commission shall send to the central office notice of the award of dissolution and upon its receipt the central office shall cause notice of the award to be advertised in the Gazette and in some newspaper in general circulation in the neighbourhood of the registered office of the society or branch; and unless—
  - (a) within three months from the date on which that advertisement appears, a member or other person interested or having any claim on the funds of the society or branch commences proceedings to set aside the dissolution of the society or branch consequent upon the award, and
  - (b) the dissolution is set aside accordingly,
 the society or branch shall be legally dissolved from the date of the advertisement.

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

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(5) The expenses of every award, and of advertising every notice, under this section shall be paid out of the funds of the society or branch before any other appropriation thereof is made.”

40 In section 96, after the words “section 95(3)” there shall be inserted the words “ or 95A(1) ”.

41 In section 97, in subsection (1)(b) after the words “section 95 (6)(a)” there shall be inserted the words “ or 95A(4)(a) ”.

42 In section 98—

- (a) in subsection (1)(g), for the words from “a certificate” to “false” there shall be substituted the words “ to the society or branch from which the money is claimed a false death ”;
- (b) in subsection (2), at the end there shall be inserted the words “ or the Industrial Assurance (Northern Ireland) Order 1979 ”;
- (c) in subsection (8), after “1923” there shall be inserted the words “ and Article 46(2) of the Industrial Assurance (Northern Ireland) Order 1979 ”.

#### Commencement Information

**192** Sch. 16 para. 42 wholly in force; Sch. 16 para. 42 not in force at Royal Assent see s. 126(2); Sch. 16 para. 42(a) in force at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 3; Sch. 16 para. 42(b)(c) in force at 1.1.1994 by S.I. 1993/3226, art. 2(1), Sch. 2

43 In section 100(a), at the end there shall be added the words “ other than a registered friendly society or branch of such a society ”.

44 In section 102—

- (a) after “1980” there shall be inserted the words “ or the Magistrates’ Courts (Northern Ireland) Order 1981 ”;
- (b) after the word “Wales” there shall be inserted the words “ or Northern Ireland ”; and
- (c) after paragraph (b) there shall be inserted the words “;

and, in the application of this section to Northern Ireland, the reference in paragraph (a) to a petty sessions area shall be construed as a reference to a county court division and paragraph (b) shall be omitted.”

45 Section 106 shall cease to have effect.

46 In section 107, after subsection (2) there shall be inserted the following subsection—

“(2A) In the application of this section to Northern Ireland, references to the Secretary of State shall be construed as references to the Department of Health and Social Services for Northern Ireland.”

[<sup>F159</sup>47 In section 110(2), after the word “Act” there shall be inserted the words “ or the 1992 Act ”.]

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

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### Textual Amendments

**F159** Sch. 16 para. 47 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. 129 (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**)

- 48 In section 111(1)—
- (a) in the definition of “collecting society” at the end there shall be added the words “ or the Industrial Assurance (Northern Ireland) Order 1979 ”;
  - (b) after that definition there shall be inserted the following definition—  
““Commission” means the Friendly Societies Commission;”;
  - (c) in the definition of “the Companies Acts” after “1985” there shall be inserted the words “ or, in Northern Ireland, the Companies (Northern Ireland) Order 1986 ”;
  - (d) in the definition of “Gazette”, after paragraph (b) there shall be inserted the following paragraph—  
“(c) the Belfast Gazette if the registered office of the society or branch is in Northern Ireland”;
  - (e) after the definition of “signed” there shall be inserted the following definition—  
““the 1992 Act” means the Friendly Societies Act 1992”.

### Commencement Information

**I93** Sch. 16 para. 48 wholly in force; Sch. 16 para. 48 not in force at Royal Assent see s. 126(2); Sch. 16 para. 48(b)(e) in force at 1.2.1993 by S.I. 1993/16, art. 2, **Sch. 3**; Sch. 16 para. 48(a)(c)(d) in force at 1.1.1994 by S.I. 1993/3226, art. 2(1), **Sch. 2**

- 49 Section 115 shall cease to have effect.
- 50 In section 117(3), after the words “extends to” there shall be inserted the words “ Northern Ireland, ”.
- 51 (1) In paragraph 3 of Schedule 2—
- (a) in sub-paragraph (1), for the words “sub-paragraph (2)” there shall be substituted the words “ sub-paragraphs (2) and (3) ” and the words “the fines and” and “or fine” shall be omitted;
  - (b) after sub-paragraph (2) there shall be inserted the following sub-paragraph—  
“(3) Nothing in sub-paragraph (1) above shall prevent a registered friendly society from specifying in its rules the manner in which the conditions under which any member may become entitled to any benefit assured by the society are to be determined, instead of specifying the conditions themselves.”
- (2) Paragraphs 7, 12 and 15 of that Schedule shall cease to have effect in relation to registered friendly societies.
- 52 After Schedule 6 there shall be inserted the following Schedule—

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

*Changes to legislation: Friendly Societies Act 1992 is up to date with all changes known to be in force on or before 02 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

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“SCHEDULE  
6A

CONVERSION OF REGISTERED SOCIETIES INTO INDUSTRIAL  
AND PROVIDENT SOCIETIES: SUPPLEMENTARY

- 1 This Schedule has effect in relation to any registered society (“the society”) which is registered under the Industrial and Provident Societies Act 1965 and, in this Schedule, “registration” means registration under that Act.
- 2 (1) On the registration of the society any appointment as trustee of the society or any branch of it shall determine.  
(2) All officers of the society other than its trustees shall upon its registration become officers of the industrial and provident society holding corresponding offices in that society.
- 3 Any agreement made, transaction effected or other thing done by, to or in relation to the society or any branch of it (whether registered or not) which is in force or effective immediately before its registration shall have effect as if made, effected or done by, to or in relation to the industrial and provident society, in all respects, as if the industrial and provident society were the same person as the society or branch and accordingly references to the society or branch—
  - (a) in any agreement (whether or not in writing) and in any deed, bond or instrument;
  - (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 registered society or branch,shall be taken as referring to the industrial and provident society.
- 4 (1) Any agreement made by the society or any branch of it which is in force immediately before the society’s registration shall have effect as if—
  - (a) for references to members of the society or branch there were substituted references to members of the industrial and provident society;
  - (b) for references to officers of the society or branch other than its trustees there were substituted references to the corresponding officers of the industrial and provident society; and
  - (c) for references to the trustees of the registered society or branch there were substituted references to the industrial and provident society.(2) References in sub-paragraph (1) above to an agreement include references to a deed, bond or other instrument.  
(3) It is hereby declared for the avoidance of doubt that—
  - (a) the effect of section 84A of this Act in relation to any contract of employment with the society or any of its branches in force immediately before the society’s registration is merely to modify the contract by substituting the industrial and provident society as the

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employer (and not to terminate the contract or vary it in any other way); and

- (b) that section is effective to vest the rights and liabilities of the society or branch under any agreement or arrangement for the payment of pensions, allowances or gratuities in the industrial and provident society along with all other rights and liabilities of the society or branch;

and accordingly any period of employment with the society or branch shall count for all purposes as a period of employment with the industrial and provident society.”

## [<sup>F160</sup>SCHEDULE 17

Section 97.

### AMENDMENTS OF POLICYHOLDERS PROTECTION ACT 1975]

#### Textual Amendments

**F160** 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>F161</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”.



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### Textual Amendments

**F161** Sch. 17 para. 1(1) words substituted (19.3.1997) by 1997 c. 18, ss. 20, 23(2), Sch. 4 para. 1

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.”

[<sup>F162</sup>3 (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”.]

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### Textual Amendments

**F162** Sch. 17 para. 3 substituted (19.3.1997) by 1997 c. 18, ss. 20, 23(2), Sch. 4 para. 2

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>M37</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.
- (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

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- (g) in a case falling within paragraph (c) of that subsection, to the date of the order.”

#### Marginal Citations

M37 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>F163</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>F164</sup>insurance companies which are not friendly societies] ”.

#### Textual Amendments

F163 Words in Sch. 17 para. 6(1) substituted (19.3.1997) by 1997 c. 18, ss. 20, 23(2), Sch. 4 para. 3(2)

F164 Words in Sch. 17 para. 6(2) substituted (19.3.1997) by 1997 c. 19, ss. 20, 23(2), Sch. 4 para. 3(3)

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

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

[<sup>F165</sup>(1)]Subject to sections 13 and 14 [<sup>F165</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>F166</sup>is a qualifying policy] is paid to the member as soon as reasonably practicable after the beginning of the liquidation.”

- [<sup>F167</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

F165 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

F166 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

F167 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

- 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 ”.

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(2) At the end of that section there shall be added the following subsection—

“(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 [F168 subsection (3A)] there shall be inserted the following subsection—

[F169“(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

[F170(b) in subsection (5)(b) below, with the insertion after the words “this Act applies” of the words “or authorised friendly society”,”][F171 and in subsection (5)(a) for “another” there shall be substituted “an”]

#### Textual Amendments

**F168** Words in Sch. 17 para. 9 substituted (19.3.1997) by 1997 c. 18, ss. 20, 23(2), Sch. 4 para. 5(a)

**F169** Words in Sch. 17 para. 9 renumbered (19.3.1997) by 1997 c. 18 ss. 20, 23(2), Sch. 4 para. 5(b)

**F170** Words in Sch. 17 para. 9 substituted (19.3.1997) by 1997 c. 18, ss. 20, 23(2), Sch. 4 para. 5(b)

**F171** Words in Sch. 17 para. 9 inserted (19.3.1997) by 1997 c. 18, ss. 20, 23(2), Sch. 4 para. 5(c)

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—

(a) with the substitution of the following subsections for subsection (1)

[F172(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;

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- (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**

**F172** Words in [Sch. 17 para. 11](#) inserted (19.3.1997) by [1997 c. 18, ss. 20, 23\(2\)](#), [Sch. 4 para. 6](#)

- 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>F173</sup>15]

**Textual Amendments**

**F173** [Sch. 17 para. 15](#) repealed (19.3.1997) by [1997 c. 18, ss. 22, 23\(2\)](#), [Sch. 5](#)

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

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- [<sup>F174</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”.]

#### Textual Amendments

**F174** Sch. 17 para. 16 substituted (19.3.1997) by 1997 c. 18, ss. 20, 23(2) Sch. 4 para. 7

- 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—

<sup>F175</sup> . . .

““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>F176</sup>(3) In subsection (2), for “subsection (2ZA)” there shall be substituted “subsections (2ZA) to (2ZC)”.]

- (4) After [<sup>F177</sup>subsection (2ZA)] there shall be inserted the following subsections—

[<sup>F178</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>F178</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>F179</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

- F175** Words in Sch. 17 para. 18(2) repealed (19.3.1997) by 1997 c. 18, ss. 22, 23(2), Sch. 5  
**F176** Sch. 17 para. 18(3) substituted (19.3.1997) by 1997 c. 18, ss. 20, 23(2), Sch. 4 para. 8(2)  
**F177** 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)  
**F178** 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)  
**F179** Words in Sch. 17 para. 18(4) inserted (19.3.1997) by 1997 c. 18, ss. 20, 23(2), Sch. 4 para. 8(4)

- 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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## [<sup>F180</sup>SCHEDULE 18

Section 98.

### AMENDMENTS OF FINANCIAL SERVICES ACT 1986]

#### Textual Amendments

**F180** 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**)

### PART I

#### AMENDMENTS OF PROVISIONS OTHER THAN SCHEDULE 11

1 The following section shall be substituted for section 23—

**“23 Friendly societies.**

A friendly society which carries on investment business in the United Kingdom is an authorised person as respects any investment business which it carries on for or in connection with any of the activities mentioned in Schedule 2 to the Friendly Societies Act 1992.”

#### Commencement Information

**I94** Sch. 18 para. 1 wholly in force; Sch. 18 para. 1 not in force at Royal Assent see s. 126(2); Sch. 18 para. 1 in force for certain purposes at 1.2.1993 by S.I. 1993/16, art. 2, **Sch. 4**; Sch. 18 para. 1 in force for all remaining purposes at 1.1.1994 by S.I. 1993/2213, art. 2(1), **Sch. 5**

2 In section 113 (periodical fees), for subsection (3) there shall be substituted the following subsection—

“(3) So long as a friendly society is authorised under section 23 above to carry on investment business it shall pay to the Friendly Societies Commission such periodical fees as the Commission may by regulations specify.”

#### Commencement Information

**I95** Sch. 18 para. 2 wholly in force; Sch. 18 para. 2 not in force at Royal Assent see s. 126(2); Sch. 18 para. 2 in force for certain purposes at 1.2.1993 by S.I. 1993/16, art. 2, **Sch. 4**; Sch. 18 para. 2 in force for all remaining purposes at 1.1.1994 by S.I. 1993/2213, art. 2(1), **Sch. 5**

3 In section 141 (indemnity schemes), in subsection (2), for the words from “the Chief Registrar” onwards there shall be substituted “ the Friendly Societies Commission ”.



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#### Commencement Information

**196** Sch. 18 para. 3 wholly in force; Sch. 18 para. 3 not in force at Royal Assent see s. 126(2); Sch. 18 para. 3 in force for certain purposes at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 4; Sch. 18 para. in force for all remaining purposes at 28.4.1993 by S.I. 1993/1186, art. 2(2), Sch. 2

- 4 In section 179 (restrictions on disclosure of information), in subsection (3), for paragraph (e) there shall be substituted—  
“(e) the Friendly Societies Commission”.

#### Commencement Information

**197** Sch. 18 para. 4 wholly in force; Sch. 18 para. 4 not in force at Royal Assent see s. 126(2); Sch. 18 para. 4 in force for certain purposes at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 4; Sch. 18 para. 4 in force for all remaining purposes at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

- 5 In section 180 (exceptions from restrictions on disclosure), in subsection (1), for paragraph (h) there shall be substituted—  
“(h) for the purpose of enabling or assisting the Friendly Societies Commission to discharge its functions under this Act, the enactments relating to friendly societies or the enactments relating to industrial assurance”.

#### Commencement Information

**198** Sch. 18 para. 5 wholly in force; Sch. 18 para. 5 not in force at Royal Assent see s. 126(2); Sch. 18 para. 5 in force for certain purposes at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 4; Sch. 18 para. 5 in force for all remaining purposes at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

- 6 In section 204(1) (service of notices), for the words from “the Chief Registrar” onwards there shall be substituted “ or the Friendly Societies Commission ”.

#### Commencement Information

**199** Sch. 18 para. 6 wholly in force; Sch. 18 para. 6 not in force at Royal Assent see s. 126(2); Sch. 18 para. 6 in force for certain purposes at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 4; Sch. 18 para. 6 in force for all remaining purposes at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

- 7 In section 207(1) (interpretation), the following definitions shall be inserted after the definition of “exempted person”—  
““friendly society”, “incorporated friendly society” and “registered friendly society” have the meaning given by section 116 of the Friendly Societies Act 1992”.

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#### Commencement Information

**I100** Sch. 18 para. 7 wholly in force; Sch. 18 para. 7 not in force at Royal Assent see s. 126(2); Sch. 18 para. 7 in force for certain purposes at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 4; Sch. 18 para. 7 in force for all remaining purposes at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

- 8 In section 210(3) (expenses and receipts), for the words from “the Chief Registrar” onwards there shall be substituted “ the Friendly Societies Commission ”.

#### Commencement Information

**I101** Sch. 18 para. 8 wholly in force; Sch. 18 para. 8 not in force at Royal Assent see s. 126(2); Sch. 18 para. 8 in force for certain purposes at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 4; Sch. 18 para. 8 in force for all remaining purposes at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

- 9 (1) In the following provisions of Schedule 14 (restriction of Rehabilitation of Offenders Act 1974)—
- (a) paragraph 5 of Part I,
  - (b) paragraph 7 of Part II, and
  - (c) paragraph 4 of Part III,
- for the words “Chief Registrar of friendly societies, the Registrar of Friendly Societies for Northern Ireland” there shall be substituted “ Friendly Societies Commission ”.
- (2) In paragraph 6 of Part I of that Schedule, for the word “Registrar” there shall be substituted “ Friendly Societies Commission ”.

#### Commencement Information

**I102** Sch. 18 para. 9 wholly in force; Sch. 18 para. 9 not in force at Royal Assent see s. 126(2); Sch. 18 para. 9 in force for certain purposes at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 4; Sch. 18 para. 9 in force for all remaining purposes at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

## PART II

### AMENDMENTS OF SCHEDULE 11

- 10 (1) Subject to paragraph 11 below, for each of the following phrases—
- (a) “the Registrar”,
  - (b) “the Chief Registrar of friendly societies”, and
  - (c) “the Chief Registrar of friendly societies or the Registrar of Friendly Societies for Northern Ireland”,
- wherever occurring, there shall be substituted the words “ the Commission ”.

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

*Changes to legislation: Friendly Societies Act 1992 is up to date with all changes known to be in force on or before 02 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (2) Subject to sub-paragraph (3) below, for the word “he” or “him”, in each place where it occurs, there shall be substituted “ the Commission ”.
- (3) Sub-paragraph (2) above does not apply where the word “he” or “him” refers to the Secretary of State or to the Chairman of any body.

#### Commencement Information

**I103** Sch. 18 para. 10 wholly in force; Sch. 18 para. 10 not in force at Royal Assent see s. 126(2); Sch. 18 para. 10 in force for certain purposes at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 4; Sch. 18 para. 10 in force for all remaining purposes at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

- 11 (1) In paragraph 1, in the definition of “a recognised self-regulating organisation for friendly societies”, for the words “an order of the Registrar” there shall be substituted “ a recognition order ”.
- (2) In that paragraph, in the definition beginning “a member society”—
  - (a) for the words “an appropriate” there shall be substituted “ a ”; and
  - (b) the words from “and, for the purposes” onwards shall be omitted.
- (3) In that paragraph, for the definition of “the Registrar” there shall be substituted—

““the Commission” means the “Friendly Societies Commission” and;

“recognition order” means—

  - (a) an order made by the Chief Registrar of friendly societies or the Registrar of Friendly Societies for Northern Ireland before Schedule 18 to the Friendly Societies Act 1992 came into force; or
  - (b) an order made by the Commission after that Schedule came into force”.

#### Commencement Information

**I104** Sch. 18 para. 11 wholly in force; Sch. 18 para. 11 not in force at Royal Assent see s. 126(2); Sch. 18 para. 11 in force for certain purposes at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 4; Sch. 18 para. 11 in force for all remaining purposes at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

- 12 In paragraph 3(1)—
  - (a) for the word “his” there shall be substituted “ the Commission’s ”; and
  - (b) for the words from “an order” onwards there shall be substituted “ a recognition order in respect of the organisation declaring the applicant to be a recognised self-regulating organisation for friendly societies ”.

#### Commencement Information

**I105** Sch. 18 para. 12 wholly in force; Sch. 18 para. 12 not in force at Royal Assent see s. 126(2); Sch. 18 para. 12 in force for certain purposes at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 4; Sch. 18 para. 12 in force for all remaining purposes at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

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- 13 In paragraph 4(2), for the words “the Friendly Societies Act 1974, or as the case may be, the Friendly Societies Act (Northern Ireland) 1970” there shall be substituted the words “ Parts V and VIII of the Friendly Societies Act 1992 ”.

**Commencement Information**

**I106** Sch. 18 para. 13 wholly in force; Sch. 18 para. 13 not in force at Royal Assent see s. 126(2); Sch. 18 para. 13 in force for certain purposes at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 4; Sch. 18 para. 13 in force for all remaining purposes at 1.1.1994 by S.I. 1993/3226, art. 2(1), Sch. 1

- 14 In paragraph 7(1), for the words “himself alter, its rules” there shall be substituted “ itself alter, the rules of the organisation ”.

**Commencement Information**

**I107** Sch. 18 para. 14 wholly in force; Sch. 18 para. 14 not in force at Royal Assent see s. 126(2); Sch. 18 para. 14 in force for certain purposes at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 4; Sch. 18 para. 14 in force for all remaining purposes at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

- 15 In paragraph 13A(6), for the word “his” there shall be substituted “ its ”.

**Commencement Information**

**I108** Sch. 18 para. 15 wholly in force; Sch. 18 para. 15 not in force at Royal Assent see s. 126(2); Sch. 18 para. 15 in force for certain purposes at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 4; Sch. 18 para. 15 in force for all remaining purposes at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

- 16 In paragraph 26, for sub-paragraph (2) there shall be substituted the following sub-paragraph—

“(2) The powers mentioned in sub-paragraph (1) above are—

- (a) in relation to a registered friendly society, those under subsection (1) of section 87 (inspection and winding up of registered friendly societies) and subsections (1) and (2) of section 91 (cancellation and suspension of registration) of the Friendly Societies Act 1974;
- (b) in relation to an incorporated friendly society, those under section 22 (winding up by court: grounds and petitioners) of the Friendly Societies Act 1992; and
- (c) in relation to a registered friendly society or an incorporated friendly society, those under the following provisions of the Friendly Societies Act 1992, namely, section 36 (imposition of conditions on current authorisation), section 39 (power to direct application for fresh authorisation), section 40 (withdrawal of authorisation in respect of new business), section 51 (power to forbid acceptance of new members), section 52 (application to court), section 62 (power to obtain information and documents etc.), section 65 (investigations

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on behalf of Commission) and section 66 (inspections and special meetings: general),  
and the sections referred to above shall apply in relation to the exercise of those powers by virtue of this paragraph as they apply in relation to their exercise in the circumstances mentioned in those sections”.

**Commencement Information**

**I109** Sch. 18 para. 16 wholly in force; Sch. 18 para. 16 not in force at Royal Assent see s. 126(2); Sch. 18 para. 16 in force for certain purposes at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 4; Sch. 18 para. 16 in force for all remaining purposes at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

17 In paragraph 28(6), for the word “his” there shall be substituted “ its ”.

**Commencement Information**

**I110** Sch. 18 para. 17 wholly in force; Sch. 18 para. 17 not in force at Royal Assent see s. 126(2); Sch. 18 para. 17 in force for certain purposes at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 4; Sch. 18 para. 17 in force for all remaining purposes at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

18 In paragraph 29, in sub-paragraph (1)—  
(a) in paragraph (a) for the word “it” there shall be substituted “ the body ”; and  
(b) in paragraph (b) for the word “they” there shall be substituted “ the Commission and the Secretary of State ”.

**Commencement Information**

**I111** Sch. 18 para. 18 wholly in force; Sch. 18 para. 18 not in force at Royal Assent see s. 126(2); Sch. 18 para. 18 in force for certain purposes at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 4; Sch. 18 para. 18 in force for all remaining purposes at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

19 After paragraph 31 there shall be inserted the following paragraph—

“31A(1) Where any functions under this Act are for the time being exercisable by a transferee body the Commission shall, before issuing an authorisation under section 32 of the Friendly Societies Act 1992 to a friendly society which is carrying on or proposes to carry on in the United Kingdom insurance business or non-insurance business which is investment business—

(a) seek the advice of the transferee body with respect to any matters which are relevant to those functions of the body and relate to the society, its proposed business or persons who are or will be, within the meaning of the Friendly Societies Act 1992, members of the committee of management or other officers of the society; and

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- (b) take into account any advice on those matters given to the Commission by the transferee body before the application is decided.
- (2) In sub-paragraph (1) above—
  - (a) “insurance business” has the meaning given by section 117(1) of the Friendly Societies Act 1992; and
  - (b) “non-insurance business” has the meaning given by section 119(1) of that Act.
- (3) The Commission may for the purpose of obtaining the advice of a transferee body under sub-paragraph (1) above furnish it with any information obtained by the Commission in connection with the application.”

**Commencement Information**

**I112** Sch. 18 para. 19 wholly in force; Sch. 18 para. 19 not in force at Royal Assent see s. 126(2); Sch. 18 para. 19 in force for certain purposes at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 4; Sch. 18 para. 19 in force for all remaining purposes at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

- 20 (1) In paragraph 37, in sub-paragraph (1), for the words from “powers” onwards there shall be substituted the words “relevant powers”.
- (2) After that sub-paragraph there shall be inserted the following sub-paragraph—
  - “(1A) In sub-paragraph (1) above “the relevant powers” means those powers specified in paragraph 26(2).”

**Commencement Information**

**I113** Sch. 18 para. 20 wholly in force; Sch. 18 para. 20 not in force at Royal Assent see s. 126(2); Sch. 18 para. 20 in force for certain purposes at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 4; Sch. 18 para. 20 in force for all remaining purposes at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

- 21 After paragraph 40 there shall be inserted the following paragraph—
  - “40A(1) In the case of an application for authorisation under section 26 of this Act made by an incorporated friendly society section 27(3) shall have effect as if the following paragraph were substituted for paragraph (a)—
    - (") to any member of the committee of management or any director or controller of a subsidiary of the society or of a body jointly controlled by the society.”
  - (2) Where the other person mentioned in paragraph (b) of the definition of “connected person” in section 105(9) of this Act is an incorporated friendly society that paragraph shall have effect with the substitution for the words from “director” onwards of the words “member of the committee of management of the society or any director, secretary or controller of a subsidiary of the society or a body jointly controlled by the society.””

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#### Commencement Information

**I114** Sch. 18 para. 21 wholly in force; Sch. 18 para. 21 not in force at Royal Assent see s. 126(2); Sch. 18 para. 21 in force for certain purposes at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 4; Sch. 18 para. 21 in force for all remaining purposes at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

22 For paragraph 45 there shall be substituted the following paragraph—

“45 (1) Any power of the Commission to make regulations, rules or orders which is exercisable by virtue of this Act shall be exercisable by statutory instrument and the Statutory Instruments Act 1946 shall apply to any such power as if the Commission were a Minister of the Crown.

(2) Any regulations, rules or orders made under this Schedule by the Commission may make different provision for different cases.”

#### Commencement Information

**I115** Sch. 18 para. 22 wholly in force; Sch. 18 para. 22 not in force at Royal Assent see s. 126(2); Sch. 18 para. 22 in force for certain purposes at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 4; Sch. 18 para. 22 in force for all remaining purposes at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 5

## [<sup>F181</sup>SCHEDULE 19

Section 100.

### INDUSTRIAL ASSURANCE]

#### Textual Amendments

**F181** Schs. 17-19 shall cease to have effect (17.8.2001 for specified purposes and otherwise *prosp.*) by 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, 13(2), Sch. 4 (with art. 13(3), Sch. 5)

## PART I

### GREAT BRITAIN

#### *Industrial Assurance Act 1923*

1 The <sup>M38</sup>Industrial Assurance Act 1923 shall be amended as follows.

#### Marginal Citations

**M38** 1923 c. 8.



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

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2 (1) In section 1, for subsection (1A) there shall be substituted the following subsection—

“(1A) In this Act—

“collecting society” means an incorporated friendly society or registered friendly society which carries on industrial assurance business; and

“industrial assurance company” means a body corporate which carries on such business other than an incorporated friendly society.”

(2) In subsection (2) of that section, in paragraph (d), for the words “the Commissioner hereinafter mentioned certifies” there shall be substituted “ the relevant authority certifies ”.

#### Commencement Information

**I116** Sch. 19 para. 2 wholly in force; Sch. 19 para. 2 not in force at Royal Assent see s. 126(2); Sch. 19 para. 2(1) in force at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 3; Sch. 19 para. 2(2) in force for certain purposes at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 4; Sch. 19 para. 2(2) in force for all remaining purposes at 28.4.1993 by S.I. 1993/1186, art. 2(2), Sch. 2

3 In section 10, for subsection (1) there shall be substituted the following subsection—

“(1) The Commission may, on the application of a collecting society, grant it a certificate of exemption from all or any of the provisions of this Act, in any case where the Commission is satisfied that the society does not or will not carry on the business of effecting assurances upon human life, premiums in respect of which are received by means of collectors at a greater distance than ten miles from the registered office of the society, and where the Commission is of opinion that the society is not one to which those provisions ought to apply.”

#### Commencement Information

**I117** Sch. 19 para. 3 wholly in force; Sch. 19 para. 3 not in force at Royal Assent see s. 126(2); Sch. 19 para. 3 in force for certain purposes at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 4; Sch. 18 para. 3 in force for all remaining purposes at 28.4.1993 by S.I. 1993/1186, art. 2(2), Sch. 2

4 In section 11, in subsection (2), for the word “Commissioner” there shall be substituted “ relevant authority ”.

#### Commencement Information

**I118** Sch. 19 para. 4 wholly in force; Sch. 19 para. 4 not in force at Royal Assent see s. 126(2); Sch. 19 para. 4 in force for certain purposes at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 4; Sch. 18 para. 4 in force for all remaining purposes at 28.4.1993 by S.I. 1993/1186, art. 2(2), Sch. 2



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- 5 (1) In the following provisions—
- (a) section 10(3),
  - (b) section 17(3),
  - (c) section 18(1) and (3),
  - (d) section 39(1), and
  - (e) section 43,
- for the word “Commissioner”, wherever occurring, there shall be substituted “Commission”.
- (2) In the following provisions—
- (a) section 17(3), and
  - (b) section 18(1) and (3),
- for the words “he” and “him”, wherever occurring, there shall be substituted “it”.

#### Commencement Information

**II19** Sch. 19 para. 5 wholly in force; Sch. 19 para. 5 not in force at Royal Assent see s. 126(2); Sch. 19 para. 5(1)(a)(b)(d)(e)(2)(a) in force for certain purposes at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 4; Sch. 18 para. 5(1)(a)(b)(d)(e)(2)(a) in force for all remaining purposes at 28.4.1993 by S.I. 1993/1186, art. 2(2), Sch. 2; Sch. 19 para. 5(1)(c)(2)(b) in force at 1.1.1994 by S.I. 1993/2213, art. 2(1), Sch. 6

- 6 In section 17, for subsections (1) and (2) there shall be substituted the following subsections—
- “(1) If in the opinion of the Commission there is reasonable cause to believe that an offence against this Act or against the Insurance Companies Act 1982 has been or is likely to be committed by an industrial assurance company, the Commission or any inspector appointed by it for the purpose shall have power to examine into and report on the affairs of the company, and for that purpose may exercise in respect of the company all or any of the powers given by Part V of the Friendly Societies Act 1992 to a person appointed by the Commission to investigate a friendly society.
- (2) When it receives the report of a person appointed under subsection (1) above, the Commission may issue such directions and take such steps as it considers necessary or proper to deal with the situation disclosed by the report and in particular may present a petition to the court for the winding up of the company.”
- 7 For section 23 there shall be substituted the following section—
- “23 Notice before forfeiture for default in paying industrial assurance premium.**
- A forfeiture shall not be incurred by any member or person assured in a collecting society or industrial assurance company by reason of any default in paying any premium under a contract, the effecting of which constituted the carrying on of industrial assurance business, until after—

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- (a) notice stating the amount due from him, and informing him that in case of default of payment by him within 28 days and at a place to be specified in the notice his interest or benefit will be forfeited, has been served upon him by or on behalf of the society or company; and
- (b) default has been made by him in paying any premium in accordance with that notice.”

8 In section 26, for subsection (1) there shall be substituted the following subsection—

“(1) A person assured with an industrial assurance company shall not, without his written consent or, in the case of a person under the age of 18, without the written consent of his parent or other guardian, be transferred from the company to another company or to a collecting society except on an amalgamation or transfer of business under section 37 below or any other enactment, and any company and any collector or other officer of any company concerned in such a transfer shall, if the provisions of this section are not complied with, be deemed to have contravened the provisions of this Act.”.

9 For section 32 there shall be substituted the following section—

**“32 Disputes.**

Any dispute between an industrial assurance company and—

- (a) any person assured; or
  - (b) any person claiming through a person assured or under or in respect of any policy, or under the rules of the company, or under this Act,
- may, notwithstanding any provision of the rules to the contrary, be determined by the county court or, in Scotland, by the sheriff.”

10 For section 33 there shall be substituted the following section—

**“33 Disabilities of collectors etc.**

- (1) A collector of an industrial assurance company shall not be a member of the board of directors, or hold any other office in the company except that of superintending collectors within a specified area.
- (2) A collector or superintendent shall not be present at any meeting of the company.”

11 In section 39, in subsection (5), for the word “Commissioner” there shall be substituted “relevant authority”.

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#### Commencement Information

**I120** Sch. 19 para. 11 wholly in force; Sch. 19 para. 11 not in force at Royal Assent see s. 126(2); Sch. 19 para. 11 in force for certain purposes at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 4; Sch. 18 para. 11 in force for all remaining purposes at 28.4.1993 by S.I. 1993/1186, art. 2(2), Sch. 2

12 In section 45(1) after the definition of “collector” there shall be inserted the following definitions—

“The expression “the Commission” means the Friendly Societies Commission;

The expressions “friendly society” and “incorporated friendly society” have the same meanings as in the Friendly Societies Act 1992”.

“The expression “the relevant authority” means—

- (a) in relation to a time before Schedule 19 to the Friendly Societies Act 1992 came into force, the Chief Registrar of Friendly Societies; and
- (b) in relation to a time after the coming into force of that Schedule, the Commission.”

#### *Industrial Assurance and Friendly Societies Act 1948*

13 In section 8(2) of the <sup>M39</sup>Industrial Assurance and Friendly Societies Act 1948, for the word “Commissioner” there shall be substituted “ Commission. ”.

#### Commencement Information

**I121** Sch. 19 para. 13 wholly in force; Sch. 19 para. 13 not in force at Royal Assent see s. 126(2); Sch. 19 para. 13 in force for certain purposes at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 4; Sch. 18 para. 13 in force for all remaining purposes at 28.4.1993 by S.I. 1993/1186, art. 2(2), Sch. 2

#### Marginal Citations

**M39** 1948 c. 39.

14 In section 13(1) of that Act—

- (a) for the word “Commissioner” there shall be substituted “ Commission ”;
- and
- (b) for the word “him” there shall be substituted “ it ”.

#### Commencement Information

**I122** Sch. 19 para. 14 wholly in force; Sch. 19 para. 14 not in force at Royal Assent see s. 126(2); Sch. 19 para. 14 in force for certain purposes at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 4; Sch. 18 para. 14 in force for all remaining purposes at 13.9.1993 by S.I. 1993/2213, art. 2(1), Sch. 2

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- 15 In section 17A(1) of that Act, for the words “Industrial Assurance Commissioner” there shall be substituted “Commission”.

**Commencement Information**

**I123** Sch. 19 para. 15 wholly in force; Sch. 19 para. 15 not in force at Royal Assent see s. 126(2); Sch. 19 para. 15 in force for certain purposes at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 4; Sch. 18 para. 15 in force for all remaining purposes at 28.4.1993 by S.I. 1993/1186, art. 2(2), Sch. 2

- 16 In section 23(1) of that Act—
- (a) at the end of paragraph (c) the word “and” shall be omitted; and
  - (b) after paragraph (d) there shall be added—
    - “and
    - (e) the expression “the Commission” means the Friendly Societies Commission.”

**Commencement Information**

**I124** Sch. 19 para. 16 wholly in force; Sch. 19 para. 16 not in force at Royal Assent see s. 126(2); Sch. 19 para. 16 in force for certain purposes at 1.2.1993 by S.I. 1993/16, art. 2, Sch. 4; Sch. 18 para. 16 in force for all remaining purposes at 28.4.1993 by S.I. 1993/1186, art. 2(2), Sch. 2

**PART II**

NORTHERN IRELAND

- 17 The <sup>M40</sup>Industrial Assurance (Northern Ireland) Order 1979 shall be amended as follows.

**Commencement Information**

**I125** Sch. 19 para. 17 in force at 1.1.1994 to the extent specified by S.I. 1993/3226, art.2(1), Sch. 2

**Marginal Citations**

**M40** S.I.1979/1574 (N.I.13.)

- 18 (1) In Article 2, in paragraph (2), for the definitions of “collecting society”, “the Friendly Societies Act” and “industrial assurance company”, respectively, there shall be substituted—

““collecting society” means an incorporated friendly society or registered friendly society which carries on industrial assurance business in Northern Ireland;

“the Friendly Societies Act” means the Friendly Societies Act 1974;

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“industrial assurance company” means a body corporate which carries on industrial assurance business in Northern Ireland other than an incorporated friendly society”.

(2) In that paragraph—

- (a) in the definition of “exempted business”, in paragraph (c), for the words “the Commissioner certifies” there shall be substituted “it has been certified”;
- (b) after the definition of “collector” there shall be inserted—

““the Commission” means the Friendly Societies Commission;

“friendly society” and “incorporated friendly society” have the same meanings as in the Friendly Societies Act 1992”; and

- (c) in the definition of “Registrar”, for the words “Friendly Societies Act” there shall be substituted “Friendly Societies Act (Northern Ireland) 1970”.

(3) After that paragraph there shall be inserted the following paragraph—

“(2A) In paragraph (2) above, in the definition of “exempted business”, in paragraph (c) “certified” means—

- (a) in relation to a time before Schedule 19 to the Friendly Societies Act 1992 came into force, certified by the Registrar in his capacity as Industrial Assurance Commissioner; and
- (b) in relation to a time after the coming into force of that Schedule, certified by the Commission.”

(6) In Article 2(4), for the words “Friendly Societies Act” there shall be substituted “Friendly Societies Act (Northern Ireland) 1970.”

19 In Article 4(2), for the word “Registrar” there shall be substituted “ Chief Registrar of Friendly Societies ”.

20 In the following provisions—

- (a) Article 4(2),
- (b) Article 12(3),
- (c) Article 13,
- (d) Article 18(3),
- (e) Article 23(1),
- (f) Article 24,
- (g) Article 35(3),
- (h) Article 42(1)(b),
- (i) Article 43(1)(b),
- (j) paragraph 1(a) and (b) of Schedule 4,
- (k) paragraphs 5(1) and (2), 6 and 7 of Schedule 5, and
- (l) Schedule 7,

for the word “Commissioner”, wherever occurring, there shall be substituted “ Commission ”.

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

*Changes to legislation: Friendly Societies Act 1992 is up to date with all changes known to be in force on or before 02 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

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- 21 In Article 12, for paragraph (1) there shall be substituted the following paragraph—
- “(1) The Commission may, on the application of a collecting society, grant it a certificate of exemption from all or any of the provisions of this Order, in any case where the Commission is satisfied that the society does not or will not carry on the business of effecting assurances upon human life, premiums in respect of which are received by means of collectors at a greater distance than ten miles from the registered office of the society, and where the Commission is of the opinion that the society is not one to which those provisions ought to apply.”
- 22 In Article 13(1), for the word “registered” there shall be substituted “ whose registered office is ”.
- 23 In Article 14, after paragraph (2) there shall be inserted the following paragraph—
- “(3) In paragraph (2) above “shown” means—
- (a) in relation to a time before Schedule 19 to the Friendly Societies Act 1992 came into force, shown to the satisfaction of the Registrar in his capacity as Industrial Assurance Commissioner; and
  - (b) in relation to a time after the coming into force of that Schedule, shown to the satisfaction of the Commission.”
- 24 (1) Article 18 shall be amended as follows.
- (2) For paragraphs (1) and (2) there shall be substituted the following paragraphs—
- “(1) If in the opinion of the Commission there is reasonable cause to believe that an offence against this Order or against the Insurance Companies Act 1982 has been or is likely to be committed by an industrial assurance company, the Commission or any inspector appointed by it for the purpose shall have power to examine into and report on the affairs of the company, and for that purpose may exercise in respect of the company all or any of the powers given by Part V of the Friendly Societies Act 1992 to a person appointed by the Commission to investigate a friendly society.
- (2) Where it receives the report of a person appointed under paragraph (1), the Commission may issue such directions and take such steps as it considers necessary or proper to deal with the situation disclosed by the report and in particular may present a petition to the court for the winding up of the company.”
- (3) In paragraph (3), for the words “he” and “him” there shall be substituted “ it ”.
- 25 For Article 29 there shall be substituted the following Article—
- “29 A forfeiture shall not be incurred by any member or person assured in a collecting society or industrial assurance company by reason of any default

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in paying any premium under a contract the effecting of which constituted the carrying on of industrial assurance business until after—

- (a) notice stating the amount due from him, and informing him that in case of default of payment by him within 28 days and at a place to be specified in the notice his interest or benefit will be forfeited, has been served upon him by or on behalf of the society or company; and
- (b) default has been made by him in paying any premium in accordance with that notice.”

26 In Article 32, for paragraph (1) there shall be substituted the following paragraph—

“(1) A person assured with an industrial assurance company shall not, without his written consent or, in the case of a person under the age of 18, without the written consent of his parent or other guardian, be transferred from the company to another company or to a collecting society except on an amalgamation or transfer of business under Article 40 or any other enactment, and any company and any collector or other officer of any company concerned in such a transfer shall, if the provisions of this Article are not complied with, be deemed to have contravened the provisions of this Order.”

27 For Article 36 there shall be substituted the following Article—

#### **Disputes**

“36 Any dispute between an industrial assurance company and—  
(a) any person assured; or  
(b) any person claiming through a person assured or under or in respect of any policy, or under the rules of the company, or under this Order, may, notwithstanding any provision of the rules to the contrary, be determined by the county court.”

28 For Article 37 there shall be substituted the following Article—

#### **Disabilities of collectors etc.**

“37 (1) A collector of an industrial assurance company shall not be a member of the board of directors, or hold any other office in the company except that of superintending collectors within a specified area.  
(2) A collector or superintendent shall not be present at any meeting of the company.”

29 (1) In Article 46, in paragraph (2) for the word “Commissioner” there shall be substituted “relevant authority”.

(2) After that paragraph there shall be inserted the following paragraph—

“(2A) In paragraph (2) above “relevant authority” means—

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- (a) in relation to a time before Schedule 19 to the Friendly Societies Act 1992 came into force, the Registrar; and
- (b) in relation to a time after the coming into force of that Schedule, the Commission.”
- 30 In Schedule 3, in paragraph 10, in paragraph (d) of the definition of “relevant insurance” for the words “paragraph 2(d)” there shall be substituted “ paragraph (2) (d) ”.
- 31 In Schedule 4—
- (a) in paragraph 1(a) for the words “sections 62 and 63(2) and (3)” there shall be substituted “ sections 72 and 73(2) and (3) ”; and
- (b) in paragraph 1(b)—
- (i) for the words from “section 61(1)” to “Schedule 7” there shall be substituted “ section 71(1) to (4) of, and paragraph 5 of Schedule 6 ”; and
- (ii) for the words “section 62” there shall be substituted “ section 72 ”.
- 32 (1) In Schedule 5, in paragraph 5(1), for the word “he” there shall be substituted “ the Commission ”.
- (2) In paragraphs 6 and 7 of that Schedule, for the words “him” and “he” there shall be substituted “ it ” and for the word “himself” there shall be substituted “ itself ”.

## <sup>X1</sup>SCHEDULE 20

Section 101.

### LAW APPLICABLE TO CERTAIN CONTRACTS OF INSURANCE

#### Editorial Information

**X1** Sch. 20: by virtue of S.I. 1993/2519, reg. 6(2), **Sch. 20** has become (1.1.1994) Sch. 20 Pt. I

## <sup>F182X2</sup>PART I

### GENERAL MODE OF APPLICATION]

#### Editorial Information

**X2** Sch. 20: by virtue of S.I. 1993/2519, reg. 6(2), **Sch. 20** has become (1.1.1994) Sch. 20 Pt. I

#### Textual Amendments

**F182** Sch. 20: by virtue of S.I. 1993/2519, reg. 6(2), **Sch. 20** has become (1.1.1994) Sch. 20 Pt. I under the heading “GENERAL BUSINESS BY SOCIETIES TO WHICH SECTION 37(3) APPLIES”



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

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### <sup>x3</sup>General rules as to applicable law

#### Editorial Information

**X3** Sch. 20: by virtue of S.I. 1993/2519, reg. 6(2), Sch. 20 has become (1.1.1994) Sch. 20 Pt. I

<sup>x4</sup><sub>1</sub> (1) Where the person (“the person insured”) who has entered into the contract of insurance with a friendly society has his habitual residence [<sup>F183</sup>or central administration]within the territory of the member State where the risk is situated, the law applicable to the contract is the law of that member State.

However, where the law of that member State so allows, the parties may choose the law of another country.

- (2) Where the person insured does not have his habitual residence [<sup>F183</sup>or central administration]within the territory of the member State where the risk is situated, the parties to the contract may choose to apply either—
- (a) the law of the member State where the risk is situated, or
  - (b) the law of the country in which the person insured has his habitual residence [<sup>F183</sup>or central administration].

(3) Where the person insured carries on a business and the contract covers two or more risks relating to his business which are situated in different member States, the freedom of choice of the law applicable to the contract extends to the laws of those member States and of the country in which he has his habitual residence [<sup>F183</sup>or central administration].

In this sub-paragraph “business” includes a trade or profession.

- (4) Where the member States referred to in sub-paragraph (2) or (3) grant greater freedom of choice of the law applicable to the contract, the parties may take advantage of that freedom.
- (5) Notwithstanding sub-paragraphs (1) to (3) above, when the risks covered by the contract are limited to events occurring in a member State other than the member State where the risk is situated, the parties may always choose the law of the former State.

#### Editorial Information

**X4** Sch. 20: by virtue of S.I. 1993/2519, reg. 6(2), Sch. 20 has become (1.1.1994) Sch. 20 Pt. I

#### Textual Amendments

**F183** Words in Sch. 20 Pt. I para. 1 inserted (1.1.1994) by S.I. 1993/2519, reg. 6(3)(a)

### <sup>x5</sup>Applicable law in the absence of choice

#### Editorial Information

**X5** Sch. 20: by virtue of S.I. 1993/2519, reg. 6(2), Sch. 20 has become (1.1.1994) Sch. 20 Pt. I

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

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- <sup>x6</sup>2 (1) The choice referred to in paragraph 1 above must be expressed or demonstrated with reasonable certainty by the terms of the contract or the circumstances of the case.
- (2) If that is not so, or if no choice has been made, the contract shall be governed by the law of the country (from amongst those considered in the relevant sub-paragraphs) with which it is most closely connected.
- (3) Nevertheless, a severable part of the contract which has a closer connection with another country (from amongst those considered in the relevant sub-paragraphs) may by way of exception be governed by the law of that other country.
- (4) A contract is rebuttably presumed to be most closely connected with the member State where the risk is situated.

**Editorial Information**

**X6** Sch. 20: by virtue of S.I. 1993/2519, reg. 6(2), **Sch. 20** has become (1.1.1994) Sch. 20 Pt. I

<sup>x7</sup>*Mandatory rules*

**Editorial Information**

**X7** Sch. 20: by virtue of S.I. 1993/2519, reg. 6(2), **Sch. 20** has become (1.1.1994) Sch. 20 Pt. I

- <sup>x8</sup>3 (1) The fact that in the cases referred to in paragraph 1 above the parties have chosen a law does not, where all the other elements relevant to the situation at the time of the choice are connected with one member State only, prejudice the application of the mandatory rules of the law of that member State, which means the rules from which the law of that member State allows no derogation by means of a contract.
- (2) Nothing in [<sup>F184</sup>this Part of this Schedule] restricts the application of the rules of a part of the United Kingdom in a situation where they are mandatory, irrespective of the law otherwise applicable to the contract.

**Editorial Information**

**X8** Sch. 20: by virtue of S.I. 1993/2519, reg. 6(2), **Sch. 20** has become (1.1.1994) Sch. 20 Pt. I

**Textual Amendments**

**F184** Words in Sch. 20 Pt. I para. 3(2) substituted (1.1.1994) by S.I. 1993/2519, reg. 6(3)(b)

<sup>x9</sup>*Supplementary provisions*

**Editorial Information**

**X9** Sch. 20: by virtue of S.I. 1993/2519, reg. 6(2), **Sch. 20** has become (1.1.1994) Sch. 20 Pt. I

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- <sup>x10</sup>4 (1) Where a member State includes several territorial units, each of which has its own rules concerning contractual obligations, each unit shall be considered as a country for the purposes of identifying the applicable law.
- (2) The provisions of [<sup>F185</sup>this Part of this Schedule] apply to conflicts between the laws of the different parts of the United Kingdom.

#### Editorial Information

**X10** Sch. 20: by virtue of S.I. 1993/2519, reg. 6(2), **Sch. 20** has become (1.1.1994) Sch. 20 Pt. I

#### Textual Amendments

**F185** Words in Sch. 20 Pt. I para. 4(2) substituted (1.1.1994) by S.I. 1993/2519, reg. 6(3)(b)

- <sup>x11</sup>5 (1) Subject to the preceding provisions of [<sup>F186</sup>this Part of this Schedule], a court in a part of the United Kingdom [<sup>F187</sup>shall act in accordance with the provisions of the Contracts (Applicable Law) Act 1990].
- (2) In particular, reference shall be made to [<sup>F188</sup>those provisions]—
- (a) to ascertain for the purposes of paragraph 1 above what freedom of choice the parties have under the law of a part of the United Kingdom; and
- (b) to determine whether the mandatory rules of another member State should be applied in accordance with paragraph 3(1) above where the law otherwise applicable is the law of a part of the United Kingdom.

#### Editorial Information

**X11** Sch. 20: by virtue of S.I. 1993/2519, reg. 6(2), **Sch. 20** has become (1.1.1994) Sch. 20 Pt. I

#### Textual Amendments

**F186** Words in Sch. 20 Pt. I para. 5(1) substituted (1.1.1994) by S.I. 1993/2519, reg. 6(3)(b)

**F187** Words in Sch. 20 Pt. I para. 5(1) substituted (1.1.1994) by S.I. 1993/2519, reg. 6(3)(c)

**F188** Words in Sch. 20 Pt. I para. 5(2) substituted (1.1.1994) by S.I. 1993/2519, reg. 6(3)(d)

## [<sup>F189</sup>PART II

### LONG TERM BUSINESS BY SOCIETIES TO WHICH SECTION 37(2) APPLIES]

#### Textual Amendments

**F189** Sch. 20 Pt. II inserted (1.1.1994) by S.I. 1993/2519, reg. 6(4)

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*F190* *General rules as to applicable law*

**Textual Amendments**

**F190** *Sch. 20 Pt. II* inserted (1.1.1994) by *S.I. 1993/2519, reg. 6(4)*

**F1916** The law applicable to the contract of insurance is the law of the member State in which the commitment is situated. However, where the law of that member State so allows, the parties may choose the law of another country.

**Textual Amendments**

**F191** *Sch. 20 Pt. II* inserted (1.1.1994) by *S.I. 1993/2519, reg. 6(4)*

**F1927** Where the person who has entered into the contract of insurance is an individual and has his habitual residence in a member State other than that of which he is a national, the parties may choose the law of the member State of which he is a national.

**Textual Amendments**

**F192** *Sch. 20 Pt. II* inserted (1.1.1994) by *S.I. 1993/2519, reg. 6(4)*

*F193* *Mandatory rules*

**Textual Amendments**

**F193** *Sch. 20 Pt. II* inserted (1.1.1994) by *S.I. 1993/2519, reg. 6(4)*

**F1948** Nothing in this Part of this Schedule restricts the application of the rules of a part of the United Kingdom in a situation where they are mandatory, irrespective of the law otherwise applicable to the contract.

**Textual Amendments**

**F194** *Sch. 20 Pt. II* inserted (1.1.1994) by *S.I. 1993/2519, reg. 6(4)*

*F195* *Supplementary provisions*

**Textual Amendments**

**F195** *Sch. 20 Pt. II* inserted (1.1.1994) by *S.I. 1993/2519, reg. 6(4)*

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- <sup>F196</sup>9 (1) Where a member State includes several territorial units, each of which has its own rules of law concerning contractual obligations, each unit shall be considered as a country for the purposes of identifying the applicable law.
- (2) The provisions of this Part of this Schedule apply to conflicts between the laws of the different parts of the United Kingdom.

**Textual Amendments**

**F196** Sch. 20 Pt. II inserted (1.1.1994) by S.I. 1993/2519, reg. 6(4)

- <sup>F197</sup>10 (1) Subject to the preceding provisions of this Part of this Schedule, a court in a part of the United Kingdom shall act in accordance with the provisions of the Contracts (Applicable Law) Act 1990.
- (2) In particular, reference shall be made to those provisions to ascertain for the purposes of paragraph 6 above what freedom of choice the parties have under the law of a part of the United Kingdom.

**Textual Amendments**

**F197** Sch. 20 Pt. II inserted (1.1.1994) by S.I. 1993/2519, reg. 6(4)

SCHEDULE 21

Section 120.

AMENDMENTS

**PART I**

AMENDMENTS OF ENACTMENTS

*Loan Societies Act 1840*

- 1 The duty of the Chief Registrar to lay before Parliament the documents mentioned in section 27 of the <sup>M41</sup>Loan Societies Act 1840 (accounts etc of loan societies) is abolished.

**Marginal Citations**

**M41** 1840 c. 110

*National Savings Bank Act 1971*

- 2 In sections 10 (disputes) and 11 (fees on reference of disputes) of the <sup>M42</sup>National Savings Bank Act 1971 for the word “Registrar”, in each place where it occurs, there shall be substituted the word “ adjudicator ”.

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**Commencement Information**

**I126** Sch. 21 paras. 2-4 wholly in force at 1.1.1993 see s. 126(2) and S.I. 1992/3117, art. 2(iii).

**Marginal Citations**

**M42** 1971 c. 29.

- 3 In section 27 of that Act for the definition beginning “the Registrar” there shall be substituted—

““the adjudicator” means the adjudicator appointed under section 84 of the Friendly Societies Act 1992”.

**Commencement Information**

**I127** Sch. 21 paras. 2-4 wholly in force at 1.1.1993 see s. 126(2) and S.I. 1992/3117, art. 2(iii).

*National Debt Act 1972*

- 4 For section 5 of the <sup>M43</sup>National Debt Act 1972 there shall be substituted the following section—

**“5 Settlement of disputes as to holdings on the register**

- (1) If a dispute arises between the Director of Savings and the holder of any stock registered in the register or a person claiming to be entitled to any such stock, the matter in dispute shall be referred in writing to a person (“the adjudicator”) appointed under section 84 of the Friendly Societies Act 1992.
- (2) On a reference under the foregoing subsection the adjudicator may proceed ex parte on notice in writing sent by post to the Director of Savings, and may inspect the register and may administer oaths to any witnesses appearing before him, and his award on the matter in dispute shall be final and binding on all parties.”

**Commencement Information**

**I128** Sch. 21 paras. 1-4 wholly in force at 1.1.1993 see s. 126(2) and S.I. 1992/3117, art. 2(iii).

**Marginal Citations**

**M43** 1972 c. 65.

*Solicitors Act 1974*

- 5 (1) Section 23 of the <sup>M44</sup>Solicitors Act 1974 (preparation of papers for probate etc. by unqualified persons) shall be amended as follows.
- (2) In subsection (2), after paragraph (h) there shall be inserted the following paragraph—
- “(i) a jointly controlled body or subsidiary—

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- (i) whose business, or any part of whose business, consists of acting as trustee or executor; and
- (ii) which satisfies those conditions.”

(3) After subsection (2A) there shall be inserted the following subsection—

“(2B) In subsection (2)(i) “jointly controlled body” and “subsidiary” have the meanings given by section 13 of the Friendly Societies Act 1992.”

**Marginal Citations**

**M44** 1974 c.47.

*Insurance Companies Act 1982*

6 (1) In section 49 of the <sup>M45</sup>Insurance Companies Act 1982, (sanction of court for transfer of long term business) at the beginning of subsection (1) there shall be inserted “Subject to section 49A below ”.

(2) After that section there shall be inserted the following section—

**“49A Transfer of long term business to friendly society.**

- (1) Section 49 above applies, with the following adaptations, to a transfer of business to an incorporated friendly society or registered friendly society authorised under Part IV of the Friendly Societies Act 1992.
- (2) In subsection (3)(c) (service of documents), after the words “the Secretary of State” there shall be inserted the words “and on the Friendly Societies Commission”.
- (3) In subsection (5) (persons entitled to be heard on petition), in paragraph (a) after the words “the Secretary of State” there shall be inserted the words “and the Friendly Societies Commission”.
- (4) In subsection (6) (requirement that transferee company be authorised to carry on long term business), for the words “authorised under section 3 or 4 above” there shall be substituted the words “authorised under Part IV of the Friendly Societies Act 1992.””

**Marginal Citations**

**M45** 1982 c. 50.

*Companies Act 1985*

7 (1) In section 449 of the <sup>M46</sup>Companies Act 1985 (provision for security of information obtained), in subsection (1), after paragraph (dd) there shall be inserted the following paragraphs—

“(de) for the purpose of enabling or assisting the Chief Registrar of friendly societies or the Assistant Registrar of friendly societies for

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Scotland to discharge his functions under the enactments relating to friendly societies;

- (df) for the purpose of enabling or assisting the Friendly Societies Commission to discharge its functions under the Financial Services Act 1986.”

(2) In subsection (3) of that section, after paragraph (j) there shall be inserted the following paragraph—

“(jj) the Friendly Societies Commission”.

**Marginal Citations**

M46 1985 c.6.

*Company Directors Disqualification Act 1986*

8 After section 22A of the <sup>M47</sup>Company Directors Disqualification Act 1986 (application of Act to building societies) there shall be inserted the following section—

**“22B Application of Act to incorporated friendly societies.**

- (1) This Act applies to incorporated friendly societies as it applies to companies.
- (2) References in this Act to a company, or to a director or an officer of a company include, respectively, references to an incorporated friendly society within the meaning of the Friendly Societies Act 1992 or to a member of the committee of management or officer, within the meaning of that Act, of an incorporated friendly society.
- (3) In relation to an incorporated friendly society every reference to a shadow director shall be omitted.
- (4) In the application of Schedule 1 to the members of the committee of management of an incorporated friendly society, references to provisions of the Insolvency Act or the Companies Act include references to the corresponding provisions of the Friendly Societies Act 1992.”

**Marginal Citations**

M47 1986 c. 46.

*Banking Act 1987*

9 In section 84(1) of the <sup>M48</sup>Banking Act 1987 (disclosure of information obtained under that Act), in the Table showing the authorities to which, and functions for the purposes of which, disclosure may be made, after the entry beginning “The Chief Registrar of friendly societies” there shall be inserted the following entry—



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“The Friendly Societies Commission.	Functions under the enactments relating to friendly societies or under the Financial Services Act 1986.”
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**Marginal Citations**

**M48** 1987 c. 22.

*Income and Corporation Taxes Act 1988*

- 10 In section 461 of the <sup>M49</sup>Income and Corporation Taxes Act 1988 (taxation in respect of other business),—
- (a) in subsections (6) to (8) for the words “the registrar”, “he” and “him” wherever occurring there shall be substituted “the Commission”; and
  - (b) after subsection (8) there shall be inserted the following subsection—

“(8A) In this section “the Commission” means the Friendly Societies Commission.”

**Marginal Citations**

**M49** 1988 c.1.

*Companies Act 1989*

- 11 In section 87 of the <sup>M50</sup>Companies Act 1989 (disclosure of information obtained under that Act), in subsection (4), in the Table showing the authorities to which, and functions for the purposes of which, disclosure may be made after the entry beginning “The Chief Registrar of friendly societies” there shall be inserted the following entry—

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“The Friendly Societies Commission.	Functions under the enactments relating to friendly societies or under the Financial Services Act 1986.”
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**Marginal Citations**

**M50** 1989 c.40.

*Tribunals and Inquiries Act 1992*

F19812 .....

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

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**Textual Amendments**

**F198** Sch. 21 para. 12 repealed (1.1.1994) by S.I. 1993/3084, reg.9

F199 13 .....

**Textual Amendments**

**F199** Sch. 21 para. 13 repealed (1.1.1994) by S.I. 1993/3084, reg.9

F200 14 .....

**Textual Amendments**

**F200** Sch. 21 para. 14 repealed (1.1.1994) by S.I. 1993/3084, reg.9

F201 15 .....

**Textual Amendments**

**F201** Sch. 21 para. 15 repealed (1.1.1994) by S.I. 1993/3084, reg.9

F202 16 .....

**Textual Amendments**

**F202** Sch. 21 para. 16 repealed (1.1.1994) by S.I. 1993/3084, reg.9

*Trade Union and Labour Relations (Consolidation) Act 1992*

F203 17 .....

**Textual Amendments**

**F203** Sch. 21 para. 17 repealed (1.1.1994) by S.I. 1993/3084, reg.9

*Social Security Contributions and Benefits (Northern Ireland) Act 1992*

18 In section 171(2) of the <sup>M51</sup>Social Security Contributions and Benefits (Northern Ireland) Act 1992, after “157” there shall be inserted the words “ and regulations made by the Chief Registrar of friendly societies under paragraph 10(2) of Schedule 1 to this Act. ”

**Marginal Citations**

**M51** 1992 c. 7.

19 (1) In Schedule 1 to that Act, in paragraph 10(2)—

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- (a) for the words “Friendly Societies Act (Northern Ireland) 1970” there shall be substituted “ Friendly Societies Act 1974 ”; and
  - (b) for the words “Registrar of Friendly Societies for Northern Ireland” there shall be substituted “ Chief Registrar of Friendly Societies ”.
- (2) In that Schedule, in paragraph 10 for sub-paragraph (3) there shall be substituted the following sub-paragraph—
- “(3) The power conferred by sub-paragraph (2) above on the Chief Registrar of Friendly Societies to make regulations shall be exercisable by statutory instrument, and—
- (a) the Statutory Instruments Act 1946 shall apply to that power as if the Chief Registrar were a Minister of the Crown, and
  - (b) section 171(3) to (5) above shall apply to those regulations as they apply to regulations made by the Department.”

## PART II

### AMENDMENTS OF NORTHERN IRELAND LEGISLATION

#### *Parliamentary Commissioner Act (Northern Ireland) 1969*

<sup>F204</sup>20 .....

#### Textual Amendments

**F204** Sch. 21 Pt. II para. 20 repealed (16.7.1996) by S.I. 1996/1298 (N.I. 8) art. 21(2), Sch. 6

#### *Industrial and Provident Societies Act (Northern Ireland) 1969*

21 In section 101(1) of the <sup>M52</sup>Industrial and Provident Societies Act (Northern Ireland) Act 1969, in the definition of “registrar”, for the words “friendly societies” there shall be substituted “ credit unions ”.

#### Marginal Citations

**M52** 1969 c.24 (N.I.).

#### *Social Security Pensions (Northern Ireland) Order 1975*

[<sup>F205</sup>22 In Article 67(1) of the commref NUM="M845">Social Security Pensions (Northern Ireland) Order 1975 for the words “Registrar of Friendly Societies for Northern Ireland” there shall be substituted “ Chief Registrar of Friendly Societies ”.]

#### Textual Amendments

**F205** By this it is provided that Sch. 21 para. 22 is repealed (N.I.) (7.2.1994) by 1993 c. 49, s. 182(1), Sch. 4; S.R. 1994/17, art. 2

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**Modifications etc. (not altering text)**

**C15** [Sch. 21 para. 22](#) expressed to be repealed (7.2.1994) by 1993 c. 49, s. 182, [Sch. 4](#)

[<sup>F206</sup>23 In Article 67(4) of that Order for the words “Friendly Societies Act (Northern Ireland) 1970” there shall be substituted “ Friendly Societies Act 1974 ”.]

**Textual Amendments**

**F206** By this it is provided that [Sch. 21 para. 23](#) is repealed (N.I.) (7.2.1994) by 1993 c. 49, s. 182(1), [Sch. 4](#); S.R. 1994/17, [art. 2](#)

**Modifications etc. (not altering text)**

**C16** [Sch. 21 para. 23](#) expressed to be repealed (7.2.1994) by 1993 c. 49, s. 182, [Sch. 4](#)

*Statutory Rules (Northern Ireland) Order 1979*

24 In Article 7(5) of the <sup>M53</sup>Statutory Rules (Northern Ireland) Order 1979 for the words “Friendly Societies” there shall be substituted “ Credit Unions ”.

**Marginal Citations**

**M53** [S.I. 1979/1573 \(N.I.12\)](#).

25 In Part I of Schedule 1 to that Order, for the words “The Registrar of Friendly Societies for Northern Ireland” there shall be substituted “ The Registrar of Credit Unions for Northern Ireland ”.

*Housing (Northern Ireland) Order 1981*

26 In Article 114 of the <sup>M54</sup>Housing (Northern Ireland) Order 1981, in the definition of “registrar”, for the words “of Friendly Societies for Northern Ireland” there shall be substituted “ for the purposes of the Act of 1969 ”.

**Marginal Citations**

**M54** [S.I. 1981/156 \(N.I.3\)](#).

*Property (Discharge of Mortgage by Receipt)(Northern Ireland) Order 1983*

27 In Article 3(10) of the <sup>M55</sup>Property (Discharge of Mortgage by Receipt)(Northern Ireland) Order 1983 for the words “section 48 of the Friendly Societies Act (Northern Ireland) 1970” there shall be substituted “ section 57A of the Friendly Societies Act 1974 ”.

**Marginal Citations**

**M55** [S.I. 1983/766 \(N.I.9\)](#).

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*Credit Unions (Northern Ireland) Order 1985*

- 28 In Article 2(2) of the <sup>M56</sup>Credit Unions (Northern Ireland) Order 1985 for the definition of “registrar” there shall be substituted—

““registrar” has the meaning assigned to it by Article 2A;”.

**Marginal Citations**

**M56** S.I. 1985/1205 (N.I.12).

- 29 After Article 2 there shall be inserted the following Article—

**The registrar and assistant registrar**

“2A (1) The person appointed by the Head of the Department to perform in Northern Ireland the functions of registrar under this Order shall be known as the Registrar of Credit Unions for Northern Ireland (in this Order referred to as “the registrar”).

(2) A person appointed by the Department to assist the registrar shall be known as the Assistant Registrar of Credit Unions for Northern Ireland (in this Order referred to as “the assistant registrar”).

(3) Anything which is required or authorised to be done by or to the registrar under this Order may be done by or to the assistant registrar.”

*Companies (Northern Ireland) Order 1986*

- 30 (1) In Article 442 of the <sup>M57</sup>Companies (Northern Ireland) Order 1986, in paragraph (1), after sub-paragraph (dd) there shall be inserted the following sub-paragraphs—

“(de) for the purpose of enabling or assisting the Chief Registrar of friendly societies or the Assistant Registrar of friendly societies for Scotland to discharge their functions under the enactments relating to friendly societies;

(df) for the purpose of enabling or assisting the Friendly Societies Commission to discharge its functions under the Financial Services Act 1986.”

- (2) In paragraph (3) of that Article, after sub-paragraph (j) there shall be inserted the following sub-paragraph—

“(jj) the Friendly Societies Commission”.

**Marginal Citations**

**M57** S.I. 1986/1032 (N.I.6).

*Companies (Northern Ireland) Order 1989*

- 31 After Article 2 of the <sup>M58</sup>Companies (Northern Ireland) Order 1989 there shall be inserted the following Article—

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### Application of Order to incorporated friendly societies

- “2A (1) This Order applies to incorporated friendly societies as it applies to companies.
- (2) References in this Order to a company, or to a director or an officer of a company include, respectively, references to an incorporated friendly society within the meaning of the Friendly Societies Act 1992 or to a member of the committee of management or officer, within the meaning of that Act, of an incorporated friendly society.
- (3) In relation to an incorporated friendly society every reference to a shadow director shall be omitted.
- (4) In the application of Schedule 1 to the members of the committee of management of an incorporated friendly society, references to provisions of the Insolvency Order or the Companies Order include references to the corresponding provisions of the Friendly Societies Act 1992.”

#### Marginal Citations

**M58** S.I. 1989/2404 (N.I. 18).

## SCHEDULE 22

Section 120.

### REPEALS

#### PART I

#### GENERAL

#### Commencement Information

**I129** Sch. 22 Pt. I partly in force; Sch. 22 Pt. I not in force at Royal Assent see s. 126(2); Sch. 22 Pt. I in force to the extent specified at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 2; Sch. 22 Pt. I in force to the extent specified at 1.2.1993 by S.I. 1993/16, art. 2, Schs. 3, 4; Sch. 22 Pt. I in force to the extent specified at 5.2.1993 by S.I. 1993/197, art. 2(b); Sch. 22 Pt. I in force to the extent specified at 28.4.1993 by S.I. 1993/1186, art. 2(1)(3), Schs. 1, 3; Sch. 22 Pt. I in force to the extent specified at 13.9.1993 by S.I. 1993/2213, art. 2(1), Sch. 3; Sch. 22 Pt. I in force to the extent specified at 1.1.1994 by S.I. 1993/2213, art. 2(1), Schs. 5, 6; Sch. 22 Pt. I in force to the extent specified at 1.1.1994 by S.I. 1993/3226, art. 2(1), Sch. 2; Sch. 22 Pt. I in force to the extent specified at 1.11.1994 by S.I. 1994/2543, art. 2(3)(b)(i)(ii)

Chapter	Short title	Extent of repeal
3 & 4 Vict., c.110	Loan Societies Act 1840.	In section 27, the words “and shall be laid by him before both Houses of Parliament”.

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59 & 60 Vict., c.25	Friendly Societies Act 1896.	Section 62, so far as unrepealed.  Sections 64 to 67, so far as unrepealed.
13 & 14 Geo. 5 c.8.	Industrial Assurance Act 1923.	Section 2.  Section 3. Section 4. Sections 6 to 8. Section 15. Section 16.  In section 18, in subsection (1), the words "In the case of a collecting society or industrial assurance company," paragraph (c), in paragraph (d), the words "society or" (twice), in paragraph (f), the words "society or" (three times) and in paragraph (g) the words "collecting society or" and the words from "the", in the second place where it occurs in that paragraph, to "or", in the second place where it so occurs, and in subsection (3) the words "in the case of a collecting society or industrial assurance company", the words "society or" and the words from "award" to "a company,".  In section 19, in subsection (1), the words "collecting society and", in subsection (2), the words "society or" (twice), subsection (3)(b) and the word "or" immediately preceding it and in subsection (4), the words "or company" (twice).  Section 20(1)(b).  Section 31.

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		Sections 35 and 36.
		Section 38.
		Section 44.
		Section 45(2).
		Schedule 1.
19 & 20 Geo. 5 c. 28.	Industrial Assurance and Friendly Societies Act 1929.	The whole Act, so far as unrepealed.
12 Geo. 6 c.39.	Industrial Assurance and Friendly Societies Act 1948.	Sections 1 and 2.
		Section 4.
		Sections 6 and 7.
		Sections 10 and 11.
		Section 13(3).
		Section 17A(2)
		In section 23(1), at the end of paragraph (c) the word "and".
		Schedules 1 and 2.
		In Schedule 3, in paragraph (b), the entry relating to subsections (2), (4) and (5) of section 2, and paragraphs (c) and (d).
4 & 5 Eliz. 2 c.19.	Friendly Societies Act 1955.	Section 3(2).
		Section 6.
6 & 7 Eliz.2 c.27.	Industrial Assurance Act 1948 (Amendment) Act 1958.	The whole Act.
1967 c.81.	Companies Act 1967	In Schedule 6, Part II.
1969 c.12.	Industrial and Provident Societies Act 1969	In section 60(3), the words "or (2)".
1974 c.39.	Consumer Credit Act 1974.	In section 189(1), in the definition of "friendly society", the words "or a society within the meaning of the Friendly Societies Act (Northern Ireland) 1970".
1974 c.46.	Friendly Societies Act 1974.	Section 6(2).
		Section 8.
		Section 9(2) and (3).
		Section 11(1).



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Section 13(2).

In section 16, the words "society or" in each place they appear.

Section 17.

Sections 27 and 28.

In section 30(5), paragraph (a) and the words "paragraph (a) or".

In section 46, subsection (1) (a) and (b) and subsection (3).

Section 53(3).

Sections 70 to 75.

In section 76, in subsection (1)(c), (d) and (e) the words "or branch" in each place where they occur, and, in subsection (5) the words from "and in subsection (3)" onwards.

Section 77.

In section 78, in subsection (1) the words "or the Chief or assistant registrar" and subsections (2) and (3).

In section 79(1), the words "or a magistrates' court".

In section 80(1), paragraph (c) and the word "and" immediately preceding it.

In section 82, subsection (4) and, in subsection (5), the words "to a company under the Companies Acts".

Sections 88 and 89.

In section 98, subsection (1) (e) and, in subsection (4), the words "in the amalgamation or transfer of engagements or".

Section 106.

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		In section 107(1), the words “national insurance and”.
		Section 111(6).
		Section 115.
		In section 117(3), the words “but does not extend to Northern Ireland.”
		Schedule 1.
		In Schedule 2, in paragraph 3(1) the words “the fines” and “fines” and in paragraph 14 the words from “by consent” onwards.
		Schedules 3, 5 and 6.
		In Schedule 9, paragraphs 2, 5, 6, 8 and 10(1).
1984 c.43.	Finance Act 1984.	In section 73(4), the words “section 1 of the Friendly Societies Act (Northern Ireland) 1970 and”.
		In section 73(5), the words from “according” to “1970; or”.
1984 c.62.	Friendly Societies Act 1984.	Section 3.
1985 c.40.	Companies Act 1985.	In section 449(3), in paragraph (j) the words “and the Registrar of Friendly Societies for Northern Ireland” and in paragraph (k) the words “and the Industrial Assurance Commission for Northern Ireland”.
1986 c.53.	Building Societies Act 1986.	In section 7(4)(c)(ii), the words “or the Friendly Societies Act (Northern Ireland) 1970.”
1986 c.60.	Financial Services Act 1986.	In section 139, subsections (3) and (4) and in subsection (5) the words “and section 77 of the said Act of 1974” and “and section 65 of the Friendly Societies Act (Northern Ireland) 1970”.
		In section 189(5)(c), the word “registered”.

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		<p>In section 207(1), the definition of “registered friendly society”.</p> <p>In Schedule 11, in paragraph 1, in the definition beginning “a member society” the words from “and for the purposes” onwards, in paragraph 26, in sub-paragraph (1), the figure “(1)”, and sub-paragraph (3), paragraph 27, in paragraph 38(1)(a) the word “registered” and paragraph 43.</p> <p>In Schedule 15, in paragraph 14(1) the word “registered” and in paragraph 14(3), the words “registered”, “or as the case may be, the Friendly Societies Act (Northern Ireland) 1970”, “or as the case may be, section 70 of the said Act of 1970” and “or, as the case may be, section 75 of the said Act of 1970”.</p>
1987 c. 22.	Banking Act 1987.	<p>In section 84(1), in the Table, in the entry beginning “The Chief Registrar of Friendly Societies”, the words “the Registrar of friendly societies for Northern Ireland” and the words “or under the Financial Services Act 1986”.</p> <p>In section 96(7), the words from “and in relation to” onwards.</p> <p>In Schedule 2, in paragraph 6(1), the words from “or section 1(1)(a)” onwards.</p>
1988 c.1.	Income and Corporation Taxes Act 1988.	<p>In section 461(9), the words “or section 81 of the Friendly Societies Act (Northern Ireland) 1970”.</p> <p>In section 466(2), the definition of “registrar”.</p>

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1989 c. 40.	Companies Act 1989.	In Schedule 15, in paragraph 4(3)(b) the words from “or paragraph” to “1970”. In Schedule 29, paragraph 11. In section 87(4), in the Table, in the entry beginning “The Chief Registrar of friendly societies”, the words “the Registrar of Friendly Societies for Northern Ireland” and the words “the Financial Services Act 1986 or”.
...	...	...

## PART II

### NORTHERN IRELAND LEGISLATION

#### Commencement Information

**I130** Sch. 22 Pt. II partly in force; Sch. 22 Pt. II not in force at Royal Assent see s. 126(2); Sch. 22 Pt. II in force to the extent specified at 1.1.1994 by S.I. 1993/3226, art. 2, Sch. 2; Sch. 22 Pt. II in force to the extent specified at 1.11.1994 by S.I. 1994/2543 art. 2(3)(c)(i)(ii)

Chapter or Number	Short title	Extent of repeal
1967 c.5 (N.I.).	Administration of Estates (Small Payments) Act (Northern Ireland) 1967.	In section 6(1), in paragraph (b), the words “and section 58 of the Friendly Societies Act (Northern Ireland) 1970”, and paragraph (c).
1970 c.31 (N.I.).	Friendly Societies Act (Northern Ireland) 1970.	The whole Act.
S.I. 1976/1041 (N.I.14).	Births and Deaths Registration (Northern Ireland) Order 1976.	In Schedule 1, the entry relating to the Friendly Societies Act (Northern Ireland) 1970.
S.I. 1979/1574 (N.I. 13).	Industrial Assurance (Northern Ireland) Order 1979.	In Article 2(2), the definition of “the Commissioner”, and in the definition of “registered friendly society” the words from “Articles” to “7 and”. Articles 4(1) and (3).

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Articles 5 to 11.

Article 23(2).

In Article 24, the words  
“collecting society or”.

In Article 25, in  
paragraph (1), the words  
“collecting society and”,  
in paragraph (2), the  
words “society or” and  
“collecting society or”, and  
in paragraph (4), the words  
“collecting society or” and  
“society or”.

Articles 39 and 41.

Article 49(1)(c).

Articles 50 and 51.

Article 52(1)(b) and (ii).

Schedules 1 and 2.

In Schedule 4, in paragraph  
1(a), the entry relating  
to Article 9(1) to (4), in  
paragraph 1(b), the words  
“of the Act of 1896” and  
“section 62 of the Act of  
1896” and paragraph 2.

In Schedule 5—

in paragraph 3, the words “a  
collecting society or” and  
“society or”;

in paragraph 5(1), the words  
“society or” and in head (b),  
the words “collecting society  
or”;

in paragraph 5(2), the words  
“collecting society or”;

in paragraph 6, the words  
“collecting society or” and  
the words from “the society”  
to “may be,”;

in paragraph 7, the words  
“collecting society or” and  
sub-paragraph (a).

In Schedule 8, the  
amendments of the Friendly

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		Societies (Northern Ireland) Act 1970.
S.I. 1981/156 (N.I. 3).	Housing (Northern Ireland) Order 1981.	In Schedule 10, in paragraph 6, the word from “Friendly Societies (Northern Ireland) 1970” onwards.
		In Schedule 11, in Part II, the amendment of the Friendly Societies Act (Northern Ireland) 1970.
S.I. 1984/703 (N.I. 3).	Fines and Penalties (Northern Ireland) Order 1984.	In Schedule 3, the entries relating to the Friendly Societies Act (Northern Ireland) 1970.
S.I. 1986/1032 (N.I. 6).	Companies (Northern Ireland) Order 1986.	In Article 13(3)(j) the words “the Registrar of Friendly Societies”.
S.I. 1986/1035 (N.I. 9).	Companies Consolidation (Consequential Provisions) (Northern Ireland) Order 1986.	In Schedule 1, in Part I, the entries relating to the Friendly Societies Act (Northern Ireland) 1970.

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