



# Friendly Societies Act 1992

## 1992 CHAPTER 40

### PART II

#### INCORPORATED FRIENDLY SOCIETIES

##### *Constitution and purposes of incorporated friendly societies*

#### **8 Effect of the memorandum of an incorporated society**

- (1) The provisions of the memorandum of an incorporated friendly society are binding upon—
  - (a) each of the members and officers of the society,
  - (b) all persons claiming on account of a member or under its rules,and all such members, officers and persons (but no others) shall be taken to have notice of the provisions of the memorandum.
- (2) A person not of a description mentioned in subsection (1)(a) or (b) above who is a party to a transaction with an incorporated friendly society which is within the permitted capacity of such societies under this Act is not bound to enquire as to whether the transaction is within the capacity of the society in question.
- (3) Subsection (4) below applies to any act of an incorporated society which is within the permitted capacity of such societies under this Act but is beyond the capacity of the society in question.
- (4) In favour of a person who—
  - (a) is not a person mentioned in subsection (1) above;
  - (b) gives valuable consideration for the act; and
  - (c) does not know that the act is beyond the capacity of the society,any act to which this subsection applies is deemed to be one which is within the capacity of the society to enter into, notwithstanding the provisions of the memorandum.

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*Status: This is the original version (as it was originally enacted).*

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- (5) Where an incorporated friendly society purports to transfer or grant an interest in property, the fact that the act was beyond the capacity of the society does not affect the title of a person who in good faith subsequently acquires the property or an interest in it for valuable consideration and without actual notice of the circumstances affecting the validity of the society's act.
- (6) Subsection (4) above does not affect—
- (a) the right of a member of an incorporated friendly society to bring proceedings to restrain the doing of an act (other than an act done in fulfilment of a legal obligation arising from a previous act of the society) which is beyond the capacity of the society;
  - (b) the duty of the committee of management to observe any limitation on their powers flowing from the society's memorandum; or
  - (c) any liability incurred by any person by reason of the society acting beyond its capacity.
- (7) Relief from any liability mentioned in subsection (6)(c) above must be agreed to by special resolution.
- (8) In any proceedings arising out of subsection (4) above, the burden of proving that a person knew that an act was beyond the capacity of the society in question lies on the person making the allegation.
- (9) In this section "transaction" includes any act.