

---

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations, which make amendments to the Friendly Societies Act 1992 (“the 1992 Act”) and the Contracts (Applicable Law) Act 1990, implement—

- (a) the relevant provisions of the Second Life Directive (that is, Council Directive [90/619/EEC](#) on the coordination of laws, regulations and administrative provisions relating to direct life assurance, laying down provisions to facilitate the effective exercise of freedom to provide services and amending Directive [79/267/EEC](#) (O.J. No. L330, 29.11.90, p.50));
- (b) the remaining provisions of the Second Non-Life Directive (that is, Council Directive [88/357/EEC](#) on the coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance and laying down provisions to facilitate the effective exercise of freedom to provide services and amending Directive [73/239/EEC](#) (O.J. No. L172, 4.7.88, p.1)); and
- (c) provisions in Article 16 of the Third Life Directive (that is, Council Directive [92/96/EEC](#) on the coordination of laws, regulations and administrative provisions relating to direct life assurance and amending Directives [79/267/EEC](#) and [90/619/EEC](#) (O.J. L360, 9.12.92, p.1)).

The Regulations introduce the provisions referred to above for a society—

- (a) to which section 37(2) of the 1992 Act applies, that is, in relation to a society which falls within the scope of the Second or Third Life Directive (hereinafter referred to as a “Life Directive society”); and
- (b) to which section 37(3) of the 1992 Act applies, that is, in relation to a society which falls within the scope of the Second Non-Life Directive (hereinafter referred to as a “Non-Life Directive society”).

Minor consequential amendments are made to provisions of the 1992 Act in relation to societies which are neither Life nor Non-Life Directive societies in order to ensure consistency in the drafting style within the Act.

**Regulation 1** provides for the citation, commencement and extent of the Regulations and defines the 1992 Act.

**Regulation 2** inserts a new section 36A into the 1992 Act which empowers the Friendly Societies Commission (“the Commission”), where it is proposing to impose conditions on the authorisation of a Life or Non-Life Directive society for failure to satisfy obligations imposed on it under the law of any member State giving effect to the “life or general insurance Directives”, to direct that the proposed conditions shall be deemed to have been imposed for a specified period. Definitions of “the life Directives” and “the general insurance Directives” are set out in section 119 of the 1992 Act. The period specified runs from the date of service of the Commission’s notice of proposal to impose conditions until the date of service of the Commission’s decision notice as defined by section 36A(3). A society may appeal against such a direction, in the same way as it may appeal against a decision to impose conditions under section 36, under section 58 of the 1992 Act.

Regulation 2(2) inserts an 8th criterion of prudent management into section 50(3) of the 1992 Act.

**Regulation 3** inserts new provisions into section 37 of the 1992 Act so as to extend a Life or Non-Life Directive society’s power to carry on both long term and general business (other than general business of class 3).

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

**Regulation 4** inserts a new section 57A into the 1992 Act which sets out the requirements to be met by a Life Directive society which proposes to cover commitments in another member State through an establishment in the United Kingdom or in another member State other than that in which the commitment is situated.

**Regulation 5** inserts a new paragraph 15A into Schedule 15 of the 1992 Act. This provision sets out particular requirements which must be met before the Commission may confirm a transfer of engagements by a Life Directive society which consist of contracts of long term insurance (other than reinsurance). The new requirements in respect of transfers of long term insurance are similar to those applicable to transfers of general insurance as set out in paragraphs 15 of Schedule 15 to the 1992 Act.

**Regulation 6** substitutes section 101 of, and amends Schedule 20 to, the 1992 Act by inserting new rules governing the law applicable to contracts of direct long term insurance covering commitments in the Community entered into by Life Directive societies. Where a contract has a connection with more than one country (including different parts of the United Kingdom) the rules will determine which law is to govern the contract.

Regulation 6(5) amends section 2 of the Contracts (Applicable Law) Act 1990 to provide that the internal law in respect of contracts with Life and Non-Life Directive societies for the purposes of Article 1(3) of the Rome Convention is as set out in Schedule 20 to the 1992 Act.

**Regulation 7** inserts interpretation provisions in section 117 of the 1992 Act defining commitment and for determining where a commitment is situated.

**Regulation 8** requires a Life Directive society which provides life insurance in another member State through an establishment in the United Kingdom to submit a return analysing gross premiums to the Commission.

**Regulation 9** requires a Non-Life Directive society which provides general insurance in another member State through an establishment in the United Kingdom to submit a return analysing gross premiums, and, in specified circumstances, an underwriting account, to the Commission.

**Regulation 10** contains supplementary provisions relating to the statements and accounts required under regulations 8 and 9.

**Regulation 11** sets out a requirement for a Life or Non-Life Directive society which has notified the Commission that it is intending to cover commitments or risks in another member State, to notify the Commission where it has not covered any such risks or commitments in the course of a financial year.

**Regulation 12** makes it an offence for a Life or Non-Life Directive society to make default in complying with regulations 8 to 11 and for any person to supply false information.

**Regulation 13** contains a transitional provision for the coming into force of regulations 8 and 9 to ensure that Life or Non-Life Directive societies do not have to supply information on any insurance provided prior to the commencement of these Regulations.

A review of the cost of compliance with these Regulations has been undertaken and the resulting cost compliance assessment may be purchased from the Secretary, Friendly Societies Commission, 15 Great Marlborough Street, London W1V 2AX.