
STATUTORY INSTRUMENTS

1993 No. 2520

FRIENDLY SOCIETIES

**The Friendly Societies (Insurance
Business No. 2) Regulations 1993**

Made - - - - - *19th October 1993*
Laid before Parliament *21st October 1993*
Coming into force - - - *1st January 1994*

The Friendly Societies Commission, being a Department designated for the purposes of section 2(2) of the European Communities Act 1972(1) in relation to the authorisation of the carrying on by friendly societies of insurance business and the regulation of such business and its conduct and in relation to anything supplemental or incidental to such matters(2), in exercise of the powers conferred by that section and, with the consent of the Treasury, in exercise of the powers conferred upon it by sections 45(1) and (2), 46(1), (3) and (8), 48(1), (2), (6) and (7), 49(1), 56(1), (2) and (5) and 121(3) of the Friendly Societies Act 1992(3) and of all other powers enabling it in that behalf, hereby makes the following Regulations:

PART I
PRELIMINARY

Citation and commencement

1. These Regulations may be cited as the Friendly Societies (Insurance Business No. 2) Regulations 1993, and shall come into force on 1st January 1994.

Interpretation: general

2.—(1) In these Regulations, unless the context otherwise requires—
“the 1982 Act” means the Insurance Companies Act 1982(4);
“the 1992 Act” means the Friendly Societies Act 1992;

(1) 1972 c. 68.
(2) The European Communities (Designation) (No. 5) Order 1992 (S.I. 1992/3197).
(3) 1992 c. 40; section 199(1) contains a definition of “the Commission”.
(4) 1982 c. 50.

- “the 1981 Regulations” means the Insurance Companies Regulations 1981(5);
- “the 1987 Regulations” means the Friendly Societies (Long Term Insurance Business) Regulations 1987(6);
- “authorisation” has the same meaning as it has in Part IV of the 1992 Act by virtue of section 32(9) of that Act, and “authorised” shall be construed accordingly;
- “cede” and “cession”, in relation to reinsurance, include retrocede and retrocession;
- “the Commission” means the Friendly Societies Commission established by section 1 of the 1992 Act;
- “deposit back arrangement”, in relation to any contract of reinsurance, means an arrangement whereby an amount is deposited by the reinsurer with the cedant;
- “guarantee fund” has the meaning given in regulation 5(1) below;
- “implicit items” has the meaning given by regulation 8(3) below and “implicit item” shall be construed accordingly;
- “insurance company” means a person or body of persons (whether incorporated or not) carrying on insurance business other than a friendly society;
- “linked long term contract” means a contract of the kind referred to in section 56(1) of the 1992 Act;
- “mathematical reserves” means the provision made by a society to cover liabilities (excluding liabilities which have fallen due and liabilities arising from deposit back arrangements) arising under or in connection with contracts for long term business;
- “minimum guarantee fund” has the meaning given in regulation 5(2) below;
- “premium” includes a contribution in respect of an insurance benefit and the consideration for the granting of an annuity;
- “required margin of solvency” has the meaning given in regulation 4(2) below;
- “Schedule” means Schedule to these Regulations;
- “society” means a society which is either an incorporated friendly society or a registered friendly society;
- “zillmerising” has the meaning given by regulation 10(7) below.

(2) Unless the context otherwise requires, expressions used in these Regulations which are defined in section 116, 117, 119 or in any other provision of the 1992 Act shall have the same meanings as they have for the purposes of that Act.

(3) Any reference in these Regulations to a financial year or preceding financial year of a friendly society shall be construed—

- (a) in the case of a registered friendly society or an incorporated friendly society which was not formerly a registered friendly society, in accordance with section 118 of the 1992 Act; and
- (b) in the case of an incorporated friendly society which was formerly a registered friendly society, as referring to a period of 12 months ending with 31st December during which period the friendly society was—
 - (i) a registered friendly society;
 - (ii) an incorporated friendly society; or
 - (iii) registered as an incorporated friendly society.

(5) S.I. 1981/1654 amended by S.I. 1981/1655, 1982/675, 1983/48, 1983/396, 1985/1419, 1987/2130, 1988/673, 1990/1181, 1990/1333, 1991/1999, 1991/2511, 1992/445, 1992/2890, 1993/1092.

(6) S.I. 1987/2132.

(4) References to societies to which any specified Part of these Regulations applies are references to the societies expressly deemed by such Part to be societies to which that Part applies and no others.

PART II

MARGINS OF SOLVENCY

Application: Part II

3.—(1) This Part of these Regulations applies to a society to which section 48 of the 1992 Act applies.

(2) Subject to regulation 50 below, a society which is—

- (a) an incorporated friendly society, or
- (b) an authorised registered friendly society,

is prescribed for the purposes of section 48(1)(c) of the 1992 Act.

Required margin of solvency

4.—(1) The margin of solvency of a society is the excess of the value of its assets over the amount of its liabilities determined in accordance with Parts IV and V of these Regulations.

(2) Subject to paragraphs (3) to (5) below, the margin of solvency to be maintained by a society to which this Part of these Regulations applies pursuant to section 48 of the 1992 Act (referred to in these Regulations as “the required margin of solvency”) shall be determined—

- (a) with respect to a society which carries on long term business, in accordance with Schedule 1; and
- (b) with respect to a society which carries on general business, by taking the greater of the two sums resulting from the application of the two methods of calculation set out in Schedules 2 and 3 respectively.

(3) For a contract to which section 117(4) of the 1992 Act applies, the required margin of solvency shall be determined by taking the aggregate of the results arrived at by applying—

- (a) in the case of so much of the contract as is within any class of long term business, the appropriate method prescribed by Schedule 1 for that class; and
- (b) in the case of so much of the contract as is within general business class 1 or 2, the method of calculation set out in Schedule 2 (excluding paragraphs 7, 8 and 9).

(4) Where a society carries on long term business and owing to the nature of that business more than one margin of solvency is produced in respect of that business by the operation of this Part of these Regulations, the margins in question shall be aggregated as regards the society in order to arrive at its required margin of solvency for long term business.

(5) Where a society carries on both long term and general business and is accordingly required to maintain separate margins of solvency in respect of the two kinds of business—

- (a) these Regulations shall apply for determining the margin of solvency for each kind of business separately, and
- (b) assets other than those representing the funds maintained by the society in respect of its long term business, if they are not included among the assets covering the liabilities and the margin of solvency relating to the society’s general business, may be included among the assets taken into account in covering the liabilities and the margin of solvency for the society’s long term business.

Guarantee fund and minimum guarantee fund

5.—(1) Subject to paragraphs (2) and (3) below, one-third of a required margin of solvency (being, in the case of long term business, the required margin of solvency determined in accordance with regulation 4(4) above) shall constitute the amount (“the guarantee fund”) prescribed for the purposes of section 49(1) of the 1992 Act.

(2) In the case of a society which is—

(a) an incorporated friendly society; or

(b) a registered friendly society to which section 37(2) or (3) of the 1992 Act applies,

the guaranteed fund shall not be less than an amount (“the minimum guarantee fund”) arrived at in accordance with regulation 6 for long term business and regulation 7 for general business respectively.

(3) In the case of long term business, items that are not implicit items must be at least large enough to cover either the minimum guarantee fund or 50% of the guarantee fund, whichever is the greater.

Minimum guarantee fund: long term business

6.—(1) In the financial year during which a society is first authorised under section 32 of the 1992 Act to carry on long term business, the minimum guarantee fund shall be the amount in column 2 of the table below, which corresponds to the society’s annual contribution income in respect of that business in the last preceding financial year, as shown in column 1 of the table

Contribution Income (in ECU)	Minimum Guarantee Fund (in ECU)
1,000,000 or less	100,000
1,000,001 — 1,500,000	200,000
1,500,001 — 2,000,000	300,000
2,000,001 — 2,500,000	400,000
2,500,001 — 3,000,000	500,000
3,000,001 or more	600,000

but where a society had no annual contribution income in respect of long term business in the last preceding financial year or has not been in existence long enough to have a preceding financial year, the minimum guarantee fund shall be an amount of 100,000 ECU.

(2) In any subsequent financial year during which a society continues to be authorised to carry on long term business, the minimum guarantee fund shall be the greater of either—

(a) the amount in column 2 of the table in paragraph (1) above that corresponds to the society’s annual contribution income in respect of long term business in the last preceding financial year, or

(b) the amount of the minimum guarantee fund required to be maintained by the society in the last preceding financial year,

providing that if the amount referred to in subparagraphs (a) and (b) above is the same, the minimum guarantee fund shall be that amount.

(3) Where a society obtains authorisation under section 32 of the 1992 Act to carry on long term business—

(a) of a class additional to that in respect of which it is already authorised; or

- (b) in a part of the United Kingdom additional to that in respect of which it is already authorised,

a minimum guarantee fund of 600,000 ECU shall be maintained by that society for the whole of its long term business (that is to say, not only for the additional business carried on but also for the business previously carried on).

Minimum guarantee fund: general business

7. The minimum guarantee fund in respect of general business carried on by a society shall be an amount of 225,000 ECU.

Valuation of solvency margins

8.—(1) Where a society to which this Part of these Regulations applies has assets in excess of its liabilities, then, in addition to any other applicable valuation regulations in Part IV of these Regulations, paragraphs (2) and (3) below shall have effect for determining the extent to which the value of the assets exceeds the amount of liabilities in connection with the required margin of solvency, the guarantee fund and the minimum guarantee fund.

(2) In the case of a society carrying on general business, any claim which the society has against its members by way of a call for supplementary contributions for a financial year shall have its full value for that financial year, subject to the limitation that the value shall not exceed—

- (a) 50 per cent of the difference between the maximum contributions and the contributions called in, or
- (b) 50 per cent of the required margin of solvency.

(3) The items mentioned in regulations 9 to 11 below (which relate to future surpluses, zillmerising and hidden reserves and shall be known as “implicit items”) shall have no value, except with the consent of the Commission given upon the application of a society. Where the Commission so consents—

- (a) any of the implicit items may be valued in accordance with the provisions of regulations 9 to 11 with respect to long term business, and
- (b) the implicit item relating to hidden reserves may be valued in accordance with regulation 11 with respect to general business.

Implicit items: future surpluses

9.—(1) The implicit item relating to future surpluses may be valued at not more than 50 per cent of the full amount of future surpluses.

(2) For the purposes of paragraph (1) above, the full amount of future surpluses shall be obtained by multiplying the estimated annual surplus by a factor which shall as nearly as may be represent the average number of years remaining to run on policies, but shall, if it exceeds 10, be reduced to 10.

(3) For the purposes of paragraph (2) above—

- (a) the estimated annual surplus shall be taken to be one-fifth of the surplus (“the periodic surplus”) made in long term business over a period of five years (“the relevant period”) ending on the last day of the most recent completed financial year during which a valuation for the purposes of section 46 of the 1992 Act or regulation 11 of the 1987 Regulations has been carried out, substantial items of an exceptional nature being excluded, and
- (b) the average number of years remaining to run on policies shall be calculated—

- (i) by multiplying the number of years to run on each policy by the actuarial value of the benefits payable under the policy, adding together the products so obtained and

dividing the total by the aggregate of the actuarial values of the benefits payable under all the policies, or

- (ii) by an approximation to this method of calculation suitable to the circumstances of the case, including, where appropriate, an approximation involving the grouping of contracts,

appropriate allowance being made in either case for premature termination of contracts.

(4) For the purposes of paragraph (3)(a) above—

- (a) where a valuation under section 46 of the 1992 Act or regulation 11 of the 1987 Regulations has been carried out annually in relation to the relevant period, the annual surplus made in long term business for any particular year of the relevant period shall be taken to be the surplus (if any) arising in the long term business funds since the last such valuation, and the periodic surplus shall be taken to be the aggregate of those annual surpluses less any deficiencies in the long term business funds during that period;
- (b) where a society has carried on long term business throughout the relevant period but valuations under section 46 of the 1992 Act or regulation 11 of the 1987 Regulations have not been made annually in that period, the periodic surplus shall be taken to be the aggregate of surpluses arising in the long term business funds since the last valuation preceding the relevant period less any deficiencies in the long term business funds since the last valuation, except that the surplus or deficiency arising in the period ending with the first valuation within the relevant period shall be proportionately reduced to allow for any period of time falling outside the relevant period;
- (c) where a society has not carried on long term business throughout the relevant period, the periodic surplus shall be taken to be the aggregate of any surpluses arising in the long term business funds during that part of the relevant period for which long term business was carried on less any deficiencies in the long term business funds during that part of that period.

Implicit items: zillmerising

10.—(1) Where zillmerising (as defined in paragraph (7) below) is appropriate but either is not practised or is at a rate less than the loading for acquisition costs included in the premium then, subject to paragraph (6) below, the implicit item relating to zillmerising may be valued at an amount not exceeding the difference between—

- (a) the non-zillmerised or partially zillmerised figure for mathematical reserves maintained by the society concerned, and
- (b) a figure for mathematical reserves (determined in accordance with Part V of these Regulations) zillmerised at a rate equal to the loading for acquisition costs included or allowed for in the premium.

(2) Where zillmerising is not practised, then subject to paragraph (6) below, the value given by paragraph (1) above (less any amount relating to temporary assurances) shall not exceed 3.5 per cent of the aggregate of the difference between—

- (a) the relevant capital sums for long term business activities, and
- (b) the mathematical reserves (excluding mathematical reserves for temporary assurances).

(3) Where zillmerising is practised but is at a rate less than the loading for acquisition costs, then, subject to paragraph (6) below, the value given by paragraph (1) above (less any amount relating to temporary assurances) together with the difference between the partially zillmerised mathematical reserves and the non-zillmerised mathematical reserves shall not exceed 3.5 per cent of the aggregate of the difference between—

- (a) the relevant capital sums of long term business activities, and

- (b) the mathematical reserves (excluding mathematical reserves for temporary assurances).
- (4) In paragraphs (2) and (3) above “relevant capital sums” means—
- (a) for whole life assurances, the sum assured,
 - (b) for policies where a sum is payable on maturity (including policies where a sum is also payable on earlier death), the sum payable on maturity,
 - (c) for deferred annuities, the capitalised value of the annuity at the vesting date (or the cash option if it is greater),
 - (d) for capital redemption contracts, the sums payable at the end of the contract period, and
 - (e) for linked long term contracts, notwithstanding subparagraphs (a) to (d) above, the lesser of—
 - (i) the amount for the time being payable on death, and
 - (ii) the aggregate of the value for the time being of the units allocated to the contract (or, where entitlement is not denoted by means of units, the value for the time being of any other measure of entitlement under the contract equivalent to units) and the total amount of the premiums remaining to be paid during such part of the term of the contract as is appropriate for zillmerising, or, if such premiums are payable beyond the age of seventy-five, until that age,excluding in all cases any vested reversionary bonus and any capital sums for temporary assurances.
- (5) Where, under the contract relating to any such business as is mentioned in paragraph (4) above, the payment of premiums is to stop before the sum assured becomes due, then, notwithstanding the said paragraph (4), “relevant capital sums” in paragraphs (1) to (3) above shall be taken to mean the mathematical reserves appropriate for that contract at the end of the premium-paying term.
- (6) For the purposes of this regulation—
- (a) reserves for vested reversionary bonuses shall not be regarded as mathematical reserves, and
 - (b) the result given by paragraph (1), (2) or (3) above shall be reduced by the amount of any undepreciated acquisition costs brought into account as an asset.
- (7) “Zillmerising” means the method known by that name for modifying the net premium reserve method of valuing a long term policy by increasing the part of the future premiums for which credit is taken so as to allow for initial expenses.

Implicit items: hidden reserves

11. The implicit item relating to hidden reserves, if it consists of hidden reserves resulting from the underestimation of assets and overestimation of liabilities (other than mathematical reserves), may, in so far as the hidden reserves in question are not of an exceptional nature, be given its full value.

PART III

MATCHING AND LOCALISATION

Application: Part III

12. This Part of these Regulations applies to a society which falls within section 37(2) or (3) of the 1992 Act.

Matching: general requirement

13.—(1) Where the liabilities of a society to which this Part applies in any particular currency exceed 5 per cent of the society’s total liabilities, the society shall hold sufficient assets in that currency to cover at least 80 per cent of the society’s liabilities in that currency.

(2) Where a society carries on both long term and general business, the requirements of paragraph (1) apply to the assets and liabilities of each kind of business separately.

(3) For the purposes of this regulation—

“assets”, except in the case of assets of the kind referred to in regulation 20(2) below, means assets valued in accordance with Part IV of these Regulations; and

“liabilities” means provision by a society to cover liabilities arising under or in connection with contracts of insurance (not being liabilities relating to insurance business excluded by regulation 18 below).

(4) For the purposes of this regulation references to assets in a currency shall be construed as references to assets expressed in or capable of being realised (without exchange risk) in that currency; and an asset is capable of being realised (without exchange risk) in a currency if it is reasonably capable of being realised in that currency without risk that changes in exchange rates would reduce the cover of liabilities in that currency.

(5) The provisions of this regulation have effect subject to the following regulations in this Part of these Regulations.

Matching: property linked benefits

14.—(1) In so far as the liabilities for property linked benefits are covered by assets which determine the benefits payable under a linked long term contract, regulation 13 above does not apply.

(2) In so far as the liabilities for property linked benefits are determined by reference to assets in a currency other than that in which the society’s obligations to the policyholder are expressed, those liabilities shall for the purposes of regulation 13 be deemed to be liabilities in the first-mentioned currency.

(3) In this regulation “property linked benefits” has the meaning given by regulation 19(1) below.

Matching: currency of general business liabilities

15.—(1) The currency of a society’s general business liabilities shall, for the purposes of regulation 13 above, be determined as follows.

(2) Where the contract of insurance expresses any liability in terms of a particular currency, that liability shall be regarded as a liability in that currency.

(3) Where the liabilities are not so expressed, they shall be regarded as liabilities in the currency of the country in which the risk is situated or, if the society on reasonable grounds so determines, in the currency in which the premium payable under the contract is expressed.

(4) However, the society may regard its liabilities as liabilities in the currency which it will use in accordance with past experience or, in the absence of such experience, in the currency of the country in which it is established where, in accordance with the nature of the risks, the society’s liabilities are liabilities in a currency other than that determined in accordance with paragraph (2) or (3).

(5) Where a claim has been notified to a society and the society’s liability in respect of that claim is payable in a currency other than one which would result from the application of the above provisions, the liability shall be regarded as a liability in the currency in which the society is actually obliged to pay it.

(6) Where a claim is assessed in a currency which is known to the society in advance but which is different from a currency determined in accordance with the above provisions, the society may regard its liabilities as liabilities in that currency.

Matching: exception for certain general business liabilities

16.—(1) The requirements of regulation 13 above have effect subject to the following provisions as regards a society's general business.

(2) The society need not cover the liabilities of its general business by assets in a particular currency if those assets would amount to 7 per cent or less of the remainder of its assets in other currencies.

This paragraph is subject to paragraphs (3) and (4) below.

(3) During the period until 31st December 1998, paragraph (2) has effect in relation to liabilities required to be covered by assets in Greek drachmas, Irish pounds or Portuguese escudos as if the amount of 2 million ECU, if less than the percentage mentioned in that paragraph, were substituted for that percentage.

(4) During the period until 31st December 1996, paragraph (2) has effect in relation to liabilities required to be covered by assets in Belgian francs, Luxembourg francs or Spanish pesetas as if the amount of 2 million ECU, if less than the percentage mentioned in that paragraph, were substituted for that percentage.

Localisation

17.—(1) Assets held pursuant to regulation 13 above shall be held—

- (a) if they cover liabilities in sterling, in the United Kingdom;
- (b) if they cover liabilities in any other currency, in the United Kingdom or in the country of that currency.

(2) For the purposes of applying paragraph (1) above to tangible assets and assets consisting of a claim against a debtor or a listed or unlisted investment, the following provisions shall have effect—

- (a) a tangible asset shall be regarded as held in the place where it is situated;
- (b) an asset consisting of a claim against a debtor shall be regarded as held in any place where it can be enforced by legal action;
- (c) an asset consisting of a listed investment shall be regarded as held in any place where—
 - (i) there is a recognised United Kingdom stock exchange or a stock exchange of repute outside the United Kingdom where it is listed, or
 - (ii) there is a securities market outside the United Kingdom, being a market of repute in which prices of all securities in which there are dealings are publicly listed and which is supervised by a public body, where it is dealt in;
- (d) an asset consisting of an unlisted investment issued by an incorporated company shall be regarded as held in the place where the head office of the company is situated.

Exclusions from regulations 13 and 17

18.—(1) Nothing in regulation 13 or 17 shall apply to long term or general business carried on outside the United Kingdom.

(2) For the purposes of paragraph (1) above, the term “carried on” has the same meaning—

- (a) in relation to long term business, as it has for the purposes of Article 17(2) of the first life Directive; and

- (b) in relation to general business, as it has for the purposes of Article 15(2) of the first general insurance Directive.

PART IV

VALUATION OF ASSETS

Interpretation: Part IV

19.—(1) In this Part of these Regulations, unless the context otherwise requires—
“approved financial institution” means any of the following—

- (a) the Bank of England,
- (b) the National Savings Bank,
- (c) an institution authorised, or deemed to be authorised, under the Banking Act 1987⁽⁷⁾ or a European deposit-taker within the meaning of the Banking Coordination (Second Council Directive) Regulations 1992⁽⁸⁾,
- (d) the European Atomic Energy Community,
the European Bank for Reconstruction and Development,
the European Coal and Steel Community,
the European Economic Community,
the European Investment Bank,
the International Bank for Reconstruction and Development,
the International Finance Corporation,
the International Monetary Fund,
the African Development Bank,
the Asian Development Bank,
the Caribbean Development Bank, and
the Inter-American Development Bank,
- (e) a building society;

“approved securities” means any of the following—

- (a) securities issued by Her Majesty’s Government in the United Kingdom or the Government of Northern Ireland, being securities registered in the United Kingdom, Treasury Bills, Tax Reserve Certificates or Certificates of Tax Deposit;
- (b) securities the repayment of the principal of which, or the payment of interest on which, is guaranteed by Her Majesty’s Government in the United Kingdom or the Government of Northern Ireland;
- (c) fixed interest securities issued in the United Kingdom by any public authority or nationalised industry or undertaking in the United Kingdom;
- (d) loans to any authority to which this paragraph applies charged on the revenues of the authority or on a fund into which such revenues are payable, any fixed interest securities issued in the United Kingdom by any such authority for the purpose of borrowing money so charged, and deposits with any such authority by way of temporary loan made on the

⁽⁷⁾ 1987 c. 22.

⁽⁸⁾ S.I. 1992/3218.

giving of a receipt for the loan by the treasurer or any other similar officer of the authority and on the giving of an undertaking by the authority that, if requested to charge the loan as aforesaid, it will either comply with the request or repay the loan:

- (e) The authorities to which this paragraph applies are—
- (i) any local authority in the United Kingdom;
 - (ii) any authority all the members of which are appointed or elected by one or more local authorities in the United Kingdom;
 - (iii) any authority the majority of the members of which are appointed or elected by one or more local authorities in the United Kingdom, being an authority which by virtue of any enactment has power to issue a precept to a local authority in England and Wales, or a requisition to a local authority in Scotland, or to the expenses of which, by virtue of any enactment, a local authority in the United Kingdom is or can be required to contribute;
 - (iv) the Receiver for the Metropolitan Police District or a combined police authority (within the meaning of the Police Act 1964⁽⁹⁾);
 - (v) a residuary body within the meaning of section 105(1) of the Local Government Act 1985⁽¹⁰⁾ ;
 - (vi) a passenger transport executive within the meaning of section 9(1) of the Transport Act 1968⁽¹¹⁾ ;
- (f) any loan to, or deposit with, an approved financial institution; and
- (g) any securities issued or guaranteed by, and any deposits of cash with, any government, public or local authority or nationalised industry or undertaking outside the United Kingdom;

“asset” includes part of an asset;

“building society” means a building society within the meaning of the Building Societies Act 1986⁽¹²⁾ ;

“company” includes any body corporate;

“computer equipment” means the electro-mechanical and electronic units which make up a computer configuration;

“debenture” includes debenture stock and bonds, whether constituting a charge on assets or not, and loan stock or notes;

“debenture option” means a right exercisable within a specified period, at the option of the holder of the right, to acquire or dispose of any debenture at a specified price;

“debt” includes an obligation to pay a sum of money under a negotiable instrument;

“enactment” includes any provision of Northern Ireland legislation;

“equity share” means a share of equity share capital;

“equity share capital”, in relation to a company, means its issued share capital excluding any part thereof which, neither as respects dividends nor as respects capital, carries any right to participate beyond a specified amount in a distribution;

“fixed interest securities” means securities which under their terms of issue provide for fixed amounts of interest;

“general business amount” has the meaning assigned to it in regulation 31(2) below;

⁽⁹⁾ 1964 c. 48.

⁽¹⁰⁾ 1985 c. 51.

⁽¹¹⁾ 1968 c. 73.

⁽¹²⁾ 1986 c. 53.

“general business assets” and “general business liabilities” mean respectively assets of a society or insurance company which are, for the time being, identified as representing the general business fund or funds maintained by that body in respect of its general business and liabilities of the body which are attributable to its general business;

“general premium income” means, in relation to any body in any year, the net amount, after deduction of any premiums payable for reinsurance, of the premiums receivable by the body in that year in respect of all insurance business other than long term business;

“industrial and provident society” means any society registered (or deemed to be registered) under the Industrial and Provident Societies Act 1965⁽¹³⁾ or the Industrial and Provident Societies Act (Northern Ireland) 1969⁽¹⁴⁾ ;

“insurance liabilities” means, in relation to a society any debt due from, or other liabilities of the society, under any contract of insurance to which it is party;

“intermediary” means a person who in the course of any business or profession invites other persons to make offers or proposals or to take other steps with a view to entering into contracts of insurance with a society, other than a person who only publishes such invitations on behalf of, or to the order of, some other person;

“linked assets” means, in relation to a society, long term business assets of the society which are, for the time being, identified in the records of the society as being assets by reference to the value of which property linked benefits are to be determined;

“listed” means, in relation to an investment—

- (a) that the investment is included in the Official List of The International Stock Exchange of the United Kingdom and the Republic of Ireland Limited; or
- (b) that there has been granted and not withdrawn a listing in respect of that investment on any stock exchange of repute outside the United Kingdom; or
- (c) that dealings in that investment are effected in a securities market of repute outside the United Kingdom being a market in which prices of all securities in which there are dealings are publicly listed and which are supervised by a public body;

and “unlisted” shall be construed accordingly;

“local authority” in relation to the United Kingdom means any of the following authorities—

- (a) in England and Wales, a local authority within the meaning of the Local Government Act 1986⁽¹⁵⁾ ;
- (b) in Scotland, a local authority within the meaning of the Local Government (Scotland) Act 1973⁽¹⁶⁾ ;
- (c) in Northern Ireland, any district council;

“long term business amount” has the meaning assigned to it in regulation 31(2) below;

“long term business assets” and “long term business liabilities” mean respectively assets of a society or insurance company which are, for the time being, identified as representing the long term business fund or funds maintained by that body in respect of its long term business and liabilities of the body which are attributable to its long term business;

“middle market quotation” means—

- (a) in relation to an investment for which two prices are quoted in the official list published for the relevant market, the average of the two prices so quoted for the relevant date or,

⁽¹³⁾ 1965 c. 12.

⁽¹⁴⁾ 1969 c. 24 (N.I.).

⁽¹⁵⁾ 1986 c. 10.

⁽¹⁶⁾ 1973 c. 65.

if no official list has been published for that day, for the most recent day prior to that day for which the official list has been published; and

- (b) in relation to an investment for which one price is quoted in the official list published for the relevant market, the price so quoted for the relevant date or, if no official list has been published for that day, for the most recent day prior to that day for which the official list has been published; and
- (c) in any other case, the nearest equivalent to the average referred to in paragraph (a) above which is published or can be reasonably ascertained from the information which is published;

“price earnings ratio” means the price earnings ratio (net) estimated in respect of the Industrial Group index of the Financial Times Actuaries Share Indices jointly compiled by the Financial Times, the Institute of Actuaries and the Faculty of Actuaries;

“proper valuation” means, in relation to land, a valuation made by a qualified valuer not more than three years before the relevant date which determined the amount which would be realised at the time of the valuation on an open market sale of the land free from any mortgage or charge;

“property linked benefits” means benefits—

- (a) provided for under any contract the effecting of which constitutes the carrying on of ordinary long term insurance business; and
- (b) determined by reference to the value of property of any description (whether specified in the contract or not);

“qualified valuer”, in relation to any particular type of land in any particular area, means—

- (a) a person who is a fellow or professional associate of the Royal Institution of Chartered Surveyors or a fellow or associate of the Incorporated Society of Valuers and Auctioneers or a fellow or associate of the Rating and Valuation Association and either—
 - (i) has knowledge of and experience in the valuation of that particular type of land in that particular area, or
 - (ii) has knowledge of and experience in the valuation of land and has taken advice from a valuer who he is satisfied has knowledge of and experience in the valuation of that particular type of land in that particular area, or
- (b) a person who conforms with paragraph (a)(i) or (ii) above and immediately before 15th June 1981 was recognised as a qualified valuer by virtue of an approval by the Secretary of State under the Insurance Companies (Valuation of Assets) Regulations 1976⁽¹⁷⁾ (and for these purposes an approval given under the Insurance Companies (Valuation of Assets) Regulations 1974⁽¹⁸⁾ shall be deemed to have been given under the said Regulations of 1976);

“relevant date” means, in relation to the valuation of any asset for any purpose for which this Part of these Regulations applies, the date when the asset falls to be valued for that purpose;

“securities” includes shares, debentures, Treasury Bills, Tax Reserve Certificate and Certificates of Tax Deposit;

“share” includes stock;

“share option” means a right exercisable within a specified period, at the option of the holder of the right, to acquire or dispose of any share at a specified price;

“traded option” means a share or debenture option in respect of which permission to deal has been granted on the traded option market of The International Stock Exchange of the United

⁽¹⁷⁾ S.I. 1976/87; the relevant amending instrument was S.I. 1981/725; both instruments were revoked by S.I. 1981/ 1654.

⁽¹⁸⁾ S.I. 1974/2203, revoked by S.I. 1976/87.

Kingdom and the Republic of Ireland Limited, The London International Financial Futures and Option Exchange or a stock or options exchange of repute outside the United Kingdom; “Treasury Bills” includes bills issued by Her Majesty’s Government in the United Kingdom and Northern Ireland Treasury Bills.

(2) For the purposes of these Regulations, a body is a dependant of a society if it is—

- (a) a subsidiary of that society; or
- (b) a body jointly controlled by that society and another person,

within the meaning of section 13 of the 1992 Act.

Application: Part IV

20.—(1) Subject to paragraph (2) below, this Part of these Regulations applies with respect to the determination of the value of assets of a friendly society for the purposes of—

- (a) section 48 of the 1992 Act;
- (b) any actuarial investigation carried out pursuant to section 46 or 47 of the 1992 Act; and
- (c) such other actuarial investigation as may be required by the Commission in the exercise of its powers under Part V of the 1992 Act.

(2) Where a society has entered into any contracts providing for the payment of property linked benefits, regulations 21 to 31 of these Regulations shall not apply, and the value of any linked asset by reference to the value of which those benefits are to be determined shall be the value of that asset as determined in accordance with generally accepted accounting concepts, bases and policies or other generally accepted methods appropriate for insurance business.

(3) Any asset to which this Part of these Regulations applies (other than cash) for the valuation of which no provision is made in this Part of these Regulations shall be left out of account for the purposes specified in paragraph (1) above.

(4) Where in accordance with this Part of these Regulations the value of any asset is to be not greater than any specified amount and, in all the circumstances of the case, it appears that the asset is of a lesser value than that amount, such lesser value shall be the value of the asset.

(5) Notwithstanding paragraph (1) above (but subject to the conditions set out in paragraph (6) below) and in relation to an actuarial investigation of its long term business only, a society may elect to assign to any of its assets the value given to the asset in question in the books or other records of the society.

(6) The conditions referred to in paragraph (5) above are—

- (a) that the election shall not enable the society to bring into account any asset for the valuation of which no provision is made in this Part of these Regulations;
- (b) that the value assigned to the aggregate of the assets shall not be higher than the aggregate of the value of those assets as determined in accordance with regulations 21 to 31 of these Regulations.

Shares in and debts due or to become due from dependants

21.—(1) The value of any share in a dependant of a society shall be not greater than that part of the net asset value of the dependant which would be payable in respect of the share if the dependant were in liquidation and the net asset value were the amount distributable to the shareholders in the winding up.

(2) In this regulation, “net asset value” means, in relation to a dependant, the amount by which the value of its assets, as determined in accordance with regulation 22 below, exceeds the amount of

its liabilities as determined in the case of a dependant which is an insurance company, in accordance with regulation 22.

(3) The value of any debt due, or to become due, to a society from a dependant (other than a debt to which regulation 23(2) or (3) below applies) shall be the amount which would reasonably be expected to be recovered in respect of that debt (due account being taken of any security held in respect thereof) if the dependant were in liquidation and—

- (a) in the case of a dependant which is an insurance company, the amount realised from its assets and the amount of its liabilities in the liquidation were equal to the value of those assets and the amount of those liabilities, as determined in accordance with regulation 22 below, and
 - (b) in the case of a dependant which is not an insurance company, the amount realised from its assets in the liquidation were equal to the value of those assets, as determined in accordance with regulation 22.
- (4) Any share in a dependant—
- (a) in which there is no excess of assets over liabilities as is mentioned in paragraph (2) above, or
 - (b) in relation to which a society cannot reasonably ascertain the amount of the liabilities of the dependant for the purposes of paragraph (2),

shall be left out of account for the purposes for which this Part of these Regulations applies.

(5) Where a society is unable to determine the value of any debt due or to become due to the society from a dependant because the society cannot reasonably ascertain the amount of the liabilities of the dependant for the purpose of ascertaining what would reasonably be expected to be recovered in respect of that debt in accordance with paragraph (3) above, the debt shall be left out of account for the purposes for which this Part of these Regulations applies.

Valuation of assets and liabilities of dependants for the purposes of regulation 21

22.—(1) This regulation shall apply with respect to the determination of the value of the assets and the amount of the liabilities of a dependant for the purposes of regulation 21 above.

(2) In the case of a dependant which is an insurance company, whether or not it is a company to which Part II of the 1982 Act applies—

- (a) subject to paragraph (4) below and paragraph 3 of Schedule 4, the value of its assets shall be determined in accordance with Part V of the 1981 Regulations;
- (b) subject to subparagraphs (c), (d), (e) and (f) below, the amount of its liabilities shall be determined in accordance with Part VI of the 1981 Regulations;
- (c) where the dependant carries on general business, its general business liabilities shall be deemed to include an amount equal to whichever is the greater of 400,000 ECU or 20 per cent of the general premium income;
- (d) where the dependant carries on long term business, its long term business liabilities shall be deemed to include whichever is the greatest of the following three amounts—
 - (i) an amount (“the first amount”) which is one–sixth of the margin of solvency that would be arrived at by regarding the dependant as having its head office in the United Kingdom (whether it has or not) and applying regulations 5 to 8 of the 1981 Regulations;
 - (ii) an amount which is six times the first amount, reduced by the implicit figure within the meaning of subparagraph (e) below;
 - (iii) 800,000 ECU;

- (e) for the purposes of subparagraph (d)(ii) above the implicit figure is—
- (i) in the case of a dependant having its head office in the United Kingdom, the amount of any implicit items relating to future profits, zillmerising or hidden reserves which the dependant is permitted to count by virtue of an order under section 68 of the 1982 Act of the kind mentioned in regulation 10(4) of the 1981 Regulations and the application of regulations 10(4), 11, 12 and 13 of those Regulations, and
 - (ii) in the case of a dependant having its head office elsewhere than in the United Kingdom, the amount of any implicit items relating to future profits or zillmerising which would be arrived at by regarding the dependant as having its head office in the United Kingdom and as having received an order under section 68 of the 1982 Act of the kind mentioned in regulation 10(4) of the 1981 Regulations and the application of regulations 10(4), 11 and 12 of those Regulations accordingly;
- (f) in any case where the dependant is required to establish a long term business fund or funds under section 28 of the 1982 Act, its long term business liabilities shall be deemed to be not less than the value of the assets representing that fund or funds.
- (3) In the case of a dependant which is not an insurance company—
- (a) the value of its assets shall be determined in accordance with Part V of the 1981 Regulations, and subject to the provisions of and the modifications provided for in paragraphs 3 and 4 of Schedule 4 to these Regulations;
 - (b) subject to paragraph (4) below, assets of the dependant which are of a relevant description shall be taken into account only to the extent that their value does not exceed the permitted limit applicable to the dependant in relation to those assets; and
 - (c) any equipment leased by the dependant exclusively to any person other than the society of which it is a dependant, or any other dependant of that society, shall be valued as a debt for the purposes of Part V of the 1981 Regulations.
- (4) Where—
- (a) the dependant is an insurance company and has general business assets of a relevant description, or, is not an insurance company and has assets of a relevant description,
 - (b) the value of such assets exceeds the permitted limit applicable to the dependant in relation to those assets, and
 - (c) the society has no assets of the same description of the relevant class, or has assets of the same description of the relevant class and their value is less than the permitted limit applicable to the society in relation to those assets,
- then, for the purpose of determining the value of the assets of the dependant, there shall be added to the permitted limit applicable to the dependant in relation to the assets referred to in subparagraph (a) above an amount equal to the supplementary amount determined in accordance with Part I of Schedule 4.
- (5) In this regulation and Schedule 4—
- “assets of a relevant description” means assets of a description specified in Part I of Schedule 8 of the 1981 Regulations or, in the case of a dependant which is not an insurance company, assets which would be of such a description if it were an insurance company;
- “permitted limit” means, in relation to assets of a relevant description—
- (a) in the case of the society, an amount equal to the percentage of the general business amount or, as the case may be, the long term business amount applicable in relation to assets of that description in accordance with regulation 31 below;
 - (b) in the case of a dependant which is an insurance company, an amount equal to the percentage of the general business amount or, as the case may be, the long term

business amount applicable in relation to assets of that description in accordance with regulation 49 of the 1981 Regulations as applied pursuant to paragraph (2) above; and

- (c) in the case of a dependant which is not an insurance company, and amount equal to the percentage specified in Schedule 8 of the 1981 Regulations, with respect to assets of that description, of the liabilities of the dependant, other than liabilities to the society;

and references to assets held by any society being of the same description as assets held by a dependant mean—

- (i) in relation to land of the dependant of a description specified in paragraph 1 of Schedule 8 of the 1981 Regulations, any interest of that society in that land,
- (ii) in relation to assets of the dependant of a description specified in paragraph 2 of Schedule 8 of the 1981 Regulations, any debt due or to become due to the society which is secured on the land on which the debt due or to become due to the dependant is secured, and
- (iii) in relation to assets of the dependant of a description specified in paragraphs 3 to 13 of Schedule 8 of the 1981 Regulations, assets of the society which, if held by the dependant, would be assets of that description.

(6) Save as otherwise provided in paragraph 3(5) of Schedule 4, references in this regulation and in Schedule 4 to assets of the society being of a relevant class mean—

- (a) where this regulation and Schedule 4 are being applied for the purpose of determining the value of a long term business asset of the society, assets of the society which are long term business assets, and
- (b) in any other case, assets of the society which are general business assets.

(7) Where the society cannot reasonably ascertain in accordance with the provisions of this regulation—

- (a) the value of any asset of the dependant, or
- (b) the amount of the permitted limit applicable in relation to any asset of the dependant,

that assets shall be left out of account in determining the value of the assets of the dependant under this regulation.

Debts and other rights

23.—(1) The value of any debt due, or to become due, to a society, other than a debt to which regulation 21(3) above, paragraph (2), (3) or (4) of this regulation or regulation 28 or 30 below applies, shall be—

- (a) in the case of any such debt which is due, or will become due, within twelve months of the relevant date (including any debt which would become due within that period if the society were to exercise any right to which it is entitled to require payment of the same), the amount which can reasonably be expected to be recovered in respect of that debt (due account being taken of any security being held in respect thereof); and
- (b) in the case of any other such debt, the amount which would reasonably be paid by way of consideration for an immediate assignment of the debt together with the benefit of any security held in respect thereof.

Provided that in determining the amounts referred to in subparagraphs (a) and (b) above, no account shall be taken of any letter of credit.

(2) The value of any debt due, or to become due, to the society which is secured on a policy of insurance issued by the society and which (together with any other debt secured on that policy)

does not exceed the amount payable on a surrender of that policy at the relevant date shall be the amount of that debt.

- (3) Any debt due or to become due to the society—
- (a) from an intermediary in respect of money advanced on account of commission to which that intermediary is not absolutely entitled at the relevant date, or
 - (b) under a letter of credit,

shall be left out of account for the purposes for which this Part of these Regulations applies.

(4) The value of any debt due to, or other rights of, the society, under any contract of reinsurance to which the society is a party shall be the amount which can reasonably be expected to be recovered in respect of that debt or right.

Land

24. The value of any land of a society (other than land held by the society as security for a debt or to which regulation 29 below applies) shall be not greater than the amount which (after deduction of the reasonable expenses of sale) would be realised if the land were sold at a price equal to the most recent proper valuation of that land which has been provided to the society and any such land of which there is no proper valuation shall be left out of account for the purposes for which this Part of these Regulations applies.

Equipment

- 25.—**(1) The value of any computer equipment of a society—
- (a) in the financial year of the society in which it is purchased, shall not be greater than three-quarters of the cost thereof to the society;
 - (b) in the first financial year thereafter, shall not be greater than one-half of that cost;
 - (c) in the second financial year thereafter, shall be not greater than one-quarter of that cost; and
 - (d) in any subsequent financial year, shall be left out of account for the purposes for which this Part of these Regulations applies.

(2) The value of any office machinery (other than computer equipment), furniture, motor vehicles and other equipment of a society, shall be, in the financial year of the society in which it is purchased, not greater than one-half of the cost thereof and shall be, in any subsequent financial year, left out of account for the purposes for which this Part of these Regulations applies.

Unlisted securities

26.—(1) This regulation does not apply to the valuation of shares in a dependant of a society.

(2) The value of any unlisted security which is dealt in on The International Stock Exchange of the United Kingdom and the Republic of Ireland Limited or on a recognised stock exchange or on a stock exchange of repute outside the United Kingdom shall be an amount not greater than the middle market quotation.

(3) The value of any unlisted equity share, other than a share to which paragraph (2) above applies, shall not be greater than—

- (a) where the company in which the share is held has been carrying on business for more than three financial years, the multiple of the price earnings ratio for the relevant date (or, if no price earnings ratio has been published for that date, for the most recent date prior to that date for which a price earnings ratio has been published) and the proportionate amount

attributable to that share of the average amount of the profits of the company for the last three financial years; and

- (b) where the company has been carrying on business for less than three but more than one financial year, the multiple of such price earnings ratio and the proportionate amount attributable to that share of the average amount of the profits of the company for its two financial years or the profits of the company in its only financial year (as the case may be).

(4) For the purposes of this regulation, the average amount of the profits of a company for any specified years shall be the amount represented by the formula—

$$\frac{P-L}{Y}$$

where—

- a P is the aggregate amount of the profits of the company after provision for taxation in each of the specified years,
- b L is the aggregate amount of any losses made by the company after provision for taxation in any of the specified years in which there were no profits, and
- c Y is the number of years specified,

no account being taken of any profit or loss brought forward from any year preceding the specified years.

(5) In this regulation, the proportionate amount attributable to any share of the average amount of any profits of the company in which the share is held for any specified years shall be the amount which could reasonably be expected to be received in respect of that share if the average amount or the amount (as the case may be) of the profits in question were available for distribution by the company among its shareholders.

(6) Where the value of any share would otherwise be determined in accordance with the provisions of paragraph (3) above but cannot be so determined because the amount of the profits of, or the amount of losses incurred by, the company in the last financial year cannot be reasonably ascertained, then the value of that share shall be determined—

- (a) in the case of a company which has been carrying on business for not less than four financial years, by reference to the average amount of the profits of the company for the three financial years preceding the last financial year; and
- (b) in the case of a company which has been carrying on business for less than four years but more than two financial years, by reference to the average amount or the amount (as the case may be) of the profits of the company in any specified years other than the last financial year.

(7) Any share to be valued in accordance with paragraphs (3) to (6) above shall be left out of account for the purposes for which this Part of these Regulations applies if—

- (a) no amount is attributable thereto in accordance with paragraph (3) above;
- (b) the company in which the share is held has been carrying on business for less than one financial year; or
- (c) the value of the share cannot be ascertained in accordance with paragraphs (3) to (6) above because the amount of the profits of, or the amount of the losses incurred by, the company in any of the specified years cannot reasonably be ascertained and no provision is made for its valuation in paragraph (6) above.

(8) The value of any unlisted share other than one to which paragraph (2) or (3) above applies shall be the amount which would reasonably be paid by way of consideration for an immediate transfer of that share.

Unit trusts

27. The value of any holding of units, or other beneficial interest, under an authorised unit trust scheme within the meaning of the Financial Services Act 1986(19) shall be the price at which the managers under the unit trust scheme would purchase the holding of units or other beneficial interest if required to do so.

Listed investments

28.—(1) The value of any listed debenture which is not a debenture issued by a dependant of a society, and of any listed share, which is not a share in such a dependant nor a share in any body specified in regulation 30(2)(a) below, shall be the middle market quotation.

(2) Where the listing of any listed debenture or listed share, the value of which falls to be determined in accordance with this regulation, was suspended at a relevant date, then for the purpose or purposes for which that date was the relevant date—

- (a) if that suspension was in force for a period in excess of ten days, that debenture or share shall be left out of account, and
- (b) if that suspension was in force for a period not exceeding ten days, the value of that debenture or share shall be the lower of—
 - (i) the middle market quotation on the day before the day the suspension came into force, and
 - (ii) the middle market quotation on the day after the day the suspension was terminated.

(3) For the purposes of paragraph (2) above, a day which is a Saturday or a Sunday or a bank holiday in any part of the United Kingdom shall be disregarded.

Life interests, reversionary interests etc

29. The value of any asset consisting of an interest in property which—

- (a) is determinable upon the death of any person or upon the happening of some other future event or at some future time or is a remainder, reversionary interest, right of fee subject to a liferent or other future interest, whether vested or contingent, and
- (b) is not a lease or a reversionary interest expectant upon the determination of a lease,

shall be the amount which would reasonably be paid by way of consideration for an immediate transfer or assignment thereof.

Other assets

30.—(1) The value of any approved securities shall be—

- (a) in the case of listed securities, the middle market quotation;
- (b) in the case of securities which are not transferable, the amount payable on a surrender or redemption of such securities at the relevant date; and
- (c) in any other case, the amount which would reasonably be paid by way of consideration for an immediate transfer or assignment thereof.

(2) The value of—

- (a) shares in any building society or industrial and provident society, and
- (b) share options and debenture options, not being traded options,

shall be the amount which would reasonably be paid by way of consideration for an immediate transfer or assignment thereof.

- (3) The value of traded options shall be the middle market quotation.

Assets to be taken into account only to a specified extent

31.—(1) Assets of a society of any of the descriptions specified in Schedule 5 shall be taken into account only to the extent that the value of those assets does not exceed—

- (a) for a society carrying on general business, whether or not also carrying on long term business, in the case of general business assets of a description specified in Part I of Schedule 5, an amount equal to the percentage of the general business amount specified in Schedule 5 for assets of that description;
- (b) for a society carrying on only long term business, for all assets of a description specified in Part I of Schedule 5, an amount equal to the percentage of the long term business amount specified in Schedule 5 for assets of that description;
- (c) for a society carrying on general business and long term business, in the case of long term business assets of a description specified in Part I of Schedule 5, an amount equal to the percentage of the long term business amount specified in Schedule 5 for assets of that description;
- (d) for a society carrying on general business, whether or not also carrying on long term business, in the case of general business assets of the description specified in Part II of Schedule 5, an amount equal to the percentage specified in Schedule 5 of the net premium income of the society in respect of general business (other than premium income in respect of treaty reinsurance accepted) for the twelve months preceding the relevant date;
- (e) for a society carrying on only long term business, for all assets of the description specified in Part II of Schedule 5, an amount equal to the percentage so specified of the net premium income of the society in respect of long term business (other than premium income in respect of treaty reinsurance accepted) for twelve months preceding the relevant date; and
- (f) for a society carrying on general business and long term business, in the case of long term business assets of the description specified in Part II of Schedule 5, an amount equal to the percentage so specified of the net premium income of the society in respect of long term business (other than premium income in respect of treaty reinsurance accepted) for the twelve months preceding the relevant date.

- (2) In this regulation—

“general business amount” means the aggregate of the society’s general business liabilities and in the case of a society which carries on general business an amount equal to whichever is the greater of 225,000 ECU or 20 per cent of the general premium income less the amount of the deduction specified in paragraph (3) below.

“long term business amount” means the aggregate of the society’s long term business liabilities and whichever if the greater of—

- (a) one-sixth of the margin of solvency which the society is required to maintain, and
- (b) 600,000 ECU

less the amount of the deduction specified in paragraph (3) below;

“the net premium income” of a society for any specified period means the gross amounts first recorded in the society’s books during that period as paid or due to the society by way of premiums, less any rebates, refunds and commission so recorded during that period as allowed or paid on those gross amounts or any such gross amounts so recorded in any previous period.

(3) The deduction to be made in determining the general business amount or the long term business amount in accordance with paragraph (2) above shall be the aggregate of the following—

- (a) the amount of any general business or, as the case may be, long term business liabilities of the society to a dependant, other than insurance liabilities, and
- (b) the value of the debts due or to become due to and other rights of the society under contracts of reinsurance ceded by it (but excluding any rights of recovery in respect of insurance liabilities already discharged by the society) which are general business or, as the case may be, long term business assets of the society, and
- (c) in the case of the long term business amount, the amount of any liabilities of the society in respect of property linked benefits.

(4) Where—

- (a) an asset (or group of assets) of a society carrying on only long term business is attributed by the society partly to its long term business assets and partly to its other assets, and
- (b) by virtue of paragraph (1)(b) above there is a reduction in the extent to which that asset or group of assets is to be taken into account,

the reduction shall be in the same proportion as the attribution.

(5) For the purposes of this regulation, the amount of the liabilities of a society shall be determined in accordance with Part V of these Regulations.

(6) This regulation shall not apply to any approved securities or to any interest accrued thereon.

(7) This regulation shall not apply to a registered friendly society to which neither section 37(2) nor (3) of the 1992 Act applies.

PART V

DETERMINATION OF LIABILITIES

Interpretation: Part V

32. In this Part of these Regulations—

- “long term liabilities” means liabilities of a society arising under or in connection with contracts for long term business including liabilities arising from deposit back arrangements;
- “the valuation date”, in relation to an actuarial investigation, means the date to which the investigation relates.

Application: Part V

33. This Part of these Regulations applies with respect to the determination of the amount of liabilities of a friendly society for the purposes of—

- (a) section 48 of the 1992 Act;
- (b) any actuarial investigation to which section 46 or 47 of the 1992 Act applies; and
- (c) such other actuarial investigation as may be required by the Commission in the exercise of its powers under Part V of the 1992 Act.

Long term and general business

34.—(1) Subject to this Part of these Regulations, the amount of liabilities of a society in respect of long term and general business and other lawful activities shall be determined in accordance with

generally accepted accounting concepts, bases and policies or other generally accepted methods appropriate for insurance business.

(2) In determining under paragraph (1) above the amount of liabilities of a society, all contingent and prospective liabilities shall be taken into account.

Long term liabilities

35. The determination of the amount of long term liabilities (other than liabilities which have fallen due for payment before the valuation date) shall be made on actuarial principles and shall make proper provision for all liabilities on prudent assumptions in regard to the relevant factors; and the amount of the liability for each category of contract shall not be less than the amount calculated in accordance with regulations 36 to 45 below in so far as they are applicable.

Nature and term of assets

36. The determination of the amount of long term liabilities shall take into account the nature and terms of the assets representing the long term business funds and the value placed upon them and shall include appropriate provision against the effect of possible future changes in the value of the assets on their adequacy to meet the liabilities.

Avoidance of future valuation strain

37. The amount of the liability determined in respect of a group of contracts shall not be less than such amount as, if the assumptions adopted for the valuation were to remain unaltered and were fulfilled in practice, would enable liabilities similarly determined at all times in the future to be covered from resources arising solely from the contracts and the assets covering the amount of the liability determined at the current valuation.

Valuation of future premiums

38.—(1) Subject to paragraph (4) below, where further specified premiums are payable by the policyholder under a contract under which benefits (other than benefits arising from a distribution of surplus) are determined from the outset in relation to the total premiums payable thereunder, then, subject to regulation 39 below—

- (a) where the premiums under the contract are at a uniform rate throughout the period for which they are payable, the premiums to be valued shall not be greater than such level premiums as, if payable for the same period as the actual premiums under the contract and calculated according to the rates of interest and rates of mortality or disability which are to be employed in calculating the liability under the contract, would have been sufficient at the outset to provide for the benefits under the contract according to the contingencies upon which they are payable, exclusive of any additions for profits, expenses or other charges;
- (b) where the premiums under the contract are not at a uniform rate throughout the period for which they are payable, the premiums to be valued shall not be greater than such premiums as would be determined on the principles set out in subparagraph (a) above modified as appropriate to take account of the variations in the premiums payable by the policyholder in each year;

save that a premium to be valued shall in no year be greater than the amount of the premium payable by the policyholder.

(2) Where the terms of the contract have changed since the contract was first made (the terms of the contract being taken to change for the purposes of this paragraph if the change is indicated in an endorsement on the policy but not if a new policy is issued), then, for the purposes of paragraph (1)

above it shall be assumed that those changes from the time they occurred were provided for in the contract at the time it was made.

- (3) Subject to paragraph (4) below, where under a contract—
 - (a) each premium paid increases the benefits (other than benefits arising from a distribution of surplus) provided under the contract, or
 - (b) the amount of a premium payable in future is not determinable until it comes to be paid, future premiums and the corresponding liability may be left out of account so long as adequate provision is made against any risk that the increase in the liabilities of the society resulting from the payment of future premiums might exceed the amount of the premiums.
- (4) The provisions of this regulation do not apply to a contract which is a linked long term contract, a permanent health contract, or a contract whose principal object is permanent health insurance but which contains related and subsidiary provisions for life or birth insurance business.

Acquisition expenses

39.—(1) In order to take account of acquisition expenses, the maximum annual premium to be valued under regulation 38 above may (subject to paragraph (2) below) be increased by an amount not greater than the equivalent, taken over the whole period of premium payments and calculated according to the rates of interest and rates of mortality or disability employed in valuing the contract, of 3.5 per cent (or the defined percentage, if it is lower than 3.5 per cent) of the relevant capital sum under the contract.

(2) For the purposes of paragraph (1) above “the defined percentage” is the percentage arrived at by taking (for all contracts of the same type as the contract in question for which an adjustment is made) the average of the percentages of the relevant capital sum under each such contract that represent the acquisition costs for which, after allowing for the effects of taxation, allowance is made in the premiums.

(3) The increase permitted by paragraph (1) above shall be subject to the limitation that a premium to be valued shall in no year be greater than the amount of the premium payable by the policyholder.

- (4) For the purposes of this regulation—
 - (a) for contracts other than temporary assurances, the relevant capital sum under a contract shall be arrived at in accordance with regulation 10(4) above, and
 - (b) for temporary assurances, the relevant capital sum shall be the sum assured on the valuation date.

Rates of interest

40.—(1) In determining the rates of interest to be used in calculating the present value of future payments by or to a society, regard shall be had to the yields on the existing assets attributed to the long term business and, to the extent appropriate, to the yield which it is expected will be obtained on sums to be invested in the future.

(2) For the purposes of paragraph (1) above, the assumed yield on an asset attributed to the long term business, before any adjustment to take account of the effect of taxation, shall not exceed the yield on that asset calculated in accordance with paragraphs (3) to (6) below, reduced by 7.5 per cent of that yield.

- (3) For the purpose of calculating the yield on an asset—
 - (a) the asset shall be valued in accordance with Part IV of these Regulations, excluding any provision under which assets may be taken at lower book values for the purposes of an investigation to which section 46 of the 1992 Act applies; and

(b) where a particular asset is required to be taken into account only to a specified extent by the operation of regulation 31 above, the future income to be taken into account (whether interest, dividends or repayments of capital) shall be correspondingly reduced.

(4) For fixed interest investments (that is to say, investments which are fixed interest securities as defined in regulation 19(1) above) the yield on an asset, subject to paragraph (6) below, shall be that annual rate of interest which, if used to calculate the present value of future payments of interest before the deduction of tax and the present value of repayments of capital, would result in the sum of those amounts being equal to the value of the asset.

(5) For variable interest investments (that is to say, investments which are not fixed interest securities as defined in regulation 19(1) above) the yield on an asset, subject to paragraph (6) below, shall be the ratio to the value of the asset of the income before deduction of tax which would be received in the period of twelve months following the valuation date on the assumption that the assets will be held throughout that period and that the factors which affect income will remain unchanged, so however that account shall be taken of any changes in those factors known to have occurred by the valuation date and in particular, without prejudice to the generality of the foregoing, of—

- (a) any known changes in the rental income from property or in dividends on equity shares,
- (b) any forecast changes in dividends which have been publicly announced by the valuation date,
- (c) the effect of any alterations in capital structure, and
- (d) the value (at the most recent date for which it is known at the valuation date) of any determinant of the amount of any future interest payment, the said value being deemed to remain unaltered for all subsequent dates.

(6) In calculating the yield on an asset under this regulation—

- (a) if the asset does not consist of equity shares or land—
 - (i) an adjustment shall be made to exclude that part of the yield estimated to represent compensation for the risk that the income from the asset might not be maintained or that capital repayments might not be received as they fall due, and
 - (ii) in making that adjustment, regard shall be had wherever possible to the yields on risk-free investments of a similar term in the same currency;
- (b) for assets which are equity shares or land, adjustments to yields shall be made as appropriate to exclude that part, if any, of the total yield from those assets, taken together, that is needed to compensate for the risk that the aggregate income from those assets taking one year with another might not be maintained, so however that the yield assumed on an asset shall not be greater than that on British Government 2 ½ % Consolidated Stock on the valuation date.

(7) To the extent that it is necessary to make an assumption about the yields which will be obtained on sums to be invested in future, the yield assumed on any investment to be made more than three years after the valuation date shall not exceed 7.2 per cent per annum before any adjustment to take account of the effect of taxation.

(8) In no case shall a rate of interest determined for the purposes of paragraph (1) above exceed the adjusted overall yield on assets calculated as the weighted average of the reduced yields on the individual assets arrived at under paragraph (2) above; and when that weighted average is calculated—

- (a) the weight given to each investment shall be its value as an asset determined in accordance with Part IV of these Regulations, excluding any provision under which assets may be taken at lower book values for the purposes of an investigation to which section 46 of the 1992 Act applies, and

- (b) except in relation to the rate of interest used in valuing payments of property linked benefits (as defined in regulation 19(1) above), both the yield and the value of any linked assets (as so defined) shall be omitted from the calculation.

(9) For the purpose of determining the rates of interest to be used in valuing a particular category of contracts the assets may, where appropriate, be notionally apportioned between different categories of contracts and in such cases the limit under paragraph (8) above shall be applied on the basis of the overall yield on the assets apportioned to the contracts in question.

Rates of mortality and disability

41. The amount of the liability in respect of any category of contract shall, where relevant, be determined on the basis of appropriate rates of mortality and disability that take into account—

- (a) relevant published tables of rates of mortality and disability, and
(b) the rates of mortality and disability experienced in connection with any similar contracts issued by the society in the past.

Expenses

42.—(1) Provision shall be made for meeting the expenses likely to be incurred in future in fulfilling the existing contracts, taking account of the effect of taxation as appropriate, but credit may be taken to the extent appropriate for the fractions of future premiums left out of account pursuant to regulation 38(1) above.

(2) The provision mentioned in paragraph (1) above shall have regard to, among other things, the society's actual expenses in the last twelve months before the valuation date and the contingency that the society may cease to transact new business.

Options

43.—(1) Provision shall be made to cover any increase in liabilities caused by policyholders exercising options under their contracts.

(2) Where a contract includes an option whereby the policyholder could secure a guaranteed cash payment within twelve months following the valuation date, the provision for that option shall be such as to ensure that the value placed on the contract is not less than the amount required to provide for the payments that would have to be made if the option were exercised.

Contracts not to be treated as assets

44. No contract for long term business shall be treated as an asset.

No credit for profits from voluntary discontinuance

45. Allowance shall not be made in the valuation for the voluntary discontinuance of any contract if the amount of the liability so determined would thereby be reduced.

PART VI

LINKED LONG TERM CONTRACTS

Application: Part VI

46. This Part of these Regulations shall apply to a friendly society which has entered into contracts to which regulation 47(3) below applies including any such contracts entered into before the coming into force of these Regulations.

Linked long term contracts

47.—(1) Benefits payable under any contract to which this regulation applies shall not be determined, either wholly or partly, by reference to the value of, or the income from, or fluctuations in the value of, property of any description other than—

- (a) property of any of the descriptions specified in Part I of Schedule 6, or
- (b) property which was property of any of the descriptions specified in paragraphs 1 to 10 of Part I of Schedule 6 when it first became a property by reference to which benefits under that contract, or under any contract of a similar description to that contract, were to be determined, and which ceased to conform with that description not more than fifteen months previously.

(2) Benefits payable under any contract to which this regulation applies shall not be determined, either wholly or partly, by reference to fluctuations in any index of the value of property other than an index described in Part II of Schedule 6.

(3) This regulation applies to long-term contracts entered into by societies which—

- (a) are contracts under which the benefits payable to the policyholder 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 contract) or by reference to fluctuations in, or in an index of, the value of property of any description (whether or not so specified); and
- (b) are not contracts specified in paragraph (4) below as being contracts to which this regulation does not apply.

(4) The contracts referred to in paragraph 3(b) above to which this regulation does not apply are—

- (a) contracts with any policyholder who is a person not ordinarily resident in the United Kingdom;
- (b) contracts under or relating to a retirement benefits scheme (whether evidenced by deed, agreement or series of agreements or other arrangement) not being a scheme whereby—
 - (i) the benefit is assured by means of one or more contracts;
 - (ii) each contract provides in respect of each member of the scheme separate assurance, the proceeds of which are to go to that member at least to the extent that they are not greater than the benefits to which he is entitled at the normal pension date;
 - (iii) the premium payable under each contract in respect of each member is payable at least annually; and
 - (iv) the amount of the premium (expressed as an annual rate) remains unchanged except in consequence of the declaration of a bonus or a change in the premium rate of the society.

(5) In this regulation—

“retirement benefits scheme” means a scheme for the provision to a member of the scheme or his wife or widow, children, dependants or personal representatives of any pension, annuity,

lump sum, gratuity or other like benefit given or to be given on retirement or on death, or in anticipation of retirement, or, in connection with past service, after retirement or death, except that it does not include any benefit which is to be afforded solely by reason of the disablement by accident of a member occurring during his service or of his death by accident so occurring and for no other reason; and

“the normal pension date” means the date at which, in accordance with the rules of a retirement benefits scheme, a member of the scheme is normally expected to retire.

(6) Any reference in this regulation to contracts of a similar description to any specified contract is a reference to contracts which correspond with that contract in both the following respects—

- (a) the provisions defining the descriptions of property or indices by reference to which the benefits payable thereunder are to be determined are the same as in the contract; and
- (b) the society or other person undertaking to pay the benefits provided for thereunder is the same as in that contract.

PART VII

MISCELLANEOUS

Annual actuarial investigation: prescribed societies

48. A friendly society which is an incorporated friendly society carrying on long term business, and is not a society to which section 37(2) of the 1992 Act applies, is prescribed for the purposes of section 46(1)(b) of the 1992 Act and accordingly shall, once in every period of 12 months, cause an investigation to be made by the appropriate actuary into the financial condition of the society in respect of its long term business in accordance with section 46 of that Act.

Annual investigation: signature of copy of abstract

49.—(1) For the purposes of section 46(3) of the 1992 Act (signature of a copy of an abstract of an actuary’s report), one copy of the abstract of the actuary’s report shall be signed by the following persons:

- (a) the actuary who prepared the report;
- (b) the chief executive;
- (c) the secretary; and
- (d) subject to paragraph (2) below, one member of the committee of management.

(2) Where the offices of chief executive and secretary are held by the same person, the copy of the abstract shall be signed, in addition to the persons referred to in paragraph (1)(a) and (b) above, by two members of the committee of management.

Transitional provision

50.—(1) Notwithstanding regulation 3(2) above, an authorised registered friendly society is not prescribed for the purposes of section 48(1)(c) of the 1992 Act until the first investigation return date, and accordingly Part II of these Regulations shall not apply to such a society until that date.

(2) For the purposes of paragraph (1) above, the “first investigation return date” is the date by which, in accordance with section 47(2) of the 1992 Act, a society is required to send to the Commission an abstract of the appropriate actuary’s report on the first investigation into the society’s financial condition or, if earlier, the date on which the society sends that abstract to the Commission.

Revocations

51.—(1) The Friendly Societies (Insurance Business) Regulations 1993⁽²⁰⁾ are hereby revoked.

(2) The Friendly Societies (Long Term Insurance Business) Regulations 1987⁽²¹⁾ are hereby revoked.

In witness whereof the common seal of the Friendly Societies Commission is hereunto fixed, and is authenticated by me, a person authorised under paragraph 13 of Schedule 1 to the Friendly Societies Act 1992, on 4th October 1993.

L.S.

Michael Cook
Secretary to the Commission

We consent to regulations 1—11, 19—50 and 51(1).

Timothy Kirkhope
Timothy Wood
Two of the Lords Commissioners of Her
Majesty's Treasury

19th October 1993

⁽²⁰⁾ S.I. 1993/98.
⁽²¹⁾ S.I. 1987/2132.

SCHEDULE 1

Regulation 4

LONG TERM BUSINESS MARGIN OF SOLVENCY

Long term classes I and II

1.—(1) For long term business of class I or II the required margin of solvency shall be determined by taking the aggregate of the results arrived at by applying the calculation described in subparagraph (2) below (“the first calculation”) and the calculation described in subparagraphs (3), (4) and (5) below (“the second calculation”).

(2) For the first calculation—

- (a) there shall be taken a sum equal to 4 per cent of the mathematical reserves for direct business and reinsurance acceptances without any deduction for reinsurance cessions;
- (b) the amount of the mathematical reserves at the end of the last preceding financial year after the deduction of reinsurance cessions shall be expressed as a percentage of the amount of those mathematical reserves before any such deduction; and
- (c) the sum mentioned in paragraph (a) above shall be multiplied—
 - (i) where the percentage arrived at under paragraph (b) above is greater than 85 per cent, by that greater percentage, and
 - (ii) in any other case, by 85 per cent.

(3) For the second calculation—

- (a) there shall be taken, subject to subparagraphs (4) and (5) below, a sum equal to 0.3 per cent of the capital at risk for contracts on which the capital at risk is not a negative figure;
- (b) the amount of the capital at risk at the end of the last preceding financial year for contracts on which the capital at risk is not a negative figure, after the deduction of reinsurance cessions, shall be expressed as a percentage of the amount of that capital at risk before any such deduction; and
- (c) the sum arrived at under paragraph (a) above shall be multiplied—
 - (i) where the percentage arrived at under paragraph (b) above is greater than 50 per cent, by that greater percentage, and
 - (ii) in any other case, by 50 per cent.

(4) Where a contract provides for benefits payable only on death within a specified period and is valid for a period of not more than three years from the date when the contract was first made, the percentage to be taken for the purposes of subparagraph (3)(a) above shall be 0.1 per cent; and where the period of validity from the date is more than three years but not more than five years, the percentage to be so taken shall be 0.15 per cent.

(5) For the purposes of subparagraph (4) above, the period of validity of the contract evidencing a group policy is the period from the date when the premium rates under the contract were last reviewed for which the premium rates are guaranteed.

(6) For the purposes of the second calculation, the capital at risk is—

- (a) in any case in which an amount is payable in consequence of death other than a case falling within paragraph (b) below, the amount payable on death, and
- (b) in any case in which the benefit under the contract in question consists of the making, in consequence of death, of the payment of an annuity, payment of a sum by instalments or any other kind of periodic payments, the present value of that benefit,

less in either case the mathematical reserves in respect of the relevant contracts.

(7) When the amount of the mathematical reserves referred to in subparagraph (2)(a) above, or the amount of the capital at risk referred to in subparagraph (3)(a) above, is to be calculated for the purposes of determining the required margin of solvency, the day as on which that amount is calculated shall be the same as that on which the margin of solvency is determined; and the mathematical reserves referred to in subparagraph (6) above shall also be calculated as on the day when the capital at risk in question is that referred to in subparagraph (3)(a) above, but shall be calculated as at the end of the last preceding financial year when the capital at risk in question is that referred to in subparagraph (3)(b) above.

Long term classes III and VII

2.—(1) For long term business of class III or VII the required margin of solvency shall be determined in accordance with subparagraphs (2) to (5) below.

(2) In so far as a society bears an investment risk, the first calculation shall be applied.

(3) In so far as—

- (a) a society bears no investment risk, and
- (b) the total expired and unexpired term of the relevant contract exceeds five years, and
- (c) the allocation to cover management expenses in the relevant contract has a fixed upper limit which is effective as a limit for a period exceeding five years,

the first calculation shall be applied, but as if paragraph 1(2)(a) above contained a reference to 1 per cent instead of 4 per cent.

(4) If neither subparagraph (2) nor subparagraph (3) above applies, then, subject to subparagraph (5) below, the required margin of solvency is zero.

(5) Where a society covers a death risk, a sum arrived at by applying the second calculation disregarding paragraph 1(4) and (5) shall be added to any required margin of solvency, including a required margin of solvency of zero, arrived at under subparagraph (2), (3) or (4) above.

Long term classes IV and VI

3. For long term business of class IV or VI the required margin of solvency shall be determined by applying the first calculation.

Long term class V

4. For long term business of class V the required margin of solvency shall be equal to 1 per cent of the assets of the relevant tontine.

SCHEDULE 2

Regulation 4

GENERAL BUSINESS SOLVENCY MARGIN: FIRST METHOD OF CALCULATION (PREMIUM BASIS)

1. In this Schedule—

“gross premiums”, in relation to a society and a financial year—

- (a) means premiums after deduction of discounts, refunds and rebates of premium but before deduction of premiums for reinsurance ceded and before deduction of commission payable by the society, and

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(b) includes premiums receivable by the society under reinsurance contracts accepted by the society;

“receivable”, in relation to a society, a financial year and a premium, means recorded in the society’s books as due to the society in respect of—

(a) a contract commencing in that year, or

(b) a contract not accounted for in an annual revenue account of the society prior to that year, even though the contract commenced in an earlier financial year,

whether or not the society has received the premium;

“recoverable”, in relation to a society and a financial year, means recorded in the society’s books as due in that year, whether or not the society has received any payment;

“taxes included in the premiums” shall have the same meaning as the words “taxes pertaining to the premiums” in the third indent of the first subparagraph of Article 16(3) of the first general insurance Directive.

2. The gross premiums receivable in respect of the society’s entire general business for the last preceding financial year shall be aggregated.

3. From the aggregate arrived at under paragraph 2 above there shall be deducted—

(a) any taxes included in the premiums mentioned in paragraph 2 above, and

(b) any levies that are related to premiums and are recorded in the society’s books as payable in the last preceding financial year in respect of general business.

4. The amount arrived at under paragraph 3 above shall be multiplied by twelve and divided by the number of months in the financial year.

5. If the amount arrived at under paragraph 4 above is more than 10 million ECU, it shall be divided into two portions, the former consisting of 10 million ECU and the latter comprising the excess.

6. Where there has been a division into two portions pursuant to paragraph 5 above, there shall be calculated and added together 18 per cent, and 16 per cent of the two portions respectively; and where there has been no such division, there shall be calculated 18 per cent of the amount arrived at under paragraph 4 above.

7. In the case of general business consisting of health insurance based on actuarial principles, paragraph 6 above shall apply with the substitution of “6 per cent” for “18 per cent” and “5 ⅓ per cent” for “16 per cent”, but only if all the necessary conditions are satisfied.

8. For the purposes of paragraph 7 above, the necessary conditions are as follows, that is to say—

(a) the gross premiums receivable shall be calculated on the basis of sickness tables appropriate to insurance business;

(b) the reserves shall include provision for increasing age;

(c) an additional premium shall be collected in order to set up a safety margin of an appropriate amount;

(d) it shall not be possible for the society to cancel the contract after the end of the third year of insurance;

(e) the contract shall provide for the possibility of increasing premiums or reducing payments during its currency.

9. Where paragraph 7 above applies to a society whose general business consists partly of health insurance based on actuarial principles and partly of other business, the procedure provided in paragraphs 2 to 7 above shall operate separately for each part of the general business, so as to produce

a sum under paragraph 7 above for the health insurance and a sum under paragraph 6 above for the other business.

10.—(1) If the provision for claims outstanding at the end of the last preceding financial year exceeds the provision for claims outstanding at the beginning of that year, the amount of the excess shall be added to the amount of claims paid in the last preceding financial year.

(2) If the provision for claims outstanding at the beginning of the last preceding financial year exceeds the provision for claims outstanding at the end of that year, the amount of the excess shall be deducted from the amount of claims paid in the last preceding financial year.

11.—(1) For the purposes of paragraph 10 above, the amount of claims paid, in relation to a society and a financial year, is the amount that is recorded in the society's books at the end of the financial year as paid by it (whether or not payment has been effected in that year) in full or partial settlement of—

- (a) the claims described in subparagraph (2) below, and
- (b) the expenses described in subparagraph (3) below,

less any recoverable amounts within the meaning of subparagraph (4) below.

(2) The claims mentioned in subparagraph (1) above are claims under contracts of insurance (and under contracts of reinsurance accepted by the society) including claims relating to business accounted for over a longer period than a financial year.

(3) The expenses mentioned in subparagraph (1) above are expenses (such as, for example, legal or medical costs) which are incurred by the society, whether through the employment of its own staff or otherwise, and are directly attributable to the settlement of individual claims, whether or not the individual claims in question are those mentioned in subparagraph (1) above.

(4) Recoverable amounts for the purposes of subparagraph (1) above are amounts recoverable by the society in respect of the claims mentioned in that subparagraph or other claims, including amounts recoverable from third parties and amounts recoverable from other insurers but excluding amounts recoverable in respect of reinsurance ceded by the society.

12.—(1) For the purposes of paragraph 10 above, the provision for claims outstanding, in relation to a society and a financial year, is (subject to an applicable valuation regulations in Part IV of these Regulations) the amount set aside by the society as at the beginning or end of the financial year as being an amount likely to be sufficient to meet—

- (a) the claims described in subparagraph (2) below, and
- (b) the expenses described in subparagraph (3) below,

less any recoverable amounts within the meaning of subparagraph (4) below.

(2) The claims mentioned in subparagraph (1) above are claims under contracts of insurance in respect of incidents occurring—

- (a) in the case of an amount set aside as at the beginning of the financial year, before the beginning of that year, and
- (b) in the case of an amount set aside as at the end of a financial year, before the end of that year,

being claims which have not been treated as claims paid and including claims relating to business accounted for over a longer period than a financial year, claims the amounts of which have not been determined and claims arising out of incidents that have not been notified to the society.

(3) The expenses mentioned in subparagraph (1) above are expenses (such as, for example, legal or medical costs) which are likely to be incurred by the society, whether through the employment of

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its own staff or otherwise and are directly attributable to the settlement of individual claims, whether or not the individual claims in question are those mentioned in sub-paragraph (1) above.

(4) Recoverable amounts for the purposes of subparagraph (1) above are amounts estimated by the society to be recoverable by it in respect of the claims mentioned in that subparagraph, including amounts recoverable from third parties and amounts recoverable from other insurers but excluding amounts recoverable in respect of reinsurance ceded by the society.

13. From the amount determined under paragraph 10(1) or (2) above there shall be deducted the total sum recoverable in respect of that amount under reinsurance contracts ceded.

14. The amount determined under paragraph 13 above shall be expressed as a percentage of the amount determined under paragraph 10(1) or (2) above.

15. The sum arrived at under paragraph 6 or 7 above or the aggregate of the sums arrived at under those paragraphs, as the case may be, shall be multiplied—

- (a) where the percentage arrived at under paragraph 14 above is greater than 50 per cent but not greater than 100 per cent, by the percentage so arrived at,
- (b) where the percentage so arrived at is greater than 100 per cent, by 100 per cent, and
- (c) in any other case, by 50 per cent.

SCHEDULE 3

Regulation 4

GENERAL BUSINESS SOLVENCY MARGIN: SECOND METHOD OF CALCULATION (CLAIMS BASIS)

1. In this Schedule “reference period”, in relation to a society, means the three last preceding financial years.

2. If a society has not been in existence long enough to acquire a reference period, this Schedule shall be deemed to give a lower result than that given by Schedule 2 and shall otherwise not apply to the society.

3.—(1) If the provision for claims outstanding at the end of the reference period exceeds the provision for claims outstanding at the beginning of the reference period, the amount of the excess shall be added to the amount of claims paid in the reference period.

(2) If the provision for claims outstanding at the beginning of the reference period exceeds the provision for claims outstanding at the end of the reference period, the amount of the excess shall be deducted from the amount of claims paid in the reference period.

(3) For the purposes of this paragraph, the expressions “amount of claims paid” and “provision for claims outstanding” have, in relation to a reference period, the same meaning as they have in paragraph 10 of Schedule 2 in relation to a financial year.

4. The aggregate obtained under paragraph 3(1) or (2) above shall be divided by the number of months in the reference period and multiplied by twelve.

5. If the amount arrived at under paragraph 4 above is more than 7 million ECU, it shall be divided into two portions, the former consisting of 7 million ECU and the latter comprising the excess.

6. Where there has been a division into two portions pursuant to paragraph 5 above, there shall be calculated and added together 26 per cent and 23 per cent of the two portions respectively; and where there has been no such division, there shall be calculated 26 per cent of the amount arrived at under paragraph 4 above.

7. In the case of general business consisting of health insurance based on actuarial principles, paragraph 6 above shall apply with the substitution of “8 ⅓ per cent” for “26 per cent” and “7 ⅔ per cent” for “23 per cent”, but only if all the necessary conditions are satisfied.

8. The necessary conditions for the purposes of paragraph 7 above are the same as those set out in paragraph 8 of Schedule 2.

9. In a case of the kind mentioned in paragraph 9 of Schedule 2, that paragraph shall apply (with the necessary modifications) so as to produce separate sums under paragraphs 6 and 7 above.

10. The sum arrived at under paragraph 6 or 7 above or the aggregate of the sums arrived at under those paragraphs, as the case may be, shall be multiplied by the same percentage as is applicable for the purposes of paragraph 15 of Schedule 2.

SCHEDULE 4

Regulation 22

VALUE OF DEPENDANTS

PART I

THE SUPPLEMENTARY AMOUNT

1. Subject to paragraph 2(1) below, the supplementary amount in relation to assets of a relevant description held by a dependant of a society shall be determined in accordance with the following formula—

$$A = \frac{B}{C} \times D$$

in which—

A is the supplementary amount;

B is the amount by which the value of assets of that description held by the dependant, excluding any long term business assets of the dependant if it is an insurance company, exceeds the permitted limit applicable to the dependant in relation to those assets;

C is the aggregate of the amount specified in B above and of the amounts by which the value of assets of the same description held by other relevant dependants, excluding any long term business assets of a dependant which is an insurance company, exceeds respectively the permitted limits applicable to such other relevant dependants in relation to those assets;

D is—

- (a) where the society holds no assets of the same description of the relevant class, the amount of the permitted limit that would be applicable to the society in relation to such assets were it to hold them; and
- (b) where the society holds assets of the same description of the relevant class, the amount by which the permitted limit applicable to the society in relation to those assets exceeds the value of those assets.

2.—(1) Where for the purpose of determining any supplementary amount in accordance with paragraph 1 above the society cannot reasonably ascertain—

- (a) the value of any asset of a relevant dependant, or
- (b) the amount of the permitted limit applicable in relation to any asset of a relevant dependant,

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the asset in question shall be left out of account for that purpose.

(2) In this Part of this Schedule—

“relevant dependant” means—

- (a) where this Schedule is being applied in relation to the determination of the value of a share in, or debt due or to become due from, a dependant of the society which is a long term business asset of the society, any dependant of the society—
 - (i) a share in which, or in any body (whether incorporated or not) of which it is a jointly controlled body, is a long term business asset of the society, or
 - (ii) from which a debt is due, or will become due, to the society which is a long term business asset of that society; and
- (b) in any other case, any dependant of the society—
 - (i) a share in which, or in any body (whether incorporated or not) of which it is a jointly controlled body, is a general business asset of the society, or
 - (ii) from which a debt is due, or will become due, to the society which is a general business asset of that society.

PART II

FURTHER PROVISIONS AND MODIFICATIONS OF THE REGULATIONS APPLICABLE WITH RESPECT TO THE DETERMINATION OF THE VALUE OF DEPENDANTS

3.—(1) This paragraph applies where, for the purpose of ascertaining the value of the assets of the subject company under regulation 22 above, any determination falls to be made in accordance with regulation 22 of the value of the assets of a dependant of the society, a share in which, or a debt due or to become due from which, is an asset of the subject company; and references herein to a determination of the value of assets of a dependant to which this paragraph applies are references to any such determination.

(2) Regulation 22(4) shall not apply with respect to a determination of the value of assets of a dependant to which this paragraph applies.

(3) Where, in the case of a determination of the value of assets of a dependant to which this paragraph applies—

- (a) the dependant is an insurance company and has general business assets of a relevant description or is not an insurance company and has assets of a relevant description,
- (b) the value of such assets exceeds the permitted limit applicable to the dependant in relation to those assets, and
- (c) any controller of the dependant has no assets of the same description of the relevant class, or has assets of the same description of the relevant class and their value is less than the permitted limit applicable to that controller in relation to those assets;

then, for the purposes of such determination, there shall be added to the permitted limit applicable to the dependant in relation to the assets referred to in paragraph (a) above an amount equal to the supplementary amount or, if there is more than one such controller, to the aggregate of the supplementary amounts, determined with respect to any such controller in accordance with Part I of this Schedule, subject where the controller is not the society, to the modifications specified in subparagraph (5) below.

(4) In this paragraph, “a controller” means, in relation to a dependant—

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- (a) the society, and
 - (b) the subject company, if it is an insurance company.
- (5) Where subparagraph (3) above is being applied in relation to a controller, other than the society–
- (a) Part I of this Schedule, as applied in accordance with the said subparagraph (3), shall have effect as if, for the reference to the society, there were substituted references to the controller, and
 - (b) the references to assets being of a relevant class in the said subparagraph (3) and in Part I of this Schedule, as so applied, shall be construed as referring to long term business assets of the controller, if subparagraph (3) is being applied in connection with the determination of the value of a long term business asset of the controller, and to general business assets of the controller, in any other case.
4. The modifications of these Regulations applicable (in addition to that specified in paragraph 3(2) above) with respect to the determination of the value of the assets of the subject company where it is not an insurance company are as follows–
- (a) these Regulations shall apply to the subject company as if it were an insurance company and its assets were being valued for the purpose specified in regulation 38(1) of the 1981 Regulations;
 - (b) regulation 38(2) of the 1981 Regulations shall not apply; and
 - (c) regulation 49 of those Regulations shall not apply.
5. In this Schedule, “subject company” means the dependant of the society the value of whose assets is being determined in accordance with regulation 22(2) or (3) (as the case may be).

SCHEDULE 5

Regulation 31

ASSETS TO BE TAKEN INTO ACCOUNT ONLY TO A SPECIFIED EXTENT

PART I

Descriptions of asset	Percentage of general business or long term business amount
1. A piece of land (not being land held as a security for a debt) or a number of pieces of such land to which in the most recent proper valuation of such pieces of land an aggregate value is ascribed which is greater than the aggregate of the value of each such piece of land valued separately.	5%
2. A debt (other than a listed debenture) due or to become due to the society from any person (not being an individual or a dependant of the society) which is fully secured on land or a number of such debts all of which are secured on the same land.	5%

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Descriptions of asset	Percentage of general business or long term business amount
<p>3. Debts (other than listed debentures, debts to which regulation 23(2), (3) or (4) above applies, debts of the descriptions specified in paragraph 2 above or paragraph 14 below) which are due or will become due to the society within 12 months of the relevant date (including debts which would become due within that period if the society were to exercise any right to which it is entitled to require payment or repayment of the same) from—</p> <p style="margin-left: 40px;">(a) any one company and any of its connected companies (not being a dependant of the society),</p> <p style="margin-left: 40px;">(b) (b) any one unincorporated body of persons not being monies due from the Crown or any public body.</p>	2 ½ %
<p>4. Debts (other than listed debentures, debts to which regulation 23(2) (3) or (4) above applies, and debts of the descriptions specified in paragraph 2 or 3 above or paragraph 14 below) which will become due to the society from—</p> <p style="margin-left: 40px;">(a) any one company and any of its connected companies (not being a dependant of the society),</p> <p style="margin-left: 40px;">(b) (b) any one unincorporated body of persons not being monies due from the Crown or any public body.</p>	1%
<p>5. Listed equity shares in any one company and any of its connected companies (not being a dependant of the society).</p>	2 ½ %
<p>6. Listed shares (including listed equity shares but only to the extent that such shares may be taken into account in accordance with paragraph 5 above) and listed debentures in any one company and any of its connected companies (not being a dependant of the society).</p>	5%
<p>7. Unlisted shares in any one company and any of its connected companies (not being a dependant of the society).</p>	1%
<p>8. Debenture options and share options (including traded options) in any one company and any of its connected companies (not being a dependant of the society).</p>	1/10 %
<p>9. Options of the description specified in paragraph 8 above and debts and shares of</p>	7 ½ %

Descriptions of asset	Percentage of general business or long term business amount
the descriptions specified in paragraphs 3, 4, 5, 6 and 7 above due or to become due from or held in any one company and any of its connected companies to the extent that such debts and shares and options may be taken into account in accordance with the provisions of those paragraphs.	
10. Debts due or to become due to the society from an individual (other than debts of the descriptions specified in regulation 23(2) above, or paragraph 3(b) or 4(b) above or paragraphs 11 and 14 below).	¼ %
11. Debts due or to become due to the society from an individual, being debts which are fully secured on any dwelling or any land appurtenant thereto owned or to be purchased by the individual and used or to be used by him for his own residence.	1%
12. Computer equipment.	5%
13. Office machinery (other than computer equipment), furniture, motor vehicles and other equipment.	2 ½ %

PART II

Description of asset	Percentage of general business or long term business net premium income
14. Amounts recorded in the society's books as due in respect of contributions or premiums which either—	30%
(a) have not been paid, or	
(b) have been received by an intermediary on behalf of the society, but have not been paid to the society by the intermediary,	
less any rebates, refunds and commission recorded in the society's books as allowable or payable in respect of any such amounts.	

PART III

- 15.** In this Schedule, a company is a connected company of another company if it is—
- (a) a subsidiary of that other company, or
 - (b) the holding company of that other company, or

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(c) a subsidiary of the holding company of that other company.

16. In this Schedule, references to “subsidiary” and “holding company” shall have the same meanings as they have for the purposes of the 1981 Regulations as defined in regulation 2 of those Regulations.

17. In this Schedule, a debt is fully secured on land if the amount that would be realised on the sale of that land at a price equal to the most recent proper valuation of that land would (after deducting the reasonable expenses of sale) be sufficient to enable that debt (and any other obligation secured on that land which has priority to or ranks equally with that debt) to be discharged in full.

SCHEDULE 6

Regulation 47

PERMITTED LINKS

PART I

DESCRIPTIONS OF PROPERTY BY REFERENCE TO WHICH BENEFITS MAY BE DETERMINED

1. Securities (other than traded options) listed on any recognised stock exchange specified in paragraph 16 of this Schedule.

2. Securities of a company in which dealings on the exchange are allowed by an exchange which is a recognised investment exchange within the meaning of the Financial Services Act 1986⁽²²⁾ or which are dealt in on a regulated market in another member State which operates regularly and is recognised and open to the public.

3. Securities traded on the over-the-counter market in the United States of America regulated by the National Association of Securities Dealers.

4. Securities of the following governments: the government of Canada or of any province of Canada, the government of the United States of America or of any state of the United States of America.

5. Land (including any interest in land) in Australia, Austria, Belgium, Canada, the Channel Islands, Denmark, the Federal Republic of Germany, Finland, France, Gibraltar, Greece, Hong Kong, Iceland, the Republic of Ireland, Italy, the Isle of Man, Liechtenstein, Luxembourg, the Netherlands, New Zealand, Norway, Portugal, the Republic of South Africa, Singapore, Spain, Sweden, Switzerland, the United Kingdom and the United States of America.

6. Loans—

- (a) which are fully secured by mortgage or charge on land (or any interest in land) which—
 - (i) is situated in any of the countries specified in paragraph 5 above, and
 - (ii) in the case of a loan made to a person other than a body corporate, is not used wholly or mainly for domestic purposes, and
- (b) of which the rate of interest and the due dates for the payment of interest and the repayment of principal can be fully ascertained from the terms of any agreement relating to the loan.

7. Units in an authorised unit trust scheme or a recognised scheme within the meaning of section 207(1) of the Financial Services Act 1986.

⁽²²⁾ 1986 c. 60.

8. Loans to, shares in, and deposits with a building society within the meaning of the Building Societies Act 1986⁽²³⁾ .

9. Loans to or deposits with Her Majesty’s Government in the United Kingdom or any public or local authority or nationalised industry or undertaking in the United Kingdom.

10. Loans to, deposits with (including certificates of deposits issued by), amounts standing to the credit of any account with and bills of exchange accepted by any of the following being, in any case, in the currency of any country,

the Bank of England;

the National Savings Bank;

an institution authorised or deemed to be authorised under the Banking Act 1987⁽²⁴⁾ or a European deposit–taker within the meaning of the Banking Coordination (Second Council Directive) Regulations 1992⁽²⁵⁾ ;

the European Atomic Energy Community;

the European Bank for Reconstruction and Development;

the European Economic Community;

the International Bank for Reconstruction and Development;

the International Finance Corporation;

the International Monetary Fund;

the Inter–American Development Bank;

the African Development Bank;

the Asian Development Bank;

the Caribbean Development Bank;

the European Investment Bank.

11. Income due or to become due in respect of property of any of the descriptions specified in the foregoing paragraphs of this Schedule.

12. Cash.

PART II

INDICES BY REFERENCE TO WHICH BENEFITS MAY BE DETERMINED

13. The Financial Times Industrial Ordinary Stock Index.

14. The Financial Times Actuaries Share Indices jointly compiled by the Financial Times, the Institute of Actuaries and the Faculty of Actuaries.

15. The Financial Times–Stock Exchange 100 Share Index.

PART III

16. In this Schedule “recognised stock exchange” means any of the following–

⁽²³⁾ 1986 c. 53.

⁽²⁴⁾ 1987 c. 22.

⁽²⁵⁾ S.I. 1992/3218.

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- (a) any stock exchange in any of the countries specified below which is a stock exchange within the meaning of the law of that country relating to stock exchanges—
Austria; Belgium; Brazil; Greece; Iceland; Republic of Ireland; Italy; Japan; Liechtenstein; Luxembourg; Mexico; Netherlands; New Zealand; Norway; Portugal; Spain; Sweden; Switzerland;
- (b) the Stock Exchange; the Copenhagen Stock Exchange; the Helsinki Stock Exchange; the Johannesburg Stock Exchange; the Kuala Lumpur Stock Exchange; the Singapore Stock Exchange;
- (c) any stock exchange in Australia which is a member of the Australian Associated Stock Exchanges, being a prescribed stock exchange within the meaning of Australian law relating to stock exchanges;
- (d) any stock exchange prescribed for the purposes of the Canadian Income Tax Act;
- (e) any stock exchange approved under the laws relating to stock exchanges in the Federal Republic of Germany;
- (f) any stock exchanges set up in France in accordance with the French legislation;
- (g) any stock exchange in Hong Kong which is recognised under the laws of Hong Kong;
- (h) any exchange registered with the Securities and Exchange Commission of the United States as a national securities exchange.

17. For the purposes of this Schedule the expression “traded option” does not include an option granted by the company to the securities of which the option relates, but otherwise means any traded option, whether within the meaning of regulation 19(1) above or not.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke—

- (a) the Friendly Societies (Insurance Business) Regulations 1993 (S.I. 1993/98) which applied to incorporated friendly societies, and
- (a) the Friendly Societies (Long Term Insurance Business) Regulations 1987 (S.I. 1987/2132) which applied to certain registered friendly societies carrying on long term business,

and re-enact those provisions with minor modifications so as to apply to both incorporated friendly societies and registered friendly societies which carry on insurance business. The Regulations come into force on 1st January 1994.

These Regulations implement the relevant provisions of (a) the First Life Directive (that is, Council Directive 79/267/EEC on the co-ordination of laws, regulations and administrative provisions relating to the taking up and pursuit of the business of direct life assurance (O.J. No. L63, 13.3.79, p.1)); (b) the First Non-Life Directive (that is, Council Directive 73/239/EEC on the co-ordination of laws, regulations and administrative provisions relating to the taking up and pursuit of the business of direct insurance other than life assurance (O.J. No. L228, 16.8.73, p.3)); and (c) the Second Non-Life Directive (that is, Council Directive 88/357/EEC on the co-ordination 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)).

The Regulations are divided into seven Parts: Part I contains the usual preliminary provisions as to citation and interpretation; Part II deals with margins of solvency; Part III deals with matching and localisation; Parts IV and V set out the rules to be applied in valuing assets and determining liabilities; Part VI makes special provision for linked long term contracts; and Part VII contains final provisions of a miscellaneous nature.

Part I is largely self-explanatory. Regulation 1 provides that the Regulations come into force on 1st January 1994.

In Part II, regulation 4 deals with the margins of solvency to be maintained by friendly societies. Regulation 4 is made under section 48 of the Friendly Societies Act 1992 (“the 1992 Act”), which provides for the amount of the margin to be prescribed by regulations. The margin for the various classes of long term business is to be determined in accordance with the detailed rules in Schedule 1. The margin for general business is the higher of the results given by the methods of calculation set out in Schedules 2 and 3 respectively. Regulation 5, which is made under section 49 of the 1992 Act, sets out the minimum level of the margin of solvency. Regulation 5 refers to that level as the “guarantee fund” which is defined as one-third of the required margin of solvency subject, in the case of a registered friendly society to which section 37(2) or (3) of the 1992 Act applies or an incorporated friendly society, to a minimum amount referred to as the “minimum guarantee fund”. The minimum guarantee fund is arrived at in accordance with regulation 6 with respect to long term business and regulation 7 for general business. The guarantee fund therefore cannot be quantified until the required margin of solvency has been calculated. If the margin of solvency falls below the guarantee fund, the Commission may request the society concerned to submit a short-term financial scheme to restore the position (section 49 of the 1992 Act). Regulation 5(3) limits the extent to which implicit items may be taken into account in the composition of the guarantee fund and minimum guarantee fund for long term business. Implicit items are future surpluses, zillmerising and hidden reserves, as provided in regulations 8—11 which are valuation regulations made under section 45 of the 1992 Act. The minimum guarantee fund is expressed as an amount in ECU. The term “ECU” is defined in section 119(2) of the 1992 Act which states that the exchange rates as between the ECU and pounds sterling to be applied for each year beginning on 31st December shall be the rates applicable on the last day of the preceding October for which exchange rates for the currencies of all the member States were published in the Official Journal of the Communities. Information on the appropriate exchange rate is available from the Friendly Societies Commission.

Regulations 12 to 18 in Part III are necessary to implement the above mentioned directives as regards matching and localisation. Matching means holding assets in a currency appropriate to the society’s liabilities, and localisation means holding those assets in the country appropriate to them. Regulations 12 to 18 apply only to friendly societies to which section 37(2) or (3) of the 1992 Act applies.

Parts IV and V are valuation regulations made under section 45 of the 1992 Act. They are essentially adaptations of Parts V and VI of the Insurance Companies Regulations 1981. Part IV is intended to ensure a satisfactory spread of assets by requiring that any asset, the valuation of which is not provided for in the Regulations, is to be left out of account altogether. Furthermore, assets of a description specified in Schedule 5 (other than the assets of a registered friendly society to which neither section 37(2) nor (3) of the 1992 Act applies) may be taken into account only within the limits specified in that Schedule. Regulations 21 and 22 make provision for valuation of shares in and debts due from dependants of societies. Dependants are defined as subsidiaries of, or bodies jointly controlled by, a friendly society within the meaning of section 13 of the 1992 Act. Consequently no registered friendly society is capable of having a dependant for the purposes of these Regulations. Part V contains, in regulation 38, provision for valuation of future premiums by the net premium method, subject to the exclusion of certain types of sickness insurance carried on by Holloway and other societies, to which the net premium method is not appropriate.

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In Part VI, regulation 47 makes provision for all long term linked contracts entered into by friendly societies (including those entered into prior to the coming into force of these Regulations) other than contracts expressly excluded by regulation 47(4) and is made under section 56 of the 1992 Act.

Part VII contains miscellaneous provisions. Regulation 48 (in conjunction with section 46(1)(a) of the 1992 Act) ensures that any society which carries on long term business and is–

- (a) an incorporated friendly society, or
- (b) a registered friendly society to which section 37(2) of the 1992 Act applies, is required to carry out an annual actuarial investigation into its financial condition. Regulation 49 prescribes the persons required to sign one copy of the abstract of the actuary's report for the purposes of section 46(3) of the 1992 Act. Regulation 50 contains a transitional measure designed to ensure that an authorised registered friendly society (other than a society to which section 37(2) or (3) of the 1992 Act applies) is not under a duty to maintain a solvency margin under section 48 of that Act until the "first investigation return date" which is defined in regulation 50(2).

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