Friendly Societies Act 1974

1974 CHAPTER 46

Accounts, audit and auditors

29 Books of account, etc.

(1) Every registered society and branch shall—

(a) cause to be kept proper books of account with respect to its transactions and its assets and liabilities, and

(b) establish and maintain a satisfactory system of control of its books of account, its cash holdings and all its receipts and remittances.

(2) For the purposes of subsection (1)(a) above, proper books of account shall not be taken to be kept with respect to the matters mentioned in that paragraph unless there are kept such books as are necessary to give a true and fair view of the state of the affairs of the society or branch and to explain its transactions.

(3) Any book of account to be kept by a registered society or branch may be kept either by making entries in bound books or by recording the matters in question in any other manner.

(4) Where any such book of account is not kept by making entries in a bound book but by some other means, the society or branch shall take adequate precautions for guarding against falsification and for facilitating its discovery.

Modifications etc. (not altering text)

C1 By Friendly Societies Act 1992 (c. 40), s. 95, **Sch. 16 para.12** (with ss. 7(5) and 93(4)); S.I. 1993/2213, art. 2, **Sch. 6** (1.1.1994) it is provided that ss. 29-45 shall cease to have effect in relation to registered friendly societies and registered branches of such societies.

30 General provisions as to accounts and balance sheets.

(1) Every revenue account of a registered society or branch shall give a true and fair view—

Status: *Point in time view as at 01/12/2001.*
Changes to legislation: *There are currently no known outstanding effects for the Friendly Societies Act 1974, Cross Heading: Accounts, audit and auditors. (See end of Document for details)*

(a) if it deals with the affairs of the society or branch as a whole, of the income and expenditure of the society or branch as a whole for the period to which the account relates; and

(b) if it deals with a particular business conducted by the society or branch, of the income and expenditure of the society or branch in respect of that business for the period to which the account relates.

(2) Every registered society or branch shall, in respect of each year of account, cause to be prepared either—

(a) a revenue account which deals with the affairs of the society or branch as a whole for that year; or

(b) two or more revenue accounts for that year which deal separately with the particular businesses conducted by the society or branch.

(3) In a case falling within subsection (2)(b) above, without prejudice to the application of subsection (1)(b) above to each revenue account dealing with a particular business conducted by a society or branch, the revenue accounts in question, when considered together, shall give a true and fair view of the income and expenditure of the society or branch as a whole for the year of account to which they relate.

(4) Subject to subsection (5) below, every balance sheet of a registered society or branch shall give a true and fair view, as at the date of the balance sheet, of the state of the affairs of the society or branch.

(5) Subsection (4) above does not apply in the case of—

[F1](a) . . . . . .

(b) a specially authorised society or branch which, by virtue of a direction in the authority for registering that society or branch, is required to carry out a valuation under section 41 below,

but every balance sheet of a society or branch falling within [F1]. . . paragraph (b) above shall give a true and fair view, as at the date of the balance sheet, of the assets and current liabilities of the society or branch and the resulting balances of its funds.

(6 [F2] . . . . . .

(7) Without prejudice to the provisions of subsection (6) above, a registered society or branch falling within paragraph (a) or paragraph (b) of subsection (5) above shall not publish any balance sheet which does not include a statement containing the same particulars as the statement required to be included in the annual return of that society or branch by section 43(5) below.

(8) If in relation to any revenue account, revenue accounts or balance sheet of a registered society or branch, a member of the committee thereof fails to take all reasonable steps to secure compliance—

(a) with subsection (1), subsection (4) or, as the case may require, subsection (5) above, or

(b) in a case falling within subsection (2)(b) above, with subsection (3) above,

he shall be liable on summary conviction to a fine not exceeding **[**[F3]level 5 on the standard scale**]**unless he proves that he had reasonable grounds to believe, and did believe, that a competent and reliable person was charged with the duty of seeing that the relevant provision was complied with and was in a position to discharge that duty.

Textual Amendments

F1 S. 30(5)(a) and words repealed (1.1.1994) by Friendly Societies Act 1992 (c. 40), s. 120(2), **Sch. 22 Pt. I** (with s. 7(5) and 93(4)); S.I. 1993/2213, art. 2, **Sch. 6** appendix.

F2 S. 30(6) repealed (1.9.1996) by S.I. 1996/1738 arts. 1, 11(2)

F3 Words substituted (E.W.S.) by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 38**, 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **ss. 289F**, 289G

Modifications etc. (not altering text)

C2 By Friendly Societies Act 1992 (c. 40), s. 95, **Sch. 16 para. 12** (with ss. 7(5) and 93(4)); S.I. 1993/2213, art. 2, **Sch. 6** (with art. 7) (1.1.1994) it is provided that ss. 29-45 shall cease to have effect in relation to registered friendly societies and registered branches of such societies.

[F4 30A Publication of accounts and balance sheets.

(1) A registered society or branch shall not publish any revenue account or balance sheet unless it has been signed by the secretary of the society or branch and by two members of its committee acting on the committee's behalf.

(2) Where at the end of a registered society's or branch's year of account no disapplication under section 32A(1) below is in force in relation to the year, the society or branch shall not publish a year end revenue account or balance sheet unless—

(a) it has been previously audited by the auditor or auditors last appointed to audit the accounts and balance sheet of the society or branch, and

(b) it incorporates a report by the auditor or auditors stating whether in their opinion it complies with subsection (1), (4) or, as the case may be, (5) of section 30 above.

(3) Where at the end of a registered society's or branch's year of account a disapplication under section 32A(1) below is in force in relation to the year and the society's or branch's turnover in the preceding year of account exceeded £90,000, the society or branch shall not publish a year end revenue account or balance sheet unless—

(a) it is one on which the society or branch has obtained from a person appointed under subsection (2) of section 39A below a report which meets the requirements of subsection (3) of that section, and

(b) it incorporates so much of the report as relates to it.

(4) Where at the beginning of a year of account (in this subsection referred to as "the current year of account" a registered society or branch is subject to subsection (2) above in relation to the publication of a year end revenue account or balance sheet for the preceding year of account, it shall not publish any interim revenue account or balance sheet for the current year of account—

(a) if a disapplication under section 32A(1) below is in force in relation to that year, unless it incorporates a report by an appropriate person stating whether in his opinion it complies with subsection (1), (3) or, as the case may be, (5) of section 30 above, and

(b) if no disapplication under section 32A(1) below is in force in relation to that year, unless paragraphs (a) and (b) of subsection (2) above are met in relation to it.

(5) Where at the beginning of a year of account (in this subsection referred to as "the current year of account") a registered society or branch is subject to subsection (3)

above in relation to the publication of a year end revenue account or balance sheet for the preceding year of account, it shall not publish any interim revenue account or balance sheet for the current year of account unless it incorporates a report by an appropriate person stating—

(a) whether, in his opinion, the revenue account, or, as the case may be, the balance sheet, is in agreement with the books of account kept by the society or branch under section 29 above, and

(b) whether, in his opinion, on the basis of the information contained in those books of account, the revenue account or, as the case may be, the balance sheet complies with the requirements of this Act.

(6) Where a registered society's or branch's year of account is one in relation to which a direction under section 39C below has effect, the society or branch shall not publish any year end or interim revenue account or balance sheet, unless it incorporates a report by the auditor or auditors appointed in pursuance of the direction stating whether in their opinion it complies with subsection (1), (3) or, as the case may be, (5) of section 30 above.

(7) Subsection (3) above shall cease to apply in relation to a year of account if a direction under section 39C below is made in relation to it.

(8) Section 39B below shall apply in relation to a person appointed for the purposes of subsection (4) or (5) above as it applies in relation to a person appointed under section 39A(2) below.

(9) In subsection (4) above, references to a disapplication under section 32A(1) below being in force in relation to a year of account shall, where the year of account has ended, be construed as references to a disapplication under that provision being in force at the end of the year.

(10) Subject to subsection (11) below, in subsections (4) and (5) above, references to an appropriate person are to a person who is—

(a) a qualified auditor for the purposes of this Act, and

(b) not ineligible by virtue of section 37(1) below to be appointed as auditor of the society or branch.

(11) In relation to the application of subsection (4) above to a registered society or branch which—

(a) was an exempt society or an exempt branch in respect of the preceding year of account, and

(b) appointed persons who were not qualified auditors to audit its accounts and balance sheet for that year,

subsection (10) above shall, if the year is not one in relation to which the **[**[F5]Authority**]** has given a direction under section 32(2) below, have effect with the omission of paragraph (a).

(12) In this section—

"interim balance sheet", in relation to a year of account, means a balance sheet relating to the position at a time in the year other than the end;

"interim revenue account", in relation to a year of account, means a revenue account for any period falling within the year of account, other than one ending at the end of the year;

"turnover" has the same meaning as in section 32A below;

"year end balance sheet", in relation to a year of account, means a balance sheet relating to the position at the end of the year; and

"year end revenue account", in relation to a year of account, means a revenue account for the year or for any period falling within the year of account and ending at the end of the year.**]**

Textual Amendments

F4 S. 30A inserted (1.9.1996) by S.I. 1996/1738 arts. 1, 11(3)

F5 Word in s. 30A(11) substituted (17.8.2001 for certain purposes and otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 13(1), **Sch. 3 Pt. I para. 10** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**

31 Obligation to appoint auditors.

(1) Subject to the following provisions of this section **[**[F6]and section 32A(1) below**]**, every registered society and branch shall, in each year of account, appoint a qualified auditor or qualified auditors to audit its accounts and balance sheet for that year.

(2) Subsection (1) above shall not apply to a society or branch [F7]. . . if—

(a) the receipts and payments of that society or branch in respect of the preceding year of account did not, in the aggregate, exceed £5,000; and

(b) the number of its members at the end of that year did not exceed 500; and

(c) the value of its assets at the end of that year did not, in the aggregate, exceed £5,000.

(3) Without prejudice to subsection (2) above, subsection (1) above shall not apply to a registered branch if—

(a) the conditions specified in paragraphs (a) and (b) of subsection (2) above are satisfied in respect of that branch; and

(b) at the end of the preceding year of account at least 75% of its assets had been transferred to the society of which it is a branch or to another registered branch of that society for the purpose of being invested, in accordance with section 46(2) below, by that society or other branch, and the value of its assets not so transferred did not, in the aggregate, exceed £5,000; and

(c) the society or branch to which the assets were transferred is one to which subsection (1) above applies in the year of account in question.

(4) A registered society or branch to which, by virtue of subsection (2) or subsection (3) above, subsection (1) above does not apply in respect of any year of account is in this Act referred to as an exempt society or, as the case may be, an exempt branch, in respect of that year of account.

(5) Regulations made by the **[**[F8]Treasury**]**, may—

(a) substitute for any sum or number for the time being specified in subsection (2) above, or for any sum or percentage for the time being specified in subsection (3) above, such sum, number or percentage as may be specified in the regulations; and

(b) prescribe what receipts and payments of a society shall be taken into account for the purposes of those subsections;

and any such regulations may make different provision in relation to different cases or different circumstances.

Textual Amendments

F6 Words in S. 31(1) inserted (1.9.1996) by S.I. 1996/1738 arts. 1, 11(4)

F7 Words in s. 31(2) repealed (17.8.2001 for certain purposes and otherwise 1.12.2001) by S.I. 2001/2617, arts. 2(b), 8, 13(1)(2), Sch. 3 Pt. I para. 11(a), **Sch. 4** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**

F8 Word in s. 31(5) substituted (17.8.2001 for certain purposes and otherwise 1.12.2001) by S.I. 2001/2617, arts. 2(b), 13(1), **Sch. 3 Pt. I para. 11(b)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**

Modifications etc. (not altering text)

C3 By Friendly Societies Act 1992 (c. 40), s. 95, **Sch. 16 para. 12** (with ss. 7(5) and 93(4)); S.I. 1993/2213, art. 2, **Sch. 6** (1.1.1994) it is provided that ss. 29-45 shall cease to have effect in relation to registered friendly societies and registered branches of such societies.

C4 S. 31(5): functions transferred to the Treasury (1.12.2001) by S.I. 2001/2617, arts. 2(b), 4(1), **Sch. 1 Pt. I** (with art. 5); S.I. 2001/3538, **art. 2(1)**

32 Audit of exempt societies and branches.

(1) Subject to any direction given by the **[**[F9]Authority**]** under subsection (2) below, every registered society or branch which is an exempt society or an exempt branch in respect of the current year of account shall in that year appoint at its option either—

(a) a qualified auditor or qualified auditors, or

(b) two or more persons who are not qualified auditors,

to audit its accounts and balance sheet for that year.

(2) The **[**[F9]Authority**]** may give a direction in the case of any particular society or branch which is an exempt society or branch in respect of the current year of account requiring it to appoint a qualified auditor to audit its accounts and balance sheet for that year.

(3) The **[**[F9]Authority**]** may give a direction in the case of any particular society or branch which was an exempt society or branch in respect of any year of account before that in which the direction is given and did not appoint a qualified auditor or qualified auditors to audit its accounts and balance sheet for that year—

(a) requiring it to appoint a qualified auditor to audit those accounts and that balance sheet, and

(b) in a case where that society or branch has sent to **[**[F10]the Authority**]** its annual return for that year before the date of the direction, requiring it, after its accounts and balance sheet have been audited by a qualified auditor, to send to **[**[F10]the Authority**]** within three months from receipt of the direction a further annual return complying with the requirements of this Act (other than the requirement as to the time at which the annual return must be sent).

(4) A failure by a registered society or branch to comply with any direction given by the **[**[F9]Authority**]** under this section shall be an offence under this Act.

Textual Amendments

F9 Words in s. 32(1)-(4) substituted (17.8.2001 for certain purposes and otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 13(1), **Sch. 3 Pt. I para. 12(a)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**

F10 Words in s. 32(3)(b) substituted (17.8.2001 for certain purposes and otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 13(1), **Sch. 3 Pt. I para. 12(b)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**

Modifications etc. (not altering text)

C5 By Friendly Societies Act 1992 (c. 40), s. 95, **Sch. 16 para. 12** (with ss. 7(5) and 93(4)); S.I. 1993/2213, art. 2, **Sch. 6** (1.1.1994) it is provided that ss. 29-45 shall cease to have effect in relation to registered friendly societies and registered branches of such societies.

[F11 32A Power of societies to disapply section 31.

(1) Subject to subsections (3) and (4) below, a registered society or branch may disapply section 31 above in relation to a year of account beginning on or after the day on which the Deregulation (Industrial and Provident Societies) Order 1996 comes into force if—

(a) the value of its assets at the end of the preceding year of account did not in the aggregate exceed £1,400,000, and

(b) its turnover for that year did not exceed £350,000.

(2) The power conferred by subsection (1) above shall be exercisable by resolution passed at a general meeting of the society or branch at which—

(a) less than 20 per cent. of the total votes cast are cast against the resolution, and

(b) less than 10 per cent. of the members of the society or branch for the time being entitled under the body's rules to vote cast their votes against the resolution.

(3) Subsection (1) above shall not apply to a society or branch which holds, or has, at any time since the end of the preceding year of account, held, a deposit F12. . ..

F13(3A) **[** In subsection (3) the reference to a deposit must be read with—

(a) section 22 of the Financial Services and Markets Act 2000;

(b) any relevant order under that section;

(c) Schedule 2 to that Act.**]**

(4) The **[**F14Authority**]** may by notice to a society or branch disapply subsection (1) above in relation to the year of account of the society or branch in which the notice is given.

(5) Where a society or branch exercises the power conferred by subsection (1) above, the disapplication shall cease to have effect if at any time before the end of the year of account to which it relates—

(a) the society or branch becomes one to which subsection (3) above applies, or

(b) the **[**F14Authority**]** gives to the society or branch notice under subsection (4) above.

(6) In the case of a society or branch which is a charity within the meaning of the Charities Act 1993, a recognised body as defined by section 1(7) of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 or a charity within the meaning of the Charities Act (Northern Ireland) 1964 F15 subsection (1) above shall have effect with the substitution for paragraph (b) of—

"(b) its gross income for that year did not exceed £250,000."

(7) For a period which is a society's or branch's year of account, but not in fact a year, the maximum figure in subsection (1)(b) above (including that provision as it has effect by virtue of subsection(6) above) shall be proportionately adjusted.

(8) In this section, "turnover", in relation to a society or branch, means the amounts derived from the provision of goods and services falling within the society's or branch's activities, after deduction of—

(a) trade discounts,

(b) value added tax, and

(c) any other taxes based on the amounts so derived.**]**

Textual Amendments

F11 S. 32A inserted (1.9.1996) by S.I. 1996/1738 arts. 1, 10(1)

F12 Words in s. 32A(3) repealed (1.12.2001) by S.I. 2001/3649, **art. 186(2)**

F13 S. 32A(3A) inserted (1.12.2001) by S.I. 2001/3649, **art. 186(3)**

F14 Words in s. 32A(4)(5)(b) substituted (17.8.2001 for certain purposes and otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 8, 13(1), **Sch. 3 Pt. I para. 13** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**

F15 1964 c. 33 (N.I.).

33 Re-appointment and removal of auditors.

(1) A qualified auditor appointed to audit the accounts and balance sheet of a registered society or branch for the preceding year of account shall be reappointed as auditor of the society for the current year of account unless—

(a) a resolution has been passed at a general meeting of the society or branch appointing somebody instead of him or providing expressly that he shall not be reappointed; or **[**[F16]or disapplying section 31 above in relation to the current year of account**]**

(b) he has given to the society or branch notice in writing of his unwillingness to be reappointed; or

(c) he is ineligible for appointment as auditor of the society or branch for the current year of account; or

(d) he has ceased to act as auditor of the society or branch by reason of death or incapacity.

(2) Where notice is given of an intended resolution to appoint at a general meeting some person or persons in place of a retiring auditor and the resolution cannot be proceeded with at the meeting because of the death or incapacity of that person or persons, or because he or they are ineligible for appointment as auditor or auditors of the society or branch for the current year of account (as the case may be), the retiring auditor shall not be automatically reappointed by virtue of subsection (1) above.

(3) For the purposes of this section, a person is ineligible for appointment as auditor of a registered society or branch for the current year of account if, but only if,—

(a) his appointment in relation to the society or branch is prohibited by section 37 below, or

(b) (in the case of a society or branch which is not an exempt society or branch in respect of that year of account) he is not a qualified auditor at the time when the question of his appointment falls to be considered.

Textual Amendments

F16 Words in S. 33(1)(a) inserted (1.9.1996) by S.I. 1996/1738 arts. 1, 11(5)

Modifications etc. (not altering text)

C6 By Friendly Societies Act 1992 (c. 40), s. 95, **Sch. 16 para. 12** (with ss. 7(5) and 93(4)); S.I. 1993/2213, art. 2, **Sch. 6** (1.1.1994) it is provided that ss. 29-45 shall cease to have effect in relation to registered friendly societies and registered branches of such societies.

34 Notice of resolutions relating to appointment and removal of auditors.

(1) A resolution at a general meeting of a registered society or branch—

(a) appointing another person as auditor in place of a retiring qualified auditor, or

(b) providing expressly that a retiring qualified auditor shall not be reappointed,

shall not be effective unless notice of the intention to move the resolution has been given to the society or branch not less than twenty-eight days before the meeting at which it is moved.

(2) Where notice of the intention to move any such resolution has been given under subsection (1) above to a society or branch which is required by its rules to give notice to its members of the meeting at which the resolution is to be moved, the society or branch shall, if it is practical to do so, give them notice of the resolution at the same time and in the same manner as it gives notice of the meeting.

(3) Where notice of the intention to move any such resolution has been given to a registered society or branch under subsection (1) above, and that society or branch does not give notice of the resolution under subsection (2) above, it shall give notice of the resolution to its members not less than fourteen days before the meeting at which the resolution is to be moved either by advertisement in a newspaper having an appropriate circulation or in any other way allowed by the rules of the society or branch.

(4) Where—

(a) for any of the reasons mentioned in section 33(2) above, an intended resolution to appoint some person or persons in place of a retiring qualified auditor cannot be proceeded with at the meeting, and

(b) by the rules of the registered society or branch an auditor can only be appointed by a resolution passed at a general meeting after notice of the intended resolution has been given to the society or branch before the meeting;

a resolution passed at that meeting reappointing the retiring auditor or appointing an auditor in place of the retiring auditor shall be effective notwithstanding that no notice of that resolution has been given to the society or branch under its rules.

(5) Any provision in this section which requires notice to be given to the members of a society or branch shall be construed, in the case of a meeting of delegates appointed by members, as requiring the notice to be given to the delegates so appointed.

Modifications etc. (not altering text)

C7 By Friendly Societies Act 1992 (c. 40), s. 95, **Sch. 16 para.12** (with ss. 7(5) and 93(4)); S.I. 1993/2213, **art. 2 Sch. 6** (1.1.1994) it is provided that ss. 29-45 shall cease to have effect in relation to registered friendly societies and registered branches of such societies.

35 Proceedings subsequent to receipt of notice under s. 34.

(1) On receipt by a registered society or branch of notice given under section 34(1) above, the society or branch shall forthwith send a copy of the notice to the retiring auditor.

(2) On receipt of a copy of such a notice, the retiring auditor may at any time before the date of the general meeting make representations in writing to the society or branch (not exceeding a reasonable length) with respect to the intended resolution, and, without prejudice to the preceding provision, the retiring auditor may—

(a) notify the society or branch that he intends to make such representations; and

(b) request that notice of his intention, or of any such representations made by him and received by the society or branch before notice of the intended resolution is given to its members, shall be given to members of the society or branch.

(3) Subject to subsection (4) below, a society or branch which receives representations or a notification of intended representations under subsection (2) above before the date when notice of the intended resolution is required by subsection (2) or (as the case may be) subsection (3) of section 34 above to be given to its members shall—

(a) in any notice of the resolution given to its members, state that it has received those representations or that notification (as the case may be),

(b) in any such notice, state that any member may receive on demand made before the date of the general meeting a copy of any representations which have been or may be received by the society or branch before that date, and

(c) send a copy of any representations received by the society or branch before the date of the meeting to any member on demand made before that date;

but without prejudice either to the preceding provisions of this subsection or to his right to be heard orally, the retiring auditor may also require that any representations made by him before the date of the general meeting shall be read out at the meeting.

(4) Copies of any such representations need not be sent out, and the representations need not be read out at the meeting, if, on the application either of the society or branch or of any other person, the High Court is satisfied that the rights conferred by this section are being abused to secure needless publicity for defamatory matter; and the court may order the costs of the society or branch on an application under this section to be paid, in whole or in part, by the auditor, notwithstanding that he is not a party to the application.

(5) In the application of subsection (4) above to a society or branch **[**[F17]whose registered office is situated in**]** Scotland, for the reference to the High Court there shall be substituted a reference to the Court of Session and for the reference to costs there shall be substituted a reference to expenses.

[[F18](5A) In the application of subsection (4) above to a society whose registered office is in Northern Ireland, the reference to the High Court shall be construed as a reference to the High Court in Northern Ireland.**]**

(6) Any provision in this section which requires notice to be given to the members of a society or branch or confers any right upon a member (as the case may be) shall be construed, in the case of a meeting of delegates appointed by members, as requiring a notice to be given to the delegates so appointed or as conferring the right upon a delegate (as the case may be).

Textual Amendments

F17 Words in s. 35(5) substituted (17.8.2001 for certain purposes and otherwise 1.12.2001) by S.I. 2001/2617, arts. 2(b), 13(1), **Sch. 3 Pt. I para. 13** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**

F18 S. 35(5A) inserted (1.1.1994) by Friendly Societies Act 1992 (c. 40), s. 95, **Sch. 16 para. 13** (with ss. 7(5) and 93(4)); S.I. 1993/3226, art. 2, **Sch. 2**.

Modifications etc. (not altering text)

C8 By Friendly Societies Act 1992 (c. 40), s. 95, **Sch. 16 para. 12** (with ss. 7(5) and 93(4)); S.I. 1993/2213, art. 2, **Sch. 6** (1.1.1994) it is provided that ss. 29-45 shall cease to have effect in relation to registered friendly societies and registered branches of such societies.

36 Qualified auditors.

(1) Subject to subsection (2) below, no person shall be a qualified auditor for the purposes of this Act unless **[**[F19]he is eligible for appointment as a company auditor under section 25 of the Companies Act 1989.**]**

[F20](2) . . . . . .

[F20](3) . . . . . .

Textual Amendments

F19 Words in s. 36(1) substituted (E.W.S) by S.I. 1991/1997, reg. 2, **Sch. para. 24(2)** (with reg. 4).

F20 S. 36(2)(3) repealed (17.8.2001 for certain purposes, otherwise 1.12.2001) by S.I. 2001/2617, arts. 2(b), 8, 13(1)(2), Sch. 3 Pt. I para. 15, **Sch. 4** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**

Modifications etc. (not altering text)

C9 By Friendly Societies Act 1992 (c. 40), s. 95, **Sch. 16 para. 12** (with ss. 7(5) and 93(4)); S.I. 1993/2213, art. 2, **Sch. 6** (1.1.1994) it is provided that ss. 29-45 shall cease to have effect in relation to registered friendly societies and registered branches of such societies.

37 Restrictions on appointment of auditors.

(1) None of the following persons may be appointed as auditor of a registered society or branch, that is to say,—

(a) an officer or servant of the society or branch; or

(b) a person who is a partner of, or in the employment of, or who employs, an officer or servant of the society or branch; or

[F21](c) . . . . . .

[F21](2) . . . . . .

(3) Any appointment made by a registered society or branch in contravention of this section shall not be an effective appointment for the purposes of this Act.

(4) References in subsection (1) above to an officer or servant shall be construed as not including an auditor.

Extent Information

E1 S. 37 extends to the Isle of Man and the Channel Islands but does not extend to Northern Ireland.

Textual Amendments

F21 S. 37(1)(c)(2) omitted (E.W.S.) by virtue of S.I. 1991/1997, reg. 2, **Sch. para. 24(3)** (with reg. 4).

Modifications etc. (not altering text)

C10 By Friendly Societies Act 1992 (c. 40), s. 95, **Sch. 16 para.12** (with ss. 7(5) and 93(4)); S.I. 1993/2213, art. 2, **Sch. 6** (1.1.1994) it is provided that ss. 29-45 shall cease to have effect in relation to registered friendly societies and registered branches of such societies.

38 Auditors' report.

(1) The auditors of a registered society or branch shall make a report to the society or branch on the accounts examined by them and on the revenue account or accounts and the balance sheet of the society or branch for the year of account in respect of which they are appointed.

(2) The report shall state whether the revenue account or accounts and the balance sheet for that year comply with the requirements of this Act and whether, in the opinion of the auditors—

(a) the revenue account or accounts give a true and fair view, in accordance with section 30 above, of the income and expenditure of the society or branch as a whole for that year of account and, in the case of each such account which deals with a particular business conducted by the society or branch, a true and fair view in accordance with that section of the income and expenditure of the society or branch in respect of that business for that year; and

(b) the balance sheet gives a true and fair view, in accordance with that section, either of the state of the affairs of the society or branch or of the assets and current liabilities of the society or branch and the resulting balances of its funds (as the case may require) as at the end of that year of account.

(3) Without prejudice to the provisions of subsection (2) above, where the report of the auditors relates to any accounts other than the revenue account or accounts for the year of account in respect of which they are appointed, that report shall state whether those accounts give a true and fair view of any matter to which they relate.

(4) It shall be the duty of the auditors of a registered society or branch, in preparing their report under this section, to carry out such investigations as will enable them to form an opinion as to the following matters, that is to say,—

(a) whether the society or branch has kept proper books of account in accordance with the requirements of section 29(1)(a) above; and

(b) whether the society or branch has maintained a satisfactory system of control over its transactions in accordance with the requirements of section 29(1)(b) above; and

(c) whether the revenue account or accounts, the other accounts (if any) to which the report relates, and the balance sheet are in agreement with the books of account of the society or branch;

and if the auditors are of opinion that the society or branch has failed to comply with paragraph (a) or paragraph (b) of section 29(1) above, or if the revenue account or accounts, the other accounts (if any) and the balance sheet are not in agreement with the books of account of the society or branch, the auditors shall state that fact in their report.

(5) If the auditors fail to obtain all the information and explanations which, to the best of their knowledge and belief, are necessary for the purposes of their audit, they shall state that fact in their report.

Modifications etc. (not altering text)

C11 By Friendly Societies Act 1992 (c. 40), s. 95, **Sch. 16 para.12** (with ss. 7(5) and 93(4)); S.I. 1993/2213, art. 2, **Sch. 6** (with art. 8) (1.1.1994) it is provided that ss. 29-45 shall cease to have effect in relation to registered friendly societies and registered branches of such societies.

39 Auditors' right of access to books and to attend and be heard at meetings.

(1) Every auditor of a registered society or branch—

(a) shall have a right of access at all times to the books, deeds and accounts of the society or branch and to all other documents relating to its affairs; and

(b) shall be entitled to require from the officers of the society or branch such information and explanations as he thinks necessary for the performance of the duties of the auditors.

(2) The auditors of a registered society or branch shall be entitled—

(a) to attend any general meeting of the society or branch, and to receive all notices of, and other communications relating to, any general meeting which any member of the society or branch is entitled to receive; and

(b) to be heard at any meeting which they attend on any part of the business of the meeting which concerns them as auditors.

Modifications etc. (not altering text)

C12 By Friendly Societies Act 1992 (c. 40), s. 95, **Sch. 16 para.12** (with ss. 7(5) and 93(4)); S.I. 1993/2213, art. 2, **Sch. 6** (1.1.1994) it is provided that ss. 29-45 shall cease to have effect in relation to registered friendly societies and registered branches of such societies.

[F22 39A Duty to obtain accountant's report where section 31 disapplied.

(1) Subsection (2) below applies where—

(a) at the end of a registered society's or branch's year of account a disapplication under section 32A(1) above is in force in relation to the year, and

(b) the society's or branch's turnover in the preceding year of account exceeded £90,000.

(2) The society or branch shall, before the end of the period of 28 days beginning immediately after the end of the year of account, appoint an appropriate person to make—

(a) a report on its accounts and balance sheet for the year which meets the requirements of subsection (3) below, and

(b) a report relating to the preceding year of account which meets the requirement of subsection (4) below.

(3) A report for the purposes of subsection (2)(a) above shall—

(a) state whether, in the opinion of the person making the report, the revenue account or accounts, the other accounts (if any) to which the report relates, and the balance sheet are in agreement with the books of account kept by the society or branch under section 29 above, and

(b) state whether, in that person's opinion, on the basis of the information contained in those books of account, the revenue account or accounts and the balance sheet comply with the requirements of this Act.

(4) A report for the purposes of subsection (2)(b) above shall state whether in the opinion of the person making the report the financial criteria for the exercise of the power conferred by section 32A(1) above were met in relation to the year.

(5) In subsection (2) above, the reference to an appropriate person is to a person who is—

(a) a qualified auditor for the purposes of this Act, and

(b) not ineligible by virtue of section 37(1) above to be appointed as auditor of the society or branch.

(6) In this section, "turnover" has the same meaning as in section 32A above.**]**

Textual Amendments

F22 Ss. 39A-39C inserted (1.9.1996) by S.I. 1996/1738 arts. 1, 10(2)

39B Rights of person appointed under section 39A(2).

[F23](1) A person appointed under section 39A(2) above shall, for the purposes of his appointment—

(a) have a right of access at all times to the books, deeds and accounts of the relevant society or branch, and to all other documents relating to its affairs, and

(b) be entitled to require from the officers of the relevant society or branch such information and explanations as that person thinks necessary.

(2) If a person appointed under section 39A(2) above fails to obtain all the information and explanations which, to the best of that person's knowledge and belief, are necessary for purposes of doing what he has been appointed to do, that fact shall be stated in his report.

(3) A person appointed under section 39A(2) above shall be entitled—

(a) to receive notice of, and attend, any general meeting of the relevant society or branch at which any relevant matter is discussed, and

(b) to be heard at any such general meeting which he attends on any part of the business of the meeting which relates to any relevant matter.

(4) For the purposes of subsection (3) above, the following are relevant matters, namely—

(a) any report of the person appointed under subsection (2) of section 39A above, and

(b) any matter which is relevant to what that person has been appointed under that subsection to do.

(5) In this section, references to the relevant society or branch, in relation to a person appointed under section 39A(2) above, are to the society or branch responsible for his appointment under that provision.

Textual Amendments

F23 Ss. 39A-39C inserted (1.9.1996) by S.I. 1996/1738 arts. 1, 10(2)

39C [F24Authority's]power to require accounts of past years to be audited.

F25(1) The **[**F26Authority**]** may give a direction to a registered society or branch in respect of any relevant year of account of the society or branch before the year of account in which the direction is given—

(a) requiring it to appoint a qualified auditor or qualified auditors to audit its accounts and balance sheet for that year, and

(b) where it has sent to **[**F26theAuthority**]**its annual return for that year before the date of the direction, requiring it, after its accounts and balance sheet have been audited by a qualified auditor, to send **[**F26the Authority**]**within three months from receipt of the direction a further annual return complying with the requirements of this Act (other than that as to time of sending).

(2) A failure by a registered society or branch to comply with any direction given by the **[**F26Authority**]** under subsection (1) above shall be an offence under this Act.

(3) For the purposes of subsection (1) above, a year of account of a registered society or branch is relevant year of account if it is one at the end of which there is in force in relation to it a disapplication under section 32A(1) above.

Textual Amendments

F24 Word in s. 39C side-note substituted (17.8.2001 for certain purposes and otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 13(1), **Sch. 3 Pt. I para. 16(a)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**

F25 Ss. 39A-39C inserted (1.9.1996) by S.I. 1996/1738 arts. 1, 10(2)

F26 Words in s. 39C(1)(2) substituted (17.8.2001 for certain purposes and otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 13(1), **Sch. 3 Pt. I para. 16(b)(c)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**

40 Remuneration of qualified auditors.

(1) Regulations made by the F27. . . Treasury under section 10 of the M1Friendly and Industrial and Provident Societies Act 1968 may prescribe the maximum rates of remuneration to be paid by registered societies and branches for the audit of their accounts and balance sheets by qualified auditors **[**F28or for the making of a report for the purposes of section 30A(4)(a) or (5) or 39A(2)(a) or (b) above**]**.

(2) No auditor **[**[F29]or reporting accountant**]** of a registered society or branch shall ask for, receive, or be entitled to receive, remuneration in excess of the rate prescribed in respect of his services by regulations made by virtue of this section.

[[F30](3) For the purposes of regulations made by virtue of this section, section 10 of the Friendly and Industrial and Provident Societies Act 1968 shall be taken to extend to Northern Ireland.**]**

[[F31](4) In this section, "reporting accountant" means a person appointed to make a report for the purposes of section 30A(4)(a) or (5) or 39A(2)(a) or (b) above**]**

Textual Amendments

F27 Words in s. 40(1) repealed (17.8.2001 for certain purposes, otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 8, 13(1)(2), Sch. 3 Pt. I para. 17, **Sch. 4** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**

F28 Words in s. 40(1) inserted (1.9.1996) by S.I. 1996/1738 art. 11(6)

F29 Words in s. 40(2) inserted (1.9.1996) by S.I. 1996/1738, **art. 11(7)**

F30 S. 40(3) added (1.1.1994) by Friendly Societies Act 1992 (c. 40), s. 95, **Sch. 16 para. 14** (with ss. 7(5) and 93(4)); S.I. 1993/3226, art. 2, **Sch. 2**.

F31 S. 40(4) inserted (1.9.1996) by S.I. 1996/1738 art. 11(8)

Modifications etc. (not altering text)

C13 By Friendly Societies Act 1992 (c. 40), s. 95, **Sch. 16 para. 12** (with ss. 7(5) and 93(4)); S.I. 1993/2213, art. 2, **Sch. 6** (1.1.1994) it is provided that ss. 29-45 shall cease to have effect in relation to registered friendly societies and registered branches of such societies.

C14 S. 40(1): functions transferred to the Treasury (1.12.2001) by S.I. 2001/2617, arts. 2(b), 4(1), **Sch. 1 Pt. I** (with art. 5); S.I. 2001/3538, **art. 2(1)**

Marginal Citations

M1 1968 c. 55.

Status:
Point in time view as at 01/12/2001.

Changes to legislation:
There are currently no known outstanding effects for the Friendly Societies Act 1974, Cross Heading: Accounts, audit and auditors.