



# Friendly Societies Act 1974

## 1974 CHAPTER 46

### *Cancellation and suspension of registration and dissolution*

#### **91 Cancellation and suspension of registration**

- (1) Subject to the following provisions of this section, the Chief Registrar or, in the case of a society registered and doing business exclusively in Scotland, the assistant registrar for Scotland may, by writing under his hand, cancel the registration of a society in the following cases, namely,—
  - (a) if he thinks fit, at the request of the society evidenced in such manner as he may direct;
  - (b) on proof to his satisfaction that an acknowledgement of registration has been obtained by fraud or mistake;
  - (c) on proof to his satisfaction that the society exists for an unlawful purpose or has wilfully and after notice from the Chief or any assistant registrar violated any of the provisions of this Act, or has ceased to exist.
- (2) Subject to the following provisions of this section, in any case falling within paragraph (b) or paragraph (c) of subsection (1) above in which the Chief Registrar or the assistant registrar for Scotland might cancel the registration of a society, he may, by writing under his hand,—
  - (a) suspend the registration of the society for a term not exceeding three months ;  
and
  - (b) from time to time renew any such suspension for the like period.
- (3) Subject to subsection (4) below, not less than two months' previous notice in writing specifying briefly the ground of the proposed cancellation or suspension shall be given to a society by the Chief or assistant registrar before its registration is cancelled or suspended.
- (4) Subsection (3) above shall not apply where the registration of a society is cancelled at its own request or under section 82(5), section 84(3) or section 85(4) above; and if before the expiry of the period of notice under subsection (3) above a society duly lodges an appeal under section 92 below, the society's registration shall not be cancelled before the date of determination or abandonment of the appeal.

- (5) Where before the expiry of the period of notice under subsection (3) above of the proposed cancellation of a society's registration the society duly lodges an appeal against the proposed cancellation under section 92 below, the Chief or assistant registrar, as the case may require, may by writing under his hand suspend the society's registration from the expiry of that period until the date of the determination or abandonment of the appeal.
- (6) Where the registration of a society has been cancelled or suspended, notice shall forthwith be published in the Gazette and in some newspaper in general circulation in the neighbourhood of the society's registered office.
- (7) Where the registration of a society has been cancelled under subsection (1) above or suspended under subsection (2) or subsection (5) above, then, as the case may require,
- (a) from the time of the cancellation, or
  - (b) from the time of the suspension until the period of that suspension and any renewal of it under subsection (2)(b) above ends (whether on the expiry of that period or on a successful appeal under section 92 below against such a renewal),

the society shall not be entitled to any of the privileges of this Act as a registered society, but without prejudice to any liability actually incurred by the society (which liability may be enforced against it as if the cancellation or suspension had not taken place).

## **92 Appeals against cancellation and suspension of registration**

- (1) A society may appeal, in accordance with subsection (2) below, against—
- (a) the cancellation of its registration (other than as mentioned in section 91(4) above) if the appeal is lodged before the expiry of the period of notice of the proposed cancellation given under subsection (3) of section 91 above; or
  - (b) the renewal under subsection (2)(b) of that section of a suspension of a society's registration, so far as that renewal provides for the suspension to continue more than six months from the original date of suspension.
- (2) An appeal under this section shall lie—
- (a) from a decision of the assistant registrar for Scotland, to the Chief Registrar and, if the Chief Registrar confirms the decision, to the Court of Session;
  - (b) from a decision of the Chief Registrar otherwise than under paragraph (a) above, to the High Court.

## **93 Dissolution of societies and branches**

- (1) Subject to the following provisions of this section, a registered society or branch may terminate or be dissolved in any of the following ways, namely—
- (a) upon the happening of any event declared by the rules to be the termination of the society or branch; or
  - (b) by the consent of three-quarters of the members of the society or branch testified by their signatures to the instrument of dissolution and, in the case of a branch of a friendly society, with the consent of the central body of the society or in accordance with the society's general rules; or
  - (c) by the award of the Chief Registrar under section 95(3) below.

- (2) A society which has branches shall not be dissolved except with the consent of the central body of the society.
- (3) If any member of a registered friendly society or branch in respect of which an instrument of dissolution has been registered in accordance with section 94 below, or if any person claiming any relief, annuity or other benefit from the funds of such a society or branch is dissatisfied with the provision made for satisfying his claim, he may within the period of three months referred to in subsection (7) of that section make an application to the county court for the district, or in Scotland to the sheriff of the sheriffdom, within which the chief or any other place of business of that society or branch is situated, and on any such application the county court or sheriff shall have the same powers in the matter as in regard to the settlement of disputes under this Act.
- (4) If, in the event of a dissolution of a registered friendly society or branch, any approved annuity, as defined in section 226(13) of the Income and Corporation Taxes Act 1970, ceases: to be paid or any contract for the payment of such an annuity fails in whole or in part, no payment shall be made in respect thereof out of the funds of the society or branch to the annuitant or other person entitled to the benefit of the contract, but any sum which, but for this provision, would have been paid to him shall be applied in purchasing for the benefit of the annuitant an annuity (for the like term and subject to the like conditions against surrender, commutation or assignment) from a person lawfully carrying on in the United Kingdom a business of granting annuities on human life.

#### **94 Instrument of dissolution**

- (1) The provisions of this section apply where a registered society or branch is dissolved as mentioned in paragraph (b) of section 93(1) above.
- (2) The instrument of dissolution shall specify—
  - (a) the liabilities and assets of the society or branch in detail;
  - (b) the number of members and the nature of their interests in the society or branch;
  - (c) the claims of creditors, if any, and the provision to be made for their payment; and
  - (d) unless stated in the instrument of dissolution to be left to the award of the Chief Registrar, the intended appropriation or division of the funds and property of the society or branch.
- (3) Alterations in the instrument of dissolution may be made with the like consents as are required by section 93(1)(b) above for the dissolution of the society or branch, testified in the same manner.
- (4) The instrument of dissolution shall be sent to the registrar accompanied by a statutory declaration made by one of the trustees or by three members and the secretary of the society or branch that the provisions of this Act have been complied with.
- (5) The instrument of dissolution shall not, in the case of a registered friendly society or branch, direct or contain any provision for a division or appropriation of the funds of the society or branch, or any part thereof, except for the purpose of carrying into effect the objects of the society or branch as declared in the rules thereof, unless the claim of every member or person claiming any relief, annuity or other benefit from the

funds of the society or branch is first duly satisfied or adequate provisions are made for satisfying those claims.

- (6) The instrument of dissolution and any alterations thereto shall be registered in like manner as an amendment of the rules of the society or branch and shall be binding upon all the members of the society or branch.
- (7) The registrar shall cause a notice of the dissolution to be advertised at the expense of the society or branch in the Gazette and in some newspaper in general circulation in the neighbourhood of the registered office of the society or branch; and unless—
- (a) within three months from the date of the Gazette in which that advertisement appears a member or other person interested in or having any claim on the funds of the society or branch commences proceedings to set aside the dissolution of the society or branch, and
  - (b) that dissolution is set aside accordingly,
- the society or branch shall be legally dissolved from the date of the advertisement, and the requisite consents to the instrument of dissolution shall be deemed to have been duly obtained without proof of the signatures thereto.

## 95 Dissolution by award

- (1) On receipt of an application under this section relating to a registered society or branch and after giving not less than one month's notice in writing to the society or branch, the Chief Registrar, either by himself or by any assistant registrar or by any actuary or auditor whom the Chief Registrar may appoint in writing under his hand, may investigate the affairs of the society or branch.
- (2) An application under this section shall be made in writing under the hands of the like proportion or number of members and, in the case of a society with branches with the like consent, as are required for the making of an application under section 90 above and shall—
- (a) state that the funds of the society or branch are insufficient to meet the existing claims thereon, or that the rates of contribution fixed in the rules of the society or branch are insufficient to cover the benefits assured ; and
  - (b) set forth the grounds on which the insufficiency is alleged; and
  - (c) request an investigation into the affairs of the society or branch with a view to the dissolution thereof.
- (3) Subject to subsection (4) below, if upon an investigation under this section it appears that the funds of the society or branch are insufficient to meet the existing claims thereon, or that the rates of contribution fixed in the rules of the society or branch are insufficient to cover the benefits assured to be given by the society or branch, the Chief Registrar may, if he considers it expedient to do so, award that the society or branch be dissolved and its affairs wound up, and where such an award is made the Chief Registrar shall direct in what manner the assets of the society or branch shall be divided or appropriated.
- (4) Where the Chief Registrar makes an award under subsection (3) above he may suspend the operation thereof for such period as he may deem necessary to enable the society or branch to make such alterations and adjustments of contributions and benefits as will in his judgment prevent the necessity of the award of dissolution coming into operation; and where within that period the society makes such alterations and adjustments the Chief Registrar may cancel the award.

- (5) The Chief or any assistant registrar proceeding under this section shall have the same powers and authorities, enforceable by the same penalties, as in the case of a dispute referred to him under this Act.
- (6) Within twenty-one days after the making of an award of dissolution of a society or branch, the central office shall cause notice of the award of dissolution to be advertised in the Gazette and in some newspaper in general circulation in the neighbourhood of the registered office of the society or branch; and unless—
- (a) within three months from the date on which that advertisement appears, a member or other person interested in or having any claim on the funds of the society or branch commences proceedings to set aside the dissolution of the society or branch consequent upon the award, and
  - (b) the dissolution is set aside accordingly,
- the society or branch shall be legally dissolved from the date of the advertisement, and the requisite consents to the application under this section shall be deemed to have been duly obtained without proof of the signatures thereto.
- (7) The expenses of every investigation and award under this section and of advertising every notice of dissolution shall be paid out of the funds of the society or branch before any other appropriation thereof is made.

## **96 Finality of awards for dissolution or distribution of funds**

Every award under section 95(3) above shall, without appeal, be final and conclusive on—

- (a) the society or branch in respect of which the award is made; and
- (b) all members of that society or branch ; and
- (c) all other persons having any claim on the funds of that society or branch;

and every such award shall be enforced in the same manner as a decision on a dispute under this Act.

## **97 Notice of proceedings or order to set aside dissolution**

- (1) Where any person takes proceedings to set aside the dissolution of a society or branch, he shall give notice of the proceedings to the registrar not later than the expiry of whichever of the following periods first expires, namely,—
- (a) the period of seven days after the commencement of the proceedings; and
  - (b) the period of three months referred to in section 94(7)(a) above or, as the case may require, section 95(6)(a) above.
- (2) Where an order is made setting aside the dissolution of a society or branch, the society or branch shall give notice of the order to the registrar within seven days after the order is made.