



# Friendly Societies Act 1974

## 1974 CHAPTER 46

### *Offences, penalties and legal proceedings*

#### **98 Offences.**

- (1) It shall be an offence under this Act if—
- (a) a registered society or branch or an officer or member thereof fails to give any notice, send any return or document, or do or allow to be done anything which the society, branch, officer or member is by this Act required to give, send, do or allow to be done; or
  - (b) a registered society or branch or an officer or member thereof wilfully neglects or refuses to do any act or to furnish any information required for the purposes of this Act by the Chief or an assistant registrar or by any other person authorised under this Act, or does anything forbidden by this Act; or
  - (c) a registered society or branch or an officer or member thereof makes a return or wilfully furnishes information in any respect false or insufficient, being a return or information required for the purposes of this Act; or
  - (d) an officer or member of a body which, having been a branch of a society, has wholly seceded or been expelled from that society, thereafter uses the name of that society or any name implying that the body is a branch of that society or the number by which that body was designated as such a branch; or
  - (e) where a dispute is referred under this Act to the Chief or an assistant registrar, or a complaint is made under section 83 above to the Chief Registrar, a person refuses to attend or to produce any documents, or to give evidence before the Chief or assistant registrar; or
  - (f) a society or branch, whether registered or unregistered, pays money on the death of a child under ten years of age otherwise than as is provided by this Act; or
  - (g) a parent or personal representative of the parent claiming money on the death of a child produces a certificate of the death other than as is in this Act provided to the society or branch from which the money is claimed, or produces a false certificate or one fraudulently obtained, or in any way

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attempts to defeat the provisions of this Act with respect to payments upon the death of children.

- (2) Nothing in subsection (1) above shall apply to any act, omission or contravention which constitutes an offence by virtue of any provision of this Act other than that subsection or to any act, omission or contravention which by virtue of any such provision constitutes an offence under the <sup>M1</sup>Industrial Assurance Act 1923.
- (3) A society or branch and any officer or member of a society or branch or other person guilty of an offence under this Act, other than an offence for which some other penalty is expressly provided by this Act, shall be liable on summary conviction to a fine not exceeding [<sup>F1</sup>level 3 on the standard scale].
- (4) If an officer of a friendly society or any other person aids or abets in the amalgamation or transfer of engagements or in the dissolution of a friendly society otherwise than as provided in this Act, he shall be liable on summary conviction to a fine not exceeding [<sup>F1</sup>level 4 on the standard scale].
- (5) Where a registered society or branch is guilty of an offence under this Act, every officer of the society or branch who is bound by the rules thereof to fulfil any duty whereof the offence is a breach, or if there is no such officer then every member of the committee other than a member who is proved to have been ignorant of or to have attempted to prevent the commission of the offence, shall be liable to the same penalty as if he had committed the offence.
- (6) Every default under this Act which constitutes an offence shall, if it continues, constitute a new offence in every week during which the default continues.
- (7) Subject to subsection (8) below, notwithstanding any limitation on the time for the taking of proceedings contained in any enactment, summary proceedings for offences under this Act which are instituted by the Chief Registrar or any assistant registrar or by the procurator fiscal may be commenced at any time within one year of the first discovery thereof by the registrar, but not in any case after more than three years from the commission of the offence.
- (8) Subsection (7) above shall not apply where the society or branch by or in respect of which, or the person by or in respect of whom, the offence is alleged to have been committed is a collecting society or an officer of such a society (for which cases corresponding provision is made by section 39(5) of the <sup>M2</sup>Industrial Assurance Act 1923).

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**Textual Amendments**

- F1** 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
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**Marginal Citations**

- M1** [1923 c. 8](#).  
**M2** [1923 c. 8](#).

**99 Punishment of fraud, etc. and recovery of property misapplied.**

- (1) If any person, with intent to mislead or defraud,—

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- (a) gives to any other person a copy of any rules, laws, regulations or other documents, other than the rules of a registered society or branch, on the pretence that they are the existing rules of that society or branch or that there are no other rules of the society or branch, or
- (b) gives to any person a copy of any rules on the pretence that they are the rules of a registered society or branch when the society or branch is not registered,
- he shall be liable on summary conviction to a fine not exceeding £400 or on conviction on indictment to a fine or to imprisonment for a term not exceeding two years or to both a fine and such a term of imprisonment.
- (2) If any person obtains possession by false representation or imposition of any property of a registered society or branch, or fraudulently withholds any such property in his possession or fraudulently applies any such property for purposes which are not authorised by the rules of the society or branch or which are not in accordance with this Act, he shall be liable on summary conviction to a fine not exceeding [<sup>F2</sup>level 5 on the standard scale]and to be ordered to deliver up that property or to repay all moneys improperly applied; and any person who fails to comply with such an order made by a court in Scotland shall be liable on summary conviction to imprisonment for a term not exceeding two months.
- (3) If—
- (a) in proceedings under subsection (2) above which do not result in a conviction, or
- (b) in civil proceedings instituted for the purpose,
- a magistrates' court or, in Scotland, the sheriff is satisfied that any person having possession of any property of a registered society or branch has failed to deliver it up when requested to do so by the society or branch, the court or sheriff may make an order requiring him to deliver up that property; and any person who fails to comply with such an order made by a sheriff in Scotland shall be liable on summary conviction to imprisonment for a term not exceeding two months.
- (4) If in any such proceedings as are referred to in subsection (3) above a magistrates' court or sheriff is satisfied that any person has applied money belonging to a registered society or branch for purposes which are not authorised by the rules of the society or branch or which are not in accordance with this Act, the court or sheriff may order him to repay to the society or branch the money which he has so applied; and, whatever the nature of the proceedings in which any such order is made, the order shall be enforceable as an order for the payment of money recoverable, in the central registration area, summarily as a civil debt.
- (5) Where a magistrates' court or sheriff makes an order under subsection (3) or subsection (4) above, that order may be appealed against as if it were an order of that court made on the conviction of the person to whom the order is directed.
- (6) Proceedings under subsection (2) above may be instituted by, and in the central registration area only by, the following persons, that is to say—
- (a) in the case of a registered society, by the society or any member authorised by the society, or the trustees or committee of the society; or
- (b) in the case of a registered branch, by the branch or any member authorised by it or the trustees or committee thereof or by the central body of the society of which the branch forms part, or by any member of the society or branch authorised by the central body; or

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- (c) in any case by the Chief Registrar or any assistant registrar by his authority, or by any member of the society or branch authorised by the central office.
- (7) Nothing in this Act shall prevent any person guilty of an offence under this section from being proceeded against by way of indictment, if he has not previously been convicted of the same offence under the provisions of this Act.

#### Textual Amendments

**F2** 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**

### 100 Falsification of balance sheets, etc.

If any person wilfully, and with intent to falsify the document in question or to evade any of the provisions of this Act, makes, orders or allows to be made any entry or erasure in, or omission from,—

- (a) a balance sheet of a registered society or branch, or
- (b) a return or document required to be sent, produced or delivered for the purposes of this Act,

he shall be liable on summary conviction to a fine not exceeding [<sup>F3</sup>level 5 on the standard scale].

#### Textual Amendments

**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**

### 101 Prosecution of offences, recovery of costs or expenses.

- (1) Summary proceedings for an offence under this Act may be instituted by the Chief Registrar or any assistant registrar or by any person aggrieved.
- (2) Any costs or expenses ordered or directed by the Chief or any assistant registrar to be paid by any person under this Act shall be recoverable summarily as a civil debt.
- (3) In the application of subsection (2) above to Scotland, the word “summarily” shall be omitted.

### 102 Jurisdiction of magistrates’ courts.

Without prejudice to the provisions of [<sup>F4</sup>the Magistrates’ Courts Act 1980]as to the jurisdiction of a magistrates’ court, in England and Wales all summary offences under this Act may be prosecuted—

- (a) where the prosecution is against a registered society or branch or any officer thereof, before a magistrates’ court acting for the petty sessions area in which the registered office of the society or branch is situated; and
- (b) where the prosecution is against a person other than a registered society or branch or an officer thereof, before a magistrates’ court acting for the petty sessions area in which the person is resident at the time of the institution of the prosecution.

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#### Textual Amendments

**F4** Words substituted by [Magistrates' Courts Act 1980 \(c. 43, SIF 82\)](#), [Sch. 7 para. 131](#)

### 103 Legal proceedings concerning registered societies, etc.

- (1) The trustees of a registered society or branch, or any officers authorised by the rules thereof, may bring or defend, or cause to be brought or defended, any action or other legal proceedings in any court whatsoever, touching or concerning any property, right or claim of the society or branch, and may sue and be sued in their proper names, without any other description than the title of their office.
- (2) In legal proceedings brought under this Act by a member or person claiming through a member, a registered society or branch may also be sued in the name, as defendant or defender, of any officer or person who receives contributions or issues policies on behalf of the society or branch within the jurisdiction of the court in which the legal proceedings are brought, with the addition of the words “ on behalf of the society or branch ” (naming the same).
- (3) Legal proceedings shall not abate or be discontinued by the death, resignation or removal from office, of any officer, or by any act of any officer after the commencement of the proceedings.
- (4) The summons, writ, process or other proceeding to be issued to or against the officer or other person sued on behalf of a registered society or branch shall be sufficiently served by personally serving that officer or other person or by leaving a true copy thereof at the registered office of the society or branch, or at any place of business of the society or branch within the jurisdiction of the court in which the proceeding is brought, or if that office or place of business is closed, by posting the copy on the outer door of that office or place of business.
- (5) In any case where any such summons, writ, process or other proceeding as is mentioned in subsection (4) above is not served in one of the ways specified in that subsection, it shall be served by sending a copy thereof in a letter sent by registered post or by the recorded delivery service addressed to the committee at the registered office of the society or branch and posted at least six days before any further step is taken in the proceedings.
- (6) Where proceedings are taken against a society or branch for the recovery of any fine under this Act the summons or other process shall be sufficiently served by leaving a true copy thereof at the registered office of the society or branch or at any place of business of the society or branch which is within the jurisdiction of the court in which the proceedings are brought or, if that office or place of business is closed, by posting the copy on the outer door of that office or place of business.
- (7) Where the person against whom any proceedings are to be taken is himself a trustee of a society or branch, the proceedings may be brought by the other trustees or trustee of the society or branch.

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