



# Friendly Societies Act 1992

## 1992 CHAPTER 40

### PART V

#### REGULATION OF FRIENDLY SOCIETIES' BUSINESS

##### *Powers of Commission*

#### **51 Power to forbid acceptance of new members**

- (1) Subject to the provisions of this section, if the Commission considers it expedient to do so in the interests of the members or potential members of a friendly society, it may give the society a direction forbidding it to accept any new members.
- (2) If the Commission proposes to give such a direction, it shall serve on the society a notice stating that it proposes to give a direction.
- (3) A notice under subsection (2) above shall specify the grounds for the proposed direction.
- (4) The Commission shall consider any representations made by the society within such period (not being less than one month) from the date on which the society is served with the notice as the Commission may allow and, if the society so requests, shall afford to it an opportunity of being heard by the Commission within that period.
- (5) The Commission may not give a direction unless all the grounds for giving it are those, or among those, which were specified in the notice served on the society under subsection (2) above.
- (6) On giving a direction, the Commission shall—
  - (a) serve notice of it on the society, specifying the grounds for making it;
  - (b) publish notice of it in one or more of the London, Edinburgh and Belfast Gazettes and in any such other ways as it considers appropriate; and
  - (c) send a copy of it to the central office.

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- (7) A society which contravenes a direction given to it under this section shall be guilty of an offence and shall be liable—
  - (a) on conviction on indictment, to a fine; and
  - (b) on summary conviction, to a fine not exceeding the statutory maximum.
- (8) The central office shall keep a copy of a direction given to a friendly society under this section in the public file of the society.

## **52 Applications to court**

- (1) Where the Commission has reason to believe that any of the conditions mentioned in subsection (2) below is satisfied, it may present a petition to the High Court for the winding up of the society under the applicable winding up legislation.
- (2) The conditions referred to in subsection (1) above are—
  - (a) that a friendly society is carrying on activities that are not activities which such a society is permitted by this Act or the 1974 Act to carry on;
  - (b) that the society is not carrying on any activity falling within Schedule 2 to this Act;
  - (c) that the society is failing to satisfy an obligation to which it is subject by virtue of any provision of the law of another member state giving effect to the general insurance or the life Directives;
  - (d) that a subsidiary of an incorporated friendly society or a body jointly controlled by such a society is carrying on activities other than those mentioned in Schedule 7 to this Act;

and a court shall not make an order for the winding up of a society by virtue of this section unless it is satisfied that one or more of those conditions is satisfied.
- (3) Where the Commission has reason to believe that any of the conditions mentioned in subsection (4) below is satisfied, it may make an application to the High Court for an order under subsection (5) below.
- (4) The conditions referred to in subsection (3) above are—
  - (a) any of the conditions mentioned in subsection (2) above; or
  - (b) that an incorporated friendly society has taken part in forming or has acquired control of a body corporate jointly with any person other than another incorporated friendly society without the consent of the Commission;

and a court shall not make an order under subsection (5) below unless it is satisfied that one or both of the conditions mentioned in this subsection is satisfied.
- (5) An order under this subsection is an order directing the society to modify its business as directed in the order or to take such other steps as may be so directed or, where the condition mentioned in subsection (4)(b) above is satisfied, an order directing the society to cease jointly controlling the body corporate.
- (6) Where a court makes an order under subsection (5) above, the Commission shall send a copy of it to the central office and the central office shall keep the copy in the public file of the society.
- (7) The power to present a petition or to make an application for an order under subsection (5) above is available to the Commission whether or not it has previously presented a petition or made an application for such an order, as the case may be.

- (8) In the application of this section to a friendly society whose registered office is in Scotland or Northern Ireland, references to the High Court shall be read as references to the Court of Session or, as the case may be, the High Court in Northern Ireland.
- (9) In this section “the applicable winding up legislation”, in relation to an incorporated friendly society, has the same meaning as in section 23 above and, in relation to a registered friendly society, means Part V of the Insolvency Act 1986 or (where the society’s registered office is in Northern Ireland) Part VI of the Insolvency (Northern Ireland) Order 1989.

### **53 Residual power to impose requirements for protection of members**

- (1) If the Commission considers it expedient to do so in order to protect the interests of members of a friendly society which does not require authorisation under section 32 above, it may direct the society to take such action as appears to the Commission to be appropriate, having regard to any risk—
  - (a) that the society may be unable to meet its liabilities; or
  - (b) that it will not be managed in the interests of its members.
- (2) The power conferred by this section shall not be exercised in such a way as to restrict the society’s freedom to dispose of its assets except where the ground for intervention arises out of the submission by the society to the Commission of an account or statement specifying, as the amount of any liabilities of the society, an amount appearing to the Commission to have been determined otherwise than in accordance with—
  - (a) valuation regulations; or
  - (b) where no such regulations are applicable, generally accepted accounting concepts, bases and policies or other generally accepted methods appropriate for friendly societies.

### **54 Supervision of activities of subsidiaries etc**

- (1) In this section “friendly society group” means an incorporated friendly society, subsidiaries of that society and bodies jointly controlled by it.
- (2) If it appears to the Commission that the activities of subsidiaries of an incorporated friendly society or bodies jointly controlled by it are or may become disproportionate to those of the friendly society group as a whole, it may direct the society—
  - (a) to take or refrain from taking steps specified in the direction with a view to securing that the activities in question cease to be or do not become disproportionate; or
  - (b) to take steps so specified with a view to securing—
    - (i) that it ceases to have control or joint control of any subsidiary or jointly controlled body in question; or
    - (ii) that any such subsidiary or jointly controlled body is wound up.
- (3) If it appears to the Commission that any activity of a subsidiary of an incorporated friendly society or of a body jointly controlled by such a society is unsuitable for a member of a friendly society group, it may direct the society—
  - (a) to take steps specified in the direction with a view to securing that that activity ceases; or

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- (b) to take steps so specified with a view to securing—
    - (i) that it ceases to have control or joint control of the subsidiary or jointly controlled body; or
    - (ii) that the subsidiary or jointly controlled body is wound up.
- (4) A direction under this section may specify when the society is to comply with it and may do so by reference to a date, the end of a period or the happening of an event.
- (5) A society given a direction under this section must—
  - (a) comply with the direction; or
  - (b) convert itself into a company in accordance with Part VIII of this Act.
- (6) The Commission may by notice to the society vary or revoke a direction under this section.
- (7) If a society requests the Commission to notify it as to whether in the opinion of the Commission it has complied with a direction under this section, the Commission shall comply with the request.
- (8) The Commission may issue to incorporated friendly societies (or to any description of such societies) such general guidance as it thinks appropriate as to circumstances in which a direction under this section is or is not likely to be given.
- (9) The Commission shall send to the central office a copy—
  - (a) of a direction under this section;
  - (b) of a notice under subsection (6) above; or
  - (c) of a notification under subsection (7) above;
 and the central office shall keep a copy in the public file of the society.

## **55 Supervision of group insurance business**

- (1) This section applies where a friendly society carries on any group insurance business providing benefits for or in respect of a group of persons who are not members of the society.
- (2) If it appears to the Commission that the business so carried on is or may become disproportionate to the other activities of the society (including any group insurance business carried on for the provision of benefits for or in respect of persons who are members of the society), it may direct the society to take or refrain from taking steps specified in the direction with a view to securing that the group business in question ceases to be or does not become disproportionate.
- (3) Subsections (4) to (9) of section 54 above shall apply in relation to a direction under this section as they apply to a direction under that section.

## **56 Linked long-term insurance contracts**

- (1) Regulations may be made by the Commission, with the consent of the Treasury, as respects the matters specified in subsection (2) below, in relation to contracts made by friendly societies the effecting of which constitutes the carrying on of insurance business falling within class III in head A in Schedule 2 to this Act.
- (2) Regulations under this section may make provision for—

- (a) restricting the descriptions of property or the indices of the value of property by reference to which benefits under the contracts may be determined;
  - (b) restricting the proportion of those benefits which may be determined by reference to property of a specified description or a specified index;
  - (c) regulating the manner in which and the frequency with which property of any description is to be valued for the purpose of determining those benefits and the times at which reference is to be made for that purpose to any index of the value of property;
  - (d) requiring friendly societies that enter into such contracts to appoint valuers for carrying out valuations of property of any description for the purpose of determining benefits under the contracts (being valuers who comply with the prescribed requirement as to qualifications and independence from the society) and to furnish the Commission with the prescribed information in relation to such appointments;
  - (e) requiring societies that enter into such contracts to furnish in such manner and at such times or intervals as may be prescribed such information relating to the value of the benefits under the contracts as may be prescribed, whether by sending notices to their members, depositing statements with the Commission, publication in the press or otherwise;
  - (f) requiring societies that enter into such contracts to furnish to the Commission in such manner and at such times or intervals as may be prescribed, such information certified in such manner as may be prescribed with respect to so much of their business as is concerned with the contracts or with any class or description of the contracts, and enabling the Commission to publish such information in such ways as it thinks appropriate.
- (3) Regulations made for the purposes of subsection (2)(e) above may, in relation to notices required to be sent to members of friendly societies, impose requirements (whether as to type, size, colour or disposition of lettering, quality or colour of paper, or otherwise) for securing that such notices are easily legible.
- (4) The Commission may, on the application of any friendly society, alter the requirements of regulations under this section so as to adapt those requirements to the circumstances of that society or to any particular kind of contract entered into or proposed to be entered into by that society.
- (5) Regulations under this section may, to such extent as may be specified in them, apply in relation to contracts entered into before the coming into operation of the regulations, including contracts entered into before the passing of this Act.
- (6) In this section “prescribed” means prescribed by regulations under this section.