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STATUTORY INSTRUMENTS

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**1994 No. 1984**

**The Friendly Societies Act 1992  
(Amendment) Regulations 1994**

**PART VII**

**SUPPLEMENTAL**

**Insurance business etc.**

**29.**—(1) In subsection (1) of section 117 to the 1992 Act (insurance business etc.), after the definition of “insurance business” insert—

““direct insurance business” means insurance business other than reinsurance business and “direct insurance” shall be construed accordingly;”

(2) In subsection (6) of that section, for the words “member State”, in each place where they occur, substitute the words “member or EEA State”.

(3) After subsection (7) of that section insert—

“(8) In this Act references, in relation to a friendly society to which section 37(2) or (3) above applies, to the provision of insurance in the United Kingdom or any other EEA State are references to either or both of the following—

- (a) the covering (otherwise than by way of reinsurance) of a risk situated there through an establishment in another EEA State (“the provision of general insurance”); and
- (b) the covering (otherwise than by way of reinsurance) of a commitment situated there through an establishment in another EEA State (“the provision of long term insurance”).

(9) In this Act “establishment”, in relation to a friendly society to which section 37(2) or (3) above applies, means the registered office or an overseas branch of the society.

Any permanent presence of such a society in an EEA State other than the United Kingdom shall be regarded for those purposes as a single overseas branch, whether that presence consists of a single office which, or two or more offices each of which—

- (a) is managed by the society’s own staff;
- (b) is an agency of the society; or
- (c) is managed by a person who is independent but has permanent authority to act for the society in the same way as an agency.”.

**General interpretation**

**30.** In subsection (1) of section 119 of the 1992 Act (general interpretation)—

(a) after the definition of “contract of insurance” insert—

““controller” has the meaning given by section 55A above;”;

- (b) after the definition of “the criteria of prudent management” insert–
- ““EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992(1) as adjusted by the Protocol signed at Brussels on 17th March 1993(2);
- “EEA State” means a State which is a Contracting Party to the EEA Agreement but, until the EEA Agreement comes into force in relation to Liechtenstein, does not include Liechtenstein;
- “EFTA State” means an EEA State which is not a member State;”;
- (c) for the definition of “the general insurance Directives” substitute–
- ““the general insurance Directives” means the first general insurance Directive, the second general insurance Directive and the third general insurance Directive as amended, and such other Directives as make provision with respect to the business of direct insurance other than life assurance;”;
- (d) for the definition of “the life Directives” substitute–
- ““the life Directives” means the first life Directive, the second life Directive and the third life Directive as amended, and such other Directives as make provision with respect to the business of direct life assurance;
- “manager”, in relation to a friendly society to which section 37(2) or (3) above applies, means any person (other than an employee of a society) appointed by the society to manage any part of its insurance business, or any employee of the society (other than a chief executive) who, under the immediate authority of a member of the committee of management or chief executive of the society–
- (a) exercises managerial functions, or is responsible for maintaining accounts or other records of the society; and
- (b) is not a person whose functions relate exclusively to business conducted from a place of business which is not in a member State;”;
- (e) after the definition of “notice” insert–
- ““notifiable voting rights” has the meaning given by section 55A above;” and
- (f) after the definition of “subsidiary” insert–
- ““supervisory authority”, in relation to an EEA State other than the United Kingdom, means the authority responsible in that State for supervising insurance companies;
- “the third general insurance Directive” means Council Directive 92/49/EEC of 18th June 1992(3) on the coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance and amending Directives 73/239/EEC(4) and 88/357/EEC(5);
- “the third life Directive” means Council Directive 92/96/EEC of 10th November 1992(6) on the coordination of laws, regulations and administrative provisions relating to direct life assurance and amending Directives 79/267/EEC(7) and 90/619/EEC(8);”.

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(1) O.J. L1, 3.1.94, page 3.

(2) O.J. L1, 3.1.94, page 572.

(3) O.J. L228, 11.8.92, page 1.

(4) O.J. L228, 16.8.73, page 3.

(5) O.J. L172, 4.7.88, page 1.

(6) O.J. L360, 9.12.92, page 1.

(7) O.J. L63, 13.3.79, page 1.

(8) O.J. L330, 29.11.90, page 50.

## Meaning of “associate”

31. After section 119 of the 1992 Act insert—

### “Meaning of “associate”.

**119A.**—(1) In this Act “associate”, in relation to any person entitled to exercise or control the exercise of voting power in relation to a friendly society to which section 37(2) or (3) above applies, means—

- (a) the wife or husband or minor son or daughter of that person;
  - (b) any company of which that person is a director;
  - (c) any person who is an employee or partner of that person;
  - (d) if that person is a company—
    - (i) any director of that company;
    - (ii) any subsidiary undertaking of that company;
    - (iii) any director or employee of any such subsidiary under- taking; and
  - (e) if that person has made an agreement or arrangement with any other person under which they undertake to act together in exercising their voting power in relation to the society, that other person.
- (2) In this section—
- “minor”, in relation to Scotland, means not having attained the age of sixteen;
  - “son” includes stepson and “daughter” includes stepdaughter;
  - “subsidiary undertaking” has the same meaning as in the Insurance Companies Act 1982<sup>(9)</sup>.”.

## Meaning of “main agent”

32. After section 119A of the 1992 Act insert—

### “Meaning of “main agent”.

**119B.**—(1) In this Act “main agent”, in relation to a society to which section 37(2) or (3) above applies, means a person appointed by the society to be its agent in respect of general business in a member State with authority to enter into contracts on behalf of the society in any financial year—

- (a) without limit on the aggregate amount of premiums; or
  - (b) with a limit in excess of the 10 per cent. of the premium limit as determined in accordance with subsections (3) to (6) below.
- (2) A person shall not be regarded as falling within subsection (1)(a) above unless—
- (a) the society is of the opinion that the aggregate amount of premiums, on contracts entered into by him on behalf of the society in that year in respect of general business in the member State or States concerned, will be in excess of 10 per cent. of the premium limit as determined in accordance with subsections (3) to (6) below; or
  - (b) the aggregate amount of premiums, on contracts so entered into, actually is in excess of 10 per cent. of that premium limit.

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(9) 1982 c. 50.

(3) Subject to subsections (4) to (6) below, the premium limit for the purposes of subsections (1) and (2) above is the aggregate of the amounts of gross premiums shown in the annual accounts relating to the society's business last sent to the Commission under section 78 above as receivable in respect of general business in the financial year to which the accounts relate.

(4) If the accounts so sent relate to a financial year which is not a period of 12 months, the aggregate of the amounts of gross premiums shown in the accounts as receivable in that financial year shall be divided by the number of months in the financial year and multiplied by twelve.

(5) If no accounts have been sent to the Commission under section 78 above the aggregate amount of gross premiums shall be the amount or, if more than one amount, the lower or lowest amount, shown in respect of gross premiums relating to the society's business in the financial forecast last submitted by the society in accordance with regulations made for the purposes of paragraph 2(2) of Schedule 13 to this Act.

(6) Any reference in subsection (3) or (5) above to the society's business is a reference to its business in the member State or States in which the agent has authority to enter into contracts on its behalf."