

SCHEDULES

SCHEDULE 11

FRIENDLY SOCIETIES

PART II

SELF-REGULATING ORGANISATIONS FOR FRIENDLY SOCIETIES

Recognition

- 2 (1) A self-regulating organisation for friendly societies may apply to the Chief Registrar of friendly societies or the Registrar of Friendly Societies for Northern Ireland for an order declaring it to be a recognised self-regulating organisation for friendly societies for the purposes of this Schedule.
- (2) An application under sub-paragraph (1) above—
- (a) shall be made in such manner as the Registrar may direct; and
 - (b) shall be accompanied by such information as the Registrar may reasonably require for the purpose of determining the application.
- (3) At any time after receiving an application and before determining it the Registrar may require the applicant to furnish additional information.
- (4) The directions and requirements given or imposed under subparagraphs (2) and (3) above may differ as between different applications.
- (5) Any information to be furnished to the Registrar under this paragraph shall, if he so requires, be in such form or verified in such manner as he may specify.
- (6) Every application shall be accompanied by a copy of the applicant's rules and of any guidance issued by the applicant which is intended to have continuing effect and is issued in writing or other legible form.
- 3 (1) If, on an application duly made in accordance with paragraph 2 above and after being furnished with all such information as he may require under that paragraph, it appears to the Registrar from that information and having regard to any other information in his possession that the requirements mentioned in paragraph 4 below are satisfied as respects that organisation, he may, with the consent of the Secretary of State and subject to sub-paragraph (2) below, make an order ("a recognition order") declaring the applicant to be a recognised self-regulating organisation for friendly societies.
- (2) Where the Registrar proposes to grant an application for a recognition order he shall send to the Secretary of State a copy of the application together with a copy of the rules and any guidance accompanying the application and the Secretary of State shall not consent to the making of the recognition order unless he is satisfied that the rules and guidance of which copies have been sent to him under this sub-paragraph do not have, and are not intended or likely to have, to any significant extent the effect of

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restricting, distorting or preventing competition or, if they have or are intended or likely to have that effect to any significant extent, that the effect is not greater than is necessary for the protection of investors.

- (3) Section 122 of this Act shall apply in relation to the decision whether to consent to the making of a recognition order under this paragraph as it applies to the decisions mentioned in subsection (1) of that section.
 - (4) Subsections (1) and (2) of section 128 of this Act shall apply for the purposes of this paragraph as if the powers there mentioned included the power of refusing consent to the making of a recognition order under this paragraph and subsection (5) of that section shall apply for that purpose as if the reference to Chapter XIV of Part I included a reference to this paragraph.
 - (5) The Registrar may refuse to make a recognition order in respect of an organisation if he considers that its recognition is unnecessary having regard to the existence of one or more other organisations which are concerned with such investment business as is mentioned in section 23 of this Act and which have been or are likely to be recognised under this paragraph.
 - (6) Where the Registrar refuses an application for a recognition order he shall give the applicant a written notice to that effect specifying a requirement which in the opinion of the Registrar is not satisfied, stating that the application is refused on the ground mentioned in sub-paragraph (5) above or stating that the Secretary of State has refused to consent to the making of the order.
 - (7) A recognition order shall state the date on which it takes effect.
- 4
- (1) The requirements referred to in paragraph 3 above are that mentioned in sub-paragraph (2) below and those set out in paragraphs 2 to 7 of Schedule 2 to this Act as modified in sub-paragraphs (3) to (5) below.
 - (2) The rules of the organisation must take proper account of the Friendly Societies Act 1974, or as the case may be, the Friendly Societies Act (Northern Ireland) 1970.
 - (3) References in paragraphs 2, 3, 4 and 6 of Schedule 2 to members are to members who are regulated friendly societies.
 - (4) In paragraph 3 of that Schedule—
 - (a) in sub-paragraph (1) for the reference to Chapter V of Part I of this Act there shall be substituted a reference to paragraphs 14 to 22 below ; and
 - (b) in sub-paragraph (2) the reference to section 49 of this Act shall be omitted and for the reference to sections S3 and 54 there shall be substituted a reference to paragraphs 17 and 18 below ; and
 - (c) in sub-paragraph (3) for the reference to Chapter VI of that Part there shall be substituted a reference to the powers exercisable by the Registrar by virtue of paragraph 23 below. ,
 - (5) In paragraph 4 of that Schedule for the reference to Chapter V of Part I of this Act there shall be substituted references to paragraphs 14 to 22 below.

Revocation of recognition

- 5
- (1) A recognition order may be revoked by a further order made by the Registrar if at any time it appears to him—

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- (a) that any requirement mentioned in paragraph 4(1) above is not satisfied in the case of the organisation to which the recognition order relates (" the recognised organisation ");
 - (b) that the recognised organisation has failed to comply with any obligation to which it is subject by virtue of this Act; or
 - (c) that the continued recognition of the organisation is undesirable having regard to the existence of one or more other organisations which have been or are to be recognised under paragraph 3 above.
- (2) Subsections (2) to (9) of section 11 of this Act shall have effect in relation to the revocation of a recognition order under this paragraph as they have effect in relation to the revocation of a recognition order under subsection (1) of that section but with the substitution—
- (a) for references to the Secretary of State of references to the Registrar;
 - (b) for the reference in subsection (3) to members of a reference to members of the organisation which are member societies in relation to it; and
 - (c) for the reference in subsection (6) to investors of a reference to members of the societies which are member societies in relation to the organisation.

Compliance orders

- 6 (1) If at any time it appears to the Registrar—
- (a) that any requirement mentioned in paragraph 3 above is not satisfied in the case of a recognised self-regulating organisation for friendly societies; or
 - (b) that such an organisation has failed to comply with any obligation to which it is subject by virtue of this Act,
- he may, instead of revoking the recognition order under paragraph 5 above, make an application to the court under this paragraph.
- (2) If on any such application the court decides that the requirement in question is not satisfied or, as the case may be, that the organisation has failed to comply with the obligation in question it may order the organisation concerned to take such steps as the court directs for securing that that requirement is satisfied or that that obligation is complied with.
- (3) The jurisdiction conferred by this paragraph shall be exercisable by the High Court and the Court of Session.
- 7 (1) If at any time it appears to the Registrar that the rules of a recognised self-regulating organisation for friendly societies do not satisfy the requirements of paragraph 3(1) of Schedule 2 to this Act as modified by paragraph 4(4) above he may, instead of revoking the recognition order or making an application under paragraph 6 above, direct the organisation to alter, or himself alter, its rules in such manner as he considers necessary for securing that the rules satisfy those requirements.
- (2) Before giving a direction or making any alteration under this paragraph the Registrar shall consult the organisation concerned.
- (3) Any direction given under sub-paragraph (1) above shall, on the application of the Registrar, be enforceable by mandamus or, in Scotland, by an order for specific performance under section 91 of the Court of Session Act 1868.

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- (4) A recognised self-regulating organisation for friendly societies whose rules have been altered by or pursuant to a direction given by the Registrar under sub-paragraph (1) above may apply to the court and if the court is satisfied—
- (a) that the rules without the alteration satisfied the requirements mentioned in that sub-paragraph ; or
 - (b) that other alterations proposed by the organisation would result in the rules satisfying those requirements,
- the court may set aside the alteration made by or pursuant to the direction given by the Registrar and, in a case within paragraph (b) above, order the organisation to make the alterations proposed by it; but the setting aside of an alteration under this sub-paragraph shall not affect its previous operation.
- (5) The jurisdiction conferred by sub-paragraph (4) above shall be exercisable by the High Court and the Court of Session.
- (6) Subsections (2) to (7) and (9) of section 11 of this Act shall, with the modifications mentioned in paragraph 5(2) above and any other necessary modifications, have effect in relation to any direction given or alteration made by the Registrar under sub-paragraph (1) above as they have effect in relation to an order revoking a recognition order.
- (7) The fact that the rules of an organisation have been altered by or pursuant to a direction given by the Registrar, or pursuant to an order made by the court, under this paragraph shall not preclude their subsequent alteration or revocation by that organisation.
- 8 (1) The Registrar or the Secretary of State may make regulations requiring a recognised self-regulating organisation for friendly societies to give the Registrar or, as the case may be, the Secretary of State forthwith notice of the occurrence of such events relating to the organisation or its members as are specified in the regulations and such information in respect of those events as is so specified.
- (2) The Registrar or the Secretary of State may make regulations requiring a recognised self-regulating organisation for friendly societies to furnish the Registrar or, as the case may be, the Secretary of State at such times or in respect of such periods as are specified in the regulations with such information relating to the organisation or its members as is so specified.
- (3) The notices and information required to be given or furnished under the foregoing provisions of this paragraph shall be such as the Registrar or, as the case may be, the Secretary of State may reasonably require for the exercise of his functions under this Act.
- (4) Regulations under the foregoing provisions of this paragraph may require information to be given in a specified form and to be verified in a specified manner.
- (5) A notice or information required to be given or furnished under the foregoing provisions of this paragraph shall be given in writing or such other manner as the Registrar or, as the case may be, the Secretary of State may approve.
- (6) Where a recognised self-regulating organisation for friendly societies amends, revokes or adds to its rules or guidance it shall within seven days give the Registrar written notice of the amendment, revocation or addition; but notice need not be given of the revocation of guidance other than such as is mentioned in paragraph 2(6) above

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or of any amendment of or addition to guidance which does not result in or consist of such guidance as is there mentioned.

- (7) The Registrar shall send the Secretary of State a copy of any notice given to him under sub-paragraph (6) above.
- (8) Contravention of or of regulations under this paragraph shall not be an offence.
- 9 (1) A recognised self-regulating organisation for friendly societies shall not exercise any powers for purposes corresponding to those of the powers exercisable by the Registrar by virtue of paragraph 23 below in relation to a regulated friendly society unless it has given reasonable notice of its intention to do so to the Registrar and informed him—
- (a) of the manner in which and the date on or after which it intends to exercise the power; and
 - (b) in the case of a proposal to impose a prohibition or requirement, of the reason why it proposes to act and its reasons for considering that that reason exists and that it is necessary to impose the prohibition or requirement.
- (2) A recognised self-regulating organisation for friendly societies shall not exercise any power to which sub-paragraph (1)(a) above applies if before the date given in the notice in pursuance of that sub-paragraph the Registrar has served on it a notice in writing directing it not to do so; and the Registrar may serve such a notice if he considers it is desirable for protecting members or potential members of the society against the risk that it may be unable to meet its liabilities or to fulfil the reasonable expectations of its members or potential members.

Prevention of restrictive practices

- 10 (1) The powers conferred by sub-paragraph (2) below shall be exercisable by the Secretary of State if at any time it appears to him that—
- (a) any rules made or guidance issued by a recognised self-regulating organisation for friendly societies;
 - (b) any practices of any such organisation; or
 - (c) any practices of persons who are members of, or otherwise subject to the rules made by, any such organisation,
- have, or are intended or likely to have, to a significant extent the effect of restricting, distorting or preventing competition and that that effect is greater than is necessary for the protection of investors.
- (2) The powers exercisable under this sub-paragraph are to direct the Registrar—
- (a) to revoke the recognition order of the organisation;
 - (b) to direct the organisation to take specified steps for the purpose of securing that the rules, guidance or practices in question do not have the effect mentioned in sub-paragraph (1) above;
 - (c) to make alterations in the rules for that purpose ;
- and subsections (2) to (5), (7) and (9) of section 11 of this Act, as applied by sub-paragraph (2) of paragraph 5 above, shall have effect in relation to the revocation of a recognition order by virtue of a direction under this sub-paragraph as they have effect in relation to the revocation of such an order under sub-paragraph (1) of that paragraph.

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- (3) The practices referred to in paragraph (b) of sub-paragraph (1) above are practices of the organisation in its capacity as such; and the practices referred to in paragraph (c) of that sub-paragraph are practices in relation to business in respect of which the persons in question are subject to the rules of the organisation and which are required or contemplated by its rules or guidance or otherwise attributable to its conduct in its capacity as such.
- (4) Subsections (3) to (8) of section 122 of this Act shall apply for the purposes of this paragraph as if—
- (a) the reference to a notice in subsection (3) included a notice received under paragraph 8(7) above or 33(4) below ;
 - (b) the references to rules and guidance in subsection (4) included such rules and guidance as are mentioned in subparagraph (1) above;
 - (c) the reference to practices in subsection (6) included such practices as are mentioned in subparagraph (1) above ; and
 - (d) the reference to the Secretary of State's powers in subsection (7) included his powers under subparagraph (2) above.
- (6) Section 128 of this Act shall apply for the purposes of this paragraph as if—
- (a) the powers referred to in subsection (1) of that section included the powers conferred by subparagraph (2)(b) and (c) above;
 - (b) the references to Chapter XIV of Part I included references to this paragraph ; and
 - (c) the reference to a recognised self-regulating organisation included a reference to a recognised self-regulating organisation for friendly societies.

Fees

- 11 (1) An applicant for a recognition order under paragraph 3 above shall pay such fees in respect of his application as may be required by a scheme made and published by the Registrar; and no application for such an order shall be regarded as duly made unless this sub-paragraph is complied with.
- (2) Subsections (2) to (4) of section 112 of this Act apply to a scheme under sub-paragraph (1) above as they apply to a scheme under subsection (1) of that section.
- (3) Every recognised self-regulating organisation for friendly societies shall pay such periodical fees to the Registrar as he may by regulations prescribe.

Application of provisions of this Act

- 12 (1) Subject to the following provisions of this paragraph, sections 44(7), 102(1)(c), 124, 125, 126, 180(1)(n), 181, 187, 192 and 200(4) of this Act shall apply in relation to recognised self-regulating organisations for friendly societies as they apply in relation to recognised self-regulating organisations.
- (2) In its application by virtue of sub-paragraph (1) above section 126(1) of this Act shall have effect as if the reference to section 119(2) were a reference to paragraph 10(1) above.
- (3) In its application by virtue of sub-paragraph (1) above subsection (2) of section 187 of this Act shall have effect as if—

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- (a) the reference in paragraph (a) to paragraphs 1 to 6 of Schedule 2 were to paragraphs 2 to 6 of that Schedule (as they apply by virtue of paragraph 4 above) and to sub-paragraph (2) of paragraph 4 above ; and
 - (b) paragraph (d) referred to the powers of the organisation under paragraph 23(4) below.
- (4) A direction under subsection (1) of section 192 of this Act as it applies by virtue of sub-paragraph (1) above shall direct the Registrar to direct the organisation not to take or, as the case may be, to take the action in question; and where the function of making or revoking a recognition order in respect of a self-regulating organisation for friendly societies is exercisable by a transferee body any direction under that subsection as it applies as aforesaid shall be a direction requiring the Registrar to direct the transferee body to give the organisation such a direction as is specified in the direction given by the Secretary of State.
- (5) Subsection (5) of that section shall not apply to a direction given to the Registrar by virtue of this paragraph.