



# Friendly and Industrial and Provident Societies Act 1968

## 1968 CHAPTER 55

An Act to make further provision with respect to the accounts of friendly societies and industrial and provident societies and the auditing of those accounts, and with respect to the rules and valuations of friendly societies. [26th July 1968]

### Modifications etc. (not altering text)

- C1 Act modified (19.12.1993) by [S.I. 1993/3245](#), reg. 7, [Sch.](#)
- C2 Power to modify Act conferred by [Credit Unions Act 1979](#) (c. 34, SIF 55:3), [s. 32\(2\)\(c\)](#)
- C3 Power to transfer functions (25.2.2001) by [2000 c. 8](#), [ss. 338\(1\)\(c\)](#), 339; [S.I. 2001/516](#), art. 2(a), [Sch. Pt. 1](#)
- Power to amend Act conferred (8.9.2002) by [2002 c. 20](#), [ss. 2](#), 4(2)

### Commencement Information

- II Act wholly in force at Royal Assent

*Societies: accounts and audit, etc.*

## 1 Books of account, etc.

- (1) Every society shall—
- cause to be kept proper books of account with respect to its transactions and its assets and liabilities, and
  - establish and maintain a satisfactory system of control of its books of account, its cash holdings and all its receipts and remittances.
- (2) For the purposes of paragraph (a) of the preceding subsection proper books of account shall not be taken to be kept with respect to the matters mentioned in that paragraph if there are not kept such books as are necessary to give a true and fair view of the state of the affairs of the society and to explain its transactions.

*Status: Point in time view as at 02/07/2002.*

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**2 Form in which books of account may be kept.**

- (1) Any book of account to be kept by a society may be kept either by making entries in bound books or by recording the matters in question in any other manner.
- (2) Where any such book of account is not kept by making entries in a bound book but by some other means, the society shall take adequate precautions for guarding against falsification and facilitating its discovery.

**3 General provisions as to accounts and balance sheets of societies.**

- (1) Every revenue account of a society shall give a true and fair view—
  - (a) if it deals with the affairs of the society as a whole, of the income and expenditure of the society as a whole, or
  - (b) if it deals with a particular business conducted by the society, of the income and expenditure of the society in respect of that business,
 for the period to which the account relates.
- (2) Every society shall, in respect of each year of account, cause to be prepared either—
  - (a) a revenue account which deals with the affairs of the society as a whole for that year, or
  - (b) two or more revenue accounts for that year which deal separately with particular businesses conducted by the society.
- (3) In a case falling within paragraph (b) of the last preceding subsection, without prejudice to the application of subsection (1)(b) of this section to each revenue account dealing with a particular business conducted by the society, the revenue accounts in question, when considered together, shall give a true and fair view of the income and expenditure of the society as a whole for the year of account to which they relate.
- (4) Every balance sheet of a society shall give a true and fair view as at the date of the balance sheet—
  - ..... <sup>F1</sup> of the state of the affairs of the society.
- (5) ..... <sup>F2</sup>
- (6) ..... <sup>F3</sup>
- (7) If in relation to any revenue account, revenue accounts or balance sheet of a society a member of the committee of the society fails to take all reasonable steps to secure compliance—
  - (a) with the provision of subsection (1) or subsection (4) of this section which is applicable in that case, or
  - (b) in a case falling within subsection (2)(b) of this section, with subsection (3) of this section,
 he shall be guilty of an offence . . . <sup>F4</sup>, unless he proves that he had reasonable grounds to believe, and did believe, that a competent and reliable person was charged with the duty of seeing that the relevant provision was complied with and was in a position to discharge that duty [<sup>F5</sup>and a person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding [<sup>F6</sup>level 5 on the standard scale].]
- (8) In the case of a society to which this subsection applies, the preceding provisions of this section shall not have effect in relation to—

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- (a) any revenue account of that society for a period ending before the last day of the year of account in respect of which the provisions of section 4(1) or section 4(5) of this Act (as the case may be) first apply to that society; and
  - (b) any balance sheet of that society relating to its affairs as at a date before that day.
- (9) The last preceding subsection applies in the case of any society which is registered . . . <sup>F1</sup> under the Act of 1965 . . . <sup>F1</sup> at the date of the commencement of this Act, or which is first registered . . . <sup>F1</sup> on or after that date but before 1st January 1969.

#### Textual Amendments

- F1** Words repealed by [Friendly Societies Act 1974 \(c. 46\), Sch. 11](#)
- F2** [S. 3\(5\)](#) repealed (1.9.1996) by [S.I. 1996/1738, arts. 1, 9\(3\)](#)
- F3** [Ss. 3\(6\), 4\(3\), 9\(8\), 11\(4\)\(6\)-\(8\), 16, 17\(4\), Sch. 1 paras. 1-8, Schs. 2, 3 paras. 5, 6](#) repealed by [Friendly Societies Act 1974 \(c.46\), Sch. 11](#)
- F4** Words repealed by [Friendly Societies Act 1971 \(c. 66\), s. 11\(5\)\(6\)](#) and [S.I. 1971/1899](#), but not so as to affect the amount of the fine which may be imposed on conviction of an offence committed before 31.12.1971
- F5** Words substituted by [Friendly Societies Act 1971 \(c. 66\), s. 11\(5\)\(6\)](#) and [S.I. 1971/1899](#), but not so as to affect the amount of the fine which may be imposed on conviction of an offence committed before 31.12.1971
- F6** 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](#)

#### [<sup>F7</sup>3A] **Publication of accounts and balance sheets of societies.**

- (1) A society shall not publish any revenue account or balance sheet unless it has been signed by the secretary of the society and by two members of the committee of the society acting on behalf of that committee.
- (2) Where at the end of a society's year of account no disapplication under section 4A(1) of this Act is in force in relation to the year, the society shall not publish a year end revenue account or balance sheet unless—
  - (a) it has been previously audited by the auditor or auditors last appointed to audit the accounts and balance sheet of the society, and
  - (b) it incorporates a report by the auditor or auditors stating whether in their opinion it complies with subsection (1) or, as the case may be, subsection (4) of section 3 of this Act.
- (3) Where at the end of a society's year of account a disapplication under section 4A(1) of this Act is in force in relation to the year and the society's turnover in the preceding year of account exceeded £90,000, the society shall not publish a year end revenue account or balance sheet unless—
  - (a) it is one on which the society has obtained from a person appointed under subsection (2) of section 9A of this Act a report which meets the requirements of subsection (3) of that section, and
  - (b) it incorporates so much of the report as relates to it.
- (4) Where at the beginning of a year of account (in this subsection referred to as "the current year of account") a society is subject to subsection (2) of this section in relation to the publication of a year end revenue account or balance sheet for the preceding

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- year of account, it shall not publish any interim revenue account or balance sheet for the current year of account—
- (a) if a disapplication under section 4A(1) of this Act is in force in relation to that year, unless it incorporates a report by an appropriate person stating whether in his opinion it complies with subsection (1) or (4), as the case may be, of section 3 of this Act, and
  - (b) if no disapplication under section 4A(1) of this Act is in force in relation to that year, unless paragraphs (a) and (b) of subsection (2) of this section are met in relation to it.
- (5) Where at the beginning of a year of account (in this subsection referred to as “the current year of account”) a society is subject to subsection (3) of this section in relation to the publication of a year end revenue account or balance sheet for the preceding year of account, it shall not publish any interim revenue account or balance sheet for the current year of account unless it incorporates a report by an appropriate person stating—
- (a) whether, in his opinion, the revenue account or, as the case may be, the balance sheet, is in agreement with the books of account kept by the society under section 1 of this Act, and
  - (b) whether, in his opinion, on the basis of the information contained in those books of account, the revenue account or, as the case may be, the balance sheet complies with the requirements of this Act and the appropriate registration Act.
- (6) Where a society’s year of account is one in relation to which a direction under section 9C of this Act has effect, the society shall not publish any year end or interim revenue account or balance sheet, unless it incorporates a report by the auditor or auditors appointed in pursuance of the direction stating whether in their opinion it complies with subsection (1) or (4), as the case may be, of section 3 of this Act.
- (7) Subsection (3) of this section shall cease to apply in relation to a year of account if a direction under section 9C of this Act is made in relation to it.
- (8) Section 9B of this Act shall apply in relation to a person appointed for the purposes of subsection (4) or (5) of this section as it applies in relation to a person appointed under section 9A(2) of this Act.
- (9) In subsection (4) of this section, references to a disapplication under section 4A(1) of this Act being in force in relation to a year of account shall, where the year of account has ended, be construed as references to a disapplication under that provision being in force at the end of the year.
- (10) Subject to subsection (11) of this section, in subsections (4) and (5) of this section, references to an appropriate person are to a person who is—
- (a) a qualified auditor for the purposes of this Act, and
  - (b) not ineligible by virtue of section 8(1) of this Act to be appointed as auditor of the society.
- (11) In relation to the application of subsection (4) of this section to a society which—
- (a) was an exempt society in respect of the preceding year of account, and
  - (b) appointed persons who were not qualified auditors to audit its accounts and balance sheet for that year,

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subsection (10) of this section shall, if the year is not one in relation to which the [F8Authority] has given a direction under section 4(7)(a) of this Act, have effect with the omission of paragraph (a).

(12) In this section—

“interim balance sheet”, in relation to a year of account, means a balance sheet relating to the position at a time in the year other than the end;

“interim revenue account”, in relation to a year of account, means a revenue account for any period falling within the year of account, other than one ending at the end of the year;

“turnover” has the same meaning as in section 4A of this Act;

“year end balance sheet”, in relation to a year of account, means a balance sheet relating to the position at the end of the year; and

“year end revenue account”, in relation to a year of account, means a revenue account for the year or for any period falling within the year of account and ending at the end of the year.]

#### Textual Amendments

**F7** S. 3A inserted (1.9.1996) by S.I. 1996/1738, arts. 1, 9(3)

**F8** Word in s. 3A(11) substituted (1.12.2001) by S.I. 2001/2617, arts. 2(b), 13(1), Sch. 3 Pt. III para. 247 (subject to savings and transitional provisions in art. 13(3)); S.I. 2001/3538, art. 2(1)

## 4 Obligation to appoint auditors.

(1) Subject to the following provisions of this section [F9and section 4A(1) of this Act], every society shall in each year of account beginning on or after 1st January 1969 appoint a qualified auditor or qualified auditors to audit its accounts and balance sheet for that year.

(2) Subsection (1) of this section shall not apply to any society . . . F10 if—

- (a) the receipts and payments of that society in respect of the preceding year of account did not in the aggregate exceed £5,000;
- (b) the number of its members at the end of that year did not exceed five hundred; and
- (c) the value of its assets at the end of that year did not in the aggregate exceed £5,000.

(3) . . . . . F11

(4) A society to which by virtue of subsection (2) . . . F10 of this section subsection (1) of this section does not apply in respect of any year of account is in this Act referred to as an exempt society in respect of that year of account.

(5) Subject to any direction given by the [F12Authority] under the next following subsection, every society which is an exempt society in respect of the current year of account shall in that year appoint at its option either—

- (a) a qualified auditor or qualified auditors, or
- (b) two or more persons who are not qualified auditors,

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to audit its accounts and balance sheet for that year.

- (6) The [<sup>F12</sup>Authority] may give a direction in the case of any particular society which is an exempt society in respect of the current year of account requiring it to appoint a qualified auditor to audit its accounts and balance sheet for that year.
- (7) The [<sup>F12</sup>Authority] may give a direction in the case of any particular society which was an exempt society in respect of any year of account before the year of account in which that direction is given and did not appoint a qualified auditor or qualified auditors to audit its accounts and balance sheet for that year—
- (a) requiring it to appoint a qualified auditor to audit those accounts and that balance sheet, and
  - (b) in a case where that society has sent to [<sup>F13</sup>the Authority] its annual return for that year before the date of the direction, requiring it after its accounts and balance sheet have been audited by a qualified auditor to send to [<sup>F13</sup>the Authority] within three months from receipt of the direction a further annual return complying with the requirements of this Act and . . . <sup>F10</sup> of section 39 of the Act of 1965 (other than that as to time of sending).
- (8) Regulations made by the <sup>F14</sup> . . . Treasury may—
- (a) substitute for any sum or number for the time being specified in subsection (2) of this section . . . <sup>F10</sup> such sum, number . . . <sup>F10</sup> as may be specified in the regulations; and
  - (b) prescribe what receipts and payments of a society shall be taken into account for the purposes of those subsections.

#### Textual Amendments

- F9** S. 4(1) words inserted (1.9.1996) by S.I. 1996/1738, **arts. 1, 9(5)**
- F10** Words repealed by Friendly Societies Act 1974 (c. 46), **Sch. 11**
- F11** Ss. 3(6), 4(3), 9(8), 11(4)(6)-(8), 16, 17(4), Sch. 1 paras. 1-8, Schs. 2, 3 paras. 5, 6 repealed by Friendly Societies Act 1974 (c.46), **Sch. 11**
- F12** Words in s. 4(5)(6)(7) substituted (1.12.2001) by S.I. 2001/2617, arts. 2(b), 13(1), **Sch. 3 Pt. III para. 248(a)** (subject to savings and transitional provisions in art. 13(3)); S.I. 2001/3538, **art. 2(1)**
- F13** Words in s. 4(7)(b) substituted (1.12.2001) by S.I. 2001/2617, arts. 2(b), 13(1), **Sch. 3 Pt. III para. 248(b)** (subject to savings and transitional provisions in art. 13(3)); S.I. 2001/3538, **art. 2(1)**
- F14** Words in s. 4(8) repealed (1.12.2001) by S.I. 2001/2617, arts. 2(b), 13(1)(2), Sch. 3 Pt. III para. 248(c), **Sch. 4** (subject to savings and transitional provisions in art. 13(3)); S.I. 2001/3538, **art. 2(1)**

#### Modifications etc. (not altering text)

- C4** S. 4 extended (1.10.1996) by 1996 c. 52 s. 7, Sch. 1 Pt. III para. 17; S.I. 1996/2402, **art. 3**  
S. 4 applied (1.11.2001) by 2001 asp 10, s. 63, **Sch. 7 para. 14**; S.S.I. 2001/336, art. 2(3), **Sch. Pt. II** (subject to transitional provisions in art. 3)
- C5** S. 4(1) extended by Housing Associations Act 1985 (c. 69, SIF 61), **s. 25**
- C6** S. 4(8): transfer of functions (1.12.2001) by virtue of S.I. 2001/2617, arts. 2(b), 4(1), **Sch. 1 Pt. I** (with art. 5); S.I. 2001/3538, **art. 2(1)**

#### [<sup>F15A</sup> Power of societies to disapply section 4.

- (1) Subject to subsections (3) and (4) of this section, a society may disapply section 4 of this Act in relation to any year of account beginning on or after the day on which the Deregulation (Industrial and Provident Societies) Order 1996 comes into force if—

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- (a) the value of its assets at the end of the preceding year of account did not in the aggregate exceed £1,400,000, and
    - (b) its turnover for that year did not exceed £350,000
  - (2) The power conferred by subsection (1) of this section shall be exercisable by resolution passed at a general meeting at which—
    - (a) less than 20 per cent. of the total votes cast are cast against the resolution, and
    - (b) less than 10 per cent. of the members of the society for the time being entitled under the society's rules to vote cast their votes against the resolution.
  - (3) Subsection (1) of this section shall not apply to a society which—
    - (a) is a credit union within the meaning of the Credit Unions Act 1979,
    - (b) is registered in the register of housing associations maintained by the Housing Corporation [<sup>F16</sup>or the Secretary of State],
    - <sup>F17</sup> [ is registered in the register of social landlords maintained under section 57 of the Housing (Scotland) Act 2001 (asp 10),]
    - (c) is, or has, a subsidiary,
    - (d) prepares accounts under the Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 1993 <sup>F18</sup>, or
    - (e) holds, or has, at any time since the end of the preceding year of account, held, a deposit <sup>F19</sup> . . . , other than a deposit in form of withdrawable share capital.
  - (4) The [<sup>F20</sup>Authority] may by notice to a society disapply subsection (1) of this section in relation to the year of account of the society in which the notice is given.
  - (5) Where a society exercises the power conferred by subsection (1) of this section, the disapplication shall cease to have effect if, at any time before the end of the year of account to which it relates—
    - (a) the society becomes one to which subsection (3) of this section applies, or
    - (b) the [<sup>F20</sup>Authority] gives the society notice under subsection (4) of this section.
  - (6) In the case of a society which is a charity within the meaning of the Charities Act 1993 <sup>F21</sup>, or a recognised body as defined by section 1(7) of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 <sup>F22</sup>, subsection (1) of this section shall have effect with the substitution for paragraph (b) of—
    - (b) its gross income for that year did not exceed £250,000."
  - (7) For a period which is a society's year of account, but not in fact a year, the maximum figure in subsection (1)(b) of this section (including that provision as it has effect by virtue of subsection (6) of this section) shall be proportionately adjusted.
  - (8) In this section, "turnover", in relation to a society, means the amounts derived from the provision of goods and services falling within the society's activities, after deduction of—
    - (a) trade discounts,
    - (b) value added tax, and
    - (c) any other taxes based on the amounts so derived.]
  - <sup>F23</sup>(9) In subsection (3), the reference to a deposit must be read with—
    - (a) section 22 of the Financial Services and Markets Act 2000;
    - (b) any relevant order under that section;
    - (c) Schedule 2 to that Act.]

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#### Textual Amendments

- F15** S. 4A inserted (1.9.1996) by [S.I. 1996/1738](#) arts. 1, 8(1)
- F16** Words in [s. 4A\(3\)\(b\)](#) substituted (1.11.2001) by [2001 asp 10](#), [s. 112](#), [Sch. 10 para. 2\(a\)](#); [S.S.I. 2001/336](#), [art. 2\(3\)](#), [Sch. Pt. II](#) Table (subject to transitional provisions in [art. 3](#))
- F17** S. 4A(3)(ba) inserted (1.11.2001) by [2001 asp 10](#), [s. 112](#), [Sch. 10 para. 2\(b\)](#); [S.S.I. 2001/336](#), [art. 2\(3\)](#), [Sch. Pt. II](#) Table (subject to transitional provisions in [art. 3](#))
- F18** [S.I. 1993/3245](#).
- F19** Words in [s. 4A\(3\)\(e\)](#) repealed (1.12.2001) by [S.I. 2001/3649](#), [arts. 1](#), 184(2)
- F20** Words in [s. 4A\(4\)\(5\)\(b\)](#) substituted (1.12.2001) by [S.I. 2001/2617](#), [arts. 2\(b\)](#), 13(1), [Sch. 3 Pt. III para. 249](#) (subject to savings and transitional provisions in [art. 13\(3\)](#)); [S.I. 2001/3538](#), [art. 2\(1\)](#)
- F21** 1993 c. 10.
- F22** 1990 c. 40.
- F23** S. 4A(9) inserted (1.12.2001) by [S.I. 2001/3649](#), [arts. 1](#), 184(3)

## 5 Re-appointment and removal of qualified auditors.

- (1) A qualified auditor appointed to audit the accounts and balance sheet of a society for the preceding year of account shall be re-appointed as auditor of the society for the current year of account unless—
- (a) a resolution has been passed at a general meeting of the society appointing somebody instead of him or providing expressly that he shall not be re-appointed, or <sup>F24</sup>or disapplying section 4 of this Act in relation to the current year of account]
  - (b) he has given to the society notice in writing of his unwillingness to be re-appointed, or
  - (c) he is ineligible for appointment as auditor of the society for the current year of account, or
  - (d) he has ceased to act as auditor of the society by reason of incapacity:
- Provided that, where notice is given of an intended resolution to appoint some person or persons in place of a retiring auditor and the resolution cannot be proceeded with at the meeting because of the death or incapacity of that person or persons, or because he or they are ineligible for appointment as auditor or auditors of the society for the current year of account (as the case may be), the retiring auditor shall not be automatically re-appointed by virtue of this subsection.
- (2) For the purposes of the last preceding subsection, a person is ineligible for appointment as auditor of a society for the current year of account if, but only if—
- (a) his appointment in relation to the society is prohibited by section 8 of this Act, or
  - (b) (in the case of a society which is not an exempt society in respect of that year of account) he is not a qualified auditor at the time when the question of his appointment falls to be considered.

#### Textual Amendments

- F24** [S. 5\(1\)\(a\)](#) inserted (1.9.1996) by [S.I. 1996/1738](#), [arts. 1](#), 9(6)



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## **6 Provisions as to resolutions relating to appointment and removal of auditors.**

- (1) .....<sup>F25</sup>, a resolution at a general meeting of a society—
  - (a) appointing another person as auditor in place of a retiring qualified auditor, or
  - (b) providing expressly that a retiring qualified auditor shall not be re-appointed,shall not be effective unless notice of the intention to move it has been given to the society not less than twenty-eight days before the meeting at which it is moved.
- (2) Where notice of the intention to move any such resolution has been given under subsection (1) of this section to a society which is required by its rules to give notice to its members of the meeting at which the resolution is to be moved, the society shall if it is practicable to do so give them notice of the resolution at the same time and in the same manner as it gives notice of the meeting.
- (3) Where notice of the intention to move any such resolution has been given to any society under subsection (1) of this section, and that society does not give notice of the resolution under the last preceding subsection, it shall give notice of the resolution to its members not less than fourteen days before the meeting at which the resolution is to be moved, either by advertisement in a newspaper having an appropriate circulation or in any other way allowed by the rules of the society.
- (4) Where—
  - (a) for any of the reasons mentioned in the proviso to subsection (1) of the last preceding section an intended resolution to appoint some person or persons in place of a retiring qualified auditor cannot be proceeded with at the meeting, and
  - (b) by the rules of the society an auditor can only be appointed by a resolution passed at a general meeting after notice of the intended resolution has been given to the society before the meeting,a resolution passed at that meeting re-appointing the retiring auditor or appointing an auditor in place of the retiring auditor shall be effective notwithstanding that no notice of that resolution has been given to the society under its rules.
- (5) On receipt by a society of notice given under subsection (1) of this section of an intended resolution, it shall forthwith send a copy of the notice to the retiring auditor.
- (6) On receipt of a copy of such a notice, the retiring auditor may at any time before the date of the general meeting make representations in writing to the society (not exceeding a reasonable length) with respect to the intended resolution, and, without prejudice to the preceding provision, the retiring auditor may—
  - (a) notify the society that he intends to make such representations, and
  - (b) request that notice of his intention, or of any such representations made by him and received by the society before notice of the intended resolution is given to its members, shall be given to members of the society.
- (7) Subject to the next following subsection, a society which receives representations or a notification of intended representations under the last preceding subsection before the date when notice of the intended resolution is required by subsection (2) or subsection (3) of this section (as the case may be) to be given to its members shall—
  - (a) in any notice of the resolution given to its members, state that it has received those representations or that notification (as the case may be),

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- (b) in any such notice, state that any members may receive on demand made before the date of the general meeting a copy of any representations which have been or may be received by the society before that date, and
- (c) send a copy of any representations received by the society before the date of the meeting to any member on demand made before that date;

but without prejudice either to the preceding provisions of this subsection or to his right to be heard orally, the retiring auditor may also require that any representations made by him before the date of the general meeting shall be read out at the meeting.

- (8) Copies of any such representations need not be sent out, and the representations need not be read out at the meeting, if, on the application either of the society or of any other person, the High Court is satisfied that the rights conferred by this section are being abused to secure needless publicity for defamatory matter; and the Court may order the costs of the society on an application under this section to be paid, in whole or in part, by the auditor, notwithstanding that he is not a party to the application.
- (9) In the application of subsection (8) of this section to a Scottish society, for the reference to the High Court there shall be substituted a reference to the Court of Session and for the reference to costs there shall be substituted a reference to expenses.
- (10) Any provision in this section which requires notice to be given to the members of a society or confers any right upon a member (as the case may be) shall be construed in the case of a meeting of delegates appointed by members as requiring the notice to be given to the delegates so appointed or conferring the right upon a delegate (as the case may be).

#### Textual Amendments

**F25** Words repealed by [Friendly Societies Act 1971 \(c. 66\)](#), [Sch. 3](#)

### 7 Qualified auditors.

- (1) <sup>F26</sup> . . . no person shall be a qualified auditor for the purposes of this Act unless [<sup>F27</sup>he is eligible for appointment as a company auditor under section 25 of the Companies Act 1989.]

<sup>F28</sup>(2) . . . . .

<sup>F28</sup>(3) . . . . .

#### Textual Amendments

**F26** Words in s. 7(1) repealed (1.12.2001) by [S.I. 2001/2617](#), arts. 2(b), 13(1)(2), [Sch. 3 Pt. III para. 250\(a\)](#), [Sch. 4](#) (subject to savings and transitional provisions in art. 13(3)); [S.I. 2001/3538](#), [art. 2\(1\)](#)

**F27** Words in s. 7(1) substituted by [S.I. 1991/1997](#), reg. 2, [Sch. para. 20\(2\)](#) (with reg. 4)

**F28** S. 7(2)(3) repealed (1.12.2001) by [S.I. 2001/2617](#), arts. 2(b), 13(1)(2), [Sch. 3 Pt. III para. 250\(b\)](#), [Sch. 4](#) (subject to savings and transitional provisions in art. 13(3)); [S.I. 2001/3538](#), [art. 2\(1\)](#)

### 8 Restrictions on appointment of auditors.

- (1) None of the following persons shall be appointed as auditor of a society—
  - (a) an officer or servant of the society;

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- (b) a person who is a partner of or in the employment of, or who employs, an officer or servant of the society; or
  - <sup>F29</sup>(c) .....
- (2) A person shall also not be appointed as auditor of an industrial and provident society if—
- (a) his appointment as auditor of any other industrial and provident society—
    - (i) which is a subsidiary of that society, or
    - (ii) of which that society is a subsidiary, or
    - (iii) which is a subsidiary of the society of which that society is a subsidiary,is prohibited by virtue of the last preceding subsection; or
  - [<sup>F30</sup>(b) he is by virtue of section 27 of the Companies Act 1989 ineligible for appointment as auditor of a company which is a subsidiary of that society.]
- <sup>F29</sup>(3) .....
- (4) Any appointment made by a society in contravention of any of those provisions shall not be an effective appointment for the purposes of this Act.
- (5) In this section “company” has the same meaning as in section 15 of this Act and references to an officer or servant shall be construed as not including an auditor.

**Textual Amendments**

**F29** S. 8(1)(c) and (3) deleted (1.10.1991) by S.I. 1991/1997, reg. 2, Sch. para. 20(3)(a)(with reg. 4)

**F30** S. 8(2)(b) substituted (1.10.1991) by S.I. 1991/1997, reg. 2, Sch. para. 20(3)(b)(with reg. 4)

**9 Auditors’ report and right of access to books and to attend and be heard at meetings.**

- (1) The auditors of a society shall make a report to the society on the accounts examined by them, and on the revenue account or accounts and the balance sheet of the society for the year of account in respect of which they are appointed.
- (2) The report shall state whether the revenue account or accounts and the balance sheet for that year comply with the requirements of this Act and the appropriate registration Act and whether, in the opinion of the auditors—
  - (a) the revenue account or accounts give a true and fair view in accordance with section 3 of this Act of the income and expenditure of the society as a whole for that year of account and, in the case of each such account which deals with a particular business conducted by the society, a true and fair view in accordance with that section of the income and expenditure of the society in respect of that business for that year, and
  - (b) the balance sheet gives a true and fair view in accordance with that section either of the assets and current liabilities of the society and the resulting balances of its funds or of the state of the affairs of the society (as the case may require) as at the end of that year of account.
- (3) Without prejudice to the provisions of the last preceding subsection, where the report of the auditors relates to any accounts other than the revenue account or accounts

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for the year of account in respect of which they are appointed that report shall state whether those accounts give a true and fair view of any matter to which they relate.

(4) It shall be the duty of the auditors of a society, in preparing their report under this section, to carry out such investigations as will enable them to form an opinion as to the following matters, that is to say—

- (a) whether the society has kept proper books of account in accordance with the requirements of section 1(1)(a) of this Act;
- (b) whether the society has maintained a satisfactory system of control over its transactions in accordance with the requirements of section 1(1)(b) of this Act; and
- (c) whether the revenue account or accounts, the other accounts (if any) to which the report relates, and the balance sheet are in agreement with the books of account of the society;

and if the auditors are of opinion that the society has failed to comply with section 1(1)(a) or (b) of this Act, or if the revenue account or accounts, the other accounts (if any) and the balance sheet are not in agreement with the books of account of the society, the auditors shall state that fact in their report.

(5) Every auditor of a society—

- (a) shall have a right of access at all times to the books, deeds and accounts of the society, and to all other documents relating to its affairs, and
- (b) shall be entitled to require from the officers of the society such information and explanations as he thinks necessary for the performance of the duties of the auditors.

(6) If the auditors fail to obtain all the information and explanations which, to the best of their knowledge and belief, are necessary for the purposes of their audit, they shall state that fact in their report.

(7) The auditors of a society shall be entitled—

- (a) to attend any general meeting of the society, and to receive all notices of and other communications relating to any general meeting which any member of the society is entitled to receive, and
- (b) to be heard at any meeting which they attend on any part of the business of the meeting which concerns them as auditors.

(8) ..... <sup>F31</sup>

#### Textual Amendments

**F31** Ss. 3(6), 4(3), 9(8), 11(4)(6)-(8), 16, 17(4), Sch. 1 paras. 1-8, Schs. 2, 3 paras. 5, 6 repealed by Friendly Societies Act 1974 (c.46), **Sch. 11**

#### [<sup>F32</sup>9A Duty to obtain accountant's reports where section 4 applied.

(1) Subsection (2) of this section applies where—

- (a) at the end of a society's year of account a disapplication under section 4A(1) of this Act is in force in relation to the year, and
- (b) the society's turnover in the preceding year of account exceeded £90,000.

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- (2) The society shall, before the end of the period of 28 days beginning immediately after the end of the year of account, appoint an appropriate person to make—
  - (a) a report on the society's accounts and balance sheet for the year which meets the requirements of subsection (3) of this section, and
  - (b) a report relating to the preceding year of account which meets the requirement of subsection (4) of this section.
- (3) A report for the purposes of subsection (2)(a) of this section shall—
  - (a) state whether, in the opinion of the person making the report, the revenue account or accounts, the other accounts (if any) to which the report relates, and the balance sheet are in agreement with the books of account kept by the society under section 1 of this Act, and
  - (b) state whether, in that person's opinion, on the basis of the information contained in those books of account, the revenue account or accounts and the balance sheet comply with the requirements of this Act and the appropriate registration Act.
- (4) A report for the purposes of subsection (2)(b) of this section shall state whether in the opinion of the person making the report the financial criteria for the exercise of the power conferred by section 4A(1) of this Act were met in relation to the year.
- (5) In subsection (2) of this section, the reference to an appropriate person is to a person who is—
  - (a) a qualified auditor for the purposes of this Act, and
  - (b) not ineligible by virtue of section 8(1) of this Act to be appointed as auditor of the society.
- (6) In this section, "turnover" has the same meaning as in section 4A of this Act.]

#### Textual Amendments

**F32** S. 9A inserted (1.9.1996) by S.I. 1996/1738, arts. 1, 8(2)

#### **9B** <sup>F33</sup>**Rights of person appointed under section 9A(2).**

- (1) A person appointed under section 9A(2) of this Act shall, for the purposes of his appointment—
  - (a) have a right of access at all times to the books, deeds and accounts of the relevant society, and to all other documents relating to its affairs, and
  - (b) be entitled to require from the officers of the relevant society such information and explanations as he thinks necessary.
- (2) If a person appointed under section 9A(2) of this Act fails to obtain all the information and explanations which, to the best of that person's knowledge and belief, are necessary for the purposes of doing what he has been appointed to do, that fact shall be stated in his report.
- (3) A person appointed under section 9A(2) of this Act shall be entitled—
  - (a) to receive notice of, and attend, any general meeting of the relevant society at which any relevant matter is discussed, and

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- (b) to be heard at any such general meeting which he attends on any part of the business of the meeting which relates to any relevant matter.
- (4) For the purposes of subsection (3) of this section, the following are relevant matters, namely—
  - (a) any report of the person appointed under subsection (2) of section 9A of this Act, and
  - (b) any matter which is relevant to what that person has been appointed under that subsection to do.
- (5) In this section, references to the relevant society, in relation to a person appointed under section 9A(2) of this Act, are to the society responsible for his appointment under that provision.

#### Textual Amendments

**F33** 9B inserted (1.9.1996) by [S.I. 1996/1738](#), [arts. 1, 8\(2\)](#)

### 9C <sup>F34</sup>Registrar's power to require accounts for past years to be audited.

- (1) The [<sup>F35</sup>Authority] may give a direction to a society in respect of any relevant year of account of the society preceding that in which the direction is given—
  - (a) requiring it to appoint a qualified auditor or qualified auditors to audit its accounts and balance sheet for that year, and
  - (b) where it has sent to [<sup>F36</sup>the Authority] its annual return for that year before the date of the direction, requiring it after its accounts and balance sheet have been audited by a qualified auditor or qualified auditors to send to [<sup>F36</sup>the Authority] within three months from receipt of the direction a further annual return complying with the requirements of this Act and section 39 of the Act of 1965 (other than that as to time of sending).
- (2) For the purposes of this section, a year of account of a society is a relevant year of account if it is one at the end of which there is in force in relation to it a disapplication under section 4A(1) of this Act.

#### Textual Amendments

**F34** S. 9C inserted (1.9.1996) by [S.I. 1996/1738](#), [arts. 1, 8\(2\)](#)

**F35** Word in [s. 9C\(1\)](#) substituted (1.12.2001) by [S.I. 2001/2617](#), [arts. 2\(b\), 13\(1\)](#), [Sch. 3 Pt. III para. 251\(a\)](#) (subject to savings and transitional provisions in [art. 13\(3\)](#)); [S.I. 2001/3538](#), [art. 2\(1\)](#)

**F36** Words in [s. 9C\(1\)\(b\)](#) substituted (1.12.2001) by [S.I. 2001/2617](#), [arts. 2\(b\), 13\(1\)](#), [Sch. 3 Pt. III para. 251\(b\)](#) (subject to savings and transitional provisions in [art. 13\(3\)](#)); [S.I. 2001/3538](#), [art. 2\(1\)](#)

### 10 Remuneration of qualified auditors.

- (1) Regulations made by the <sup>F37</sup> . . . Treasury may prescribe the maximum rates of remuneration to be paid by societies for the audit of their accounts and balance sheets by qualified auditors [<sup>F38</sup>or for the making of a report for the purposes of section 3A(4)(a) or (5) or 9A(2)(a) or (b) of this Act].

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(2) No auditor [<sup>F39</sup>or reporting accountant] shall ask for, receive or be entitled to receive remuneration in excess of the rate prescribed in respect of his services by regulations made under this section.

[<sup>F40</sup>(3) In this section, “reporting accountant” means a person appointed to make a report for the purposes of section 3A(4)(a) or (5) or 9A(2)(a) or (b) of this Act.]

#### Textual Amendments

**F37** Words in s. 10(1) repealed (1.12.2001) by S.I. 2001/2617, arts. 2(b), 13(1)(2), **Sch. 3 Pt. III para. 252** (subject to savings and transitional provisions in art. 13(3)); S.I. 2001/3538, **art. 2(1)**

**F38** S. 10(1) words inserted (1.9.1996) by S.I. 1996/1738, **arts. 1, 9(7)**

**F39** S. 10(2) words inserted (1.9.1996) by S.I. 1996/1738, **arts. 1, 9(8)**

**F40** S. 10(3) added (1.9.1996) by S.I. 1996/1738, **arts. 1, 9(9)**

#### Modifications etc. (not altering text)

**C7** S. 10(1): transfer of functions (1.12.2001) by virtue of S.I. 2001/2617, arts. 2(b), 4(1), **Sch. 1 Pt. I** (with art. 5); S.I. 2001/3538, **art. 2(1)**

**C8** S. 10 amended by **Friendly Societies Act 1974 (c. 46), s. 40**

## 11 Amendments relating to annual returns of societies.

(1) The annual return which a society is required to send . . . <sup>F41</sup> to the [<sup>F42</sup>Authority] by section 39(1) of the Act of 1965 . . . <sup>F41</sup> shall be a return relating to the affairs of the society, and accordingly—

(a) . . . . . <sup>F43</sup>

(b) for the words from “of the income” to “audited” in section 39(1) of the Act of 1965,

there shall be substituted the words “relating to its affairs for the period required by this section to be included in the return”; . . . <sup>F41</sup>

(2) The annual return sent by a society under . . . <sup>F41</sup> the provisions mentioned in the preceding subsection—

(a) shall contain the revenue account or accounts of the society prepared in accordance with section 3(2) of this Act in respect of the year of account to which the return relates, and a balance sheet as at the end of that year, and

[<sup>F44</sup>(b) shall not contain any other accounts [<sup>F45</sup>or been the subject of a report for the purposes of section 9A(2)(a) of this Act].]

(3) The power of the [<sup>F42</sup>Authority] . . . <sup>F41</sup> under section 72(1) of the Act of 1965 . . . <sup>F41</sup> to determine the form of an annual return and the particulars to be contained in such a return shall be without prejudice to the provisions of the last preceding subsection.

(4) . . . . . <sup>F46</sup>

(5) Every society shall provide, together with—

(a) every copy of its last annual return supplied on demand to a member or person interested in the funds of the society, in accordance with the requirements of . . . <sup>F41</sup> section 39(5) of the Act of 1965 . . . <sup>F41</sup>

(b) . . . . . <sup>F47</sup>

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a copy of the report of the auditors on the accounts and balance sheet contained in the return . . . <sup>F41</sup>

[<sup>F48</sup>(5A) Where the year of account to which an annual return relates is one at the end of which there is in force in relation to the year a disapplication under section 4A(1) of this Act, subsection (5) of this section shall have effect as if for the reference to the report of the auditors on the accounts and balance sheet contained in the return there were substituted a reference to any report which the society is required, because of the disapplication, to obtain under section 9A(2)(a) of this Act.]

(6) . . . . . <sup>F46</sup>

#### Textual Amendments

- F41** Words repealed by [Friendly Societies Act 1974 \(c. 46\), Sch. 11](#)
- F42** Words in [s. 11\(1\)\(3\)](#) substituted (1.12.2001) by [S.I. 2001/2617, arts. 2\(b\), 13\(1\), Sch. 3 Pt. III para. 253](#) (subject to savings and transitional provisions in [art. 13\(3\)](#)); [S.I. 2001/3538, art. 2\(1\)](#)
- F43** [S. 11\(1\)\(a\)](#) repealed by [Friendly Societies Act 1974 \(c. 46\), Sch. 11](#)
- F44** [S. 11\(2\)\(b\)](#) substituted (19.12.1993) by [S.I. 1993/3245, reg. 7\(1\), Sch. para. 4\(2\)](#).
- F45** [S. 11\(2\)\(b\)](#) words added (1.9.1996) by [S.I. 1996/1738, arts. 1, 9\(10\)](#)
- F46** [Ss. 3\(6\), 4\(3\), 9\(8\), 11\(4\)\(6\)-\(8\), 16, 17\(4\), Sch. 1 paras. 1-8, Schs. 2, 3 paras. 5, 6](#) repealed by [Friendly Societies Act 1974 \(c.46\), Sch. 11](#)
- F47** [S. 11\(5\)\(b\)](#) repealed by [Friendly Societies Act 1974 \(c. 46\), Sch. 11](#)
- F48** [S. 11\(5A\)](#) added (1.9.1996) by [S.I. 1996/1738, arts. 1, 9\(11\)](#)

#### Modifications etc. (not altering text)

- C9** [S. 11\(2\)\(a\)](#) amended (19.12.1993) by [S.I. 1993/3245, reg. 7\(1\), Sch. para. 4\(1\)](#).

## 12 Consequential amendments of rules by societies.

- (1) Notwithstanding anything in the rules of any society, the committee of a society may by resolution passed during the appropriate period after the commencement of this Act [<sup>F49</sup>or of the Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 1993] make such amendments of the rules of the society as may be consequential on the provisions of this Act [<sup>F49</sup>or of the Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 1993].
- (2) For the purposes of the preceding subsection the appropriate period after the commencement of this Act, in relation to any society, shall be whichever is the longer of the following two periods, that is to say—
- the period of one year beginning with the date of the commencement of this Act, and
  - the period beginning with the date of the commencement of this Act and ending with the date on which an amendment of the rules of that society is first registered after that date . . . <sup>F50</sup> under section 10 of the Act of 1965.

[<sup>F51</sup>(2A) For the purposes of subsection (1) the appropriate period after the commencement of the Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 1993 shall be the period of one year beginning with the date of coming into force of those Regulations.]

- (3) Notwithstanding anything . . . <sup>F50</sup> in section 10 of the Act of 1965, . . . <sup>F50</sup> the <sup>F52</sup> . . . <sup>F50</sup> shall not be required to register any amendment of a society's rules



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unless such consequential amendments of the rules of that society as are mentioned in subsection (1) of this section either have been made before the application for registration of that amendment or are to be effected by that amendment.

#### Textual Amendments

- F49** Words in s. 12(2) inserted (19.12.1993) by S.I. 1993/3245, reg. 7(1), **Sch. para. 5(1)**.  
**F50** Words repealed by **Friendly Societies Act 1974 (c. 46), Sch. 11**  
**F51** S. 12(2A) inserted (19.12.1993) by S.I. 1993/3245, reg. 7(1), **Sch. para. 5(2)**.  
**F52** Words in s. 12(3) substituted (1.12.2001) by S.I. 2001/2617, arts. 2(b), 13(1), **Sch. 3 Pt. III para. 254** (subject to savings and transitional provisions in art. 13(3)); S.I. 2001/3538, **art. 2(1)**

#### Modifications etc. (not altering text)

- C10** S. 12 saved by **Friendly Societies Act 1974 (c. 46), Sch. 10 para. 14(b)**

### *Industrial and provident societies: group accounts*

## **13 Group accounts of industrial and provident societies.**

- (1) Subject to the provisions of the next following section, where at the end of a year of account of an industrial and provident society beginning on or after 1st January 1969 the society has subsidiaries, it shall cause to be prepared accounts for that year (in this Act referred to as “group accounts”) dealing as mentioned in the following provisions of this section with the state of affairs and income and expenditure of the society and its subsidiaries.
- (2) The group accounts of an industrial and provident society shall give a true and fair view of the state of affairs and income and expenditure of the society and the subsidiaries dealt with thereby as a whole, so far as concerns members of the society.
- (3) Without prejudice to the provisions of the last preceding subsection, the group accounts shall comprise such accounts and contain such particulars as the [<sup>F53</sup>Treasury] may prescribe by regulations made under this section.
- (4) Where the year of account of a subsidiary does not coincide with that of the industrial and provident society of which it is a subsidiary, the group accounts shall, unless the [<sup>F54</sup>Authority] on the application or with the consent of the committee of the society otherwise directs, deal with the subsidiary’s state of affairs as at the end of its year of account ending with or last before that of the society, and with the subsidiary’s income and expenditure for that year of account.
- (5) An industrial and provident society which has caused group accounts to be prepared in accordance with subsection (1) of this section shall submit those accounts for audit to the auditors appointed to audit the accounts and balance sheet of the society for that year of account: and those auditors shall make a report to the society on the group accounts, stating whether those accounts have been properly prepared in accordance with the requirements of this Act and the regulations (if any) made under this Act and whether in their opinion they give a true and fair view of the state of affairs and income and expenditure of the society and its subsidiaries in accordance with subsection (2) of this section.

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- (6) An industrial and provident society shall send its group accounts and a copy of the report of the auditors under the last preceding subsection to the [<sup>F54</sup>Authority] together with its annual return for the year of account to which those group accounts relate.
- (7) The latest group accounts of an industrial and provident society shall be supplied free of charge, together with the latest annual return of the society, to every member or person interested in the funds of the society who applies under section 39(5) of the Act of 1965 for a copy of the latest annual return; and any such group accounts shall be taken to be a document kept by the [<sup>F54</sup>Authority] under that Act for the purposes of section 71(1) of that Act.

#### Textual Amendments

- F53** Words in s. 13(3) substituted (1.12.2001) by S.I. 2001/2617, arts. 2(b), 13(1), **Sch. 3 Pt. III para. 255(a)** (subject to savings and transitional provisions in art. 13(3)); S.I. 2001/3538, **art. 2(1)**
- F54** Words in s. 13(4)(6)(7) substituted (1.12.2001) by S.I. 2001/2617, arts. 2(b), 13(1), **Sch. 3 Pt. III para. 255** (subject to savings and transitional provisions in art. 13(3)); S.I. 2001/3538, **art. 2(1)**

#### Modifications etc. (not altering text)

- C11** S. 13(3): transfer of functions (1.12.2001) by virtue of S.I. 2001/2617, arts. 2(b), 4(1), **Sch. 1 Pt. I** (with art. 5); S.I. 2001/3538, **art. 2(1)**

## 14 Exemption from requirements in respect of group accounts.

- (1) Section 13 of this Act shall not require group accounts to be prepared by an industrial and provident society where that society is at the end of its year of account the wholly owned subsidiary of another body corporate incorporated in Great Britain.
- (2) The group accounts of an industrial and provident society prepared under that section need not deal with a subsidiary of the society if in the opinion of the committee of the society, approved by the [<sup>F55</sup>Authority]—
  - (a) it is impracticable, or would be of no real value to members of the society, in view of the insignificant amounts involved, or would involve expense or delay out of proportion to the value to members of the society; or
  - (b) the result would be misleading, or harmful to the business of the society or any of its subsidiaries; or
  - (c) the business of the society and that of the subsidiary are so different that they cannot reasonably be treated as a single undertaking.
- (3) If in respect of each subsidiary of an industrial and provident society the committee of the society is of any such opinion as is mentioned in the last preceding subsection and that opinion is approved by the [<sup>F55</sup>Authority], then that industrial and provident society shall not be required to cause group accounts to be prepared under section 13 of this Act.

[<sup>F56</sup>(3A) In relation to any year of account of an industrial and provident society, a subsidiary of the society shall be disregarded for the purposes of section 13 of this Act if—

- (a) the society's previous year of account was one in relation to which the subsidiary was not required to be dealt with in group accounts of the society for that year,
- (b) the reason for that was subsection (2) or (3) of this section or this subsection, and

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- (c) the auditors of the society include in the appropriate report a certificate to the effect that they agree with the committee of the society that—
- (i) the reason given by the committee in their last opinion in respect of the subsidiary to have been approved by the [<sup>F55</sup>Authority] under subsection (2) or (3) of this section, and
  - (ii) the grounds so given by them for that reason, continued to apply throughout the year of account.
- (3B) For the purposes of subsection (3A)(c) of this section, the appropriate report is—
- (a) where the year of account is one in relation to which the society is subject to the obligation under subsection (1) of section 13 of this Act, the report required to be made under subsection (5) of that section by the society's auditors, and
  - (b) where it is not, the report required to be made by them under section 9(1) of this Act.
- (3C) A certificate shall be disregarded for the purposes of subsection (3A)(c) of this section if contained in a report made after the date which, in relation to the year to which the certificate relates, is the last date for making the return required by section 39(1) of the Act of 1965 (annual return).]
- (4) For the purposes of this section an industrial and provident society shall be deemed to be the wholly owned subsidiary of another body corporate if it has no members except that other body corporate and the wholly owned subsidiaries of that body and its or their nominees.

#### Textual Amendments

- F55** Words in s. 14 substituted (1.12.2001) by S.I. 2001/2617, arts. 2(b), 13(1), **Sch. 3 Pt. III para. 256** (subject to savings and transitional provisions in art. 13(3)); S.I. 2001/3538, **art. 2(1)**
- F56** S. 14(3A)(3B)(3C) (1.9.1996) by S.I. 1996/1738, **art. 1, 12**

## 15 Meaning of "subsidiary".

- (1) For the purposes of this Act, a company shall, subject to the provisions of subsection (4) of this section, be deemed to be a subsidiary of an industrial and provident society if, but only if, that society either—
- (a) is a member of the company and controls the composition of its board of directors; or
  - (b) holds more than half in nominal value of the company's equity share capital.
- (2) For the purposes of paragraph (a) of the preceding subsection, the composition of a company's board of directors shall be deemed to be controlled by an industrial and provident society if, but only if, that society by the exercise of some power exercisable by it without the consent or concurrence of any other person can appoint or remove the holders of all or a majority of the directorships.
- (3) A society shall be deemed for the purposes of subsection (2) of this section to have power to appoint to a directorship if either—
- (a) a person cannot be appointed thereto without the exercise in his favour by that society of such a power as is mentioned in that subsection; or

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- (b) a person's appointment thereto follows necessarily from his appointment as a member of the committee of that society; or
  - (c) the directorship is held by that society itself.
- (4) In determining whether a company is a subsidiary of an industrial and provident society—
  - (a) any shares held or power exercisable by that society in a fiduciary capacity shall be treated as not held or exercisable by it;
  - (b) (subject to the two following paragraphs), any shares held or power exercisable by any person as a nominee for that society (except where that society is concerned only in a fiduciary capacity) shall be treated as held or exercisable by that society;
  - (c) any shares held or power exercisable by any person by virtue of the provisions of any debentures of the company or of a trust deed for securing any issue of such debentures shall be disregarded; and
  - (d) any shares held or power exercisable by, or by a nominee for, that society (not being held or exercisable as mentioned in the last preceding paragraph) shall be treated as not held or exercisable by that society if the ordinary business of that society includes the lending of money and the shares are held or power is exercisable as mentioned above by way of security only for the purposes of a transaction entered into in the ordinary course of that business.
- (5) For the purposes of this Act, an industrial and provident society shall be deemed to be a subsidiary of another such society if, but only if, that other society either—
  - (a) is a member of the first mentioned society and controls the composition of its committee; or
  - (b) can exercise a majority of the votes to which members of the first-mentioned society are entitled under its rules.
- (6) For the purposes of paragraph (a) of the last preceding subsection, the composition of a society's committee shall be deemed to be controlled by another society if, but only if, either—
  - (a) that other society by the exercise of some power exercisable by it without the consent or concurrence of any other person can appoint and remove the members or a majority of the members of that committee; or
  - (b) that other society is itself a member of that committee and by the exercise of such a power as is mentioned in the preceding paragraph can either appoint and remove the remaining members of that committee or appoint and remove such number of members of that committee as, together with itself, would constitute a majority of the members of that committee.
- (7) A society shall be deemed for the purposes of subsection (6) of this section to have power to appoint a person to membership of the committee of another society if either—
  - (a) he cannot be appointed without the exercise in his favour by the first mentioned society of such a power as is mentioned in paragraph (a) of that subsection; or
  - (b) his appointment follows necessarily from his appointment as a member of the committee of the first-mentioned society.

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- (8) Subsection (4) of this section shall apply with the necessary modifications in determining whether an industrial and provident society is a subsidiary of another such society as it applies in determining whether a company is a subsidiary of such a society.
- (9) In this section “company” includes any body corporate other than an industrial and provident society, and “equity share capital” means, in relation to a company, its issued share capital excluding any part thereof which, neither as respects dividends nor as respects capital, carries any right to participate beyond a specified amount in a distribution.

*Societies registered under the Act of 1896: valuations and rules*

16 ..... <sup>F57</sup>

**Textual Amendments**

**F57** Ss. 3(6), 4(3), 9(8), 11(4)(6)-(8), 16, 17(4), Sch. 1 paras. 1-8, Schs. 2, 3 paras. 5, 6 repealed by Friendly Societies Act 1974 (c.46), **Sch. 11**

<sup>F58</sup> 17 .....

**Textual Amendments**

**F58** S. 17 repealed (1.12.2001) by S.I. 2001/2617, arts. 2(b), 13(1)(2), Sch. 3 Pt. III para. 257, **Sch. 4** (subject to savings and transitional provisions in art. 13(3)); S.I. 2001/3538, **art. 2(1)**

*Miscellaneous and supplementary*

18 **Offences.**

Any contravention by a society of any provision of this Act and any failure by a society to comply with any provision of this Act or any direction given by the [<sup>F59</sup>Authority] under section 4 [<sup>F60</sup>or 9C(1)] of this Act shall be an offence under the appropriate registration Act.

**Textual Amendments**

**F59** Word in s. 18 substituted (1.12.2001) by S.I. 2001/2617, arts. 2(b), 13(1), **Sch. 3 Pt. III para. 258** (subject to savings and transitional provisions in art. 13(3)); S.I. 2001/3538, **art. 2(1)**

**F60** S. 18 words inserted (1.9.1996) by S.I. 1996/1738, **arts. 1, 9(12)**

19 **Regulations.**

- (1) Any power to make regulations under this Act may be exercised so as to make different provision in relation to different cases or different circumstances to which the power is applicable.

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- (2) Any power to make regulations under this Act shall be exercisable by statutory instrument, and any statutory instrument containing any regulations made under section 4 or section 10 of this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.

<sup>F61</sup>(3) . . . . .

#### Textual Amendments

**F61** S. 19(3) repealed (1.12.2001) by S.I. 2001/2617, arts. 2(b), 13(1)(2), Sch. 3 Pt. III para. 259, Sch. 4 (subject to art. 13(3)); S.I. 2001/3538, art. 2(1)

## 20 Minor and consequential amendments, repeals and transitional provisions.

- (1) Except as provided by Schedule 3 to this Act—
- (a) the enactments specified in Schedule 1 to this Act shall have effect subject to the amendments set out in that Schedule, being minor amendments and amendments consequential on the preceding provisions of this Act; . . . <sup>F62</sup>
- (2) Schedule 3 to this Act shall have effect for the purpose of the transition to the provisions of this Act from the law in force before the commencement of those provisions.

#### Textual Amendments

**F62** Words repealed by Friendly Societies Act 1974 (c. 46), Sch. 11

## 21 Interpretation.

- (1) In this Act, except so far as the context otherwise requires, the following expressions have the following meanings respectively, that is to say—
- [<sup>F63</sup>“accounts” means the profit and loss account required to be prepared by section 226 of the Companies Act 1985 as applied by regulation 3 of the Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 1993;]
- “<sup>M1</sup>Act of 1896” means the Friendly Societies Act 1896;
- “Act of 1965” means the <sup>M2</sup>Industrial and Provident Societies Act 1965;
- “annual return”, . . . <sup>F64</sup> in relation to a society registered under the Act of 1965, means the annual return which that society is required to send to the [<sup>F65</sup>Authority] by section 39(1) of that Act;
- <sup>F66</sup> . . . ;
- “exempt society” has the meaning assigned to it by section 4(4) of this Act;
- [<sup>F67</sup>“group accounts” means the accounts required to be prepared by section 227 of the Companies Act 1985 as applied by regulation 3 of the Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 1993.]
- “industrial and provident society” means a society registered under the Act of 1965;

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[<sup>F63</sup>“qualified auditor” means a person eligible for appointment as an auditor of the society under Part II of the Companies Act 1989 as applied by paragraph 3 of Schedule 9 to those Regulations;]

“registered branch” means a branch registered under the Act of 1896 of a society registered under that Act;

“Scottish society” means any body which is . . . <sup>F64</sup> a society registered under the Act of 1965 . . . <sup>F64</sup>[<sup>F68</sup>whose registered office is situated] in Scotland;

“society” means any body which is . . . <sup>F64</sup> a society registered under the Act of 1965;

“subsidiary” has the meaning assigned to it by section 15 of this Act;

“year of account”—

- (a) . . . . . <sup>F69</sup>
- (b) in relation to a society registered under the Act of 1965, means any period required by section 39 of that Act to be included in an annual return of that society.

(2) In this Act “the appropriate registration Act”—

- (a) . . . . . <sup>F70</sup>

(b)

in relation to a society registered under the Act of 1965 or to a member of the committee of any such society, means the Act of 1965;

and any reference to an offence under the appropriate registration Act is a reference . . . <sup>F64</sup> to an offence under section 61 of the Act of 1965 . . . <sup>F64</sup>

(3) In this Act, “the current year of account”, in relation to the appointment of an auditor or auditors, means the year of account in which the question of that appointment arises, and “the preceding year of account” means the year of account immediately preceding the current year of account.

(4) In this Act, except so far as the context otherwise requires—

- (a) references to a society registered and to the registration of a society under the Act of 1896 include respectively references to a registered branch and to the registration under that Act of a branch of a society so registered; and
- (b) references to a society registered under the Act of 1965 include references to a society deemed to be so registered by virtue of section 4 of that Act.

#### Textual Amendments

**F63** Definitions inserted (19.12.1993) by S.I. 1993/3245, reg. 7(1), Sch. para. 6(a).

**F64** Words repealed by Friendly Societies Act 1974 (c. 46), Sch. 11

**F65** Words in definition of  
“annual return”  
in s. 21(1) substituted (1.12.2001) by S.I. 2001/3649, arts. 1, 185

**F66** Definition of  
“collecting society”  
in s. 21(1) repealed (1.12.2001) by S.I. 2001/2617, arts. 2(b), 13(1)(2), Sch. 3 Pt. III para. 260(a), Sch. 4 (subject to savings and transitional provisions in art. 13(3)); S.I. 2001/3538, art. 2(1)

**F67** Definition in s. 21(1) substituted (19.12.1993) by S.I. 1993/3245, reg. 7(1), Sch. para. 6(b).

**F68** Words in definition of

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“Scottish society”

in s. 21(1) inserted (1.12.2001) by S.I. 2001/2617, arts. 2(b), 13(1), **Sch. 3 Pt. III para. 260(b)** (subject to savings and transitional provisions in art. 13(3)); S.I. 2001/3538, **art. 2(1)**

**F69** Para. 8 repealed by **Friendly Societies Act 1974 (c. 46), Sch. 11**

**F70** S. 21(2)(a) repealed by **Friendly Societies Act 1974 (c. 46), Sch. 11**

#### Marginal Citations

**M1** 1896 c. 25.

**M2** 1965 c. 12.

## 22 Channel Islands and Isle of Man.

- (1) Her Majesty may by Order in Council provide—
- (a) that all or any of the provisions of this Act shall extend to any of the Channel Islands, or
  - (b) that all or any of the provisions of this Act, in so far as those provisions relate to societies registered under the Act of 1896, shall extend to the Isle of Man, with in either case such exceptions, adaptations and modifications (if any) as may be specified in the Order.
- (2) Any Order in Council made under this section may be varied or revoked by a subsequent Order in Council so made.
- (3) Any Order in Council revoking an Order in Council made under this section may contain such transitional or other incidental or supplemental provisions as appear to Her Majesty to be necessary or expedient in consequence of the revocation.

## 23 Short title, citation, construction and extent.

- (1) This Act may be cited as the Friendly and Industrial and Provident Societies Act 1968.
- (2) <sup>F71</sup> . . . ; . . . <sup>F72</sup> and this Act and the Industrial and Provident Societies Acts 1965 and 1967 may be cited together as the Industrial and Provident Societies Acts 1965 to 1968.
- (3) References in this Act to any other enactment shall, except so far as the context otherwise requires, be construed as references to that enactment as amended by or under any other enactment, including this Act.
- (4) This Act—
- <sup>F73</sup>(a) . . . . .
  - (b) . . . . . <sup>F74</sup>
  - (c) in its application to societies registered under the Act of 1965, shall be construed as one with that Act.
- (5) This Act shall not extend to Northern Ireland.

#### Textual Amendments

**F71** Words in s. 23(2) omitted (1.12.2001) by virtue of S.I. 2001/3647, art. 5, **Sch. 3 para. 9** (with art. 6)

**F72** Words repealed by **Friendly Societies Act 1974 (c. 46), Sch. 11**

**F73** S. 23(4)(a) repealed (1.12.2001) by S.I. 2001/2617, arts. 2(b), 13(1)(2), **Sch. 3 Pt. III para. 261, Sch. 4** (subject to savings and transitional provisions in art. 13(3)); S.I. 2001/3538, **art. 2(1)**



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**F74** S. 23(4)(b) repealed by Friendly Societies Act 1974 (c. 46), **Sch. 11**

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## SCHEDULES

### SCHEDULE 1

1–8 ..... F75

#### Textual Amendments

**F75** Ss. 3(6), 4(3), 9(8), 11(4)(6)-(8), 16, 17(4), Sch. 1 paras. 1-8, Schs. 2, 3 paras. 5, 6 repealed by Friendly Societies Act 1974 (c.46), **Sch. 11**

#### *SUPERANNUATION AND OTHER TRUST FUNDS (VALIDATION) Act 1927 (c. 41)*

9 In section 8 (provisions as to interpretation) the definitions of “Actuary” and “Auditor” shall be omitted, and the following definitions shall be inserted at the appropriate points in alphabetical order—

““Actuary ”means a person having such qualifications as may be prescribed by regulations made by the Chief Registrar and laid before Parliament;

“Auditor” means a person who is a qualified auditor for the purposes of the Friendly and Industrial Provident Societies Act 1968.”

#### Modifications etc. (not altering text)

**C12** The text of Sch. 1 paras. 9–12 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### *INDUSTRIAL AND PROVIDENT SOCIETIES ACT 1965 (c.12)*

10 In section 39 (annual returns), in subsection (2)(c) (period to be included in a society’s annual return) for the words from “of the society’s annual return” to the end of the subsection there shall be substituted the words “with the date to which the society’s last annual return was made up, whichever is the later, and ending—

(i) with the date of the last balance sheet published by the society before the appropriate date; or

(ii) if the date of that balance sheet is earlier than 31st August immediately preceding the appropriate date or later than 31st January of the year in which the appropriate date falls, with 31st December immediately preceding the appropriate date”, and the following subsection shall be inserted after subsection (2)—

“(2A) For the purposes of paragraph (c) of subsection (2) of this section “the appropriate date”, in relation to an annual return of a society, is 31st March of the year in which that return is required by subsection (1) of this section

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to be sent to the appropriate registrar or the date in which that return is so sent, whichever is the earlier.”

- 11 In section 74 (general provisions as to interpretation), in the definition of “officer”, for the words from “approved” to “audit” there shall be substituted the words “auditor appointed by the society in accordance with the requirements of the Friendly and Industrial and Provident Societies Act 1968”.
- 12 In Schedule 1, in paragraph 10 (rules of societies to provide for audit of accounts), for the words “approved auditors” there shall be substituted the words “auditors appointed by the society in accordance with the requirements of the Friendly and Industrial and Provident Societies Act 1968”.

F76F76 SCHEDULE 2

**Textual Amendments**

**F76** Ss. 3(6), 4(3), 9(8), 11(4)(6)-(8), 16, 17(4), Sch. 1 paras. 1-8, Schs. 2, 3 paras. 5, 6 repealed by Friendly Societies Act 1974 (c.46), **Sch. 11**

F76

SCHEDULE 3

Section 20(2).

TRANSITIONAL PROVISIONS

- 1 Where after the commencement of this Act by virtue of subsection (8) of section 3 of this Act the provisions of that section do not apply in relation to any balance sheet published by an industrial and provident society, nothing in section 20(1)(b) of this Act shall affect the operation in relation to that balance sheet and any copy of that balance sheet of section 37(4) of the Act of 1965.
- 2 Where after the commencement of this Act neither subsection (1) nor subsection (5) of section 4 of this Act applies to a society in respect of any year of account, nothing in sections 11(8) and 20(1) of this Act shall affect the operation in relation to that society in respect of that year of account of the following provisions, in so far as they are applicable to that society, that is to say—
  - (a) ..... F77
  - (d) sections 37(1) and (2) and 74 of the Act of 1965.

**Textual Amendments**

**F77** Sch. 3 para. 2(a)-(c) repealed by Friendly Societies Act 1974 (c. 46), **Sch. 11**

- 3 Where after the commencement of this Act neither subsection (1) nor subsection (5) of section 4 of this Act applies to a society in respect of any year of account, nothing in section 20(1) of this Act shall affect the operation—
  - (a) of section 100 of the Act of 1896, in the case of a society registered under that Act, or

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(b) of section 72(2) of the Act of 1965, in the case of a society registered under that Act,

in relation to documents purporting to be signed by the approved auditor to whom the accounts of that society for that year of account are submitted for audit under section 26(1) of the Act of 1896 or under section 37(1) of the Act of 1965, as the case may be.

4 For the purpose of—

(a) the application to any society, in the circumstances mentioned in paragraph 2 of this Schedule, of any of the provisions mentioned in that paragraph, and

(b) the operation, in the circumstances mentioned in paragraph 3 of this Schedule, of section 100 of the Act of 1896 or section 72(2) of the Act of 1965 in relation to documents purporting to be signed by an approved auditor,

any person who is at the commencement of this Act an approved auditor appointed by the Treasury under section 30 of the Act of 1896 or under section 38 of the Act of 1965 shall continue to be an approved auditor subject to the conditions (including the conditions as to termination of his appointment) on which he was appointed.

5, 6. . . . . F78

**Textual Amendments**  
F78 Ss. 3(6), 4(3), 9(8), 11(4)(6)-(8), 16, 17(4), Sch. 1 paras. 1-8, Schs. 2, 3 paras. 5, 6 repealed by Friendly Societies Act 1974 (c.46), Sch. 11

**Status:**

Point in time view as at 02/07/2002.

**Changes to legislation:**

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