

Status: Point in time view as at 01/02/1993.

Changes to legislation: Financial Services Act 1986 (Repealed), Part III is up to date with all changes known to be in force on or before 30 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 11

FRIENDLY SOCIETIES

Modifications etc. (not altering text)

- C1** Sch. 11 amended (1.2.1993 for specified purposes and 1.1.1994 for all remaining purposes) by Friendly Societies Act 1992 (c. 40) s. 98, Sch. 18 Pt. II para. 10; S.I. 1993/16, art. 2, Sch.4; S.I. 1993/2213, art. 2(1), Sch.5.

PART III

REGISTRAR'S POWERS IN RELATION TO REGULATED FRIENDLY SOCIETIES

Special provisions for regulated friendly societies

- 13 [F¹Paragraphs 13A to 25] below shall have effect in connection with the exercise of powers for the regulation of regulated friendly societies in relation to regulated business, but nothing in this Part of this Schedule shall affect the exercise of any power conferred by this Act in relation to a regulated friendly society which is an authorised person by virtue of section 25 of this Act to the extent that the power relates to other investment business.

Textual Amendments

- F1** Words substituted by Companies Act 1989 (c. 40, SIF 27), s. 206(1), Sch. 23 Pt. II para. 31

Modifications etc. (not altering text)

- C2** Sch. 11 para. 13: certain functions conferred by provisions contained in paras. 2–25 and 38 of Schedule 11 transferred as mentioned in S.I. 1990/354, art. 5(2)

Conduct of investment business

- [F²13A(1)] [F³The Commission] may issue statements of principle with respect to the conduct expected of regulated friendly societies.

- (2) The conduct expected may include compliance with a code or standard issued by another person, as for the time being in force, and may allow for the exercise of discretion by any person pursuant to any such code or standard.

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- (3) Failure to comply with a statement of principle under this paragraph is a ground for the taking of disciplinary action or the exercise of powers of intervention, but it does not give rise to any right of action by investors or other persons affected or affect the validity of any transaction.
- (4) The disciplinary action which may be taken by virtue of sub-paragraph (3) is—
- the making of a public statement under paragraph 21, or
 - the application by [^{F3}the Commission] for an injunction, interdict or other order under paragraph 22(1), or
 - any action under paragraph 26 or 27 of this Schedule;
- and the reference in that sub-paragraph to powers of intervention is to the powers conferred by Chapter VI of Part I of this Act.
- (5) Where a statement of principle relates to compliance with a code or standard issued by another person, the statement of principle may provide—
- that failure to comply with the code or standard shall be a ground for the taking of disciplinary action, or the exercise of powers of intervention, only in such cases and to such extent as may be specified; and
 - that no such action shall be taken, or any such power exercised, except at the request of the person by whom the code or standard in question was issued.
- (6) [^{F3}The Commission] shall exercise [^{F4}its] powers in such manner as appears to [^{F5}the Commission] appropriate to secure compliance with statements of principle under this paragraph.]

Textual Amendments

- F2** Sch. 11 para. 13A inserted by Companies Act 1989 (c. 40, SIF 27), s. 206(1), **Sch. 23 Pt. II para. 32** and brought into force by S.I. 1990/354, **art. 3**
- F3** Words in Sch. 11 substituted (1.2.1993 for specified purposes and 1.1.1994 for all remaining purposes) by Friendly Societies Act 1992 (c. 40), s. 98, **Sch. 18 Pt. II para. 10(1)** (with ss. 7(5), 93(4)); S.I. 1993/16, art. 2, **Sch.4**; S.I. 1993/2213, art. 2(1), **Sch.5**.
- F4** Word in Sch. 11 para. 13A(6) substituted (1.2.1993 for specified purposes and 1.1.1994 for all remaining purposes) by Friendly Societies Act 1992 (c. 40), s. 98, **Sch. 18 Pt. II para.15** (with ss. 7(5), 93(4)); S.I. 1993/16, art. 2, **Sch.4**; S.I. 1993/2213, art. 2(1), **Sch.5**.
- F5** Words in Sch. 11 substituted (1.2.1993 for specified purposes and 1.1.1994 for all remaining purposes) by Friendly Societies Act 1992 (c. 40), s. 98, **Sch. 18 Pt. II para. 10(2)(3)** (with ss. 7(5), 93(4)); S.I. 1993/16, art. 2, **Sch.4**; S.I. 1993/2213, art. 2(1), **Sch.5**.

Modifications etc. (not altering text)

- C3** Sch. 11 para. 13A: functions transferred by S.I. 1990/354, **art. 5(1)**
- C4** Sch. 11 paras. 13A, 13B: certain functions conferred by provisions contained in paras. 2–25 and 38 of Schedule 11 transferred as mentioned in S.I. 1990/354, **art. 5(2)**

- [^{F6}13B(1) The relevant regulatory authority may on the application of a regulated friendly society—
- modify a statement of principle issued under paragraph 13A so as to adapt it to the circumstances of the society or to any particular kind of business carried on by it, or

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- (b) dispense the society from compliance with any such statement of principle, generally or in relation to any particular kind of business carried on by it.
- (2) The powers conferred by this paragraph shall not be exercised unless it appears to the relevant regulatory authority—
 - (a) that compliance with the statement of principle in question would be unduly burdensome for the applicant having regard to the benefit which compliance would confer on investors, and
 - (b) that the exercise of those powers will not result in any undue risk to investors.
- (3) The powers conferred by this paragraph may be exercised unconditionally or subject to conditions; and paragraph 13A(3) applies in the case of failure to comply with a condition as in the case of failure to comply with a statement of principle.
- (4) The relevant regulatory authority for the purposes of this paragraph is—
 - (a) in the case of a member society of a recognised self-regulating organisation for friendly societies, in relation to investment business in the carrying on of which it is subject to the rules of the organisation, that organisation;
 - (b) in any other case, or in relation to other investment business, [^{F7}the Commission].
- (5) The reference in paragraph 4(1) of Schedule 2 as applied by paragraph 4 above (requirements for recognition of self-regulating organisation for friendly societies) to monitoring and enforcement of compliance with statements of principle includes monitoring and enforcement of compliance with conditions imposed by the organisation under this paragraph.]

Textual Amendments

- F6** Sch. 11 para. 13B inserted (*prosp.*) by Companies Act 1989 (c. 40, SIF 27), s. 206(1), **Sch. 23 Pt. II para. 32**
- F7** Words in Sch. 11 substituted (1.2.1993 for specified purposes and 1.1.1994 for all remaining purposes) by Friendly Societies Act 1992 (c. 40), s. 98, **Sch. 18 Pt. II para. 10(1)** (with ss. 7(5), 93(4)); S.I. 1993/16, art. 2, **Sch.4**; S.I. 1993/2213, art. 2(1), **Sch.5**.

Modifications etc. (not altering text)

- C5** Sch. 11 paras. 13A, 13B: certain functions conferred by provisions contained in paras. 2–25 and 38 of Schedule 11 transferred as mentioned in S.I. 1990/354, **art. 5(2)**

- 14 (1) The rules under section 48 of this Act shall not apply to a regulated friendly society but [^{F8}the Commission] may, with the consent of the Secretary of State, make such rules as may be made under that section regulating the conduct of any such society . . .
^{F9} as respects the matters mentioned in sub-paragraph (2) below.
- (2) The matters referred to in sub-paragraph (1) above are—
 - (a) procuring persons to transact regulated business with it and advising persons as to the exercise of rights conferred by investments acquired from the society in the course of such business;
 - (b) managing the investment of pension funds, procuring persons to enter into contracts for the management of such investments and advising persons on such contracts and the exercise of the rights conferred by them;

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(c) matters incidental to those mentioned in paragraphs (a) and (b) above.

[^{F10}(2A) Paragraph 22B below has effect as regards the application of rules under this paragraph to member societies in respect of investment business in the carrying on of which they are subject to the rules of a recognised self-regulating organisation for friendly societies.]

(3) Section 50 of this Act shall apply in relation to rules under this paragraph as it applies in relation to rules under section 48 except that—

(a) for the reference to the Secretary of State there shall be substituted a reference to [^{F8}the Commission]; . . . ^{F11}

(b) [^{F8}the Commission] shall not exercise the power under subsection (1) to alter the requirement of rules made under this paragraph without the consent of the Secretary of State [^{F12}; and]

[^{F12}(c) for the references in subsection (4) to section 63B and a recognised self-regulating organisation there shall be substituted references to paragraph 13B and a recognised self-regulating organisation for friendly societies.]

Textual Amendments

F8 Words in Sch. 11 substituted (1.2.1993 for specified purposes and 1.1.1994 for all remaining purposes) by Friendly Societies Act 1992 (c. 40), s. 98, **Sch. 18 Pt. II para. 10(1)** (with ss. 7(5), 93(4)); S.I. 1993/16, art. 2, **Sch.4**; S.I. 1993/2213, art. 2(1), **Sch.5**.

F9 Words repealed by Companies Act 1989 (c. 40, SIF 27), ss. 206(1), 212, Sch. 23 Pt. II para. 33(2), **Sch. 24**

F10 Sch. 11 para. 14(2A) inserted by Companies Act 1989 (c. 40, SIF 27), s. 206(1), **Sch. 23 Pt. II para. 33(3)**

F11 Word repealed by Companies Act 1989 (c. 40, SIF 27), ss. 206(1), 212, Sch. 23 Pt. II para. 33(4), **Sch. 24**

F12 Sch. 11 para. 14(3)(c) and “; and” preceding it inserted by Companies Act 1989 (c. 40, SIF 27), s. 206(1), **Sch. 23 Pt. II para. 33(4)**

Modifications etc. (not altering text)

C6 Sch. 11 para. 14: certain functions conferred by provisions contained in paras. 2–25 and 38 of Schedule 11 transferred as mentioned in S.I. 1990/354, **art. 5(2)**

15 (1) The rules under section 51 of this Act shall not apply to any investment agreement which a person has entered or offered to enter into with a regulated friendly society if, as respects the society, entering into the agreement constitutes the carrying on of regulated business but [^{F13}the Commission] may, with the consent of the Secretary of State, make rules for enabling a person who has entered or offered to enter into such an agreement to rescind the agreement or withdraw the offer within such period and in such manner as may be specified in the rules.

(2) Subsection (2) of section 51 of this Act shall apply in relation to rules under this paragraph as it applies in relation to rules under that section but with the substitution for the reference to the Secretary of State of a reference to [^{F13}the Commission].

Textual Amendments

F13 Words in Sch. 11 substituted (1.2.1993 for specified purposes and 1.1.1994 for all remaining purposes) by Friendly Societies Act 1992 (c. 40), s. 98, **Sch. 18 Pt. II para. 10(1)** (with ss. 7(5), 93(4)); S.I. 1993/16, art. 2, **Sch.4**; S.I. 1993/2213, art. 2(1), **Sch.5**.

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- 16 (1) Regulations under section 52 of this Act shall not apply to any regulated friendly society but [^{F14}the Commission] may, with the consent of the Secretary of State, make such regulations as may be made under that section imposing requirements on regulated friendly societies other than member societies.
- (2) Any notice or information required to be given or furnished under this paragraph shall be given in writing or in such other manner as [^{F14}the Commission] may approve.

Textual Amendments

- F14** Words in Sch. 11 substituted (1.2.1993 for specified purposes and 1.1.1994 for all remaining purposes) by Friendly Societies Act 1992 (c. 40), s. 98, Sch. 18 Pt. II para. 10(1) (with ss. 7(5), 93(4)); S.I. 1993/16, art. 2, Sch.4; S.I. 1993/2213, art. 2(1), Sch.5.

- 17 (1) Rules under section 53 of this Act shall not apply to any regulated friendly society but [^{F15}the Commission] may, with the consent of the Secretary of State make rules concerning indemnity against any claim in respect of any description of civil liability incurred by a regulated friendly society in connection with any regulated business.
- (2) Such rules shall not apply to a member society of a recognised self-regulating organisation for friendly societies unless that organisation has requested that such rules should apply to it; and any such request shall not be capable of being withdrawn after rules giving effect to it have been made but without prejudice to the power of [^{F15}the Commission] to revoke the rules if [^{F16}the Commission] and the Secretary of State think fit.
- (3) Subsections (3) and (4) of section 53 of this Act shall apply in relation to such rules as they apply to rules under that section but with the substitution for references to the Secretary of State of references to [^{F15}the Commission].

Textual Amendments

- F15** Words in Sch. 11 substituted (1.2.1993 for specified purposes and 1.1.1994 for all remaining purposes) by Friendly Societies Act 1992 (c. 40), s. 98, Sch. 18 Pt. II para. 10(1) (with ss. 7(5), 93(4)); S.I. 1993/16, art. 2, Sch.4; S.I. 1993/2213, art. 2(1), Sch.5.
- F16** Words in Sch. 11 substituted (1.2.1993 for specified purposes and 1.1.1994 for all remaining purposes) by Friendly Societies Act 1992 (c. 40), s. 98, Sch. 18 Pt. II para. 10(2)(3) (with ss. 7(5), 93(4)); S.I. 1993/16, art. 2, Sch.4; S.I. 1993/2213, art. 2(1), Sch.5.

- 17 (1) Rules under section 53 of this Act shall not apply to any regulated friendly society but the Registrar may, with the consent of the Secretary of State make rules concerning indemnity against any claim in respect of any description of civil liability incurred by a regulated friendly society in connection with any regulated business.
- (2) Such rules shall not apply to a member society of a recognised self-regulating organisation for friendly societies unless that organisation has requested that such rules should apply to it; and any such request shall not be capable of being withdrawn after rules giving effect to it have been made but without prejudice to the power of the Registrar to revoke the rules if he and the Secretary of State think fit.

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- (3) Subsections (3) and (4) of section 53 of this Act shall apply in relation to such rules as they apply to rules under that section but with the substitution for references to the Secretary of State of references to the Registrar.
- 18 (1) No scheme established by rules under section 54 shall apply in cases where persons who are or have been regulated friendly societies are unable, or likely to be unable, to satisfy claims in respect of any description of civil liability incurred by them in connection with any regulated business but [^{F17}the Commission] may, with the consent of the Secretary of State, by rules establish a scheme for compensating investors in such cases.
- (2) Subject to sub-paragraph (3) below, subsections (2) to (4) and (6) of that section shall apply in relation to such rules as they apply to rules under that section but with the substitution for the references to the Secretary of State, authorised persons, members and a recognised self-regulating organisation of references respectively to [^{F17}the Commission], regulated friendly societies, member societies and a recognised self-regulating organisation for friendly societies.
- (3) Subsection (3) of that section shall have effect with the substitution for the words “the Secretary of State is satisfied” of the words “ [^{F17}the Commission] and the Secretary of State are satisfied”.
- (4) The references in section 179(3)(b) and 180(1)(e) of this Act to the body administering a scheme established under section 54 of this Act shall include the body administering a scheme established under this paragraph.

Textual Amendments

F17 Words in Sch. 11 substituted (1.2.1993 for specified purposes and 1.1.1994 for all remaining purposes) by Friendly Societies Act 1992 (c. 40), s. 98, Sch. 18 Pt. II para. 10(1) (with ss. 7(5), 93(4)); S.I. 1993/16, art. 2, Sch.4; S.I. 1993/2213, art. 2(1), Sch.5.

- 19 (1) Regulations under section 55 of this Act shall not apply to money held by regulated friendly societies but [^{F18}the Commission] may, with the consent of the Secretary of State, make regulations with respect to money held by a regulated friendly society in such circumstances as may be specified in the regulations.
- (2) Regulations under this paragraph shall not provide that money held by a regulated friendly society shall be held as mentioned in paragraph (a) of subsection (2) of that section but paragraphs (b) to (f) of that subsection and subsections (3) and (4) of that section shall apply in relation to regulations made under this paragraph as they apply in relation to regulations under that section [^{F19}(but with the substitution for the reference in paragraph (e) of subsection (2) to the Secretary of State of a reference to [^{F18}the Commission])].
- [^{F20}(3) Paragraph 22B below has effect as regards the application of regulations under this paragraph to member societies in respect of investment business in the carrying on of which they are subject to the rules of a recognised self-regulating organisation for friendly societies.]

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Textual Amendments

- F18** Words in [Sch. 11](#) substituted (1.2.1993 for specified purposes and 1.1.1994 for all remaining purposes) by [Friendly Societies Act 1992 \(c. 40\)](#), s. 98, [Sch. 18 Pt. II para. 10\(1\)](#) (with ss. 7(5), 93(4)); S.I. 1993/16, art. 2, [Sch.4](#); S.I. 1993/2213, art. 2(1), [Sch.5](#).
- F19** Words substituted by [Companies Act 1989 \(c. 40, SIF 27\)](#), s. 206(1), [Sch. 23 para. 34\(2\)](#)
- F20** [Sch. 11 para. 19\(3\)](#) inserted by [Companies Act 1989 \(c. 40, SIF 27\)](#), s. 206(1), [Sch. 23 Pt. II para. 34\(3\)](#)

Modifications etc. (not altering text)

- C7** [Sch. 11 para. 19](#): certain functions conferred by provisions contained in paras. 2–25 and 38 of Schedule 11 transferred as mentioned in [S.I. 1990/354](#), [art. 5\(2\)](#)

- [^{F21}20 (1) Regulations under section 56(1) of this Act shall not permit anything to be done by a regulated friendly society but that section shall not apply to anything done by such a society in the course of or in consequence of an unsolicited call which, as respects the society, constitutes the carrying on of regulated business, if it is permitted to be done by the society by regulations made by [^{F22}the Commission] with the consent of the Secretary of State.
- (2) Paragraph 22B below has effect as regards the application of regulations under this paragraph to member societies in respect of investment business in the carrying on of which they are subject to the rules of a recognised self-regulating organisation for friendly societies.
- (3) As it applies to such persons in respect of such business, the reference in sub-paragraph (1) above to conduct permitted by regulations made by [^{F22}the Commission] with the consent of the Secretary of State shall be construed—
- where or to the extent that the regulations do not apply, as a reference to conduct permitted by the rules of the organisation; and
 - where or to the extent that the regulations do apply but are expressed to have effect subject to the rules of the organisation, as a reference to conduct permitted by the regulations together with the rules of the organisation.]

Textual Amendments

- F21** [Sch. 11 para. 20](#) substituted by [Companies Act 1989 \(c. 40, SIF 27\)](#), s. 206(1), [Sch. 23 Pt. II para. 35](#)
- F22** Words in [Sch. 11](#) substituted (1.2.1993 for specified purposes and 1.1.1994 for all remaining purposes) by [Friendly Societies Act 1992 \(c. 40\)](#), s. 98, [Sch. 18 Pt. II para. 10\(1\)](#) (with ss. 7(5), 93(4)); S.I. 1993/16, art. 2, [Sch.4](#); S.I. 1993/2213, art. 2, [Sch.5](#).

Modifications etc. (not altering text)

- C8** [Sch. 11 para. 20](#): certain functions conferred by provisions contained in paras. 2–25 and 38 of Schedule 11 transferred as mentioned in [S.I. 1990/354](#), [art. 5\(2\)](#)

- 21 (1) If it appears to [^{F23}the Commission] that a regulated friendly society other than a member society has contravened—
- any provision of rules or regulations made under this Schedule or of section 56 or 59 of this Act;

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- (b) any condition imposed under section 50 of this Act as it applies by virtue of paragraph 14(3) above;
- (c) any prohibition or requirement imposed under Chapter VI of Part I of this Act as it applies by virtue of paragraph 23 below; or
- (d) any requirement imposed under paragraph 24 below;

[^{F24}the Commission] may publish a statement to that effect.

- (2) Subsections (2) to (5) of section 60 above shall apply in relation to the power under sub-paragraph (1) above as they apply in relation to the power in subsection (1) of that section but with the substitution for the references to the Secretary of State of references to [^{F23}the Commission].

Textual Amendments

F23 Words in Sch. 11 substituted (1.2.1993 for specified purposes and 1.1.1994 for all remaining purposes) by Friendly Societies Act 1992 (c. 40), s. 98, Sch. 18 Pt. II para. 10(1) (with ss. 7(5), 93(4)); S.I. 1993/16, art. 2, Sch.4; S.I. 1993/2213, art. 2(1), Sch.5.

F24 Words in Sch. 11 substituted (1.2.1993 for specified purposes and 1.1.1994 for all remaining purposes) by Friendly Societies Act 1992 (c. 40), s. 98, Sch. 18 Pt. II para. 10(2)(3) (with ss. 7(5), 93(4)); S.I. 1993/16, art. 2, Sch.4; S.I. 1993/2213, art. 2(1), Sch.5.

Modifications etc. (not altering text)

C9 Sch. 11 paras. 21, 22: certain functions conferred by provisions contained in paras. 2–25 and 38 of Schedule 11 transferred as mentioned in S.I. 1990/354, art. 5(2)

- 22 (1) If on the application of [^{F25}the Commission] the court is satisfied—
- (a) that there is a reasonable likelihood that any regulated friendly society will contravene any provision of—
 - (i) any prohibition or requirement imposed under Chapter VI of Part I of this Act as it applies by virtue of paragraph 23 below;
 - (ii) the rules or regulations made under this Schedule;
 - (iii) any requirement imposed under paragraph 24 below;
 - (iv) section 47, 56 or 59 of this Act;
 - (v) the rules of a recognised self-regulating organisation for friendly societies in relation to which it is a member society,
 or any condition imposed under section 50 of this Act as it applies by virtue of paragraph 14(3) above;
 - (b) that any regulated friendly society has contravened any such provision or condition and that there is a reasonable likelihood that the contravention will continue or be repeated; or
 - (c) that any person has contravened any such provision or condition and that there are steps that could be taken for remedying the contravention,
- the court may grant an injunction restraining the contravention or, in Scotland, an interdict prohibiting the contravention or, as the case may be, make an order requiring the society and any other person who appears to the court to have been knowingly concerned in the contravention to take steps to remedy it.

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- (2) No application shall be made by [^{F25}the Commission] under sub-paragraph (1) above in respect of any such rules as are mentioned in paragraph (a)(v) of that sub-paragraph unless it appears to [^{F26}the Commission] that the organisation is unable or unwilling to take appropriate steps to restrain the contravention or to require the society concerned to take such steps as are mentioned in sub-paragraph (1) above.
- (3) Subsections (3) to (9) of section 61 of this Act apply to such a contravention as is mentioned in sub-paragraph (1)(a) above as they apply to such a contravention as is mentioned in subsection (3) of that section, but with the substitution for the references to the Secretary of State of references to [^{F25}the Commission].
- (4) Without prejudice to the preceding provisions of this paragraph—
- (a) a contravention of any rules or regulations made under this Schedule;
 - (b) a contravention of any prohibition or requirement imposed under Chapter VI of Part I of this Act as it applies by virtue of paragraph 23 below;
 - (c) a contravention of any requirement imposed under paragraph 24 below;
 - (d) a contravention by a member society of any rules of the recognised self-regulating organisation for friendly societies of which it is a member relating to a matter in respect of which rules or regulations have been or could be made under this Schedule or of any requirement or prohibition imposed by the organisation in the exercise of powers for purposes corresponding to those of the said Chapter VI or paragraph 24;
- shall be actionable at the suit of a person who suffers loss as a result of the contravention subject to the defences and other incidents applying to actions for breach of statutory duty, but no person shall be guilty of an offence by reason of any such contravention and no such contravention shall invalidate any transaction.
- (5) This paragraph is without prejudice to any equitable remedy available in respect of property which by virtue of a requirement under section 67 of this Act as it applies by virtue of paragraph 23 below is subject to a trust.

Textual Amendments

F25 Words in Sch. 11 substituted (1.2.1993 for specified purposes and 1.1.1994 for all remaining purposes) by Friendly Societies Act 1992 (c. 40), s. 98, **Sch. 18 Pt. II para. 10(1)** (with ss. 7(5), 93(4)); S.I. 1993/16, art. 2, **Sch.4**; S.I. 1993/2213, art. 2(1), **Sch.5**.

F26 Words in Sch. 11 substituted (1.2.1993 for specified purposes and 1.1.1994 for all remaining purposes) by Friendly Societies Act 1992 (c. 40), s. 98, **Sch. 18 Pt. II para. 10(2)(3)** (with ss. 7(5), 93(4)); S.I. 1993/16, art. 2, **Sch.4**; S.I. 1993/2213, art. 2(1), **Sch.5**.

Modifications etc. (not altering text)

C10 Sch. 11 paras. 21, 22: certain functions conferred by provisions contained in paras. 2–25 and 38 of Schedule 11 transferred as mentioned in S.I. 1990/354, **art. 5(2)**

C11 Sch. 11 para. 22 saved by S.I. 1991/488, **art. 4**
Sch. 11 para. 22 restricted (1.11.1992) by S.R. 1980/346, Order 93, rule 7 (as inserted by S.R. 1992/399, **rule15**).

- [^{F27}22A(1) No action in respect of a contravention to which paragraph 22(4) above applies shall lie at the suit of a person other than a private investor, except in such circumstances as may be specified by regulations made by [^{F28}the Commission].

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- (2) The meaning of the expression “private investor” for the purposes of sub-paragraph (1) shall be defined by regulations made by [^{F28}the Commission].
- (3) Regulations under sub-paragraph (1) may make different provision with respect to different cases.
- (4) [^{F28}The Commission] shall, before making any regulations affecting the right to bring an action in respect of a contravention of any rules or regulations made by a person other than himself, consult that person.]

Textual Amendments

- F27** Sch. 11 para. 22A inserted by Companies Act 1989 (c. 40, SIF 27), s. 193(3) (the insertion being wholly in force at 1.4.1991) by S.I. 1990/354, art. 3 and 1991/488, art. 2(4) (with art. 4)
- F28** Words in Sch. 11 substituted (1.2.1993 for specified purposes and 1.1.1994 for all remaining purposes) by Friendly Societies Act 1992 (c. 40), s. 98, Sch. 18 Pt. II para. 10(1) (with ss. 7(5), 93(4)); S.I. 1993/16, art. 2, Sch.4; S.I. 1993/2213, art. 2(1), Sch.5.

[^{F29}22B(1) [^{F30}The Commission] may in rules and regulations under—

- (a) paragraph 14 (conduct of business rules),
- (b) paragraph 19 (clients’ money regulations), or
- (c) paragraph 20 (regulations as to unsolicited calls),

designate provisions which apply, to such extent as may be specified, to a member society in respect of investment business in the carrying on of which it is subject to the rules of a recognised self-regulating organisation for friendly societies.

- (2) It may be provided that the designated rules or regulations have effect, generally or to such extent as may be specified, subject to the rules of the organisation.
- (3) A member society which contravenes a rule or regulation applying to it by virtue of this paragraph shall be treated as having contravened the rules of the relevant recognised self-regulating organisation for friendly societies.
- (4) It may be provided that, to such extent as may be specified, the designated rules or regulations may not be modified or waived (under paragraph 22C below or section 50) in relation to a member society.

Where such provision is made any modification or waiver previously granted shall cease to have effect, subject to any transitional provision or saving contained in the rules or regulations.

- (5) Except as mentioned in sub-paragraph (1), the rules and regulations referred to in that sub-paragraph do not apply to a member society in respect of investment business in the carrying on of which it is subject to the rules of a recognised self-regulating organisation for friendly societies.]

Textual Amendments

- F29** Sch. 11 para. 22B inserted by Companies Act 1989 (c. 40, SIF 27), s. 193(3) (the insertion being wholly in force at 1.4.1991) by S.I. 1990/354, art. 3 and S.I. 1991/488, art. 2(4) (with art. 4).

Status: Point in time view as at 01/02/1993.

Changes to legislation: Financial Services Act 1986 (Repealed), Part III is up to date with all changes known to be in force on or before 30 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

F30 Words in [Sch. 11 para. 22B](#) substituted (1.2.1993 for specified purposes and 1.1.1994 for all remaining purposes) by [Friendly Societies Act 1992 \(c. 40\), s. 98, Sch. 18 Pt II para. 10\(1\)](#) (with [ss. 7\(5\), 93\(4\)](#)); [S.I. 1993/16, art. 2, Sch.4](#); [S.I. 1993/2213, art. 2\(1\), Sch.5](#).

Modifications etc. (not altering text)

C12 [Sch. 11 paras. 22B–22D](#): certain functions conferred by provisions contained in paras. 2–25 and 38 of Schedule 11 transferred as mentioned in [S.I. 1990/354, art. 5\(2\)](#).

C13 [Sch. 11 paras. 22B, 22D](#): functions transferred by [S.I. 1990/354, art. 5\(1\)](#).

[^{F31}22C(1) A recognised self-regulating organisation for friendly societies may on the application of a society which is a member of the organisation—

- (a) modify a rule or regulation designated under paragraph 22B so as to adapt it to the circumstances of the society or to any particular kind of business carried on by it, or
- (b) dispense the society from compliance with any such rule or regulation, generally or in relation to any particular kind of business carried on by it.

(2) The powers conferred by this paragraph shall not be exercised unless it appears to the organisation—

- (a) that compliance with the rule or regulation in question would be unduly burdensome for the applicant having regard to the benefit which compliance would confer on investors, and
- (b) that the exercise of those powers will not result in any undue risk to investors.

(3) The powers conferred by this paragraph may be exercised unconditionally or subject to conditions; and paragraph 22B(3) applies in the case of a contravention of a condition as in the case of contravention of a designated rule or regulation.

(4) The reference in paragraph 4(1) of Schedule 2 as applied by paragraph 4 above (requirements for recognition of self-regulating organisation for friendly societies) to monitoring and enforcement of compliance with rules and regulations includes monitoring and enforcement of compliance with conditions imposed by the organisation under this paragraph.]

Textual Amendments

F31 [Sch. 11 paras. 22B, 22C, 22D](#) inserted by [Companies Act 1989 \(c. 40, SIF 27\), s. 206\(1\), Sch. 23 Pt. II para. 36](#)

Modifications etc. (not altering text)

C14 [Sch. 11 paras. 22B–22D](#): certain functions conferred by provisions contained in paras. 2–25 and 38 of Schedule 11 transferred as mentioned in [S.I. 1990/354, art. 5\(2\)](#)

[^{F32}22D(1) [^{F33}The Commission] may issue codes of practice with respect to any matters dealt with by statements of principle issued under paragraph 13A or by rules or regulations made under any provision of this Schedule.

(2) In determining whether a society has failed to comply with a statement of principle—

Status: Point in time view as at 01/02/1993.

Changes to legislation: *Financial Services Act 1986 (Repealed), Part III is up to date with all changes known to be in force on or before 30 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (a) a failure by it to comply with any relevant provision of a code of practice may be relied on as tending to establish failure to comply with the statement of principle, and
 - (b) compliance by it with the relevant provisions of a code of practice may be relied on as tending to negative any such failure.
- (3) A contravention of a code of practice with respect to a matter dealt with by rules or regulations shall not of itself give rise to any liability or invalidate any transaction; but in determining whether a society's conduct amounts to contravention of a rule or regulation—
- (a) contravention by it of any relevant provision of a code of practice may be relied on as tending to establish liability, and
 - (b) compliance by it with the relevant provisions of a code of practice may be relied on as tending to negative liability.
- (4) Where by virtue of paragraph 22B (application of designated rules and regulations to member societies) rules or regulations—
- (a) do not apply, to any extent, to a member society of a recognised self-regulating organisation for friendly societies, or
 - (b) apply, to any extent, subject to the rules of the organisation,
- a code of practice with respect to a matter dealt with by the rules or regulations may contain provision limiting its application to a corresponding extent.]

Textual Amendments

F32 Sch. 11 paras. 22B, 22C, 22D inserted by [Companies Act 1989 \(c. 40, SIF 27\)](#), s. 206(1), **Sch. 23 Pt. II para. 36**

F33 Words in Sch. 11 substituted (1.2.1993 for specified purposes and 1.1.1994 for all remaining purposes) by [Friendly Societies Act 1992 \(c. 40\)](#), s. 98, **Sch. 18 Pt. II para. 10(1)** (with ss. 7(5), 93(4)); S.I. 1993/16, art. 2, **Sch.4**; S.I. 1993/2213, art. 2(1), **Sch.5**.

Modifications etc. (not altering text)

C15 Sch. 11 paras. 22B–22D: certain functions conferred by provisions contained in paras. 2–25 and 38 of Schedule 11 transferred as mentioned in [S.I. 1990/354](#), **art. 5(2)**

C16 Sch. 11 paras. 22B, 22D: functions transferred by [S.I. 1990/354](#), **art. 5(1)**

Intervention, information and investigations

- 23 (1) The powers conferred by Chapter VI of Part I of this Act shall not be exercisable in relation to a regulated friendly society or the appointed representative of such a society by the Secretary of State but instead shall be exercisable by [^{F34}the Commission]; and accordingly references in that Chapter to the Secretary of State shall as respects the exercise of powers in relation to a regulated friendly society or such a representative be taken as references to [^{F34}the Commission].
- (2) Section 64 of this Act shall not apply to the exercise of those powers by virtue of sub-paragraph (1) above but those powers shall only be exercisable by [^{F34}the Commission] if it appears to [^{F35}the Commission]—

Status: Point in time view as at 01/02/1993.

Changes to legislation: Financial Services Act 1986 (Repealed), Part III is up to date with all changes known to be in force on or before 30 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) that the exercise of the powers is desirable in the interests of members or potential members of the regulated friendly society; or
 - (b) that the society is not a fit person to carry on regulated business of a particular kind or to the extent to which it is carrying it on or proposing to carry it on; or
 - (c) that the society has contravened any provision of this Act or of any rules or regulations made under it or in purported compliance with any such provision has furnished [^{F35}the Commission] with false, inaccurate or misleading information or has contravened any prohibition or requirement imposed under this Act.
- (3) For the purposes of sub-paragraph (2)(b) above [^{F34}the Commission] may take into account any matters that could be taken into account in deciding whether to withdraw or suspend an authorisation under Chapter III of Part I of this Act.
- (4) The powers conferred by this paragraph shall not be exercisable in relation—
- (a) to a member society which is subject to the rules of a recognised self-regulating organisation for friendly societies in carrying on all the investment business carried on by it; or
 - (b) to an appointed representative of a member society if that member society, and each other member society which is his principal, is subject to the rules of such an organisation in carrying on the investment business in respect of which it has accepted responsibility for his activities;

except that the powers conferred by virtue of section 67(1)(b) of this Act may on any of the grounds mentioned in sub-paragraph (2) above be exercised in relation to a member society or appointed representative at the request of the organisation in relation to which the society or, as the case may be, the society which is the representative's principal is a member society.

Textual Amendments

- F34** Words in [Sch. 11](#) substituted (1.2.1993 for specified purposes and 1.1.1994 for all remaining purposes) by [Friendly Societies Act 1992 \(c. 40\)](#), s. 98, [Sch. 18 Pt. II para. 10\(1\)](#) (with ss. 7(5), 93(4)); S.I. 1993/16, art. 2, [Sch.4](#); S.I. 1993/2213, art. 2(1), [Sch.5](#).
- F35** Words in [Sch. 11](#) substituted (1.2.1993 for specified purposes and 1.1.1994 for all remaining purposes) by [Friendly Societies Act 1992 \(c. 40\)](#), s. 98, [Sch. 18 Pt. II para. 10\(2\)\(3\)](#) (with ss. 7(5), 93(4)); S.I. 1993/16, art. 2, [Sch.4](#); S.I. 1993/2213, art. 2(1), [Sch.5](#).

- 24 (1) [^{F36}The Commission] may by notice in writing require any regulated friendly society (other than a member society) or any self-regulating organisation for friendly societies to furnish [^{F37}the Commission] with such information as [^{F37}the Commission] may reasonably require for the exercise of his functions under this Act.
- (2) [^{F36}The Commission] may require any information which [^{F37}the Commission] requires under this paragraph to be furnished within such reasonable time and verified in such manner as [^{F37}the Commission] may specify.

Status: Point in time view as at 01/02/1993.

Changes to legislation: Financial Services Act 1986 (Repealed), Part III is up to date with all changes known to be in force on or before 30 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

- F36** Words in Sch. 11 substituted (1.2.1993 for specified purposes and 1.1.1994 for all remaining purposes) by Friendly Societies Act 1992 (c. 40), s. 98, **Sch. 18 Pt. II para. 10(1)** (with ss. 7(5), 93(4)); S.I. 1993/16, art. 2, **Sch.4**; S.I. 1993/2213, art. 2(1), **Sch.5**.
- F37** Words in Sch. 11 substituted (1.2.1993 for specified purposes and 1.1.1994 for all remaining purposes) by Friendly Societies Act 1992 (c. 40), s. 98, **Sch. 18 Pt. II para. 10(2)(3)** (with ss. 7(5), 93(4)); S.I. 1993/16, art. 2, **Sch.4**; S.I. 1993/2213, art. 2(1), **Sch.5**.

- 25 (1) Where a notice or copy of a notice is served on any person under section 60 or section 70 of this Act as they apply by virtue of paragraph 21(2) or 23 above, Chapter IX of Part I of this Act (other than section 96) shall, subject to sub-paragraph (2) below, have effect—
- (a) with the substitution for the references to the Secretary of State of references to ^{F38}the Commission]; and
 - (b) as if for the references in section 98(4) to sections 28, 33 and 60 of this Act there were substituted references to paragraphs 21, 23, 24, 26 and 27 of this Schedule.
- (2) Where the friendly society in question is an authorised person by virtue of section 25 of this Act the provisions mentioned in sub-paragraph (1) above shall have effect as if the references substituted by that sub-paragraph had effect in addition to rather than in substitution for the references for which they are there substituted.
- (3) Where the Tribunal reports that the appropriate decision is to take action under paragraph 26 or 27 of this Schedule ^{F38}the Commission] shall take the report into account but shall not be bound to act on it.

Textual Amendments

- F38** Words in Sch. 11 substituted (1.2.1993 for specified purposes and 1.1.1994 for all remaining purposes) by Friendly Societies Act 1992 (c. 40), s. 98, **Sch. 18 Pt. II para. 10(1)** (with ss. 7(5), 93(4)); S.I. 1993/16, art. 2, **Sch.4**; S.I. 1993/2213, art. 2(1), **Sch.5**.

Exercise of powers under enactments relating to friendly societies

- 26 (1) If it appears to ^{F39}the Commission] that a regulated friendly society which is an authorised person by virtue of section 23 ^{F40}. . . of this Act—
- (a) has contravened any provision of—
 - (i) this Act or any rules or regulations made under it;
 - (ii) any requirement imposed under paragraph 24 above;
 - (iii) the rules of a recognised self-regulating organisation for friendly societies in relation to which it is a member society; or
 - (b) in purported compliance with any such provision has furnished false, inaccurate or misleading information,
- ^{F41}the Commission] may exercise any of the powers mentioned in sub-paragraph (2) below in relation to that society.

Status: Point in time view as at 01/02/1993.

Changes to legislation: Financial Services Act 1986 (Repealed), Part III is up to date with all changes known to be in force on or before 30 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- [^{F42}(2) The powers mentioned in sub-paragraph (1) above are—
- (a) in relation to a registered friendly society, those under subsection (1) of section 87 (inspection and winding up of registered friendly societies) and subsections (1) and (2) of section 91 (cancellation and suspension of registration) of the Friendly Societies Act 1974;
 - (b) in relation to an incorporated friendly society, those under section 22 (winding up by court: grounds and petitioners) of the Friendly Societies Act 1992; and
 - (c) in relation to a registered friendly society or an incorporated friendly society, those under the following provisions of the Friendly Societies Act 1992, namely, section 36 (imposition of conditions on current authorisation), section 39 (power to direct application for fresh authorisation), section 40 (withdrawal of authorisation in respect of new business), section 51 (power to forbid acceptance of new members), section 52 (application to court), section 62 (power to obtain information and documents etc.), section 65 (investigations on behalf of Commission) and section 66 (inspections and special meetings: general),
- and the sections referred to above shall apply in relation to the exercise of those powers by virtue of this paragraph as they apply in relation to their exercise in the circumstances mentioned in those sections]

^{F43}(3)

Textual Amendments

- F39** Words in [Sch. 11](#) substituted (1.2.1993 for specified purposes and 1.1.1994 for all remaining purposes) by [Friendly Societies Act 1992 \(c. 40\)](#), s. 98, [Sch. 18 Pt. II para. 10\(1\)](#) (with ss. 7(5), 93(4)); S.I. 1993/16, art. 2, [Sch.4](#); S.I. 1993/2213, art. 2(1), [Sch.5](#).
- F40** Figure in [Sch. 11 para. 26\(1\)](#) repealed (28.4.1993 for specified purposes and 1.1.1994 for all remaining purposes) by [Friendly Societies Act 1992 \(c. 40\)](#), s. 120, [Sch. 22 Pt.I](#) (with ss. 7(5), 93(4)); S.I. 1993/1186, art. 2(1), [Sch. 1Appendix](#); S.I. 1993/2213, art. 2(1), [Sch. 5Appendix](#).
- F41** Words in [Sch. 11](#) substituted (1.2.1993 for specified purposes and 1.1.1994 for all remaining purposes) by [Friendly Societies Act 1992 \(c. 40\)](#), s. 98, [Sch. 18 Pt. II para. 10\(2\)\(3\)](#) (with ss. 7(5), 93(4)); S.I. 1993/16, art. 2, [Sch.4](#); S.I. 1993/2213, art. 2(1), [Sch.5](#).
- F42** [Sch. 11 para. 26\(2\)](#) substituted (1.2.1993 for specified purposes and 1.1.1994 for all remaining purposes) by [Friendly Societies Act 1992 \(c. 40\)](#), s. 98, [Sch. 18 Pt. II para.16](#) (with ss. 7(5), 93(4)); S.I. 1993/16, art. 2, [Sch.4](#); S.I. 1993/2213, art. 2(1), [Sch.5](#).
- F43** [Sch. 11 para. 26\(3\)](#) repealed (28.4.1993 for specified purposes and 1.1.1994 for all remaining purposes) by [Friendly Societies Act 1992 \(c. 40\)](#), s. 120, [Sch. 22 Pt.I](#) (with ss. 7(5), 93(4)); S.I. 1993/1186, art. 2(1), [Sch. 1Appendix](#); S.I. 1993/2213, art. 2(1), [Sch. 5Appendix](#).

- 27 (1) If it appears to the Registrar of Friendly Societies for Northern Ireland that a regulated friendly society which is an authorised person by virtue of section 23(2) of this Act—
- (a) has contravened any provision of—
 - (i) this Act or any rules or regulations made under it;
 - (ii) any requirement imposed under paragraph 24 above;
 - (iii) the rules of a recognised self-regulating organisation for friendly societies in relation to which it is a member society; or

Status: Point in time view as at 01/02/1993.

Changes to legislation: *Financial Services Act 1986 (Repealed), Part III is up to date with all changes known to be in force on or before 30 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (b) in purported compliance with any such provision has furnished false, inaccurate or misleading information,
- he may exercise any of the powers mentioned in sub-paragraph (2) below in relation to that society.
- (2) The powers mentioned in sub-paragraph (1) above are those under subsection (1) of section 77 (inspection and winding up of registered friendly societies), subsection (1) of section 78 (suspension of business of registered friendly societies), subsections (1) and (2) of section 79 (production of documents) and subsections (1) and (2) of section 80 (cancellation and suspension of registration) of the ^{M1}Friendly Societies Act (Northern Ireland) 1970; and subject to sub-paragraph (3) below the remaining provisions of those sections shall apply in relation to the exercise of those powers by virtue of this paragraph as they do in relation to their exercise in the circumstances mentioned in those sections.
- (3) In its application by virtue of this paragraph section 78 of the said Act of 1970 shall have effect with the omission in subsection (2) of the words from “and such notice” onwards and of subsection (4).

Marginal Citations

M1 1970 c. 31 (N.I.).

Status:

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Financial Services Act 1986 (Repealed), Part III is up to date with all changes known to be in force on or before 30 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.