



Friendly Societies Act 1992

1992 CHAPTER 40

PART V

REGULATION OF FRIENDLY SOCIETIES' BUSINESS

Preliminary

44 Appointment of actuary by societies with long term business.

F1

Textual Amendments

F1 S. 44 repealed (1.12.2001) by 2000 c. 8, ss. 334, 336, 338, 431(2), 432(3), Sch. 18 para. 8, **Sch. 22**; S.I. 2001/3538, **art. 2(1)**

45 Valuation of assets and liabilities.

F2

Textual Amendments

F2 S. 45 repealed (1.12.2001) by 2000 c. 8, ss. 334, 336, 338, 431(2), 432(3), Sch. 18 para. 8, **Sch. 22**; S.I. 2001/3538, **art. 2(1)**

Actuarial investigations

46 Annual investigation into condition of certain societies.

F3

Status: Point in time view as at 01/04/2013.

Changes to legislation: There are currently no known outstanding effects for the Friendly Societies Act 1992, Part V. (See end of Document for details)

Textual Amendments

F3 S. 46 repealed (1.12.2001) by 2000 c. 8, ss. 334, 336, 338, 431(2), 432(3), Sch. 18 Pt. I para. 8, **Sch. 22**; S.I. 2001/3538, **art. 2(1)**

47 Triennial investigations into condition of certain societies.

F4

Textual Amendments

F4 S. 47 repealed (1.12.2001) by 2000 c. 8, ss. 334, 336, 338, 431(2), 432(3), Sch. 18 para. 8, **Sch. 22**; S.I. 2001/3538, **art. 2(1)**

Margins of solvency

48 Margins of solvency in relation to insurance business of certain societies.

F5

Textual Amendments

F5 S. 48 repealed (1.12.2001) by 2000 c. 8, ss. 334, 336, 338, 431(2), 432(3), Sch. 18 para. 8, **Sch. 22**; S.I. 2001/3538, **art. 2(1)**

49 Failure to maintain prescribed margin of solvency.

F6

Textual Amendments

F6 S. 49 repealed (1.12.2001) by 2000 c. 8, ss. 334, 336, 338, 431(2), 432(3), Sch. 18 para. 8, **Sch. 22**; S.I. 2001/3538, **art. 2(1)**

[^{F7}Adequacy of assets and premiums]

Textual Amendments

F7 Cross heading inserted (1.9.1994) by S.I. 1994/1984 reg. 9

49A Adequacy of assets.

F8

Status: Point in time view as at 01/04/2013.

Changes to legislation: There are currently no known outstanding effects for the Friendly Societies Act 1992, Part V. (See end of Document for details)

Textual Amendments

F8 S. 49A repealed (1.12.2001) by 2000 c. 8, ss. 334, 336, 338, 431(2), 432(3), Sch. 18 para. 8, **Sch. 22**; S.I. 2001/3538, **art. 2(1)**

49B Adequacy of premiums in respect of long term insurance.

F9

Textual Amendments

F9 S. 49B repealed (1.12.2001) by 2000 c. 8, ss. 334, 336, 338, 431(2), 432(3), Sch. 18 para. 8, **Sch. 22**; S.I. 2001/3538, **art. 2(1)**

Criteria of prudent management

50 The criteria of prudent management.

F10

Textual Amendments

F10 S. 50 repealed (1.12.2001) by 2000 c. 8, ss. 334, 336, 338, 431(2), 432(3), Sch. 18 para. 8, **Sch. 22**; S.I. 2001/3538, **art. 2(1)**

Powers of [FII FCA and PRA]

Textual Amendments

F11 Words in s. 51 cross-heading substituted (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), art. 1(1), **Sch. 9 para. 16** (with Sch. 12)

51 Power to forbid acceptance of new members.

- (1) Subject to the provisions of this section, if the Commission considers it expedient to do so in the interests of the members or potential members of a friendly society, it may give the society a direction forbidding it to accept any new members.
- (2) If the Commission proposes to give such a direction, it shall serve on the society a notice stating that it proposes to give a direction.
- (3) A notice under subsection (2) above shall specify the grounds for the proposed direction.
- (4) The Commission shall consider any representations made by the society within such period (not being less than one month) from the date on which the society is served with the notice as the Commission may allow and, if the society so requests, shall afford to it an opportunity of being heard by the Commission within that period.

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Changes to legislation: There are currently no known outstanding effects for the Friendly Societies Act 1992, Part V. (See end of Document for details)

- (5) The Commission may not give a direction unless all the grounds for giving it are those, or among those, which were specified in the notice served on the society under subsection (2) above.
- (6) On giving a direction, the Commission shall—
- (a) serve notice of it on the society, specifying the grounds for making it;
 - (b) publish notice of it in one or more of the London, Edinburgh and Belfast Gazettes and in any such other ways as it considers appropriate; and
 - (c) send a copy of it to the central office.
- (7) A society which contravenes a direction given to it under this section shall be guilty of an offence and shall be liable—
- (a) on conviction on indictment, to a fine; and
 - (b) on summary conviction, to a fine not exceeding the statutory maximum.
- (8) The central office shall keep a copy of a direction given to a friendly society under this section in the public file of the society.

Commencement Information

- II** [S. 51](#) wholly in force; [s. 51](#) not in force at Royal Assent see [s. 126\(2\)](#); [s. 51](#) in force for certain purposes at 13.1.1993 by [S.I. 1993/16](#), [art. 2](#), [Sch. 1](#); [s. 51](#) in force for all remaining purposes at 28.4.1993 by [S.I. 1993/1186](#), [art. 2\(2\)](#), [Sch. 2](#)

52 Applications to court.

- [^{F12}(1) If the FCA has reason to believe that any of the conditions mentioned in subsection (2) is satisfied, it may, after consulting the PRA if the society is a PRA-authorized person—
- (a) present a petition to the High Court for the winding up of the society under the applicable winding up legislation;
 - (b) make an application to the High Court for an order under subsection (5).
- (1A) If the PRA has reason to believe that any of the conditions mentioned in subsection (2) is satisfied in relation to a society which is a PRA-authorized person, it may, after consulting the FCA—
- (a) present a petition to the High Court for the winding up of the society under the applicable winding up legislation;
 - (b) make an application to the High Court for an order under subsection (5).]

(2) The conditions referred to in [^{F13}subsections (1) and (1A)] are—

 - (a) that a friendly society is carrying on activities that are not activities which such a society is permitted by this Act or the 1974 Act to carry on;
 - (b) that the society is not carrying on any activity falling within Schedule 2 to this Act;

[^{F14}(c) that the society is failing to satisfy any obligation to which it is subject by virtue of any provision of the law of any EEA State other than the United Kingdom which—

 - (i) gives effect to the general insurance or [^{F15}the life assurance consolidation Directive]; or

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(ii) is otherwise applicable to the insurance activities of the society in that State;]

^{F16}(d)

and a court shall not make an order for the winding up of a society by virtue of this section unless it is satisfied that one or more of those conditions is satisfied.

^{F17}(3)

[^{F18}(4) A court may not make an order under subsection (5) unless it is satisfied that one or more of the conditions mentioned in subsection (2) are satisfied.]

(5) An order under this subsection is an order directing the society to modify its business as directed in the order or to take such other steps as may be so directed ^{F19}....

(6) Where a court makes an order under subsection (5) above, the [^{F20}[^{F21}FCA] shall keep a copy of the order in the public file of the society.]

(7) The power to present a petition or to make an application for an order under subsection (5) above is available to the [^{F22}FCA and the PRA whether or not either of them] has previously presented a petition or made an application for such an order, as the case may be.

(8) In the application of this section to a friendly society whose registered office is in Scotland or Northern Ireland, references to the High Court shall be read as references to the Court of Session or, as the case may be, the High Court in Northern Ireland.

(9) In this section “the applicable winding up legislation”, in relation to an incorporated friendly society, has the same meaning as in section 23 above and, in relation to a registered friendly society, means Part V of the ^{M1}Insolvency Act 1986 or (where the society’s registered office is in Northern Ireland) Part VI of the ^{M2}Insolvency (Northern Ireland) Order 1989.

Textual Amendments

- F12** S. 52(1)(1A) substituted for s. 52(1) (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), art. 1(1), **Sch. 9 para. 17(2)** (with Sch. 12)
- F13** Words in s. 52(2) substituted (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), art. 1(1), **Sch. 9 para. 17(3)** (with Sch. 12)
- F14** S. 52(2)(c) substituted (1.9.1994) by S.I. 1994/1984 reg. 12
- F15** Words in s. 52(2)(c)(i) substituted (11.1.2005) by The Life Assurance Consolidation Directive (Consequential Amendments) Regulations 2004 (S.I. 2004/3379), regs. 1, **3(2)**
- F16** S. 52(2)(d) repealed (1.12.2001) by 2000 c. 8, ss. 334, 336, 338, Sch. 18 para. 15(2), **Sch. 22**, S.I. 2001/3538, art. 2(1)
- F17** S. 52(3) omitted (1.4.2013) by virtue of The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), art. 1(1), **Sch. 9 para. 17(4)** (with Sch. 12)
- F18** S. 52(4) substituted (1.12.2001) by 2000 c. 8, ss. 334, 336, 338, **Sch. 18 para. 15(4)**, S.I. 2001/3538, art. 2(1)
- F19** Words in s. 52(5) repealed (1.12.2001) by 2000 c. 8, ss. 334, 336, 338, Sch. 18 para. 15(5), **Sch. 22**; S.I. 2001/3538, **art. 2(1)**
- F20** Words in s. 52(6) substituted (17.8.2001 for specified purposes and otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 8(1), 13(1), **Sch. 3 para. 69(b)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**
- F21** Word in s. 52(6) substituted (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), art. 1(1), **Sch. 9 para. 17(5)** (with Sch. 12)

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F22 Words in s. 52(7) substituted (1.4.2013) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2013 \(S.I. 2013/496\)](#), art. 1(1), [Sch. 9 para. 17\(6\)](#) (with Sch. 12)

Commencement Information

I2 [S. 52](#) wholly in force; [s. 52](#) not in force at Royal Assent see [s. 126\(2\)](#); [s. 52](#) in force for certain purposes at 13.1.1993 by [S.I. 1993/16](#), art. 2, [Sch. 1](#); [s. 52](#) in force for all remaining purposes at 28.4.1993 by [S.I. 1993/1186](#), art. 2(2), [Sch. 2](#)

Marginal Citations

M1 [1986 c.45](#).

M2 [S.I. 1989/2405 \(N.I. 19\)](#).

^{F23}**52A**

Textual Amendments

F23 [Ss. 52A, 53](#) repealed (1.12.2001) by [S.I. 2001/2617](#), arts. 2, 13(2), [Sch. 4](#) (with art. 13(3), [Sch. 5](#))

^{F24}**53**

Textual Amendments

F24 [Ss. 52A, 53](#) repealed (1.12.2001) by [S.I. 2001/2617](#), arts. 2, 13(2), [Sch. 4](#) (with art. 13(3), [Sch. 5](#)); [S.I. 2001/3538](#)

54 Supervision of activities of subsidiaries etc.

- (1) In this section “friendly society group” means an incorporated friendly society, subsidiaries of that society and bodies jointly controlled by it.
- (2) If it appears to the [^{F25}FCA or the PRA] that the activities of subsidiaries of an incorporated friendly society or bodies jointly controlled by it are or may become disproportionate to those of the friendly society group as a whole, it may direct the society—
 - (a) to take or refrain from taking steps specified in the direction with a view to securing that the activities in question cease to be or do not become disproportionate; or
 - (b) to take steps so specified with a view to securing—
 - (i) that it ceases to have control or joint control of any subsidiary or jointly controlled body in question; or
 - (ii) that any such subsidiary or jointly controlled body is wound up.
- (3) If it appears to the [^{F25}FCA or the PRA] that any activity of a subsidiary of an incorporated friendly society or of a body jointly controlled by such a society is unsuitable for a member of a friendly society group, it may direct the society—
 - (a) to take steps specified in the direction with a view to securing that that activity ceases; or
 - (b) to take steps so specified with a view to securing—

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- (i) that it ceases to have control or joint control of the subsidiary or jointly controlled body; or
 - (ii) that the subsidiary or jointly controlled body is wound up.
- (4) A direction under this section may specify [^{F26}that the society is to comply with it—
 - (a) immediately on receipt of a final notice in relation to the direction;
 - (b) before the end of such period as may be specified in the direction, beginning with the giving of a final notice in relation to the direction; or
 - (c) on the happening of an event subsequent to the giving of such a notice.]
- (5) A society given a direction under this section must—
 - (a) comply with the direction; or
 - (b) convert itself into a company in accordance with Part VIII of this Act.
- [^{F27}(6) The [^{F28}FCA or the PRA] may by written notice to the society—
 - (a) vary a direction [^{F29}issued by it] under this section at the request of the society; or
 - (b) revoke a direction [^{F29}issued by it] under this section.]
- [^{F30}(6A) The FCA must consult the PRA before issuing a direction under this section to a PRA-
authorised person or varying such a direction.
- (6B) The PRA must consult the FCA before issuing or varying a direction under this
section.]
- [^{F31}(7) If a society requests the FCA or the PRA to notify the society as to whether, in the
opinion of that authority, it has complied with a direction issued by that authority, the
FCA or the PRA (as the case may be) must comply with the request.
- (7A) The PRA must send a copy to the FCA of any direction, notice, final notice or
notification it issues under this section.]
- [^{F32}(8)
- (9) The [^{F33}[^{F34}FCA] shall keep] a copy—
 - (a) of a direction under this section;
 - (b) of a notice under subsection (6) above; or
 - [^{F35}(ba) of a final notice varying a direction under this section;]
 - (c) of a notification under subsection (7) above;

[^{F36} . . . in the public file of the society.
- [^{F37}(10) “Final notice” means a final notice given under section 390 of the Financial Services
and Markets Act 2000, as applied by section 58A(6) below.]

Textual Amendments

- F25** Words in s. 54(2)(3) substituted (1.4.2013) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2013 \(S.I. 2013/496\)](#), art. 1(1), [Sch. 9 para. 18\(2\)](#) (with Sch. 12)
- F26** S. 54(4): Words and paras. (a)-(c) substituted (17.8.2001 for specified purposes and otherwise 1.12.2001) by [S.I. 2001/2617](#), arts. 2, 8(1), 13(1), [Sch. 3 para. 71\(b\)](#) (with art. 13(3), Sch. 5); [S.I. 2001/3538](#), [art. 2\(1\)](#)
- F27** S. 54(6) substituted (17.8.2001 for specified purposes and otherwise 1.12.2001) by [S.I. 2001/2617](#), arts. 2, 8(1), 13(1), [Sch. 3 para. 71\(c\)](#) (with art. 13(3), Sch. 5); [S.I. 2001/3538](#), [art. 2\(1\)](#)

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- F28** Words in s. 54(6) substituted (1.4.2013) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2013 \(S.I. 2013/496\)](#), art. 1(1), **Sch. 9 para. 18(3)(a)** (with Sch. 12)
- F29** Words in s. 54(6) inserted (1.4.2013) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2013 \(S.I. 2013/496\)](#), art. 1(1), **Sch. 9 para. 18(3)(b)** (with Sch. 12)
- F30** S. 54(6A)(6B) inserted (1.4.2013) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2013 \(S.I. 2013/496\)](#), art. 1(1), **Sch. 9 para. 18(4)** (with Sch. 12)
- F31** S. 54(7)(7A) substituted for s. 54(7) (1.4.2013) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2013 \(S.I. 2013/496\)](#), art. 1(1), **Sch. 9 para. 18(5)** (with Sch. 12)
- F32** S. 54(8) repealed (1.12.2001) by S.I. 2001/2617, arts. 2, 13(2), **Sch. 4** (with art. 13(3), Sch. 5)
- F33** Words in s. 54(9) substituted (17.8.2001 for specified purposes and otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 8(1), 13(1), **Sch. 3 para. 71(e)(i)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**
- F34** Word in s. 54(9) substituted (1.4.2013) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2013 \(S.I. 2013/496\)](#), art. 1(1), **Sch. 9 para. 18(6)** (with Sch. 12)
- F35** S. 54(9)(ba) inserted (17.8.2001 for specified purposes and otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 8(1), 13(1), **Sch. 3 para. 71(e)(ii)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**
- F36** Words in s. 54(9) repealed (1.12.2001) by S.I. 2001/2617, arts. 2, 13(2), **Sch. 4** (with art. 13(3), Sch. 5)
- F37** S. 54(10) inserted (17.8.2001 for specified purposes and otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 8(1), 13(1), **Sch. 3 para. 71(f)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**

Commencement Information

- I3** S. 54 wholly in force; s. 54 not in force at Royal Assent see s. 126(2); s. 54 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, **Sch. 1**; s. 54 in force for all remaining purposes at 28.4.1993 by S.I. 1993/1186, art. 2(2), **Sch. 2**

55 Supervision of group insurance business.

- (1) This section applies where a friendly society carries on any group insurance business providing benefits for or in respect of a group of persons who are not members of the society.
- (2) If it appears to the [^{F38}FCA or the PRA] that the business so carried on is or may become disproportionate to the other activities of the society (including any group insurance business carried on for the provision of benefits for or in respect of persons who are members of the society), it may direct the society to take or refrain from taking steps specified in the direction with a view to securing that the group business in question ceases to be or does not become disproportionate.
- (3) Subsections (4) to (9) of section 54 above shall apply in relation to a direction under this section as they apply to a direction under that section.

Textual Amendments

- F38** Word in s. 55(2) substituted (1.4.2013) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2013 \(S.I. 2013/496\)](#), art. 1(1), **Sch. 9 para. 19** (with Sch. 12)

Commencement Information

- I4** S. 55 wholly in force; s. 55 not in force at Royal Assent see s. 126(2); s. 55 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, **Sch. 1**; s. 55 in force for all remaining purposes at 1.1.1994 by S.I. 1993/2213, art. 2(1), **Sch. 5**

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Changes to legislation: There are currently no known outstanding effects for the Friendly Societies Act 1992, Part V. (See end of Document for details)

[^{F39}**55A Supervision of controllers.**

^{F40}(1)

(2) In this Act–

“controller”, in relation to a friendly society to which section 37(2) or (3) of this Act applies, means a person who, either alone or with any associate or associates–

- (a) is entitled to exercise or control the exercise of 10 per cent. or more of the voting power at any general meeting of the society; or
- (b) is able to exercise a significant influence over the management of the society by virtue of an entitlement to exercise, or to control the exercise of, the voting power at any general meeting of the society;

^{F41}

^{F42}(3)]

Textual Amendments

F39 S. 55A added (1.9.1994) by S.I. 1994//1984 reg. 14(1)

F40 S. 55A(1) repealed (1.12.2001) by S.I. 2001/2617, arts. 2, 13(2), **Sch. 4** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**

F41 Definition of “notifiable voting rights” in s. 55A(2) repealed (1.12.2001) by S.I. 2001/2617, arts. 2, 13(2), **Sch. 4** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**

F42 S. 55A(3) repealed (1.12.2001) by S.I. 2001/2617, arts. 2, 13(2), **Sch. 4** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**

^{F43}**56**

Textual Amendments

F43 Ss. 56, 57, 57A repealed (1.12.2001) by S.I. 2001/2617, art. 2, 13(2), **Sch. 4** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**

Covering of risks situated in another member State

^{F44}**57**

Textual Amendments

F44 Ss. 56, 57, 57A repealed (1.12.2001) by S.I. 2001/2617, arts. 2, 13(2), **Sch. 4** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**

^{F45}**57A**

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Changes to legislation: There are currently no known outstanding effects for the Friendly Societies Act 1992, Part V. (See end of Document for details)

Textual Amendments

F45 Ss. 56, 57, 57A repealed (1.12.2001) by S.I. 2001/2617, arts. 2, 13(2), **Sch. 4** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**

[^{F46}Notices, hearings and appeals]

Textual Amendments

F46 S. 58A and the cross-heading substituted (17.8.2001 for specified purposes and otherwise 1.12.2001) for ss. 58-61 by S.I. 2001/2617, arts. 2, 8(1), 13(1), **Sch. 3 Pt. 1 para 75** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**

^{F48}58A Notices, hearings and appeals.

- (1) If the [^{F49}FCA or the PRA] proposes—
 - (a) to give a direction to a society under section 54 or section 55, or to vary such a direction other than at the request of the society, or
 - (b) to give a direction in relation to a society under section 90,
 it must give the society a warning notice.
- (2) The warning notice must set out the terms of the direction which the [^{F50}FCA or the PRA] proposes to give and, in the case of a proposal to give a direction under section 54 or 55, any provisions which the [^{F50}FCA or the PRA] proposes to include in the direction by virtue of section 54(4) (including that provision as applied by section 55(3)).
- (3) If the [^{F51}FCA or the PRA] decides—
 - (a) to give a direction to a society under section 54 or section 55, or to vary such a direction other than at the request of the society, or
 - (b) to give a direction in relation to a society under section 90,
 it must give the society a decision notice.
- (4) The decision notice must set out the terms of the direction which the [^{F52}FCA or the PRA] has decided to give and, in the case of a decision to give a direction under section 54 or 55, any provisions to be included in the direction by virtue of section 54(4) (including that provision as applied by section 55(3)).
- (5) A society to whom a decision notice is given under this section may refer the matter to the [^{F53}Upper Tribunal].
- (6) Part XXVI of the Financial Services and Markets Act 2000 (notices) is to be treated as applying in respect of warning notices and decision notices given under this section as it applies in respect of warning notices and decision notices given under that Act, subject to subsection (8) below.
- ^{F54}(7)
- (8) In the application of Part XXVI of that Act in respect of warning notices and decision notices given under this section—

Status: Point in time view as at 01/04/2013.

Changes to legislation: There are currently no known outstanding effects for the Friendly Societies Act 1992, Part V. (See end of Document for details)

- (a) section 388(1)(e)(i) (which requires a decision notice to indicate any right given under that Act to refer a decision to the Tribunal) is to be read as if, for the words “this Act”, there were substituted “the Friendly Societies Act 1992”;
- (b) section 388(2) (which makes provision for the type of action to which a decision notice may relate if it was preceded by a warning notice) is to be read as if, for the word “Part”, there were substituted “section”;
- (c) section 390(4) (which provides for the content of a final notice about an order) is to be read as if—
 - (i) for the words “an order” there were substituted “a direction”, and
 - (ii) for the words “the order”, in both places where they appear, there were substituted “the direction”; and
- (d) section 392 (application of sections 393 (third party rights) and 394 (access to ^{F55}FCA or PRA] material)) is to be read as if—
 - (i) paragraph (a) of that section contained a reference to a warning notice given under subsection (1) above, and
 - (ii) paragraph (b) of that section contained a reference to a decision notice given under subsection (3) above.]

Textual Amendments

- F48** S. 58A substituted (17.8.2001 for specified purposes and otherwise 1.12.2001) for ss. 58-61 by S.I. 2001/2617, arts. 2, 8(1), 13(1), **Sch. 3 para. 75** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**
- F49** Words in s. 58A(1) substituted (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), art. 1(1), **Sch. 9 para. 20(2)** (with Sch. 12)
- F50** Words in s. 58A(2) substituted (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), art. 1(1), **Sch. 9 para. 20(2)** (with Sch. 12)
- F51** Words in s. 58A(3) substituted (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), art. 1(1), **Sch. 9 para. 20(2)** (with Sch. 12)
- F52** Words in s. 58A(4) substituted (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), art. 1(1), **Sch. 9 para. 20(2)** (with Sch. 12)
- F53** Words in s. 58A(5) substituted (6.4.2010) by The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(2)(e), **Sch. 2 para. 13(a)** (with Sch. 5)
- F54** S. 58A(7) omitted (6.4.2010) by virtue of The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(2)(e), **Sch. 2 para. 13(b)** (with Sch. 5)
- F55** Word in s. 58A(8)(d) substituted (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), art. 1(1), **Sch. 9 para. 20(3)** (with Sch. 12)

Information

62 Powers to obtain information and documents etc.

- (1) This section applies to information, documents or other material, or explanations of matters which relate to—
 - (a) the activities or the plans for future development of a friendly society; or

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- (b) the activities or the plans for future development of a subsidiary of or body jointly controlled by an incorporated friendly society;
- and, in relation to the imposition of requirements under this section, “the purposes of its supervisory functions” means the purposes of the discharge by the [F⁶⁰FCA or the PRA] of any of its functions under this Act.
- (2) This section does not authorise any requirement in relation to information, documents or other material to be imposed on a subsidiary of or body jointly controlled by an incorporated friendly society unless that subsidiary or body carries on business in the United Kingdom; but a requirement may be imposed under this section on a friendly society in relation to information, documents or other material in the possession or control of a subsidiary of or body jointly controlled by the society which does not carry on business in the United Kingdom.
- (3) Subject to subsection (2) above, the [F⁶⁰FCA or the PRA] may by notice to a friendly society or to a subsidiary of, or body jointly controlled by, an incorporated friendly society, require the body to which it is addressed—
- (a) to furnish to it, within a specified period or at a specified time or times, such specified information as the [F⁶⁰FCA or the PRA] considers it needs for the purposes of its supervisory functions;
 - (b) to produce to it, at a specified time and place, such specified documents or other material as the [F⁶⁰FCA or the PRA] considers it needs for the purposes of its supervisory functions;
 - (c) to provide to it, within a specified period, such explanations of specified matters as the [F⁶⁰FCA or the PRA] considers it needs for the purposes of its supervisory functions;
- [F⁶¹(3A) Subject to subsection (2) above, any person authorised for the purpose by the [F⁶⁰FCA or the PRA] (“an authorised officer”) may, on producing evidence of his authority, require a friendly society or a subsidiary of, or body jointly controlled by, an incorporated friendly society—
- (a) to furnish to him forthwith such specified information as the [F⁶⁰FCA or the PRA] considers it needs for the purposes of its supervisory functions;
 - (b) to produce to him forthwith such documents or other material as the [F⁶⁰FCA or the PRA] considers it needs for those purposes;
 - (c) to provide to him forthwith such explanations of specified matters as the [F⁶⁰FCA or the PRA] considers it needs for those purposes.]
- (4) Where by virtue of subsection (3)(a), (b) or (c) above the [F⁶²[F⁶⁰FCA or the PRA] has power, or by virtue of subsection (3A) above an authorised officer has power,] to require the furnishing of any information, the production of any document or material or the provision of any explanation by a friendly society, the [F⁶³[F⁶⁴FCA, the PRA or] authorised officer] shall have the like power as regards any person who—
- (a) is or has been an officer, employee or agent of the society [F⁶⁵or, in the case of a society to which section 37(2) or (3) above applies, a controller or manager of the society], or
 - (b) in the case of documents or material, appears to the [F⁶³[F⁶⁴FCA, the PRA or] authorised officer] to have the document or material in his possession or under his control.
- (5) Where by virtue of subsection (3)(a), (b) or (c) above the [F⁶⁶[F⁶⁰FCA or the PRA] has power, or by virtue of subsection (3A) above an authorised officer has power,] to require the furnishing of any information, the production of any document or material

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or the provision of any explanation by a subsidiary of or body jointly controlled by an incorporated friendly society, the ^{F67}[^{F64}FCA, the PRA or] authorised officer] shall have the like power as regards any person who—

- (a) is or has been an officer, employee or agent of the subsidiary or jointly controlled body, or
- (b) in the case of documents or material, appears to the ^{F67}[^{F64}FCA, the PRA or] authorised officer] to have the document or material in his possession or under his control.

^{F68}(5A)

(6) Where any person from whom production of a document or material is required under subsection (4) or (5) above claims a lien on the document or material, the production of it shall be without prejudice to the lien.

(7) Nothing in the foregoing provisions of this section shall compel the production—

^{F69}(a) by a relevant lawyer of a document or material contained in a privileged communication or, in Scotland, a communication which is protected from disclosure on the ground of confidentiality, made by or to the relevant lawyer in that capacity or the furnishing of information contained in such communication so made;]

(c) by an independent qualified conveyancer, an executry practitioner or a recognised financial institution of a document or material contained in a communication made by him or to him which is protected from disclosure by virtue of section 22 of the ^{M4}Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 or the furnishing of information contained in such a communication.

(8) Where, by virtue of subsection (3), ^{F70}(3A),] (4) or (5) above, the ^{F71}[^{F64}FCA, the PRA or] an authorised officer] requires the production by a friendly society or other body or any other person of documents or material, the ^{F72}[^{F64}FCA, the PRA or] authorised officer] may—

- (a) if the documents or material are not produced, require that person to state, to the best of his knowledge and belief, where the documents or material are;
- (b) if the documents or material are produced, take copies of or extracts from them and require that person or any other person who is or has been an officer, employee or agent of the friendly society or other body, as the case may be, to provide an explanation of the documents or material.

(9) Any person who, when required to do so under this section, fails without reasonable excuse to furnish any information or report, to produce any documents or material, or to provide any explanation or make any statement, shall be guilty of an offence and liable on summary conviction—

- (a) to a fine not exceeding level 5 on the standard scale; and
- (b) in the case of a continuing offence, to an additional fine not exceeding one tenth of that level for every day during which the offence continues.

(10) Any friendly society which furnishes any information, provides any explanation or makes any statement which is false or misleading in a material particular, shall be guilty of an offence and liable—

- (a) on conviction on indictment, to a fine; and
- (b) on summary conviction to a fine not exceeding the statutory maximum.

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- (11) Any person who knowingly or recklessly furnishes any information, provides any explanation or makes any statement which is false or misleading in a material particular shall be guilty of an offence and liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine or both; and
 - (b) on summary conviction, to a fine not exceeding the statutory maximum.
- (12) In this section—
- “specified” means specified in a notice under this section; and
- “agent”, in relation to a friendly society or a subsidiary of, or body jointly controlled by, an incorporated friendly society, includes its bankers, accountants, solicitors and auditors and the appropriate actuary [^{F73}; and
- “relevant lawyer” means a barrister, advocate, solicitor or other legal representative communications with whom may be the subject of a claim to professional privilege or, in Scotland, be protected from disclosure in legal proceedings on grounds of confidentiality of communication].

Textual Amendments

- F60** Words in s. 62 substituted (1.4.2013) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2013 \(S.I. 2013/496\)](#), art. 1(1), [Sch. 9 para. 21\(b\)](#) (with [Sch. 12](#))
- F61** [S. 62\(3A\)](#) inserted (17.8.2001 for specified purposes and otherwise 1.12.2001) by [S.I. 2001/2617](#), arts. 2, 8(1), 13(1), [Sch. 3 para. 76\(c\)](#) (with art. 13(3), [Sch. 5](#)); [S.I. 2001/3538](#), [art. 2\(1\)](#)
- F62** Words in s. 62(4) substituted (17.8.2001 for specified purposes and otherwise 1.12.2001) by [S.I. 2001/2617](#), arts. 2, 8(1), 13(1), [Sch. 3 para. 76\(d\)\(i\)](#) (with art. 13(3), [Sch. 5](#)); [S.I. 2001/3538](#), [art. 2\(1\)](#)
- F63** Words in s. 62(4) substituted (17.8.2001 for specified purposes and otherwise 1.12.2001) by [S.I. 2001/2617](#), arts. 2, 8(1), 13(1), [Sch. 3 para. 76\(d\)\(ii\)](#) (with art. 13(3), [Sch. 5](#)); [S.I. 2001/3538](#), [art. 2\(1\)](#)
- F64** Words in s. 62 substituted (1.4.2013) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2013 \(S.I. 2013/496\)](#), art. 1(1), [Sch. 9 para. 21\(a\)](#) (with [Sch. 12](#))
- F65** [S. 62\(4\)\(a\)](#) words substituted (1.9.1994) by [S.I. 1994/1984](#), [reg. 17\(1\)](#)
- F66** Words in s. 62(5) substituted (17.8.2001 for specified purposes and otherwise 1.12.2001) by [S.I. 2001/2617](#), arts. 2, 8(1), 13(1), [Sch. 3 para. 76\(e\)\(i\)](#) (with art. 13(3), [Sch. 5](#)); [S.I. 2001/3538](#), [art. 2\(1\)](#)
- F67** Words in s. 62(5) substituted (17.8.2001 for specified purposes and otherwise 1.12.2001) by [S.I. 2001/2617](#), arts. 2, 8(1), 13(1), [Sch. 3 para. 76\(e\)\(ii\)](#) (with art. 13(3), [Sch. 5](#)); [S.I. 2001/3538](#), [art. 2\(1\)](#)
- F68** [S. 62\(5A\)](#) repealed (17.8.2001 for specified purposes and otherwise 1.12.2001) by [S.I. 2001/2617](#), art. 2, 13, [Sch. 3 para. 76\(f\)](#), [Sch. 4](#) (with art. 13(3), [Sch. 5](#)); [S.I. 2001/3538](#), [art. 2\(1\)](#)
- F69** [S. 62\(7\)\(a\)](#) substituted for [s. 62\(7\)\(a\)\(b\)](#) (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), s. 211(2), [Sch. 21 para. 103\(a\)](#) (with [ss. 29, 192, 193](#)); [S.I. 2009/3250](#), art. 2(h)
- F70** Words in s. 62(8) inserted (17.8.2001 for specified purposes and otherwise 1.12.2001) by [S.I. 2001/2617](#), arts. 2, 8(1), 13(1), [Sch. 3 para. 76\(g\)\(i\)](#) (with art. 13(3), [Sch. 5](#)); [S.I. 2001/3538](#), [art. 2\(1\)](#)
- F71** Words in s. 62(8) substituted (17.8.2001 for specified purposes and otherwise 1.12.2001) by [S.I. 2001/2617](#), art. 2, 8(1), 13(1), [Sch. 3 para. 76\(g\)\(ii\)](#) (with art. 13(3), [Sch. 5](#)); [S.I. 2001/3538](#), [art. 2\(1\)](#)
- F72** Words in s. 62(8) substituted (17.8.2001 for specified purposes and otherwise 1.12.2001) by [S.I. 2001/2617](#), arts. 2, 8(1), 13(1), [Sch. 3 para. 76\(g\)\(iii\)](#) (with art. 13(3), [Sch. 5](#)); [S.I. 2001/3538](#), [art. 2\(1\)](#)
- F73** Words in s. 62(12) inserted (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), s. 211(2), [Sch. 21 para. 103\(b\)](#) (with [ss. 29, 192, 193](#)); [S.I. 2009/3250](#), art. 2(h)

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Commencement Information

- I5** S. 62 wholly in force; s. 62 not in force at Royal Assent see s. 126(2); s. 62 in force for certain purposes at 13.1.1993 by S.I. 1993/16, art. 2, Sch. 1; s. 62 in force for all remaining purposes at 28.4.1993 by S.I. 1993/1186, art. 2(2), Sch. 2

Marginal Citations

- M4** 1990 c. 40.

[^{F74}62A Entry of premises under warrant under section 176 of the Financial Services and Markets Act 2000.

- (1) A justice of the peace may issue a warrant under section 176 of the Financial Services and Markets Act 2000 if satisfied on information on oath given by or on behalf of the [^{F75}FCA or the PRA], an authorised officer within the meaning of section 62(3A) above, or a person appointed as an investigator under section 65(1) below or as an inspector under section 66(1) below, that there are reasonable grounds for believing that the first or second set of conditions below is satisfied.
- (2) The first set of conditions is that—
- (a) there are on the premises specified in the warrant information, documents or other material in relation to which a requirement has been imposed on any person under section 62(3), (3A), (4) or (5) above or section 67(3) below, or which it is the duty of any person to produce under section 65(3) or 67(2) below, and
 - (b) that person has failed (wholly or in part) to comply with that requirement or, having been requested to do so, has failed (wholly or in part) to comply with that duty.
- (3) The second set of conditions is that—
- (a) there are on the premises specified in the warrant information, documents or other material in relation to which a requirement could be imposed on any person under section 62(3), (3A), (4) or (5) above or section 67(3) below, or which any person could be requested to produce in compliance with the duty imposed on them by section 65(3) or 67(2) below, and
 - (b) if such a requirement were imposed, or such a request made,—
 - (i) it would not be complied with, or
 - (ii) any information, documents or other material to which it related would be removed, tampered with or destroyed.]

Textual Amendments

- F74** S. 62A inserted (17.8.2001 for specified purposes and otherwise 1.12.2001) by S.I. 2001/2617, art. 2, 13(1), Sch. 3, Pt. 1 para 77 (with art. 13(3), Sch. 5); S.I. 2001/3538, art. 2(1)
- F75** Words in s. 62A(1) substituted (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), art. 1(1), Sch. 9 para. 22 (with Sch. 12)

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[^{F77}63A Disclosure of information.

- (1) For the purposes of sections 348 to 353 of the Financial Services and Markets Act 2000 (restrictions on disclosure of confidential information)—
 - (a) information to which this section applies is to be treated as confidential information; and
 - (b) in relation to such information, each of the following is a primary recipient—
 - [^{F78}(i) the FCA;
 - (ia) the PRA;]
 - (ii) any person who is or has been employed by the [^{F79}FCA or the PRA]; and
 - (iii) any person appointed by the [^{F80}FCA or the PRA] to carry out functions under this Act or the 1974 Act.
- (2) This section applies to information which—
 - (a) relates to the business or other affairs of a friendly society, a registered branch of a friendly society or any other person;
 - (b) was received by a primary recipient (within the meaning of subsection (1)(b)) for the purposes of, or in the discharge of, any functions of the [^{F81}FCA or the PRA] under any provision made by or under this Act or the 1974 Act; and
 - (c) is not excluded information by virtue of subsection (4).
- (3) It is immaterial for the purposes of subsection (2) whether or not the information was received—
 - (a) by virtue of a requirement to provide it imposed by or under this Act;
 - (b) for other purposes as well as purposes mentioned in that subsection.
- (4) Information is excluded information if—
 - (a) it has been made available to the public by virtue of being disclosed in any circumstances in which, or for any purposes for which, disclosure is not precluded by section 348 of the Financial Services and Markets Act 2000 (restrictions on disclosure of confidential information); or
 - (b) it is in the form of a summary or collection of information so framed that it is not possible to ascertain from it information relating to any particular person.]

Textual Amendments

- F77** S. 63A substituted (17.8.2001 for specified purposes and otherwise 1.12.2001) for ss. 63, 64 by S.I. 2001/2617, art. 2, 8(1), 13(1), **Sch. 3, Pt. 1 para. 78** (with art. 13(3), Sch. 5); S.I. 2001/3538. art. 2(1)
- F78** S. 63A(1)(b)(i)(ia) substituted for s. 63A(1)(b)(i) (1.4.2013) by **The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496)**, art. 1(1), **Sch. 9 para. 23(2)** (with Sch. 12)
- F79** Words in s. 63A(1)(b)(ii) substituted (1.4.2013) by **The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496)**, art. 1(1), **Sch. 9 para. 23(3)** (with Sch. 12)
- F80** Words in s. 63A(1)(b)(iii) substituted (1.4.2013) by **The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496)**, art. 1(1), **Sch. 9 para. 23(3)** (with Sch. 12)
- F81** Words in s. 63A(2)(b) substituted (1.4.2013) by **The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496)**, art. 1(1), **Sch. 9 para. 23(3)** (with Sch. 12)

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Inspections etc.

65 Investigations on behalf of [^{F94}FCA or PRA].

- (1) If it appears to the [^{F95}FCA or the PRA] desirable to do so for the purpose of its supervisory functions in relation to a friendly society, the [^{F95}FCA or the PRA] may appoint one or more competent persons to investigate and report to it on the state and conduct of the activities of the society, or any particular aspect of those activities.

^{F96}(1A)

- (2) If a person appointed under subsection (1) ^{F97}. . . above thinks it necessary for the purposes of his investigation, he may also investigate the activities of any body corporate which is or has at any relevant time been a subsidiary of, or jointly controlled by, the society under investigation.

- (3) It shall be the duty of every person who is or has been an officer, employee and agent of a friendly society or other body which is under investigation—

- (a) to produce to the persons appointed under subsection (1) ^{F97}. . . above all records, books and papers relating to the body concerned which are in his custody or power; and
- (b) to attend before those persons when required to do so;
- (c) to answer any question which is put to him by those persons with respect to any friendly society or other body which is under investigation,

and otherwise to give to those persons all assistance in connection with the investigation which he is reasonably able to give.

^{F96}(3A)

- (4) A person who, without reasonable excuse—

- (a) fails to produce any records, books or papers which it is his duty to produce under subsection (3)(a) above; or
- (b) fails to comply with his duty under subsection (3)(b) or (c) above;

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

- (5) A person who is or has been an officer, employee or agent of a friendly society or other body and who knowingly or recklessly furnishes to any person appointed under subsection (1) ^{F97}. . . above any information which is false or misleading in a material particular, shall be guilty of an offence and liable—

- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or both; and
- (b) on summary conviction, to a fine not exceeding the statutory maximum.

^{F98}(5A) In relation to a friendly society to which section 37(2) or (3) above applies, any reference in subsection (3) or (5) above to a person who is or has been an officer shall be read as including a reference to a person who is or has been a controller or manager.]

- (6) In this section—

“agent”, in relation to a friendly society or other body whose activities are under investigation, includes its bankers, accountants, solicitors and auditors and the appropriate actuary;

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“the purposes of its supervisory functions”, in relation to the [F95FCA or the PRA], has the same meaning as in section 62 above.

Textual Amendments

- F94** Words in s. 65 heading substituted (1.4.2013) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2013 \(S.I. 2013/496\)](#), art. 1(1), [Sch. 9 para. 25](#) (with Sch. 12)
- F95** Words in s. 65 substituted (1.4.2013) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2013 \(S.I. 2013/496\)](#), art. 1(1), [Sch. 9 para. 24](#) (with Sch. 12)
- F96** S. 65(1A)(3A) repealed (1.12.2001) by [S.I. 2001/2617](#), arts. 2, 13(2), [Sch. 4](#) (with art. 13(3), Sch. 5); [S.I. 2001/3538](#), [art. 2\(1\)](#)
- F97** Words in s. 65(2)(3)(5) repealed (17.8.2001 for specified purposes and otherwise 1.12.2001) by [S.I. 2001/2617](#), arts. 2, 8(1), 13, [Sch. 3 para. 79\(b\)\(ii\)](#); [Sch. 4](#) (with art. 13(3), Sch. 5)
- F98** Words in s. 65(2)(3) inserted (1.9.1994) by [S.I. 1994/1984](#), [reg. 19\(2\)](#)
 S. 65(5A) inserted (1.9.1994) by [S.I. 1994/1984](#) reg. 19(5)

Commencement Information

- I8** S. 65 wholly in force; s. 65 not in force at Royal Assent see [s. 126\(2\)](#); s. 65 in force for certain purposes at 13.1.1993 by [S.I. 1993/16](#), art. 2, [Sch. 1](#); s. 65 in force for all remaining purposes at 28.4.1993 by [S.I. 1993/1186](#), art. 2(2), [Sch. 2](#)

66 Inspections and special meetings: general.

(1) In the circumstances mentioned in subsection (2) below, the [F99FCA or the PRA] may—

- (a) appoint one or more competent inspectors to investigate and report on the affairs of a friendly society; or
- (b) call a special meeting of a friendly society to consider its affairs; or
- (c) appoint (whether on the same or on different occasions) an inspector or inspectors and call a special meeting for those purposes;

and, in the circumstances mentioned in subsection (3) below, the investigation or consideration may extend to the affairs of any body corporate which is or at any relevant time has been a subsidiary of or jointly controlled by the society concerned.

(2) The powers conferred by subsection (1) above may be exercised either—

- (a) on the application of the requisite number of members of the society concerned; or
- (b) where the is of the opinion that an investigation should be held into the affairs of the society, or that the affairs of the society call for consideration by a meeting of its members;

but paragraph (a) above shall not apply to a registered society with branches (regardless of the number of members) except with the consent of the central body of that society.

(3) The powers conferred by subsection (1) above may be exercised so as to extend the investigation or consideration to the affairs of a body which is or has been a subsidiary of or jointly controlled by a friendly society either—

- (a) where an application referred to in subsection (2)(a) above so requests; or
- (b) where the [F99FCA or the PRA] is of the opinion that it is necessary for the purposes of the investigation into or consideration of the affairs of the

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friendly society that the affairs of the subsidiary or other body should also be investigated or considered.

- (4) Where the inspectors are of the opinion mentioned in subsection (3)(b) above in relation to a subsidiary of or a body jointly controlled by the society under investigation they may, with the consent of the , extend their investigation to the affairs of the subsidiary or other body and make their report accordingly.
- (5) For the purposes of subsections (1) to (3) above the requisite number of members—
 - (a) in the case of a friendly society having more than 1,000 members, is 100; and
 - (b) in the case of any other friendly society, is one-tenth of the whole number of members of the society.
- (6) Where an application is made as mentioned in subsection (2) above—
 - (a) the application shall be supported by such evidence as the [F⁹⁹FCA or the PRA] may require for the purpose of showing that the applicants have good reason for making the application and are not actuated by malicious, frivolous, vexatious or scandalous motives;
 - (b) such notice of the application shall be given to the society concerned and, if the application extends to the affairs of a subsidiary of or body jointly controlled by that society, to that subsidiary or other body, as the [F⁹⁹FCA or the PRA] may direct;
 - (c) the [F⁹⁹FCA or the PRA] may require the applicants to give security for payment of the costs of the investigation or meeting before the inspector is appointed or the meeting is called subject, in the case of the costs of an investigation, to an amount not exceeding the corresponding Companies Act limit; and
 - (d) as regards the expenses of or incidental to the investigation or meeting—
 - (i) in the case of an investigation (in whichever way instituted), the expenses shall be defrayed in the first instance by the [F⁹⁹FCA or the PRA] but without prejudice to its rights to contribution under section 67(10) below;
 - (ii) in the case of a meeting, the expenses shall be defrayed by the applicants, or out of the funds of the society, or by the members or officers or former members or officers of the society, in such proportions as the [F⁹⁹FCA or the PRA] may direct.
- (7) Before exercising its powers under subsection (1) above in a case falling within subsection (2)(b) above, the [F⁹⁹FCA or the PRA] shall inform the society of the action which it proposes to take and the grounds for that action, and the society shall, within 14 days of receiving the information, be entitled to give the [F⁹⁹FCA or the PRA] an explanatory statement in writing by way of a reply.
- (8) Where the [F⁹⁹FCA or the PRA] proposes to exercise its powers under subsection (1) above in a case falling within subsection (3)(b) above, subsection (7) above shall apply in relation to the subsidiary or jointly controlled body as it applies in relation to the society.
- (9) Inspectors appointed under this section shall, in addition to having the powers which are necessary for or incidental to the discharge of their functions under this section, have the power specified in section 67 below.
- (10) Where a special meeting is called under this section—
 - (a) the [F⁹⁹FCA or the PRA] may—

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- (i) direct at what time and place the meeting is to be held and what matters are to be discussed and determined at the meeting; and
 - (ii) direct which members may attend and vote at the meeting,
- and may give such other directions as it thinks fit with respect to the call, holding and conduct of the meeting;
- (b) the [^{F99}FCA or the PRA] may appoint a person to be chairman at the meeting or, in default of such an appointment, the meeting may appoint its own chairman;
 - (c) the meeting shall have all the powers of a meeting called according to the rules of the society;

and the provisions of this subsection and any direction given under it shall have effect notwithstanding anything in the rules of the society.

- (11) In this section “the corresponding Companies Act limit”, in relation to security for the payment of the costs of an investigation, is £5,000 or such other sum as is specified for the time being in an order under section 431(4) of the ^{M9}Companies Act 1985 ^{F100}....

Textual Amendments

F99 Words in s. 66 substituted (1.4.2013) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2013 \(S.I. 2013/496\)](#), art. 1(1), [Sch. 9 para. 26](#) (with [Sch. 12](#))

F100 Words in s. 66(11) omitted (1.10.2009) by virtue of [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), [Sch. 1 para. 133\(2\)](#) (with art. 10)

Commencement Information

I9 S. 66 wholly in force; s. 66 not in force at Royal Assent see [s. 126\(2\)](#); s. 66 in force for certain purposes at 13.1.1993 by [S.I. 1993/16](#), art. 2, [Sch. 1](#); s. 66 in force for all remaining purposes at 28.4.1993 by [1993/1186](#), art. 2(2), [Sch. 2](#)

Marginal Citations

M9 [1985 c. 6.](#)

67 Inspections: supplementary provision.

- (1) In this section—

“the body under investigation” means—

- (i) the friendly society whose affairs are the subject of the investigation, or
- (ii) the friendly society, and each subsidiary of or body jointly controlled by the society, whose affairs are so subject,

as the case may be;

“the inspectors” means the person appointed by the [^{F101}FCA or the PRA] under section 66 above to conduct the investigation;

“the investigation” means the investigation under section 66 above which the inspectors have been appointed to hold;

and references to officers, employees or agents include past, as well as present, officers, employees or agents; and “agents”, in relation to a friendly society or any subsidiary of or body jointly controlled by an incorporated friendly society, includes its bankers, accountants, solicitors and auditors and the appropriate actuary.

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- (2) When the inspectors have been appointed, it is the duty of all officers, employees and agents of the body under investigation—
- (a) to produce to the inspectors all documents and material of or relating to the body under investigation which are in their custody or power;
 - (b) to attend before the inspectors when required to do so; and
 - (c) otherwise to give the inspectors all assistance in connection with the investigation which they are reasonably able to give.
- (3) If the inspectors consider that a person other than an officer, employee or agent of the body under investigation is or may be in possession of information concerning its affairs, they may require that person to produce to them any documents or material in his custody or power relating to the body under investigation, to attend before them and otherwise to give them all assistance in connection with the investigation which he is reasonably able to give; and it is that person's duty to comply with the requirement.
- (4) The inspectors may examine on oath the officers, employees and agents of the body under investigation, and any such person as is mentioned in subsection (3) above, in relation to the affairs of the body under investigation, and may administer an oath accordingly.
- (5) An answer given by a person to a question put to him under the foregoing provisions of this section may be used in evidence against him.
- [^{F102}(5A) However, in criminal proceedings in which that person is charged with an offence to which this subsection applies—
- (a) no evidence relating to the statement may be adduced, and
 - (b) no question relating to it may be asked,
- by or on behalf of the prosecution, unless evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of that person.
- (5B) Subsection (5A) above applies to any offence other than—
- (a) an offence under section 2 or 5 of the ^{M10}Perjury Act 1911 (false statements made on oath otherwise than in judicial proceedings or made otherwise than on oath);
 - (b) an offence under section 44(1) or (2) of the ^{M11}Criminal Law (Consolidation) (Scotland) Act 1995 (false statements made on oath or otherwise than on oath); or
 - (c) an offence under Article 7 or 10 of the Perjury (Northern Ireland) Order 1979 (false statements made on oath otherwise than in judicial proceedings or made otherwise than on oath).]

(6) If an officer, employee or agent of the body under investigation or any such person as is mentioned in subsection (3) above—

 - (a) refuses to produce any document or material which it is his duty under this section to produce; or
 - (b) refuses to attend before the inspectors when required to do so; or
 - (c) refuses to answer any question put to him by the inspectors with respect to the affairs of the body under investigation,

the inspectors may certify the refusal in writing to the High Court; and the court may thereupon enquire into the case and, after hearing any witnesses who may be produced against or on behalf of the alleged offender and after hearing any statement which may

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be offered in defence, may punish the offender in like manner as if he had been guilty of contempt of the court.

- (7) The inspectors may, and if so directed by the [F101FCA or the PRA] shall, make interim reports to the [F101FCA or the PRA], but they may at any time in the course of the investigation, without making an interim report, inform the [F101FCA or the PRA] of matters coming to their knowledge as a result of the investigation tending to show that an offence has been committed.
- (8) The [F101FCA or the PRA] may, if it thinks fit—
- (a) send a copy of any report made by the inspectors to the body whose affairs are or were the subject of the investigation;
 - (b) furnish a copy of any such report on request F103 . . . to—
 - (i) any member of the body whose affairs are or were the subject of the investigation;
 - (ii) the auditors of that body;
 - (iii) any person whose conduct is referred to in the report;
 - (iv) any other person whose financial interests appear to the [F101FCA or the PRA] to be affected by matters dealt with in the report, whether as creditor or otherwise; and
 - (c) cause the report to be printed and published.

[F104(8A) The [F101FCA or the PRA] may charge a reasonable fee for furnishing to any person a copy of a report under subsection (8)(b) above.]

- (9) A copy of a report of inspectors appointed under section 66 above to hold an investigation under that section, certified by the [F101FCA or the PRA] to be a true copy, is admissible in any legal proceedings as evidence of the opinion of the inspectors in relation to any matter contained in the report; and a document purporting to be such a certificate shall be received in evidence and be deemed to be such a certificate, unless the contrary is proved.
- (10) The [F101FCA or the PRA] shall be entitled to be repaid the expenses of the investigation defrayed by it under section 66(6)(d) above as provided in the following paragraph, that is to say—
- (a) by the applicants for the investigation, to such extent (if any) as the [F101FCA or the PRA] may direct;
 - (b) by any body whose affairs were the subject of the investigation, to such extent (if any) as the [F101FCA or the PRA] may direct;
 - (c) by any person convicted of an offence in proceedings instituted as a result of the investigation, to such extent (if any) as the court by or before which he was convicted may order;

and a person liable under any one of paragraphs (a) to (c) above is entitled to contribution from any other person liable under the same paragraph, according to the amount of their respective liabilities under it.

[F105(10A) In relation to a friendly society to which section 37(2) or (3) above applies—

- (a) any reference in subsection (1), (2) or (4) above to officers shall be read as including a reference to controllers or managers; and
- (b) any reference in subsection (3) or (6) above to an officer shall be read as including a reference to a controller or manager.]

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(11) In the application of this section to a friendly society whose registered office is in Scotland or Northern Ireland, any reference to the High Court shall be read as a reference to the Court of Session or, as the case may be, to the High Court in Northern Ireland.

Textual Amendments

- F101** Words in s. 67 substituted (1.4.2013) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2013 \(S.I. 2013/496\)](#), [art. 1\(1\)](#), [Sch. 9 para. 27](#) (with [Sch. 12](#))
- F102** [S. 67\(5A\)\(5B\)](#) inserted (14.4.2000 in relation to England and Wales and to Northern Ireland and 1.1.2001 in relation to Scotland) by [1999 c. 23](#), [s. 59](#), [Sch. 3 para. 24](#) (with [s. 63\(2\)](#), [Sch. 7 para. 3\(3\)](#)); [S.I. 2000/1034](#), [art. 2](#); [S.S.I. 2000/445](#), [art. 2](#)
- F103** Words in s. 67(8)(b) repealed (1.12.2001) by [S.I. 2001/2617](#), [arts. 2, 13\(2\)](#), [Sch. 4](#) (with [art. 13\(3\)](#), [Sch. 5](#)); [S.I. 2001/3538](#), [art. 2\(1\)](#)
- F104** [S. 67\(8A\)](#) inserted (17.8.2001 for specified purposes and otherwise 1.12.2001) by [S.I. 2001/2617](#), [arts. 2, 8\(1\), 13\(1\)](#), [Sch. 3 para. 81\(c\)](#) (with [art. 13\(3\)](#), [Sch. 5](#)); [S.I. 2001/3538](#), [art. 2\(1\)](#)
- F105** [S. 67\(10A\)](#) inserted (1.9.1994) by [S.I. 1994/1984](#) reg. 20

Commencement Information

- I10** [S. 67](#) wholly in force; [s. 67](#) not in force at Royal Assent see [s. 126\(2\)](#); [s. 67](#) in force for certain purposes at 13.1.1993 by [S.I. 1993/16](#), [art. 2](#), [Sch. 1](#); [s. 67](#) in force for all remaining purposes at 28.4.1993 by [S.I. 1993/1186](#), [art. 2\(2\)](#), [Sch. 2](#)

Marginal Citations

- M10** 1911 c. 6.
- M11** 1995 c. 39.

^{F106}**67A**

Textual Amendments

- F106** [Ss. 67A–67D](#) repealed (1.12.2001) by [S.I. 2001/2617](#), [arts. 2\(b\), 13\(2\)](#), [Sch. 4](#) (with [art. 13\(3\)](#), [Sch. 5](#)); [S.I. 2001/3538](#), [art. 2\(1\)](#)

^{F107}**67B**

Textual Amendments

- F107** [Ss. 67A–67D](#) repealed (1.12.2001) by [S.I. 2001/2617](#), [arts. 2\(b\), 13\(2\)](#), [Sch. 4](#) (with [art. 13\(3\)](#), [Sch. 5](#)); [S.I. 2001/3538](#), [art. 2\(1\)](#)

^{F108}**67C**

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Changes to legislation: There are currently no known outstanding effects for the Friendly Societies Act 1992, Part V. (See end of Document for details)

Textual Amendments

F108 Ss. 67A-67D repealed (1.12.2001) by S.I. 2001/2617, arts. 2(b), 13(2), **Sch. 4** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**

F109 **67D**

Textual Amendments

F109 Ss. 67A-67D repealed (1.12.2001) by S.I. 2001/2617, arts. 2(b), 13(2), **Sch. 4** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**

Status:

Point in time view as at 01/04/2013.

Changes to legislation:

There are currently no known outstanding effects for the Friendly Societies Act 1992, Part V.