



Friendly Societies Act 1992

1992 CHAPTER 40

PART X

GENERAL AND SUPPLEMENTARY

General

102 Power to amend, etc. to assimilate to company law or law relating to persons carrying on insurance business

- (1) If, on any modification of the statutory provisions in force in Great Britain or Northern Ireland relating—
- (a) to companies; or
 - (b) to persons or bodies of persons, other than friendly societies, whether incorporated or not, carrying on insurance business (including reinsurance business),

it appears to the Treasury to be expedient to modify the relevant provisions of this Act for the purpose of assimilating the law relating to friendly societies to the law as so modified, the Treasury may, by order, make such modifications of the relevant provisions of this Act as they think appropriate for that purpose.

- (2) The “relevant provisions of this Act” are the following provisions as for the time being in force, that is to say—
- (a) so much of Part II as relates to winding up;
 - (b) Part IV;
 - (c) Part V;
 - (d) Part VI; and
 - (e) Part VIII.
- (3) The power conferred by subsection (1) above includes power to modify the relevant provisions of this Act so as to—
- (a) confer power to make orders, regulations, rules or other subordinate legislation;

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- (b) create criminal offences; or
 - (c) provide for the charging of fees but not any charge in the nature of taxation.
- (4) An order under this section may—
- (a) make consequential amendments of or repeals in other provisions of this Act; or
 - (b) make such transitional or saving provisions as appear to the Treasury to be necessary or expedient.
- (5) In this section—
- “modification” includes any additions and, as regards modifications of the statutory provisions relating to companies, any modification whether effected by any future Act or by an instrument made after the passing of this Act under an Act whenever passed; and
 - “statutory provisions” includes the provisions of any instrument made under an Act.

103 Power to modify Parts V and VI in relation to particular friendly societies

- (1) The Commission may, on the application or with the consent of a friendly society, by order direct that all or any of the provisions of Part V or VI of this Act shall not apply to the society or shall apply to it with such modifications as may be specified in the order.
- (2) An order under this section may be subject to conditions.
- (3) An order under this section may be revoked by the Commission at any time; and the Commission, may at any time vary any such order on the application or with the consent of the society to which it applies.

104 Public file of a friendly society

- (1) The central office shall prepare and maintain a file relating to each friendly society (to be known as the public file) and the file shall—
 - (a) contain the documents or, as the case may be, copies of the documents and the records of the matters directed by or under any provision of this Act to be kept in the public file of the society; and
 - (b) be available for inspection on reasonable notice by members of the public on payment of the fee prescribed under section 114 below.
- (2) Any member of the public shall be entitled, on payment of the fee so prescribed, to be furnished with a copy of all or any of the documents or records kept in the public file of a friendly society.
- (3) The central office may keep in the public file of a registered friendly society any documents relating to a registered branch of the society which correspond to documents relating to the society which it is required to keep on that file.

105 Exemptions from stamp duty

Stamp duty shall not be chargeable upon any document required or authorised by this Act, the 1974 Act or by the constitution of an incorporated friendly society or of a registered friendly society or registered branch.

106 Officers and auditors not to be exempted from liability

- (1) Subject to subsection (3) below, any provision to which this section applies, whether contained in the constitution of a friendly society or in any contract with a friendly society or otherwise, shall be void.
- (2) This section applies to any provision for—
 - (a) exempting any member of the committee of management, other officer, or person employed as auditor of a friendly society from any liability which, by virtue of any rule of law, would otherwise attach to him in respect of the negligence, default, breach of duty or breach of trust of which he may be guilty in relation to the society; or
 - (b) indemnifying any such person against any such liability.
- (3) Subsection (1) above shall not prevent a friendly society—
 - (a) from purchasing and maintaining for such a person insurance against any such liability; or
 - (b) from indemnifying such a person against any liability incurred by him in defending any proceedings (whether criminal or civil) in which judgement is given in his favour or in which he is acquitted.
- (4) Section 727 of the Companies Act 1985 or Article 675 of the Companies (Northern Ireland) Order 1986 (each of which empowers the court to grant relief in certain cases of negligence, default, breach of duty or breach of trust) shall apply in relation to officers and auditors of a friendly society as it applies in relation to officers and auditors of a company.
- (5) For the purposes of this section a reference to an officer of a friendly society includes a reference to the appropriate actuary.

107 Time limit for commencing proceedings

- (1) Notwithstanding any limitation on the time for the taking of proceedings contained in any enactment, summary proceedings for any offence under this Act may, subject to subsection (2) below, be commenced by the Commission at any time within the period of one year beginning with the date on which evidence sufficient in the opinion of the Commission to justify a prosecution for the offence, comes to its knowledge.
- (2) Nothing in subsection (1) above shall authorise the commencement of proceedings for any offence at a time more than three years after the date on which the offence was committed.
- (3) For the purposes of subsection (1) above a certificate, purporting to be signed by or on behalf of the Commission, as to the date on which such evidence as is mentioned in that subsection came to its knowledge, shall be conclusive evidence of that date.
- (4) In the application of this section to Scotland, in subsection (1) the words “by the Commission” shall be omitted and in this section references to the Commission shall be read as references to the Lord Advocate.
- (5) In the application of this section to Scotland, section 331(1) of the Criminal Procedure (Scotland) Act 1975 shall apply for the purposes of this section as it applies for the purposes of that section.

108 Offences by bodies corporate, partnerships and unincorporated associations

- (1) Where an offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of any member of the committee of management, director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and liable to be proceeded against and punished accordingly.
- (2) Where the affairs of a body corporate are managed by the members, subsection (1) above shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.
- (3) Where a partnership is guilty of an offence under this Act, every partner, other than a partner who is proved to have been ignorant of or to have attempted to prevent the commission of the offence, shall also be guilty of that offence and be liable to be proceeded against and punished accordingly.
- (4) Where an unincorporated association (other than a partnership) is guilty of an offence under this Act—
 - (a) every officer of the association who is bound to fulfil any duty of which the breach is the offence; or
 - (b) if there is no such officer, every member of the governing body other than a member who is proved to have been ignorant of or to have attempted to prevent the commission of the offence,
 shall also be guilty of the offence and be liable to be proceeded against and punished accordingly.

109 Defence of due diligence

In any proceedings for an offence under this Act, it shall be a defence for a person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence by himself or any person under his control.

110 Jurisdiction of magistrates' courts

- (1) Without prejudice to the provisions of the Magistrates' Courts Act 1980 or the Magistrates' Courts (Northern Ireland) Order 1981 as to the jurisdiction of a magistrates' court, in England and Wales or Northern Ireland all summary offences under this Act may be prosecuted—
 - (a) where the prosecution is against a friendly society or any officer of a friendly society, before a magistrates' court acting for the petty sessions area in which the registered office of the society is situated; and
 - (b) where the prosecution is against a person other than a friendly society or an officer of a friendly society, before a magistrates' court acting for the petty sessions area in which the person is resident at the time of the institution of the prosecution.
- (2) In the application of subsection (1) above to Northern Ireland—
 - (a) for the reference in paragraph (a) to a magistrates' court acting for a petty sessions area there shall be substituted a reference to a magistrates' court acting for a county court division; and
 - (b) paragraph (b) shall be omitted.

111 Evidence

- (1) Any document purporting to have been signed by a registrar on behalf of the central office and to be a certificate of incorporation or registration or other document relating to a friendly society shall be received in evidence and shall, in the absence of any evidence to the contrary, be deemed to have been signed by a registrar on behalf of the central office.
- (2) Any printed document purporting to be a copy of the rules or memorandum of an incorporated friendly society or the rules of a registered friendly society or a registered branch and certified by the secretary or other officer of the society or branch to be a true copy of its rules or memorandum as registered, shall be received in evidence and shall, in the absence of any evidence to the contrary, be deemed to be a true copy of its rules or memorandum.

112 Records of friendly societies

- (1) Subject to any other provision of this Act or regulations under it, any record to be kept by a friendly society may be kept in any manner.
- (2) Where any such record is not kept by making entries in a bound book, but by some other means, adequate precautions shall be taken for guarding against falsification and facilitating its discovery.
- (3) The power in subsection (1) above includes power to keep the record by recording matters otherwise than in legible form so long as the recording is capable of being reproduced in a legible form; and any duty imposed by or under this Act to allow inspection of, or to furnish a copy of, the record or any part of it is to be treated as a duty to allow inspection of, or to furnish, a reproduction of the recording or of the relevant part of it in a legible form.
- (4) The Commission may, by regulations made with the consent of the Treasury, make such provision in addition to subsection (3) above as it considers appropriate in connection with such records as are kept otherwise than in legible form; and the regulations may make modifications of this Act so far as it relates to the records of friendly societies.
- (5) If default is made in complying with this section the society shall be guilty of an offence and liable on summary conviction—
 - (a) to a fine not exceeding level 4 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.

113 Service of notices

- (1) This section has effect in relation to any notice, directions or other document required or authorised by or under any provision of this Act or by the rules of a friendly society to be served on any person other than the Commission and the central office but subject, in the case of notices or other documents to be given or sent to members of a friendly society, to any provision of its rules.
- (2) Any such document may be served on the person in question—
 - (a) by delivering it to him;
 - (b) by leaving it at his proper address; or

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- (c) by sending it by post to him at that address.
- (3) Any such document may—
- (a) in the case of a friendly society, be served on the secretary of the society;
 - (b) in the case of a body corporate (other than an incorporated friendly society), be served on the secretary or clerk of that body;
 - (c) in the case of a partnership, be served on any partner;
 - (d) in the case of an unincorporated association, other than a partnership or a registered friendly society or registered branch, be served on any member of its governing body.
- (4) For the purposes of this section and section 7 of the Interpretation Act 1978 (service of documents) in its application to this section, the proper address of any person is—
- (a) in the case of a friendly society or its secretary, the address of its registered office;
 - (b) in the case of a member of an incorporated friendly society, his registered address;
 - (c) in the case of a member of the committee of management or the chief executive of a friendly society, his officially notified address;
 - (d) in the case of a body corporate (other than an incorporated friendly society), its secretary or clerk, the address of its registered or principal office in the United Kingdom;
 - (e) in the case of an unincorporated association (other than a partnership, registered friendly society or registered branch) or a member of its governing body, its principal office in the United Kingdom;
- and, in any other case, his last-known address (whether of his residence or of a place where he carries on business or is employed).

114 Form of documents and power to prescribe fees

- (1) The Chief Registrar may, by directions under this subsection, make provision with respect to the form of, and the particulars to be included in, any document to be issued or sent by, or to be sent to, the central office under this Act or the 1974 Act.
- (2) The Treasury may make regulations providing for fees, of such amounts as may be prescribed in the regulations, to be paid to the Chief Registrar for the inspection, or the furnishing of copies, of any documents in the custody of the central office, or in respect of the exercise by the central office of any of its functions, under this Act or the 1974 Act.
- (3) Any amounts received by the Chief Registrar under subsection (2) above shall be applied as an appropriation in aid of money provided by Parliament for the expenses of the Chief Registrar under this Act and the 1974 Act and, in so far as not so applied, shall be paid by the Chief Registrar into the Consolidated Fund.

115 Provision as to information supplied for purposes of social security

- (1) Subject to any exceptions or conditions prescribed by regulations of the Secretary of State, the Secretary of State shall at the request of any person claiming benefit from an incorporated friendly society provide the society for the purposes of the claim with a copy or abstract of any medical certificate relating to that person and supplied by him to the Secretary of State for the purposes of the enactments relating to social security.

- (2) Where the Secretary of State furnishes an incorporated friendly society, in connection with a claim for benefit from the society with information relating to a claim or award under those enactments, the expenses incurred in connection with his doing so by the Secretary of State or any other government department shall be treated as expenses in carrying those enactments into effect.

Interpretation

116 Friendly societies etc

In this Act—

“friendly society” means an incorporated friendly society or a registered friendly society;

“incorporated friendly society” means a society incorporated under this Act;

“registered branch” means a branch of a registered friendly society which is separately registered within the meaning of the 1974 Act;

“registered friendly society” means a society registered within the meaning of the 1974 Act by virtue of section 7(1)(a) of that Act or any enactment which it replaced.

117 Insurance business etc

- (1) For the purposes of this Act—

“annual contribution income” means, in relation to a friendly society’s long term business, the income of the society in a financial year without any deduction for reinsurance cessions;

“insurance business” means long term business and general business but does not include the operations of a society whose benefits vary according to the resources available and which require each of its members to contribute on a flat-rate basis;

“long term business” means insurance business of any of the classes specified in head A of Schedule 2 to this Act; and

“general business” means insurance business of any of the classes specified in head B of that Schedule.

- (2) For the purposes of any provision of Parts IV, V, VI and VIII of this Act, unless the context otherwise requires—

(a) references to insurance business include references to reinsurance business; and

(b) reinsurance business consisting of the effecting and carrying out of a contract of reinsurance of risks of any class shall be taken to constitute the carrying on of insurance business of that class;

and “reinsurance business” means the effecting and carrying out of contracts of reinsurance.

- (3) For the purposes of this Act the effecting and carrying out of a contract whose principal object is within one class of insurance business, but which contains related and subsidiary provisions within another class or classes, shall be taken to constitute the carrying on of insurance business of the first-mentioned class, and no other, if subsection (4) or (5) below applies to the contract.

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- (4) This subsection applies to a contract whose principal object is within any class of long term business, but which contains subsidiary provisions within general business class 1 or 2, if the society concerned is authorised under section 32 above to carry on long term business class I.
- (5) This subsection applies to a contract whose principal object is within one of the classes of general business but which contains subsidiary provisions within another of those classes.
- (6) In relation to a contract of insurance with a friendly society references in this Act to the member State where the risk is situated are references to the member State where the person who has entered into the contract has his habitual place of residence.

118 Financial year of friendly societies

- (1) Subject to subsection (2) below, in this Act “financial year” means the period of 12 months ending with 31st December.
- (2) The initial financial year of a friendly society shall be such period as expires with the end of the calendar year in which it is registered under the 1974 Act or incorporated under this Act and the final financial year of the society shall be such shorter period than 12 months as expires with the date as at which the society makes up its final accounts.

119 General interpretation

- (1) In this Act, unless the context otherwise requires—
 - “the 1974 Act” means the Friendly Societies Act 1974;
 - “actuary” means an actuary possessing the qualifications prescribed by regulations under section 44 above;
 - “annuities on human life” does not include superannuation allowances and annuities payable out of any fund applicable solely to the relief and maintenance of persons engaged or who have been engaged in any particular profession, trade or employment, or of the dependants of such persons;
 - “appointed actuary” means the actuary appointed under section 44 above;
 - “the appropriate actuary” means—
 - (a) if the society is under the duty imposed by section 44(1) above, the society’s appointed actuary; and
 - (b) if it is not under that duty, an actuary appointed to perform the function in question;
 - “the central office” means the central office of the registry of friendly societies except in relation to Scotland where it means the assistant registrar of friendly societies for Scotland;
 - “the Chief Registrar” means the Chief Registrar of Friendly Societies;
 - “collecting society” has the same meaning as in the Industrial Assurance Act 1923 or the Industrial Assurance (Northern Ireland) Order 1979;
 - “the Commission” means the Friendly Societies Commission established by section 1 above;
 - “committee of management” means the committee of management or other directing body of a society or branch;

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“contract of insurance” includes any contract the effecting of which constitutes the carrying on of insurance business by virtue of section 117 above;

“the court” except in relation to the winding-up of an incorporated friendly society, means—

- (a) in the case of a body whose registered office is situated in England and Wales or in Northern Ireland, the county court for the district in which the office is situated;
- (b) in the case of a body whose registered office is situated in Scotland, the sheriff in whose jurisdiction the office is situated;

and, in relation to the winding-up of an incorporated friendly society, means the court which has jurisdiction under the applicable winding-up legislation to wind-up the society;

“the criteria of prudent management” means the criteria set out in section 50 above;

“financial year” is to be construed in accordance with section 118;

“the first general insurance Directive” means Council Directive [73/239/EEC](#) of 24th July 1973 on the coordination of laws, regulations and administrative provisions relating to the taking-up and pursuit of the business of direct insurance other than life assurance;

“the first life Directive” means Council Directive [79/267/EEC](#) of 5th March 1979 on the co-ordination of laws, regulations and administrative provisions relating to the taking up and pursuit of the business of direct life assurance;

“the general insurance Directives” means the first general insurance Directive and the second general insurance Directive as amended, and such other Directives as make provision with respect to the business of direct insurance other than life assurance;

“group business” is to be construed in accordance with section 11 above;

“jointly controlled body” is to be construed in accordance with section 13 above;

“the life Directives” means the first life Directive and the second life Directive as amended, and such other Directives as make provision with respect to the business of direct life assurance;

“memorandum” has the meaning given by paragraph 4(3) of Schedule 3 to this Act;

“modifications”, in relation to enactments, includes additions, omissions and amendments;

“non-insurance business” means business falling within head C of Schedule 2 to this Act;

“notice” means written notice and “notice to” a person means notice given to that person, and “notify” shall be construed accordingly;

“officer” means—

- (a) in relation to a registered friendly society or a registered branch—
 - (i) a trustee;
 - (ii) the treasurer, secretary and chief executive (however described);
 - (iii) a member of the committee of management; and
 - (iv) a person appointed by the society or branch to sue or be sued on its behalf; or

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(b) in relation to an incorporated friendly society, a member of the committee of management, the chief executive (however described) and the secretary;

“the public file”, in relation to a friendly society, means the file relating to the society which the central office is required to maintain under section 104 above;

“registered address”, in relation to a member of an incorporated friendly society, has the meaning given by paragraph 14(6) of Schedule 3 to this Act;

“the second general insurance Directive” means Council Directive [88/357/EEC](#) of 22nd June 1988 on the coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance and laying down provisions to facilitate the effective exercise of freedom to provide services and amending Directive [73/239/EEC](#);

“the second life Directive” means Council Directive [90/619/EEC](#) of 8th November 1990 on the co-ordination of laws, regulations and administrative provisions relating to direct life assurance, laying down provisions to facilitate the effective exercise of freedom to provide services and amending Directive [79/267/EEC](#);

“special resolution” has the meaning given by paragraph 7 of Schedule 12 to this Act;

“subscription” includes any premium or other sum (however described) payable, in respect of the provision of benefits, by (or on behalf of) a member of a friendly society under the rules of the society;

“subsidiary” is to be construed in accordance with section 13 above; and

“valuation regulations” means regulations under section 45 above.

- (2) References in this Act to the “ECU” are to the unit of account of that name defined in Council Regulation (EEC) No.3180/78 as amended; and the exchange rates as between the ECU and pounds sterling to be applied for each year beginning on 31st December shall be the rates applicable on the last day of the preceding October for which exchange rates for the currencies of all the member States were published in the Official Journal of the Communities.

Supplementary

120 Amendments and repeals

- (1) The enactments specified in Schedule 21 to this Act shall have effect with the amendments made by that Schedule.
- (2) The enactments specified in Schedule 22 to this Act are repealed to the extent specified in the third column of that Schedule.

121 Orders and regulations

- (1) Any power of the Treasury or the Commission to make regulations or an order under this Act is exercisable by statutory instrument.
- (2) Any statutory instrument containing such regulations or such an order, other than an order under section 5 above or section 126 below, shall be subject to annulment in pursuance of a resolution of either House of Parliament.

- (3) Any power conferred by this Act to make such regulations or such an order includes power—
- (a) to make different provision for different cases; and
 - (b) to make transitional, consequential or supplementary provision.

122 Expenses

There shall be paid out of money provided by Parliament—

- (a) any expenses incurred by the Commission which are attributable to the provisions of this Act;
- (b) any expenses incurred by the Chief Registrar which are attributable to any functions of his or of the central office under this Act;
- (c) any increase attributable to this Act in the sums so payable under any other enactment.

123 Power to make transitional, consequential etc. provisions

- (1) The Treasury may by regulations make such transitional and consequential provisions and such savings as they consider necessary or expedient in preparation for, in connection with, or in consequence of—
- (a) the coming into force of any provision of this Act; or
 - (b) the operation of any enactment repealed or amended by a provision of this Act during any period when the repeal or amendment is not wholly in force.
- (2) Regulations under this section may make modifications of any enactment contained in this or in any other Act.

124 Northern Ireland

- (1) This Act extends to Northern Ireland.
- (2) Subject to any Order made after the passing of this Act by virtue of subsection (1)(a) of section 3 of the Northern Ireland Constitution Act 1973, the regulation of friendly societies and the other societies to which the 1974 Act applies shall not be a transferred matter for the purposes of that Act but shall for the purposes of subsection (2) of that section be treated as specified in Schedule 3 to that Act.

125 Channel Islands and Isle of Man

- (1) Her Majesty may by Order in Council direct that any of the provisions of this Act or any instrument made under it shall extend, with such modifications (if any) as may be specified in the Order, to—
- (a) any of the Channel Islands; or
 - (b) the Isle of Man.
- (2) An Order in Council under this section may make such transitional, incidental or supplementary provision as appears to Her Majesty to be necessary or expedient.

126 Short title and commencement

- (1) This Act may be cited as the Friendly Societies Act 1992.

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- (2) This Act shall come into force on such day as the Treasury may by order appoint and different days may be appointed for different provisions or different purposes.
- (3) An order under subsection (2) above may contain such transitional provisions and savings (whether or not involving the modification of any statutory provision) as appear to the Treasury necessary or expedient in connection with the provisions brought into force.