



# Friendly Societies Act 1992

## 1992 CHAPTER 40

### PART X

#### GENERAL AND SUPPLEMENTARY

##### *General*

#### **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 [<sup>F1</sup>, other than an offence in relation to which provision is made in subsection (1A),] may, subject to subsection (2) below, be commenced [<sup>F2</sup>by the FCA] at any time within the period of one year beginning with the date on which evidence sufficient in [<sup>F3</sup>its opinion] to justify a prosecution for the offence, comes to its knowledge.

[<sup>F4</sup>(1A) Notwithstanding any limitation on the time for taking proceedings contained in any Act, summary proceedings for the offences under the provisions listed in subsection (1B), in the circumstances specified in that subsection in relation to those provisions, may be commenced by the PRA, after notifying the FCA, or by the FCA, after notifying the PRA, at any time within the period mentioned in subsection (1C).

(1B) The provisions and the circumstances are—

- (a) section 20 (dissolution by consent), if the failure referred to in subsection (6) or (8) of that section relates to a failure to give notice to the PRA;
- (b) section 21 (voluntary winding up), if the failure referred to in subsection (4) of that section relates to a failure to send a copy of the resolution to the PRA in accordance with subsection (2) of that section;
- (c) section 25 (power of court to declare dissolution of building society void), if the failure referred to in subsection (5) of that section relates to a failure to send a copy of an order to the PRA in accordance with subsection (4) of that section;
- (d) section 62 (powers to obtain information and documents etc.), if—

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*Changes to legislation: There are currently no known outstanding effects for the Friendly Societies Act 1992, Section 107. (See end of Document for details)*

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- (i) the failure referred to in subsection (9) of that section is a failure to furnish any information or report, to produce any documents or material, or to provide any explanation or make any statement to the PRA, or
  - (ii) the information, explanation or statement referred to in subsection (10) or (11) of that section is furnished, provided or made to the PRA;
  - (e) section 65(4) and (5) (investigations), if the person appointed under subsection (1) of that section was appointed by the PRA;
  - (f) section 87(6) (actuary’s report), if the PRA directed the transferee to furnish it with a report under subsection (3) of that section;
  - (g) Schedule 10, paragraph 24 (winding up by the court), if the failure referred to in sub-paragraph (4) of that paragraph relates to a failure to give notice to the PRA in accordance with sub-paragraph (3) of that paragraph;
  - (h) Schedule 10, paragraph 54 (winding up by the High Court), if the failure referred to in sub-paragraph (4) of that paragraph relates to a failure to give notice to the PRA in accordance with sub-paragraph (3) of that paragraph;
  - (i) Schedule 14, paragraph 3 (auditors: appointment), if the failure referred to in sub-paragraph (2) of that paragraph relates to a failure to give notice to the PRA in accordance with sub-paragraph (1) of that paragraph;
  - (j) Schedule 14, paragraph 9 (power of appropriate authority to require second audit), if the failure referred to in sub-paragraph (5) of that paragraph relates to a direction given by the PRA under paragraph (1) of that paragraph or a direction to send a copy of the report to the PRA in accordance with sub-paragraph (3) of that paragraph;
  - (k) Schedule 14, paragraph 10 (removal of auditors), if the failure referred to in sub-paragraph (3) of that paragraph relates to a failure to give notice to the PRA in accordance with sub-paragraph (2) of that paragraph;
  - (l) Schedule 14, paragraph 12 (resignation of auditors), if the default referred to in sub-paragraph (5) of that paragraph relates to a failure to give a copy of the notice to the PRA in accordance with sub-paragraph (4) of that paragraph; and
  - (m) Schedule 14, paragraph 15 (offences of failing to comply with paragraph 14 (statement by person ceasing to hold office)), if—
    - (i) the default referred to in sub-paragraph (1) of that paragraph relates to a failure to send a copy of a notice to the PRA in accordance with paragraph 14(2) or (7) of that Schedule, or
    - (ii) the default referred to in sub-paragraph (2) is the default of a PRA-  
authorised person.
- (1C) The period is one year beginning with the date on which evidence comes to the knowledge of one or both of the FCA and the PRA, being evidence sufficient in the opinion of the FCA or the PRA (as the case may be) to justify a prosecution.]
- (2) Nothing in subsection (1) [<sup>F5</sup>or (1A)] 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 [<sup>F6</sup>subsections (1) and (1C)] above a certificate, purporting to be signed by or on behalf of the [<sup>F7</sup>FCA or the PRA], as to the date on which such evidence as is mentioned in [<sup>F8</sup>the relevant subsection] came to its knowledge, shall be conclusive evidence of that date.

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- [<sup>F9</sup>(4) In the application of this section to Scotland—
- (a) in subsection (1), omit the words “by the FCA”,
  - (b) omit subsections (1A), (1B) and (1C), and
  - (c) references to the FCA are to be read as references to the Lord Advocate.]
- (5) In the application of this section to Scotland, [<sup>F10</sup>section 136(1) of the Criminal Procedure (Scotland) Act 1995] shall apply for the purposes of this section as it applies for the purposes of that section.

#### Textual Amendments

- F1** Words in s. 107(1) inserted (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), art. 1(1), **Sch. 9 para. 45(2)(a)** (with Sch. 12)
- F2** Words in s. 107(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. 45(2)(b)** (with Sch. 12)
- F3** Words in s. 107(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. 45(2)(c)** (with Sch. 12)
- F4** S. 107(1A)-(1C) inserted (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), art. 1(1), **Sch. 9 para. 45(3)** (with Sch. 12)
- F5** Words in s. 107(2) inserted (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), art. 1(1), **Sch. 9 para. 45(4)** (with Sch. 12)
- F6** Words in s. 107(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. 45(5)(a)** (with Sch. 12)
- F7** Words in s. 107(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. 45(5)(b)** (with Sch. 12)
- F8** Words in s. 107(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. 45(5)(c)** (with Sch. 12)
- F9** S. 107(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. 45(6)** (with Sch. 12)
- F10** Words in s. 107(5) substituted (1.4.1996) by 1995 c. 40 ss. 5, 7(2), Sch. 4 para. 84

**Changes to legislation:**

There are currently no known outstanding effects for the Friendly Societies Act 1992, Section 107.