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Changes to legislation: Financial Services Act 1986 (Repealed), SCHEDULE 11 is up to date with all changes known to be in force on or before 27 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 11

Section 140.

FRIENDLY SOCIETIES

Modifications etc. (not altering text)

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

PART I

PRELIMINARY

1 In this Schedule—

“a regulated friendly society” means a society which is an authorised person by virtue of section 23 of this Act as respects such investment business as is mentioned in that section;

“regulated business”, in relation to a regulated friendly society, means investment business as respects which the society is authorised by virtue of that section;

“a self-regulating organisation for friendly societies” means a self-regulating organisation which is permitted under its rules to admit regulated friendly societies as members and to regulate the carrying on by such societies of regulated business;

“a recognised self-regulating organisation for friendly societies” means a body declared by an order of the Registrar for the time being in force to be a recognised self-regulating organisation for friendly societies for the purposes of this Schedule;

“a member society” means a regulated friendly society which is a member of an appropriate recognised self-regulating organisation for friendly societies and is subject to its rules in carrying on all its regulated business and, for the purposes of this definition, “an appropriate recognised self-regulating organisation for friendly societies” means—

- (a) in the case of any such society as is mentioned in section 23(1) of this Act, an organisation declared by an order of the Chief Registrar of friendly societies for the time being in force to be a recognised self-regulating organisation for friendly societies for the purposes of this Schedule; and
- (b) in the case of any such society as is mentioned in section 23(2) of this Act, an organisation declared by an order of the Registrar of Friendly Societies for Northern Ireland for the time being in force to be such an organisation;

“the Registrar” means—

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- (a) in relation to any such society as is mentioned in section 23(1) of this Act, or to any self-regulating organisation for friendly societies which has applied for or been granted a recognition order made by him, the Chief Registrar of friendly societies; and
- (b) in relation to any such society as is mentioned in section 23(2) of this Act, or to any self-regulating organisation for friendly societies which has applied for or been granted a recognition order made by him, the Registrar of Friendly Societies for Northern Ireland.

PART II

SELF-REGULATING ORGANISATIONS FOR FRIENDLY SOCIETIES

Recognition

- 2 (1) A self-regulating organisation for friendly societies may apply to the Chief Registrar of friendly societies or the Registrar of Friendly Societies for Northern Ireland for an order declaring it to be a recognised self-regulating organisation for friendly societies for the purposes of this Schedule.
- (2) An application under sub-paragraph (1) above—
 - (a) shall be made in such manner as the Registrar may direct; and
 - (b) shall be accompanied by such information as the Registrar may reasonably require for the purpose of determining the application.
- (3) At any time after receiving an application and before determining it the Registrar may require the applicant to furnish additional information.
- (4) The directions and requirements given or imposed under sub-paragraphs (2) and (3) above may differ as between different applications.
- (5) Any information to be furnished to the Registrar under this paragraph shall, if he so requires, be in such form or verified in such manner as he may specify.
- (6) Every application shall be accompanied by a copy of the applicant's rules and of any guidance issued by the applicant which is intended to have continuing effect and is issued in writing or other legible form.
- 3 (1) If, on an application duly made in accordance with paragraph 2 above and after being furnished with all such information as he may require under that paragraph, it appears to the Registrar from that information and having regard to any other information in his possession that the requirements mentioned in paragraph 4 below are satisfied as respects that organisation, he may, with the consent of the Secretary of State and subject to sub-paragraph (2) below, make an order ("a recognition order") declaring the applicant to be a recognised self-regulating organisation for friendly societies.
- (2) Where the Registrar proposes to grant an application for a recognition order he shall send to the Secretary of State a copy of the application together with a copy of the rules and any guidance accompanying the application and the Secretary of State shall not consent to the making of the recognition order unless he is satisfied that the rules and guidance of which copies have been sent to him under this sub-paragraph [F1,

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together with any statements of principle, rules, regulations or codes of practice to which members of the organisation would be subject by virtue of this Schedule,] do not have, and are not intended or likely to have, to any significant extent the effect of restricting, distorting or preventing competition or, if they have or are intended or likely to have that effect to any significant extent, that the effect is not greater than is necessary for the protection of investors.

- (3) Section 122 of this Act shall apply in relation to the decision whether to consent to the making of a recognition order under this paragraph as it applies to the decisions mentioned in subsection (1) of that section.
- (4) Subsections (1) and (2) of section 128 of this Act shall apply for the purposes of this paragraph as if the powers there mentioned included the power of refusing consent to the making of a recognition order under this paragraph and subsection (5) of that section shall apply for that purpose as if the reference to Chapter XIV of Part I included a reference to this paragraph.
- (5) The Registrar may refuse to make a recognition order in respect of an organisation if he considers that its recognition is unnecessary having regard to the existence of one or more other organisations which are concerned with such investment business as is mentioned in section 23 of this Act and which have been or are likely to be recognised under this paragraph.
- (6) Where the Registrar refuses an application for a recognition order he shall give the applicant a written notice to that effect specifying a requirement which in the opinion of the Registrar is not satisfied, stating that the application is refused on the ground mentioned in sub-paragraph (5) above or stating that the Secretary of State has refused to consent to the making of the order.
- (7) A recognition order shall state the date on which it takes effect.

Textual Amendments

F1 Words inserted by [Companies Act 1989 \(c. 40, SIF 27\)](#), s. 206(1), [Sch. 23 Pt. II para. 27](#)

Modifications etc. (not altering text)

C2 [Sch. 11 para. 3](#): certain functions conferred by provisions contained in paras. 2–25 and 38 of Schedule 11 transferred as mentioned in [S.I. 1990/354](#), [art. 5\(2\)](#)

- 4 (1) The requirements referred to in paragraph 3 above are that mentioned in sub-paragraph (2) below and those set out in paragraphs 2 to 7 of Schedule 2 to this Act as modified in sub-paragraphs (3) to (5) below.
- (2) The rules of the organisation must take proper account of the ^{M1}Friendly Societies Act 1974, or as the case may be, the ^{M2}Friendly Societies Act (Northern Ireland) 1970.
- (3) References in paragraphs 2, 3, 4 and 6 of Schedule 2 to members are to members who are regulated friendly societies.
- (4) In paragraph 3 of that Schedule—
 - (a) in sub-paragraph (1) for the reference to Chapter V of Part I of this Act there shall be substituted a reference to paragraphs 14 to ^{F2}22D] below; and
 - (b)

^{F3}

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- (c) in sub-paragraph (3) for the reference to Chapter VI of that Part there shall be substituted a reference to the powers exercisable by the Registrar by virtue of paragraph 23 below.

- (5) In paragraph 4 of that Schedule for the reference to Chapter V of Part I of this Act there shall be substituted references to paragraphs 14 to [F⁴22D] below.

Textual Amendments

- F2 “22D” substituted by Companies Act 1989 (c. 40, SIF 27), s. 206(1), Sch. 23 Pt. II para. 28(2)(a)
 F3 Sch. 11 para. 4(b) repealed by Companies Act 1989 (c. 40, SIF 27), ss. 206(1), 212, Sch. 23 Pt. II para. 28(2)(b), Sch. 24
 F4 “22D” substituted by Companies Act 1989 (c. 40, SIF 27), s. 206(1), Sch. 23 Pt. II para. 28(3)

Modifications etc. (not altering text)

- C3 Sch. 11 para. 4 modified by S.R. 1987/440, art. 3
 C4 Sch. 11 para. 4: certain functions conferred by provisions contained in paras. 2–25 and 38 of Schedule 11 transferred as mentioned in S.I. 1990/354, art. 5(2)

Marginal Citations

- M1 1974 c. 46.
 M2 1970 c. 31 (N.I.)

Revocation of recognition

- 5 (1) A recognition order may be revoked by a further order made by the Registrar if at any time it appears to him—
- that any requirement mentioned in paragraph 4(1) above is not satisfied in the case of the organisation to which the recognition order relates (“the recognised organisation”);
 - that the recognised organisation has failed to comply with any obligation to which it is subject by virtue of this Act; or
 - that the continued recognition of the organisation is undesirable having regard to the existence of one or more other organisations which have been or are to be recognised under paragraph 3 above.
- (2) Subsections (2) to (9) of section 11 of this Act shall have effect in relation to the revocation of a recognition order under this paragraph as they have effect in relation to the revocation of a recognition order under subsection (1) of that section but with the substitution—
- for references to the Secretary of State of references to the Registrar;
 - for the reference in subsection (3) to members of a reference to members of the organisation which are member societies in relation to it; and
 - for the reference in subsection (6) to investors of a reference to members of the societies which are member societies in relation to the organisation.

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Compliance orders

- 6 (1) If at any time it appears to the Registrar—
- (a) that any requirement mentioned in paragraph 3 above is not satisfied in the case of a recognised self-regulating organisation for friendly societies; or
 - (b) that such an organisation has failed to comply with any obligation to which it is subject by virtue of this Act,
- he may, instead of revoking the recognition order under paragraph 5 above, make an application to the court under this paragraph.
- (2) If on any such application the court decides that the requirement in question is not satisfied or, as the case may be, that the organisation has failed to comply with the obligation in question it may order the organisation concerned to take such steps as the court directs for securing that that requirement is satisfied or that that obligation is complied with.
- (3) The jurisdiction conferred by this paragraph shall be exercisable by the High Court and the Court of Session.

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Textual Amendments

F5 Sch. 11 para. 7 repealed by Companies Act 1989 (c. 40, SIF 27), ss. 206(1), 212, Sch. 23 Pt. II para. 29, Sch. 24

- 8 (1) The Registrar or the Secretary of State may make regulations requiring a recognised self-regulating organisation for friendly societies to give the Registrar or, as the case may be, the Secretary of State forthwith notice of the occurrence of such events relating to the organisation or its members as are specified in the regulations and such information in respect of those events as is so specified.
- (2) The Registrar or the Secretary of State may make regulations requiring a recognised self-regulating organisation for friendly societies to furnish the Registrar or, as the case may be, the Secretary of State at such times or in respect of such periods as are specified in the regulations with such information relating to the organisation or its members as is so specified.
- (3) The notices and information required to be given or furnished under the foregoing provisions of this paragraph shall be such as the Registrar or, as the case may be, the Secretary of State may reasonably require for the exercise of his functions under this Act.
- (4) Regulations under the foregoing provisions of this paragraph may require information to be given in a specified form and to be verified in a specified manner.
- (5) A notice or information required to be given or furnished under the foregoing provisions of this paragraph shall be given in writing or such other manner as the Registrar or, as the case may be, the Secretary of State may approve.

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- (6) Where a recognised self-regulating organisation for friendly societies amends, revokes or adds to its rules or guidance it shall within seven days give the Registrar written notice of the amendment, revocation or addition; but notice need not be given of the revocation of guidance other than such as is mentioned in paragraph 2(6) above or of any amendment of or addition to guidance which does not result in or consist of such guidance as is there mentioned.
- (7) The Registrar shall send the Secretary of State a copy of any notice given to him under sub-paragraph (6) above.
- (8) Contravention of or of regulations under this paragraph shall not be an offence.
- 9 (1) A recognised self-regulating organisation for friendly societies shall not exercise any powers for purposes corresponding to those of the powers exercisable by the Registrar by virtue of paragraph 23 below in relation to a regulated friendly society unless it has given reasonable notice of its intention to do so to the Registrar and informed him—
- (a) of the manner in which and the date on or after which it intends to exercise the power; and
 - (b) in the case of a proposal to impose a prohibition or requirement, of the reason why it proposes to act and its reasons for considering that that reason exists and that it is necessary to impose the prohibition or requirement.
- (2) A recognised self-regulating organisation for friendly societies shall not exercise any power to which sub-paragraph (1)(a) above applies if before the date given in the notice in pursuance of that sub-paragraph the Registrar has served on it a notice in writing directing it not to do so; and the Registrar may serve such a notice if he considers it is desirable for protecting members or potential members of the society against the risk that it may be unable to meet its liabilities or to fulfil the reasonable expectations of its members or potential members.

Prevention of restrictive practices

- 10 (1) The powers conferred by sub-paragraph (2) below shall be exercisable by the Secretary of State if at any time it appears to him that—
- (a) any rules made or guidance issued by a recognised self-regulating organisation for friendly societies;
 - (b) any practices of any such organisation; or
 - (c) any practices of persons who are members of, or otherwise subject to the rules made by, any such organisation, [^{F6}together with any statements of principle, rules, regulations or codes of practice to which members of the organisation are subject by virtue of this Schedule,]
- have, or are intended or likely to have, to a significant extent the effect of restricting, distorting or preventing competition and that that effect is greater than is necessary for the protection of investors.
- (2) The powers exercisable under this sub-paragraph are to direct the Registrar—
- (a) to revoke the recognition order of the organisation;

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- (b) to direct the organisation to take specified steps for the purpose of securing that [^{F7}its rules, or the], guidance or practices in question do not have the effect mentioned in sub-paragraph (1) above;
- (c) to make alterations in [^{F8}its rules] for that purpose;
- and subsections (2) to (5), (7) and (9) of section 11 of this Act, as applied by sub-paragraph (2) of paragraph 5 above, shall have effect in relation to the revocation of a recognition order by virtue of a direction under this sub-paragraph as they have effect in relation to the revocation of such an order under sub-paragraph (1) of that paragraph.
- (3) The practices referred to in paragraph (b) of sub-paragraph (1) above are practices of the organisation in its capacity as such; . . . ^{F9}
- [^{F10}(3A) The practices referred to in paragraph (c) of sub-paragraph (1) above are practices in relation to business in respect of which the persons in question are subject to—
- (a) the rules of the organisation, or
- (b) statements of principle, rules, regulations or codes of practice to which its members are subject by virtue of this Schedule,
- and which are required or contemplated by the rules of the organisation or by those statements, rules, regulations or codes, or by guidance issued by the organisation, or which are otherwise attributable to the conduct of the organisation as such.]
- (4) Subsections (3) to (8) of section 122 of this Act shall apply for the purposes of this paragraph as if—
- (a) the reference to a notice in subsection (3) included a notice received under paragraph 8(7) above or 33(4) below;
- (b) the references to rules and guidance in subsection (4) included such rules and guidance as are mentioned in sub-paragraph (1) above;
- (c) the reference to practices in subsection (6) included such practices as are mentioned in sub-paragraph (1) above; and
- (d) the reference to the Secretary of State's powers in subsection (7) included his powers under sub-paragraph (2) above.
- (6) Section 128 of this Act shall apply for the purposes of this paragraph as if—
- (a) the powers referred to in subsection (1) of that section included the powers conferred by sub-paragraph (2)(b) and (c) above;
- (b) the references to Chapter XIV of Part I included references to this paragraph; and
- (c) the reference to a recognised self-regulating organisation included a reference to a recognised self-regulating organisation for friendly societies.

Textual Amendments

- F6** Words inserted by [Companies Act 1989 \(c. 40, SIF 27\)](#), s. 206(1), [Sch. 23 Pt. II para. 30\(2\)](#)
- F7** Words substituted by [Companies Act 1989 \(c. 40, SIF 27\)](#), s. 206(1), [Sch. 23 Pt. II para. 30\(3\)\(a\)](#)
- F8** Words substituted by [Companies Act 1989 \(c. 40, SIF 27\)](#), s. 206(1), [Sch. 23 Pt. II para. 30\(3\)\(c\)](#)
- F9** Words repealed by [Companies Act 1989 \(c. 40, SIF 27\)](#), ss. 206(1), 212, [Sch. 23 Pt. II para. 30\(4\)](#), [Sch. 24](#)
- F10** [Sch. 11 para. 10\(3A\)](#) inserted by [Companies Act 1989 \(c. 40, SIF 27\)](#), s. 206(1), [Sch. 23 Pt. II para. 30\(4\)](#)

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Modifications etc. (not altering text)

- C5** **Sch. 11 para. 10:** certain functions conferred by provisions contained in paras. 2–25 and 38 of Schedule 11 transferred as mentioned in [S.I. 1990/354](#), [art. 5\(2\)](#)

Fees

- 11 (1) An applicant for a recognition order under paragraph 3 above shall pay such fees in respect of his application as may be required by a scheme made and published by the Registrar; and no application for such an order shall be regarded as duly made unless this sub-paragraph is complied with.
- (2) Subsections (2) to (4) of section 112 of this Act apply to a scheme under sub-paragraph (1) above as they apply to a scheme under subsection (1) of that section.
- (3) Every recognised self-regulating organisation for friendly societies shall pay such periodical fees to the Registrar as he may by regulations prescribe.

Application of provisions of this Act

- 12 (1) Subject to the following provisions of this paragraph, sections 44(7), 102(1)(c), 124, 125, 126, 180(1)(n), 181, 187, 192 and 200(4) of this Act shall apply in relation to recognised self-regulating organisations for friendly societies as they apply in relation to recognised self-regulating organisations.
- (2) In its application by virtue of sub-paragraph (1) above section 126(1) of this Act shall have effect as if the reference to section 119(2) were a reference to paragraph 10(1) above.
- (3) In its application by virtue of sub-paragraph (1) above subsection (2) of section 187 of this Act shall have effect as if—
- (a) the reference in paragraph (a) to paragraphs 1 to 6 of Schedule 2 were to paragraphs 2 to 6 of that Schedule (as they apply by virtue of paragraph 4 above) and to sub-paragraph (2) of paragraph 4 above; and
 - (b) paragraph (d) referred to the powers of the organisation under paragraph 23(4) below.
- (4) A direction under subsection (1) of section 192 of this Act as it applies by virtue of sub-paragraph (1) above shall direct the Registrar to direct the organisation not to take or, as the case may be, to take the action in question; and where the function of making or revoking a recognition order in respect of a self-regulating organisation for friendly societies is exercisable by a transferee body any direction under that subsection as it applies as aforesaid shall be a direction requiring the Registrar to direct the transferee body to give the organisation such a direction as is specified in the direction given by the Secretary of State.
- (5) Subsection (5) of that section shall not apply to a direction given to the Registrar by virtue of this paragraph.

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PART III

REGISTRAR'S POWERS IN RELATION TO REGULATED FRIENDLY SOCIETIES

Special provisions for regulated friendly societies

- 13 [F11] Paragraphs 13A to 25] below shall have effect in connection with the exercise of powers for the regulation of regulated friendly societies in relation to regulated business, but nothing in this Part of this Schedule shall affect the exercise of any power conferred by this Act in relation to a regulated friendly society which is an authorised person by virtue of section 25 of this Act to the extent that the power relates to other investment business.

Textual Amendments

F11 Words substituted by Companies Act 1989 (c. 40, SIF 27), s. 206(1), Sch. 23 Pt. II para. 31

Modifications etc. (not altering text)

C6 Sch. 11 para. 13: certain functions conferred by provisions contained in paras. 2–25 and 38 of Schedule 11 transferred as mentioned in S.I. 1990/354, art. 5(2)

Conduct of investment business

- [F12] 13A(1) The Registrar may issue statements of principle with respect to the conduct expected of regulated friendly societies.
- (2) The conduct expected may include compliance with a code or standard issued by another person, as for the time being in force, and may allow for the exercise of discretion by any person pursuant to any such code or standard.
 - (3) Failure to comply with a statement of principle under this paragraph is a ground for the taking of disciplinary action or the exercise of powers of intervention, but it does not give rise to any right of action by investors or other persons affected or affect the validity of any transaction.
 - (4) The disciplinary action which may be taken by virtue of sub-paragraph (3) is—
 - (a) the making of a public statement under paragraph 21, or
 - (b) the application by the Registrar for an injunction, interdict or other order under paragraph 22(1), or
 - (c) any action under paragraph 26 or 27 of this Schedule;and the reference in that sub-paragraph to powers of intervention is to the powers conferred by Chapter VI of Part I of this Act.
 - (5) Where a statement of principle relates to compliance with a code or standard issued by another person, the statement of principle may provide—
 - (a) that failure to comply with the code or standard shall be a ground for the taking of disciplinary action, or the exercise of powers of intervention, only in such cases and to such extent as may be specified; and

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- (b) that no such action shall be taken, or any such power exercised, except at the request of the person by whom the code or standard in question was issued.
- (6) The Registrar shall exercise his powers in such manner as appears to him appropriate to secure compliance with statements of principle under this paragraph.]

Textual Amendments

F12 Sch. 11 para. 13A inserted by Companies Act 1989 (c. 40, SIF 27), s. 206(1), Sch. 23 Pt. II para. 32 and brought into force by S.I. 1990/354, art. 3

Modifications etc. (not altering text)

C7 Sch. 11 para. 13A: functions transferred by S.I. 1990/354, art. 5(1)

C8 Sch. 11 paras. 13A, 13B: certain functions conferred by provisions contained in paras. 2–25 and 38 of Schedule 11 transferred as mentioned in S.I. 1990/354, art. 5(2)

- [^{F13}13B(1) The relevant regulatory authority may on the application of a regulated friendly society—
- (a) modify a statement of principle issued under paragraph 13A so as to adapt it to the circumstances of the society or to any particular kind of business carried on by it, or
- (b) dispense the society from compliance with any such statement of principle, generally or in relation to any particular kind of business carried on by it.
- (2) The powers conferred by this paragraph shall not be exercised unless it appears to the relevant regulatory authority—
- (a) that compliance with the statement of principle in question would be unduly burdensome for the applicant having regard to the benefit which compliance would confer on investors, and
- (b) that the exercise of those powers will not result in any undue risk to investors.
- (3) The powers conferred by this paragraph may be exercised unconditionally or subject to conditions; and paragraph 13A(3) applies in the case of failure to comply with a condition as in the case of failure to comply with a statement of principle.
- (4) The relevant regulatory authority for the purposes of this paragraph is—
- (a) in the case of a member society of a recognised self-regulating organisation for friendly societies, in relation to investment business in the carrying on of which it is subject to the rules of the organisation, that organisation;
- (b) in any other case, or in relation to other investment business, the Registrar.
- (5) The reference in paragraph 4(1) of Schedule 2 as applied by paragraph 4 above (requirements for recognition of self-regulating organisation for friendly societies) to monitoring and enforcement of compliance with statements of principle includes monitoring and enforcement of compliance with conditions imposed by the organisation under this paragraph.]

Textual Amendments

F13 Sch. 11 para. 13B inserted (*prosp.*) by Companies Act 1989 (c. 40, SIF 27), s. 206(1), Sch. 23 Pt. II para. 32

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Modifications etc. (not altering text)

- C9** Sch. 11 paras. 13A, 13B: certain functions conferred by provisions contained in paras. 2–25 and 38 of Schedule 11 transferred as mentioned in S.I. 1990/354, art. 5(2)

- 14 (1) The rules under section 48 of this Act shall not apply to a regulated friendly society but the Registrar may, with the consent of the Secretary of State, make such rules as may be made under that section regulating the conduct of any such society . . . ^{F14} as respects the matters mentioned in sub-paragraph (2) below.
- (2) The matters referred to in sub-paragraph (1) above are—
- (a) procuring persons to transact regulated business with it and advising persons as to the exercise of rights conferred by investments acquired from the society in the course of such business;
 - (b) managing the investment of pension funds, procuring persons to enter into contracts for the management of such investments and advising persons on such contracts and the exercise of the rights conferred by them;
 - (c) matters incidental to those mentioned in paragraphs (a) and (b) above.
- [^{F15}(2A) Paragraph 22B below has effect as regards the application of rules under this paragraph to member societies in respect of investment business in the carrying on of which they are subject to the rules of a recognised self-regulating organisation for friendly societies.]
- (3) Section 50 of this Act shall apply in relation to rules under this paragraph as it applies in relation to rules under section 48 except that—
- (a) for the reference to the Secretary of State there shall be substituted a reference to the Registrar; . . . ^{F16}
 - (b) the Registrar shall not exercise the power under subsection (1) to alter the requirement of rules made under this paragraph without the consent of the Secretary of State [^{F17}; and]
 - [^{F17}(c) for the references in subsection (4) to section 63B and a recognised self-regulating organisation there shall be substituted references to paragraph 13B and a recognised self-regulating organisation for friendly societies.]

Textual Amendments

- F14** Words repealed by Companies Act 1989 (c. 40, SIF 27), ss. 206(1), 212, Sch. 23 Pt. II para. 33(2), Sch. 24
- F15** Sch. 11 para. 14(2A) inserted by Companies Act 1989 (c. 40, SIF 27), s. 206(1), Sch. 23 Pt. II para. 33(3)
- F16** Word repealed by Companies Act 1989 (c. 40, SIF 27), ss. 206(1), 212, Sch. 23 Pt. II para. 33(4), Sch. 24
- F17** Sch. 11 para. 14(3)(c) and “; and” preceding it inserted by Companies Act 1989 (c. 40, SIF 27), s. 206(1), Sch. 23 Pt. II para. 33(4)

Modifications etc. (not altering text)

- C10** Sch. 11 para. 14: certain functions conferred by provisions contained in paras. 2–25 and 38 of Schedule 11 transferred as mentioned in S.I. 1990/354, art. 5(2)

- 15 (1) The rules under section 51 of this Act shall not apply to any investment agreement which a person has entered or offered to enter into with a regulated friendly society

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if, as respects the society, entering into the agreement constitutes the carrying on of regulated business but the Registrar may, with the consent of the Secretary of State, make rules for enabling a person who has entered or offered to enter into such an agreement to rescind the agreement or withdraw the offer within such period and in such manner as may be specified in the rules.

- (2) Subsection (2) of section 51 of this Act shall apply in relation to rules under this paragraph as it applies in relation to rules under that section but with the substitution for the reference to the Secretary of State of a reference to the Registrar.
- 16 (1) Regulations under section 52 of this Act shall not apply to any regulated friendly society but the Registrar may, with the consent of the Secretary of State, make such regulations as may be made under that section imposing requirements on regulated friendly societies other than member societies.
- (2) Any notice or information required to be given or furnished under this paragraph shall be given in writing or in such other manner as the Registrar may approve.
- 17 (1) Rules under section 53 of this Act shall not apply to any regulated friendly society but [^{F18}the Commission] may, with the consent of the Secretary of State make rules concerning indemnity against any claim in respect of any description of civil liability incurred by a regulated friendly society in connection with any regulated business.
- (2) Such rules shall not apply to a member society of a recognised self-regulating organisation for friendly societies unless that organisation has requested that such rules should apply to it; and any such request shall not be capable of being withdrawn after rules giving effect to it have been made but without prejudice to the power of [^{F18}the Commission] to revoke the rules if [^{F19}the Commission] and the Secretary of State think fit.
- (3) Subsections (3) and (4) of section 53 of this Act shall apply in relation to such rules as they apply to rules under that section but with the substitution for references to the Secretary of State of references to [^{F18}the Commission].

Textual Amendments

F18 Words in Sch. 11 substituted (1.2.1993 for specified purposes and 1.1.1994 for all remaining purposes) by Friendly Societies Act 1992 (c. 40), s. 98, Sch. 18 Pt. II para. 10(1) (with ss. 7(5), 93(4)); S.I. 1993/16, art. 2, Sch.4; S.I. 1993/2213, art. 2(1), Sch.5.

F19 Words in Sch. 11 substituted (1.2.1993 for specified purposes and 1.1.1994 for all remaining purposes) by Friendly Societies Act 1992 (c. 40), s. 98, Sch. 18 Pt. II para. 10(2)(3) (with ss. 7(5), 93(4)); S.I. 1993/16, art. 2, Sch.4; S.I. 1993/2213, art. 2(1), Sch.5.

- 17 (1) Rules under section 53 of this Act shall not apply to any regulated friendly society but the Registrar may, with the consent of the Secretary of State make rules concerning indemnity against any claim in respect of any description of civil liability incurred by a regulated friendly society in connection with any regulated business.
- (2) Such rules shall not apply to a member society of a recognised self-regulating organisation for friendly societies unless that organisation has requested that such

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rules should apply to it; and any such request shall not be capable of being withdrawn after rules giving effect to it have been made but without prejudice to the power of the Registrar to revoke the rules if he and the Secretary of State think fit.

- (3) Subsections (3) and (4) of section 53 of this Act shall apply in relation to such rules as they apply to rules under that section but with the substitution for references to the Secretary of State of references to the Registrar.
- 18 (1) No scheme established by rules under section 54 shall apply in cases where persons who are or have been regulated friendly societies are unable, or likely to be unable, to satisfy claims in respect of any description of civil liability incurred by them in connection with any regulated business but the Registrar may, with the consent of the Secretary of State, by rules establish a scheme for compensating investors in such cases.
- (2) Subject to sub-paragraph (3) below, subsections (2) to (4) and (6) of that section shall apply in relation to such rules as they apply to rules under that section but with the substitution for the references to the Secretary of State, authorised persons, members and a recognised self-regulating organisation of references respectively to the Registrar, regulated friendly societies, member societies and a recognised self-regulating organisation for friendly societies.
- (3) Subsection (3) of that section shall have effect with the substitution for the words “the Secretary of State is satisfied” of the words “the Registrar and the Secretary of State are satisfied”.
- (4) The references in section 179(3)(b) and 180(1)(e) of this Act to the body administering a scheme established under section 54 of this Act shall include the body administering a scheme established under this paragraph.
- 19 (1) Regulations under section 55 of this Act shall not apply to money held by regulated friendly societies but the Registrar may, with the consent of the Secretary of State, make regulations with respect to money held by a regulated friendly society in such circumstances as may be specified in the regulations.
- (2) Regulations under this paragraph shall not provide that money held by a regulated friendly society shall be held as mentioned in paragraph (a) of subsection (2) of that section but paragraphs (b) to (f) of that subsection and subsections (3) and (4) of that section shall apply in relation to regulations made under this paragraph as they apply in relation to regulations under that section [^{F20}(but with the substitution for the reference in paragraph (e) of subsection (2) to the Secretary of State of a reference to the Registrar)].
- [^{F21}(3) Paragraph 22B below has effect as regards the application of regulations under this paragraph to member societies in respect of investment business in the carrying on of which they are subject to the rules of a recognised self-regulating organisation for friendly societies.]

Textual Amendments

F20 Words substituted by Companies Act 1989 (c. 40, SIF 27), s. 206(1), Sch. 23 para. 34(2)

F21 Sch. 11 para. 19(3) inserted by Companies Act 1989 (c. 40, SIF 27), s. 206(1), Sch. 23 Pt. II para. 34(3)

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Modifications etc. (not altering text)

C11 Sch. 11 para. 19: certain functions conferred by provisions contained in paras. 2–25 and 38 of Schedule 11 transferred as mentioned in S.I. 1990/354, art. 5(2)

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

Textual Amendments

F22 Sch. 11 para. 20 substituted by Companies Act 1989 (c. 40, SIF 27), s. 206(1), Sch. 23 Pt. II para. 35

Modifications etc. (not altering text)

C12 Sch. 11 para. 20: certain functions conferred by provisions contained in paras. 2–25 and 38 of Schedule 11 transferred as mentioned in S.I. 1990/354, art. 5(2)

- 21 (1) If it appears to the Registrar that a regulated friendly society other than a member society has contravened—
- (a) any provision of rules or regulations made under this Schedule or of section 56 or 59 of this Act;
 - (b) any condition imposed under section 50 of this Act as it applies by virtue of paragraph 14(3) above;
 - (c) any prohibition or requirement imposed under Chapter VI of Part I of this Act as it applies by virtue of paragraph 23 below; or
 - (d) any requirement imposed under paragraph 24 below;
- he may publish a statement to that effect.
- (2) Subsections (2) to (5) of section 60 above shall apply in relation to the power under sub-paragraph (1) above as they apply in relation to the power in subsection (1) of that section but with the substitution for the references to the Secretary of State of references to the Registrar.

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Modifications etc. (not altering text)

C13 Sch. 11 paras. 21, 22: certain functions conferred by provisions contained in paras. 2–25 and 38 of Schedule 11 transferred as mentioned in S.I. 1990/354, art. 5(2)

- 22 (1) If on the application of the Registrar the court is satisfied—
- (a) that there is a reasonable likelihood that any regulated friendly society will contravene any provision of—
 - (i) any prohibition or requirement imposed under Chapter VI of Part I of this Act as it applies by virtue of paragraph 23 below;
 - (ii) the rules or regulations made under this Schedule;
 - (iii) any requirement imposed under paragraph 24 below;
 - (iv) section 47, 56 or 59 of this Act;
 - (v) the rules of a recognised self-regulating organisation for friendly societies in relation to which it is a member society,or any condition imposed under section 50 of this Act as it applies by virtue of paragraph 14(3) above;
 - (b) that any regulated friendly society has contravened any such provision or condition and that there is a reasonable likelihood that the contravention will continue or be repeated; or
 - (c) that any person has contravened any such provision or condition and that there are steps that could be taken for remedying the contravention,
- the court may grant an injunction restraining the contravention or, in Scotland, an interdict prohibiting the contravention or, as the case may be, make an order requiring the society and any other person who appears to the court to have been knowingly concerned in the contravention to take steps to remedy it.
- (2) No application shall be made by the Registrar under sub-paragraph (1) above in respect of any such rules as are mentioned in paragraph (a)(v) of that sub-paragraph unless it appears to him that the organisation is unable or unwilling to take appropriate steps to restrain the contravention or to require the society concerned to take such steps as are mentioned in sub-paragraph (1) above.
- (3) Subsections (3) to (9) of section 61 of this Act apply to such a contravention as is mentioned in sub-paragraph (1)(a) above as they apply to such a contravention as is mentioned in subsection (3) of that section, but with the substitution for the references to the Secretary of State of references to the Registrar.
- (4) Without prejudice to the preceding provisions of this paragraph—
- (a) a contravention of any rules or regulations made under this Schedule;
 - (b) a contravention of any prohibition or requirement imposed under Chapter VI of Part I of this Act as it applies by virtue of paragraph 23 below;
 - (c) a contravention of any requirement imposed under paragraph 24 below;
 - (d) a contravention by a member society of any rules of the recognised self-regulating organisation for friendly societies of which it is a member relating to a matter in respect of which rules or regulations have been or could be made under this Schedule or of any requirement or prohibition imposed by the organisation in the exercise of powers for purposes corresponding to those of the said Chapter VI or paragraph 24;

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shall be actionable at the suit of a person who suffers loss as a result of the contravention subject to the defences and other incidents applying to actions for breach of statutory duty, but no person shall be guilty of an offence by reason of any such contravention and no such contravention shall invalidate any transaction.

- (5) This paragraph is without prejudice to any equitable remedy available in respect of property which by virtue of a requirement under section 67 of this Act as it applies by virtue of paragraph 23 below is subject to a trust.

Modifications etc. (not altering text)

- C14** Sch. 11 paras. 21, 22: certain functions conferred by provisions contained in paras. 2–25 and 38 of Schedule 11 transferred as mentioned in S.I. 1990/354, art. 5(2)
- C15** Sch. 11 para. 22 saved by S.I. 1991/488, art. 4
Sch. 11 para. 22 restricted (1.11.1992) by S.R. 1980/346, Order 93, rule 7 (as inserted by S.R. 1992/399, rule15).

[^{F23}22A(1) No action in respect of a contravention to which paragraph 22(4) above applies shall lie at the suit of a person other than a private investor, except in such circumstances as may be specified by regulations made by the Registrar.

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

Textual Amendments

- F23** Sch. 11 para. 22A inserted by Companies Act 1989 (c. 40, SIF 27), s. 193(3)(the insertion being wholly in force at 1.4.1991) by S.I. 1990/354, art. 3 and 1991/488, art.2(4)(with art. 4)

[^{F24}22B(1) The Registrar may in rules and regulations under—

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

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

- (2) It may be provided that the designated rules or regulations have effect, generally or to such extent as may be specified, subject to the rules of the organisation.
- (3) A member society which contravenes a rule or regulation applying to it by virtue of this paragraph shall be treated as having contravened the rules of the relevant recognised self-regulating organisation for friendly societies.

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- (4) It may be provided that, to such extent as may be specified, the designated rules or regulations may not be modified or waived (under paragraph 22C below or section 50) in relation to a member society.

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

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

Textual Amendments

F24 Sch. 11 para. 22B inserted by Companies Act 1989 (c. 40, SIF 27), s. 193(3) (the insertion being wholly in force at 1.4.1991) by S.I. 1990/354, art. 3 and S.I. 1991/488, art. 2(4) (with art. 4).

Modifications etc. (not altering text)

C16 Sch. 11 paras. 22B-22D: certain functions conferred by provisions contained in paras. 2-25 and 38 of Schedule 11 transferred as mentioned in S.I. 1990/354, art. 5(2).

C17 Sch. 11 paras. 22B, 22D: functions transferred by S.I. 1990/354, art. 5(1).

- [^{F25}22C(1) A recognised self-regulating organisation for friendly societies may on the application of a society which is a member of the organisation—
- (a) modify a rule or regulation designated under paragraph 22B so as to adapt it to the circumstances of the society or to any particular kind of business carried on by it, or
 - (b) dispense the society from compliance with any such rule or regulation, generally or in relation to any particular kind of business carried on by it.
- (2) The powers conferred by this paragraph shall not be exercised unless it appears to the organisation—
- (a) that compliance with the rule or regulation in question would be unduly burdensome for the applicant having regard to the benefit which compliance would confer on investors, and
 - (b) that the exercise of those powers will not result in any undue risk to investors.
- (3) The powers conferred by this paragraph may be exercised unconditionally or subject to conditions; and paragraph 22B(3) applies in the case of a contravention of a condition as in the case of contravention of a designated rule or regulation.
- (4) The reference in paragraph 4(1) of Schedule 2 as applied by paragraph 4 above (requirements for recognition of self-regulating organisation for friendly societies) to monitoring and enforcement of compliance with rules and regulations includes monitoring and enforcement of compliance with conditions imposed by the organisation under this paragraph.]

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Textual Amendments

F25 Sch. 11 paras. 22B, 22C, 22D inserted by Companies Act 1989 (c. 40, SIF 27), s. 206(1), **Sch. 23 Pt. II para. 36**

Modifications etc. (not altering text)

C18 Sch. 11 paras. 22B–22D: certain functions conferred by provisions contained in paras. 2–25 and 38 of Schedule 11 transferred as mentioned in S.I. 1990/354, **art. 5(2)**

[^{F26}22D(1)] The Registrar may issue codes of practice with respect to any matters dealt with by statements of principle issued under paragraph 13A or by rules or regulations made under any provision of this Schedule.

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

Textual Amendments

F26 Sch. 11 paras. 22B, 22C, 22D inserted by Companies Act 1989 (c. 40, SIF 27), s. 206(1), **Sch. 23 Pt. II para. 36**

Modifications etc. (not altering text)

C19 Sch. 11 paras. 22B–22D: certain functions conferred by provisions contained in paras. 2–25 and 38 of Schedule 11 transferred as mentioned in S.I. 1990/354, **art. 5(2)**

C20 Sch. 11 paras. 22B, 22D: functions transferred by S.I. 1990/354, **art. 5(1)**

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Intervention, information and investigations

- 23 (1) The powers conferred by Chapter VI of Part I of this Act shall not be exercisable in relation to a regulated friendly society or the appointed representative of such a society by the Secretary of State but instead shall be exercisable by the Registrar; and accordingly references in that Chapter to the Secretary of State shall as respects the exercise of powers in relation to a regulated friendly society or such a representative be taken as references to the Registrar.
- (2) Section 64 of this Act shall not apply to the exercise of those powers by virtue of sub-paragraph (1) above but those powers shall only be exercisable by the Registrar if it appears to him—
- (a) that the exercise of the powers is desirable in the interests of members or potential members of the regulated friendly society; or
 - (b) that the society is not a fit person to carry on regulated business of a particular kind or to the extent to which it is carrying it on or proposing to carry it on; or
 - (c) that the society has contravened any provision of this Act or of any rules or regulations made under it or in purported compliance with any such provision has furnished him with false, inaccurate or misleading information or has contravened any prohibition or requirement imposed under this Act.
- (3) For the purposes of sub-paragraph (2)(b) above the Registrar may take into account any matters that could be taken into account in deciding whether to withdraw or suspend an authorisation under Chapter III of Part I of this Act.
- (4) The powers conferred by this paragraph shall not be exercisable in relation—
- (a) to a member society which is subject to the rules of a recognised self-regulating organisation for friendly societies in carrying on all the investment business carried on by it; or
 - (b) to an appointed representative of a member society if that member society, and each other member society which is his principal, is subject to the rules of such an organisation in carrying on the investment business in respect of which it has accepted responsibility for his activities;
- except that the powers conferred by virtue of section 67(1)(b) of this Act may on any of the grounds mentioned in sub-paragraph (2) above be exercised in relation to a member society or appointed representative at the request of the organisation in relation to which the society or, as the case may be, the society which is the representative's principal is a member society.
- 24 (1) The Registrar may by notice in writing require any regulated friendly society (other than a member society) or any self-regulating organisation for friendly societies to furnish him with such information as he may reasonably require for the exercise of his functions under this Act.
- (2) The Registrar may require any information which he requires under this paragraph to be furnished within such reasonable time and verified in such manner as he may specify.
- 25 (1) Where a notice or copy of a notice is served on any person under section 60 or section 70 of this Act as they apply by virtue of paragraph 21(2) or 23 above, Chapter

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IX of Part I of this Act (other than section 96) shall, subject to sub-paragraph (2) below, have effect—

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

Exercise of powers under enactments relating to friendly societies

- 26 (1) If it appears to the Chief Registrar of friendly societies that a regulated friendly society which is an authorised person by virtue of section 23(1) of this Act—
- (a) has contravened any provision of—
 - (i) this Act or any rules or regulations made under it;
 - (ii) any requirement imposed under paragraph 24 above;
 - (iii) the rules of a recognised self-regulating organisation for friendly societies in relation to which it is a member society; or
 - (b) in purported compliance with any such provision has furnished false, inaccurate or misleading information,
- he may exercise any of the powers mentioned in sub-paragraph (2) below in relation to that society.
- (2) The powers mentioned in sub-paragraph (1) above are those under subsection (1) of section 87 (inspection and winding up of registered friendly societies), subsection (1) of section 88 (suspension of business of registered friendly societies), subsections (1) and (2) of section 89 (production of documents) and subsections (1) and (2) of section 91 (cancellation and suspension of registration) of the ^{M3}Friendly Societies Act 1974; and subject to sub-paragraph (3) below the remaining provisions of those sections shall apply in relation to the exercise of those powers by virtue of this paragraph as they do in relation to their exercise in the circumstances mentioned in those sections.
- (3) In its application by virtue of this paragraph—
- (a) section 88 of the said Act of 1974 shall have effect with the omission of subsections (3), (5) and (9); and
 - (b) section 89 of that Act shall have effect with the omission of subsection (7).

Marginal Citations

M3 1974 c. 46.

Status: Point in time view as at 01/10/1991. This version of this schedule contains provisions that are not valid for this point in time.

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- 27 (1) If it appears to the Registrar of Friendly Societies for Northern Ireland that a regulated friendly society which is an authorised person by virtue of section 23(2) of this Act—
- (a) has contravened any provision of—
 - (i) this Act or any rules or regulations made under it;
 - (ii) any requirement imposed under paragraph 24 above;
 - (iii) the rules of a recognised self-regulating organisation for friendly societies in relation to which it is a member society; or
 - (b) in purported compliance with any such provision has furnished false, inaccurate or misleading information,
- he may exercise any of the powers mentioned in sub-paragraph (2) below in relation to that society.
- (2) The powers mentioned in sub-paragraph (1) above are those under subsection (1) of section 77 (inspection and winding up of registered friendly societies), subsection (1) of section 78 (suspension of business of registered friendly societies), subsections (1) and (2) of section 79 (production of documents) and subsections (1) and (2) of section 80 (cancellation and suspension of registration) of the ^{M4}Friendly Societies Act (Northern Ireland) 1970; and subject to sub-paragraph (3) below the remaining provisions of those sections shall apply in relation to the exercise of those powers by virtue of this paragraph as they do in relation to their exercise in the circumstances mentioned in those sections.
- (3) In its application by virtue of this paragraph section 78 of the said Act of 1970 shall have effect with the omission in subsection (2) of the words from “and such notice” onwards and of subsection (4).

Marginal Citations

M4 1970 c. 31 (N.I.).

PART IV

TRANSFER OF REGISTRAR’S FUNCTIONS

- 28 (1) If it appears to the Registrar—
- (a) that a body corporate has been established which is able and willing to discharge all or any of the functions to which this paragraph applies; and
 - (b) that the requirements of Schedule 7 to this Act (as it has effect by virtue of sub-paragraph (3) below) are satisfied in the case of that body,
- he may, with the consent of the Secretary of State and subject to the following provisions of this paragraph and paragraphs 29 and 30 below, make an order transferring all or any of those functions to that body.
- (2) The body to which functions are transferred by the first order made under sub-paragraph (1) above shall be the body known as The Securities and Investments Board Limited if the Secretary of State consents to the making of the order and it appears to the Registrar that that body is able and willing to discharge those functions, that the requirements mentioned in paragraph (b) of that sub-paragraph are satisfied

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in the case of that body and that he is not precluded from making the order by the following provisions of this paragraph or paragraph 29 or 30 below.

- (3) For the purposes of sub-paragraph (1) above Schedule 7 shall have effect as if—
- (a) for references to a designated agency there were substituted references to a transferee body; and
 - (b) for the reference to complaints in paragraph 4 there were substituted a reference to complaints arising out of the conduct by regulated friendly societies of regulated business.
- (4) An order under sub-paragraph (1) above is in this Act referred to as a transfer order and a body to which functions are transferred by a transfer order is in this Act referred to as a transferee body.
- (5) Subject to sub-paragraphs (6) and (8) below, this paragraph applies to the functions of the Registrar under section 113(3) of this Act and paragraph 38 below and any functions conferred on him by virtue of paragraphs 2 to 25 [F27 (except paragraph 22A)] above other than the powers under sections 66 and 68 of this Act and, so far as applicable to assets belonging to a regulated friendly society, the power under section 67 of this Act.
- (6) If the Registrar transfers his functions under Chapter VI of Part I of this Act they shall not be exercisable by the transferee body if the only reasons by virtue of which it appears to the body as mentioned in paragraph 23(2) above relate to the sufficiency of the funds of the society to meet existing claims or of the rates of contribution to cover benefits assured.
- (7) Any function may be transferred by an order under this paragraph either wholly or in part and a function may be transferred in respect of all societies or only in respect of such societies as are specified in the order.
- (8) A transfer order—
- (a) may reserve to the Registrar the function of revoking a recognition order in respect of a self-regulating organisation for friendly societies on the ground that the requirement mentioned in paragraph 4(2) above is not satisfied; and
 - (b) shall not transfer to a transferee body the function of revoking any such recognition order on the ground that the organisation has contravened the provisions of paragraph 9 above.
- (9) No transfer order shall be made unless a draft of it has been laid before and approved by a resolution of each House of Parliament.

Textual Amendments

F27 Words in [Sch. 11 para. 28](#) inserted (1.4.1991) by [Companies Act 1989 \(c. 40, SIF 27\)](#), [s. 193\(4\)](#); [S.I. 1991/488](#), [art. 2\(4\)](#)(with art. 4)

Modifications etc. (not altering text)

C21 [Sch. 11 para. 28](#): power to transfer functions exercised, and certain functions transferred, by [S.R. 1987/228](#), [arts. 2, 3](#)

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- [^{F28}29 (1) The Registrar shall not make a transfer order transferring any legislative functions to a transferee body unless—
- (a) the body has furnished him and the Secretary of State with a copy of the instruments it proposes to issue or make in the exercise of those functions, and
 - (b) they are both satisfied that those instruments will—
 - (i) afford investors an adequate level of protection,
 - (ii) in the case of provisions corresponding to those mentioned in Schedule 8 to this Act, comply with the principles set out in that Schedule, and
 - (iii) take proper account of the supervision of friendly societies by the Registrar under the enactments relating to friendly societies.
- (2) In this paragraph “legislative functions” means the functions of issuing or making statements of principle, rules, regulations or codes of practice.]

Textual Amendments

F28 Sch. 11 para. 29 substituted by Companies Act 1989 (c. 40, SIF 27), s. 206(1), Sch. 23 para. 37

- 30 (1) The Registrar shall also before making a transfer order transferring any functions to a transferee body require it to furnish him and the Secretary of State with a copy of any guidance intended to have continuing effect which it proposes to issue in writing or other legible form and they may take such guidance into account in determining whether they are satisfied as mentioned in paragraph 29(b) above.
- (2) In this Act references to guidance issued by a transferee body are references to guidance issued or any recommendation made by it which is issued or made to regulated friendly societies or self-regulating organisations for friendly societies generally or to any class of regulated friendly societies or self-regulating organisations for friendly societies, being societies which are or may be subject to [^{F29}statements of principle, rules, regulations or codes of practice issued or made] by it or organisations which are or may be recognised by it in the exercise of its functions under a transfer order.

Textual Amendments

F29 Words substituted by Companies Act 1989 (c. 40, SIF 27), s. 206(1), Sch. 23 para. 38

- 31 (1) Subject to the provisions of this paragraph, sections 115, 116, 117(3) to (5) and 118 of this Act shall apply in relation to the transfer of functions under paragraph 28 above as they apply in relation to the transfer of functions under section 114 of this Act.
- (2) Subject to sub-paragraphs (5) and (6)(b) below, for references in those provisions to the Secretary of State, a designated agency and a delegation order there shall be substituted respectively references to the Registrar, a transferee body and a transfer order.

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- (3) The Registrar may not exercise the powers conferred by subsections (1) and (2) of section 115 except with the consent of the Secretary of State.
- (4) In subsection (3) of section 115 for the reference to Schedule 7 to this Act there shall be substituted a reference to that Schedule as it has effect by virtue of paragraph 28(3) above and in subsection (5) of that section for the reference to section 114(9)(b) of this Act there shall be substituted a reference to paragraph 29(b) above.
- (5) Section 118(3)(b) shall have effect as if the reference to any provision applying to the Secretary of State were a reference to any provision applying to the Secretary of State or the Registrar.
- (6) In Schedule 9 to this Act—
 - (a) paragraph 1(2) and (3) shall be omitted;
 - (b) paragraph 4 shall have effect as if the references to the Secretary of State were references to the Secretary of State and the Registrar;
 - (c) paragraph 5 shall have effect [^{F30}as if the reference to section 205A were a reference to paragraph 45(1) and (3) below];
 - (d) paragraph 12(3) shall have effect as if the reference to section 114(9) were a reference to paragraph 29 above.
- (7) The power mentioned in paragraph 2(3) of Schedule 9 to this Act shall not be exercisable on the ground that the company has ceased to be a designated agency or, as the case may be, a transferee body if the company remains a transferee body or, as the case may be, a designated agency.

Textual Amendments

F30 Words substituted by [Companies Act 1989 \(c. 40, SIF 27\)](#), s. 206(1), [Sch. 23 para. 39](#)

VALID FROM 01/02/1993

- [^{F31}31A(1) Where any functions under this Act are for the time being exercisable by a transferee body the Commission shall, before issuing an authorisation under section 32 of the Friendly Societies Act 1992 to a friendly society which is carrying on or proposes to carry on in the United Kingdom insurance business or non-insurance business which is investment business—
- (a) seek the advice of the transferee body with respect to any matters which are relevant to those functions of the body and relate to the society, its proposed business or persons who are or will be, within the meaning of the Friendly Societies Act 1992, members of the committee of management or other officers of the society; and
 - (b) take into account any advice on those matters given to the Commission by the transferee body before the application is decided.
- (2) In sub-paragraph (1) above—
- (a) “insurance business” has the meaning given by section 117(1) of the Friendly Societies Act 1992; and

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(b) “non-insurance business” has the meaning given by section 119(1) of that Act.

(3) The Commission may for the purpose of obtaining the advice of a transferee body under sub-paragraph (1) above furnish it with any information obtained by the Commission in connection with the application.]

Textual Amendments

F31 Sch. 11 para. 31A inserted (1.2.1993 for specified purposes and 1.1.1994 for all remaining purposes) by Friendly Societies Act 1992 (c. 40), s. 98, **Sch. 18 Pt. II para.19** (with ss. 7(5), 93(4)); S.I. 1993/16, art. 2, **Sch.4**; S.I. 1993/2213, art. 2(1), **Sch.5**.

32 A transferee body shall at least once in each year for which the transfer order is in force make a report to the Registrar on the discharge of the functions transferred to it by the order and on such other matters as the order may require and the Registrar shall send a copy of each report received by him under this paragraph to the Secretary of State who shall lay copies of the report before Parliament.

33 (1) This paragraph applies where the function of making or revoking a recognition order in respect of a self-regulating organisation for friendly societies is exercisable by a transferee body.

(2) Paragraph 3(2) above shall have effect as if the first reference to the Secretary of State included a reference to the Registrar.

(3) The transferee body shall not regard the requirement mentioned in paragraph 4(2) as satisfied unless the Registrar has certified that he also regards it as satisfied.

(4) A transferee body shall send the Registrar and the Secretary of State a copy of any notice received by it under paragraph 8(6) above.

(5) Where the Secretary of State exercises any of the powers conferred by paragraph 10(2) above in relation to an organisation the Registrar shall direct the transferee body to take the appropriate action in relation to that organisation and such a direction shall, on the application of the Registrar, be enforceable by mandamus or, in Scotland, by an order for specific performance under section 91 of the ^{M5}Court of Session Act 1868.

Marginal Citations

M5 1868 c. 100.

[^{F32}34 (1) A transferee body to which the Registrar has transferred any legislative functions may exercise those functions without the consent of the Secretary of State.

(2) In this paragraph “legislative functions” means the functions of issuing or making statements of principle, rules, regulations or codes of practice.]

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Textual Amendments

F32 Sch. 11 para. 34 substituted by Companies Act 1989 (c. 40, SIF 27), s. 206(1), Sch. 23 para. 40

- 35 (1) A transferee body shall not impose any prohibition or requirement under section 65 or 67 of this Act on a regulated friendly society or vary any such prohibition or requirement unless it has given reasonable notice of its intention to do so to the Registrar and informed him—
- (a) of the manner in which and the date on or after which it intends to exercise the power; and
 - (b) in the case of a proposal to impose a prohibition or requirement, on which of the grounds specified in paragraph 23(2) above it proposes to act and its reasons for considering that the ground in question exists and that it is necessary to impose the prohibition or requirement.
- (2) A transferee body shall not exercise any power to which sub-paragraph (1) above applies if before the date given in the notice in pursuance of sub-paragraph (1)(a) above the Registrar has served on it a notice in writing directing it not to do so; and the Registrar may serve such a notice if he considers it is desirable for protecting members or potential members of the regulated friendly society against the risk that it may be unable to meet its liabilities or to fulfil the reasonable expectations of its members or potential members.
- 36 (1) The Secretary of State shall not consent to the making of an order by the Registrar under paragraph 28 above transferring any functions to a transferee body unless he is satisfied that any [^{F33}statements of principle, rules, regulations, codes of practice], guidance and recommendations of which copies are furnished to him under paragraphs 29(a) and 30(1) above do not have, and are not intended or likely to have, to any significant extent the effect of restricting, distorting or preventing competition or, if they have or are intended or likely to have that effect to any significant extent, that the effect is not greater than is necessary for the protection of investors.
- (2) Section 121(2) and (4) and sections 122 to 128 above shall have effect in relation to transferee bodies and transfer orders as they have effect in relation to designated agencies and designation orders but subject to the following modifications.
- (3) Those provisions shall have effect as if the powers exercisable under section 121(3) were—
- (a) to make an order transferring back to the Registrar all or any of the functions transferred to the transferee body by a transfer order; or
 - (b) to direct the Registrar to direct the transferee body to take specified steps for the purpose of securing that the [^{F34}statements of principle, rules, regulations, codes of practice], guidance or practices in question do not have the effect mentioned in sub-paragraph (1) above.
- (4) No order shall be made by virtue of sub-paragraph (3) above unless a draft of it has been laid before and approved by a resolution of each House of Parliament.

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- (5) For the decisions referred to in section 122(1) there shall be substituted a reference to the Secretary of State's decision whether he is precluded by sub-paragraph (1) above from giving his consent to the making of a transfer order.
- (6) Section 128 shall apply as if—
- (a) the powers referred to in subsection (1) of that section included the power conferred by sub-paragraph (3)(b) above; and
 - (b) the references to Chapter XIV of Part I included references to this paragraph.

Textual Amendments

- F33** Words substituted by [Companies Act 1989 \(c. 40, SIF 27\)](#), s. 206(1), [Sch. 23 para. 41](#)
- F34** Words substituted by [Companies Act 1989 \(c. 40, SIF 27\)](#), s. 206(1), [Sch. 23 para. 41](#)

- 37 (1) If a transferee body has reasonable grounds for believing that any regulated friendly society has failed to comply with an obligation to which it is subject by virtue of this Act it shall forthwith give notice of that fact to the Registrar so that he can take it into consideration in deciding whether to exercise in relation to the society any of the powers conferred on him by sections 87 to 89 and 91 of the ^{M6}Friendly Societies Act 1974 or, as the case may be, sections 77 to 80 of the ^{M7}Friendly Societies Act (Northern Ireland) 1970 (inspection, winding up, suspension of business and cancellation and suspension of registration).
- (2) A notice under sub-paragraph (1) above shall contain particulars of the obligation in question and of the transferee body's reasons for considering that the society has failed to satisfy that obligation.
- (3) A transferee body need not give a notice under sub-paragraph (1) above in respect of any matter unless it considers that that matter (either alone or in conjunction with other matters) would justify the withdrawal of authorisation under section 28 of this Act in the case of a person to whom that provision applies.

Marginal Citations

- M6** 1974 c. 46.
- M7** 1970 c. 31 (N.I.).

PART V

MISCELLANEOUS AND SUPPLEMENTAL

- 38 (1) The Registrar may publish information or give advice, or arrange for the publication of information or the giving of advice, in such form and manner as he considers appropriate with respect to—
- (a) the operation of this Schedule and the [^{F35}statements of principle, rules, regulations and codes of practice issued or made] under it in relation to registered friendly societies, including in particular the rights of their

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- members, the duties of such societies and the steps to be taken for enforcing those rights or complying with those duties;
- (b) any matters relating to the functions of the Registrar under this Schedule or any such [^{F36}statements of principle, rules, regulations or codes of practice];
- (c) any other matters about which it appears to him to be desirable to publish information or give advice for the protection of those members or any class of them.
- (2) The Registrar may offer for sale copies of information published under this paragraph and may, if he thinks fit, make reasonable charges for advice given under this paragraph at any person's request.
- (3) This paragraph shall not be construed as authorising the disclosure of restricted information within the meaning of section 179 of this Act in any case in which it could not be disclosed apart from the provisions of this paragraph.

Textual Amendments

F35 Words substituted by [Companies Act 1989 \(c. 40, SIF 27\)](#), s. 206(1), [Sch. 23 Pt. II para. 42\(a\)](#)

F36 Words substituted by [Companies Act 1989 \(c. 40, SIF 27\)](#), s. 206(1), [Sch. 23 Pt. II para. 42\(b\)](#)

Modifications etc. (not altering text)

C22 [Sch. 11 para. 38](#): certain functions conferred by provisions contained in paras. 2–25 and 38 of Schedule 11 transferred as mentioned in [S.I. 1990/354](#), [art. 5\(2\)](#)

- 39 In the case of an application for authorisation under section 26 of this Act made by a society which is registered under the ^{M8}Friendly Societies Act 1974 within the meaning of that Act or is registered or deemed to be registered under the ^{M9}Friendly Societies Act (Northern Ireland) 1970 (“a registered society”), section 27(3)(c) of this Act shall have effect as if it referred only to any person who is a trustee manager or member of the committee of the society.

Marginal Citations

M8 1974 c. 46.

M9 1970 c. 31 (N.I.).

- 40 Where the other person mentioned in paragraph (c) of the definition of “connected person” in section 105(9) of this Act is a registered society that paragraph shall have effect with the substitution for the words from “member” onwards of the words “trustee, manager or member of the committee of the society”.

VALID FROM 01/02/1993

- [^{F37}40A(1) In the case of an application for authorisation under section 26 of this Act made by an incorporated friendly society section 27(3) shall have effect as if the following paragraph were substituted for paragraph (a)—

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“(a) to any member of the committee of management or any director or controller of a subsidiary of the society or of a body jointly controlled by the society.”

(2) Where the other person mentioned in paragraph (b) of the definition of “connected person” in section 105(9) of this Act is an incorporated friendly society that paragraph shall have effect with the substitution for the words from “director” onwards of the words “member of the committee of management of the society or any director, secretary or controller of a subsidiary of the society or a body jointly controlled by the society.”]

Textual Amendments

F37 Sch. 11 para. 40A inserted (1.2.1993 for specified purposes and 1.1.1994 for all remaining purposes) by Friendly Societies Act 1992 (c. 40), s. 98, **Sch. 18 Pt. II para.21** (with ss. 7(5), 93(4)); S.I. 1993/16, art. 2, **Sch.4**; S.I. 1993/2213, art. 2(1), **Sch.5**.

- 41 In relation to any such document as is mentioned in subsection (1) of section 204 of this Act which is required or authorised to be given to or served on a registered society—
- (a) subsection (3)(c) of that section shall have effect with the substitution for the words from “member” onwards of the words “trustee, manager or member of the committee of the society”; and
 - (b) subsection (4)(c) of that section shall have effect as if for the words from “member” onwards there were substituted the words “trustee, manager or member of the committee of the society, the office which is its registered office in accordance with its rules”.
- 42 Rules under paragraphs 14, 15, 17 and 18 above and regulations under paragraphs 16, 19 and 20 above shall apply notwithstanding any provision to the contrary in the rules of any regulated friendly society to which they apply.
- 43 (1) Where it appears to the Registrar, the assistant registrar for Scotland, the Industrial Assurance Commissioner or the Industrial Assurance Commissioner for Northern Ireland that any such rules as are mentioned in section 48(2)(j) of this Act which are made by virtue of paragraph 14 above (or any corresponding rules made by a self-regulating organisation for friendly societies) make arrangements for the settlement of a dispute referred to him under section 77 of the Friendly Societies Act 1974, section 65 of the ^{M10}Friendly Societies Act (Northern Ireland) ^{M11}1970, section 32 of the Industrial Assurance Act 1923 or Article 36 of the ^{M12}Industrial Assurance (Northern Ireland) Order ^{M13}1979 or that such rules relate to some of the matters in dispute he may, if he thinks fit, delegate his functions in respect of the dispute so as to enable it to be settled in accordance with the rules.
- (2) If such rules provide that any dispute may be referred to such a person, that person may deal with any dispute referred to him in pursuance of those rules as if it were a dispute referred to him as aforesaid and may delegate his functions in respect of any such dispute to any other person.

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Marginal Citations

- M10** 1970 c. 31 (N.I.).
M11 1923 c. 8.
M12 S.I. 1979/1574 (N.I.13).
M13 S.I. 1979/1574 (N.I.13).

- 44 (1) In Part III of Schedule 1 to the ^{M14}House of Commons Disqualification Act 1975 (disqualifying offices) there shall be inserted at the appropriate place—
- “Chairman of a transferee body within the meaning of Schedule 11 to the Financial Services Act 1986 if he is in receipt of remuneration.”
- (2) A corresponding amendment shall be made in Part III of Schedule 1 to the ^{M15}Northern Ireland Assembly Disqualification Act 1975.

Marginal Citations

- M14** 1975 c. 24.
M15 1975 c. 25.

- 45 (1) Any power of the Chief Registrar of friendly societies to [^{F38}issue or make statements of principle, rules, regulations, orders or codes of practice] which is exercisable by virtue of this Act shall be exercisable by statutory instrument and the ^{M16}Statutory Instruments Act 1946 shall apply to any such power as if the Chief Registrar of friendly societies were a Minister of the Crown.
- (2) Any such power of the Registrar of Friendly Societies for Northern Ireland shall be exercisable by statutory rule for the purposes of the ^{M17}Statutory Rules (Northern Ireland) Order 1979.
- (3) Any [^{F39}statements of principle, rules, regulations, orders or codes of practice] made under this Schedule by the Registrar may make different provision for different cases.

Textual Amendments

- F38** Words substituted by [Companies Act 1989 \(c. 40, SIF 27\), s. 206\(1\), Sch. 23 para. 43\(a\)](#)
F39 Words substituted by [Companies Act 1989 \(c. 40, SIF 27\), s. 206\(1\), Sch. 23 para. 43\(b\)](#)

Marginal Citations

- M16** 1946 c. 36.
M17 S.I. 1979/1573 (N.I.12).

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