



# Friendly Societies Act 1992

## 1992 CHAPTER 40

### PART II

#### INCORPORATED FRIENDLY SOCIETIES

##### *Constitution and purposes of incorporated friendly societies*

#### **5 Establishment of incorporated friendly societies**

- (1) This Part of this Act has effect—
  - (a) to enable societies to be established in accordance with this Act and to be registered and incorporated under it; and
  - (b) to enable friendly societies registered under the 1974 Act to be registered and incorporated under this Act.
- (2) A society may be established under this Act if under its proposed memorandum—
  - (a) its purposes are to include the carrying on of one or more activities falling within Head A, B, C or D of Schedule 2 to this Act;
  - (b) any such activity—
    - (i) is to be carried on by the society with a view to the provision, for its members and such persons connected with its members as may be prescribed in its rules, of insurance or other benefits; and
    - (ii) is to be funded by voluntary subscriptions from members of the society, with or without donations; and
  - (c) any other purposes which it is to have are within the permitted capacity of incorporated friendly societies under this Act.
- (3) A society established under this Act is incorporated as from the date of its registration under this Act by the central office.
- (4) The Commission may by order made with the consent of the Treasury vary Schedule 2 to this Act by adding to or deleting, or by varying the description of, any activity for the time being specified in it.

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- (5) No such order shall be made unless a draft of the order has been laid before and approved by a resolution of each House of Parliament.
- (6) Schedule 3 to this Act shall have effect in relation to—
- (a) the procedure for registration of societies as societies incorporated under this Act (in this Act referred to as “incorporated friendly societies”);
  - (b) the memorandum of the purposes and extent of the powers of, and the rules for the regulation of, such societies,
  - (c) the name and registered office of such societies,
- and certain incidents of membership of incorporated friendly societies.
- (7) In this Part of this Act references to the permitted capacity of incorporated friendly societies under this Act are to the capacity to carry on all the activities mentioned in section 7(2) below.

## **6 Incorporation of registered friendly societies**

- (1) A registered friendly society may be registered and incorporated under this Act if—
- (a) the conditions mentioned in section 5(2) above are satisfied by reference to the society’s proposed memorandum; and
  - (b) the society complies with the requirements in Schedule 3 to this Act which are applicable to its registration under this Act;
- and such a society is so incorporated as from the date of its registration by the central office.
- (2) On the incorporation of a registered friendly society all property held immediately before incorporation by any person in trust for the society shall become by virtue of this subsection the property of the society after incorporation.
- (3) After its incorporation the society shall continue to be entitled to all rights and subject to all liabilities to which it was entitled or subject immediately before incorporation.
- (4) On the incorporation of a registered society with registered or unregistered branches—
- (a) all property held immediately before incorporation by any person in trust for any branch of the society, and
  - (b) all rights and liabilities to which any such branch was then entitled or subject, shall, subject to subsection (5) below, become by virtue of this subsection property, rights and liabilities of the society.
- (5) A registered friendly society may (in accordance with paragraph 2 of Schedule 4 to this Act) make a scheme identifying any property, rights or liabilities of any branch of the society which are not to be transferred to the society on its incorporation; and any such property, rights or liabilities shall be excluded from transfer under subsection (4) above.
- (6) On the incorporation of a registered friendly society, its registration under the 1974 Act and that of any registered branch of the society shall be cancelled by the central office.
- (7) Schedule 4 to this Act shall have effect for supplementing this section.

## **7 Purposes and powers of an incorporated friendly society**

- (1) The purposes of an incorporated friendly society shall be those provided for by the society's memorandum.
- (2) The purposes for which an incorporated friendly society may exist are—
  - (a) the carrying on, subject to section 5(2)(b) above, of—
    - (i) any business of any description falling within a class specified in Head A or B or within Head C of Schedule 2 to this Act, or
    - (ii) any activity falling within Head D of that Schedule; and
  - (b) the carrying on, in addition to any business or activity falling within paragraph (a) above, of any of the following, namely—
    - (i) social or benevolent activities in accordance with section 10 below;
    - (ii) group insurance business in accordance with section 11 below;
    - (iii) reinsurance, in accordance with section 12 below, of risks insured by other friendly societies;
    - (iv) control or joint control of bodies corporate in accordance with section 13 below;

and the memorandum of an incorporated friendly society may also confer on the society power to do anything falling within Schedule 5 to this Act.
- (3) The memorandum of an incorporated friendly society may confer on it any other power specified in this Part of this Act, but no such power may be exercised except for carrying out the society's purposes.
- (4) An incorporated friendly society shall, subject to the provisions of this Act, its memorandum and its rules, have any other power which is incidental or conducive to the carrying out of its purposes or for doing anything falling within Schedule 5 to this Act.
- (5) Nothing in this Act shall be taken as preventing an incorporated friendly society from providing in its rules—
  - (a) for such system of representation of the members in the making of decisions by the society as the society may think fit;
  - (b) for the division of the society's members into groups under the control of the society and bound to contribute to the funds of the society but, subject to that, having funds and property of their own vested in trustees and administered by themselves or through their own trustees, officers or committees (and in accordance with their own rules);
  - (c) for the delegation of authority to any such group (or to its committee or any of its officers) to act, within such limits as the society may set, on the society's behalf;

but no such group may do anything on its own account which does not fall within Head D of Schedule 2 or within Schedule 5 to this Act.
- (6) Schedule 6 to this Act shall have effect in relation to the making of contracts and execution of documents by incorporated friendly societies.

## **8 Effect of the memorandum of an incorporated society**

- (1) The provisions of the memorandum of an incorporated friendly society are binding upon—

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- (a) each of the members and officers of the society,
  - (b) all persons claiming on account of a member or under its rules,
- and all such members, officers and persons (but no others) shall be taken to have notice of the provisions of the memorandum.
- (2) A person not of a description mentioned in subsection (1)(a) or (b) above who is a party to a transaction with an incorporated friendly society which is within the permitted capacity of such societies under this Act is not bound to enquire as to whether the transaction is within the capacity of the society in question.
  - (3) Subsection (4) below applies to any act of an incorporated society which is within the permitted capacity of such societies under this Act but is beyond the capacity of the society in question.
  - (4) In favour of a person who—
    - (a) is not a person mentioned in subsection (1) above;
    - (b) gives valuable consideration for the act; and
    - (c) does not know that the act is beyond the capacity of the society,any act to which this subsection applies is deemed to be one which is within the capacity of the society to enter into, notwithstanding the provisions of the memorandum.
  - (5) Where an incorporated friendly society purports to transfer or grant an interest in property, the fact that the act was beyond the capacity of the society does not affect the title of a person who in good faith subsequently acquires the property or an interest in it for valuable consideration and without actual notice of the circumstances affecting the validity of the society's act.
  - (6) Subsection (4) above does not affect—
    - (a) the right of a member of an incorporated friendly society to bring proceedings to restrain the doing of an act (other than an act done in fulfilment of a legal obligation arising from a previous act of the society) which is beyond the capacity of the society;
    - (b) the duty of the committee of management to observe any limitation on their powers flowing from the society's memorandum; or
    - (c) any liability incurred by any person by reason of the society acting beyond its capacity.
  - (7) Relief from any liability mentioned in subsection (6)(c) above must be agreed to by special resolution.
  - (8) In any proceedings arising out of subsection (4) above, the burden of proving that a person knew that an act was beyond the capacity of the society in question lies on the person making the allegation.
  - (9) In this section "transaction" includes any act.

## **9 Effect of the rules of an incorporated society**

- (1) The provisions of the rules of an incorporated friendly society are binding upon—
  - (a) each of the members and officers of the society,
  - (b) all persons claiming on account of a member or under its rules,

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and all such members, officers and persons (but no others) shall be taken to have notice of the provisions of the rules.

- (2) A party to a transaction with an incorporated friendly society who is not of a description mentioned in subsection (1)(a) or (b) above is not bound to enquire as to any limitation on the powers of the committee of management to bind the society.
- (3) Subsection (4) below applies in relation to any act of an incorporated friendly society which is, or is deemed by section 8(4) above to be, within the capacity of the society and is decided upon by the committee of management acting beyond their powers under the constitution of the society.
- (4) In favour of a person who—
  - (a) is not a person mentioned in subsection (1) above;
  - (b) gives valuable consideration for an act to which this subsection applies; and
  - (c) does not know that the act is beyond the powers of the committee of management;the power of the committee of management to bind the society shall be deemed free of any limitation in the society's constitution.
- (5) Where an incorporated friendly society purports to transfer or grant an interest in property, the fact that the committee of management acted beyond their powers under the society's constitution does not affect the title of a person who in good faith subsequently acquires the property or an interest in it for valuable consideration and without actual notice of the circumstances (if any) affecting the validity of the society's act.
- (6) Subsection (4) above does not affect—
  - (a) the right of a member of an incorporated friendly society to bring proceedings to restrain the doing of an act (other than an act done in fulfilment of a legal obligation arising from a previous act of the society) which is beyond the powers of the committee of management;
  - (b) the duty of the committee of management to act within their powers under the constitution of the society;
  - (c) any liability incurred by any person by reason of the committee of management exceeding their powers.
- (7) Action by the committee of management of an incorporated friendly society which is beyond their powers under the society's constitution but is within its capacity may be ratified by the society in general meeting in such manner as its rules may provide; but relief from any liability mentioned in subsection (6)(c) above must be agreed to by special resolution separate from any resolution ratifying the committee's action.
- (8) In this section—
  - (a) references to limitations on the committee's powers under the constitution of the society include limitations deriving from a resolution of the society in general meeting or any agreement between the members of the society; and
  - (b) "transaction" includes any act.
- (9) In any proceedings arising out of subsection (4) above, the burden of proving that a person knew that an act was beyond the powers of the committee of management lies on the person making the allegation.

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- (10) This section shall not affect the application, in relation to an incorporated friendly society, of any rule of law relating to the validity of acts which are within the capacity of a body corporate but may have been affected by defects arising from its internal management under its constitution.

## **10 Social and benevolent activities**

- (1) An incorporated friendly society may include among its purposes the carrying on of any social or benevolent activity which is not inconsistent with the other purposes of the society.
- (2) For the purposes of this section “benevolent activity” means the making of donations, the raising of funds or any other activity carried on for a charitable purpose or for any other benevolent purpose.

## **11 Group insurance**

- (1) An incorporated friendly society may include among its purposes the carrying on of any group insurance business.
- (2) In this Act “group insurance business” means business (carried on in accordance with the society’s rules) which—
- (a) is of a description falling within Head A, or class 2 of Head B, of Schedule 2 to this Act; and
  - (b) is carried on as the business of providing benefits, in pursuance of a contract with a qualifying person, for or in respect of the members of a group scheme.
- (3) For the purposes of this section—
- “group scheme” means a scheme or other arrangement under which benefits are to be provided for or in respect of persons who are members of the scheme and who qualify for membership by virtue of—
- (a) being employees of a particular employer, or
  - (b) being members of some other group of persons of a description prescribed in regulations under subsection (7) below;
- “qualifying person” means a person who has established or is otherwise responsible for the operation of a group scheme or a trustee of such a scheme; and
- “member”, in relation to a group scheme, includes any person for or in respect of whom benefits are to be provided under the scheme, whatever the terms in which such persons are described in the scheme.
- (3) Group insurance business may be carried on by an incorporated friendly society whether or not members of the group scheme are, or are required by the society to be, members of the society.
- (4) Where an incorporated friendly society carries on any group insurance business and the rules of the society so provide, any qualifying person with whom the society contracts (or his nominee) may be accorded the rights of a member of the society (including any right to vote) for the purpose of participating in the affairs of the society in the interests of the members of the group scheme with which he is concerned.
- (5) A person who is accorded the rights of a member of a society by virtue of subsection (4) above shall, for the purposes of any power conferred on the Commission by this Act

which is exercisable in the interests of members of the society, be treated as if he were a member of the society.

- (6) The rules of an incorporated friendly society may not prevent a person from being a member of the society in his private capacity by reason only of the fact that he has been accorded the rights of a member by virtue of subsection (4) above.
- (7) The Commission may make regulations specifying the manner in which group insurance business may be carried on by incorporated friendly societies; and such regulations may in particular include limitations or requirements relating to—
  - (a) the contracts in pursuance of which group insurance business may be carried on; or
  - (b) the persons with whom, or the groups of persons for whose benefit, such contracts may be made.

## **12 Reinsurance**

- (1) An incorporated friendly society may include among its purposes the carrying on of any reinsurance business to which subsection (2) below applies to such extent or in such circumstances as may from time to time be approved by the appropriate actuary.
- (2) This subsection applies to business consisting of the effecting and carrying out of contracts of reinsurance of risks which—
  - (a) are insured or to be insured by any other friendly society (whether incorporated or not); and
  - (b) are of a class or part of a class of insurance business which the society carrying on the reinsurance business itself carries on.
- (3) An incorporated friendly society which carries on any insurance business may provide in its rules for the reinsurance to such extent as may from time to time be approved by the appropriate actuary of any risks against which persons are or are to be insured by the society.

## **13 Control of subsidiaries and other bodies corporate**

- (1) Subject to the following provisions of this section, an incorporated friendly society may include among its purposes any of the following activities—
  - (a) forming subsidiaries;
  - (b) taking part with others in forming bodies corporate to be jointly controlled by it;
  - (c) otherwise acquiring, or keeping, control or joint control of bodies corporate.
- (2) An incorporated friendly society may form or take part in forming or may otherwise acquire control or joint control of the following bodies corporate (referred to as “qualifying bodies”) but no others—
  - (a) companies whose objects are limited to the carrying on of any one or more of the activities specified in Schedule 7 to this Act; and
  - (b) bodies formed in another member State whose purposes are limited to the carrying on of any one or more of those activities in another member State.
- (3) A company or other body corporate is not a qualifying body if its objects or purposes enable it to form or take part in forming or otherwise to acquire control or joint control of bodies corporate.

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- (4) An incorporated friendly society may not take part in forming or acquire control of a body corporate jointly with any person other than another incorporated friendly society without the consent of the Commission.
- (5) The Commission may give consent without conditions or subject to such conditions as it thinks fit.
- (6) Any alteration of the memorandum of an incorporated friendly society to include among its purposes and powers the carrying on of any activity such as is mentioned in subsection (1) above must be adopted by a special resolution of the society in general meeting; and any amendment of a provision in its memorandum which permits it to do so must also be so adopted.
- (7) A registered friendly society may not include in a memorandum adopted for the purposes of paragraph 2(1)(c) of Schedule 3 to this Act any provision enabling it on incorporation to carry on any activity such as is mentioned in subsection (1) above unless its inclusion has been authorised by a special resolution of the society in general meeting.
- (8) The Commission may by order made with the consent of the Treasury vary Schedule 7 to this Act by adding to or deleting from it any activity or by varying the description of any activity for the time being specified in it.
- (9) For the purposes of this Act—
- (a) an incorporated friendly society has control of a body corporate if the society—
    - (i) holds a majority of the voting rights in it; or
    - (ii) is a member of it and has the right to appoint or remove a majority of its board of directors; or
    - (iii) is a member of it and controls alone, pursuant to an agreement with other shareholders or members, a majority of the voting rights in it;
  - (b) a body corporate is a subsidiary of an incorporated friendly society if the society has control of it.
  - (c) an incorporated friendly society has joint control of a body corporate if, in pursuance of an agreement or other arrangement between them, the society and another person—
    - (i) hold a majority of the voting rights in that body; or
    - (ii) are members of it and together have the right to appoint or remove a majority of its board of directors; or
    - (iii) are members of it and alone control, pursuant to an agreement with other shareholders or members, a majority of the voting rights in it;
  - (d) a body corporate is a body jointly controlled by an incorporated friendly society if the society has joint control of it;
- and a society acquires joint control whenever any of the conditions mentioned in paragraph (c) above are satisfied with respect to a body corporate, notwithstanding that it may already be a subsidiary of the society.
- (10) Schedule 8 to this Act shall have effect for supplementing this section.
- (11) In this section “company” means a company within the meaning of the Companies Act 1985 or the Companies (Northern Ireland) Order 1986.



### *Powers of incorporated friendly societies*

#### **14 Investment of funds**

- (1) An incorporated friendly society may invest its funds—
  - (a) in the purchase of land, or in the erection of offices or other buildings thereon;
  - (b) upon any other security expressly directed by the rules of the society, other than personal security (but without prejudice to any provision of this Act relating to loans); or
  - (c) in any other investment of a kind which trustees are for the time being by law authorised to make.
- (2) An incorporated friendly society which falls within subsection (3) or (4) below may also invest the funds of the society in any other manner authorised by its constitution.
- (3) An incorporated friendly society falls within this subsection if—
  - (a) it is a society to which section 48 below applies; and
  - (b) it maintains the margin of solvency which it is required to maintain by virtue of that section.
- (4) An incorporated friendly society falls within this subsection if—
  - (a) it carries on insurance business in the United Kingdom;
  - (b) section 48 below does not apply to it; and
  - (c) it maintains a margin of solvency of such amount as may be prescribed by or determined in accordance with regulations made for the purposes of this section.
- (5) Once a society falls within subsection (3) or (4) above, it shall be treated as continuing to do so for the purposes of subsection (2) above unless the Commission serves a notice under subsection (6) below on it.
- (6) Where it appears to the Commission that an incorporated friendly society has ceased to fall within subsection (3) or (4) above, it shall serve on the society a notice stating that fact.
- (7) The powers of investment of a society on which a notice is served under subsection (6) above shall accordingly, until the notice is revoked under subsection (10) below, be limited to investment falling within subsection (1) above.
- (8) A notice under subsection (6) above may direct a society to dispose of an investment which it could not have acquired except under subsection (2) above.
- (9) Subject to subsection (8) above, a society may retain any investment which it could only have acquired under subsection (2) above.
- (10) The Commission may, by a subsequent notice to the society, revoke a notice under this section at any time when it appears to it that the society again falls within subsection (3) or (4) above.
- (11) On serving a notice under subsection (6) or (10) above on a society the Commission shall send a copy of it to the central office.
- (12) The central office shall keep a copy of such a notice in the public file of the society.

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## **15 Holding of land for purposes other than investment**

An incorporated friendly society may acquire and hold land—

- (a) for the purpose of carrying on any of its activities; or
- (b) for the purpose of enabling a subsidiary of the society, or a body jointly controlled by it, to conduct its business;

and may dispose of, or otherwise deal with, any land so held by it.

## **16 Assistance to subsidiaries and jointly controlled bodies**

- (1) An incorporated friendly society may provide its subsidiaries or bodies which it jointly controls with any of the following services—
  - (a) loans of money, with or without security and whether or not at interest;
  - (b) the use of services or property, whether or not for payment;
  - (c) grants of money, whether or not repayable; and
  - (d) guarantees of the discharge of their liabilities.
- (2) An incorporated friendly society may make payments towards the discharge of the liabilities of any of its subsidiaries.

## **17 Loans to assured members**

- (1) An incorporated friendly society may advance to a member of at least one full year's standing any sum not exceeding one half of the amount of an assurance of his life, on the written security of himself and two satisfactory sureties or, in Scotland, cautioners for repayment.
- (2) The amount so advanced, with all interest on it, may be deducted from the sum assured, without prejudice in the meantime to the operation of the security.
- (3) A person's membership of a registered friendly society before the society's incorporation is to be taken into account in calculating his standing for the purposes of this section.

### *Benefit terms*

## **18 Terms on which benefits are available**

- (1) The terms on which an incorporated friendly society provides any benefit shall be—
  - (a) specified in its rules; or
  - (b) determined in a manner specified in its rules.
- (2) If the terms on which a benefit is provided are not specified in the society's rules, the society—
  - (a) shall make copies of them available free of charge to members of the society at every office of the society; and
  - (b) shall send, free of charge, copies of them to any member of the society who demands them.
- (3) If, on demand made of it under subsection (2) above, a society fails, in accordance with that subsection, to make available or, as the case may be, within 7 days of the demand, to send to a person a copy of the terms on which a benefit is provided, the

society shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

- (4) Schedule 9 to this Act shall have effect in relation to nominations by members of incorporated friendly societies and related matters.

### *Dissolution and winding up*

## **19 Modes of dissolution and winding up**

- (1) An incorporated friendly society—
- (a) may be dissolved by consent of the members; or
  - (b) may be wound up voluntarily or by the court,
- in accordance with this Part of this Act; and an incorporated friendly society may not, except where it is dissolved by virtue of section 85(4), 86(5) or 90(9) below, be dissolved or wound up in any other manner.
- (2) An incorporated friendly society which is in the course of dissolution by consent, or is being wound up voluntarily, may be wound up by the court.

## **20 Dissolution by consent**

- (1) An incorporated friendly society may be dissolved by an instrument of dissolution.
- (2) An instrument of dissolution shall only have effect if it is approved by special resolution.
- (3) An instrument of dissolution shall set out—
- (a) the liabilities and assets of the society in detail;
  - (b) the number of members, and the nature of their interests in the society;
  - (c) the claims of creditors, and the provision to be made for their payment;
  - (d) the intended appropriation or division of the funds and property of the society;
  - (e) the names of one or more persons to be appointed as trustees for the purposes of the dissolution, and their remuneration.
- (4) An instrument of dissolution may be altered, but the alteration shall only have effect if it is approved by special resolution.
- (5) The provisions of this Act shall continue to apply in relation to an incorporated friendly society as if the trustees appointed under the instrument of dissolution were the committee of management of the society.
- (6) The trustees shall—
- (a) within 15 days of the passing of a special resolution approving an instrument of dissolution, give notice to the central office of the fact and the date of commencement of the dissolution, enclosing a copy of the instrument; and
  - (b) within 15 days of the passing of a special resolution approving an alteration of such an instrument, give notice to the central office of the fact, enclosing a copy of the altered instrument;

and if the trustees fail to comply with this subsection, they shall each be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

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- (7) An instrument of dissolution or an alteration to such an instrument shall be binding on all members of the society as from the date on which the copy of the instrument or altered instrument, as the case may be, is placed on the public file of the society under subsection (12) below.
- (8) The trustees shall, within 28 days from the termination of the dissolution, give notice to the central office of the fact and the date of the termination, enclosing an account and balance sheet signed and certified by them as correct, and showing—
  - (a) the assets and liabilities of the society at the commencement of the dissolution; and
  - (b) the way in which those assets and liabilities have been applied and discharged.
- (9) If the trustees fail to comply with subsection (8) above they shall each be guilty of an offence and liable on summary conviction—
  - (a) to a fine not exceeding level 2 on the standard scale; and
  - (b) in the case of a continuing offence, to an additional fine not exceeding one-tenth of that level for every day during which the offence continues.
- (10) Except with the consent of the Commission, no instrument of dissolution or alteration to such an instrument shall be of any effect if the purpose of the proposed dissolution or alteration is to effect or facilitate the transfer of the society's engagements to any other friendly society or to a company.
- (11) Any provision in a resolution or document that members of an incorporated friendly society proposed to be dissolved shall accept membership of some other body in or towards satisfaction of their rights in the dissolution shall be conclusive evidence of such purpose as is mentioned in subsection (10) above.
- (12) The central office shall keep in the public file of the society any notice or other document received by it under subsection (6) or (8) above and shall record in that file the date on which the notice or document is placed in it.

## **21 Voluntary winding up**

- (1) An incorporated friendly society may be wound up voluntarily under the applicable winding up legislation if it resolves by special resolution that it be wound up voluntarily.
- (2) A copy of any special resolution passed for the voluntary winding up of an incorporated friendly society shall be sent by the society to the central office within 15 days after it is passed; and the central office shall keep the copy in the public file of the society.
- (3) A copy of any such resolution shall be annexed to every copy of the memorandum or of the rules issued after the passing of the resolution.
- (4) If an incorporated friendly society fails to comply with subsection (2) or (3) above, the society shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (5) For the purposes of this section, a liquidator of the society shall be treated as an officer of it.

## **22 Winding up by court: grounds and petitioners**

- (1) An incorporated friendly society may be wound up under the applicable winding up legislation by the court on any of the following grounds, that is to say, if—
  - (a) the society has by special resolution resolved that it be wound up by the court;
  - (b) the number of members is reduced below 7;
  - (c) the number of members of the committee of management is reduced below 2;
  - (d) the society has not commenced business within a year from its incorporation or has suspended its business for a whole year;
  - (e) the society exists for an illegal purpose;
  - (f) the society is unable to pay its debts; or
  - (g) the court is of the opinion that it is just and equitable that the society should be wound up.
- (2) Except as provided by subsection (3) below or the applicable winding up legislation, a petition for the winding up of an incorporated friendly society may be presented by—
  - (a) the Commission;
  - (b) the society or its committee of management;
  - (c) any creditor or creditors (including any contingent or any prospective creditor); or
  - (d) any contributory or contributories,or by all or any of those parties, together or separately.
- (3) A contributory may not present a petition unless the number of members is reduced below 7 or he has been a contributory for at least six months before the winding up.
- (4) In this section “contributory” has the meaning assigned to it by paragraph 9 of Schedule 10 to this Act.

## **23 Application of winding up legislation to incorporated friendly societies**

- (1) In this section “the companies winding up legislation” means the enactments applicable in relation to England and Wales, Scotland and Northern Ireland which are specified in paragraph 1 of Schedule 10 to this Act (including any enactment which creates an offence by any person arising out of acts or omissions occurring before the commencement of the winding up).
- (2) In its application to the winding up of an incorporated friendly society, by virtue of section 21(1) or 22(1) above, the companies winding up legislation shall have effect with the modifications effected by Parts I to III of Schedule 10 to this Act; and the supplementary provisions of Part IV of that Schedule also have effect in relation to such a winding up and in relation to a dissolution by consent.
- (3) In section 21 and 22 above “the applicable winding up legislation” means the companies winding up legislation as so modified.

## **24 Continuation of long term business**

- (1) This section has effect in relation to the winding up of an incorporated friendly society which carries on long term business (including any reinsurance business).
- (2) The liquidator shall, unless the court otherwise orders, carry on the long term business of the society with a view to its being transferred as a going concern under this Act;

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*Status: This is the original version (as it was originally enacted).*

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and, in carrying on that business, the liquidator may agree to the variation of any contracts of insurance in existence when the winding up order is made but shall not effect any new contracts of insurance.

- (3) If the liquidator is satisfied that the interests of the creditors in respect of liabilities of the society attributable to its long term business require the appointment of a special manager of the society's long term business, he may apply to the court, and the court may on such application appoint a special manager of that business to act during such time as the court may direct, with such powers (including any of the powers of a receiver or manager) as may be entrusted to him by the court.
- (4) Section 177(5) of the Insolvency Act 1986 or, as the case may be, Article 151 of the Insolvency (Northern Ireland) Order 1989 shall apply to a special manager appointed under subsection (3) above as it applies to a special manager appointed under that section or that Article.
- (5) The court may, if it thinks fit and subject to such conditions (if any) as it may determine, reduce the amount of the contracts made by the society in the course of carrying on its long term business.
- (6) The court may, on the application of the liquidator, a special manager appointed under subsection (3) above or the Commission appoint an independent actuary to investigate the long term business of the society and to report to the liquidator, the special manager or the Commission, as the case may be, on the desirability or otherwise of that business being continued and on any reduction in the contracts made in the course of carrying on that business that may be necessary for its successful continuation.

## **25 Power of court to declare dissolution void**

- (1) Where an incorporated friendly society has been dissolved under section 20 above or following a winding up, the court may, at any time within 12 years after the date on which the society was dissolved, make an order under this section declaring the dissolution to have been void.
- (2) An order under this section may be made, on such terms as the court thinks fit, on an application by the trustees under section 20 above or the liquidator, as the case may be, or by any other person appearing to the court to be interested.
- (3) When an order under this section is made, such proceedings may be taken as might have been taken if the society had not been dissolved.
- (4) The person on whose application the order is made shall, within 7 days of its being so made, or such further time as the court may allow, furnish the central office with a copy of the order; and the central office shall keep the copy in the public file of the society.
- (5) If a person fails to comply with subsection (4) above, he shall be guilty of an offence and liable on summary conviction—
  - (a) to a fine not exceeding level 3 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.
- (6) In this section “the court” means—
  - (a) in relation to a society whose registered office is in England and Wales, the High Court;

- (b) in relation to a society whose registered office is in Scotland, the Court of Session; and
- (c) in relation to a society whose registered office is in Northern Ireland, the High Court in Northern Ireland.

## **26 Cancellation of registration**

- (1) Where the central office is satisfied that an incorporated friendly society has been dissolved under section 20 above or following a winding up, the central office shall cancel the society's registration under this Act.
- (2) Where the central office is satisfied, with respect to an incorporated friendly society—
  - (a) that a certificate of incorporation has been obtained for the society by fraud or mistake; or
  - (b) that the society has ceased to exist,the central office may cancel the registration of the society.
- (3) Without prejudice to subsection (2) above, the central office may, if it thinks fit, cancel the registration of an incorporated friendly society at the request of the society, evidenced in such manner as the central office may direct.
- (4) Before cancelling the registration of an incorporated friendly society under subsection (2) above, the central office shall give to the society not less than two months' previous notice, specifying briefly the grounds of the proposed cancellation.
- (5) Where the registration of an incorporated friendly society is cancelled under subsection (2) above, the society may appeal—
  - (a) where the registered office of the society is situated in England and Wales, to the High Court;
  - (b) where that office is situated in Scotland, to the Court of Session; or
  - (c) where that office is situated in Northern Ireland, to the High Court in Northern Ireland;and on any such appeal the court may, if it thinks it just to do so, set aside the cancellation.
- (6) Where the registration of a society is cancelled under subsection (2) or (3) above, then, subject to the right of appeal under subsection (5) above, the society, so far as it continues to exist, shall cease to be a society incorporated under this Act.
- (7) Subsection (6) above shall not affect any liability actually incurred by an incorporated friendly society; and any such liability may be enforced against the society as if the cancellation had not taken place.
- (8) Any cancellation of the registration of an incorporated friendly society under this section shall be effected in writing signed by the central office.
- (9) As soon as practicable after the cancellation of the registration of an incorporated friendly society under this section the central office shall cause notice thereof to be published in the London Gazette, the Edinburgh Gazette or the Belfast Gazette according to the situation of the society's registered office, and if it thinks fit, in one or more newspapers.