



# Friendly Societies Act 1974

## 1974 CHAPTER 46

### *Investment, funds and property*

#### **46 Investment of funds**

- (1) Subject to subsection (2) below, the trustees of a registered society or branch may, with the consent of the committee or of a majority of the members present and entitled to vote in general meeting, invest the funds of the society or branch or any part thereof, to any amount in any of the following ways, that is to say,—
  - (a) in the National Savings Bank or in any savings bank certified under the Trustee Savings Banks Act 1863, the Trustee Savings Banks Act 1954 or the Trustee Savings Banks Act 1969 ; or
  - (b) in the public funds ; or
  - (c) in the purchase of land, or in the erection or alteration of offices or other buildings thereon; or
  - (d) upon any other security expressly directed by the rules of the society or branch, other than personal security, except as is in this Act authorised with respect to loans; or
  - (e) in any investment in which trustees are for the time being by law authorised to invest trust funds.
- (2) The rules of a society with branches and of any branch thereof may provide for the investment of funds of the society or of that branch by the trustees of any branch, or by the trustees of the society, and the consent required for any such investment shall be the consent of the committee, or of such a majority of the members as is mentioned in subsection (1) above, of the society or branch by whom the funds are invested.
- (3) Nothing in this section shall be construed as imposing any obligation on the Director of Savings or on the trustees of a trustee savings bank with respect to the receipt by him or them of any funds of a registered society or branch.

**47 Power to set up funds for purchase of Government securities on behalf of members**

- (1) A registered society or branch may in accordance with its rules set up and administer a fund for the purchase, on behalf of members contributing thereto, of Defence Bonds or National Savings Certificates or such other securities of Her Majesty's Government in the United Kingdom as the Chief Registrar may prescribe.
- (2) A registered society or branch may, in amending its rules for the purpose of this section, make provision for enabling persons to become members of the society for the purpose only of contributing to the said fund and without being entitled to any rights as members other than rights as contributors to the said fund.
- (3) To facilitate the amendment for the purpose of this section of the rules of a registered society or branch existing on 25th April 1940, the Chief Registrar—
  - (a) may prescribe forms of rules which may be adopted for that purpose, and
  - (b) if requested to do so by the committee of any such society or branch existing at that date, may register a rule of that society or branch in such of the prescribed forms as may be indicated in the request;and any rule so registered shall have effect as if it had been duly passed by the society or branch.
- (4) Anything which is required or authorised to be done by or to the Chief Registrar under this section may be done by or to such person as he may appoint for the purpose.

**48 Loans to assured members**

- (1) A registered society and, subject to the rules of the society of which it is a branch, a registered branch 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 on 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 thereon, may be deducted from the sum assured, without prejudice in the meantime to the operation of the security.

**49 Loans out of separate loan fund**

A registered society may, out of any separate loan fund to be formed by contributions or deposits from its members, make loans to members on their personal security, with or without sureties or, in Scotland, cautioners, as may be provided by the rules, subject to the following restrictions, that is to say,—

- (a) a loan shall not at any time be made out of money contributed for the other purposes of the society;
- (b) a member shall not be capable of holding any interest in the loan fund exceeding £200 ;
- (c) the society shall not make any loan to a member on personal security beyond the amount fixed by the rules, or make any loan which, together with any money owing by a member to the society, exceeds £50; and
- (d) the society shall not hold at any one time on deposit from its members any money beyond the amount fixed by the rules, and the amount so fixed shall not exceed two-thirds of the total sums owing to the society by the members who have borrowed from the loan fund.

## **50 Loans of surplus funds to registered society or branch of different description**

- (1) Subject to the provisions of this section and of section 51 below, a registered society or branch (other than a benevolent society or branch thereof) may, if its rules so provide, make advances by way of loan to a registered society or registered branch of a society which is not of the same description and may take such part in the government and control of the society or branch to which any such advance is made or agreed to be made as may be provided by the rules of that society or branch.
- (2) An advance shall not be made by a society or branch by virtue of this section unless the value of its assets showed a surplus over the amount of its liabilities according to the last valuation under section 41 above or, in the case of a society or branch of which the assets and liabilities are not valued under that section, according to its last annual return under section 43 above ; and—
  - (a) no advance shall be so made to an amount greater, with any amounts outstanding in respect of previous advances so made, than the amount for the time being unapplied of that surplus ;
  - (b) for any purpose other than the purposes of paragraph (a) above, in determining the amount so unapplied there shall be deducted any amounts outstanding in respect of advances so made after the date to which the valuation or return relates.
- (3) An advance under this section may be interest free.
- (4) Nothing in this section shall be taken to prejudice the power of a registered society or branch under section 52(2) below to contribute to the funds and take part in the management of another registered society or branch of the same description.
- (5) For the purposes of this section a society or branch shall be deemed to be of the same description as another society or branch if, but only if, they are both registered by virtue of the same paragraph of section 7(1) above and, where each of them is a specially authorised society or branch, they are both established for the same purpose or purposes.

## **51 Power of friendly society to invest in housing association**

- (1) Without prejudice to section 46 above, if the rules of a registered friendly society or branch thereof expressly so direct, the trustees thereof may, with the consent of the committee or of a majority of the members present and entitled to vote in general meeting, invest the funds of the society or branch or any part thereof, in subscribing up to any amount permitted by this section for any of the share or loan capital of a housing association, other than shares or debentures not fully paid up at the time of issue.
- (2) The power to make investments conferred by this section is subject to the same restrictions as are imposed by section 50(2) above on the power to make advances conferred by that section.
- (3) For the purposes of subsection (2) of section 50 above any amounts for the time being invested by virtue of this section shall be taken into account in the same way as amounts outstanding in respect of advances made by virtue of that section, but so that, except in the case of investments made after the date to which the valuation or return relates, the amounts invested shall be taken to be amounts equal to the value of the investments according to the valuation or return referred to in the said subsection (2).

- (4) For the purposes of this section, " housing association " means a housing association within the meaning of the Housing Act 1957 or the Housing (Scotland) Act 1966 (but not including a development corporation).

## **52 Charitable subscriptions and contributions to other registered societies**

- (1) A registered society or branch may subscribe out of its funds to any hospital, infirmary, charitable or provident institution, any annual or other sum which may be necessary to secure to members of the society or branch and their families the benefits of the hospital, infirmary or other institution.
- (2) In accordance with its rules, a registered society or branch may contribute to the funds and take part by delegates or otherwise in the government of any other registered society or registered branch of a society without becoming a branch under this Act of that other society or branch.
- (3) A registered society or branch shall not withdraw from contributing to the funds of any medical society, that is to say, a society for the purpose of relief in sickness by providing medical attendance and medicine, except on three months' notice to the society and on payment of all contributions accrued or accruing due to the date of expiry of the notice.

## **53 Holding of land**

- (1) A registered society or branch may, if its rules so provide, hold, purchase or take on lease in the names of the trustees of the society or branch any land, and may sell, exchange, mortgage or lease any such land and erect, alter or pull down buildings on it, and
- (a) no purchaser, assignee, mortgagee or tenant shall be bound to enquire as to the authority for any sale, exchange, mortgage or lease by the trustees; and
  - (b) the receipt of the trustees shall be a discharge for all sums of money arising from, or in connection with, any such sale, exchange, mortgage or lease.
- (2) A branch of a registered society need not for the purposes of this section be separately registered.
- (3) In the application of subsection (1) above to Scotland,—
- (a) for the word " exchange " there shall be substituted the word " excamb " or " excambion " as the case may require;
  - (b) for the word " mortgage ", in the first place where it occurs, there shall be substituted the words " grant a heritable security over " and other references to " mortgage " shall be construed accordingly; and
  - (c) for the word " mortgagee " there shall be substituted the words " creditor in a heritable security ".

## **54 Vesting of property in trustees**

- (1) Subject to section 55 below, all property belonging to a registered society, whether acquired before or after the society is registered, shall vest in the trustees for the time being of the society, for the use and benefit of the society and the members thereof and all persons claiming through the members according to the rules of the society.

- (2) The property of a registered branch of a society shall vest wholly or partly in the trustees for the time being of that branch, or of any other branch of which that branch forms part (or, if the rules of the society so provide, in the trustees for the time being of the society), for the use and benefit either of the members of any such branch and persons claiming through those members or of the members of the society generally and persons claiming through them according to the rules of the society.
- (3) Notwithstanding anything in subsections (1) and (2) above, the trustees of a registered society or branch shall not be liable to make good any deficiencies in the funds of the society or branch, but each trustee shall be liable only for sums of money actually received by him on account of the society or branch.

## **55 Power of the Public Trustee to hold securities of certain friendly societies and branches**

- (1) Notwithstanding anything in section 54 above any part of the funds of a friendly society registered at the central office or of any branch of such a society, and any stocks, shares or securities held by or on behalf of such a society or branch, may be transferred to the Public Trustee if, and only if,—
  - (a) the Public Trustee agrees to the transfer ; and
  - (b) rules of the society or branch are, or have been, made for the purpose.
- (2) The Public Trustee shall invest, in accordance with the rules, any funds so transferred to him and shall pay the interest on any stocks, shares or securities acquired by or transferred to him in pursuance of this section to the trustees of the society or branch, and shall, if and when the trustees so require, transfer the capital of the stocks, shares or securities to them, or realise the same and transfer the proceeds to them.
- (3) The Public Trustee shall be completely exonerated from any liability in relation to any stock, shares or securities, held by him in pursuance of this section, and no action shall lie against the Public Trustee in respect of any such stock, shares or securities provided that he acts in accordance with the provisions of this section.
- (4) This section does not extend to Scotland.

## **56 Legal proceedings concerning property**

In all legal proceedings whatsoever concerning any property vested in the trustees of a registered society or branch, the property may be stated to be the property of the trustees in their own names as trustees for the society or branch without further description.

## **57 Discharge of certain mortgages**

- (1) Where, in the case of any mortgage or other assurance to a registered society or branch of any property, a receipt in full for all money secured thereby on that property is endorsed on or annexed to the mortgage or other assurance, being a receipt—
  - (a) signed by the trustees of the society or branch and countersigned by the secretary thereof ; and
  - (b) in the form set out in Schedule 4 to this Act or in any other form specified in the rules of the society or branch or any schedule thereto,

then, for the purposes of the provisions of section 115 of the Law of Property Act 1925 (reconveyance of mortgage by endorsed receipt) which are specified in subsection (2) below, that receipt shall be deemed to be a receipt which fulfills the requirements of subsection (1) of that section.

- (2) The provisions of section 115 of the Law of Property Act 1925 which are referred to in subsection (1) above are—
- (a) subsection (1), so far as it relates to the operation of such a receipt as is mentioned in that subsection ;
  - (b) if, but only if, the receipt under this section states the name of the person who pays the money, subsection (2);
  - (c) subsections (3), (6), (8), (10) and (11); and
  - (d) where consistent with the terms of the form authorised by subsection (1)(b) above which is used for the receipt, subsection (7).
- (3) This section extends to England and Wales only.

## **58 Devolution of property on death, resignation or removal of trustee**

On the death, resignation or removal of a trustee of a registered society or branch, all property vested in him as such a trustee shall, without conveyance, assignment or assignation, vest subject to the same trusts in the succeeding trustees of that society or branch, either solely or together with any surviving or continuing trustees; and until the appointment of succeeding trustees that property shall so vest in the surviving or continuing trustees only or in the executors or administrators of the last surviving or continuing trustee.

## **59 Priority on death, bankruptcy, etc., of officer**

- (1) The provisions of this section apply in the following cases, that is to say,—
- (a) on the death or bankruptcy of any officer of a registered society or branch who has in his possession, by virtue of his office, any money or property belonging to the society or branch; and
  - (b) if any execution, attachment, or other process is issued, or action or diligence raised against any such officer or against his property.
- (2) Where this section applies then, upon demand in writing of the trustees of the society or branch, or of any two of them, or of any person authorised by the society or branch or by the committee thereof to make the demand, the executors or administrators or trustee in bankruptcy or the sheriff or other person executing the process shall pay the money and deliver over the property to the trustees of the society or branch in preference to any other debt or claim against the estate of the officer.
- (3) In subsection (1) above " bankruptcy " includes liquidation of a debtor's affairs by arrangement.
- (4) In the application of this section to Scotland, for the reference in subsection (1) above to the bankruptcy of any officer there shall be substituted a reference to an award of sequestration being made on any officer's estate or his executing a trust deed for his creditors or his entering into a composition contract, and in subsection (2) above the expression " trustee in bankruptcy " includes a judicial factor.