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STATUTORY INSTRUMENTS

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**1991 No. 1031**

**The Savings Certificates Regulations 1991**

*MISCELLANEOUS*

**Persons under disability**

**18.** If any person holding, or having an interest in, any certificate is a mentally disordered person or is under legal disability for any other reason except his age alone, anything which under these Regulations is required or authorised to be done by or to the holder of the certificate shall or may be done by or to the receiver or other person having power in law to administer his estate.

**Payments into National Savings Bank**

**19.**—(1) Where the Director of Savings is unable for any reason to obtain a valid discharge for any payment falling to be made to any person in respect of a certificate, he may, unless other provision for dealing with the payment has been made by any enactment, open an account in the National Savings Bank in the name of the person to whom the payment is due, and may, until payment can be made to the person entitled thereto, retain the amount due in that account:

Provided that—

- (a) if the person to whom the payment is due has an account in the National Savings Bank, the Director of Savings may, if he thinks fit, instead of opening a new account, credit the amount payable to the existing account; and
- (b) in the case of an account opened by the Director of Savings—
  - (i) no sum shall be received by way of deposit for the credit of the account except in pursuance of these Regulations; and
  - (ii) the regulations requiring a declaration to be made by a depositor in the National Savings Bank shall not apply with respect to any payment into the account by the Director of Savings.

(2) For the purpose of any Order under section 4 of the National Savings Bank Act 1971<sup>(1)</sup> (which empowers the Treasury by order to limit the amount of deposits in the National Savings Bank) or any Order having effect as if made under that section, regard shall not be had to any sum credited to an account under this regulation.

**Loss of certificates, etc**

**20.**—(1) The loss or destruction of any document issued by or under the auspices of the Director of Savings in pursuance of these Regulations shall be notified in writing to the Director of Savings as soon as practicable by the person entitled to possession of the document.

(2) If it appears to the Director of Savings that any document so issued has been issued in error, lost, destroyed or tampered with, or is in such a condition as to render it desirable that it should be replaced by a new document, he may, subject to the provisions of this regulation, issue a new

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(1) 1971 c. 29; section 4 was amended by paragraph 3 of Schedule 20 to the Finance Act 1982 (c. 39).

document in lieu of the old document to any person who satisfies him that he is entitled to the possession of the document.

(3) The Director of Savings may attach to the issue under this regulation of any new document such conditions as to indemnity or otherwise as he thinks fit.

### **Forfeiture of certificates**

**21.**—(1) Subject to the provisions of this regulation, if any person—

- (a) not being a person entitled under regulation 4 or Part I of Schedule 1 so to do, purchases or holds a certificate; or
- (b) purchases or holds any certificate in contravention of regulation 5 or Part II of Schedule 1 (which prescribe the maximum number of units which may be purchased);

the certificate shall, if the Director of Savings so directs, be forfeited:

Provided that, in any case in which the Director of Savings has directed the forfeiture of any certificates, he may, if he thinks fit, pay to the person concerned or credit to him in the National Savings Bank:

- (i) a sum equal to the aggregate amount of the purchase price of the certificates forfeited;
- (ii) (in the case of any certificates which the person concerned has purchased or held when he was not entitled so to do under regulation 4) such sum by way of interest, not exceeding the amount of interest which had accrued due in respect of those certificates immediately before the forfeiture thereof, as the Director of Savings may determine;
- (iii) (in the case of any certificate which the person concerned has purchased or held when he was not entitled so to do under Part I of Schedule 1) such sum by way of bonus or otherwise, not exceeding the amount of the bonus or other sum which had accrued due in respect of those certificates immediately before the forfeiture thereof, as the Director of Savings may determine;
- (iv) (in the case of any certificates which the person concerned has purchased or held in contravention of regulation 5 or Part II of Schedule 1) interest, at such rate as the Director of Savings thinks fit, on a sum equal to the purchase price of those certificates, being interest computed in such manner as the Director of Savings, with the approval of the Treasury, may direct.

(2) For the purposes of the foregoing provisions of this regulation, a multiple certificate shall be taken to be such number of unit certificates as is represented by the multiple certificate.

(3) For the purposes of any Order under section 4 of the National Savings Bank Act 1971 (which empowers the Treasury by order to limit the amount of deposits in the National Savings Bank) or any Order having effect as if made under that section, any sum credited to a person under this regulation shall, if the Director of Savings so directs, be disregarded.

(4) Notice of any forfeiture under this regulation shall be sent to the person concerned as soon as may be, and the Director of Savings may require any certificate which might be or is affected to be delivered up to him for the purpose of being either cancelled or altered or otherwise dealt with, as may be necessary to give effect to the provisions of this regulation.

### **Persons unable to write**

**22.** Where any document is required by the Director of Savings or by these Regulations to be signed by any person and that person is unable to write, it shall be sufficient for the purposes of these Regulations if the document is marked by that person in the presence of a witness in such manner as the Director of Savings may require.

### **Rectification of mistakes**

**23.**—(1) Any mistake in any document received from the Director of Savings in pursuance of these Regulations shall, as soon as practicable, be notified in writing to the Director of Savings by the person receiving the document.

(2) If the Director of Savings is satisfied that any transaction effected or thing done, or purporting to have been effected or done, in accordance with these Regulations has been effected or done in error, he may cancel the transaction and may take all such steps as are, in his opinion, necessary to rectify the error, and may for that purpose require the surrender to him of any certificate or other document.

### **Settlement of disputes**

**24.**—(1) If any dispute arises between the Director of Savings and—

- (a) the holder of any certificate, or
- (b) a person who is or claims to be the personal representative or next of kin or creditor of a holder, or the trustee in bankruptcy or assignee of a holder who is bankrupt or insolvent, or
- (c) a person who claims to be entitled to any certificate,

the matter in dispute shall be referred in writing to the Chief Registrar of friendly societies.

(2) On any such reference being made, the Chief Registrar may proceed *ex parte* on notice in writing sent by post to the Director of Savings and may administer oaths to any witnesses appearing before him.

(3) The award of the Chief Registrar on any reference under this regulation shall be final and binding on all parties.

(4) Section 11 of the National Savings Bank Act 1971 (which empowers the Treasury to direct that fees shall be charged on certain awards made by the Chief Registrar of friendly societies) shall have effect as if the awards therein mentioned included awards made under this regulation.

### **Notice of trust not receivable by Director of Savings**

**25.**—(1) Subject to the provisions of these Regulations, no notice of a charge, trust or other equitable interest shall be receivable by the Director of Savings in respect of a certificate.

(2) Neither the Director of Savings nor any person acquiring any interest in a certificate shall, by reason that the certificate is held in the name of any person as trustee (whether jointly with any other person or solely), be affected with notice of any trust or of the fiduciary character of the holder or of any fiduciary obligation attaching to the holding of the certificate.

### **Fees for birth, death and marriage certificates**

**26.** Section 10 of the Savings Banks Act 1887(2) (which relates to the price of a certificate of birth, death or marriage required for the purpose of the Acts relating to the National Savings Bank), as amended by any Order in force for the time being under section 5 of the Public Expenditure and Receipts Act 1968(3), shall apply for the purposes of these Regulations as it applies for the purposes of those Acts, and for the purposes of these Regulations the said section 10 shall have effect as if the

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(2) 1887 c. 40; relevant provisions amending section 10 are Part III of Schedule 6 to the Post Office Act 1969 (c. 48), article 15 of the Financial Provisions (Northern Ireland) Order 1976 (S.I. 1976/1212(N.I. 21)), Schedule 3 to the Departments (Northern Ireland) Order 1982 (S.I. 1982/338 (N.I. 6)), sections 4(3) and 7(3) and Schedule 4 to the Trustee Savings Banks Act 1985 (c. 58), the Schedule to the Births, Deaths and Marriages (Fees) (Northern Ireland) Order 1989 (S.R. (N.I.) 1989 No. 158), the Schedule to the Registration of Births, Deaths and Marriages (Fees) (No. 2) Order 1990 (S.I. 1990/2515) and the Schedule to the Registration of Births, Deaths and Marriages (Fees) (Scotland) Order 1990 (S.I. 1990/2637).

(3) 1968 c. 14.

holder of a certificate or any person having an interest in a certificate were a depositor in the National Savings Bank.

### **Indemnity of Treasury, Director of Savings and officers**

27.—(1) The Treasury, the Director of Savings and any person acting under his authority shall not be liable in respect of any payment duly made or act duly done in accordance with these Regulations, and any such payment shall, subject to the provisions of these Regulations for saving the rights of third parties, be deemed to have been a valid payment, and the receipt of the person to whom the money was paid shall be a full discharge to the Treasury and the Director of Savings for the amount of the payment.

(2) Where a warrant for payment of any amount repayable in respect of a certificate is issued payable to some person being neither the holder of the certificate nor a person otherwise entitled under these Regulations to receive payment in respect thereof, then, if it is shown that—

- (a) the warrant was issued in good faith and without negligence; and
- (b) the issue of the warrant to that person is attributable to some act or omission on the part of the holder or a person so entitled,

the warrant shall, subject to the provisions of these Regulations for saving the rights of third parties, be deemed to have been duly issued to a person so entitled.

### **Saving for rights of third parties**

28. Nothing in these Regulations for the protection of the Treasury or the Director of Savings in respect of any act done or any money paid shall operate to prevent the recovery by any person or his representatives of any money lawfully due to him from the person to whom that money was paid by or under the direction of the Director of Savings, or from the representatives of that person, or affect the right which any person or his representatives may have in respect of a certificate against a third party.

### **Form of documents**

29. Where any application is required by these Regulations to be made in a manner approved by the Director of Savings, the document in which the application is made shall contain a full and specific statement of the particulars required to be given, and any such document which is required by the Director of Savings to be signed by any person shall be signed by that person.

### **Evidence of identity, etc**

30.—(1) The Director of Savings shall be entitled to require evidence to be given to his satisfaction of the identity of any person or of the title of any person to any certificates, document or money, or to require evidence that anything purporting to be done in pursuance of these Regulations has been duly done, or otherwise with respect to any matter on which the due exercise of his powers or performance of his duties under these Regulations depends, and the Director of Savings may, for the purpose of obtaining any such evidence, require a statutory declaration to be made by any person.

(2) The Director of Savings may accept as conclusive proof of the death of the holder of a certificate any evidence which establishes to his satisfaction the fact that the holder has not been heard of for a period of seven years or upwards, and, for the purposes of this paragraph, the expression “holder of a certificate” includes any person beneficially interested at any time, whether absolutely or contingently, in the personal estate of the deceased holder of a certificate.

### **Obligation of secrecy**

**31.**—(1) A person employed in connection with business arising under these Regulations shall not disclose to any person, other than the Director of Savings or a person employed in carrying these Regulations into execution, the name of the purchaser or holder of any certificate, the number of certificates purchased by any person, or the amount repaid in respect of any certificate.

(2) The last foregoing paragraph shall not prevent the disclosure by a person authorised for the purpose by the Director of Savings of information to any person in connection with an offence committed with reference to any certificate or for the purpose of ascertaining whether or not an offence has been so committed nor shall it prevent the Director of Savings from complying with a notice served on him under section 20(3) of the Taxes Management Act 1970<sup>(4)</sup> (requirement to deliver or make available documents relating to liability of a taxpayer).

### **Saving for rights of joint holders, etc**

**32.**—(1) Nothing in these Regulations relating to joint holders of certificates shall affect the mutual rights of any joint holders.

(2) Nothing in these Regulations relating to trustees shall as between any trustees or as between any trustee and the beneficiaries under a trust be deemed to authorise the trustees to act otherwise than in accordance with the rules of law applying to the trust and the terms of the instrument (if any) constituting the trust.

### **Application to Scotland**

**33.** In the application of these Regulations to Scotland—

- (a) any reference to a mentally disordered person shall be construed as a reference to a person who is incapable by reason of mental disorder within the meaning of the Mental Health (Scotland) Act 1984<sup>(5)</sup> of managing and administering his property and affairs;
- (b) any reference to a receiver in relation to a mentally disordered person shall be construed as a reference to a curator bonis, guardian or tutor;
- (c) any reference to a bankruptcy order shall be construed as a reference to an award of sequestration;
- (d) any reference to the Official Receiver shall be construed as a reference to the trustee in bankruptcy or a judicial factor;
- (e) any reference to probate, letters of administration or letters of administration with the will annexed shall be construed as a reference to confirmation of an executor;
- (f) any reference to the Treasury Solicitor shall be construed as a reference to the Queen's and Lord Treasurer's Remembrancer;
- (g) any reference to the Chief Registrar of friendly societies shall be construed as a reference to the Assistant Registrar of friendly societies for Scotland.

### **Application to Northern Ireland**

**34.** In the application of these Regulations to Northern Ireland—

- (a) any reference to a friendly society shall be construed as a reference to a friendly society registered or deemed to be registered under the Friendly Societies Act (Northern Ireland)

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<sup>(4)</sup> 1970 c. 9; section 20 was substituted by Schedule 6 to the Finance Act 1976 (c. 40), amended by section 142 of the Finance Act 1989 (c. 26) and extended by section 125 of the Finance Act 1990 (c. 29).

<sup>(5)</sup> 1984 c. 36.

1970(6) or a branch registered or deemed to be registered under that Act of a friendly society so registered or deemed to be registered;

- (b) any reference to a mentally disordered person shall be construed as a reference to a person who, by reason of unsoundness of mind, or of mental disorder within the meaning of the Mental Health (Northern Ireland) Order 1986(7), is or is considered incapable of managing his affairs;
- (c) any reference to a receiver in relation to a mentally disordered person shall be construed as a reference to a controller or any other person appointed pursuant to the Mental Health (Northern Ireland) Order 1986 and the orders made thereunder to exercise with respect to the estate of such person powers similar to those of a committee;
- (d) any reference to a bankruptcy order shall be construed as a reference to an order of adjudication of bankruptcy, or to an order in any arrangement operating by virtue of section 349 of the Irish Bankrupt and Insolvent Act 1857(8) to vest a deposit in the Official Assignee alone or jointly with any person;
- (e) any reference to the Official Receiver shall be construed as a reference to the Official Assignee in Bankruptcy;
- (f) any reference to the Treasury Solicitor shall be construed as a reference to the Crown Solicitor for Northern Ireland.

#### **Application to the Isle of Man**

**35.**—(1) These Regulations shall extend to the Isle of Man.

(2) In the application of these Regulations to the Isle of Man—

- (a) any reference to a mentally disordered person shall be construed as a reference to a person who is incapable by reason of mental disorder within the meaning of the Mental Health Act 1974 (an Act of Tynwald) of managing and administering his property and affairs;
- (b) any reference to a receiver in relation to any act or thing done in respect of a mentally disordered person shall be construed as a reference to a receiver or other person authorised in that behalf under Part VII of the said Act of 1974;
- (c) any reference to a bankruptcy order shall be construed as a reference to a receiving order or an order of adjudication of bankruptcy;
- (d) any reference to the Treasury Solicitor shall be construed as a reference to Her Majesty's Attorney General for the Isle of Man.

#### **Application to the Channel Islands**

**36.**—(1) These Regulations shall extend to the Channel Islands.

(2) In the application of these Regulations to Jersey—

- (a) any reference to a mentally disordered person shall be construed as a reference to a person suffering from mental disorder within the meaning of the Mental Health (Jersey) Law 1969;
- (b) any reference to a receiver in relation to a mentally disordered person shall be construed as a reference to a curator;

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(6) 1970 c. 31 (N.I.); section 1 (societies which may be registered) was amended by Part II of Schedule 9 to the Finance (No.2) Act 1975 (c. 45), section 57(2) of the Finance Act 1980 (c. 48) and Part V of Schedule 27 to the Finance Act 1985 (c. 54).

(7) S.I. 1986/595 (N.I.4).

(8) 1857 c. 60 (20 & 21 Vict.).

- (c) the references in regulation 7(2) of these Regulations to sections 3 and 4 of the Cheques Act 1957 shall be respectively construed as references to articles 3 and 4 of the Cheques (Jersey) Law 1957;
  - (d) any reference to a receiving order shall be construed as a reference to a declaration of “de sastre”;
  - (e) any reference to the Official Receiver shall be construed as a reference to the Viscount or to an “attourne” appointed in bankruptcy, as the case may be;
  - (f) any reference to the Treasury Solicitor shall be construed as a reference to Her Majesty’s Receiver General;
  - (g) any reference to a statutory declaration shall be construed as a reference to a declaration on oath before the Bailiff, a Jurat, the Magistrate or a notary public.
- (3) In the application of these Regulations to Guernsey, Alderney and Sark—
- (a) any reference to a mentally disordered person shall be construed as a reference to a person who under any law for the time being in force in any of the Islands of the Bailiwick of Guernsey is a person of unsound mind;
  - (b) any reference to a receiver in relation to a mentally disordered person shall be construed as a reference to a guardian appointed by the Royal Court of Guernsey, the Court of Alderney or the Court of the Seneschal of Sark, as the case may be;
  - (c) any reference to the Treasury Solicitor shall be construed as a reference to Her Majesty’s Receiver-General;
  - (d) any reference to a statutory declaration shall be construed as a reference to a declaration on oath before a notary public—
    - (i) in Guernsey, before the Bailiff or Deputy Bailiff, A Jurat of the Royal Court or the Magistrate;
    - (ii) in Alderney, before a Jurat of the Court of Alderney; and
    - (iii) in Sark, before the Seneschal.
  - (e) the references in regulation 7(2) of these Regulations to section 76, subsections (1), (3), (4) and (5) and, so far as it relates to crossed cheques, subsection (6) of section 77, and sections 78, 79, 80 and 81 of the Bills of Exchange Act 1882 shall be respectively construed as references to section 75, subsections (1), (3), (4) and (5) and, so far as it relates to crossed cheques, subsection (6) of section 76, and sections 77, 78, 79 and 80 of the Bills of Exchange (Guernsey) Law 1958, and the references in the said regulation 7(2) to sections 3 and 4 of the Cheques Act 1957 shall be respectively construed as references to sections 83 and 84 of the Bills of Exchange (Guernsey) Law 1958;
  - (f) for regulation 12 of these Regulations shall be substitute the following regulation—

“12. Where it is shown to the satisfaction of the Director of Savings that any person who is the sole holder of a certificate is insolvent, the Director of Savings may, if he thinks fit, pay the amount repayable in respect of the certificate to any person who makes application in that behalf and who satisfies him that he is a proper person to receive payment.”;
  - (g) in regulation 24(1)(b) of these Regulations the words “or the trustee in bankruptcy or assignee of a holder who is bankrupt or insolvent” shall be deleted.

## **Nominations**

37. Schedule 2 to these Regulations shall have effect in relation to nominations made before 1st May 1981.

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*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

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## **Revocation**

**38.** The Regulations specified in Schedule 3 to these Regulations are hereby revoked.