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STATUTORY INSTRUMENTS

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**2001 No. 3649**

The Financial Services and Markets Act 2000  
(Consequential Amendments and Repeals) Order 2001

PART 6

ENACTMENTS RELATING TO MUTUAL SOCIETIES

CHAPTER I

primary legislation

*Friendly Societies Act 1992 (c. 40)*

**Transfers of engagements**

**201.**—(1) Section 86 of the Friendly Societies Act 1992 (transfer of engagements by or to friendly society) is amended as follows.

- (2) Subsection (1)(a) is repealed.
- (3) In subsection (1)(d), for the words “insurance company” to the end, substitute “insurer”.
- (4) In subsection (1)(e) for the words “paragraph (a), (b) or (c) above” substitute “paragraph (b), (c) or (d) above”.
- (5) After subsection (11), insert—
  - “(12) In this section “insurer” means—
    - (a) a person who has permission under Part IV of the Financial Services and Markets Act 2000 to effect or carry out contracts of insurance, or
    - (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of insurance.
  - (13) Subsection (12) must be read with—
    - (a) section 22 of the Financial Services and Markets Act 2000;
    - (b) any relevant order under that section; and
    - (c) Schedule 2 to that Act.”.

**Law applicable to contracts of insurance**

**202.** The following provisions of the Friendly Societies Act 1992 are repealed (having been re-enacted in the Financial Services and Markets Act 2000 (Law Applicable to Contracts of Insurance) Regulations 2001(1))—

- (a) section 101 (law applicable to contracts of insurance with friendly societies)(2);
- (b) Schedule 20(3) (law applicable to certain contracts of insurance).

### **Miscellaneous amendments**

**203.**—(1) The Friendly Societies Act 1992 is amended as follows.

(2) In section 85(3) (amalgamation of friendly societies), for the words “central office” substitute “Authority”.

(3) In section 89 (power of Commission to alter requirements for transfer by friendly society) for subsection (7) substitute—

“(7) The Authority shall keep a copy of any direction given under this section in the public file of the society concerned.”.

(4) In section 90(8) (power of Commission to effect transfer of engagements) for the words from the beginning to “who” substitute “If the Authority gives a direction it shall keep a copy of that direction and”.

(5) In section 104 (public file of a friendly society)—

- (a) in subsection (1)(b) for the words “on payment of the fee prescribed under section 114 below”, substitute “subject to subsection (2A) below”;
- (b) in subsection (2) for the words “on payment of the fee so prescribed” substitute “subject to subsection (2A) below”.

(6) In Schedule 3 to the Financial Services and Markets Act 2000 (Mutual Societies) Order 2001, paragraphs 99(b), 100(f) and 108(b) are revoked.

### **Form of documents**

**204.**—(1) For section 114 of the Friendly Societies Act 1992 (form of documents and power to prescribe fees) substitute—

(1) The Authority may, by directions under this section, make provision with respect to the form of any document to be sent to it under this Act or the 1974 Act, the particulars to be included in any such document and the procedure to be followed in sending any such document.

(2) The directions have effect subject to any other provision of or made under this Act.”.

(2) In Schedule 3 to the Financial Services and Markets Act 2000 (Mutual Societies) Order 2001, paragraph 113 is revoked.

### **Interpretation of the Friendly Societies Act 1992**

**205.**—(1) Section 117(8) of the Friendly Societies Act 1992 (meaning of “provision of insurance”) is repealed.

(2) Section 119 of the Friendly Societies Act 1992 (interpretation) is amended as follows.

(3) In the definition of “supervisory authority” in subsection (1) (4) for the words “insurance companies” substitute “persons whose business consists of effecting or carrying out contracts of insurance”.

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(2) Section 101 was substituted by [S.I. 1993/2519](#), regulation 6(1).

(3) Schedule 20 was added by [S.I. 1993/2519](#), regulation 6(4).

(4) The definition of “supervisory authority” was inserted by [S.I. 1994/1984](#), regulation 30(f).

(4) In subsection (1A)(5) for the words “Prudential Supervision Directive” to the end of that subsection substitute “European Parliament and Council Directive of 29th June 1995 amending Directives [77/780/EEC](#) and [89/646/EEC](#) in the field of credit institutions, Directives [72/239/EEC](#) and [92/96/EEC](#) in the field of non-life insurance, Directives [79/267/EEC](#) and [92/49/EEC](#) in the field of life assurance, Directive [93/22/EEC](#) in the field of investment firms and Directive [85/611/EEC](#) in the field of undertakings for collective investment in transferable securities (UCITS) with a view to reinforcing prudential supervision (No. [95/26/EC](#))”.

(5) Subsection (1B) is repealed.

(6) After subsection (1B), insert—

“(1C) In the definition of “supervisory authority” in subsection (1), the reference to contracts of insurance and to effecting or carrying out such contracts must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

### **Transfer of engagements: margin of solvency**

**206.**—(1) For paragraph 13 of Schedule 15 to the Friendly Societies Act 1992 substitute—

“**13.**—(1) The Authority shall not confirm a transfer in any case where the transferee is required by section 87 above to furnish the Authority with a report unless it is satisfied (after taking the proposed transfer into account) either that the transferee will possess the margin of solvency required by rules made by the Authority under section 138 of the Financial Services and Markets Act 2000 or, where no margin of solvency is required by such rules, that the value of the transferee’s assets will exceed its liabilities.

(2) The Authority shall not confirm a transfer of any engagements the fulfilment of which will constitute effecting or carrying out contracts of insurance in the United Kingdom unless it is satisfied (after taking the proposed transfer into account) either that the transferee will possess the margin of solvency required by rules made by the Authority under section 138 of the Financial Services and Markets Act 2000 or, where no margin of solvency is required by such rules, that the value of the transferee’s assets will exceed its liabilities.

(3) This paragraph does not apply to any transfer of engagements to which paragraph 15 or 15A below applies.

(4) The reference in sub-paragraph (2) to effecting or carrying out contracts of insurance must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

(2) In paragraph 128 of Schedule 3 to the Financial Services and Markets Act 2000 (Mutual Societies) Order 2001—

- (a) in sub-paragraph (o), for the words “paragraphs 12 and 13” substitute “paragraph 12”;
- (b) sub-paragraphs (p) and (q) are revoked.

### **Transfer of engagements: general business**

**207.**—(1) In Schedule 15 to the Friendly Societies Act 1992, paragraph 15(6) is amended as follows.

(2) In sub-paragraph (1)(c)—

(a) for paragraph (ii) substitute—

“(ii) a UK firm which has an EEA right deriving from any of the insurance directives;”;

(b) for paragraph (iii) substitute—

“(iii) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to the Financial Services and Markets Act 2000;”;

(c) paragraph (iv) is repealed;

(d) for paragraph (v) substitute—

“(v) an insurance company whose head office is in Switzerland, which has permission under Part IV of the Financial Services and Markets Act 2000 to effect or carry out contracts of insurance, which permission is not limited to reinsurance business;”.

(3) For sub-paragraph (6), substitute—

“(6) In this paragraph “the relevant authority” means—

(a) if the transferee falls within paragraph (1)(c)(iii), its home state regulator;

(b) if the transferee falls within paragraph (1)(c)(v), the supervisory authority in Switzerland;

(c) if the transferee falls within paragraph (1)(c)(vi), the Authority or other supervisory body responsible for the supervision;

(d) in any other case, the Authority.”.

### **Transfer of engagements: long term business**

**208.**—(1) In Schedule 15 to the Friendly Societies Act 1992, paragraph 15A(7) is amended as follows.

(2) In sub-paragraph (1)(c)—

(a) for paragraph (ii) substitute—

“(ii) a UK firm which has an EEA right deriving from any of the insurance directives;”;

(b) for paragraph (iii) substitute—

“(iii) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to the Financial Services and Markets Act 2000;”;

(c) paragraph (iv) is repealed.

(3) For sub-paragraph (6), substitute—

“(6) In this paragraph “the relevant authority” means—

(a) if the transferee falls within paragraph (1)(c)(iii), its home state regulator;

(b) if the transferee falls within paragraph (1)(c)(v), the Authority or other supervisory body responsible for the supervision;

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(6) Paragraph 15 was substituted by [S.I. 1994/1984](#), Schedule 4, paragraph 3 and amended by [S.I. 1997/2849](#) regulations 3, 5, and Schedule and by [S.I. 2001/2617](#).

(7) Paragraph 15A was inserted by [S.I. 1993/2519](#) regulation 5, substituted by [S.I. 1994/1984](#), regulation 25, Schedule 4, paragraph 4 and has been amended by [S.I. 1997/2849](#) and [S.I. 2001/2617](#).

(c) in any other case, the Authority.”.

**Transfer of engagements: interpretation**

**209.** In paragraph 18(8) of Schedule 15 to the Friendly Societies Act 1992 for the words “the Insurance Companies Act 1982” substitute “Schedule 3 to the Financial Services and Markets Act 2000”.

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(8) Paragraph 18 was substituted by [S.I. 1994/1984](#), regulation 25, Schedule 4 paragraph 7 and has been amended by [S.I. 1997/2849](#) and [S.I. 2001/2617](#).