

Friendly Societies Act

Principal Act

Amending enactments	Relevant current provisions	Commencement date
Act. No. 1888-11		<i>Commencement</i> 17.1.1889 <i>Assent</i> 6.12.1888
Act. 1935-08	s. 98	
1948-20	ss. 4 and 50	
Reg. of 28.5.1970	s. 50	
Act. 1972-06	s. 47	
1975-01	ss. 4, 5, 8, 11-17, 19, 42, 43, 50, 55, 56, 59 and 78	
1975-39	ss. 2, 3, 18, 27-41 and Sch. 4	
1980-04	s. 4(2)	
1983-12	s. 4(1)	
1999-19	s. 43	26.8.1999
2007-17	ss. 3, 4(1) & (2), 6, 29, 48, 99	14.6.2007
2016-08	ss. 2(1), 67A, 67B, 67C, 67D, 67E, 68(1), 71A, Sch. 5	10.3.2016
2021-08	ss. 2(1), 4(1), (3)-(4), 100-113, Schs.1A, 6	9.2.2021
2023-29	Sch. 1A	27.7.2023

English sources

Friendly Societies Act 1875 (38 & 39 Vict.c.60)
Friendly Societies Act 1887 (50 & 51 Vict.c.56)
Industrial Assurance Act 1923 (13 & 14 Geo.5 c.8)

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AN ACT TO DECLARE THE LAW RELATING TO FRIENDLY AND OTHER SOCIETIES.

PART 1

Preliminary

Short title.

1. This Act may be cited as the Friendly Societies Act.

Interpretation.

2.(1) In this Act, unless the context otherwise requires—

*(1875 c.60,
s. 4)*

“collecting society” means a registered society which carries on industrial assurance business;

“collector” includes every paid officer, agent or person, howsoever remunerated, who, by himself or by any deputy or substitute, collects contributions for a society, or holds any interest in a collecting book of the same, but does not include—

- (a) the secretary or other officer of a society who receives contributions on behalf of such society;
- (b) any officer appointed to superintend and receive moneys from collectors within a specified area, and not being himself a collector as hereinbefore defined;
- (c) any agent appointed and remunerated by members, and not under the control of the society, or of any officer thereof;

“confidential information” means information in any form which—

- (a) has been obtained by or on behalf of the Registrar in the course of carrying out his functions under this Act and from which a person can be identified; or
- (b) the Government has provided in confidence to the Registrar;

“domestic authority” means a person listed in Schedule 6;

“foreign authority” means a person performing functions similar to those of a domestic authority, under the law of a country or territory outside Gibraltar;

“foreign registrar” means a person performing functions similar to those of the Registrar, under the law of a country or territory outside Gibraltar;

“insurance business” has the meaning given in section 2(1) of the Financial Services (Insurance Companies) Act;

“meeting” includes (where the rules of a society so allow) a meeting of delegates appointed by members;

“officer” extends to any trustee, treasurer, secretary or member of the committee of management of a society, or person appointed by the society to sue and be sued on its behalf;

“persons claiming through a member” includes the heirs, executors, administrators and assigns of a member;

“registered society” means a society registered or deemed to be registered under this Act;

“Registrar” means the Registrar of Friendly Societies appointed under section 4;

“relevant person” means—

- (a) a society registered under this Act or applying to be registered under this Act;
- (b) any officer of a society falling within paragraph (a);
- (c) any person who is or at any time was directly or indirectly employed (whether or not under a contract of service) by a society falling within paragraph (a) or a person falling within paragraph (b);
- (d) any person who is seeking to obtain, has or at any time had any direct or indirect proprietary, financial or other interest in or connection with a society falling within paragraph (a) or a person falling within paragraph (b); or
- (e) any person who is, or has been, directly or indirectly involved in a transaction which the Registrar considers to be relevant to the discharge of its functions under this Act;

“society” means any society described in section 3 of this Act, whether registered or otherwise, and “societies” shall be construed accordingly.

(2) For the purposes of this Act “industrial assurance business” means the business of effecting assurances upon human life premiums in respect of which are received by means of collectors:

Provided that such business shall not include—

- (a) assurances the premiums in respect of which are payable at intervals of two months or more;

(b) assurances for £25 or upwards premiums in respect of which are payable at intervals of one month or upwards and which are treated as part of the business transacted by a branch other than the industrial branch of the society in cases where the Registrar certifies that the terms and conditions of such assurances are on the whole not less favourable to the assured than those imposed by this Act.

(3) When a registered society has ceased to effect industrial assurances it shall, so long as it continues liable on the assurances previously effected, be deemed to carry on industrial assurance business.

(4) When a registered society carries on both industrial assurance business and other business, nothing in this Act relating to industrial assurance business shall, save as otherwise expressly provided, apply to any of the business of the society other than the industrial assurance business.

(5) Every collecting society shall have as the last words of its registered name “collecting society” and such society shall use its registered name and no other on all documents issued by it.

Classes of societies.

3. The following societies may be registered under this Act—

(a) societies (in this Act called “friendly societies”) established to provide by voluntary subscriptions of the members thereof, with or without the aid of donations—

*(1875 c. 60,
s. 8)*

- (i) for the relief or maintenance of the members, their husbands, wives, children, fathers, mothers, brothers or sisters, nephews or nieces, or wards being orphans, during sickness or other infirmity, whether bodily or mental, in old age (which shall mean any age after fifty), or in widowhood, or for the relief or maintenance of the orphan children of members during minority; or
- (ii) for insuring money to be paid on the birth of a member’s child, or on the death of a member, or for the funeral expenses of the husband, wife or child of a member, or of the widow of a deceased member, or, as respects persons of the Jewish persuasion for the payment of a sum of money during the period of confined mourning; or
- (iii) for the relief or maintenance of the members when on travel in search of employment, or when in distressed circumstances, or in case of shipwreck, or loss or damage of or to boats or nets; or
- (iv) for the endowment of members or nominees of members at any age or on marriage; or

- (v) for insuring money to be paid to the member on duration for a specified period of the life of the member or of the husband or wife of the member, either with or without provision for the payment of money in the event of his or her death before the expiration of that period; or
- (vi) for the insurance against fire to any amount not exceeding £9 of the tools or implements of the trade or calling of the members;
- (b) societies for any benevolent or charitable purpose (in this Act called benevolent societies);
- (c) societies (in this Act called working men's clubs) for purposes of social intercourse, mutual helpfulness, mental and moral improvement, and rational recreation;
- (d) societies for any purpose which the Minister responsible for financial services may authorize as a purpose to which the powers and facilities of this Act ought to be extended (in this Act called specially authorized societies).

PART 2

Registration of Societies.

Registrar.

4.(1) Such fit and proper person as the Minister responsible for financial services may, from time to time, appoint shall be the Registrar of Friendly Societies and other societies herein referred to, and shall exercise all the functions set out in subsection (3), in addition to the functions and powers which are, from time to time, by law vested in the Chief Registrar of Friendly Societies for England.

(2) The Minister responsible for financial services may appoint one or more Assistant Registrars of Friendly Societies and any Assistant Registrar so appointed may, subject to any directions given to him by the Registrar, exercise all the powers and perform all the duties of the Registrar (other than the powers conferred by sections 72 and 73).

- (3) The Registrar has the following functions under this Act in relation to societies—
- (a) to secure that the purposes of each society are in conformity with this Act and any other enactment regulating the purposes of societies;
 - (b) to administer the system of regulation of the activities of societies provided for by or under this Act;
 - (c) to advise and make recommendations to Government on any matter relating to societies.

(4) In discharging its functions under this Act, the Registrar must, so far as is reasonably possible, adhere to the principles set out in Schedule 1A regarding the reduction of financial crime.

Registration of societies.

5. With respect to the registry of societies, the following provisions shall have effect—

*(1875 c. 60,
s. 11)
(1887 c. 56,
s. 3)*

- (a) no society can be registered under this Act which does not consist of seven persons at least;
- (aa) no society which contracts with any person for the assurance of an annuity exceeding £104 per annum or of a gross sum exceeding £500 shall be registered under this Act;
- (b) for the purpose of registry an application to register the society, signed by seven members and the secretary, and written or printed copies of the rules, together with a list of the names of the secretary and of every trustee, or other officer authorized to sue and be sued on behalf of the society, shall be sent to the Registrar, and such copies shall be written or printed in the English language;
- (c) no society shall be registered under a name identical with that under which any other existing society is registered, or so nearly resembling such name as to be likely, or in any name likely, in the opinion of the Registrar, to deceive the members or the public as to its nature or its identity, and no society shall change its name without the sanction of the Registrar as hereinafter provided;
- (d) a society (other than a benevolent society or working men's club) shall not be disentitled to registry by reason of any rule for or practice of dividing any part of the funds thereof if the rules thereof contain distinct provision for meeting all claims upon the society existing at the time of division before any such division takes place;
- (e) the Registrar, on being satisfied that a society has complied with the provisions as to registry in force under this Act, shall issue to such society an acknowledgment of registry, which shall specify the designation of the society, according to the classification herein set forth;
- (f) if the Registrar refuses to register the society or any rules, the society may appeal from such refusal to the Supreme Court;
- (g) if the refusal of registry be overruled on appeal, an acknowledgment of registry shall thereupon be given to the society by the Registrar;
- (h) the acknowledgment of registry shall be conclusive evidence that the society therein mentioned is duly registered, unless it be proved that the registry of the society has been suspended or cancelled.

Power to cancel and suspend registry.

(1875 c. 60,
s. 12(1) and
(2))

6. With respect to the cancellation or suspension of registry the following provisions shall have effect—

- (a) the Registrar may cancel the registry of a society by writing under his hand,—
 - (i) if he thinks fit, at the request of a society, to be evidenced in such manner as he shall from time to time direct; or
 - (ii) with the approval of the Minister responsible for financial services, on proof to satisfaction of the Registrar that an acknowledgment of registry has been obtained by fraud or mistake or that a society exists for an illegal purpose, or has wilfully and after notice from the Registrar violated any of the provisions of this Act, or has ceased to exist;
- (b) the Registrar, in any case in which he might, with the approval of the Minister responsible for financial services, cancel the registry of a society, may suspend the same, by writing under his hand, for any term not exceeding three months, and may, with the approval of the Minister responsible for financial services, renew such suspension from time to time for the like period.

Procedure in case of suspension or cancellation.

(1875 c. 60,
s. 12(3),(4)
and (5))

7.(1) Not less than two months' previous notice in writing specifying briefly the ground of any proposed cancelling or suspension of registry, shall be given by the Registrar to a society before the registry of the same can be cancelled (except at its request) or suspended and notice of every cancelling or suspension shall be published in the Gazette as soon as practicable after the same takes place.

(2) A society may appeal from the cancelling of its registry, or from any suspension of the same which is renewed after six months, in manner herein provided for appeals from the Registrar's refusal to register.

(3) A society whose registry has been suspended or cancelled shall from the time of such suspension or cancelling (but if suspended, only whilst such suspension lasts, and subject also to the right of appeal hereby given) absolutely cease to enjoy as such the privileges of a registered society, but without prejudice to any liability actually incurred by such society, which may be enforced against the same as if such suspension or cancelling had not taken place.

Rules of societies.

(1875 c. 60,
s. 13)

8. With respect to the rules of societies the following provisions shall have effect—

- (a) the rules of every society sent for registry shall, according to the class in which the society is to be registered, contain provisions in respect of the several matters mentioned in Schedule 1;
- (b) no amendment of a rule made by a registered society shall be valid until the same has been registered under this Act, for which purpose copies of the same, signed by three members and the secretary, shall be sent to the Registrar;
- (c) the provisions in this Act contained as to appeals from a refusal of registry shall apply to amendments of rules;
- (d) the Registrar, on being satisfied that any amendment of a rule is not contrary to the provisions of this Act, shall issue to the society an acknowledgment of registry of the same, which shall be conclusive evidence that the same is duly registered;
- (e) a copy of the rules of a registered society shall be delivered by the society to every person on demand, on payment of a sum not exceeding twenty-five pence;
- (f) a person who, with intent to mislead or defraud, gives to any other person a copy of any rules, laws, regulations, or other documents, other than the rules for the time being registered under this Act, on the pretence that the same are existing rules of a registered society, or that there are no other rules of such society, or gives to any person a copy of any rules on the pretence that such rules are the rules of a registered society when the society is not registered, is guilty of an offence.

PART 3

Duties and Obligations of Societies.

Registered office.

9. Every registered society shall have a registered office to which all communications and notices may be addressed, and shall send to the Registrar notice of the situation of such office, and of every change thereof. *(1875 c.60, s.14(a))*

Appointment of trustees.

10. Every registered society shall from time to time at some meeting of the society, and by a resolution of a majority of the members present and entitled to vote thereat, appoint one or more trustees of the society, and send to the Registrar a copy of every resolution appointing a trustee, signed by the trustee so appointed, and by the secretary of the society. *(1875 c. 60, s.14(b))*

Books of account, etc.

11.(1) Every registered society shall—

- (a) cause to be kept proper books of account with respect to its transactions and its assets and liabilities; and
- (b) establish and maintain a satisfactory system of control of its books of account, its cash holdings and all its receipts and remittances.

(2) For the purposes of subsection (1) (a), proper books of account shall not be taken to be kept with respect to the matters mentioned in that paragraph if there are not kept such books as are necessary to give a true and fair view of the state of the affairs of the society and to explain its transactions.

Form in which books of account may be kept.

12.(1) Any book of account to be kept by a registered society may be kept either by making entries in bound books or by recording the matters in question in any other manner.

(2) Where any such book of account is not kept by making entries in a bound book but by some other means, the society shall take adequate precautions for guarding against falsification and facilitating its discovery.

General provisions as to accounts and balance sheets.

13.(1) Every revenue account of a registered society shall give a true and fair view—

- (a) if it deals with the affairs of the society as a whole, of the income and expenditure of the society as a whole; or
- (b) if it deals with a particular business conducted by the society, of the income and expenditure of the society in respect of that business, for the period to which the account relates.

(2) Every registered society shall in respect of each year of account, cause to be prepared either—

- (a) a revenue account which deals with the affairs of the society as a whole for that year; or
- (b) two or more revenue accounts for that year which deal separately with particular businesses conducted by the society.

(3) In any case falling within subsection (2)(b), without prejudice to the application of subsection (1) (b) to each revenue account dealing with a particular business conducted by the society, the revenue accounts in question, when considered together, shall give a true and fair view of the income and expenditure of the society as a whole for the year of account to which they relate.

(4) Every balance sheet of a registered society shall give a true and fair view of the state of the affairs of the society as at the date of the balance sheet.

(5) A registered society shall not publish any revenue account or balance sheet unless—

- (a) it has been previously audited by the auditor last approved to audit the accounts and balance sheet of the society;
- (b) it incorporates a report by the auditor stating whether in his opinion it complies with the provision of subsection (1) or subsection (4) which is applicable in that case; and
- (c) it has been signed by the secretary of the society and by two members of the committee of the society acting on behalf of the committee.

(6) If in relation to any revenue account or balance sheet of a registered society a member of the committee of the society fails to take all reasonable steps to secure compliance—

- (a) with the provision of subsection (1) or subsection (4) which is applicable in that case; or
- (b) in a case falling within subsection (2)(b) with subsection (3),

he is guilty of an offence and is liable, on summary conviction, to a fine of £50 unless he proves that he had reasonable grounds to believe, and did believe, that a competent and reliable person was charged with the duty of seeing that the relevant provision was complied with and was in a position to discharge that duty.

Audit.

14.(1) Every registered society shall appoint as auditor some person approved by the Registrar in writing to audit its accounts once at least in every year:

Provided that a qualified auditor as defined in section 15 shall not require to be approved by the Registrar.

(2) The audit under subsection (1) shall include an examination of overdue debts, if any, and a valuation of the assets and liabilities of the registered society.

(3) Every auditor shall have power when necessary—

- (a) to summon at the time of his audit any officer, agent, servant or member of the society who he has reason to believe can give material information in regard to any transactions of the society or the management of its affairs; or

- (b) to require the production of any book or document relating to the affairs of, or any cash or securities belonging to, the society by the officer, agent, servant or member in possession of such book, document, cash or securities.

Qualified auditor.

15.(1) In respect of any registered society of which–

- (a) the receipts and payments of that society in respect of the preceding year of account in the aggregate exceeded £5,000;
- (b) the number of its members at the end of that year exceeded five hundred; and
- (c) the value of its assets at the end of that year in the aggregate exceeded £5,000,

no person shall be appointed as an auditor unless he is a qualified auditor.

(2) In this section “qualified auditor” means either a member of one or more of the following bodies–

- (a) the Institute of Chartered Accountants in England and Wales;
- (b) the Institute of Chartered Accountants of Scotland;
- (c) the Association of Certified and Corporate Accountants;
- (d) the Institute of Chartered Accountants in Ireland;
- (e) any other body of accountants established in the United Kingdom and for the time being recognized for the purposes of section 161(1)(a) of the Companies Act 1948 by the Board of Trade,

or a person who is for the time being authorized by the Board of Trade under section 161 (1) (b) of that Act as being a person with similar qualifications obtained outside the United Kingdom.

Access to books, etc.

16. The Registrar, or any person authorized by general or special order in writing by the Registrar, shall, at all times, have access to all the books, accounts, papers and securities of a registered society, and shall be entitled to inspect the cash in hand, and every officer of the society shall furnish such information in regard to the transactions and working of the society as the person making such inspection may require.

Submission of accounts.

17. For the purposes of section 14 every registered society shall, once in every year, submit its accounts for audit to a qualified auditor or a person approved by the Registrar who shall have access to all the books, deeds, documents, and accounts of the society and who shall examine the general statement of the receipts and expenditure, funds and effects of the society, and verify it with the accounts and vouchers relating to it, and shall sign it as found to be correct or specially report to the society and the Registrar in what respects it is found incorrect, unvouched, or not in accordance with law and report whether the revenue account and the balance sheet are found to give a true and fair view of the state of affairs of the society for the period to which the accounts relate.

Quinquennial valuation.

18.(1) Every registered society shall, except as in this section provided, once at least in every five years, cause its assets and liabilities to be valued by a valuer to be appointed by the society and send to the Registrar a report on the condition of the society or branch.

(2) A report shall—

- (a) be signed by the valuer;
- (b) state the address of the valuer; and
- (c) contain an abstract to be made by the valuer of the results of his valuation, together with a statement containing such information with respect to the benefits assured and the contributions receivable by the society and of its funds and effects, debts and credits, as the Registrar may require.

(3) This section shall not apply to—

- (a) a benevolent society, working men's club or old people's home society; or
- (b) any society to whose purposes or to the nature of whose operation the Registrar is of the opinion, and so signifies in writing, that the provisions of this section are inapplicable.

Inquiry.

19.(1) The Registrar may of his own motion, and shall on the application of a majority of the committee, or of not less than one-third of the members of a registered society, hold an inquiry or direct some person authorized by him by order in writing in this behalf to hold an inquiry into the constitution, working and financial condition of a registered society; and all officers and members of the society shall furnish such information in regard to the affairs of the society and produce the cash in hand and such books, accounts, papers and securities of the society as the Registrar or the person authorized by him may require:

Provided that where the application is made by the committee or by members of the society—

- (i) the application shall be supported by such evidence for the purpose of showing that the applicants have good reason for requiring such inquiry to be held and that they are not actuated by malicious motives in their application, and such notice thereof shall be given to the society, as the Registrar shall direct;
 - (ii) the Registrar may require the applicants to give security for the costs of the proposed inquiry, before holding such inquiry or directing such inquiry to be held;
 - (iii) all expenses of and incidental to any such inquiry shall be defrayed by the members applying for the same, or out of the funds of the society, or by the members or officers, or former members or officers of the society in such proportions as the Registrar shall direct.
- (2) The Registrar shall, on the application of a creditor of the registered society, inspect or direct some person authorized by him in writing in this behalf to inspect the books of the society, if the applicant—
- (a) proves that an ascertained sum of money is then due to him and that he has demanded payment thereof and has not received satisfaction within a reasonable time; and
 - (b) deposits with the Registrar such sum as security for the costs of the proposed inspection as the Registrar may require.
- (3) The Registrar shall communicate the results of any such inspection to the creditor and to the society into whose affairs inquiry has been made.
- (4) Where an inquiry is held under subsection (1) or an inspection is made under subsection (2), the Registrar may apportion the costs or such part of the costs, as he may think right, between the registered society, the members demanding an inquiry, the officers or former officers of the society, and the creditor, if any, on whose application the inquiry was made.
- (5) Any sum awarded by way of costs against any society or person under this section may be recovered, on application to the magistrates' court, in like manner as a fine imposed by such court.

(1875 c.60,
s.14(g))

Inspection of books.

20. Any member or person having an interest in the funds of a registered society shall be allowed to inspect the books at all reasonable hours at the registered office of the society, or at any place where the same are kept, except that no such member or person, unless he be an officer of the society, or be specially authorized by a resolution of the society to do so, shall have a right to inspect the loan account of any other member without the written consent of such member.

Supplying copies of annual returns.

21. Every member or person interested in the funds of a registered society shall be supplied gratuitously on his application, with a copy of the last annual return of the society for the time being: *(1875 c. 60, s.14(h)); (1887 c.56, s. 4(2))*

Provided that it shall be deemed a sufficient compliance with this requirement if the society supplies gratuitously every member or person interested with a balance sheet or other document, duly audited, containing the same particulars as to the receipts and expenditure, funds and effects of the society as are contained in the annual return.

Annual balance sheet.

22. Every registered society shall keep a copy of the last annual balance sheet for the time being together with the report of the auditors, if any, always hung up in a conspicuous place at the registered office of the society. *(1875 c. 60, s. 14(i))*

Certificates of death.

23. No registered society shall pay any sum of money upon the death of a member or other person whose death is or ought to be entered in any register of deaths, except upon the production of a certificate of such death, under the hand of the Registrar of Births and Deaths, or other person having the care of the register of deaths in which such death is or ought to be entered. This section shall not apply to deaths at sea. *(1875 c. 60, s.14(2))*

Offences.

24.(1) It is an offence under this Act if any registered society or any officer or member thereof— *(1875 c. 60, s. 14(3) and (4))*

- (a) fails to give any notice, send any return or document, or do or allow to be done any act or thing which the society, officer or person is by this Act required to give, send, do or allow to be done;
- (b) wilfully neglects or refuses to do any act or to furnish any information required for the purpose of this Act by the Registrar or other person authorized under this Act, or does any act or thing forbidden by this Act;
- (c) makes a return or wilfully furnishes information in any respect insufficient.

(2) Every offence by a registered society under this Act shall be deemed to have been also committed by every officer of the same bound by the rules thereof to fulfil any duty whereof such offence is a breach, or if there be no such officer, then by every member of the committee of management of the same, unless such member be proved to have been ignorant of or to have attempted to prevent the commission of such offence; and every default under this Act constituting an offence, if continued, constitutes a new offence in every week during which the same continues.

Returns.

(1875 c. 60,
s. 14 (5))

25. Every annual or other return, abstract of valuation, and other document required for the purposes of this Act shall be made in such form and shall contain such particulars as the Registrar requires.

Recording of documents.

(1875 c. 60,
s. 14 (6))

26. All documents by this Act required to be sent to the Registrar shall be deposited with the rules of the societies to which the same respectively relate, and shall be registered or recorded by the Registrar, with such observations thereon, if any, as he may think fit to make.

PART 4

Collecting Societies.

Deposits by collecting societies.

27.(1) Every collecting society shall be under obligation to deposit with the Accountant General the sum of £20,000 and to keep the sum so deposited while it carries on industrial assurance business and the following provisions shall have effect with respect to deposits under this section, namely—

- (a) a deposit under this section shall not be accepted except on a warrant of the Registrar;
- (b) the deposit shall be made before the society commences to carry on such business;
- (c) in the case of a society applying for registration or for the amendment of its rules, if the proposed rules of the society or the proposed amendments are such as will enable the society to carry on industrial assurance business, the Registrar shall not issue to the society an acknowledgment of registry of the society or of amendment of rules, as the case may be, until the deposit has been made.

(2) *Omitted.*

(3) If the Registrar is satisfied that a collecting society has made default in complying with the provisions of this section, he may order that the society be dissolved and its affairs wound up.

(4) Every sum deposited in accordance with the provisions of subsection (1) may be invested in any way that moneys in the Consolidated Fund may be invested under the Public Finance (Control and Audit) Act¹.

Treatment of deposits.

¹ 1977-09

28. The interest or dividends accruing due on a sum deposited with the Accountant General by any registered society under section 27 on securities in which a sum so deposited is for the time being invested or on securities so deposited shall be paid to the society.

Regulations as to deposits.

29. The Minister responsible for financial services may make regulations with respect to the payment of deposits, to the deposit of securities in lieu of money, to the payment of interest or dividends, from time to time, accruing due on deposits or any securities in which they are for the time being invested, or on any securities deposited in lieu of money, and to the withdrawal and transfer of deposits.

Prohibition on issue of illegal policies.

30.(1) Any collecting society which issues policies of industrial assurance which are illegal or are not within the legal powers of the society shall be held to have made default in complying with the provisions of this Act and where any such policy has been issued, the society is, without prejudice to any other penalty, liable to pay to the owner of the policy a sum equal to the surrender value of the policy to be ascertained in manner hereinafter provided or a sum equal to the amount of the premiums paid whichever is the greater unless it is proved that owing to any false representation on the part of the proposer the society did not know that the policy was illegal or beyond their legal powers.

*(1923 c.8
s.5)*

(2) No collector of, or person employed by a society, shall knowingly assist in effecting a policy of industrial assurance which is illegal or not within the legal powers of the society.

Provisions to be contained in rules.

31.(1) Without prejudice to any other requirements of this Act the rules of a collecting society shall provide—

*(1923 c.8
s. 8)*

- (a) for a separate account being kept of all receipts in respect of the industrial assurance business transacted by the society, and for those receipts being carried to and forming a separate fund under the name of the industrial assurance fund, but nothing in this provision shall be construed as requiring the investments of the industrial assurance fund to be kept separate from the other investments of the society;
- (b) for the industrial assurance fund being as absolutely the security of the owners of the industrial assurance policies as though it belonged to a society carrying on no business other than industrial assurance business and not being liable for any contracts of the society for which it would not have been liable had the business of the society been only that of industrial assurance and not being applied directly or indirectly for any purposes other than those of the industrial assurance business of the society;

- (c) for separate valuations being made of the industrial assurance business of the society.

(2) The rules of a collecting society shall contain the tables in accordance with which policies of industrial assurance are issued by the society; and no policy shall be issued by a collecting society otherwise than in accordance with the rules of the society and with the tables for the time being in force as set forth in those rules.

Prohibition of charges on industrial assurance fund.

- (1923 c.8, s. 13)* 32. A registered society shall not issue any debenture or debenture stock or raise any loan, charged or purporting to be charged on any assets of the society in which the industrial assurance fund is invested and any such charge shall be void:

Provided that this section shall not apply to a temporary bank overdraft.

Disabilities of collectors, etc.

- (1923 c.8, s. 33)* 33.(1) A collector of a collecting society shall not be a member of the committee of management or hold any other office in the society except that of superintending collectors within a specified area.

- (2) A collector or superintendent shall not be present at any meeting of the society.

Restriction on employment of persons to procure new business.

- (1923 c. 8, s. 34)* 34.(1) A collecting society shall not, nor shall any person employed by such a society employ any person not being a person in the regular employment of the society to procure or endeavour to procure any person to enter into a contract of industrial assurance, and no person not regularly in the employment of such a society shall procure or endeavour to procure any person to enter into such a contract.

(2) For the purposes of this section, references to regular employment shall include regular part-time as well as regular whole-time employment.

Notice before forfeiture.

- (1923 c. 8, s. 23)* 35. A forfeiture shall not be incurred by any member or person assured in a collecting society by reason of any default in paying any premium until after—

- (a) notice stating the amount due from him, and informing him that in case of default of payment by him within twenty-eight days and at a place to be specified in the notice his interest or benefit will be forfeited, has been served upon him by or on behalf of the society; and
- (b) default has been made by him in paying any premium in accordance with that notice.

Provisions as to forfeited policies.

36.(1) Where notice of the forfeiture of a policy of industrial assurance by reason of default in the payment of any premium thereunder has been served on the owner of the policy, then if the policy— *(1923 c. 8, s. 24)*

- (a) is a policy for the whole term of life or for a term of fifty years or upwards, the person whose life is assured under which is a person who is at the time of such default over fifteen years of age, and upon which not less than five years' premiums have been paid;
- (b) is a policy for a term of twenty-five years or upwards, but less than fifty years, upon which not less than five years' premiums have been paid; or
- (c) is a policy for a term of less than twenty-five years upon which not less than three years' premiums have been paid;

the owner of the policy shall on making application for the purpose to the collecting society within one year from the date of the service of the notice, be entitled—

- (i) to a free paid-up policy for such amount as is hereinafter mentioned payable upon the happening of the contingency upon the happening of which the amount assured under the original policy would have been payable or of any other contingency not less favourable to the owner of the policy; or
- (ii) if the owner of the policy is permanently resident or submits satisfactory proof of his intention to make his permanent residence outside Gibraltar, or if the person whose life is assured has disappeared and his existence is in doubt, to the surrender value of the forfeited policy ascertained in manner hereinafter provided.

(2) The amount of a free paid-up policy so issued as aforesaid shall not be less than such as may be determined in accordance with the rules contained in Schedule 4 and shall be ascertained at the date when the premium following the last premium paid became due:

Provided that the amount of the free paid-up policy shall not exceed the difference between the amount of the forfeited policy (inclusive of any bonus added thereto) and the amount which would be assured by a corresponding policy at the same premium effected on the life of the same person according to the age of that person at his birthday next following the date of forfeiture.

(3) In every premium receipt book there shall be printed a notice stating that in the event of the forfeiture of any policy of industrial assurance by reason of default in the payment of premiums thereunder, the owner of the policy shall, if the policy has been in force a sufficient period as provided by this section, be entitled to a free paid-up policy or, if the conditions

mentioned in subsection (1) are fulfilled, to the surrender value of his policy, and that upon application to the society information as to the amount of such free paid-up policy or surrender value will be supplied and it shall be the duty of the society to supply such information.

(4) Where the rules of a society or the conditions of a policy are such as would confer on the owner of the policy in case of forfeiture rights more favourable to the owner of the policy than those conferred by this section, nothing in this section shall prevent the owner of the policy from claiming under those rules or conditions instead of under this section.

Payment of claims.

(1923 c.8, s. 27) 37. Where a claim arising under a policy of industrial assurance is paid, no deductions shall be made on account of any arrears of premiums due under any other policy.

Provisions as to valuations.

(1923 c. 8, s. 18) 38.(1) In the case of a collecting society the following provisions shall have effect with regard to every valuation—

- (a) the valuation shall be made by an actuary;
- (b) the report containing the abstract of the result of the valuation required by section 18 to be sent shall be sent by a collecting society to the Registrar within twelve months after the close of the period to which the valuation relates, and shall contain a statement as to how the values of stock exchange securities, if any, included in the balance sheet are arrived at, and a certificate, signed by the same persons as sign the balance sheet, to the effect that in their belief the assets set forth in the balance sheet are in the aggregate fully of the value stated therein less any investment reserve fund taken into account;
- (c) where the balance sheet of a society includes amongst the assets thereof any sums representing expenses of organization or extension, or the purchase of business or goodwill, and the amount of the assets exclusive of such sums (after deducting debts due by the society other than debentures and loans), is less than the amount of the industrial assurance fund, or, as the case may be, of the several assurance and insurance funds as shown in that balance sheet, the amount of the industrial assurance fund shown in the valuation balance sheet shall be reduced by the amount of the deficiency, or, as the case may be, by a sum bearing such proportion to that deficiency as the amount of the industrial assurance fund shown in the first-mentioned balance sheet bears to the aggregate amount of all the assurance and insurance funds so shown;
- (d) where debentures have been issued or loans raised which are charged on any of the assets of a company in which the industrial assurance fund is invested there shall be inserted in the valuation balance sheet a note giving the particulars of the charge and stating that the result shown by the valuation is subject to the liability under the charge;

- (e) the Registrar if satisfied on any valuation that any of the provisions of this section have not been complied with, or that the industrial assurance fund as stated in the valuation balance sheet is greater than the value of the assets available for the liabilities of that fund, due regard being had to the other liabilities of the society or company and to the provisions of this section, may reject the valuation, and may direct the society or company to make such alteration therein as may be necessary to secure compliance with those provisions:

Provided that the society may appeal to the Supreme Court against any decision of the Registrar under this paragraph;

- (f) the Registrar may direct any collecting society to furnish to him, in addition to such information as the society is required to furnish under section 16 such explanations as he may consider necessary in order to satisfy himself whether the valuation complies with the provisions of this section.

(2) If in the case of a collecting society a valuation discloses a deficiency, the Registrar may, if after investigation he is satisfied that the society should cease to carry on industrial assurance business, award that the society be dissolved and its affairs wound up.

(3) For the purposes of this section “actuary” means either—

- (a) a Fellow of the Institute of Actuaries or of the Faculty of Actuaries; or
(b) such other person as the Registrar may, on the application of a society, approve.

Application of other provisions to collecting societies.

39. Nothing in sections 27 to 38 shall relieve a collecting society from complying with the other provisions of this Act.

Conditions.

40.(1) Notwithstanding anything else contained in this Act the Registrar may, on registering a collecting society or a registered society which, though not a collecting society, carries on business of effecting insurance upon human lives, or at any time thereafter, impose such conditions as to the way the society is to carry on its business as to him seems appropriate.

(2) Without prejudice to the generality of subsection (1), the Registrar may require a registered society which, though not a collecting society, carries on business of effecting insurance upon human lives to make a deposit not exceeding £20,000 with the Accountant General and if he does so the provisions of sections 27, 28 and 29 shall apply to such society.

Offences and penalties.

41. A collecting society which contravenes or fails to comply with any of the provisions of this Act for which no penalty is specifically provided or with any directions given by the Registrar, or a collecting society or registered society which fails to comply with any conditions imposed under section 40 is guilty of an offence and is liable, on summary conviction, to a fine of £200.

PART 5

Privileges of Societies.

Power of nomination not exceeding £200.

(1875 c.60,
s. 15(3);
1887 c.56,
s. 5(1))

42.(1) A member of a registered society (other than a benevolent society or working men's club), not being under the age of sixteen years, may, by writing under his hand delivered at or sent to the registered office of the society, nominate any person, not being an officer or servant of the society, unless such officer or servant is the husband, wife, father, mother, child, brother, sister, nephew or niece of the nominator, to whom any moneys payable by the society on the death of such member, not exceeding £200, shall be paid at his decease, and may, from time to time, revoke or vary such nomination by writing under his hand similarly delivered or sent. On receiving satisfactory proof of the death of a nominator, the society shall pay to the nominee the amount due to the deceased member, not exceeding the sum aforesaid.

(2) A nomination under subsection (1) may be varied or revoked by a subsequent nomination by him thereunder or by any similar document in the nature of a revocation or variation signed by the nominator and delivered at or sent to the society's registered office during his lifetime, but shall not be revocable or variable by the will of the nominator or by any codicil thereto.

(3) Every registered society shall keep a book in which the names of all persons so nominated and any revocation or variation of any such nomination shall be recorded.

43. *Repealed.*

Payments.

(1875 c.60,
s. 15(4))

44. Whenever the registered society, after the decease of any member, pays any sum of money to the person who at the time appears to the trustees to be entitled under section 42, the payment shall be valid and effectual against any demand made upon the trustees or the society by any other person.

When Registrar may order moneys to be transferred.

(1875 c.60,
s.15(6))

45. When any person, being or having been a trustee of a registered society, and whether appointed before or after the legal establishment thereof, in whose name any moneys belonging to such society and deposited, either jointly with another or others, or solely, in the Government Savings Bank, is absent from Gibraltar, or becomes bankrupt, or files any petition or executes any deed for liquidation of his affairs by assignment or arrangement, or for

composition with his creditors, or suffers from mental disorder, or is dead, or has been removed from his office of trustee, or if it be unknown whether such person is living or dead, the Registrar, on application in writing from the secretary and three members of the society, and on proof satisfactory to him, may direct the transfer of such moneys into the names of any other persons as trustees for the society. Such transfer shall be made by the surviving or continuing trustees, and if there be no such trustee, or if such trustees refuse or be unable to make such transfer, and the Registrar so directs, then by the Director of Postal Services, and the Director is hereby indemnified for any thing done by him or any of his officers in pursuance of this provision against any claim or demand of any person injuriously affected thereby.

Priority on death, bankruptcy, etc., of officer.

46. Upon the death, or bankruptcy or insolvency of any officer of a registered society having in his possession by virtue of his office any money or property belonging to the society, or if any execution, attachment or other process be issued, or action brought against such officer or against his property, his heirs, executors or administrators, or trustee in bankruptcy or insolvency, or the marshal or other person executing such process, or the party bringing such action shall, upon demand in writing of the trustees of the society, or any two of them, or any person authorized by the society, or by the committee of management of the same, to make such demand, pay such money and deliver over such property to the trustees of the society in preference to any other debts or claims against the estate of such officer. *(1875 c. 60, s.15(7))*

Membership of minors.

47. A person under the age of eighteen years but above the age of sixteen may be a member of a registered society, unless provision be made in the rules thereof to the contrary, and may, subject to the rules of the society, enjoy all the rights of a member (except as herein provided), and execute all instruments and give all acquittances necessary to be executed or given under the rules, but shall not be a member of the committee of management, trustee, manager or treasurer of the society: *(1875 c. 60, s.(8); 1887c.56, s.5(2))*

Provided that societies consisting wholly of members of any age under eighteen years, but exceeding three years, may be allowed to register under this Act, subject to such rules as may be made in that behalf.

Limitation of cost of certificates.

48. For the purposes of this Act a certificate of birth or death of any member of or person insured or to be insured with a registered friendly society shall be given under his hand by the Registrar of Births or Deaths for the like sum as is payable for a similar certificate under the Births and Deaths Registration Act, on application being made for the same in such form and in such manner as shall be approved of by the Minister responsible for financial services. *(1875 c. 60, s. 15(9))*

Subscription to hospitals.

49. A registered society 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 *(1875 c.60, s.15(10))*

of the society and their families the benefits of such hospital, infirmary or other institution, according to its rules.

PART 6

Property and Funds of Societies.

Investment of funds.

(1875 c. 60,
s. 16(1))

50. The trustees, with the consent of the committee of management or of a majority of the members of a registered society present and entitled to vote in general meeting, may from time to time invest the funds of such society, or any part thereof, to any amount in any of the following ways—

- (a) in the Government Savings Bank;
- (b) *Deleted;*
- (c) in any registered debenture raised under the provisions of the Local Loan Act²;
- (d) in any investment which is permitted in Great Britain under the provisions of the Friendly Societies Acts, 1896 to 1971;
- (e) in the purchase of land, or in the erection or alteration of offices or other buildings thereon;
- (f) upon any other security expressly directed by the rules of the society, not being personal security, except as hereinafter authorized with respect to loans.

Holding of land.

(1875 c. 60,
s. 16(2))

51. A registered society may (if the rules thereof so provide) hold, purchase or take on lease in the names of the trustees for the time being of such society, any land, and may sell, exchange, mortgage, lease or build upon the same (with power to alter and pull down buildings and again rebuild), and 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 the receipt of the trustees shall be a discharge for all moneys arising from or in connection with such sale, exchange, mortgage or lease:

Provided that nothing herein contained shall authorize any benevolent society to hold land exceeding one acre in extent at any one time.

Property how vested and devolution on death, etc.

² 1947-26

52. All property belonging to a registered society, whether acquired before or after the same 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 of all persons claiming through the members according to the rules of the society. Upon the death, resignation or removal of a trustee of a registered society, the property vested in such trustee shall vest in the succeeding trustees of such society either solely or together with any surviving or continuing trustees, and until the appointment of succeeding trustees in such surviving or continuing trustees only, or in the executors or administrators of the last surviving or continuing trustee, as personal estate (whether the same be real or personal), subject to the same trusts, without conveyance or assignment, *(1875 c.60, s. 16(3) and (4))*

Legal proceedings.

53. In all legal proceedings whatsoever concerning any property of a registered society the same shall be stated to be the property of the trustees for the time being in their proper names as trustees for the society without further description. *(1875 c.60, s.16(5))*

Discharge of mortgages.

54. A receipt under the hands of the trustees, countersigned by the secretary, in the form set out in Schedule 2, or in any form specified by the rules of the society or any schedule thereto, for all moneys secured to a registered society by any mortgage or other assurance, such receipt being endorsed upon or annexed to such mortgage or other assurance, vacates the same, and vests the property therein comprised in the person entitled to the equity of redemption of the same, without reconveyance or resurrender. *(1875 c. 60, s. 16(7))*

Certificate of registry of mortgage, etc.

55. If any mortgage or other assurance referred to in section 54 has been registered in the Supreme Court, the Registrar of the Supreme Court shall on production of such receipt, verified by oath of any person, enter satisfaction on the register of such mortgage or of the charge made by such assurance, and shall grant a certificate, either upon such mortgage or assurance, or separately to the like effect, which certificate shall be received in evidence in all courts and proceedings without further proof, and such Registrar shall be entitled to a fee of thirty pence for making the entry and granting the certificate, and such fee shall be paid by stamps. *(1875 c.60, s. 16(8))*

Punishment of fraud or misappropriation in relation to property of society.

56. If any person obtains possession by false representation or imposition of any property of a registered society, or having the same in his possession withholds or misapplies the same or wilfully applies any part thereof to purposes other than those expressed or directed in the rules of the society and authorized by this Act, he is guilty of an offence and, on the complaint of the society, or of any member authorized by the society, or the trustees or committee of management of the same, is liable, on summary conviction, to a fine of £50 and costs, and to be ordered to deliver up all such property, or to repay all moneys applied improperly, and in *(1875 c.60, s.16(9))*

default of such delivery or repayment, or of the payment of such penalty and costs, to be imprisoned for three months; but nothing herein contained shall prevent any such person from being proceeded against by way of indictment, if not previously convicted of the same offence under the provisions of this Act.

Extent of liability of trustees.

*(1875 c. 60,
s.16(10))*

57. Trustees of a registered society are not liable to make good any deficiency in the funds of such society, but are liable only for moneys actually received by them respectively on account of such society.

Loans to members.

*(1875 c. 60,
s.18(1))*

58. Not more than one half of the amount of an assurance on the life of a member of a registered society of at least one full year's standing may be advanced to him on the written security of himself and two satisfactory sureties for repayment; and the amount advanced, with all interest thereon, may be deducted from the sum assured, without prejudice in the meantime to the operation of such security.

Separate loan fund.

*(1875 c. 60,
s.18(2))*

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

- (a) no loan can at any time be made out of moneys contributed for the other purposes of the society;
- (b) no member shall be capable of holding any interest in the loan fund exceeding £200;
- (c) no society shall make any loan to a member on personal security beyond the amount fixed by the rules, or shall make any loan which, together with any moneys for the time being owing by a member to the society, shall exceed £50;
- (d) no society shall hold at any time on deposit from its members any moneys beyond the amount fixed by the rules, which shall not exceed two-thirds of the total sums for the time being owing to the society by the members who have borrowed from the loan fund.

Officers in care of money.

*(1875 c. 60,
s. 20)*

60. With respect to officers of registered societies having receipt or charge of money, the following provisions shall have effect—

- (a) every officer, if the rules of the society require, shall, before taking upon himself the execution of his office, become bound with one sufficient surety at the least in

a bond according to the form set out in Schedule 2, in such sum as the society directs, conditioned for his rendering a just and true account of all moneys received and paid by him on account of the society at such times as its rules appoint, or as the society, or the trustees or committee of management thereof require him to do so, and for the payment by him of all sums due from him to the society;

- (b) every officer, his executors or administrators, shall, at such times as by the rules of the society he should render account, or upon demand made, or notice in writing given or left at his last or usual place of residence, give in his account as may be required by the society, or by the trustees or committee of management of the society, to be examined and allowed or disallowed by them, and shall, on the like demand or notice, pay over all moneys and deliver all property for the time being in his hands or custody to such person as the society or the committee of management or the trustees appoint; and in case of any neglect or refusal to deliver such account, or to pay over such moneys or to deliver such property in manner aforesaid, the trustees or authorized officers of the society may sue upon the bond or security before-mentioned, or may apply to the Supreme Court (which may proceed in a summary way) and the order of such court shall be final and conclusive.

PART 7

Legal Proceedings.

Name in which proceedings shall be bought.

61. The trustees of any registered society, or any other officers authorized by the rules thereof, may bring or defend, or cause to be brought or defended, any action, suit or other legal proceeding in any court whatsoever in Gibraltar touching or concerning any property, right or claim of the society, and shall sue and be sued, implead and be impleaded, in their proper names, without other description than the title of their office. In legal proceedings which may be brought under this Act by a member or person claiming through a member, the society may also be sued as defendant, in the name of the secretary or any officer of the society, with the addition of the words “on behalf of the society (naming the same)”. (1875 c. 60, s. 21(1) and (2))

Legal proceedings not to abate on death, etc.

62. No legal proceedings shall abate or be discontinued by the death, resignation or removal from office of any officer, or by any act of such officer after the commencement of the proceedings. (1875 c. 60, s. 21(3))

Service.

63. The summons, writ, process or other proceeding to be issued to or against the secretary, officer or other person sued on behalf of a society, shall be sufficiently served by personally serving such secretary, officer or other person, or by leaving a true copy thereof at the (1875 c. 60, s. 21(4))

registered office of the society, or at any place of business of the society, or, if such office or place of business be closed, by posting such copy on the outer door of the same.

PART 8

Disputes.

Disputes how decided.

(1875 c.60,
s. 22)

64. Every dispute between a member or person claiming through a member or under the rules of a registered society, and the society or an officer thereof, shall be decided in the manner directed by the rules of the society, and the decision so made shall be binding and conclusive on all parties without appeal, and shall not be removable into any court of law or restrainable by injunction; and application for the enforcement thereof may be made to the Court of First Instance*:

Provided as follows –

- (a) the parties to a dispute in a society may, by consent (unless the rules of such society expressly forbid it) refer such dispute to the Registrar who shall hear and determine such dispute, and shall have power to order the expenses of determining the same to be paid, either out of the funds of the society or by such parties to the dispute as he shall think fit, and such determination and order shall have the same effect and be enforceable in like manner as a decision made in the manner directed by the rules of the society;
- (b) the Registrar may administer oaths, and may require the attendance of all parties concerned, and of witnesses, and the production of all books and documents relating to the matter in question and any person who refuses to attend or to produce any documents, or to give evidence before the Registrar, is guilty of an offence against this Act;
- (c) where the rules of a society direct that disputes shall be referred to justices, the dispute shall be determined by the magistrates' court:

Provided that in every case of dispute cognisable under the rules of a society by the magistrates' court, it shall be lawful for the parties thereto to enter into a consent referring such dispute to the Supreme Court, which may hear and determine the matter in dispute;

- (d) when the rules contain no direction as to disputes, or where no decision is made on a dispute within forty days after application to the society for a reference under

* *Court of first Instance Act repealed by the Administration of Justice Act 2004 (2004-11) s.3 as from 1.9.2004. All references to the Court of First Instance shall be read as if it were a reference to the Supreme Court (see Act 2004-11 s.7).*

its rules, the member or person aggrieved may apply either to the Supreme Court, or to the magistrates' court, which may hear and determine the matter in dispute.

PART 9

Exercise of Powers by Special Resolutions.

What is a special resolution.

65. A special resolution is one which is passed by a majority of not less than three-fourths of such members of a registered society for the time being entitled under the rules to vote as may be present in person or by proxy (where the rules allow proxies) at any general meeting of which notice specifying the intention to propose such resolution has been duly given according to the rules, and which resolution is confirmed by a majority of such members for the time being entitled under the rules to vote as may be present in person or by proxy at a subsequent general meeting of which notice has been duly given, held not less than fourteen days nor more than one month from the day of the meeting at which such resolution was first passed. At any meeting mentioned in this section a declaration by the chairman that the resolution has been carried shall be deemed conclusive evidence of the fact. (1875 c.60, s. 24(1))

Change of name.

66. A registered society may, by special resolution, with the approval in writing of the Registrar, change its name; but no such change shall affect any right or obligation of the society, or of any member thereof, and any pending legal proceedings may be continued by or against the trustees of the society, or any other officer who may sue or be sued on behalf of such society, notwithstanding its new name. (1875 c.60, s.24(2))

Amalgamation of societies and transfer of engagements.

67.(1) Any two or more registered societies may, by special resolution of both or all such societies, become amalgamated together as one society, with or without any dissolution or division of the funds of such societies or either of them; and any society may, by special resolution, transfer its engagements to any other registered society which may undertake to fulfil the engagements of such society. (1875 c.60, s. 24(3) and(4))

(2) No amalgamation or transfer of engagements shall prejudice any right of a creditor of either or any society party thereto:

Provided as follows as respects friendly societies –

- (a) no special resolution by any society for any amalgamation or transfer of engagements under this section is valid unless five-sixths in value (to be calculated as for dissolution) of the members assent thereto, either at the meetings at which such resolution is passed and confirmed, or one of them, or in writing if such members were not present thereat, nor without the written consent of every person for the time being receiving or entitled to any relief, annuity or other benefit from

the funds of the society, unless the claim of such person be first duly satisfied, or adequate provision be made for satisfying such claim;

- (b) the provisions hereinafter contained in case of dissolution as to the punishment of officers and the remedy of members or persons dissatisfied with the provision made for satisfying their claims, shall apply to the case of amalgamation and transfer of engagements;
- (c) upon application of the trustees or committee of management of a society desiring to amalgamate or transfer its engagements, notice of such application being published in the Gazette, the Registrar after hearing such trustees or committee of management and any other persons whom he considers entitled to be heard upon the application, may order that any of the consents and conditions prescribed in this Act, or in any rules made under this Act, be dispensed with, and may confirm the amalgamation or transfer.

Transfer of engagements by a registered society.

67A.(1) Subject to subsection (8), a registered society may, in accordance with this section and sections 67B and 67E, transfer any or all of its engagements to any extent to a company registered under the Companies Act 2014.

- (2) A registered society, in order to transfer any of its engagements, must—
 - (a) comply with the applicable requirements of Part I of Schedule 5;
 - (b) resolve to transfer the engagements by special resolution;
 - (c) record the extent of the transfer as so resolved in an instrument of transfer of engagements; and
 - (d) obtain the confirmation of the Registrar to the transfer,

and, on obtaining that confirmation, the instrument of transfer of engagements may be registered under subsection (3) below.

(3) Where the Registrar confirms a transfer of engagements, he shall, on the application of the society proposing to transfer them and the proposed transferee—

- (a) register a copy of the instrument of transfer of engagements; and
- (b) issue a registration certificate to the transferee,

and a registration certificate shall specify a date as the transfer date for that transfer.

- (4) On the transfer date—

- (a) the property, rights and liabilities of the society transferring its engagements shall by virtue of this subsection become, to the extent provided in the instrument of transfer of engagements, the property, rights and liabilities of the transferee; and
- (b) if the transfer is of all the society's engagements, the society shall be dissolved;

but the transfer shall be deemed to have been effected immediately before any such dissolution.

(5) The Registrar shall keep a copy of the instrument and of the registration certificate issued under subsection (3) above.

(6) Where a registered society is dissolved by subsection (4)(b) above, its registration under this Act shall be cancelled by the Registrar.

(7) Schedule 5 has effect for supplementing this section.

(8) This section shall not apply to engagements the fulfilment of which will constitute the carrying on of insurance business.

Power of Registrar to alter requirements for transfer by registered society.

67B.(1) If the Registrar is satisfied that it is expedient to do so in the interests of the members or potential members of a registered society, it may give a direction under this section ("a direction")—

- (a) modifying the requirements of subsection (2)(b) of section 67A above; and
- (b) modifying or disapplying the requirements of Part I of Schedule 5,

in relation to a particular proposed transfer or to all transfers made by the society after the making of the direction.

(2) A direction may not modify the requirements of section 67A(2) above so as to permit a society to resolve to make a transfer by a resolution passed by less than a majority, or to require more than a three-quarters majority, of those voting on the resolution.

(3) The Registrar shall not give a direction unless—

- (a) an application has been made to it by not less than 10 per cent of the members of the society concerned;
- (b) not less than one month before giving the direction the Registrar has served on the society concerned a notice stating that it proposes to make a direction and specifying the considerations which have led it to conclude that it would be expedient to give it;

- (c) the Registrar has considered any representations made by the society with respect to the notice mentioned in paragraph (b) above within such period (not being less than one month) from the date on which the society was served with the notice as the Registrar may allow; and
- (d) if the society so requests, the Registrar has afforded to it an opportunity of being heard by it within that period.

(4) If the Registrar considers it expedient to do so in the interests of the members or potential members of the society concerned, it may vary or revoke a direction by a further direction.

(5) On giving a direction in relation to a society, the Registrar shall serve on the society a copy of the direction, specifying the considerations which have led it to conclude that it is expedient to give the direction; but the Registrar may not give a direction unless all the considerations so specified were those, or among those, which were specified in the notice served on the society under subsection (3) above.

(6) Notice of a direction shall be published by the Registrar in the Gazette and in such other ways as appear to the Registrar expedient for informing the public.

(7) The Registrar shall keep a copy of any direction given under this section.

Power of Registrar to effect transfer of engagements.

67C.(1) Subject to the following provisions of this section the Registrar may give a direction under this section (“a direction”) providing for the transfer of such of the engagements of a registered society (“the society”) as are specified in the direction to a company so specified (“the transferee”).

- (2) The Registrar may give a direction if—
 - (a) it considers that—
 - (i) the society is unable to manage its affairs satisfactorily in relation to the engagements specified in the direction; and
 - (ii) a transfer of those engagements would be expedient to protect the interests of the members of the society; and
 - (b) the proposed transferee has complied with paragraph 1 of Schedule 5 and has resolved to undertake to fulfil the engagements by special resolution;

but the Registrar may direct that paragraph (b) above shall be modified in relation to a particular proposed transfer (but not to permit a society to resolve to undertake to fulfil the engagements by less than a majority or more than a three-quarters majority of those voting).

(3) The Registrar shall publish a notice of the proposed direction in the Gazette, and, if he thinks appropriate, in one or more newspapers.

(4) A notice published in pursuance of subsection (3) above shall—

- (a) state that any interested party has the right to make representations to the Registrar with respect to the proposed direction;
- (b) specify a date determined by the Registrar before which any written representations or notice of a person's intention to make oral representations must be received by the Registrar; and
- (c) specify a date determined by the Registrar as the day on which it intends to hear any oral representations.

(5) After the date specified in pursuance of subsection (4)(b) above, the Registrar shall—

- (a) determine the time and place at which oral representations may be made;
- (b) give notice of that determination to the society and the proposed transferee and to any persons who have given notice of their intention to make oral representations; and
- (c) send copies of the written representations received by the Registrar to the society concerned and the proposed transferee.

(6) Before the Registrar gives a direction in accordance with subsection (2) the Registrar shall allow the society and the proposed transferee an opportunity to comment on the written representations, whether at a hearing or in writing, before the expiration of such period as the Registrar specifies in a notice to it.

(7) If the Registrar gives a direction it shall keep a copy of that direction and shall—

- (a) register that copy; and
- (b) issue a registration certificate to the transferee;

and the registration certificate shall specify a date as the transfer date for the transfer.

(8) On the transfer date—

- (a) the property, rights and liabilities of the society shall by virtue of this subsection become, to the extent provided in the direction, the property, rights and liabilities of the transferee; and
- (b) if the transfer is of all the society's engagements, the society shall be dissolved;

but the transfer shall be deemed to have been effected before any such dissolution.

(9) The Registrar shall keep a copy of a direction and of the registration certificate.

(10) Where a registered society is dissolved by subsection (8)(b) above, its registration under this Act shall be cancelled by the Registrar.

(11) This section shall not apply to engagements the fulfilment of which will constitute the carrying on of insurance business.

Conversion of registered society into company.

67D.(1) Subject to subsection (10) below, a registered society may, in accordance with this section and section 67E, convert itself into a company registered under the Companies Act 2014 (“a company”).

(2) In order to convert itself into a company a registered society must—

- (a) comply with the applicable requirements of Part I of Schedule 5;
- (b) approve the proposed conversion, the terms on which it is to take place and the proposed memorandum and articles of association for the company by special resolution; and
- (c) obtain the confirmation of the Registrar to the conversion,

and, on obtaining that confirmation, the society may apply for registration as a company.

(3) The terms on which the conversion of a registered society into a company is to take place may include provision for part of the funds of the society or the company to be distributed among, or for other rights in relation to shares in the company to be conferred on, members of the society.

(4) Where—

- (a) a special resolution of a society contains the particulars required by the Companies Act 2014 to be contained in—
 - (i) the memorandum of association of a company; or
 - (ii) the articles of association of a company; and
- (b) a copy of the resolution has been registered by the Registrar,

a copy of that resolution under the seal and stamp of the Registrar shall have the same effect as a memorandum of association or, as the case may be, as articles of association, which have been duly signed under the Companies Act 2014.

(5) On the registration of a registered society as a company the registration of the society under this Act shall be cancelled by the Registrar.

(6) Where a registered society converts into a company the terms approved by the society and confirmed by the Registrar shall, in so far as they provide for the conferral of rights on members or officers of the society, be enforceable as if they had been the subject of an agreement between the society and those members and officers.

(7) Registration of a registered society as a company shall not affect any right or claim subsisting against the society or any penalty incurred by the society; and for the purpose of enforcing any such right, claim or penalty, the society may be sued and proceeded against in the same manner as if it had not become registered as a company.

(8) The Minister responsible for financial services may make rules providing for the regulation of the conversion of registered societies into companies; and such rules may, in particular make provision—

- (a) for and in connection with the transition from regulation by and under this Act to regulation by and under any other enactments on a society's ceasing to be registered under this Act; and
- (b) for the treatment, in the hands of the company into which a registered society has converted, of the property, rights and liabilities of the society immediately before its conversion and for the modification of any enactment in its application to any such property, rights and liabilities.

(9) Schedule 5 to this Act has effect for supplementing this section.

(10) This section shall not apply to a registered society whose activities (or any of them) constitute the carrying on of insurance business.

Compensation for loss of office.

67E.(1) Subject to subsection (3) below, the terms of—

- (a) a transfer of engagements of a registered society under section 67A above; or
- (b) a conversion under section 67D above,

may include provision for compensation for loss of office or diminution of emoluments attributable to the transfer or conversion to be paid by a participating society to or in respect of any of the persons mentioned in subsection (2) below.

(2) Those persons are—

- (a) the officers of the society which is to pay the compensation; and

- (b) in the case of a transfer, the officers of the company participating in the transfer.
- (3) Any such provision as is mentioned in subsection (1) above must be approved by the society which is to pay the compensation by a special resolution separate from any resolution approving the other terms of the transfer or conversion.
- (4) If compensation which has not been authorised in accordance with subsection (3) above is received by an officer, it shall be repaid.
- (5) In this section—
- (i) “compensation” includes the provision of benefits in kind; and
 - (ii) “participating society” in relation to a transfer means the registered society participating in the transfer and, in relation to the conversion of a registered society, that society.

PART 10

Dissolution of Societies.

Dissolution of societies.

*(1875 c.60,
s. 25(1), (2)
and (3))*

68.(1) A registered society may terminate or be dissolved in any of the following ways—

- (a) upon the happening of any event declared by the rules to be the termination of the society;
 - (aa) in accordance with section 67A(4)(b) or 67C(8)(b);
 - (b) as respects all societies other than friendly societies, by the consent of three-fourths of the members, testified by their signatures to the instrument of dissolution;
 - (c) as respects friendly societies by the consent of five-sixths in value of the members (including honorary members, if any), testified by their signatures to the instrument of dissolution, and also by the written consent of every person for the time being receiving or entitled to receive any relief, annuity or other benefit from the funds of the society, unless the claim of such person be first duly satisfied, or adequate provision made for satisfying such claim;
 - (d) by the award of the Registrar in the cases herein specified.
- (2) The instrument of dissolution shall set forth—
- (a) the liabilities and assets of the society in detail; and

- (b) the number of members and the nature of their interests in the society respectively; and
- (c) the claims of creditors, if any, and the provision to be made for their payment; and
- (d) the intended appropriation or division of the funds and property of the society, unless the same be stated in the instrument of dissolution to be left to the award of the Registrar.

(3) Alterations in the instrument of dissolution may be made with the like consents as hereinbefore provided, testified in the same manner.

Registration of dissolution.

69.(1) A statutory declaration shall be made by one of the trustees, or by three members and the secretary of the registered society, that the provisions of this Act relating to the dissolution have been complied with, and shall be sent to the Registrar with the instrument of dissolution; and a person who knowingly makes a false or fraudulent declaration in the matter is guilty of an offence. *(1875 c.60, s. 25(4) and (5))*

(2) The instrument of dissolution and all alterations therein shall be registered in manner herein provided for the registry of rules, and shall be binding upon all the members of the society.

Gazette notice of dissolution.

70. The Registrar shall cause a notice of the dissolution to be advertised at the expense of the society in the manner provided by this Act for advertising an award of the Registrar for dissolution; and unless within three months from the date of the Gazette in which such advertisement shall be inserted, a member or other person interested in or having any claim on the funds of the society commences proceedings to set aside the dissolution of the society, and such dissolution is set aside accordingly, the society shall be legally dissolved from the date of such advertisement, and the requisite consents to the instrument of dissolution shall be considered to have been duly obtained without proof of the signatures thereto. *(1875 c.60, s.25(6))*

Special provisions regarding dissolution of friendly societies.

71. As respects the dissolution of friendly societies— *(1875 c.60, s. 25(7))*

- (a) the value of members shall be ascertained by giving one vote to every member, and an additional vote for every five years that he has been a member, but to no one member more than five votes in the whole;
- (b) no instrument of dissolution shall direct or contain any provision for a division or appropriation of the funds of the society, or any part thereof, otherwise than for the purpose of carrying into effect the objects of the society as declared in the rules thereof for the time being, unless the claim of every member or person claiming

any relief, annuity or other benefit from the funds thereof be first duly satisfied, or adequate provision be made for satisfying such claim;

- (c) an officer or person who aids or abets in the dissolution of a society, otherwise than as in this Act provided, is guilty of an offence and is liable, on summary conviction, either to such penalty as is imposed by section 97(2) for an offence against this Act, or to imprisonment for three months;
- (d) if any member of a dissolved society, or person claiming any relief, annuity or other benefit from the funds thereof, be dissatisfied with the provision made for satisfying his claim, such member or other person may apply to the Court of First Instance* for relief or other order, and such court shall have the same powers in the matter as in regard to the settlement of disputes under this Act.

Dissolution under section 67A(4)(b) and 67C(8)(b).

71A. Sections 69, 70 and 71 shall not apply in the case of a dissolution of a registered society under section 67A(4)(b) or section 67C(8)(b).

Investigation of affairs of society with a view to dissolution.

*(1875 c.60,
s. 25(8)(a))*

72. Upon the application of one-fifth of the whole number of members of any registered society, made in writing under their hands, setting forth that the funds of the society are insufficient to meet the existing claims thereon, or that the rates of contribution fixed in the rules of such society are insufficient to cover the benefits assured, and the grounds upon which such insufficiency is alleged, and requesting an investigation into the affairs of such society with a view to the dissolution thereof, the Registrar may himself, or by an actuary or public auditor whom the Registrar may appoint in writing under his hand, investigate the affairs of the society, giving nevertheless not less than two months' previous notice in writing to the society whose affairs are to be investigated at the registered office of such society.

Registrar may award that society be dissolved.

*(1875 c.60,
s.25(8)(b))*

73. If upon such investigation it appears that the funds of the society are insufficient to meet the existing claims thereon, or that the rates of contribution fixed in the rules of the society are insufficient to cover the benefits assured to be given by the same, the Registrar may, if he considers it expedient so to do, award that the society be dissolved, and its affairs wound up, and shall direct in what manner the assets of the society shall be divided or appropriated:

Provided always, that the Registrar may suspend his award for such period as he may deem necessary to enable the society to make such alterations and adjustment of contributions and benefits as will in his judgment prevent the necessity of such award of dissolution being made.

* *Court of first Instance Act repealed by the Administration of Justice Act 2004 (2004-11) s.3 as from 1.9.2004. All references to the Court of First Instance shall be read as if it were a reference to the Supreme Court (see Act 2004-11 s.7).*

Powers of Registrar.

74. The Registrar proceeding under sections 72 and 73 shall have all the same powers and authorities enforceable by the same penalties, as in the case of a dispute referred to him under this Act. (1875 c.60, s. 25(8)(e))

Award final.

75. Every award whether for dissolution or distribution of funds shall be final and conclusive on the society in respect of which the same is made, and on all members of the same, and other persons having any claim on the funds of the society, without appeal, and shall be enforced in the same manner as a decision on a dispute under this Act; and the expenses of every investigation and award, and of publishing every notice of dissolution, shall be paid out of the funds of the society before any other appropriation thereof shall be made. (1875 c.60, s.25(8)(d))

Publication of award.

76. Notice of every award for dissolution shall, within twenty-one days after the same shall have been made, be advertised by the Registrar in the Gaze0tte, and unless, within three months from the date of the insertion of such advertisement, a member or other person interested in or having any claim on the funds of the society commences proceedings to set aside the dissolution of the society, consequent upon such award, and such dissolution is set aside accordingly, the society shall be legally dissolved from the date of such advertisement, and the requisite consents to the application to the Registrar shall be considered to have been duly obtained without proof of the signatures thereto. (1875 c.60, s.25(8)(e))

Notice to Registrar of proceedings to set award aside.

77. Notice shall be sent to the Registrar of any proceeding to set aside an award for dissolution of a society not less than seven days before it is commenced, by the person taking such proceeding, and of any order setting a dissolution aside, by the society, within seven days after such order is made.

PART 11*Benefits.***Limitation of benefits.**

78. No member of a registered friendly society, nor any person claiming through a member, shall be entitled to receive more than £500, by way of gross sum, together with any bonuses or additions declared upon assurances not exceeding that amount, or £104 a year by way of annuity, from any one or more such societies; and any such society may require a member, or person claiming through a member, to make and sign a statutory declaration that the total amount to which such member or person is entitled from one or more such societies does not (1875 c.60, s.27)

exceed the sums aforesaid; and a person who knowingly makes a false or fraudulent declaration in the matter is guilty of an offence.

PART 12

Payments on Death of Young Children.

Limitation of payments on death of children.

(1875 c. 60, s. 28(1)) 79. No society shall insure or pay on the death of a child under five years of age any sum of money which, added to any amount payable on the death of such child by any other society, exceeds £6, or on the death of a child under ten years of age any sum of money which, added to any amount payable on the death of such child by any other society, exceeds £10.

Who may receive payments.

(1875 c. 60, s. 28(2)) 80. No society shall pay any sum on the death of a child under ten years of age except to the parent of such child, or to the personal representative of such parent, and upon the production by such parent or his personal representative of a certificate of death issued by the Registrar of Births and Deaths, or other person for the time being having the care of the register of deaths, containing the particulars hereinafter mentioned.

Particulars of certificates.

(1875 c. 60, s. 28(3)) 81. Whenever a certificate of the death of a child under ten years of age is applied for for the purpose of obtaining a sum of money from a society, the name of such society and the sum sought to be obtained therefrom shall be stated to the Registrar of Births and Deaths, who shall write on or at the foot of such certificate the words “to be produced to the society (naming the same) said to be liable for payment of the sum of ” (stating the same), and all certificates of the same death shall be numbered in consecutive order, and the sum charged by the Registrar of Births and Deaths for each such certificate shall be the same as is payable under the Births and Deaths Registration Act.

When Registrar of Births and Deaths to give certificates.

(1875 c. 60, s. 28(4)) 82. The Registrar of Births and Deaths shall not give any one or more certificates of death for the payment in the whole of any sum of money exceeding £6 on the death of a child under five years, or for the payment in the whole of a sum exceeding £10 on the death of a child under ten years; and no such certificate shall be granted unless the cause of death has been previously entered into the register of deaths on the certificate of the Coroner or of a registered medical practitioner who attended such deceased child during its last illness, or except upon the production of a certificate of the probable cause of death under the hand of a registered medical practitioner, or of other satisfactory evidence of the same.

Inquiry by societies.

83. Any society to which is produced a certificate of the death of a child which does not purport to be the first, shall, before paying any money, thereon, be bound to inquire whether any and what sums of money have been paid on the same death by any other society. *(1875 c.60, s. 28(5))*

Offences.

84. It is an offence against this Act— *(1875 c. 60, s. 28(6))*

- (a) if any society pays money on the death of a child under ten years of age otherwise than is provided by this Act;
- (b) if any parent or personal representative of a parent claiming money on the death of a child under ten years of age produces any certificate of such death other than is herein provided to the society or societies from which the money is claimed, or produces a false certificate, or one fraudulently obtained, or in any way attempts to defeat the provisions of this Act with respect to payments upon the death of children.

PART 13

Regulation of Affairs of Societies.

Contributions to other societies.

85. Nothing in this Act contained shall prevent any registered society from contributing to the funds or taking part by delegates or otherwise in the government of any other registered society.

Copies of rules and policies.

86. Every friendly society shall deliver to every person, on his becoming a member of or insuring with a society, a copy of the rules of the society, together with a printed policy signed by two of the committee or managers of the society and by the secretary; in the case of a family enrolled in one book or card, one copy of the rules and one family policy shall be sufficient. *(1875 c.60, s. 20(1))*

Notice before forfeiture.

87. No forfeiture is incurred by any member of or person insured with a friendly society by reason of any default in paying any contribution, until after a written or printed notice has been delivered or sent by post prepaid to him, or left at his last known place of abode, by or on behalf of the society, stating the amount due by him, and apprising him that in case of default of payment by him within a reasonable time, not being less than fourteen days and at a place to be specified in such notice, his interest or benefit will be forfeited, and after default has been made by him in paying his contribution in accordance with such notice. *(1875 c.60, s.30(2))*

No transfers without written consent.

(1875 c.60,
s.30(3))

88.(1) No member of or person insured with any friendly society can, unless in the case of an amalgamation or transfer of engagements, become or be made a member of or be insured with any other society without his written consent, or, in the case of a minor, without that of his father or other guardian; and the society to which such member or person is sought to be transferred shall within seven days from his application for admission to the same give notice thereof in writing to the society from which he is sought to be transferred.

(2) The provisions of this section shall apply to all friendly societies, whether registered under this Act, or unregistered.

Restriction on collectors.

(1875 c.60,
s.30(4) and
(5))

89. No collector, whilst he is such, is capable of being a member of the committee of management, or other governing body (by whatever name) of a friendly society, or of holding any other office in the society nor is he capable of voting at or taking part in the proceedings of any meeting of the society.

General meeting.

(1875 c.60,
s.30(6) and
(7))

90. At least one general meeting of a friendly society shall be held in every year and except where the day, hour and place of an annual or other periodical meeting is fixed by the rules, notice of every general meeting shall be given by the society to the members by advertisement to be published at least twice in two or more of the newspapers in general circulation in Gibraltar, or shall be delivered in writing or sent by post prepaid to every member. Such notice shall specify the day, hour and place, and the objects of the meeting, and in case any amendment of a rule is intended to be proposed shall contain a copy of every such amendment; and the society shall publish the last of such advertisements, or deliver or send such notice, at least fourteen days before the day appointed for such meeting, and shall during such fourteen days keep affixed a copy of such notice in legible characters in some conspicuous place in or outside the office at which the business of the society is carried on.

Balance sheet.

(1875 c.60,
s.30(8))

91. A copy of every balance sheet of a friendly society shall, during the seven days next preceding the meeting at which the same is to be presented, be kept open by the society for inspection at the office at which the business of the society is carried on, and shall be delivered or sent prepaid to every member on demand.

Certification of annual returns.

(1875 c.60,
s.30(9))

92. The annual returns of a friendly society shall be certified by some competent accountant not an officer of the society (otherwise than as auditor thereof), and if not so certified shall be deemed not to have been made.

Disputes.

93. In all disputes between a friendly society and any member or person insured, or any person claiming through a member or person insured, or under the rules, such member or person may, notwithstanding any provisions of the rules of such society to the contrary, apply to the Court of First Instance*, and such court may settle such dispute in manner herein provided. (1875 c.60, s. 30 (10))

Service by post.

94. In proving service of any notice authorized to be sent by post, it is sufficient to prove that such notice was properly directed, and was put, as a prepaid letter, into the post office in such time as to admit of its being delivered in due course of delivery within the period, if any, prescribed for sending the same. (1875 c.60, s. 30(11))

Offences.

95. It is an offence against this Act— (1875 c.60 s. 30 (12))

- (a) if any collector of a society to which sections 86 to 94 (both inclusive) apply becomes a member of the committee, or holds any other office in the same (except as aforesaid), or if any member of the committee of management becomes a collector, or if any collector votes at or takes part in the proceedings of a general meeting;
- (b) if any person attempts to transfer a member or person insured from one society to another without such written consent as herein mentioned;
- (c) if a registered society to which a member or person is sought to be transferred fails to give such notice as hereinbefore required.

Application of sections 86 to 95.

96. All the provisions of sections 86 to 95 (both inclusive) apply to friendly societies existing at the commencement of this Act, and shall be contained in the rules of all future societies and any act or omission which by virtue of those and any other sections of this Act would be an offence on the part of a registered society shall be an offence on the part of any other society to which this Act applies, and of any officer of such society bound to fulfil the duty, if any, whereof such offence is a breach. (1875 c. 60, s. 30(13))

PART 14

Penalties and Appeals, etc.

Penalties.

* *Court of first Instance Act repealed by the Administration of Justice Act 2004 (2004-11) s.3 as from 1.9.2004. All references to the Court of First Instance shall be read as if it were a reference to the Supreme Court (see Act 2004-11 s.7).*

(1875 c.60
s. s. 32)

97.(1) A person who wilfully makes, orders or allows to be made any entry, erasure in, or omission from any balance sheet of a registered society, or any contribution or collecting book, or any return or document required to be sent, produced or delivered for the purposes of this Act, with intent to falsify the same, or to evade any of the provisions of this Act, is guilty of an offence and is liable to a fine of £50, recoverable at the suit of the Registrar or of any person aggrieved.

(2) Every society, officer or member of a society, or other person guilty of an offence against this Act, for which no penalty is expressly provided herein is liable to a penalty of not less than £1 and not more than £5, recoverable at the suit of the Registrar or of any person aggrieved.

(3) All penalties imposed by this Act or to be imposed by any rules under the same, or by the rules of a registered society, are recoverable in the magistrates' court.

Appeal.

98. Any party may appeal to the Supreme Court from any order or conviction made by the magistrates' court on determining any complaint or information under this Act.

Rules.

99. The Minister responsible for financial services may make rules respecting registry and procedure under this Act, and the seal and forms to be used for such registry, and the duties and functions of the Registrar, and generally for carrying this Act into effect and until otherwise provided, the forms contained in Schedule 3 shall be used.

PART 15

Confidentiality and cooperation

Use of confidential information.

100.(1) The Registrar may disclose confidential information only to the extent that doing so appears to the Registrar to be necessary—

- (a) for the purpose of facilitating the carrying out of a function conferred on him by or under this Act or any other enactment;
- (b) for the purpose of facilitating the carrying out of a similar function by a foreign registrar;
- (c) for the prevention or detection of crime or the prosecution of offenders;
- (d) for the purpose of assisting a domestic authority in carrying out its functions;

- (e) with the consent of the Minister responsible for financial services, for the purpose of assisting a foreign authority in carrying out its functions;
- (f) in connection with the discharge of any international obligation to which Gibraltar is subject.

(2) The restriction imposed by subsection (1) also applies to the disclosure of any confidential information by—

- (a) any person who is or has been—
 - (i) employed by the Registrar; or
 - (ii) engaged to provide services to the Registrar; or
- (b) any auditor, actuary or expert who is or has been instructed by the Registrar; or
- (c) any Assistant Registrar of Friendly Societies.

(3) Subsections (1) and (2) do not prevent confidential information from being disclosed—

- (a) with the consent of the person to whom it relates;
- (b) in summary or aggregate form, from which information relating to any particular person cannot be ascertained;
- (c) for the purpose of any proceedings under this Part;
- (d) by direction of the Supreme Court; or
- (e) if it is a matter of public knowledge and was made available to the public in circumstances or for purposes which are not precluded by this Act.

Cooperation agreements.

101. The Registrar may conclude cooperation agreements with domestic authorities and foreign registrars, establishing procedures for the exchange of information in accordance with this Part.

Cooperation with other authorities.

102.(1) Subject to section 100, the Registrar may assist, exchange information or cooperate with—

- (a) a domestic authority;
- (b) a foreign registrar; or

(c) with the consent of the Minister, a foreign authority,

for the purposes of any investigation being undertaken by the Registrar in execution of its functions under this Act or similar activity being undertaken by the domestic or foreign authority or the foreign registrar.

(2) The Registrar, when it provides information to an authority or registrar under subsection (1), may require it–

(a) to use the information only for the purposes for which the Registrar has provided it; and

(b) not to disclose the information without the Registrar’s express agreement.

(3) The Registrar–

(a) must not disclose information which it has received under subsection (1) to any other person without the express agreement of the authority or registrar that provided it; and

(b) must use the information only for the purposes for which it was provided, other than in justified circumstances (of which it must immediately inform the disclosing authority or registrar).

(4) Where the Registrar reasonably suspects that this Act or any provision made under it has been contravened by a person who is not subject to supervision by the Registrar under this Act, but is subject to supervision by a foreign registrar, the Registrar must inform the foreign registrar without delay, in as specific a manner as possible.

(5) Where a foreign registrar informs the Registrar of a suspected contravention of this Act or any provision made under it, the Registrar must take appropriate action and inform the foreign registrar of the outcome of the action, including (to the extent possible) any significant interim developments.

(6) The Registrar may cooperate with a domestic authority, foreign registrar or foreign authority under this section even in cases where the conduct under investigation would not constitute a contravention of this Act or any provision made under it.

Refusing to share information.

103. The Registrar may refuse to exchange information under section 102 if it is not satisfied that the person or body requesting the information is subject to confidentiality provisions which are at least equivalent to those in section 100.

Providing assistance to other registrars.

104.(1) At the request of a foreign registrar who is responsible for supervising or regulating a relevant person or any part of a group to which a relevant person belongs, the Registrar, for the purpose of assisting the foreign registrar to discharge a relevant function, may—

- (a) exercise its powers under this Part; or
- (b) with the prior written consent of the Minister responsible for financial services, arrange for those powers to be exercised by—
 - (i) a person authorised by the Registrar for that purpose; or
 - (ii) subject to any conditions the Registrar considers appropriate, a person acting on behalf of the requesting foreign registrar.

(2) For the purposes of subsection (1), a “relevant function” means a function of the requesting foreign registrar which is similar to a function of the Registrar.

Refusing to provide assistance.

105.(1) The Registrar may refuse to act on a request for assistance from a foreign registrar—

- (a) where the request is not made in accordance with any cooperation agreement or similar arrangement between the Registrar and the requesting foreign registrar;
- (b) where, in Gibraltar, in respect of the same person and the same action proceedings have been initiated or a criminal penalty has been imposed; or
- (c) on grounds of public interest or essential national interest.

(2) Where the Registrar refuses to provide the assistance requested or is unable to do so, it must inform the requesting foreign registrar and provide it with the reasons for the decision.

(3) For the purpose of subsection (1)(c) it is for the Minister responsible for financial services to determine the public interest or essential national interest, and the Registrar must refuse to act on a request for assistance from a foreign registrar when the Minister so determines.

PART 16

Information gathering and investigatory powers

Power to require documents and information.

106.(1) The Registrar may by notice require a relevant person—

- (a) to provide the Registrar with specified information or information of a specified description;

- (b) to produce to the Registrar specified documents or documents of a specified description; or
 - (c) to attend before the Registrar, at a specified time and place, to—
 - (i) answer questions appearing to the Registrar to be relevant in connection with the exercise of his functions; and
 - (ii) provide any information that the Registrar may require.
- (2) Subsection (1) only applies to information and documents that the Registrar reasonably requires in connection with the exercise of functions conferred on him by or under this Act.
- (3) A notice under subsection (1)(a) or (b) may require—
- (a) a relevant person to provide information or produce documents—
 - (i) before the end of a specified period;
 - (ii) at specified intervals; or
 - (iii) at a specified time or place;
 - (b) any information which a relevant person is required to provide to be verified in a specified manner; or
 - (c) any document which a relevant person is required to produce to be authenticated in a specified manner.
- (4) In this section “specified” means specified in a notice given under subsection (1).
- (5) Where any information or document is not recorded in legible form, a requirement to provide or produce it includes the requirement to supply a copy of it in legible form.
- (6) The Registrar may—
- (a) take copies of or extracts from any document produced;
 - (b) require the person who has provided information or produced a document to provide an explanation of that information or document; and
 - (c) require a person to state, to the best of the person’s knowledge and belief, where any information or document might be found.

(7) The Registrar may require any person who appears to the Registrar to be in possession of any information or document specified in a notice under subsection (1) to provide that information or produce that document.

(8) In respect of a person who is a barrister or solicitor acting in their professional capacity—

- (a) this section applies subject to section 110(2); and
- (b) nothing in this section requires a barrister or solicitor to disclose any information or document which is subject to legal professional privilege.

(9) The powers of the Registrar under this section are independent of and without prejudice to his powers under section 19.

Power to carry out on-site inspection.

107.(1) The Registrar may carry out on-site inspections of any premises of a relevant person (other than a dwelling) in connection with the exercise of functions conferred on the Registrar by or under this Act.

(2) The power in subsection (1) may be exercised by the Registrar, at reasonable times and on reasonable notice, with the consent of the relevant person and, in the case of the business premises of a barrister or solicitor, only in accordance with a court order under section 110(2).

(3) In conducting an on-site inspection (and subject to the terms of any order under section 110(2)), the Registrar may—

- (a) inspect any part of the premises;
- (b) question any person on the premises; and
- (c) require access to and a copy of any document or information which is kept on the premises.

(4) Nothing in this section requires a barrister or solicitor to disclose any information or document which is subject to legal professional privilege.

(5) The powers of the Registrar under this section are independent of and without prejudice to his powers under section 19.

Entry of premises under warrant.

108.(1) A magistrate may issue a warrant under this section if the magistrate is satisfied, on information on oath, that there are reasonable grounds for believing that the first, second or third set of conditions is satisfied.

- (2) The first set of conditions is—
- (a) that a person on whom an information requirement has been imposed has failed (wholly or in part) to comply with it; and
 - (b) that on the premises specified in the warrant—
 - (i) there are documents which have been required; or
 - (ii) there is information which has been required.
- (3) The second set of conditions is—
- (a) that the premises specified in the warrant are premises of a relevant person;
 - (b) that there are on the premises documents or information in relation to which an information requirement could be imposed; and
 - (c) that if an information requirement was imposed—
 - (i) it would not be complied with; or
 - (ii) the documents or information would be removed, tampered with or destroyed.
- (4) The third set of conditions is—
- (a) that a relevant offence has been (or is being) committed by any person;
 - (b) that there are on the premises specified in the warrant documents or information relevant to whether that offence has been (or is being) committed;
 - (c) that an information requirement could be imposed in relation to those documents or information; and
 - (d) that if an information requirement was imposed—
 - (i) it would not be complied with; or
 - (ii) the documents or information would be removed, tampered with or destroyed.
- (5) An application for a warrant under this section may be made by a constable or the Registrar.
- (6) A warrant under this section—

- (a) authorises any constable–
 - (i) to enter the premises specified in the warrant;
 - (ii) to search the premises and take possession of any documents or information appearing to be documents or information of a kind in respect of which the warrant was issued (“the relevant kind”) or take any other steps which may appear to be necessary for preserving or preventing interference with any documents or information appearing to be of the relevant kind;
 - (iii) to take copies of, or extracts from, any documents or information appearing to be of the relevant kind;
 - (iv) to require any person on the premises to provide an explanation of any document or information appearing to be of the relevant kind or to state where it may be found; and
 - (v) to use any force that may be reasonably necessary; and
- (b) may authorise a person acting under the authority of the Registrar–
 - (i) to accompany any constable who is executing the warrant; and
 - (ii) to exercise any powers under subsection (a) in the company and under the supervision of a constable.

(7) In this section–

“information requirement” means any requirement imposed by the Registrar under section 106; and

“relevant offence” means–

- (a) an offence under Part III of the Proceeds of Crime Act 2015 (money laundering offences); or
- (b) an offence under Part 4 of the Terrorism Act 2018 (terrorism financing offences).

(8) A person who wilfully obstructs another person in the exercise of any power under subsection (6) commits an offence and is liable on summary conviction to imprisonment for 12 months or to the statutory maximum fine, or both.

(9) A warrant under subsection (1) may only be issued in respect of the business premises of a barrister or solicitor if the Supreme Court has made an order under section 110(2).

Self-incrimination.

109. A statement made by a person in compliance with any requirement imposed under this Part may be used in evidence in criminal proceedings against that person only if–

- (a) the person has introduced the statement in evidence; or
- (b) the proceedings concern the prosecution of the person for–
 - (i) failing or refusing to provide information, produce documents or give assistance in accordance with this Part;
 - (ii) omitting to disclose information which should have been disclosed; or
 - (iii) providing an untruthful statement.

Legal privilege.

110.(1) A person is not required to produce a document or disclose information under this Act if the person would be entitled to refuse to produce or disclose it on grounds of legal privilege in proceedings in the Supreme Court.

(2) In respect of a person who is a barrister or solicitor acting in their professional capacity–

- (a) the Registrar may only–
 - (i) issue a notice to the person under 106(1); or
 - (ii) inspect the person’s premises under section 107,

in accordance with the terms of an order of the Supreme Court authorising the Registrar or inspector to do so.

(3) An application for an order under subsection (2) must be made by the Registrar and a copy of the application notice must be served on the solicitor or barrister concerned.

Liens on documents.

111. The production of a document under this Act does not affect any lien which a person may have in respect of the document and the existence of such a lien is not a valid reason for refusing to produce that document.

Appeals.

112.(1) A person aggrieved by any of the decisions specified in subsection (2) may appeal to the Supreme Court.

(2) For the purposes of subsection (1) the specified decisions are–

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- (a) a decision by the Registrar under section 106(1)(a) or (b) to require a person to provide specified information or information of a specified description, or produce specified documents or documents of a specified description; or
 - (b) a decision by the Registrar under section 106(1)(c) to require a person, other than the persons specified in subsection (3), to attend before the Registrar to answer questions or provide information.
- (3) For the purposes of subsection (2)(b) the specified persons are–
- (a) a society registered under this Act or applying to be registered under this Act;
 - (b) any officer of a society falling within paragraph (a);
 - (c) any person who is or at any time was directly or indirectly employed (whether or not under a contract of service) by a society falling within paragraph (a) or a person falling within paragraph (b).
- (4) An appeal must be made within 28 days of the date on which the notice is served on the recipient by the Registrar, pursuant to section 106.
- (5) The court may allow an appeal to be made outside the time set out in subsection (4) in exceptional circumstances, if the court considers that it would be unjust not to do so.
- (6) The court may–
- (a) dismiss the appeal;
 - (b) allow the appeal and quash the decision appealed against; or
 - (c) remit the matter to the Registrar for further consideration, in accordance with any directions of the court.
- (7) The court may make any order as to the costs of an appeal as it considers appropriate.

Offences

113.(1) A person (“P”) commits an offence if–

- (a) P, without reasonable excuse–
 - (i) fails or refuses to comply with a requirement imposed under this Part; or
 - (ii) omits to disclose material which P should have disclosed in accordance with this Part;

- (b) P, in purported compliance with a requirement imposed under this Part—
 - (i) gives information or makes a statement which P knows to be false or misleading; or
 - (ii) recklessly gives information or makes a statement which is false or misleading; or
 - (c) P knows or suspects that an investigation under this Part is being or is likely to be conducted and—
 - (i) P falsifies, conceals, destroys or otherwise disposes of a document which P knows or suspects is or would be relevant to such an investigation; or
 - (ii) P causes or permits the falsification, concealment, destruction or disposal of such a document.
- (2) P does not commit an offence under subsection (1)(a) if the reason for P's failure or refusal to comply with a requirement or to disclose material is that—
- (a) P is prevented from doing so by an order of the court under this Part; or
 - (b) P's obligation to do so is the subject of an appeal or other legal challenge before the courts.
- (3) In any proceedings for an offence under subsection (1)(c), it is a defence for P to prove that P had no intention of concealing from the person conducting the investigation facts disclosed by the documents.
- (4) A person who commits an offence under subsection (1) is liable—
- (a) on summary conviction, to imprisonment for six months, to the statutory maximum fine, or both;
 - (b) on conviction on indictment, to imprisonment for two years or a fine, or both.

SCHEDULE 1

Section 8

MATTERS TO BE PROVIDED FOR BY THE RULES OF SOCIETIES REGISTERED UNDER THIS ACT.

1. The name and place of office of the society.
2. The whole of the objects for which the society is to be established, the purposes for which the funds thereof shall be applicable, the terms of admission of members, the conditions under which any member may become entitled to any benefit assured thereby, and the fines and forfeitures to be imposed on any member.
3. The mode of holding meetings and right of voting, and the manner of making, altering or rescinding rules.
4. The appointment and removal of a committee of management (by whatever name), of a treasurer and other officers, and of trustees.
5. The investment of the funds, the keeping of accounts, and the audit of the same once a year at least.
6. Annual returns to the Registrar of the receipts, funds, effects and expenditure, and number of members of the society.
7. The inspection of the books of the society by every person having an interest in the funds of the society.
8. The manner in which disputes between the society and any of its members, or any person claiming through a member or under the rules, shall be settled.
9. In case of dividing societies, a provision for meeting all claims upon the society existing at the time of division before any such division takes place.
10. Also in the case of friendly societies—
 - (a) the keeping of separate accounts of all moneys received or paid on account of every particular fund or benefit assured for which a separate table of contributions payable shall have been adopted, and the keeping of a separate account of the expenses of management, and of all contributions on account thereof;
 - (b) returns every five years to the Registrar of the sickness and mortality of the society;
 - (c) a valuation once at least every five years of the assets and liabilities of the society, including the estimated risks and contributions;

- (d) the voluntary dissolution of the society by consent of not less than five-sixths in value of the members, and of every person for the time being entitled to any benefit from the funds of the society, unless his claim be first satisfied or adequately provided for;
- (e) the right of one-fifth of the total number of members, to apply to the Registrar for an investigation of the affairs of the society, or for winding up the same.

SCHEDULE 1A

Section 4

THE REDUCTION OF FINANCIAL CRIME

The Registrar should use his best endeavours to reduce the scope for an activity to be carried on by a society for a purpose connected with financial crime, in particular by–

- (a) developing policies to promote accountability, integrity, and public confidence in the administration and management of societies;
- (b) encouraging outreach and educational programmes to raise and deepen awareness among societies as well as the donor community about the potential vulnerabilities of societies to financial crime, including terrorist financing abuse and terrorist financing risks, and the measures that societies can take to protect themselves against such abuse;
- (c) encouraging societies to develop and refine best practices to address the potential vulnerabilities of societies to financial crime, including terrorist financing risk and vulnerabilities and thus protect them from abuse; and
- (d) encouraging societies to conduct transactions via regulated financial channels, wherever feasible.

SCHEDULE 2.

FORM OF BOND.

Know all men by these presents, that we A. B., of
 one of the officers of the _____ society established at
 _____ and C.D., of _____ (as surety on behalf of the said A.B.), are jointly and
 severally held and firmly bounden to E. F. of _____ G.H. of _____ and I. J.
 of _____ the trustees of the said society in the sum of _____ to
 be paid to the said E. F., G. H., and I.J., as such trustees, or their successors, trustees for the
 time being, or their certain attorney; for which payment well and truly to be made we jointly
 and severally bind ourselves, and each of us by himself, our and each of our heirs, executors
 and administrators, firmly by these presents.

Sealed with our seals. Dated at Gibraltar the day of _____ 20 _____ .

Whereas the above bounden A. B. has been duly appointed to the office of _____ of the
 _____ society, established as aforesaid, and he, together with the above bounden C.D., as his
 surety, have entered into the above written bond, subject to the condition hereinafter contained
 : Now therefore the condition of the above written bond is such, that if the said A.B. do render
 a just and true account of all moneys received and paid by him on account of the said society,
 at such times as the rules thereof appoint, and do pay over all the moneys remaining in his
 hands, and assign and transfer or deliver all property (including books and papers) belonging
 to the said society in his hands or custody to such person or persons as the said society or the
 trustees or committee of management thereof shall appoint, according to the rules of the said
 society, together with the proper and legal receipts or vouchers for such payments, then the
 above written bond shall be void otherwise shall remain in full force.

Sealed and delivered in the presence of—

(two witnesses).

FORM OF RECEIPT TO BE ENDORSED ON MORTGAGE
 OR FURTHER CHARGE.

The trustees of the _____ society hereby acknowledge to have received all
 moneys intended to be secured by the within (or above) written deed.

Signed)

[Signature of trustees]
 Trustees.

Countersigned

[Signature of secretary]
 Secretary.

SCHEDULE 3.

Section 99

ACKNOWLEDGE OF REGISTRY OF SOCIETY.

The _____ society is registered as a friendly society (or benevolent society, working men's club, or specially authorized society as the case may be) under the Friendly Societies Act, this _____ day of _____ 20 .

(Signed) _____ [Signature of Registrar]
Registrar of Friendly Societies.

ACKNOWLEDGEMENT OF REGISTRY OF AMENDMENT
OF RULES.

The foregoing amendment of the rules of the _____ society is registered under the Friendly Societies Act, this _____ day of _____ 20.

(Signed) _____ [Signature of Registrar]
Registrar of Friendly Societies.

SCHEDULE 4.

Section 36(2)

RULES FOR VALUING POLICIES.

1. The value of the Policy is to be the difference between the present value of the reversion in the sum assured according to the contingency upon which it is payable, including any bonus added thereto, and the present value of the future net premiums.
2. The net premium is to be such premium as according to the assumed rate of interest and rate of mortality and the age of the person whose life is assured at his birthday next following the date of the policy is sufficient to provide for the risk incurred by the company or society in issuing the policy, exclusive of any addition thereto for office expenses and other charges:

Provided that—

- (a) in the case of a policy other than a policy for the whole term of life issued before the person whose life is assured attained the age of ten years, the date of the policy may be assumed to be one year after the actual date and, if it so assumed the term of the policy may be assumed to be one year less than the actual term;
- (b) in the case of a policy for the whole term of life issued before the person whose life is assured attained the age of ten years, no account shall be taken of any period for which the policy was in force before the anniversary of the date of the issue of the policy next preceding the date on which the age of eleven years was attained;
- (c) in the case of a substituted policy, the net premium shall be calculated with reference to such sum as according to the practice of the society or company for the time being would have been assured by the premiums payable if the person upon whose life the substituted policy is issued had not been assured with the society or company before the issue of that policy.

RULE FOR ASCERTAINING THE AMOUNT OF A FREE PAID-UP POLICY.

The amount of a free paid-up policy is to be a sum bearing the same proportion to seventy five per cent of the value of the policy as the sum of one pound bears to the value of the reversion in the sum of one pound according to the contingency upon which the sum assured under the original policy was payable.

GENERAL RULES APPLICABLE BOTH FOR VALUING POLICIES AND FOR ASCERTAINING THE AMOUNT OF A FREE PAID-UP POLICY.

1. Interest is to be assumed at the rate of four per cent per annum.

2. The rate of mortality is to be assumed according to the table contained in the Sixth Column of Table G in the Supplement to the Sixty-fifth Annual Report of the Registrar-General in the United Kingdom.
3. The age of the person whose life is assured shall be obtained by adding to the age attained by him at his birthday next after the date of the issue of the policy, the duration of the policy in completed years at the date as at which the value of the policy is required to be ascertained.
4. In the case of a policy issued for a term other than the whole term of life the remaining term at the date at which the value of the policy is required to be ascertained shall be obtained by deducting from the original term of the policy the duration of the policy in completed years at that date.

SCHEDULE 5

Sections 67A – 67E

TRANSFERS OF ENGAGEMENTS AND CONVERSION: SUPPLEMENTARY

PART I
PROVISION OF INFORMATION TO MEMBERS*Statements relating to conversions and transfers*

1.(1) A registered society which desires to transfer its engagements under section 67A above shall send a statement concerning the matters specified in paragraph 2 below to every member entitled (when the statements are sent) to vote on any resolution required by section 67A.

(2) The statement referred to in sub-paragraph (1) above shall be sent so as to arrive no later than 14 days (or such longer period as the rules may require for notice of any resolution required by section 67A above) before–

- (a) the meeting at which any such resolution is to be moved; or
- (b) where proxy voting is permitted, such earlier date as may be specified by the society, under its rules, as the final date for the receipt of instruments appointing proxies to vote at the meeting.

2.(1) The matters of which a statement required by paragraph 1 above is to give particulars are the following, namely–

- (a) the financial position of the society and that of the company participating in the transfer;
- (b) any interest of the members of the committee of management of the society in the transfer;
- (c) the compensation or other consideration (if any) proposed to be paid to or in respect of–
 - (i) the members of the committee of management or other officers of the society; and
 - (ii) the officers of the company participating in the transfer;
- (d) any other matter which the Registrar requires in the case of the particular transfer.

(2) No statement shall be sent unless its contents, so far as they concern the matters specified in this paragraph, have been approved by the Registrar.

3.(1) A registered society which desires to convert into a company under section 67D above shall send a statement concerning—

- (a) such matters as may be prescribed in rules made by the Minister responsible for financial services; and
- (b) such other matters as may be required by the Registrar in the case of the particular conversion;

to every member entitled (when the statements are sent) to vote on any resolution required by subsection (2) of that section.

(2) Rules under sub-paragraph (1) above may include among the prescribed matters any alternatives to a proposed conversion which may be available.

4. The statement referred to in paragraph 3 above shall be sent so as to arrive no later than 14 days (or such longer period as the rules may require for notice of any resolution required by section 67D above) before—

- (a) the meeting at which any such resolution is to be moved; or
- (b) where proxy voting is permitted, such earlier date as may be specified by the society, under its rules, as the final date for the receipt of instruments appointing proxies to vote at the meeting;

but no such statement may be sent unless its contents, so far as they concern the matters mentioned in that paragraph, have been approved by the Registrar.

PART II
CONFIRMATION BY REGISTRAR

Applications for confirmation

5.(1) An application by a registered society for confirmation by the Registrar—

- (a) of a transfer of engagements of a registered society under section 67A above; or
- (b) of the conversion of a registered society into a company under section 67D above,

shall be made in such manner as the Registrar may direct.

(2) The Registrar may, on the application or with the consent of a registered society, direct in relation to any provision of rules made for the purposes of sub-paragraph (1) above that the provisions shall not apply to the society, or shall apply to it with such modifications as may be specified in the direction.

(3) A direction under sub-paragraph (2) above may be subject to conditions.

(4) A direction under sub-paragraph (2) above may be revoked by the Registrar at any time; and the Registrar may at any time vary any such direction on the application or with the consent of the society to which it applies.

(5) Where the Registrar—

(a) makes a direction under subparagraph (2) above; or

(b) revokes or varies such a direction,

it shall cause the direction, variation or revocation to be entered on a register kept by it for the purposes of this subparagraph.

(6) The register kept for the purposes of subparagraph (5) above shall be available for inspection on reasonable notice by members of the public.

(7) The Registrar shall keep a copy of—

(a) any direction made by it under subparagraph (2) above; and

(b) any revocation or variation of any such direction.

6.(1) Where a registered society applies for confirmation of a transfer or conversion, it shall publish a notice of the application—

(a) in the Gazette; and

(b) if the Registrar so directs, in one or more newspapers.

(2) The notice shall—

(a) state that any interested party has the right to make representations to the Registrar with respect to the application;

(b) specify a date determined by the Registrar before which any written representations or notice of a person's intention to make oral representation must be received by the Registrar; and

(c) specify a date determined by the Registrar as the day on which it intends to hear any oral representations.

7. After the date specified in the notice in pursuance of paragraph 6(2)(b) above, the Registrar shall—

(a) determine the time and place at which oral representations may be made;

- (b) give notice of that determination to the registered society applying for confirmation and to any persons who have given notice of their intention to make oral representations; and
- (c) send copies of any written representations received by the Registrar to that society;

and the Registrar shall allow that society an opportunity to comment on the written representations (whether at a hearing or in writing) before the expiration of such period as the Registrar specifies in a notice to the society.

8.(1) Where an application is duly made for confirmation by the Registrar of a transfer of engagements or conversion, the Registrar shall confirm the transfer or conversion unless it is precluded from doing so by any of the following provisions of this Schedule.

(2) If it appears to the Registrar, in relation to any transfer of engagements, that there is a substantial risk that the company taking the transfer will not be able lawfully to carry out the engagements to be transferred to it under section 67A(4) above, the Registrar—

- (a) shall not confirm the transfer; and
- (b) where it has confirmed the transfer, shall withdraw its confirmation;

but it may not withdraw its confirmation on or after the transfer date for the transfer.

(3) For the purposes of sub-paragraph (2) above, the Registrar may have regard to any requirements of the law of a country or territory outside Gibraltar which appear to the Registrar to be relevant.

9.(1) Subject to sub-paragraph (3) below, the Registrar shall not confirm a transfer if it considers that—

- (a) some information material to the members' decision about the transfer was not made available to all the members eligible to vote;
- (b) the vote on any resolution approving the transfer does not represent the views of the members eligible to vote; or
- (c) some relevant requirement of this Act or the rules of any registered society participating in the transfer was not fulfilled or not fulfilled as regards that society.

(2) Subject to sub-paragraph (3) below, the Registrar shall not confirm the conversion of a society if it considers that—

- (a) some information material to the members' decision about the conversion was not made available to all the members eligible to vote;

- (b) the vote on any resolution approving the conversion does not represent the views of the members eligible to vote; or
- (c) some relevant requirement of this Act or the rules of the society was not fulfilled.

(3) The Registrar shall not be precluded from confirming a transfer or conversion by virtue only of the non-fulfilment of some relevant requirement of this Act or the rules of a registered society if it appears to the Registrar that it could not have been material to the members' decision about the transfer or conversion and the Registrar gives a direction that the failure is to be disregarded for the purposes of this paragraph.

10.(1) Where the Registrar would be precluded—

- (a) from confirming a transfer by reason of any of the defects specified in paragraph 9(1) above; or
- (b) from confirming a conversion by reason of any of the defects specified in paragraph 9(2) above,

it may give to any registered society participating in the transfer or, as the case may be, to the society proposing to convert a direction under sub-paragraph (2) below.

- (2) A direction under this sub-paragraph is a direction requiring a registered society—
 - (a) to take such steps to remedy the defect or defects, including the calling of a further meeting, as are specified in the direction; and
 - (b) to furnish the Registrar with evidence that those steps have been taken,

and if the Registrar is satisfied that the steps have been taken and the defect or defects has or have been substantially remedied, or (as the case may be) that the risk has been removed, the Registrar shall confirm the transfer or conversion.

Confirmation of transfers of engagements

11. The Registrar shall not confirm a transfer unless it is satisfied—

- (a) that all the engagements included in the transfer may be transferred under section 67A above to the transferee; and
- (b) that the transfer is in the interests of the members of the registered society participating in the transfer.

Effect of failure to comply with relevant requirements

12. Failure to comply with a relevant requirement of this Act or any rules of a registered society shall not invalidate any transfer of engagements or conversion; but a society which—

- (a) participates in a transfer or converts into a company; and
- (b) fails without reasonable excuse to comply with such a requirement;

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Interpretation

13. In this Part of this Schedule “relevant requirement”, with reference to this Act or the rules of a registered society, means a requirement of this Schedule or of Sections 67A to 67E of this Act or of any rules prescribing the procedure to be followed by the society in approving or effecting a transfer of engagements or its conversion into a company.

SCHEDULE 6*Sections 100 – 102***DOMESTIC AUTHORITIES**

1. Gibraltar Financial Services Commission;
2. Financial Services Resolution and Compensation Committee;
3. Gambling Commissioner;
4. Gibraltar Co-ordinating Centre for Criminal Intelligence & Drugs;
5. Gibraltar Financial Intelligence Unit;
6. Gibraltar Investor Compensation Board;
7. Gibraltar Regulatory Authority;
8. Gibraltar Resolution Authority;
9. HM Customs;
10. Liquidators or administrators of former “regulated persons” as defined in section 2 of the Financial Services Act 2019;
11. Minister with responsibility for finance;
12. Minister with responsibility for financial services;
13. National Coordinator for anti-money laundering and combating terrorist financing;
14. Office of Criminal Prosecutions & Litigation;
15. Royal Gibraltar Police;
16. The Board of Charity Commissioners;
17. The Office of Fair Trading.