

2018 No. \*\*\*\*

## EXITING THE EUROPEAN UNION

### FRIENDLY SOCIETIES

#### The Friendly Societies (Amendment) (EU Exit) Regulations 2018

*Sift requirements satisfied*

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*Made - - - -*

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*Laid before Parliament*

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*Coming into force in accordance with regulation 1*

The requirements of paragraph 3(2) of Schedule 7 to the European Union (Withdrawal) Act 2018<sup>(a)</sup> (relating to the appropriate Parliamentary procedure for these regulations) have been satisfied.

The Treasury make these Regulations in exercise of the powers conferred by section 8(1) of that Act.

#### **Citation and commencement**

1. These Regulations may be cited as the Friendly Societies (Amendment) (EU Exit) Regulations 2018 and come into force on exit day.

### PART 1

#### Amendment of primary legislation

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

2. The Friendly Societies Act 1992<sup>(b)</sup> is amended as set out in this Part.

#### **Amendment of section 52 (applications to court)**

3. In section 52 (applications to court), in subsection (2)(c)(c), omit the words “other than the United Kingdom”.

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(a) 2018 c.16.

(b) 1992 c.40.

(c) Subsection (2)(c) was substituted by S.I. 1994/1984 and amended by S.I. 2015/575. Subsection (2) was amended by S.I. 2013/496. Other amendments have been made to this subsection but none is relevant.

#### **Amendment of section 72 (auditors' appointment, tenure, qualifications, etc)**

4. In section 72 (auditors' appointment, tenure, qualifications, etc), in subsection (3)(a), for the words "to which the Audit Directive applies" substitute "subject to special requirements".

#### **Amendment of section 74 (signature of auditor's report)**

5. In section 74 (signature of auditor's report)(b), in subsection (3)(a), for the words "to which the Audit Directive applies" substitute "subject to special requirements".

#### **Amendment of section 74A (senior statutory auditor)**

6. In section 74A (senior statutory auditor)(c), in subsection (2)(a), for the words "to which the Audit Directive applies" substitute "subject to special requirements".

#### **Amendment of section 78A (interpretation of Part 6)**

7. In section 78A (interpretation of Part 6)(d)—

- (a) in subsection (1)(e), omit the definition of "the Audit Directive";
- (b) in subsection (3)(f)—
  - (i) in the words before paragraph (a), for the words "to which the Audit Directive applies" substitute "subject to special requirements" and omit "is" at the end;
  - (ii) in paragraph (a), insert "would be" before "an insurance undertaking" and after "insurance undertakings" insert "were the United Kingdom a member State"; and
  - (iii) in paragraph (b), insert "is" before "an issuer".

#### **Amendment of section 86 (transfer of engagements by or to friendly society)**

8. In section 86 (transfer of engagements by or to friendly society), in subsection (12)(g)—

- (a) at the end of paragraph (a), omit the word "or";
- (b) omit paragraph (b).

#### **Amendment of section 87 (actuary's report as to margin of solvency)**

9. In section 87 (actuary's report as to margin of solvency), in subsection (2), for paragraph (a)(h) substitute—

"(a) the fulfilment of any of the engagements to be transferred will constitute the carrying on of insurance business in the United Kingdom, and".

#### **Amendment of section 88 (actuary's report on transfer of long term business)**

10. In section 88 (actuary's report on transfer of long term business), in subsection (1), for paragraph (a)(i) substitute—

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- (a) Subsection (3) was inserted by S.I. 2017/516.
  - (b) Section 74 was substituted, together with sections 74A to 74C, by S.I. 2008/1140. Amendments have been made to section 74 but none is relevant.
  - (c) Section 74A was substituted, together with sections 74, 74B and 74C, by S.I. 2008/1140.
  - (d) Section 78A was inserted by S.I. 2005/2211.
  - (e) In subsection (1), the definition of "the Audit Directive" was inserted by S.I. 2008/948.
  - (f) Subsection (3) was substituted by S.I. 2017/516.
  - (g) Subsection (12) was inserted by S.I. 2001/3649 and amended by S.I. 2013/496.
  - (h) Paragraph (a) was substituted by S.I. 1994/1984 and amended by S.I. 1997/2849. Subsection (2) was amended by S.I. 2001/2617 and S.I. 2013/496.
  - (i) Paragraph (a) was substituted by S.I. 1994/1984 and amended by S.I. 1997/2849. Other amendments have been made to section 88 but none is relevant.

“(a) a friendly society (“a transferor society”) proposes to transfer to any person engagements the fulfilment of which will constitute the carrying on of long term business in the United Kingdom; or”.

#### **Amendment of section 117 (insurance business etc)**

11. In section 117 (insurance business etc), omit subsections (6)(a), (7)(b) and (9)(c).

#### **Amendment of section 119 (general interpretation)**

12. In section 119 (general interpretation)—

- (a) in subsection (1)—
  - (i) in the definition of “manager”(d), in paragraph (b), for “a member State” substitute “the United Kingdom”;
  - (ii) omit the definition of “supervisory authority”(e);
- (b) omit subsection (1C)(f).

#### **Amendment of Schedule 14 (auditors: appointment, tenure, qualifications and remuneration)**

13. In Schedule 14 (auditors: appointment, tenure, qualifications and remuneration)—

- (a) in the italic heading before paragraph 3A(g), for the words “to which the Audit Directive applies” substitute “in relation to friendly societies subject to special requirements”;
- (b) in paragraph 3A(1) (appointment as auditor), for the words “to which the Audit Directive applies” substitute “subject to special requirements”;
- (c) in paragraph 10A(1)(h) (removal of auditor on improper grounds), for the words “to which the Audit Directive applies” substitute “subject to special requirements”.

#### **Amendment of Schedule 14A (appointment and removal of auditors: societies to which audit directive applies)**

14. In Schedule 14A(i) (appointment and removal of auditors: societies to which audit directive applies)—

- (a) in the heading, for the words “to which Audit Directive applies” substitute “subject to special requirements”;
- (b) in paragraph 1(1) (introductory), for the words “to which the Audit Directive applies” substitute “subject to special requirements”;
- (c) in paragraph 7 (interpretation)—
  - (i) the existing text becomes sub-paragraph (1);
  - (ii) in that sub-paragraph, for the definition of “audit committee”, substitute—
    - ““audit committee” means a body which performs—
    - (a) the functions referred to in—

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(a) Subsection (6) was substituted by S.I. 1993/2519 and amended by S.I. 1994/1984.

(b) Subsection (7) was substituted by S.I. 1993/2519.

(c) Subsection (9) was inserted by S.I. 1994/1984.

(d) In subsection (1), the definition of “manager” was substituted by S.I. 1994/1984.

(e) In subsection (1), the definition of “supervisory authority” was inserted by S.I. 1994/1984 and amended by S.I. 2001/3649.

(f) Subsection (1C) was inserted by S.I. 2001/3649.

(g) Paragraph 3A was inserted by S.I. 2008/948.

(h) Paragraph 10A was inserted by S.I. 2008/1140 and sub-paragraph (1) was amended by S.I. 2017/516. Other amendments have been made to paragraph 10A but none is relevant.

(i) Schedule 14A was inserted by S.I. 2017/516.

- (i) rule 7.1.3 of the Disclosure Guidance and Transparency Rules sourcebook(a) made by the Financial Conduct Authority under the Financial Services and Markets Act 2000(b); or
  - (ii) rule 2.4 of the Audit Committee Part of the Rulebook(c) made by the Prudential Regulation Authority under that Act; or
- (b) equivalent functions;”;
- (iii) after that sub-paragraph, insert—
- “(2) For the purposes of the definition of “audit committee”, references to rules made by the Prudential Regulation Authority or the Financial Conduct Authority are to those rules as they have effect on exit day.”.

**Amendment of Schedule 15 (amalgamations, transfers of engagements and conversion: supplementary)**

**15.—**(1) Schedule 15 (amalgamations, transfers of engagements and conversion: supplementary) is amended as follows.

- (2) In paragraph 6—
  - (a) omit sub-paragraph (1A)(d);
  - (b) in sub-paragraph (3)(b)(e), omit the word “and” at the end of sub-paragraph (i) and sub-paragraph (ii).
- (3) In paragraph 11(f), omit the word “or” at the end of paragraph (a) and paragraph (b).
- (4) In paragraph 15(g)—
  - (a) omit sub-paragraph (1)(c)(ii)(h) and (iii)(i);
  - (b) in sub-paragraph (1)(c)(vi)(j), for the words from “required to” to the end substitute “supervised in accordance with rule 3.1 to 3.3 and rule 6.4 and 6.5 of the Third Country Branches Part of the Rulebook made by the Prudential Regulation Authority under the Financial Services and Markets Act 2000.”;
  - (c) after sub-paragraph (1) insert—
 

“(1A) For the purposes of sub-paragraph (1)(c)(vi), references to rules made by the Prudential Regulation Authority are to those rules as they have effect on exit day.”;
  - (d) in sub-paragraph (2)—
    - (i) at the end of paragraph (b)(k) insert “and”;
    - (ii) at the end of paragraph (c) omit the word “and”;
    - (iii) omit paragraph (d)(l);
  - (e) omit sub-paragraph (3)(m);

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- (a) Sourcebooks made by the Financial Conduct Authority are available on <https://www.handbook.fca.org.uk/handbook> and copies of the rules referred to can be obtained from the Financial Conduct Authority, 12 Endeavour Square, London E20 1JN, where they are also available for inspection.
  - (b) 2000 c.8.
  - (c) The Rulebook is available on <http://www.prarulebook.co.uk> and copies of the rules referred to can be obtained from the Prudential Regulation Authority, 20 Moorgate, London EC2R 6DA, where they are also available for inspection.
  - (d) Sub-paragraph (1A) was inserted by S.I. 1994/1984 and amended by S.I. 1997/2849 and S.I. 2013/496.
  - (e) Sub-paragraph (3)(b) was substituted by S.I. 1994/1984 and amended by S.I. 2013/496. Sub-paragraph (3)(c) was also amended by S.I. 2013/496.
  - (f) Paragraph 11 was substituted by S.I. 2001/2617 and amended by S.I. 2013/496.
  - (g) Paragraph 15 was substituted by S.I. 1994/1984.
  - (h) Sub-paragraph (1)(c)(ii) was substituted by S.I. 2001/3649.
  - (i) Sub-paragraph (1)(c)(iii) was substituted by S.I. 2001/3649.
  - (j) Sub-paragraph (1)(c)(vi) was amended by S.I. 2015/575.
  - (k) Sub-paragraph (2)(b) was amended by S.I. 2001/2617. Other amendments have been made to sub-paragraph (2) by that S.I. and S.I. 2013/496.
  - (l) Sub-paragraph (2)(d) was amended by S.I. 1997/2849 and S.I. 2013/496.
  - (m) Sub-paragraph (3) was amended by S.I. 1997/2849 and S.I. 2013/496.

- (f) omit sub-paragraph (6)(a)(a).
- (5) In paragraph 15A(b)—
- (a) omit sub-paragraph (1)(c)(ii)(c) and (iii)(d);
  - (b) in sub-paragraph (1)(c)(v)(e), for the words from “required to” to the end substitute “supervised in accordance with rule 3.1 to 3.3 and rule 6.4 and 6.5 of the Third Country Branches Part of the Rulebook made by the Prudential Regulation Authority under the Financial Services and Markets Act 2000(f).”;
  - (c) after sub-paragraph (1) insert—
 

“(1A) For the purposes of sub-paragraph (1)(c)(v), references to rules made by the Prudential Regulation Authority are to those rules as they have effect on exit day.”;
  - (d) in sub-paragraph (2)(g), omit the word “and” at the end of paragraph (b) and paragraph (c);
  - (e) omit sub-paragraph (3)(h);
  - (f) omit sub-paragraph (6)(a)(i).
- (6) Omit the italic heading before paragraph 16A (rights of policy holders) and paragraphs 16A(j) and 16B(k).
- (7) Omit paragraph 18(1)(I) (interpretation).

## PART 2

### Amendment of subordinate legislation

#### **Amendment of the Friendly Societies (Accounts and Related Provisions) Regulations 1994**

**16.** In the Friendly Societies (Accounts and Related Provisions) Regulations 1994(m), in Schedule 4 (notes to annual accounts)(n), for paragraph 28(1) substitute—

“(1) Subject to sub-paragraph (2) below, there must be disclosed as regards both general and long term business the total gross direct insurance premiums resulting from contracts concluded by the society in the United Kingdom and other countries.”.

name  
name

Date \_\_\_\_\_ Two of the Lords Commissioners of Her Majesty’s Treasury

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- (a) Sub-paragraph (6) was substituted by S.I. 2001/3649 and amended by S.I. 2013/496.
  - (b) Paragraph 15A was inserted by S.I. 1993/2519 and substituted by S.I. 1994/1984.
  - (c) Sub-paragraph (1)(c)(ii) was substituted by S.I. 2001/3649.
  - (d) Sub-paragraph (1)(c)(iii) was substituted by S.I. 2001/3649.
  - (e) Sub-paragraph (1)(c)(v) was amended by S.I. 2015/575.
  - (f) 2000 c.8.
  - (g) Sub-paragraph (2)(a) was amended by S.I. 2001/2617 and the words before sub-paragraph (2)(a) were amended by S.I. 2013/496. Sub-paragraph (2)(c) was amended by S.I. 1997/2849 and S.I. 2013/496.
  - (h) Sub-paragraph (3) was amended by S.I. 1997/2849 and S.I. 2013/496.
  - (i) Sub-paragraph (6) was substituted by S.I. 2001/3649 and amended by S.I. 2013/496.
  - (j) Paragraph 16A was inserted by S.I. 1994/1984 and amended by S.I. 1997/2849 and S.I. 2013/496.
  - (k) Paragraph 16B was inserted by S.I. 1994/1984 and amended by S.I. 1997/2849 and S.I. 2013/496.
  - (l) Paragraph 18 was substituted by S.I. 1994/1984 and sub-paragraph (1) was amended by S.I. 2001/3649. Paragraph 18 was also amended by S.I. 1997/2849.
  - (m) S.I. 1994/1983.
  - (n) Amendments have been made to Schedule 4 but none is relevant.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations are made in exercise of the powers in section 8(1) of the European Union (Withdrawal) Act 2018 (c.16) in order to address failures of retained EU law to operate effectively and other deficiencies (in particular under paragraphs (d), (e) and (g) of section 8(2) of the Act) arising from the withdrawal of the United Kingdom from the European Union.

These Regulations make amendments to legislation in the field of friendly societies and, in particular, amend legislation relating to friendly societies' accounts and auditing requirements, and amalgamations and transfers of engagements. Part 1 amends primary legislation and Part 2 amends subordinate legislation.

These Regulations refer to the Rulebook made by the Prudential Regulation Authority under the Financial Services and Markets Act 2000 (c.8). The Rulebook is available on <http://www.prerulebook.co.uk> and copies of the rules referred to can be obtained from the Prudential Regulation Authority, 20 Moorgate, London EC2R 6DA, where they are also available for inspection.

These Regulations also refer to a sourcebook made by the Financial Conduct Authority under the Financial Services and Markets Act 2000. Sourcebooks made by the Financial Conduct Authority are available on <https://www.handbook.fca.org.uk/handbook> and copies of the rules referred to can be obtained from the Financial Conduct Authority, 12 Endeavour Square, London E20 1JN, where they are also available for inspection.

An impact assessment of the effect that this instrument, and certain other instruments made by HM Treasury under the European Union (Withdrawal) Act 2018, will have on the costs of business, the voluntary sector and the public sector is available from HM Treasury, 1 Horse Guards Road, London SW1A 2HQ and is published alongside this instrument at [www.legislation.gov.uk](http://www.legislation.gov.uk).