



**THE SECURITIES ACT (FRIENDLY SOCIETIES) EXEMPTION
NOTICE 1995**

PURSUANT to the Securities Act 1978, the Securities Commission gives the following notice.

NOTICE

1. Title and commencement—(1) This notice may be cited as the Securities Act (Friendly Societies) Exemption Notice 1995.

(2) This notice shall come into force on the 1st day of September 1995.

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

“The Act” means the Securities Act 1978:

“Auditor” means the auditor of a friendly society appointed from time to time pursuant to section 62 of the Friendly Societies and Credit Unions Act 1982:

“Friendly society” means a friendly society registered pursuant to the Friendly Societies and Credit Unions Act 1982, and named in the Schedule to this notice:

“The Regulations” means the Securities Regulations 1983.

(2) Any term or expression that is not defined in this notice, but that is defined in the Act or the Regulations, has the meaning given to it by the Act or the Regulations.

3. Friendly societies exempt from certain provisions of the Securities Act 1978 and regulation 10 of the Securities Regulations 1983—(1) Every friendly society, and every person acting on its behalf, are exempted from compliance with the provisions of subsections (2) and (3) of section 37 of the Act in respect of any participatory securities of which the friendly society is the issuer.

(2) Subject to subclause (3) of this clause, every friendly society, and every person acting on its behalf, are exempted from compliance with the provisions of sections 37A (1) (a) to (d), 37A (2), and 38 (a) and (b) of the Act and regulation 10 of the Regulations in respect of any offer of participatory securities of which the friendly society is the issuer.

(3) The exemption granted by subclause (2) of this clause is subject to the following terms and conditions:

- (a) That copies of the registered prospectus relating to the participatory securities are on display and available to members of the public during normal business hours at each place of business of the friendly society at which offers of the participatory securities are made;
- (b) That at the date of allotment the registered prospectus is not known by the friendly society, or any director of the friendly society, to be false or misleading in a material particular by reason of failing to refer, or give proper emphasis, to adverse circumstances (whether or not the registered prospectus became so misleading as a result of circumstances occurring after the date of the registered prospectus).

4. Friendly societies exempt from sections 51, 52, and 53 (6) of the Securities Act 1978—Every friendly society is exempted from compliance with the provisions of sections 51, 52, and 53 (6) of the Act in respect of any participatory securities issued by the friendly society.

5. Friendly societies exempt from section 54 of the Securities Act 1978—(1) Subject to subclause (2) of this clause, every friendly society is exempted from compliance with the provisions of section 54 of the Act in respect of any participatory securities issued by the friendly society.

(2) The exemption granted by subclause (1) of this clause is subject to the condition that the friendly society shall send, or cause to be sent, to the security holder at any time on request and at least once within one month of each allotment of a security, a written statement that properly evidences the amount, nature, ownership, and terms and conditions of all participatory securities issued by the friendly society and held by the security holder.

6. Friendly societies exempt from regulation 25 of the Securities Regulations 1983—(1) Subject to subclause (2) of this clause, every friendly society, and every person acting on its behalf, are exempted from compliance with the provisions of regulation 25 of the Regulations in respect of any offer of participatory securities of which the friendly society is the issuer.

(2) The exemption granted by subclause (1) of this clause is subject to the condition that the registered prospectus relating to the offer contains a brief description of the terms relating to the use or distribution of any profits of the friendly society.

7. Friendly societies exempt from regulation 26 of the Securities Regulations 1983 in relation to clauses 3 and 4 of Seventh Schedule—(1) Subject to subclause (2) of this clause, every friendly society, and every person acting on its behalf, are exempted, in the case of any offer of participatory securities of which the friendly society is the issuer, from compliance with the provisions of regulation 26 of the Regulations in so far as that regulation relates to clauses 3 and 4 of the Seventh Schedule to the Regulations.

(2) The exemption granted by subclause (1) of this clause is subject to the condition that the deed of participation relating to the participatory securities provides:

- (a) That the friendly society shall have the following duties:

- (i) To carry out its obligations pursuant to the terms of the offer of participatory securities, the provisions of the Friendly Societies and Credit Unions Act 1982, and the rules of the friendly society registered pursuant to that Act; and
 - (ii) To use its best endeavours and skill to ensure that the affairs of the friendly society are conducted in a proper and efficient manner; and
 - (iii) To use due diligence and vigilance in the exercise and performance of its functions, powers, and duties:
- (b) That the friendly society shall from time to time at the request of the statutory supervisor, or of persons holding not less than one-tenth in number of the participatory securities (or a particular class of the participatory securities), summon a meeting of the holders of those participatory securities (or particular class of participatory securities) for the purpose of giving to the statutory supervisor their opinions or directions in relation to the exercise of its powers:
 - (c) That the statutory supervisor may on its own volition, and shall at the request of persons holding not less than one-tenth in number of the participatory securities (or a particular class of the participatory securities), summon a meeting of the holders of the participatory securities (or particular class of participatory securities) for the purpose of giving to the statutory supervisor their opinions or directions in relation to the exercise of its powers:
 - (d) That every meeting summoned pursuant to paragraphs (b) and (c) of this subclause—
 - (i) Shall be summoned by sending by post a notice, specifying the time and place of the meeting, to every holder of the participatory securities (or particular class of participatory securities) at that person's last known address not later than 14 days before the date of the proposed meeting; and
 - (ii) Shall be chaired by a person nominated by the statutory supervisor or such other person as may be appointed in that behalf by the holders of the participatory securities (or particular class of participatory securities) present at the meeting.

8. Friendly societies exempt from certain provisions of Third Schedule to the Securities Regulations 1985—(1) Subject to subclause (2) of this clause, every friendly society, and every person acting on its behalf, are exempted from compliance with the provisions of clause 2 (1) of the Third Schedule to the Regulations in respect of any offer of participatory securities of which the friendly society is the issuer.

(2) The exemption granted by subclause (1) of this clause is subject to the condition that the registered prospectus relating to the offer states, in relation to every director of the friendly society,—

- (a) The name of the director; and
- (b) The city, town, or district in which the principal place of residence of the director is situated; and
- (c) The technical or professional qualifications (if any) of the director; and

(d) An address to which any document or communication relating to the offer of securities or the securities themselves may be sent to the director.

(3) Every friendly society, and every person acting on its behalf, are exempted from compliance with the provisions of clauses 7 (5) and (6), 8, and 17 of the Third Schedule to the Regulations in respect of any offer of participatory securities of which the friendly society is the issuer.

(4) Subject to subclause (5) of this clause, every friendly society, and every person acting on its behalf, are exempted from compliance with the provisions of clauses 6 and 21 to 34 of the Third Schedule to the Regulations in respect of any offer of participatory securities of which the friendly society is the issuer.

(5) The exemption granted by subclause (4) of this clause is subject to the condition that the registered prospectus relating to the offer contains all of the information, statements and other matters specified in clauses 7 and 16 to 32 of the Second Schedule to the Regulations in respect of the friendly society, which clauses shall be read as if:

(a) References to the term "debt securities" were references to participatory securities; and

(b) References to the term "the group" were references to the friendly society.

9. Friendly societies exempt from clause 38 of Third Schedule to the Securities Regulations 1983—(1) Subject to subclause (2) of this clause, every friendly society, and every person acting on its behalf, are exempted from compliance with the provisions of regulation 7 (b) of the Regulations and clause 38 of the Third Schedule to the Regulations in respect of any offer of participatory securities of which the friendly society is the issuer.

(2) The exemption granted by subclause (1) of this clause is subject to the following terms and conditions:

(a) That every registered prospectus relating to such participatory securities distributed by or on behalf of the friendly society contains a copy of a report by an auditor qualified for appointment as an auditor of a friendly society under section 63 of the Friendly Societies and Credit Unions Act 1982 signed by that auditor (either in the auditor's own name or in that of the auditor's firm), stating—

(i) The work done by the auditor; and

(ii) The scope and limitations of the audit; and

(iii) The existence of any relationship (other than that of auditor) which the auditor has with, or any interests which the auditor has in, the friendly society; and

(iv) Whether the auditor has obtained all information and explanations that he or she has required; and

(v) Whether, in the auditor's opinion, as far as appears from an examination of them, proper accounting records have been kept by the friendly society; and

(vi) Whether or not, in the auditor's opinion, the financial statements that are required by clauses 16 to 31 of the Second Schedule to the Regulations (as required pursuant to clause 8 (5) of this notice) and that are required to be audited—

(A) Comply with the Regulations; and

- (B) Subject to the Regulations, comply with generally accepted accounting practice; and
- (C) Give a true and fair view of the state of affairs of the friendly society as at the date thereof and of the results and cash flows of the friendly society for the period to which they relate, taking into account information or explanations of the kind referred to in section 14 (2) of the Financial Reporting Act 1993 (if any)—

and, if they do not, the respects in which they do not; and

(vii) Whether the amounts stated pursuant to clauses 7 (2) and 7 (3) of the Second Schedule to the Regulations (as required by clause 8 (5) of this notice) and clauses 10 (2) and 10 (3) of the Third Schedule to the Regulations, have been taken from audited financial statements, and whether or not the amounts have been correctly taken:

- (b) That every prospectus delivered to the Registrar for registration under the Act by or on behalf of the friendly society has endorsed on it, or attached to it, or is accompanied by—

(i) The signed auditor's report required to be contained in the registered prospectus pursuant to paragraph (a) of this subclause; and

(ii) A statement, dated not earlier than 7 days before the specified date and signed by the auditor (either in the auditor's own name or in that of the auditor's firm), that the auditor consents to the report appearing in the registered prospectus in the form in which it appears.

10. Revocation—The Securities Act (Manchester Unity Friendly Society) Exemption Notice 1995* is hereby revoked.

*S.R. 1995/27

Cl. 2

SCHEDULE

Manchester Unity Friendly Society

Dated at Wellington this 30th day of August 1995.

The Common Seal of the Securities Commission was hereunto affixed in the presence of:

[L.S.]

E. H. ABERNETHY,
Chairman.

EXPLANATORY NOTE

This note is not part of the notice, but is intended to indicate its general effect.

This notice, which comes into force on 1 September 1995, exempts a friendly society named in the Schedule to the notice from compliance with certain provisions of the Securities Act 1978 and the Securities Regulations 1983 in the case of offers and allotments of participatory securities.

Clause 3 (1) of the notice exempts a friendly society to which the notice applies and persons acting on its behalf from compliance with subsections (2) and (3) of section 37 of the Securities Act 1978.

Section 37 (2) prohibits the allotment of participatory securities unless the amount stated in the prospectus as the minimum amount that must be raised by the issue is subscribed for and paid to the issuer. Section 37 (3) prohibits the allotment of participatory securities unless, at the time of allotment, the statutory supervisor holds a written statement signed by the subscriber authorising the subscription for the securities.

Clause 3 (2) of the notice exempts a friendly society to which the notice applies and persons acting on its behalf, subject to conditions, from compliance with sections 37A (1) (a) to (d), 37A (2), and 38 (a) and (b) of the Act and regulation 10 of the Securities Regulations 1983.

Paragraphs (a) to (d) of section 37A (1) relate to application forms for securities.

Section 37A (2) prohibits the allotment of participatory securities unless the amount payable on application is at least 10 percent of the nominal value of the security.

Paragraphs (a) and (b) of section 38 relate to requirements for an advertisement to be an "authorised advertisement" for the purposes of the Act.

Regulation 10 of the regulations prohibits an advertisement for securities being distributed with an application form for the securities.

Clause 4 exempts a friendly society to which the notice applies from compliance with sections 51, 52, and 53 (6) of the Act.

Section 51 relates to the requirement that issuers of securities keep registers of securities.

Section 52 relates to the right to inspect such registers.

Section 53 (6) provides that an issuer of participatory securities must ensure that the accounting records relating to the scheme to which the securities relate are audited at least once a year if the statutory supervisor so requires.

Clause 5 exempts a friendly society to which the notice applies, subject to a condition, from section 54 of the Act.

Section 54 relates to the issue, following allotment of a security, of the security itself or a certificate of the security.

Clause 6 exempts a friendly society to which the notice applies and persons acting on its behalf, subject to a condition, from regulation 25 of the regulations.

Regulation 25 requires the matters referred to in the Sixth Schedule to the regulations to be included in deeds of participation.

Clause 7 exempts a friendly society to which the notice applies and persons acting on its behalf, subject to a condition, from compliance with clauses 3 and 4 of the Seventh Schedule to the regulations. The Seventh Schedule sets out certain clauses that are deemed to be included in deeds of participation.

Clause 8 (1) exempts a friendly society to which the notice applies and persons acting on its behalf from the requirement to state in a prospectus the residential addresses of its directors.

This exemption is subject to the condition that the prospectus states the city, town, or district in which the principal place of residence of the director is situated and an address to which documents or communications may be sent to the director.

Clause 8 (3) exempts a friendly society to which the notice applies and persons acting on its behalf from clauses 7 (5) and (6), 8, and 17 of the Third Schedule to the regulations.

Clauses 7 (5) and (6) relate to the requirement to include a statement of forecast changes of financial position in a prospectus.

Clause 8 relates to the minimum amount that must be raised by an issue of securities to provide for certain specified matters.

Clause 17 relates to issue expenses.

Clause 8 (4) exempts a friendly society to which the notice applies and persons acting on its behalf from clauses 6 and 21 to 34 of the Third Schedule to the regulations. Those clauses relate to financial information that must be included in a prospectus.

This exemption is subject to the condition that the prospectus contains equivalent information specified in the Second Schedule to the regulations that would have to be included in a prospectus for debt securities.

Clause 9 exempts a friendly society to which the notice applies and persons acting on its behalf, subject to a condition, from regulation 7 (b) and clause 38 of the Third Schedule to the regulations.

Regulation 7 (b) and clause 38 relate to the auditor's report on the financial statements contained in a prospectus and the requirement to deliver a signed copy of the report to the Registrar of Companies on registration of the prospectus.

Clause 10 revokes the Securities Act (Manchester Unity Friendly Society) Exemption Notice 1995. Manchester Unity Friendly Society is now listed as a friendly society in the Schedule to the notice.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette*: 31 August 1995.
This notice is administered in the Securities Commission.