
STATUTORY INSTRUMENTS

1997 No. 2668 (C. 99)

BUILDING SOCIETIES

The Building Societies Act 1997
(Commencement No. 3) Order 1997

Made - - - - 5th November 1997

The Treasury, in exercise of the powers conferred on them by section 47(3) of the Building Societies Act 1997(1), hereby make the following Order:

Citation and interpretation

1.—(1) This Order may be cited as the Building Societies Act 1997 (Commencement No. 3) Order 1997.

(2) In this Order “the Act” means the Building Societies Act 1997 and “the 1986 Act” means the Building Societies Act 1986(2).

Coming into force of provisions

2.—(1) The provisions of the Act specified in Part I of the Schedule to this Order shall come into force, subject to paragraph (7) below, on 1st December 1997.

(2) In the case of any existing building society which sends the central office a record of alterations to its purpose or principal purpose, its powers and its rules, in accordance with paragraph 1(1) of Schedule 8 to the Act, where—

- (a) the alterations are specified as taking effect on or before 1st December 1997; and
- (b) the record of the alterations is registered by the central office under paragraph 1(3) of Schedule 8 to the Act on or before 1st December 1997,

the provisions of the Act specified in Part II of the Schedule to this Order shall come into force for all purposes, subject to paragraph (7) below, on 1st December 1997.

(3) In the case of any other existing building society, the provisions of the Act specified in Part II of the Schedule to this Order shall come into force for all purposes, except for the purpose and to the extent stated in paragraph (4) below and subject to paragraph (7) below, on the date on which the record of alterations to its purpose or principal purpose, its powers and its rules takes effect under paragraph 1(5) or 2(6) of Schedule 8 to the Act, or as the case may be, is registered under paragraph 3(3)(a) of that Schedule.

(1) 1997 c. 32.
(2) 1986 c. 53.

Status: This is the original version (as it was originally made).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

(4) For the purpose of ending the period mentioned in paragraph 1(1) of Schedule 8 to the Act and of construing the definitions of “existing building society” and “the transitional period” in paragraph 2(7) or 3(6) of that Schedule, sections 1 and 2 of the Act shall come into force in the case of a building society falling within paragraph (3) above on 1st December 1997.

(5) In the case of any building society registered after 30th November 1997 the provisions of the Act specified in Part II of the Schedule to this Order shall come into force for all purposes, subject to paragraph (7) below, on 1st December 1997.

(6) The provisions of the Act specified in Part III of the Schedule to this Order shall come into force on the day after the transitional period defined in paragraph 2(7) of Schedule 8 to the Act ends.

(7) Where an entry in the Schedule is stated to come into force for specified purposes or to a specified extent, it shall come into force only for those purposes or to that extent.

5th November 1997

Jon Owen Jones
John McFall
Two of the Lords Commissioners of Her
Majesty’s Treasury

THE SCHEDULE

Article 2

PART I

PROVISIONS COMING INTO FORCE ON 1ST DECEMBER 1997

Provision	Subject matter
(a) (a) Section 7 and Schedule 2.	Discharge of mortgages.
(b) (b) Section 12(1)(a), so far as it relates to section 13(7) of and Schedule 4 to the 1986 Act.	Superseded provisions of 1986 Act (supplementary provisions as to mortgages).
(c) (c) Section 12(2) and (4).	Superseded provisions of 1986 Act (duties of mortgagee).
(d) (d) Section 22.	Statements of principles etc. by Commission.
(e) (e) Section 30 and Schedule 5.	Information about transfers or proposed transfers of business.
(f) (f) Section 34.	Recognised schemes for investigation of complaints.
(g) (g) Section 35.	Persons entitled to have complaints investigated.
(h) (h) Section 36.	Registered and business names.
(i) (i) Section 39 and Schedule 6.	Application of certain insolvency legislation.
(j) (j) Section 43, so far as it relates to the provisions of Schedule 7 specified in this Part of this Schedule.	Amendments of the 1986 Act.
(k) (k) Section 46, so far as it relates to the provisions of Schedule 8 and 9 specified in this Part of this Schedule.	Transitional provisions, savings and repeals, etc.
(l) (l) In Schedule 7— (i) Paragraph 3(4).	Authorisation to raise funds and borrow money.
(ii) Paragraph 4.	The Building Societies Investor Protection Board.
(iii) Paragraph 7(2), (3) and (4).	Payments to investors.
(iv) Paragraph 10.	Power to obtain information.
(v) Paragraph 14, so far as not already in force.	Revocation of authorisation.
(vi) Paragraph 15(2).	Reauthorisation.
(vii) Paragraph 36.	Investigation of complaints: supplementary provisions.
(viii) Paragraph 41(a).	Amalgamations.

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Provision	Subject matter
(ix) Paragraph 43.	Mergers: provisions supplementing sections 93 and 94.
(x) Paragraph 44.	Mergers: compensation for loss of office etc.
(xi) Paragraph 46.	Regulated terms: compensation for loss of office etc.
(xii) Paragraph 48.	Power to amend etc. to assimilate to company law.
(xiii) Paragraph 50.	Power to require building society to change misleading name.
(xiv) Paragraph 53, so far as not already in force, for the purpose of defining expressions used in provisions falling within this Part of this Schedule.	Interpretation.
(xv) Paragraph 61.	Auditors: appointment, tenure and qualifications.
(xvi) Paragraph 62.	Schemes for investigation of complaints.
(xvii) Paragraph 63.	Recognition etc. of schemes for investigation of complaints.
(xviii) Paragraph 64(5).	Settlement of disputes.
(xix) Paragraph 65.	Application of companies winding up legislation to building societies.
(xx) Paragraph 66(1)(b), (2), (3) and (4).	Mergers: supplementary provisions.
(xxi) Paragraph 67(b), so far as it relates to paragraphs 2 to 4 and 18 of Schedule 20 to the 1986 Act.	Transitional and saving provisions.
(m) (m) In Schedule 8— (i) Paragraph 2.	Alteration of purpose, powers and rules.
(ii) Paragraph 3.	Default powers.
(n) (n) In Schedule 9, the repeal and revocation of the following provisions— (i) Section 86 of the Solicitors Act 1974 ⁽³⁾ . (ii) Regulation 41(5) of the Credit Institutions (Protection of Depositors) Regulations 1995 ⁽⁴⁾ .	
(o) (o) In Schedule 9, the repeals of the following provisions of the 1986 Act—	

⁽³⁾ 1974 c. 47.

⁽⁴⁾ S.I. 1995/1442.

Provision	Subject matter
(i) In Part III, section 13(7) and Schedule 4.	
(ii) In section 28(2), the words “as in respect of a contractual debt incurred immediately before the institution began to be wound up”.	
(iii) In section 41, subsections (14) to (16).	
(iv) Section 84(1).	
(v) In section 95, subsections (7) to (9).	
(vi) Section 108.	
(vii) In section 119(3)(a), the words “by him” and “to him”.	
(viii) In Schedule 12, Part II.	
(ix) In Schedule 16, paragraph 1(5).	
(x) In Schedule 20, paragraphs 2 to 4 and 18.	

PART II

PROVISIONS COMING INTO FORCE IN ACCORDANCE WITH ARTICLE 2(2),(3) AND (5)

Provision	Subject matter
(a) (a) Section 1.	Principal purpose and powers.
(b) (b) Section 2.	Membership and liability of members.
(c) (c) Section 3 and Schedule 1.	Capacity etc.
(d) (d) Section 4.	The lending limit.
(e) (e) Section 5.	Loans secured on land.
(f) (f) Section 6.	Loans fully secured on land.
(g) (g) Section 8.	The funding limit
(h) (h) Section 9.	Raising funds and borrowing.
(i) (i) Section 10.	Restrictions on certain transactions.
(j) (j) Section 12(1), so far as not already in force, and (3).	Superseded provisions of the 1986 Act.
(k) (k) Section 13 and Schedule 3.	Power to direct restructuring of business etc.
(l) (l) Section 14.	Power to make prohibition orders.
(m) (m) Section 15.	Power to petition for winding up etc.

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Provision	Subject matter
(n) (n) Section 21.	The criteria of prudent management.
(o) (o) Section 23, so far as not already in force.	Rights of appeal.
(p) (p) Section 24, so far as not already in force.	Determination of appeals.
(q) (q) Section 25.	Special meeting on members' requisition.
(r) (r) Section 26.	Failure to comply with members' requisition.
(s) (s) Section 27.	Election of directors: general.
(t) (t) Section 28.	Election of directors: supplementary.
(u) (u) Section 29.	Acquisition or establishment of a business.
(v) (v) Section 38.	Transactions with directors and persons connected with them.
(w) (w) Section 43, so far as it relates to the provisions of Schedule 7 specified in this Part of this Schedule.	Amendments of the 1986 Act.
(x) (x) Section 45(2).	Amendment of the Finance Act 1988(5).
(y) (y) Section 46, so far as it relates to the provisions of Schedules 8 and 9 specified in this Part of this Schedule.	Transitional provisions, savings and repeals etc.
(z) (z) In Schedule 7— (i) Paragraph 1.	The Building Societies Commission.
(ii) Paragraph 3(1), (2) and (3).	Authorisation to raise funds and borrow money.
(iii) Paragraph 11.	Voluntary schemes.
(iv) Paragraph 12(2), (4) and (5).	Power to direct application to renew authorisation.
(v) Paragraph 13(1).	Imposition of conditions on current authorisation.
(vi) Paragraph 15(1), (3) and (4).	Reauthorisation.
(vii) Paragraph 16.	Powers to avoid apparent association with other bodies.
(viii) Paragraph 17, so far as not already in force.	Powers to obtain information and documents etc.
(ix) Paragraph 19(3).	Confidentiality of information obtained by the Commission.
(x) Paragraph 21.	Investigation on behalf of the Commission.
(xi) Paragraph 22.	Inspections and special meetings: general.
(xii) Paragraph 23.	Inspections: supplementary provisions.

(5) 1988 c. 39.

Provision	Subject matter
(xiii) Paragraph 24.	Restrictions on loans etc. to directors.
(xiv) Paragraph 25.	Directors etc. not to accept commissions in connection with loans.
(xv) Paragraph 27(1).	Records of income of related business.
(xvi) Paragraph 29(1), (3) and (4).	Accounting records and systems of business control etc.
(xvii) Paragraph 30.	Contents and form of annual accounts.
(xviii) Paragraph 31.	Duty of directors to prepare annual business statement.
(xix) Paragraph 32.	Directors' Report.
(xx) Paragraph 33(1).	Summary financial statement for members and depositors.
(xxi) Paragraph 34.	Auditor's report and powers.
(xxii) Paragraph 35.	Auditor's duties to Commission and related rights.
(xxiii) Paragraph 39.	Winding up: grounds and petitioners.
(xxiv) Paragraph 40.	Winding up or dissolution: supplementary.
(xxv) Paragraph 41(b).	Amalgamations.
(xxvi) Paragraph 42.	Transfer of engagements.
(xxvii) Paragraph 45(2) and (3).	Transfer of business to commercial company.
(xxviii) Paragraph 47.	Distribution and share rights.
(xxix) Paragraph 49.	Limited power to anticipate future statutory instrument powers.
(xxx) Paragraph 52.	Qualifying asset holding for certain powers.
(xxxi) Paragraph 53, so far as not already in force.	Interpretation.
(xxxii) Paragraph 54.	Northern Ireland.
(xxxiii) Paragraph 56, so far as not already in force.	Establishment, incorporation and constitution.
(xxxiv) Paragraph 57.	Meetings, resolutions and postal ballots.
(xxxv) Paragraph 59.	Directors: requisite particulars of restricted transactions.
(xxxvi) Paragraph 60(2) and (3).	Requisite particulars of income of related business.
(xxxvii) Paragraph 64(1), (2), (3) and (4).	Settlement of disputes.
(xxxviii) Paragraph 66(1)(a).	Mergers: supplementary provisions.

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Provision	Subject matter
(xxxix) Paragraph 67(a) and, so far as it relates to paragraphs 7 to 13, 15 and 17 of Schedule 20 to the 1986 Act, (b).	Transitional and saving provisions.
(aa) (aa) In Schedule 8—	Existing members to whom advances have been made.
(i) Paragraph 4.	
(ii) Paragraph 5.	Existing borrowing members which are corporations.
(iii) Paragraph 6.	Existing fully secured loans.
(iv) Paragraph 7.	Existing shareholders.
(v) Paragraph 8.	Existing depositors and shareholders.
(bb) (bb) In Schedule 9, the repeals and revocation of the following provisions—	
(i) Section 3(1)(b) of the House Purchase Assistance and Housing Corporation Guarantee Act 1978 ⁽⁶⁾ .	
(ii) Article 155 of the Housing (Northern Ireland) Order 1981 ⁽⁷⁾ .	
(iii) Section 450 of the Housing Act 1985 ⁽⁸⁾ .	
(iv) In the Banking Act 1987 ⁽⁹⁾ , paragraph 26(1) and (8) of Schedule 6.	
(v) In the Deregulation and Contracting Out Act 1994 ⁽¹⁰⁾ , sections 16 and 17 and paragraph 7(6) of Schedule 11.	
(cc) (cc) In Schedule 9, the repeals of the following provisions of the 1986 Act—	
(i) In section 9(3), paragraph (d) and the word “or” immediately preceding that paragraph.	
(ii) Part III, so far as not already repealed.	
(iii) Section 33.	
(iv) Part V.	

⁽⁶⁾ 1978 c. 27.

⁽⁷⁾ S.I. 1981/156 (N.I. 3).

⁽⁸⁾ 1985 c. 68.

⁽⁹⁾ 1987 c. 22.

⁽¹⁰⁾ 1994 c. 40.

Provision	Subject matter
(v)	Sections 38 to 40.
(vi)	Section 51.
(vii)	Section 52(3).
(viii)	In section 60(17), the definition of “ordinary resolution”.
(ix)	In section 65(10), the word “and” immediately following the definition of “provision of funds”.
(x)	Section 71(10A).
(xi)	Section 79(5).
(xii)	In section 82, in subsection (2), paragraph (c) and the word “and” immediately preceding that paragraph and, in subsection (3), paragraph (d).
(xiii)	In section 97(3), the words from “and for the purposes” to the end.
(xiv)	Section 105.
(xv)	Section 118.
(xvi)	In section 119, in subsection (1), the definitions of “adopt”, “adopted”, “adoptable powers”, “advance secured on land”, “advance fully secured on land”, “advance secured on third party land”, “mobile home loan”, “qualifying asset holding”, “subsidiary” and “total commercial assets”.
(xvii)	In section 122(1), the words “section 15.”.
(xviii)	In Schedule 2, paragraph 2(5), in paragraph 4(4), the words “subject to paragraph 19 below” and, in paragraph 30(3), the words “has been duly given”.
(xix)	In Schedule 10, in paragraphs 1, 2, 5 and 6, the words “under section 6, 10, 17 or 19”.
(xx)	In Schedule 18, paragraphs 18(4) and 23(3).

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Provision	Subject matter
(xxi)	In Schedule 20, in paragraph 1, the definitions of “existing society” and “existing rules”, and paragraphs 7 to 13, 15 and 17.

PART III

PROVISIONS COMING INTO FORCE IN ACCORDANCE WITH ARTICLE 2(6)

Provision	Subject matter
(a)	(a) Section 43, so far as not already in force.
(b)	(b) Section 46, so far as not already in force.
(c)	(c) In Schedule 7, paragraph 2. Annual report of the Commission.
(d)	(d) In Schedule 7, paragraph 67(b), so far as it relates to paragraph 14 of Schedule 20 to the 1986 Act. Transitional and saving provisions.
(e)	(e) In Schedule 9, the repeal of section 4(2) of the 1986 Act.
(f)	(f) In Schedule 9, the repeal of paragraph 14 of Schedule 20 to the 1986 Act.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force all those provisions of the Building Societies Act 1997 which are not already in force. The provisions in question are listed in the Schedule to the Order; those listed in Part I of the Schedule will come into force on 1st December 1997; those in Part II will come into force in accordance with article 2(2), (3) and (5); and those in Part III in accordance with article 2(6).

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

1. The following provisions of the Act have been brought into force by commencement orders made before the date of this Order:

Provision	Date of Commencement	S.I. No.
section 11	9.6.1997	1997/1427 (C. 53)
sections 16 to 20		
sections 23 and 24 (in part)		
sections 31 to 33		
sections 37		
sections 42, 43 (in part), 44 and 45(1)		
Schedule 4		
in Schedule 7—	21.5.1997	1997/1307 (C. 45)
paragraphs 5, 6, 7(1), 8, 9, 12(1) and (3), 13(2), 14(1) (in part), 17(1), 17(5)(c), (6), (7) and (8), 18, 19(1), (2) and (4), 20, 26, 27(2) and (3), 28, 29(2), 33(2), 37, 38, 45(1), 45(4), 51, 53(1)(b) and (d) (in part), 53(3) (a), 55, 56(9), 58 and 60(1).		
paragraph 1 of Schedule 8 and related provisions in section 46		

2. Sections 40 and 41 and related provisions in section 46 and Schedules 8 and 9 came into force on 21st March 1997 (the date on which the Act received Royal Assent).