



Building Societies Act 1986

1986 CHAPTER 53

PART XI

MISCELLANEOUS AND SUPPLEMENTARY AND CONVEYANCING SERVICES

Miscellaneous and supplementary

104 Power to amend, etc. to assimilate to company law.

- (1) If, on any modification of the statutory provisions in force in Great Britain or Northern Ireland relating to companies, it appears to the Treasury to be expedient to modify the relevant provisions of this Act for the purpose of assimilating the law relating to companies and the law relating to building societies, the Treasury may, by order, make such modifications of the relevant provisions of this Act as they think appropriate for that purpose.
- (2) The “relevant provisions of this Act” are the following provisions as for the time being in force, that is to say—
 - (a) so much of Part VI as relates to investigations or inspections;
 - (b) the provisions of Part VII (management);
 - (c) the provisions of Part VIII (accounts and audit);^{F1} . . .
 - (d) so much of Part X as relates to winding up [^{F2}or insolvency]^{F3}; and
 - (e) section 110 (provisions exempting officers and auditors from liability).].
- (3) The power conferred by subsection (1) above includes power to modify the relevant provisions of this Act so as to—
 - (a) confer power to make orders, regulations, rules or other subordinate legislation;
 - (b) create criminal offences; or
 - (c) provide for the charging of fees but not any charge in the nature of taxation.
- (4) An order under this section may—

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- (a) make consequential amendments of or appeals in other provisions of this Act; or
 - (b) make such transitional or saving provisions as appear to the Treasury to be necessary or expedient.
- (5) The power to make an order under this section is exercisable by statutory instrument but no such order shall be made unless a draft of it has been laid before and approved by a resolution of each House of Parliament.
- (6) In this section—
- “modification” includes any additions and, as regards modifications of the statutory provisions relating to companies, any modification whether effected by any future Act or by an instrument made after the passing of this Act under an Act whenever passed; and
 - “statutory provisions” includes the provisions of any instrument made under this Act.

Subordinate Legislation Made

- P1** S. 104: power exercised by [S.I. 1991/1729](#)
 S. 104: power exercised (4.12.1991) by [S.I. 1991/2738](#)

Textual Amendments

- F1** Word in s. 104(2) omitted (1.10.1991) by virtue of [Companies Act 1989 \(c. 40, SIF 27\)](#), [s. 211\(1\)](#); [S.I. 1991/1996](#), [art. 2\(1\)\(b\)](#)
- F2** Words in s. 104(2) inserted (1.12.1997) by [1997 c. 32, s. 43](#), [Sch. 7 para. 48](#); [S.I. 1997/2668](#), [art. 2](#), [Sch. Pt. I\(j\)\(I\)\(xii\)](#)
- F3** Word in s. 104(2) and s. 104(2)(e) added (1.10.1991) by [Companies Act 1989 \(c. 40, SIF 27\)](#), [s. 211\(1\)](#); [S.I. 1991/1996](#), [art. 2\(1\)\(b\)](#)

[^{F4}104A Registration of charges: application of company law.

- (1) For the purpose of securing the registration of charges created by building societies, the Secretary of State may, by order made with the concurrence of the Treasury ^{F5}... , provide that such of the provisions of [^{F6}Part 25 of the Companies Act 2006 (company charges)] as may be specified in the order shall apply in relation to building societies, and charges created by building societies, with such modifications as may be so specified.
- (2) An order under this section may make different provision for different cases or different areas and may contain such incidental, supplemental and transitional provisions as may appear to the Secretary of State to be necessary or expedient.
- (3) The power to make an order under this section is exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

Textual Amendments

- F4** S. 104A inserted (9.6.1997) by [1997 c. 32, s. 42](#); [S.I. 1997/1427](#), [art. 2\(j\)](#)
- F5** Words in S. 104A(1) repealed (1.12.2001) by [S.I. 2001/2617](#), [arts. 2\(b\), 13\(2\)](#), [Sch. 4](#) (with [S. 13\(3\)](#), [Sch. 5](#)); [S.I. 2001/3538](#), [art. 2](#)

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F6 Words in s. 104A(1) substituted for s. 104A(1)(a)(b) (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), [Sch. 1 para. 87\(7\)](#) (with art. 10)

[^{F7}105 Limited power to anticipate future statutory instrument powers.

- (1) This section has effect as regards any power conferred under any provision of this Act on building societies or building societies of any description by—
- (a) an instrument a draft of which has to be approved by a resolution of each House of Parliament before it can be made, or
 - (b) an instrument which is subject to annulment in pursuance of a resolution of either House of Parliament and which defers its operation until a future date;

and in this section “the anticipation date” is, in the case of an instrument falling within paragraph (a), the date on which either House approves the draft and, in the case of an instrument falling within paragraph (b), the date on which it was laid before Parliament.

- (2) Every building society or, as the case may be, every building society of the description to which the instrument applies, has, as from the anticipation date, power, for the purposes of the power conferred by the instrument, to do such things, subject to subsection (3) below, as are reasonably necessary to enable it—
- (a) to decide whether or not, and to what extent, to exercise (and in the case of an adoptable power to adopt) the power, and
 - (b) if it decides to exercise the power, to exercise it as from the date when it becomes exercisable by the society.
- (3) Subsection (2)(b) above does not authorise a society—
- (a) to make contracts, other than conditional contracts, for the acquisition of land, the acquisition of a business or the acquisition of shares in any company if that company offers the public any service or facility within the power,
 - (b) to issue invitations to members of the society or the public to apply for any power to be exercised for their benefit, or
 - (c) to retain shares in a company which offers the public any service or facility within the power;

and, in this subsection, “conditional”, in relation to contracts with respect to the exercise of a power, means conditional on the power’s becoming exercisable by the society.

- (4) The power conferred by this paragraph, and activities carried on under it, for the purposes of an adoptable power are not to be treated as included in, or in activities comprised in, that adoptable power for the purposes of paragraph 16 of Schedule 2 to this Act.]

Textual Amendments

F7 S. 105 repealed (1.12.1997 in specified cases and for specified purposes and otherwise in accordance with art. 2(2)(3)(5) of [S.I. 1997/2668](#)) by [1997 c. 32, ss. 43, 46\(2\), 47\(3\), Sch. 7 para. 49, Sch. 9; S.I. 1997/2668, art. 2, Sch. Pt. II\(w\)\(z\)\(xxix\)\(cc\)\(xiv\)](#)

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106 Public file of the society.

- (1) The [F8FCA] shall prepare and maintain a file relating to each building society (to be known as the public file) and the file shall—
 - (a) contain the documents or, as the case may be, the copies of the documents and the records of the matters directed by or under any provision of this Act to be kept in the public file of the society; and
 - (b) be available for inspection on reasonable notice by members of the public [F9subject to subsection (3) below].
- (2) Any member of the public shall be entitled, [F9subject to subsection (3) below], to be furnished with a copy of all or any of the documents or records kept in the public file of a building society.
- [F10(3) The [F8FCA] may charge a reasonable fee for making the public file available to any person for inspection under subsection (1)(b) above, or for furnishing any person with a copy of any documents or records under subsection (2) above.]

Textual Amendments

- F8** Word in s. 106 substituted (1.4.2013) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2013 \(S.I. 2013/496\)](#), art. 1(1), **Sch. 8 para. 46** (with Sch. 12)
- F9** Words in S. 106(1)(b)(2) substituted (17.8.2001 for certain purposes and otherwise 1.12.2001) by [S.I. 2001/2617](#), arts. 2, 8, 13(1), **Sch. 3 Pt. II para. 189(b)** (with S. 13(3), Sch. 5); [S.I. 2001/3538](#), **art. 2**
- F10** S. 106(3) inserted (17.8.2001 for certain purposes and otherwise 1.12.2001) by [S.I. 2001/2617](#), arts. 2, 8, 13(1), **Sch. 3 Pt. II para. 189(c)** (with S. 13(3), Sch. 5); [S.I. 2001/3538](#), **art. 2**

107 Restriction of use of certain names and descriptions.

- (1) Subject to subsections (2) to (9) below, no person carrying on in the United Kingdom a business of any description shall, unless that person is a building society, use any name or in any other way so describe himself or hold himself out so as to indicate, or reasonably be understood to indicate—
 - (a) that he is a building society,
 - (b) that he, or his business, is connected with one or more building societies, or
 - (c) that he, or his business, is connected with building societies generally.
- (2) Subsection (1) does not prohibit the use by an institution carrying on the business of taking deposits and making loans secured on land which has its principal place of business in a country or territory outside the United Kingdom, of the name under which the institution carries on business in that country or territory if—
 - (a) the name is used in immediate conjunction with a description distinguishing the institution from a building society, being a description which has been approved for the purposes of this subsection by the [F11FCA] and the approval has not been revoked under subsection (7) below, and
 - (b) where the name appears in writing, that description is sufficiently prominent to secure that a person who reads the name will also read the description.
- (3) For a description to distinguish an institution from a building society for the purposes of subsection (2) above it must distinguish it by reference to all or any of the following matters,—
 - (a) the situation of its principal place of business,

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- (b) its legal status or constitution, and
 - (c) the law (if any) which authorises it to take deposits in the United Kingdom,as the [FII FCA] determines in its case, but need not indicate any other distinction.
- (4) Subsection (1) above does not prohibit a person from carrying on a business under a name which indicates a connection between—
 - (a) that person, or his business, and one or more building societies, or
 - (b) that person, or his business, and building societies generally,if the name has been approved for the purposes of this subsection by the [FII FCA] and the approval has not been revoked under subsection (7) below.
- (5) No name shall be approved for the purposes of subsection (4) above unless the [FII FCA], having regard to—
 - (a) the true connection (if any) in fact existing between the person using, or proposing to use, the name and the particular society or societies in question or with building societies generally, as the case may be, and
 - (b) in the cases referred to in subsection (4)(a) above, the respective natures of the business of that person and the society or societies in question,is satisfied that the connection indicated by the name is not misleading; and, in so far as the name indicates investment or other financial support on the part of a building society the [FII FCA] shall not approve the use of the name unless it is satisfied that the name indicates no more investment or support than is the case and than is, in the opinion of the [FII FCA], within the financial capacity of the building society to provide.
- (6) An application for approval under subsection (2) or (4) above shall be made to the [FII FCA] in such form as it directs and accompanied by such information or evidence as it requires generally or in the particular case.
- (7) The [FII FCA] may revoke any approval under subsection (2) or (4) above of a distinguishing description or a name, as the case may be, if it is of the opinion—
 - (a) in the case of a distinguishing description, that, by reason of any change in the matters by reference to which the distinction is made, the description does not or does not any longer distinguish the institution as required by subsection (2) above, or
 - (b) in the case of a name.
 - (i) that the name has proved to be misleading to the public,
 - (ii) that the approval has been obtained by fraud or mistake, or
 - (iii) that there has been a change in the facts to which the [FII FCA] had regard in giving its approval,but it shall not do so without first giving the person to whom the approval was given an opportunity of making representations with respect to the proposed revocation of that approval.
- (8) Subsection (1) above does not prohibit a person from using a description (other than his name) which, or from holding himself out in a way that, indicates a connection between himself or his business and one or more building societies if and to the extent he has been authorised to do so in writing by the society or societies in question.

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(9) Subsection (1) above does not prohibit a person from using a description (other than his name) which, or from holding himself out in a way that, indicates a connection between himself or his business and building societies generally where the connection indicated is not misleading.

(10) Where on an application for—

- (a) the first registration of a company, or the registration of a company by a new name, by [^{F12}the registrar of companies under the Companies Act 2006], or
- [^{F13}(b) approval by the Secretary of State of words or expressions for inclusion in a business name under section 1194 of the Companies Act 2006,]

it appears to the registrar, [^{F14}or the Secretary of State], as the case may be, that the use of the name or the words or [^{F15}expressions] by the person seeking to register with it would contravene subsection (1) above, the registration shall not be made or the approval given.

(11) A person who contravenes subsection (1) above shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale; and where the contravention involves a public display or exhibition of the offending name, description or other matter, there shall be a fresh contravention of the subsection on each day during which that person causes or permits the display or exhibition to continue for which that person shall be liable on summary conviction to a fine not exceeding £200.

[^{F16}(12) In this section—

“deposit” must be read with—

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

“institution” means—

- (a) a body corporate wherever incorporated;
- (b) a partnership formed under the law of any part of the United Kingdom;
- (c) a partnership or other unincorporated association of two or more persons formed under the law of a member State other than the United Kingdom.]

Textual Amendments

- F11** Word in s. 107 substituted (1.4.2013) by [The Financial Services and Markets Act 2012 \(Mutual Societies\) Order 2013 \(S.I. 2013/496\)](#), art. 1(1), **Sch. 8 para. 47** (with Sch. 12)
- F12** Words in s. 107(10)(a) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), **Sch. 1 para. 87(8)(a)** (with art. 10)
- F13** S. 107(10)(b) substituted for s. 107(10)(b)(c) (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), **Sch. 1 para. 87(8)(b)** (with art. 10)
- F14** Words in s. 107(10) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), **Sch. 1 para. 87(8)(c)(i)** (with art. 10)
- F15** Word in s. 107(10) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), **Sch. 1 para. 87(8)(c)(ii)** (with art. 10)
- F16** S. 107(12) substituted (1.12.2001) by 2001/3649 arts. 1, 198(2)

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^{F17}108

Textual Amendments

F17 S. 108 repealed (1.12.1997) by 1997 c. 32, ss. 43, 46(2), Sch. 7 para. 50, **Sch. 9**; S.I. 1997/2668, art. 2, **Sch. Pt. 1(j)(k)(l)(xiii)(o)(vi)**

109 Exemption from stamp duty.

[^{F18}(1)] The following instruments shall be exempted from all such stamp duties (if any) as apart from this section would be chargeable on them, that is to say—

- (a) any copy of the rules of a building society;
- (b) any transfer of a share in a building society;
- (c) any bond or other security to be given to, or on account of, a building society or by an officer of a building society;
- (d) any instrument appointing an agent of a building society or revoking such an appointment; and
- (e) any other instrument whatsoever which is required or authorised to be given, issued, signed, made or produced in pursuance of this Act or of the rules of a building society.

[^{F19}(2) No transfer effected by subsection (6) or (7) of section 97 shall give rise to any liability to stamp duty]

Textual Amendments

F18 S. 109 renumbered as s. 109(1) by Finance Act 1988 (c. 39, SIF 63:1), s. 145, **Sch. 12 para. 8**

F19 S. 109(2) inserted by Finance Act 1988 (c. 39, SIF 63:1), s. 145, **Sch. 12 para. 8**

Modifications etc. (not altering text)

C1 S. 109 excluded (1.3.2013) by The Building Societies (Core Capital Deferred Shares) Regulations 2013 (S.I. 2013/460), regs. 1(1), **3(1)(a)** (with reg. 1(2))

^{F20}**109A Exemptions from stamp duty land tax**

- (1) A land transaction effected by or in consequence of—
 - (a) an amalgamation of two or more building societies under section 93; or
 - (b) a transfer of engagements between building societies under section 94,is exempt from charge for the purposes of stamp duty land tax.
- (2) Relief under this section must be claimed in a land transaction return or an amendment of such a return.
- (3) In this section—
 - “land transaction” has the meaning given by section 43(1) of the Finance Act 2003;
 - “land transaction return” has the meaning given by section 76(1) of that Act.]

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Textual Amendments

F20 S. 109A inserted (1.12.2003) by [The Stamp Duty Land Tax \(Consequential Amendment of Enactments\) Regulations 2003 \(S.I. 2003/2867\)](#), reg. 1, **Sch. para. 14**

110 Officers and auditors not to be exempted from liability

- (1) Subject to subsection (3) below, any provision to which this section applies, whether contained in the rules of a building society or in any contract with a building society or otherwise, shall be void.
- (2) This section applies to any provision for—
 - (a) exempting any director, other officer or person employed as auditor of a building society from any liability which, by virtue of any rule of law, would otherwise attach to him in respect of the negligence, default, breach of duty or breach of trust of which he may be guilty in relation to the society, or
 - (b) indemnifying any such person against any such liability.
- [^{F21}(3) Subsection (1) above shall not prevent a building society from
 - (a) purchasing and maintaining for a person insurance against any such liability, or
 - (b) indemnifying a person against any liability incurred by him in defending any proceedings (whether civil or criminal) in which judgment is given in his favour or he is acquitted.]
- (4) [^{F22}Section 1157 of the Companies Act 2006 (power of court] to grant relief in certain cases of negligence, default, breach of duty or breach of trust) shall apply in relation to officers and auditors of a building society as it applies in relation to officers and auditors a company.

Textual Amendments

F21 S. 110(3) substituted (1.1.1992) by [S.I. 1991/2738](#), **art.2**

F22 Words in [s. 110\(4\)](#) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), **Sch. 1 para. 87(9)** (with art. 10)

111 Time limit for commencing proceedings.

- (1) Notwithstanding any limitation on the time for the taking of proceedings contained in any Act, summary proceedings for any offence under this Act [^{F23}, other than an offence in relation to which provision is made in subsection (1A),] may, subject to subsection (2) below, be commenced [^{F24}by the FCA] at any time within the period of one year beginning with the date of which evidence sufficient [^{F25}in its opinion] to justify a prosecution for the offence, comes to its knowledge.
- [^{F26}(1A) Notwithstanding any limitation on the time for taking proceedings contained in any Act, summary proceedings for the offences under the provisions listed in subsection (1B), in the circumstances specified in that subsection in relation to those provisions, may be commenced by the PRA, after notifying the FCA, or by the FCA, after notifying the PRA, at any time within the period mentioned in subsection (1C).

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(1B) The provisions and the circumstances are—

- (a) section 52 (powers to obtain information and documents etc.), if—
 - (i) the failure referred to in subsection (10) of that section is a failure to furnish any information or accountant's report, to produce any documents or material, or to provide any explanation or make any statement to the PRA, or
 - (ii) the information, explanation or statement referred to in subsection (11) or (12) of that section is furnished, provided or made to the PRA;
- (b) section 55 (investigations), if the person appointed under subsection (1) of that section was appointed by the PRA;
- (c) section 81 (laying and furnishing accounts), if the default referred to in subsection (4) of that section relates to a failure to send a copy of the accounts to the PRA in accordance with subsection (2) of that section;
- (d) section 87 (dissolution by consent), if the failure referred to in subsection (5) or (7) of that section relates to a failure to give notice to the PRA;
- (e) section 88 (voluntary winding up), if the failure referred to in subsection (4) of that section relates to a failure to send a copy of the resolution to the PRA in accordance with subsection (2) of that section;
- (f) section 91 (power of court to declare dissolution of building society void), if the failure referred to in subsection (5) of that section relates to a failure to send a copy of an order to the PRA in accordance with subsection (4) of that section;
- (g) section 95 (mergers: provisions supplementing sections 93 and 94), if the application referred to subsection (3) of that section was made, or should have been made, to the PRA;
- (h) section 98 (transfers of business: supplementary provisions), if the application referred to subsection (2) of that section was made, or should have been made, to the PRA;
- (i) Schedule 8A, paragraph 3(5) (directions under section 42B(3)), if the PRA has given a direction under section 42B(3);
- (j) Schedule 8A, paragraph 9(5) (directions under section 42B(4)), if the PRA has given a direction under section 42B(4);
- (k) Schedule 11, paragraph 3 (auditors: appointment), if the failure referred to in sub-paragraph (2) of that paragraph relates to a failure to give notice to the PRA in accordance with sub-paragraph (1) of that paragraph;
- (l) Schedule 11, paragraph 6 (auditors: removal), if the failure referred to in sub-paragraph (3) of that paragraph relates to a failure to give notice to the PRA in accordance with sub-paragraph (2) of that paragraph;
- (m) Schedule 11, paragraph 7 (auditors: resignation), if the default referred to in sub-paragraph (8) of that paragraph relates to a failure to send any notice or statement to the PRA in accordance with sub-paragraph (3) or (7) of that paragraph;
- (n) Schedule 15, paragraph 21 (application of companies winding up legislation to building societies: winding up by the court), if the failure referred to in sub-paragraph (4) of that paragraph relates to a failure to give notice to the PRA in accordance with sub-paragraph (3) of that paragraph;
- (o) Schedule 15, paragraph 48 (modified application of Insolvency (Northern Ireland) Order 1989: winding up by the High Court), if the failure referred to

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- in sub-paragraph (4) of that paragraph relates to a failure to give notice to the PRA in accordance with sub-paragraph (3) of that paragraph; and
- (p) Schedule 16, paragraph 6 (mergers: penalty), if the default referred to in sub-paragraph (1) of that paragraph relates to a failure to send a copy of a statement or notification to the PRA in accordance with paragraph 5(1) of that Schedule.
- (1C) The period is one year beginning with the date on which evidence comes to the knowledge of one or both of the FCA and the PRA, being evidence sufficient in the opinion of the FCA or the PRA (as the case may be) to justify a prosecution.]
- (2) Nothing in subsection (1) [^{F27}or (1A)] above shall authorise the commencement of proceedings for any offence at a time more than three years after the date on which the offence was committed.
- (3) For the purposes of subsection (1) [^{F28}and subsection (1C)] of this section a certificate, purporting to be signed by or on behalf of the [^{F29}FCA or the PRA], as to the date on which such evidence as is mentioned in [^{F30}the relevant subsection] came to its knowledge, shall be conclusive evidence of that date.
- [^{F31}(4) In the application of this section to Scotland—
- (a) for subsection (1), substitute—
- “(1) Notwithstanding any limitation on the time for the taking of proceedings contained in any Act, summary proceedings for any offence under this Act may, subject to subsection (2), be commenced by the Lord Advocate at any time within the period of one year beginning with the date on which evidence sufficient in the opinion of the Lord Advocate to justify a prosecution for the offence, comes to the knowledge of the Lord Advocate”;
- (b) omit subsections (1A), (1B) and (1C); and
- (c) for subsection (3), substitute—
- “(3) For the purposes of subsection (1) of this section a certificate, purporting to be signed by or on behalf of the Lord Advocate, as to the date on which such evidence as is mentioned in that subsection came to the knowledge of the Lord Advocate, shall be conclusive evidence of that date.”.]
- (5) In the application of this section to Scotland, [^{F32}section 136(3) of the Criminal Procedure (Scotland) Act 1995] shall apply for the purposes of this section as it applies for the purposes of that section.

Textual Amendments

- F23** Words in s. 111(1) inserted (1.4.2013) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2013 \(S.I. 2013/496\)](#), art. 1(1), [Sch. 8 para. 48\(2\)\(a\)](#) (with Sch. 12)
- F24** Words in s. 111(1) substituted (1.4.2013) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2013 \(S.I. 2013/496\)](#), art. 1(1), [Sch. 8 para. 48\(2\)\(b\)](#) (with Sch. 12)
- F25** Words in s. 111(1) substituted (1.4.2013) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2013 \(S.I. 2013/496\)](#), art. 1(1), [Sch. 8 para. 48\(2\)\(c\)](#) (with Sch. 12)
- F26** S. 111(1A)-(1C) inserted (1.4.2013) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2013 \(S.I. 2013/496\)](#), art. 1(1), [Sch. 8 para. 48\(3\)](#) (with Sch. 12)
- F27** Words in s. 111(2) inserted (1.4.2013) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2013 \(S.I. 2013/496\)](#), art. 1(1), [Sch. 8 para. 48\(4\)](#) (with Sch. 12)

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- F28** Words in s. 111(3) inserted (1.4.2013) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2013 \(S.I. 2013/496\)](#), art. 1(1), **Sch. 8 para. 48(5)(a)** (with Sch. 12)
- F29** Words in s. 111(3) substituted (1.4.2013) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2013 \(S.I. 2013/496\)](#), art. 1(1), **Sch. 8 para. 48(5)(b)** (with Sch. 12)
- F30** Words in s. 111(3) substituted (1.4.2013) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2013 \(S.I. 2013/496\)](#), art. 1(1), **Sch. 8 para. 48(5)(c)** (with Sch. 12)
- F31** Words in s. 111(4) substituted (1.4.2013) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2013 \(S.I. 2013/496\)](#), art. 1(1), **Sch. 8 para. 48(6)** (with Sch. 12)
- F32** Words in s. 111(5) substituted (S.) (1.4.1996) by [1995 c. 40, ss. 5, 7\(2\)](#), **Sch. 4 para. 65**

112 Offences: liability of officers and defence of due diligence.

(1) Where an offence under any provision of this Act committed by a building society is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any officer of the society he, as well as the society, shall be guilty of that offence and liable to be proceeded against and punished in accordance with that provision.

^{F33}(2)

(3) Where an offence under any provision of this Act committed by a body corporate other than a building society is proved to have been committed with the consent or connivance, or to be attributable to any neglect on the part of, any officer of the body corporate he, as well as the body corporate, shall be guilty of that offence and liable to be proceeded against and punished accordingly.

(4) In any proceedings for an offence under this Act, it shall be a defence for a person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence by himself or any person under his control

Textual Amendments

- F33** S. 112(2) repealed (1.12.2001) by [S.I. 2001/2617](#), arts. 2(b), 13(2), **Sch. 4** (with art. 13(3), Sch. 5); [S.I. 2001/3538](#), **art. 2**

113 Evidence.

^{F34}(1) Any document bearing the seal or stamp of the ^{F35}[FCA] shall be received in evidence without further proof.

(1A) Any document purporting to have been signed by a person authorised to do so on behalf of the ^{F36}[FCA or the PRA] shall, in the absence of any evidence to the contrary, be received in evidence without proof of the signature.

(1B) In subsections (1) and (1A), “document” means any document issued, received or created by the ^{F36}[FCA or the PRA] for the purposes of or in connection with this Act.]

(2) Any printed document purporting to be a copy of the rules or memorandum of a building society, and certified by the secretary or other officer of the society to be a true copy of its rules or memorandum as registered, shall be received in evidence and shall, in the absence of any evidence to the contrary, be deemed to be a true copy of its rules or memorandum.

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Textual Amendments

- F34** S. 113(1)-(1B) substituted (17.8.2001 for certain purposes and otherwise 1.12.2001) for s. 113(1) by S.I. 2001/2617, arts. 2, 8, 13(1), **Sch. 3 Pt. II para. 192** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2**
- F35** Word in s. 113(1) substituted (1.4.2013) by **The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496)**, art. 1(1), **Sch. 8 para. 49(2)** (with Sch. 12)
- F36** Words in s. 113(1A)(1B) substituted (1.4.2013) by **The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496)**, art. 1(1), **Sch. 8 para. 49(3)** (with Sch. 12)

114 Records.

- (1) Subject to any other provision of this Act or regulations under it, any record to be kept by a building society may be kept in any manner.
- (2) Where any such record is not kept by making entries in a bound book, but by some other means, adequate precautions shall be taken for guarding against falsification and facilitating its discovery.
- (3) The power in subsection (1) above includes power to keep the record by recording matters otherwise than in legible form so long as the recording is capable of being reproduced in a legible form; and any duty imposed by or under this Act to allow inspection of, or to furnish a copy of, the record or any part of it is to be treated as a duty to allow inspection of, or to furnish, a reproduction of the recording or of the relevant part of it in a legible form.
- (4) The [^{F37}Treasury may by regulations], make such provision in addition to subsection (3) above as [^{F38}they consider] appropriate in connecton with such records as are kept otherwise than in legible form; and the regulations may make modifications of this Act so far as it relates to the records of building societies.
- (5) If default is made in complying with this section the building society shall be liable on summary conviction—
 - (a) to a fine not exceeding level 4 on the standard scale, and
 - (b) in the case of a continuing offence, to an additional fine not exceeding £100 for every day during which the offence continues,
 and so shall any officer who is also guilty of the offence.

Textual Amendments

- F37** Words in S. 114(4) substituted (17.8.2001 for certain purposes and otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 8, 13(1), **Sch. 3 Pt. II para. 193(a)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2**
- F38** Words in s. 114(4) substituted (17.8.2001 for certain purposes and otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 8, 13(1), **Sch. 3 Pt. II para. 193(b)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2**

Modifications etc. (not altering text)

- C2** S. 114(4): Functions of Building Societies Commission transferred (1.12.2001) to the Treasury by S.I. 2000/2617 arts. 2(b), 4(1) Sch. 1 Pt. III; S.I. 2001/3538, **art. 2**

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115 Service of notices.

- (1) This section has effect in relation to any notice, directions or other document required or authorised by or under any provision of this Act or by the rules of a building society to be served on any person other than the [^{F39}FCA and the PRA] but subject, in the case of notices or other documents to be given or sent to members of a building society, to any provision of its rules.

^{F40}(1A)

- (2) Any such document may be served on the person in question—
- (a) by delivering it to him;
 - (b) by leaving it at his proper address; or
 - (c) by sending it by post to him at that address.

[^{F41}(2A) The reference in subsection (2)(a) to delivering a document to a person includes a reference to sending it electronically to an electronic address which that person has notified for the purpose in accordance with express provision made by this Act.]

- (3) Any such document may—
- (a) in the case of a building society, be served on the secretary of the society;
 - (b) in the case of a body corporate (other than a building society), be served on the secretary or clerk of that body;
 - (c) in the case of a partnership, be served on any partner;
 - (d) in the case of an unincorporated association other than a partnership, be served on any member of its governing body.

- (4) For the purposes of this section and section 7 of the ^{M1}Interpretation Act 1978 (service of documents) in its application to this section, the proper address of any person is—
- (a) in the case of a building society or its secretary, the address of its principal office;
 - (b) in the case of a member of a building society, his registered address;
 - (c) in the case of a director or the chief executive of a building society, his officially notified address;
 - (d) in the case of a body corporate (other than a building society) its secretary or clerk, the address of its registered or principal office in the United Kingdom;
 - (e) in the case of an unincorporated association (other than a partnership) or a member of its governing body, its principal office in the United Kingdom;

and, in any other case, his last-known address (whether of his residence or of a place where he carries on business or is employed).

Textual Amendments

- F39** Words in s. 115(1) substituted (1.4.2013) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2013 \(S.I. 2013/496\)](#), art. 1(1), [Sch. 8 para. 50](#) (with [Sch. 12](#))
- F40** S. 115(1A) repealed (1.12.2001) by [S.I. 2001/2617](#), arts. 2(b), 13(2), [Sch. 4](#) (with [S. 13\(3\)](#), [Sch. 5](#)); [S.I. 2001/3538](#), [art. 2](#)
- F41** S. 115(2A) inserted (20.3.2003) by [The Building Societies Act 1986 \(Electronic Communications\) Order 2003 \(S.I. 2003/404\)](#), arts. 1(1), [8](#)

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Marginal Citations

M1 1978 c. 30.

[^{F42}116 Form of documents.

- (1) The [^{F43}FCA and the PRA may each], by directions under this section, make provision with respect to the form of, and the particulars to be included in, any document to be sent to it under this Act.

[The PRA and the FCA must each consult the other before issuing a direction under ^{F44}(1A) this section if the document in question is required to be sent to both of them.]

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

Textual Amendments

- F42** S. 116 substituted (17.8.2001 for certain purposes and otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 8, 13(1), **Sch. 3 Pt. II para. 195** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2**
- F43** Words in s. 116(1) substituted (1.4.2013) by *The Financial Services Act 2012 (Mutual Societies) Order 2013* (S.I. 2013/496), art. 1(1), **Sch. 8 para. 51(2)** (with Sch. 12)
- F44** S. 116(1A) inserted (1.4.2013) by *The Financial Services Act 2012 (Mutual Societies) Order 2013* (S.I. 2013/496), art. 1(1), **Sch. 8 para. 51(3)** (with Sch. 12)

117 Financial year of building societies.

- (1) Subject to the provisions of this section and Schedule 20, the financial year of building societies shall be the period of twelve months ending with 31st December.
- (2) The initial financial year of a building society shall be such period as expires with the end of the calendar year in which it is established and the final financial year of a building society shall be such shorter period than twelve months as expires with the date as at which the society makes up its final accounts.
- (3) A building society whose financial year does not, by virtue of the saving provisions of Schedule 20, end with 31st December may alter its financial year by making up its accounts for one period of more than 6 months, and not more than 18 months, ending with 31st December; and in relation to a building society exercising the power conferred by this subsection, references in this Act to a financial year of the society include references to that period.

[^{F45}118 Qualifying asset holding for certain powers.

- (1) This section has effect for determining for the purposes of this Act whether, in any financial year, a building society has a “qualifying asset holding”.
- (2) A building society has a qualifying asset holding in any financial year, if, and only if, the aggregate value of its total commercial assets, as shown in its annual accounts for the previous year, is not less than £100 million or such other amount as may be substituted for it under subsection (3) below.

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- (3) The Commission, with the consent of the Treasury, may by order made by statutory instrument substitute for the amount for the time being specified in subsection (2) above such other amount as the Commission considers appropriate.
- (4) An order under subsection (3) above may contain such transitional provisions as the Commission considers necessary or expedient.
- (5) An instrument containing an order under subsection (3) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

Textual Amendments

F45 S. 118 repealed (1.12.1997 in specified cases and for specified purposes and otherwise in accordance with art. 2(2)(3)(5) of S.I. 1997/2668) by 1997 c. 32, ss. 43, 46(2), 47(3), Sch. 7 para. 52, **Sch. 9**; S.I. 1997/2668, art. 2, **Sch. Pt. II(w)(y)(z)(xxx)(cc)(xv)**

^{F46}**118A**.....

Textual Amendments

F46 S. 118A repealed (1.12.2001) by S.I. 2001/2617, arts. 2(b), 13(2), **Sch. 4** (with S. 13(3), Sch. 5); S.I. 2001/3538, **art. 2**

119 Interpretation.

- (1) In this Act, except where the context otherwise requires—
 - [^{F47}“adopt” and “adopted”, in relation to powers, and “adoptable powers” have the meaning given by paragraph 1 of Schedule 2 of this Act;]
 - [^{F47}“advance secured on land” and “advance fully secured on land” have the meanings given by section 10(1) and (11) and references to class 1 or class 2 advances are to be construed in accordance with sections 11 and 12;]
 - ^{F47}[^{F48}“advance secured on third party land” has the meaning given by section 10(4A);]
 - [^{F49}“annual accounts” has the meaning given in section 81B(1)]
 - “the annual business statement” has the meaning given by section 74(1);
 - “the applicable winding up legislation” and “the companies winding up legislation” have the meanings given by section 90;
 - [^{F50}“the appropriate authority” means—
 - (a) in relation to a building society which is a PRA-authorised person, the PRA; and
 - (b) in relation to a building society which is not a PRA-authorised person, the FCA;]
 - [^{F51}“associated undertaking” has the meaning given by section 119A;]
 - ^{F52}.....
 - ^{F53}....
 - [^{F54}“ballot” means an electronic ballot or a postal ballot, as the case may be;]

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[^{F55c}“borrowing members’ resolution” has the meaning given by paragraph 29(1) of Schedule 2 to this Act and, subject to paragraph 29(2), “borrowing member” has the meaning given by paragraph 5 of that Schedule;]

“building society” means a building society incorporated (or deemed to be incorporated) under this Act;

[^{F56c}“building society insolvency”, “building society insolvency order” and “building society liquidator” shall be construed in accordance with Part 2 of the Banking Act 2009 as applied with modifications by section 90C above;

“building society special administration”, “building society special administration order” and “building society special administrator” shall be construed in accordance with Part 3 of the Banking Act 2009 as applied with modifications by section 90C above;]

[^{F57c}“Building Societies Act accounts” means Building Societies Act individual accounts and, where required, any Building Societies Act group accounts;]

[^{F57c}“Building Societies Act group accounts” has the meaning given by section 72E(3)(a)]

[^{F57c}“Building Societies Act individual accounts” has the meaning given by section 72A(2)(a)]

F58

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[^{F59c}“the Companies Acts” has the meaning given by section 2(1) of the Companies Act 2006;]

[^{F60c}“connected undertaking” means a subsidiary undertaking or an associated undertaking;]

[^{F61c}“the court”, in relation to a building society, means the court which has jurisdiction under the applicable winding up legislation to wind up the society;]

F58

F62

“deferred shares” means shares of a class defined by order of the [^{F63}Treasury], in a statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament;

[^{F64c}“deposit” includes—

- (a) a loan; and
- (b) a subordinated deposit, that is to say, a deposit which, on a winding up, would fall to be repaid only after repayment in full had been made to the holders of shares in the society other than deferred shares,

and cognate expressions shall be construed accordingly;]

“dispose”, in relation to any property, includes the granting of any interest in or right over it;

[^{F54c}“electronic address” includes any number or address used for the purposes of receiving electronic communications which are sent electronically;]

[^{F54c}“electronic ballot”, in relation to an election or resolution of a building society, means the electronic ballot taking place, in accordance with paragraph 33A of Schedule 2 to this Act, in the case of the election or resolution;]

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[^{F54}“electronic communication” means an electronic communication within the meaning of the Electronic Communications Act 2000 the processing of which on receipt is intended to produce writing;]

“executive”, in relation to a director, means a person who holds office as a director and also as chief executive, secretary or manager;

[^{F50}“the FCA” means the Financial Conduct Authority;]

“financial year” is to be construed in accordance with section 117;

[^{F57}“group accounts” has the meaning given by section 72E(1);]

“heritable security” means a security capable of being constituted over any land by disposition or assignation of that interest in security of any debt and of being recorded in the Register of Sasines or, as the case may be, in the Land Register of Scotland and includes a security constituted by a standard security and any other charge enforceable in the same manner as a standard security;

[^{F57}“IAS accounts” means IAS individual accounts or IAS group accounts;]

[^{F57}“IAS group accounts” has the meaning given by section 72E(3)(b);]

[^{F57}“IAS individual accounts” has the meaning given by section 72A(2)(b);]

[^{F57}“individual accounts” has the meaning given by section 72A(1);]

[^{F65}“interest”, in relation to shares, includes dividends;]

^{F66}
.....

[^{F67}“land”, in the expression “loan secured on land”, has the meaning given by section 6A(8);]

“loan secured on land” and “loan fully secured on land” shall be construed in accordance with sections 6A and 6B respectively;]

“manager”, in relation to a building society, means a person (other than the chief executive) employed by the society who, under the immediate authority of a director or the chief executive of the society exercises managerial functions or is responsible for maintaining accounts or other records of the society;

[^{F68}“member” shall be construed in accordance with paragraph 5 of Schedule 2 to this Act;]

“memorandum” has the meaning given by paragraph 1 of Schedule 2 to the Act;

[^{F47}“mobile home loan” means a loan under section 15;]

“mortgage” includes charge;

[^{F69}“mortgage debt”, in relation to a loan secured on land and any time, means the total amount outstanding at that time in respect of—

- (a) the principal of the loan;
- (b) interest on the loan; and
- (c) any other sum which the borrower is obliged to pay the society under the terms of the loan;]

^{F70}
.....

[^{F71}“notice” means written notice but includes a notice in an electronic communication to the extent only that this Act provides for the manner in which the notice may be given electronically, and “notice to” and “notify” shall be construed accordingly;]

“officer”, in relation to a building society, means any director, chief executive, secretary or manager of the society; and, in relation to any offence, “officer” also includes any person who purports to act as an officer of the

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society; and in relation to any other body corporate means the corresponding officers of that body;

“officially notified”, in relation to the appointment or address of a director or the chief executive of a building society, means respectively notified to, and the last address notified to, the [F72FCA] under section 61(13) or 59(6), as the case may be;

[F73“ordinary resolution” means a resolution which will be effective without being passed as a special resolution, shareholding members’ resolution or borrowing members’ resolution;]

[F74“own funds” means own funds as defined in Section 1 of Chapter 2 of Title V of the Banking Consolidation Directive;]

F75

[F54“postal ballot”, in relation to an election or resolution of a building society, means any postal ballot taking place by virtue of any rules of the society made in accordance with paragraph 33 of Schedule 2 to this Act, in the case of the election or resolution;]

[F50“the PRA” means the Prudential Regulation Authority;]

[F50“PRA-authorized person” has the meaning in section 2B of the Financial Services and Markets Act 2000;]

“the public file”, in relation to a building society, means the file relating to the society which the [F76FCA] is required to maintain under section 106;

[F47“qualifying asset holding”, in relation to a building society, shall be construed in accordance with section 118;]

“registered address”, in relation to a member of a building society, has the meaning given by paragraph 13 of Schedule 2 to this Act;

“the repealed enactments” means the ^{M2}Building Societies Act 1962 or the ^{M3}Building Societies Act 1874 or, in relation to Northern Ireland, the ^{M4}Building Societies Act (Northern Ireland) 1967;

[F77“residential property” has the meaning given by section 5(10);]

[F78“share”, in relation to a building society, shall be construed in accordance with section 8;]

“shareholder and depositor” includes a potential shareholder or depositor;

[F79“shareholding member” has the meaning given by paragraph 5 of Schedule 2 to this Act;

“shareholding members” resolution’ has the meaning given by paragraph 27A of that Schedule;]

“special resolution” has the meaning given by paragraph 27 of Schedule 2 to this Act;

[F47“subsidiary” [F80] has the meaning given by section 736 of] the ^{M5}Companies Act 1985;]

F81

“summary financial statement” has the meaning given by section 76(1);

[F47“total commercial assets”, in relation to a building society, means the aggregate of its class 1 assets, its class 2 assets and its class 3 assets.]

[F82“undertaking” and “subsidiary undertaking” have the same meaning as in the Companies Acts (see sections 1161(1) and 1162 of, and Schedule 7 to, the Companies Act 2006);]

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[^{F83}(1A) Any reference in this Act to the seal of the [^{F84}FCA] is a reference to the seal provided for in regulations made under section 109(1)(b) of the Friendly Societies Act 1974 (and not to the [^{F85}FCA's] common seal).]

(2) In relation to [^{F86}loans] secured on land in Scotland, “mortgage” means a heritable security, “mortgagor” and “mortgagee” mean respectively the debtor and creditor in a heritable security and connected expressions shall be construed accordingly.

^{F87}(2A)

[^{F88}(2B) In this Act “the Banking Consolidation Directive” means Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions [^{F89}as last amended [^{F90}on 24th November 2010 by Directives 2010/76/EU and 2010/78/EU] of the European Parliament and of the Council].]

^{F91}(2C)

(3) For the purposes of any provision of this Act referring to the value of a person's shareholding in a building society—

(a) the value of a person's shares shall be taken as the amount standing to his credit in respect of payments made ^{F92}... on the shares and interest credited ^{F92}... by way of capitalisation; and

(b) shares held by a person to whom, as the holder of the share, the society has made [^{F93}a loan], shall be disregarded.

[^{F94}(3A) Any reference in this Act (however expressed) to loans being owed to a building society or a subsidiary undertaking of a building society is a reference to their being so owed either at law or in equity.]

[^{F95}(4) Subject to [^{F96}section 9A(7)], the value in sterling of—

(a) any transaction effected by or with a building society or connected undertaking in another currency, or

(b) any assets or liabilities of a building society or connected undertaking denominated in another currency,

shall be determined for any purpose of this Act in accordance with directions given by the [^{F97}appropriate authority] under this subsection.]

^{F98}(5)

Textual Amendments

F47 Definitions in s. 119(1) repealed (1.12.1997 in specified cases and for specified purposes and otherwise in accordance with art. 2(2)(3)(5) of S.I. 1997/2668) by 1997 c. 32, ss. 43, 46(2), 47(3), Sch. 7 para. 53(1)(a), **Sch. 9**; S.I. 1997/2668, art. 2, Sch. Pts. I(j)(k)(l)(xiv), **II(w)(y)(z)(xxxi)(cc)(xvi)**

F48 Words in s. 119(1) inserted (3.1.1995) by 1994 c. 40, ss. 39, 82(2)(e), **Sch. 11 para. 7(6)**

F49 Words in s. 119(1) substituted (22.12.2004) (with effect in accordance with art. 1(2) of the amending S.I.) by **The Building Societies Act 1986 (International Accounting Standards and Other Accounting Amendments) Order 2004** (S.I. 2004/3380), art. 1, **Sch. para. 7**

F50 Words in s. 119(1) inserted (1.4.2013) by **The Financial Services Act 2012 (Mutual Societies) Order 2013** (S.I. 2013/496), art. 1(1), **Sch. 8 para. 52(2)(d)** (with Sch. 12)

F51 Words in s. 119(1) substituted (6.4.2008) by **The Companies Act 2006 (Consequential Amendments etc) Order 2008** (S.I. 2008/948), art. 2(2), **Sch. 1 para. 108(2)** (with arts. 6, 11, 12)

Status: Point in time view as at 01/04/2013.

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- F52** Definition of “authorisation” in s. 119(1) repealed (1.12.2001) by S.I. 2001/2617, arts. 2(b), 13(2), **Sch. 4** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2**
- F53** Words in s. 119(1) omitted (1.4.2013) by virtue of The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), art. 1(1), **Sch. 8 para. 52(2)(a)** (with Sch. 12)
- F54** Words in s. 119(1) inserted (20.3.2003) by The Building Societies Act 1986 (Electronic Communications) Order 2003 (S.I. 2003/404), arts. 1(1), **9(2)**
- F55** Definition in s. 119(1) substituted (1.12.1997 in specified cases and for specified purposes and otherwise in accordance with art. 2(2)(3)(5) of S.I. 1997/2668) by 1997 c. 32, ss. 43, 47(3), **Sch. 7 para. 53(1)(c)**; S.I. 1997/2668, art. 2, Sch. Pts. I(j)(l)(xiv), **II(w)(z)(xxxi)**
- F56** Words in s. 119 inserted (29.3.2009) by The Building Societies (Insolvency and Special Administration) Order 2009 (S.I. 2009/805), **art. 11**
- F57** Words in s. 119(1) inserted (22.12.2004) (with effect in accordance with art. 1(2) of the amending S.I.) by The Building Societies Act 1986 (International Accounting Standards and Other Accounting Amendments) Order 2004 (S.I. 2004/3380), art. 1, **Sch. para. 7**
- F58** Definitions of “the central office”, “the Chief Registrar”, “the Commission” and “the criteria of prudent management” in s. 119(1) repealed (1.12.2001) by S.I. 2001/2617, arts. 2(b), 13(2), **Sch. 4** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2**
- F59** Words in s. 119(1) inserted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 1(2), **Sch. 1 para. 87(10)** (with art. 10)
- F60** Definition in s. 119(1) inserted (9.6.1997 for certain purposes only, 1.12.1997 in specified cases and for specified purposes and otherwise in accordance with art. 2(2)(3)(5) of S.I. 1997/2668) by 1997 c. 32, ss. 43, 47(3), **Sch. 7 para. 53(1)(d)**; S.I. 1997/1427, **art. 2(k)(n)(xii)**; S.I. 1997/2668, art. 2, Sch. Pts. I(j)(l)(xiv), **II(w)(z)(xxxi)**
- F61** Definition in s. 119(1) substituted (1.12.1997 in specified cases and for specified purposes and otherwise in accordance with art. 2(2)(3)(5) of S.I. 1997/2668) by 1997 c. 32, ss. 43, 47(3), **Sch. 7 para. 53(1)(e)**; S.I. 1997/2668, art. 2, Sch. Pts. I(j)(l)(xiv), **II(w)(z)(xxxi)**
- F62** Words in S. 119(1) repealed (1.12.2001) by S.I. 2001/3649 art. 199(3)
- F63** Words in the definition of “deferred shares” s. 119(1) substituted (17.8.2001 for certain purposes otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 8, 13(1), **Sch. 3 Pt. II para. 197(a)(iv)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2**
- F64** Definition in s. 119(1) substituted (1.12.1997 in specified cases and for specified purposes and otherwise in accordance with art. 2(2)(3)(5) of S.I. 1997/2668) by 1997 c. 32, ss. 43, 47(3), **Sch. 7 para. 53(1)(g)**; S.I. 1997/2668, art. 2, Sch. Pts. I(j)(l)(xiv), **II(w)(z)(xxxi)**
- F65** Definition in s. 119(1) inserted (1.12.1997 in specified cases and for specified purposes and otherwise in accordance with art. 2(2)(3)(5) of S.I. 1997/2668) by 1997 c. 32, ss. 43, 47(3), **Sch. 7 para. 53(1)(h)**; S.I. 1997/2668, art. 2, Sch. Pts. I(j)(l)(xiv), **II(w)(z)(xxxi)**
- F66** Definition of “Investor Protection Board” in s. 119(1) repealed (1.12.2001) by S.I. 2001/2617, arts. 2(b), 13(2), **Sch. 4** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2**
- F67** Definitions in s. 119(1) inserted (1.12.1997 in specified cases and for specified purposes and otherwise in accordance with art. 2(2)(3)(5) of S.I. 1997/2668) by 1997 c. 32, ss. 43, 47(3), **Sch. 7 para. 53(1)(i)**; S.I. 1997/2668, art. 2, Sch. Pts. I(j)(l)(xiv), **II(w)(z)(xxxi)**
- F68** Definition in s. 119(1) substituted (1.12.1997 in specified cases and for specified purposes and otherwise in accordance with art. 2(2)(3)(5) of S.I. 1997/2668) by 1997 c. 32, ss. 43, 47(3), **Sch. 7 para. 53(1)(j)**; S.I. 1997/2668, art. 2, Sch. Pts. I(j)(l)(xiv), **II(w)(z)(xxxi)**
- F69** Definition in s. 119(1) substituted (1.12.1997 in specified cases and for specified purposes and otherwise in accordance with art. 2(2)(3)(5) of S.I. 1997/2668) by 1997 c. 32, ss. 43, 47(3), **Sch. 7 para. 53(1)(k)**; S.I. 1997/2668, art. 2, Sch. Pts. I(j)(l)(xiv), **II(w)(z)(xxxi)**
- F70** Definition of “non-EEA laws” in s. 119(1) repealed (1.12.2001) by S.I. 2001/2617, arts. 2(b), 13(2), **Sch. 4** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2**
- F71** Words in s. 119(1) substituted (20.3.2003) by The Building Societies Act 1986 (Electronic Communications) Order 2003 (S.I. 2003/404), arts. 1(1), **9(3)**

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- F72** Word in s. 119(1) substituted (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), art. 1(1), **Sch. 8 para. 52(2)(b)** (with Sch. 12)
- F73** Definition in s. 119(1) inserted (1.12.1997 in specified cases and for specified purposes and otherwise in accordance with art. 2(2)(3)(5) of S.I. 1997/2668) by 1997 c. 32, ss. 43, 47(3), **Sch. 7 para. 53(1)(I)**; S.I. 1997/2668, art. 2, Sch. Pts. I(j)(l)(xiv), **II(w)(z)(xxxi)**
- F74** Words in S. 119(1) inserted (1.12.2001) by S.I. 2001/3649 art. 199(2)
- F75** Definition of “prescribed” in s. 119(1) repealed (1.12.2001) by S.I. 2001/2617, arts. 2(b), 13(2), **Sch. 4** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2**
- F76** Word in s. 119(1) substituted (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), art. 1(1), **Sch. 8 para. 52(2)(c)** (with Sch. 12)
- F77** Definition in s. 119(1) inserted (1.12.1997 in specified cases and for specified purposes and otherwise in accordance with art. 2(2)(3)(5) of S.I. 1997/2668) by 1997 c. 32, ss. 43, 47(3), **Sch. 7 para. 53(1)(m)**; S.I. 1997/2668, art. 2, Sch. Pts. I(j)(l)(xiv), **II(w)(z)(xxxi)**
- F78** Definition in s. 119(1) substituted (1.12.1997 in specified cases and for specified purposes and otherwise in accordance with art. 2(2)(3)(5) of S.I. 1997/2668) by 1997 c. 32, ss. 43, 47(3), **Sch. 7 para. 53(1)(n)**; S.I. 1997/2668, art. 2, Sch. Pts. I(j)(l)(xiv), **II(w)(z)(xxxi)**
- F79** Definitions in s. 119(1) inserted (1.12.1997 in specified cases and for specified purposes and otherwise in accordance with art. 2(2)(3)(5) of S.I. 1997/2668) by 1997 c. 32, ss. 43, 47(3), **Sch. 7 para. 53(1)(o)**; S.I. 1997/2668, art. 2, Sch. Pts. I(j)(l)(xiv), **II(w)(z)(xxxi)**
- F80** Words substituted by virtue of Companies Act 1989 (c. 40, SIF 27), s. 145(4), **Sch. 18 para. 45**
- F81** Words in s. 119(1) omitted (6.4.2008) by virtue of The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 2(2), **Sch. 1 para. 108(3)** (with arts. 6, 11, 12)
- F82** Words in s. 119(1) inserted (6.4.2008) by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 2(2), **Sch. 1 para. 108(4)** (with arts. 6, 11, 12)
- F83** S. 119(1A) inserted (17.8.2001 for certain purposes otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 8, 13(1), **Sch. 3 Pt. II para. 197(b)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2**
- F84** Word in s. 119(1A) substituted (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), art. 1(1), **Sch. 8 para. 52(3)(a)** (with Sch. 12)
- F85** Word in s. 119(1A) substituted (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), art. 1(1), **Sch. 8 para. 52(3)(b)** (with Sch. 12)
- F86** Word in s. 119(2) substituted (1.12.1997 in specified cases and for specified purposes and otherwise in accordance with art. 2(2)(3)(5) of S.I. 1997/2668) by 1997 c. 32, ss. 43, 47(3), **Sch. 7 para. 53(2)**; S.I. 1997/2668, art. 2, Sch. Pts. I(j)(l)(xiv), **II(w)(z)(xxxi)**
- F87** S. 119(2A)(2C) repealed (1.12.2001) by S.I. 2001/3649 art. 199(4)
- F88** S. 119(2B) substituted (1.1.2007) by The Capital Requirements Regulations 2006 (S.I. 2006/3221), reg. 1(1), **Sch. 4 para. 3**
- F89** Words in s. 119(2B) inserted (31.12.2010) by The Capital Requirements (Amendment) Regulations 2010 (S.I. 2010/2628), reg. 1, **Sch. 1 para. 1**
- F90** Words in s. 119(2B) substituted (16.4.2012) by The Capital Requirements (Amendment) Regulations 2012 (S.I. 2012/917), reg. 1, **Sch. 1 para. 1**
- F91** S. 119(2A)(2C) repealed (1.12.2001) by S.I. 2001/3649 art. 199(4)
- F92** Words in s. 119(3)(a) ceased to have effect (9.6.1997) by 1997 c. 32, s. 43, **Sch. 7 para. 53(3)(a)**; and repealed (1.12.1997) by 1997 c. 32, s. 46(2), **Sch. 9**; S.I. 1997/1427, **art. 2(k)(n)(xiii)**; S.I. 1997/2668, art. 2, **Sch. Pt. I(j)(k)(l)(xiv)(o)(vii)**
- F93** Words in s. 119(3)(b) substituted (1.12.1997 in specified cases and for specified purposes and otherwise in accordance with art. 2(2)(3)(5) of S.I. 1997/2668) by 1997 c. 32, ss. 43, 47(3), **Sch. 7 para. 53(3)(b)**; S.I. 1997/2668, art. 2, Sch. Pts. I(j)(l)(xiv), **II(w)(z)(xxxi)**
- F94** S. 119(3A) inserted (1.12.1997 in specified cases and for specified purposes and otherwise in accordance with art. 2(2)(3)(5) of S.I. 1997/2668) by 1997 c. 32, ss. 43, 47(3), **Sch. 7 para. 53(4)**; S.I. 1997/2668, art. 2, Sch. Pts. I(j)(l)(xiv), **II(w)(z)(xxxi)**
- F95** S. 119(4) substituted (1.12.1997 in specified cases and for specified purposes and otherwise in accordance with art. 2(2)(3)(5) of S.I. 1997/2668) by 1997 c. 32, ss. 43, 47(3), **Sch. 7 para. 53(5)**; S.I. 1997/2668, art. 2, Sch. Pts. I(j)(l)(xiv), **II(w)(z)(xxxi)**

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- F96** Words in S. 119(4) substituted (17.8.2001 for certain purposes otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 8, 13(1), **Sch. 3 Pt. II para. 197(c)(i)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2**
- F97** Words in s. 119(4) substituted (1.4.2013) by **The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496)**, art. 1(1), **Sch. 8 para. 52(4)** (with Sch. 12)
- F98** S. 119(5) repealed (22.7.2004) by **Statute Law (Repeals) Act 2004 (c. 14)**, **Sch. 1 Pt. 17** Group 2

Modifications etc. (not altering text)

- C3** S. 119(1): Functions of the Building Societies Commission transferred (1.12.2001) to the Treasury by S.I. 2001/2617, arts. 2(b), 4(1), **Sch. 1 Pt. III**; S.I. 2001/3538, **art. 2**
- C4** Definition of “total commercial assets” modified by S.I. 1986/2168, **art. 4(2)(a)(ii)(3)**

Marginal Citations

- M2** 1962 c. 37.
M3 1874 c. 42.
M4 1967 c. 31 (N.I.).
M5 1985 c. 6.

[^{F99}119A Meaning of “associated undertaking”

- (1) In this Act “associated undertaking”, in relation to a building society, means an undertaking (other than a subsidiary undertaking of the society)—
- (a) in which the society (or the group of which the society is a member) holds a participating interest, and
 - (b) over whose operating and financial policy the society (or group) exercises a significant influence.
- (2) A “participating interest” means an interest in the shares of the undertaking held on a long term basis for the purpose of securing a contribution to the activities of the society (or group) by the exercise of control or influence arising from or related to that interest.
- (3) For this purpose—
- (a) a holding of 20% or more of the shares of an undertaking is presumed to be a participating interest unless the contrary is shown;
 - (b) an “interest in shares” includes—
 - (i) an interest that is convertible into an interest in shares, and
 - (ii) an option to acquire shares or any such interest,
 and an interest or option falls within sub-paragraph (i) or (ii) notwithstanding that the shares to which it relates are, until the conversion or the exercise of the option, unissued;
 - (c) an interest held on behalf of an undertaking is treated as held by it.
- (4) A holding of 20% or more of the voting rights in an undertaking is presumed to result in the exercise of such influence as is mentioned in subsection (1)(b), unless the contrary is shown.
- (5) For this purpose—
- (a) the voting rights in an undertaking means the rights conferred on shareholders in respect of their shares or, in the case of an undertaking not having a share capital, on members, to vote on all, or substantially all, matters affecting the undertaking; and
 - (b) the provisions of paragraphs 5 to 11 of Schedule 7 to the Companies Act 2006 (rights to be taken into account and attribution of rights) apply in determining

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whether the society (or the group) holds 20% or more of the voting rights in an undertaking.

- (6) References in this section to the group of which the society is a member at any time are to the undertakings that would fall to be included in the consolidation if consolidated group accounts were to be drawn up by the society at that time.
- (7) An undertaking is not an “associated undertaking” of a building society for the purposes of this Act if, in such accounts, it would fall to be dealt with as a joint venture (that is, an undertaking managed jointly with one or more undertakings not included in the consolidation).]

Textual Amendments

F99 S. 119A inserted (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), [art. 2\(2\)](#), [Sch. 1 para. 109](#) (with arts. 6, 11, 12)

120 Amendments, repeals, revocations and transitional and saving provisions.

- (1) The enactment specified in Schedule 18 to this Act shall have effect with the amendments made by that Schedule.
- (2) Subject to the saving provisions of Schedule 20, and of any order under section 121, the enactments specified in Schedule 19 to this Act are hereby repealed or revoked to the extent specified in the third column of that Schedule.
- (3) Where any enactment amended or repealed or revoked by subsection (1) or (2) above extends to any part of the United Kingdom, the amendment or repeal or revocation extends to that part.
- (4) The transitional and saving provisions of Schedule 20 to this Act shall have effect.

Modifications etc. (not altering text)

C5 S. 120(2) excluded by [S.I. 1986/2168](#), [art. 2\(2\)](#)

121 Power to make transitional and saving provisions.

- (1) The Treasury may, by order made by statutory instrument, make such provision as appears to them to be necessary or expedient for the purposes of the transition to the provisions of this Act from the existing enactments applicable in England and Wales, Scotland or Northern Ireland to building societies.
- (2) An order under this section may—
 - (a) modify any of the existing enactments or provisions of this Act, in particular in their application to proceedings pending before the Chief Registrar or the Commission;
 - (b) create criminal offences or otherwise provide for the enforcement of obligations imposed by or under the order;
 - (c) provide for the charging of fees but not of any charge in the nature of taxation.

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- (3) An order under this section which contains any provision authorised by subsection (2) (b) or (c) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) In this section “the existing enactments” means the enactments in force at the passing of this Act, including any enactment amended by Schedule 18 to this Act.

Modifications etc. (not altering text)

C6 S. 121 amended by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), s. 844, **Sch. 30 para. 16**

122 Northern Ireland

- (1) ^{F100} ... subject to section 120(3), this Act extends to Northern Ireland.
- (2) Subject to any Order made by virtue of subsection (1)(a) of section 3 of the ^{M6}Northern Ireland Constitution Act 1973 building societies shall not be a transferred matter for the purposes of that Act but shall for the purposes of subsection (2) of that section be treated as specified in Schedule 3 to that Act.

Textual Amendments

F100 Words in s. 122(1) repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), **Sch. 1 Pt. 17**
Group 2

Marginal Citations

M6 1973 c. 36.

^{F101}**123**

Textual Amendments

F101 S. 123 repealed (1.12.2001) by [S.I. 2001/2617](#), arts. 2(b), 13(2), **Sch. 4** (with art. 13(3), Sch. 5); [S.I. 2001/3538](#), **art. 2**

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