

SCHEDULES

SCHEDULE 14

Section 85.

SETTLEMENT OF DISPUTES

PART I

PROCEEDINGS IN COURT

Jurisdiction of the court

- 1 (1) No court other than the High Court or, in the case of a building society whose principal office is in Scotland the Court of Session, shall have jurisdiction to hear and determine disputes to which this paragraph applies ; and, in this Part of this Schedule, " the court" means the High Court or, as the case may be, the Court of Session.
- (2) This paragraph applies to any dispute—
- (a) between a building society and a member of the society in his capacity as a member, or
 - (b) between a building society and a representative of such a member in that capacity,
- in respect of any rights or obligations arising from the rules of the society or any provision of this Act or any statutory instrument under it.
- (3) Except in the cases referred to in sub-paragraph (5) below, no disputes to which this paragraph applies may be referred to arbitration.
- (4) The court shall not hear and determine any dispute arising out of section 61(8)(a) or paragraph 31(4)(a) of Schedule 2 to this Act.
- (5) The court shall not hear and determine any dispute which is required to be referred to arbitration under paragraph 4 below or which is referred to the Commission under paragraph 6 or to an adjudicator under paragraph 7 below except as provided in paragraph 2 below.
- 2 The court may hear and determine a dispute falling within paragraph 1(5) above in any case where, on the application of any person concerned, it appears to the court—
- (a) that application has been made by either party to the dispute to the other party for the purpose of having the dispute settled by arbitration, and
 - (b) that either arbitrators have not been appointed within 40 days of that application or the arbitrators have refused, or have neglected for a period of 21 days, to proceed with the reference or make an award.

Status: This is the original version (as it was originally enacted).

Right of central office to be heard

- 3 (1) Any person who institutes proceedings in the court in relation to a dispute to which paragraph 1 above applies shall give notice of the fact and of the matter in dispute to the central office.
- (2) The court shall not proceed to hear a dispute to which paragraph 1 applies until the court is satisfied that the notice required by sub-paragraph (1) above has been given.
- (3) The central office shall be entitled, with the leave of the court, to attend and to be heard at any hearing of a dispute to which paragraph 1 applies.

PART II

ARBITRATION

Circulation of election addresses, resolutions and statements

- 4 (1) If the rules of the society so provide, any dispute in respect of a refusal by a building society to send to its members—
- (a) copies of an election address, in accordance with section 61(7), or
 - (b) any document required to be sent under paragraph 31(1) of Schedule 2 to this Act,
- shall, unless the refusal is on one of the grounds specified in sub-paragraph (2) below, be referred to arbitration.
- (2) Those grounds are—
- (a) that publicity for the document in question would be likely to diminish substantially the confidence in the society of investing members of the public, or
 - (b) that the rights conferred by section 61(7) or paragraph 31(1) are being abused to seek needless publicity for defamatory matter.

Procedure on a reference to arbitration

- 5 (1) This paragraph has effect in relation to an arbitration under paragraph 4(1) above.
- (2) One or more arbitrators shall be appointed in the manner provided for by the rules of the building society ; and so shall another arbitrator if an appointed arbitrator dies or refuses to act.
- (3) No arbitrator acting on a reference shall be beneficially interested (whether directly or indirectly) in the funds of the society.
- (4) The rules of the society may provide for the procedure to be followed on a reference to arbitration.
- (5) An award made by arbitrators, or the majority of them, shall be final and binding.
- (6) For the purposes of the Arbitration Act 1950 and the Arbitration Act 1979 or, in Northern Ireland, the Arbitration Act (Northern Ireland) 1937 the rules of the society shall be treated as an arbitration agreement.
- (7) In relation to Scotland, sub-paragraph (6) above shall be omitted.

Status: This is the original version (as it was originally enacted).

Access to register of members

- 6 (1) Any dispute as to the rights of a member of a building society under paragraph 15 of Schedule 2 to this Act shall be referred to the Commission.
- (2) The reference of a dispute to the Commission under this paragraph shall be treated as a reference to arbitration ; and its award shall have the same effect as that of an arbitrator acting in a reference under paragraph 4(1) above.

Disputes cognizable under a scheme

- 7 (1) Any dispute relating to a prescribed matter of complaint action in relation to which is subject to investigation under a scheme under section 83 may, if the complainant and the society or, as the case may be, the complainant and the associated body agree, instead of being determined by the adjudicator under the scheme, be referred to him as arbitrator.
- (2) The reference of a dispute to an adjudicator under sub-paragraph (1) above shall be treated as a reference to arbitration, and his award shall have the same effect as that of an arbitrator acting in a reference under paragraph 4(1) above.
- (3) Any expression used in this paragraph and section 83 has the same meaning in this paragraph as in that section.

General

- 8 In this Part of this Schedule, in relation to an arbitration in Scotland, references to an arbitrator shall be read as references to an arbiter.