



Building Societies Act 1986

1986 CHAPTER 53

PART VI

POWERS OF CONTROL OF THE COMMISSION

Advertising etc.

50 Powers to control advertising

- (1) If, with respect to any building society for which an authorisation is in force, the Commission considers it expedient to do so in the interests of persons who may invest by way of shares in or deposits with the society, the Commission may give the society a direction under this section.
- (2) A direction given to a building society under this section may do all or any of the following—
 - (a) prohibit the issue by the society of advertisements of all descriptions;
 - (b) prohibit the issue by the society of advertisements of any specified description;
 - (c) require the society to modify advertisements of a specified description in a specified manner;
 - (d) prohibit the issue by the society of any advertisements which are, or are substantially, repetitions of a specified advertisement;
 - (e) require the society to take all practicable steps to withdraw any specified advertisement, or any specified description of advertisement, which is on display in any place;and a direction under this section shall be in writing.
- (3) Not less than seven days before giving a direction under this section the Commission shall give the society and, subject to subsection (9) below, every director and the chief executive of the society notice that it proposes to give the direction and stating the grounds for the proposed direction.

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- (4) In any case where—
- (a) the Commission has given a society notice under subsection (3) above, and
 - (b) within the period of seven days beginning with the date on which the notice was given, representations (whether made in writing or orally) are made to the Commission by the society,
- the Commission shall take those representations into account in deciding whether or not to proceed to give the direction.
- (5) On giving a direction under this section the Commission shall give the society and, subject to subsection (9) below, every director and the chief executive of the society, notice of the direction, stating also the grounds for giving it.
- (6) The Commission may not give a direction under this section on grounds other than those stated, or grounds included in those stated, in the notice under subsection (3) above.
- (7) A direction under this section—
- (a) may be revoked or varied by a further direction under this section; and
 - (b) shall be revoked by notice to the society.
- (8) If a building society fails to comply with a direction under this section, then—
- (a) the society shall be liable on conviction on indictment or on summary conviction to a fine not exceeding, on summary conviction, the statutory maximum ; and
 - (b) any officer of the society who is also guilty of the offence shall be liable—
 - (i) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine 01 both; and
 - (ii) on summary conviction, to a fine not exceeding the statutory maximum.
- (9) Where any provision of this section requires notice of a direction under it to be given to every director of a building society that requirement is satisfied by giving notice to each director whose appointment has been officially notified and the non-receipt of a notice of the direction by a director or the chief executive does not affect the validity of the direction.
- (10) In this section—
- " advertisement" includes every form of advertisement, whether documentary, by way of sound broadcasting or by television or other pictorial means; and references to the issue of advertisements shall be construed accordingly ; and
- " specified " means specified in a direction under this section.

51 Power to avoid apparent association with other bodies

- (1) If, as regards a building society and another body corporate which is not an associated body by virtue of section 18, it appears to the Commission that persons who might invest in or otherwise deal with that other body may be misled into believing that there is such a business relationship between the society and that body as indicates that the society has assumed an obligation to discharge that body's liabilities in any event, the Commission may give the society a direction under subsection (2) below.

- (2) A direction under this subsection is a direction requiring the society—
- (a) if they are available to it, to assume and make exercisable, or to make exercisable, as regards a body specified in the direction, the powers conferred by section 18; or
 - (b) to take such steps as are agreed with the Commission for the purpose of removing the appearance of a business relationship with the specified body which indicates the assumption of an obligation of the description referred to in subsection (1) above ;
- and, within a specified period, to notify the Commission of the course it has decided to take.
- (3) The steps that a building society may be required to take for the purpose of complying with a direction under subsection (2) above may relate to the conduct of its business or to its business relationship (if any) with the other body and, in particular, may require the removal of any person from any office in the society or that body.
- (4) A direction under subsection (2) above shall—
- (a) specify the matters which appear to the Commission to be capable of giving rise to such a belief as is mentioned in subsection (1) above ;
 - (b) specify the period within which the society must comply with the direction;
 - (c) require the society, if it decides to comply with the direction by taking steps to secure the purpose mentioned in subsection (2)(b) above, to notify the Commission of the steps it proposes to take.
- (5) Where a building society, in pursuance of subsection (2)(b) above notifies the Commission of steps which it proposes to take to secure the purpose mentioned in that paragraph then—
- (a) if it appears to the Commission that the steps proposed are reasonably likely to secure that purpose, the Commission shall approve them and direct the society to carry them out;
 - (b) if it appears to the Commission that the steps proposed are, with modifications, likely to secure that purpose and the Commission and the society agree on appropriate modifications within the period of 21 days from the date on which the Commission notifies the society of the modifications it proposes for their agreement, the Commission shall approve the steps as modified and direct the society to carry them out;
- but otherwise the Commission shall reject the society's proposals.
- (6) If the Commission rejects a society's proposals under subsection (5) above the Commission shall direct the society, within a specified period, to take the steps specified in the direction.
- (7) Any direction under subsection (2), (5) or (6) above shall be given by the Commission by notice served on the society.
- (8) The Commission may, if it thinks fit, extend, or further extend, any period during which a building society is to take any steps required of it under any of the foregoing provisions of this section and may do so whether or not application is made to it before the expiry of the period in question.
- (9) If a building society fails, within the period allowed to it under the foregoing provisions of this section, to comply with a direction under subsection (2) or (6) above,

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the Commission may serve on the society an aggregation notice to take effect on such date as is specified in the notice.

(10) An aggregation notice under subsection (9) above is a notice directing that, from the date specified in the notice until the notice is withdrawn by the Commission, the assets and liabilities of the body specified in the notice will be aggregated with those of the society for the purposes of the provisions of this Act requiring aggregation of assets or liabilities ; and where such a notice is served, and whilst it remains in force, the assets and liabilities of the body specified in the notice shall for the purposes of those provisions be aggregated with those of the society in accordance with the aggregation rules in force under sections 7(10), 8(3) and 20(9).

(11) A copy of any aggregation notice served on a building society under subsection (9) above shall, whilst in force, be kept in the public file of the society.

(12) In this section—

"business relationship " includes the use of business names and the holding by one individual of offices in more than one body;

" specified " means specified in a direction under any provision of this section; and " the provisions of this Act requiring aggregation of assets or liabilities " are sections 7, 8 and 20.