



# Building Societies Act 1986

## 1986 CHAPTER 53

### PART VI

#### POWERS OF CONTROL OF THE COMMISSION

##### *Information*

#### **52 Powers to obtain information and documents etc.**

- (1) This section applies to information, documents or other material, or explanations of matters, which relate to the business of a building society or its plans for future development and, in relation to the obtaining under this section of information or explanations or the production under this section of documents or other material to which it applies “the purposes of its supervisory functions” means the purposes of the discharge by the [<sup>F1</sup>Authority of any of its functions under Part I, sections 36, 36A, 37, 42B, 42C and 46A, Part X and section 107.]
- (2) Where a building society has [<sup>F2</sup>connected undertakings] this section also applies to information, documents or other material, or explanations of matters, which relate to, or also relate to, the business, or the plans for future development, of every such [<sup>F3</sup>connected undertaking].
- [<sup>F4</sup>(3) Where the Commission has grounds under section 51(1) for giving a direction to a building society under subsection (2) of that section in relation to another body corporate this section also applies to information, documents or other material, or explanations of matters, which relate to the business of that other body.]
- (4) This section does not authorise any requirement in relation to information, documents or other material to be imposed on a [<sup>F5</sup>connected undertaking of] a building society unless [<sup>F6</sup>that undertaking] carries on business in the United Kingdom; but a requirement may be imposed under this section on a building society in relation to information, documents or other material in the possession or control of a [<sup>F7</sup>connected undertaking] outside the United Kingdom.

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- (5) Subject to subsection (4) above, the [<sup>F8</sup>Authority] may by notice to a building society, [<sup>F9</sup>or connected undertaking]—
- (a) require [<sup>F10</sup>the society or undertaking] to which it is addressed to furnish to it, within a specified period or at a specified time or times, such specified information as the [<sup>F8</sup>Authority] considers it needs for the purposes of its supervisory functions;
  - (b) require [<sup>F10</sup>the society or undertaking] to which it is addressed to produce to it, at a specified time and place, such specified documents or other material as the [<sup>F8</sup>Authority] considers it needs for the purposes of its supervisory functions;
  - (c) require [<sup>F10</sup>the society or undertaking] to which it is addressed to provide to it, within specified period, such explanations of specified matters as the [<sup>F8</sup>Authority] considers it needs for the purposes of its supervisory functions;
  - (d) require [<sup>F10</sup>the society or undertaking] to which it is addressed to furnish to it a report by an [<sup>F11</sup>approved accountant or other person with relevant professional skill] on, or on specified aspects of, information or documents or other material furnished or produced to the [<sup>F8</sup>Authority].
- [<sup>F12</sup>(5A) Subject to subsection (4) above, [<sup>F13</sup>any person authorised for the purpose by the Authority (“an authorised officer”)] may, on producing evidence of his authority,]] require a building society or connected undertaking—
- (a) to furnish to him forthwith such specified information as the [<sup>F14</sup>Authority] considers it needs for the purposes of its supervisory functions;
  - (b) to produce to him forthwith such documents or other material as the [<sup>F14</sup>Authority] considers it needs for those purposes;
  - (c) to provide to him forthwith such explanations of specified matters as the [<sup>F14</sup>Authority] considers it needs for those purposes.
- (6) Where by virtue of subsection (5)(a) to (c) above the [<sup>F15</sup>Authority] has power, or by virtue of subsection (5A) above an authorised [<sup>F16</sup>officer] has power, to require the furnishing of any information, the production of any document or material or the provision of any explanation, by a building society or connected undertaking, the [<sup>F17</sup>Authority or authorised officer] shall have the like power as regards any person who—
- (a) is or has been an officer or employee or agent of the society or undertaking; or
  - (b) in the case of documents or material, appears to the [<sup>F17</sup>Authority or authorised officer] to have the document or material in his possession or under his control.
- (7) Where any person from whom production of a document or material is required under subsection (6) above claims a lien on the document or material, the production of it shall be without prejudice to the lien.
- (8) Nothing in the foregoing provisions of this section shall compel the production by a barrister, solicitor or advocate of a document or material containing a privileged communication made by him or to him in that capacity or the furnishing of information contained in a privileged communication so made.
- [<sup>F18</sup>(9) Where, by virtue of subsection (5), (5A) or (6) above, the [<sup>F19</sup>Authority or an authorised officer]] requires the production by a building society or connected undertaking or any other person of documents or material, the [<sup>F19</sup>Authority or authorised officer] may—
- (a) if the documents or material are produced, take copies of or extracts from them and require the person who produced them, or any other person who is a present or past director or officer of, or is or was at any time employed

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- by, the building society or connected undertaking concerned, to provide an explanation of the documents or material; and
- (b) if the documents or material are not produced, require the person who was required to produce the documents or material to state, to the best of his knowledge and belief, where the documents or material are.
- (10) Any person who, when required to do so under this section, fails without reasonable excuse to furnish any information or accountant's report, to produce any documents or material, or to provide any explanation or make any statement, shall be liable on summary conviction—
- (a) to a fine not exceeding level 5 on the standard scale; and
- (b) in the case of a continuing offence, to an additional fine not exceeding £200 for every day during which the offence continues.
- (11) Any building society which furnishes any information, provides any explanation or makes any statement which is false or misleading in a material particular shall be liable, on conviction on indictment or on summary conviction, to a fine which, on summary conviction, shall not exceed the statutory maximum.
- (12) Any person who knowingly or recklessly furnishes any information, provides any explanation or makes any statement which is false or misleading in a material particular shall be liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or both; and
- (b) on summary conviction, to a fine not exceeding the statutory maximum.
- [<sup>F20</sup>(13) In this section—
- “agent”, in relation to a building society or connected undertaking, includes its bankers, accountants, solicitors and auditors;
- “approved”, in relation to an accountant or other person with relevant professional skill, means approved by the [<sup>F21</sup>Authority];
- “specified” means specified in a notice or requirement under this section.

#### Textual Amendments

- F1** Words in s. 52(1) substituted (17.8.2001 for certain purposes and otherwise 1.12.2001) for s. 52(1)(a) (b) by S.I. 2001/2617, arts. 2, 8, 13(1), **Sch. 3 para. 150(a)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**
- F2** Words in s. 52(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. 17(2)(a)**; S.I. 1997/2668, art. 2, **Sch. Pt. II(w)(z)(viii)**
- F3** Words in s. 52(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. 17(2)(b)**; S.I. 1997/2668, art. 2, **Sch. Pt. II(w)(z)(viii)**
- F4** S. 52(3) 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. 17(3), **Sch. 9**; S.I. 1997/2668, art. 2, **Sch. Pt. II(w)(z)(viii)(cc)(vii)**
- F5** Words in s. 52(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. 17(4)(a)**; S.I. 1997/2668, art. 2, **Sch. Pt. II(w)(z)(viii)**
- F6** Words in s. 52(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. 17(4)(b)**; S.I. 1997/2668, art. 2, **Sch. Pt. II(w)(z)(viii)**

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- F7** Words in s. 52(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. 17(4)(c)**; S.I. 1997/2668, art. 2, **Sch. Pt. II(w)(z)(viii)**
- F8** Words in s. 52(5) substituted (17.8.2001 for certain purposes and otherwise 1.12.2001) by S.I. 2001/2617, arts. 2(a)(b), 8, 13(1), **Sch. 3 para. 150(b)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**
- F9** Words in s. 52(5) 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. 17(5)(a)**; S.I. 1997/2668, art. 2, **Sch. Pt. II(w)(z)(viii)**
- F10** Words in s. 52(5) 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. 17(5)(b)**; S.I. 1997/2668, art. 2, **Sch. Pt. II(w)(z)(viii)**
- F11** Words in s. 52(5)(d) substituted (9.6.1997) by 1997 c. 32, s. 43, **Sch. 7 para. 17(5)(c)**; S.I. 1997/1427, **art. 2(k)(n)(iii)**
- F12** S. 52(5A)(6) substituted for s. 52(6) (9.6.1997) by 1997 c. 32, s. 43, **Sch. 7 para. 17(6)**; S.I. 1997/1427, **art. 2(k)(n)(iii)**
- F13** Words in s. 52(5A) substituted (17.8.2001 for certain purposes and otherwise 1.12.2001) by S.I. 2001/2617, arts. 2(a)(b), 8, 13(1), **Sch. 3 para. 150(c)(i)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**
- F14** Words in s. 52(5A)(a)(b)(c) substituted (17.8.2001 for certain purposes and otherwise 1.12.2001) by S.I. 2001/2617, arts. 2(a)(b), 8, 13(1), **Sch. 3 para. 150(c)(ii)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**
- F15** Word in s. 52(6) substituted (17.8.2001 for certain purposes and otherwise 1.12.2001) by S.I. 2001/2617, arts. 2(a)(b), 8, 13(1), **Sch. 3 para. 150(d)(i)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**
- F16** Word in s. 52(6) substituted (17.8.2001 for certain purposes and otherwise 1.12.2001) by S.I. 2001/2617, arts. 2(a)(b), 8, 13(1), **Sch. 3 para. 150(d)(ii)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**
- F17** Words in s. 52(6) substituted (17.8.2001 for certain purposes and otherwise 1.12.2001) by S.I. 2001/2617, arts. 2(a)(b), 8, 13(1), **Sch. 3 para. 150(d)(iii)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**
- F18** S. 52(9) substituted (9.6.1997) by 1997 c. 32, s. 43, **Sch. 7 para. 17(7)**; S.I. 1997/1427, **art. 2(k)(n)(iii)**
- F19** Words in s. 52(9) substituted (17.8.2001 for certain purposes and otherwise 1.12.2001) by S.I. 2001/2617, arts. 2(a)(b), 8, 13(1), **Sch. 3 para. 150(e)(i)(ii)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**
- F20** S. 52(13) substituted (9.6.1997) by 1997 c. 32, s. 43, **Sch. 7 para. 17(8)**; S.I. 1997/1427, **art. 2(k)(n)(iii)**
- F21** Word in the definition of "approved" in s. 52(13) substituted (17.8.2001 for certain purposes and otherwise 1.12.2001) by S.I. 2001/2617, arts. 2(a)(b), 8, 13(1), **Sch. 3 para. 150(f)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**

**[<sup>F22</sup>52B Entry of premises under warrant under section 176 of the Financial Services and Markets Act 2000.**

- (1) A justice of the peace may issue a warrant under section 176 of the Financial Services and Markets Act 2000 if satisfied on information on oath given by or on behalf of the Authority, an authorised officer within the meaning of section 52(5A) above, or a person appointed as an investigator under section 55(1) below or as an inspector under section 56(1) below, that there are reasonable grounds for believing that the first or second set of conditions below is satisfied.

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- (2) The first set of conditions is that—
- (a) there are on the premises specified in the warrant information, documents or other material in relation to which a requirement has been imposed on any person under section 52(5), (5A) or (6) above or section 57(3) below, or which it is the duty of any person to produce under section 55(3) or 57(2) below, and
  - (b) that person has failed (wholly or in part) to comply with the requirement or, having been requested to do so, has failed (wholly or in part) to comply with that duty.
- (3) The second set of conditions is that—
- (a) there are on the premises specified in the warrant information, documents or other material in relation to which a requirement could be imposed on any person under section 52(5), (5A) or (6) above or section 57(3) below, or which any person could be requested to produce in compliance with the duty imposed on them by section 55(3) or 57(2) below, and
  - (b) if such a requirement were imposed, or such a request made,—
    - (i) it would not be complied with, or
    - (ii) any information, documents or other material to which it related would be removed, tampered with or destroyed.]

#### Textual Amendments

**F22** S. 52B substituted (17.8.2001 for certain purposes and otherwise 1.12.2001) for s. 52A by S.I. 2001/2617, arts. 2(a)(b), 8, 13(1), **Sch. 3 para. 151** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**

#### [<sup>F23</sup>53A Disclosure of information.

- (1) For the purposes of sections 348 to 353 of the Financial Services and Markets Act 2000 (restrictions on disclosure of confidential information)—
- (a) information to which this section applies is to be treated as confidential information; and
  - (b) in relation to such information, each of the following is a primary recipient—
    - (i) the Authority;
    - (ii) any person who is or has been employed by the Authority; and
    - (iii) any person appointed by the Authority to carry out functions under this Act.
- (2) This section applies to information which—
- (a) relates to—
    - (i) the business or other affairs of a building society or other body, or its or their plans for future development; or
    - (ii) any person who is or has been, or has been appointed (or, in the case of a director, nominated or proposed as), an officer of a building society or other body;
  - (b) was received by a primary recipient (within the meaning of subsection (1) (b)) for the purposes of, or in the discharge of, any functions of the Authority under any provision made by or under this Act; and
  - (c) is not excluded information by virtue of subsection (4).

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- (3) It is immaterial for the purposes of subsection (2) whether or not the information was received—
  - (a) by virtue of a requirement to provide it imposed by or under this Act;
  - (b) for other purposes as well as purposes mentioned in that subsection.
- (4) Information is excluded information if—
  - (a) it has been made available to the public by virtue of being disclosed in any circumstances in which, or for any purposes for which, disclosure is not precluded by section 348 of the Financial Services and Markets Act 2000; or
  - (b) it is in the form of a summary or collection of information so framed that it is not possible to ascertain from it information relating to any particular person.]

**Textual Amendments**

**F23** S. 53A substituted (17.8.2001 for certain purposes and otherwise 1.12.2001) for s. 53 by S.I. 2001/2617, arts. 2(a)(b), 8, 13(1), **Sch. 3 para. 152** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**

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**Modifications etc. (not altering text)**

**C1** S. 53A(1) restricted (*temp.* from 3.9.2001 until 30.11.2001) by S.I. 2001/2966, **art. 6**

**54 Information disclosed to [F24 Authority] from other sources.**

- (1) If and in so far as it appears to the Secretary of State that the disclosure of any information will enable the [F24 Authority] better to discharge its functions under this Act (but not otherwise),—
  - (a) information obtained by the Secretary of State under section 447 or 448 of the M1 Companies Act 1985 (inspection of companies’ books and papers) may be disclosed to the [F24 Authority] or further disclosed, notwithstanding the provision as to security of information contained in section 449 or that Act; and
  - (b) where the information is contained in a report made by inspectors appointed under section 431, 432, 442 or 446 of the Companies Act 1985 (investigation of affairs or ownership of companies and certain other bodies corporate) the Secretary of State may furnish a copy of the report to the [F24 Authority].
- (2) If and in so far as it appears to the Department of Economic Development that the disclosure of any information will enable the [F24 Authority] better to discharge its functions under this Act (but not otherwise),—
  - (a) information obtained by the Department under Article 440 or 441 or the M2 Companies (Northern Ireland) Order 1986 (inspection of companies’ books and papers) may be disclosed or further disclosed to the [F24 Authority], notwithstanding the provision as to security of information contained in Article 442 of that Order; and
  - (b) where the information is contained in a report made by inspectors under Article 424, 425, 435 or 439 of the M3 Companies (Northern Ireland) Order 1986 (investigation of affairs or ownership of companies and certain other bodies corporate) the Department may furnish a copy of the report to the [F24 Authority].

F25(3) .....

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F25(3A) .....

F25(3B) .....

F25(3C) .....

F26(4) .....

F26(5) .....

F25(6) .....

**Textual Amendments**

- F24** Words in s. 54(1)(2) and side-note substituted (17.8.2001 for certain purposes and otherwise 1.12.2001) by S.I. 2001/2617, arts. 2(a)(b), 8, 13(1), **Sch. 3 para. 153(a)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(1)**
- F25** S. 54(3)-(6) 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(1)**
- F26** S. 54(4)(5) repealed by Banking Act 1987 (c. 22, SIF 10), s. 108, Sch. 6 para. 26(5), **Sch. 7 Pt. I** and expressed to be repealed (1.12.2001) by S.I. 2001/2617, arts. 2(b), 13(2), **Sch. 4** (with art. 13(3), Sch. 4); S.I. 2001/3538, **art. 2(a)**

**Modifications etc. (not altering text)**

- C2** S.54 modified by Companies Act 1989 (c. 40, SIF 27), **s. 88(3)(b)(5)(6)**

**Marginal Citations**

- M1** 1985 c. 6.
- M2** S.I. 1986/1032. (N.I.6)
- M3** S.I. 1986/1032 (N.I.6).

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