



Building Societies Act 1986

1986 CHAPTER 53

PART X

DISSOLUTION, WINDING UP, MERGERS AND TRANSFER OF BUSINESS

Dissolution and winding up

86 Modes of dissolution and winding up.

- (1) A building society—
- (a) may be dissolved by consent of the members, or
 - (b) may be wound up voluntarily or by the court,

in accordance with this Part; and a building society may not, except where it is dissolved by virtue of section 93(5), 94(10) or 97(9), [^{F1}or following building society insolvency or building society special administration,] be dissolved or wound up in any other manner.

- (2) A building society which is in the course of dissolution by consent, or is being wound up voluntarily, may be wound up by the court.

Textual Amendments

- F1** Words in s. 86(1) inserted (29.3.2009) by [The Building Societies \(Insolvency and Special Administration\) Order 2009 \(S.I. 2009/805\)](#), [art. 7](#)

87 Dissolution by consent.

- (1) A building society may be dissolved by an instrument of dissolution, with the consent (testified by their signature of that instrument) of three-quarters of the members of the society, holding not less than two-thirds of the number of shares in the society.
- (2) An instrument of dissolution under this section shall set out—

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- (a) the liabilities and assets of the society in detail;
 - (b) the number of members, and the amount standing to their credit in the accounting records of the society;
 - (c) the claims of depositors and other creditors, and the provision to be made for their payment;
 - (d) the intended appropriation or division of the funds and property of the society;
 - (e) the names of one or more persons to be appointed as trustees for the purposes of the dissolution, and their remuneration.
- (3) An instrument of dissolution made with consent given and testified as mentioned in subsection (1) above may be altered with the like consent, testified in the like manner.
- (4) The provisions of this Act shall continue to apply in relation to a building society as if the trustees appointed under the instrument of dissolution were the board of directors of the society.
- (5) The trustees, within 15 days of the necessary consent being given and testified (in accordance with subsection (1) above) to—
 - (a) an instrument of dissolution, or
 - (b) any alteration to such an instrument,

shall give notice to the [F²Authority] of the fact and, except in the case of an alteration to an instrument, of the date of commencement of the dissolution, enclosing a copy of the instrument or altered instrument, as the case may be; and if the trustees fail to comply with this subsection they shall each be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (6) An instrument of dissolution under this section, or an alteration to such an instrument, shall be binding on all members of the society as from the date on which the copy of the instrument or altered instrument, as the case may be, is placed in the public file of the society under subsection (10) below.
- (7) The trustees shall, within 28 days from the termination of the dissolution, give notice to the [F²Authority] of the fact and the date of the termination, enclosing an account and balance sheet signed and certified by them as correct, and showing the assets and liabilities of the society at the commencement of the dissolution, and the way in which those assets and liabilities have been applied and discharged; and, if they fail to do so they shall each be liable on summary conviction—
 - (a) to a fine not exceeding level 2 on the standard scale, and
 - (b) in the case of a continuing offence, to an additional fine not exceeding £10 for every day during which the offence continues.
- (8) Except with the consent of the [F²Authority], no instrument of dissolution, or alteration of such an instrument, shall be of any effect if the purpose of the proposed dissolution or alteration is to effect or facilitate the transfer of the society's engagements to any other society [F³ or the transfer of its business to a company].
- (9) Any provision in a resolution or document that members of a building society proposed to be dissolved shall accept investments in a company or another society (whether in shares, deposits or any other form) in or towards satisfaction of their rights in the dissolution shall be conclusive evidence of such a purpose as is mentioned in subsection (8) above.

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- (10) The [^{F2}Authority] shall keep in the public file of the society any notice or other document received by it under subsection (5) or (7) above and shall record in that file the date on which the notice or document is placed in it.

Textual Amendments

- F2** Words in s. 87 substituted (17.8.2001 for specified purposes and otherwise 1.12.2001) by S.I. 2001/2617, art. 13(1), Sch. 3 Pt. II para. 174(a)(b) (with art. 13(3), Sch. 5); S.I. 2001/3538, art. 2(a)
- F3** Words in s. 87(8) substituted (9.6.1997) by 1997 c. 32, s. 43, Sch. 7 para. 38; S.I. 1997/1427, art. 2(k)(n)(x)

88 Voluntary winding up.

- (1) A building society may be wound up voluntarily under the applicable winding up legislation if it resolves by special resolution that it be wound up voluntarily^{F4}, but a resolution may not be passed if—
- the conditions in section 90D are not satisfied, or
 - the society is in building society insolvency or building society special administration.]

^{F5}(1A) A resolution under subsection (1) shall have no effect without the prior approval of the court.]

- (2) A copy of any special resolution passed for the voluntary winding up of a building society"shall be sent by the society to the [^{F6}Authority] within 15 days after it is passed; and the [^{F6}Authority] shall keep the copy in the public file of the society.
- (3) A copy of any such resolution shall be annexed to every copy of the memorandum or of the rules issued after the passing of the resolution.
- (4) If a building society fails to comply with subsection (2) or (3) above the society shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale and so shall any officer who is also guilty of the offence.
- (5) For the purposes of this section, a liquidator of the society shall be treated as an officer of it.

Textual Amendments

- F4** Words in s. 88(1) inserted (29.3.2009) by The Building Societies (Insolvency and Special Administration) Order 2009 (S.I. 2009/805), art. 4
- F5** S. 88(1A) inserted (29.3.2009) by The Building Societies (Insolvency and Special Administration) Order 2009 (S.I. 2009/805), art. 4
- F6** Words in s. 88 substituted (17.8.2001 for specified purposes and otherwise 1.12.2001) by S.I. 2001/2617, art. 13(1), Sch. 3 Pt. II, para. 174(a)(b) (with art. 13(3), Sch. 5); S.I. 2001/3538, art. 2(a)

89 Winding up by court: grounds and petitioners.

- (1) A building society may be wound up under the applicable winding up legislation by the court on any of the following grounds in addition to the grounds referred to or specified in section 37(1), that is to say, if—

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- (a) the society has by special resolution resolved that it be wound up by the court;
 - (b) the number of members is reduced below ten;
 - (c) the number of directors is reduced below two;
 - (d) being a society registered as a building society under this Act or the repealed enactments, the society has not been [^{F7} given permission under Part IV of the Financial Services and Markets Act 2000 to accept deposits] and more than three years has expired since it was so registered;
 - [(e) the society’s permission under Part IV of the Financial Services and Markets Act 2000 to accept deposits has been cancelled (and no such permission has subsequently been given to it);]
 - (f) the society exists for an illegal purpose;
 - (g) the society is unable to pay its debts; or
 - (h) the court is of the opinion that it is just and equitable that the society should be wound up.
- (2) Except as provided by subsection (3) below, section 37 or the applicable winding up legislation, a petition for the winding up of a building society may be presented by—
- (a) the [^{F8} Authority],
 - (b) the building society or its directors,
 - (c) any creditor or creditors (including any contingent or any prospective creditor), or
 - (d) any contributory or contributories,
- or by all or any of those parties, together or separately.
- (3) A contributory may not present a petition unless either—
- (a) the number of members is reduced below ten, or
 - (b) the share in respect of which he is a contributory has been held by him, or has devolved to him on the death of a former holder and between them been held, for at least six months before the commencement of the winding up.
- (4) For the purposes of this section, in relation to a building society,
- ^{F9}(a)
 - [^{F10}(b) the reference to its existing for an illegal purpose includes a reference to its existing after it has ceased to comply with the requirement imposed by section 5(1)(a) (purpose or principal purpose).]
- (5) In this section, “contributory” has the same meaning as in paragraph 9(2) or, as the case may be, paragraph 37(2) of Schedule 15 to this Act.

Textual Amendments

- F7** S. 89(1)(e) and words in s. 89(1)(d) substituted (17.8.2001 for specified purposes and otherwise 1.12.2001) by S.I. 2001/2617, art. 13(1), **Sch. 3 Pt. II**, para. 175(a)(i)(ii) (with art. 13(3), Sch. 5) S.I. 2001/3538, **art. 2(a)**
- F8** Word in s. 89(2)(a) substituted (17.8.2001 for specified purposes and otherwise 1.12.2001) by S.I. 2001/2617, art. 13(1), **Sch. 3 Pt. II**, para. 174(a) (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2(a)**
- F9** S. 89(4)(a) repealed (1.12.2001) by S.I. 2001/2617, arts. 2(b), 13(2), **Sch. 4** (with art. 13(3), Sch. 5 and with saving in S.I. 2001/2967, **arts. 1(2), 9(1)(c)**); S.I. 2001/3538, **art. 2(1)**

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F10 S. 89(4)(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. 39**; S.I. 1997/2668, art. 2, **Sch. Pt. II(w)(z)(xxiii)**

[^{F11}89A. Building society insolvency as alternative order

- (1) On a petition for a winding up order or an application for an administration order in respect of a building society the court may, instead, make a building society insolvency order (under section 94 of the Banking Act 2009 as applied by section 90C below).
- (2) A building society insolvency order may be made under subsection (1) only—
 - (a) on the application of the Authority made with the consent of the Bank of England, or
 - (b) on the application of the Bank of England.]

Textual Amendments

F11 S. 89A inserted (29.3.2009) by **The Building Societies (Insolvency and Special Administration) Order 2009** (S.I. 2009/805), **art. 5**

90 Application of winding up legislation to building societies.

- (1) In this section “the companies winding up legislation” means the enactments applicable in relation to England and Wales, Scotland or Northern Ireland which are specified in paragraph 1 of Schedule 15 to this Act (including any enactment which creates an offence by any person arising out of acts or omissions occurring before the commencement of the winding up).
- (2) In its application to the winding up of a building society, by virtue of section 88(1) or 89(1), the companies winding up legislation shall have effect with the modifications effected by Parts I to III of Schedule 15 to this Act; and the supplementary provisions of Part IV of that Schedule shall also have effect in relation to such a winding up.
- (3) In sections 37, 88, 89 and 103, “the applicable winding up legislation” means the companies winding up legislation as so modified.

Modifications etc. (not altering text)

C1 S. 90(3) excluded by **S.I. 1986/2168**, **art. 11**

[^{F12}90A Application of other companies insolvency legislation to building societies.

For the purpose of—

- (a) enabling voluntary arrangements to be approved in relation to building societies,
 - (b) enabling administration orders to be made in relation to building societies, and
 - (c) making provision with respect to persons appointed in England and Wales or Northern Ireland as receivers and managers of building societies’ property,
- the enactments specified in paragraph 1(2) of Schedule 15A to this Act shall apply in relation to building societies with the modifications specified in that Schedule.]

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Textual Amendments

F12 S. 90A inserted (1.12.1997) by 1997 c. 32, s. 39(1); S.I. 1997/2668, art. 2, Sch. Pt. I(i)

Modifications etc. (not altering text)

C2 S. 90A applied (with modifications) (5.6.2008) by [The Building Societies \(Financial Assistance\) Order 2008 \(S.I. 2008/1427\)](#), arts. 1(2), 10

[^{F13}90C. Application of bank insolvency and administration legislation to building societies

- (1) Parts 2 (Bank Insolvency) and 3 (Bank Administration) of the Banking Act 2009 shall apply in relation to building societies with any modifications specified in an order made under section 130 or 158 of that Act and with the modifications specified in subsection (2) below.
- (2) In the application of Parts 2 and 3 of that Act to building societies—
 - (a) references to “bank” (except in the term “bridge bank” and the terms specified in paragraphs (b) and (c)) have effect as references to “building society”;
 - (b) references to “bank insolvency”, “bank insolvency order”, “bank liquidation” and “bank liquidator” have effect as references to “building society insolvency”, “building society insolvency order”, “building society liquidation” and “building society liquidator”;
 - (c) references to “bank administration”, “bank administration order” and “bank administrator” have effect as references to “building society special administration”, “building society special administration order” and “building society special administrator”.]

Textual Amendments

F13 S. 90C inserted (29.3.2009) by [The Building Societies \(Insolvency and Special Administration\) Order 2009 \(S.I. 2009/805\)](#), art. 2

[^{F14}90D. Notice to the Authority of preliminary steps

- (1) An application for an administration order in respect of a building society may not be determined unless the conditions below are satisfied.
- (2) A petition for a winding up order in respect of a building society may not be determined unless the conditions below are satisfied.
- (3) A resolution for voluntary winding up of a building society may not be passed unless the conditions below are satisfied.
- (4) An administrator of a building society may not be appointed unless the conditions below are satisfied.
- (5) Condition 1 is that the Authority has been notified—
 - (a) by the applicant for an administration order, that the application has been made,
 - (b) by the petitioner for a winding up order, that the petition has been presented,

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- (c) by the building society, that a resolution for voluntary winding up may be passed, or
 - (d) by the person proposing to appoint an administrator, of the proposed appointment.
- (6) Condition 2 is that a copy of the notice complying with Condition 1 has been filed with the court (and made available for public inspection by the court).
- (7) Condition 3 is that—
- (a) the period of 2 weeks, beginning with the day on which the notice is received, has ended, or
 - (b) both—
 - (i) the Authority has informed the person who gave the notice that it does not intend to apply for a building society insolvency order (under section 95 of the Banking Act 2009 as applied by section 90C above), and
 - (ii) the Bank of England has informed the person who gave the notice that it does not intend to apply for a building society insolvency order or to exercise a stabilisation power under Part 1 of the Banking Act 2009.
- (8) Condition 4 is that no application for a building society insolvency order is pending.
- (9) Arranging for the giving of notice in order to satisfy Condition 1 can be a step with a view to minimising the potential loss to a building society’s creditors for the purpose of section 214 of the Insolvency Act 1986 (wrongful trading) or Article 178 (wrongful trading) of the Insolvency (Northern Ireland) Order 1989 as applied in relation to building societies by section 90 of, and Schedule 15 to, this Act.
- (10) Where the Authority receives notice under Condition 1—
- (a) the Authority shall inform the Bank of England,
 - (b) the Authority shall inform the person who gave the notice, within the period in Condition 3(a), whether it intends to apply for a building society insolvency order, and
 - (c) if the Bank of England decides to apply for a building society insolvency order or to exercise a stabilisation power under Part 1 of the Banking Act 2009, the Bank shall inform the person who gave the notice, within the period in Condition 3(a).

Textual Amendments

F14 Ss. 90D, 90E inserted (29.3.2009) by [The Building Societies \(Insolvency and Special Administration\) Order 2009 \(S.I. 2009/805\)](#), [art. 6](#)

90E. Disqualification of directors

- (1) In this section “the Disqualification Act” means the Company Directors Disqualification Act 1986.
- (2) In the Disqualification Act—
 - (a) a reference to liquidation includes a reference to building society insolvency and a reference to building society special administration,

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- (b) a reference to winding up includes a reference to making or being subject to a building society insolvency order and a reference to making or being subject to a building society special administration order,
 - (c) a reference to becoming insolvent includes a reference to becoming subject to a building society insolvency order and a reference to becoming subject to a building society special administration order, and
 - (d) a reference to a liquidator includes a reference to a building society liquidator and a reference to a building society special administrator.
- (3) For the purposes of the application of section 7(3) of the Disqualification Act (disqualification order or undertaking) to a building society which is subject to a building society insolvency order, the responsible office-holder is the building society liquidator.
- (4) For the purposes of the application of that section to a building society which is subject to a building society special administration order, the responsible office-holder is the building society special administrator.
- (5) In the application of this section to Northern Ireland, references to the Disqualification Act are to the Company Directors Disqualification (Northern Ireland) Order 2002 and the reference in subsection (3) to section 7(3) of the Disqualification Act is a reference to Article 10(4) of that Order (disqualification order or undertaking; and reporting provisions).]

Textual Amendments

F14 Ss. 90D, 90E inserted (29.3.2009) by [The Building Societies \(Insolvency and Special Administration\) Order 2009 \(S.I. 2009/805\)](#), [art. 6](#)

91 Power of court to declare dissolution of building society void.

- (1) Where a building society has been dissolved under section 87 or following a winding up, [^{F15}building society insolvency or building society special administration,] the High Court or, in relation to a society whose principal office was in Scotland, the Court of Session, may, at any time within 12 years after the date on which the society was dissolved, make an order under this section declaring the dissolution to have been void.
- (2) An order under this section may be made, on such terms as the court thinks fit, on an application by the trustees under section 87 or the liquidator, [^{F16}building society liquidator or building society special administrator,] as the case may be, or by any other person appearing to the Court to be interested.
- (3) When an order under this section is made, such proceedings may be taken as might have been taken if the society has not been dissolved.
- (4) The person on whose application the order is made shall, within seven days of its being so made, or such further time as the Court may allow, furnish the [^{F17}Authority] with a copy of the order; and the [^{F17}Authority] shall keep the copy in the public file of the society.
- (5) If a person fails to comply with subsection (4) above, he shall be liable on summary conviction—
 - (a) to a fine not exceeding level 3 on the standard scale, and

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- (b) in the case of a continuing offence, to an additional fine not exceeding £40 for every day during which the offence continues.

Textual Amendments

- F15** Words in s. 91(1) inserted (29.3.2009) by [The Building Societies \(Insolvency and Special Administration\) Order 2009 \(S.I. 2009/805\)](#), **art. 8(a)**
- F16** Words in s. 91(2) inserted (29.3.2009) by [The Building Societies \(Insolvency and Special Administration\) Order 2009 \(S.I. 2009/805\)](#), **art. 8(b)**
- F17** Words in s. 91 substituted (17.8.2001 for specified purposes and otherwise 1.12.2001) by S.I. 2001/2617, **art. 13(1)**, **Sch. 3 Pt. II**, para. 174(a)(b) (with **art. 13(3)**, **Sch. 5**); S.I. 2001/3538, **art. 2(a)**

[^{F18}92] Supplementary.

Where at any time a building society is being wound up or dissolved by consent, [^{F19}or is in building society insolvency or building society special administration,] a borrowing member shall not be liable to pay any amount other than one which, at that time, is payable under the mortgage or other security by which his indebtedness to the society in respect of the loan is secured.]

Textual Amendments

- F18** S. 92 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. 40**; S.I. 1997/2668, **art. 2**, **Sch. Pt. II(w)(z)(xxiv)**
- F19** Words in s. 92 inserted (29.3.2009) by [The Building Societies \(Insolvency and Special Administration\) Order 2009 \(S.I. 2009/805\)](#), **art. 9**

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