

Status: Point in time view as at 01/06/1998.

Changes to legislation: Building Societies Act 1986 is up to date with all changes known to be in force on or before 02 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 1

Section 1.

THE BUILDING SOCIETIES COMMISSION

Status

- 1 The Commission shall be a body corporate.

The First Commissioner, etc.

- 2 The person who holds office as Chief Registrar may also hold the office of chairman of the Commission and any person who holds office as an assistant registrar may also hold office as a member of the Commission.

Tenure of office of member

- 3 (1) Subject to the provisions of this paragraph, a person shall hold and vacate office as a member or the chairman or deputy chairman of the Commission in accordance with the terms of the instrument appointing him to that office.
- (2) A person may at any time resign office as a member or the chairman or deputy chairman of the Commission by giving the Treasury a signed notice stating that he resigns that office.
- (3) When a member becomes or ceases to be the chairman or deputy chairman, the Treasury may vary the terms of his appointment so as to alter the date on which he is to vacate office as a member.
- (4) If the chairman or deputy chairman ceases to be a member, he shall cease to be the chairman or deputy chairman, as the case may be.
- (5) If the Treasury are satisfied that a member—
- (a) has been absent from meetings of the Commission for a period longer than three consecutive months without the permission of the Commission, or
 - (b) has become bankrupt or made an arrangement with his creditors, or
 - (c) is incapacitated by physical or mental illness, or
 - (d) is otherwise unable or unfit to discharge the functions of his office,
- the Treasury may declare his office as a member vacant, and shall notify the declaration in such manner as they think fit; and thereupon the office shall become vacant.

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- 4 No person who has attained the age of 70 years is eligible to be or to remain a part-time member of the Commission.

Remuneration and pensions, etc. for part-time members

- 5 The Commission shall pay to its part-time members such fees for services and such allowances in respect of expenses as may be determined by the Treasury.

Modifications etc. (not altering text)

- C1** [Sch. 1 para. 5](#): functions of the Treasury under or by virtue of provision transferred to the Minister for the Civil Service (1.4.1995) by [S.I. 1995/269](#), [art. 3](#), [Sch. para. 14](#)

- 6 (1) If the Treasury so determines in the case of any person who is or has been a part-time member of the Commission, the Commission shall pay or make arrangements for the payment of such pensions to or in respect of that person as the Treasury may determine.
- (2) Where a person who is a part-time member of the Commission ceases to be a member otherwise than on the expiry of his term of office and it appears to the Treasury that there are special circumstances which make it right for that person to receive compensation, the Treasury may direct the Commission to make to that person a payment of such amount as the Treasury may determine.

Modifications etc. (not altering text)

- C2** [Sch. 1 paras. 6](#): functions of the Treasury under or by virtue of provision transferred to the Minister for the Civil Service (1.4.1995) by [S.I. 1995/269](#), [art. 3](#), [Sch. para. 14](#)

Parliamentary disqualification

- 7 (1) In part II of Schedule 1 to the ^{M1}House of Commons Disqualification Act 1975 (bodies of which all members are disqualified under that Act) there shall be inserted at the appropriate place the entry: "The Building Societies Commission".
- (2) A corresponding amendment shall be made in Part II of Schedule 1 to the ^{M2}Northern Ireland Assembly Disqualification Act 1975.

Marginal Citations

- M1** 1975 c. 24.
M2 1975 c. 25.

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Staff

- 8 The Commission may appoint such staff as the chairman of the Commission thinks fit, subject to the approval of the Treasury as to numbers and as to terms and conditions of service.

Proceedings

- 9 The quorum of the Commission and the arrangements relating to its meeting shall be such as the Commission may determine.
- 10 The validity of any proceedings of the Commission shall not be affected by any vacancy among the members or by any defect in the appointment of a member.

Performance of functions

- 11 (1) With the exception 34specified in sub-paragraph (2) below, the Commission may authorise
- [^{F1}(a) any member or members of the Commission,
 - (b) any committee or sub-committee of the Commission, or
 - (c) any officer, servant or agent of the Commission,]
- to perform on behalf of the Commission such of the Commission's functions (including the power conferred by this paragraph) as are specified in the authorisation.
- (2) The Commission shall not delegate any power it has under this Act to make orders, rules or regulations by statutory instrument.

Textual Amendments

- F1** Sch. 1 para. 11(1)(a)-(c) substituted for words in Sch. 1 para. 11(1) (9.6.1997) by 1997 c. 32, s. 43, Sch. 7 para. 55; S.I. 1997/1427, art. 2(k)(n)(xiv)

- 12 The ^{M3}Statutory Instruments Act 1946 shall apply to all powers of the Commission of making statutory instruments under this Act as if the Commission were a Minister of the Crown.

Marginal Citations

- M3** 1946 c. 36.

^{F2}

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Textual Amendments

- F2** Sch. 1 para. 13 repealed by [Parliamentary and Health Service Commissioners Act 1987 \(c. 39, SIF 89\)](#), s. 10, [Sch. 2](#)

Instruments

- 14 (1) The fixing of the common seal of the Commission shall be authenticated by the signature of the chairman or deputy chairman or by some other person authorised by the Commission to act for that purpose.
- 15 (1) A document purporting to be duly executed under the seal of the Commission shall be received in evidence and shall, unless the contrary is proved, be deemed to be so executed.
- (2) A document purporting to be signed on behalf of the Commission shall be received in evidence and shall, unless the contrary is proved, be deemed to be so signed.

SCHEDULE 2

Sections 5, 93, 94 and 97.

ESTABLISHMENT, INCORPORATION AND CONSTITUTION OF BUILDING SOCIETIES

Modifications etc. (not altering text)

- C3** Sch. 2 modified (3.1.1995) by [1994 c. 40, ss. 17\(3\), 82\(2\)](#)

PART I

GENERAL

Requirements for establishment

- 1 (1) Any ten or more persons may establish a society under this Act by taking the following steps—
- (a) agreeing upon the purpose or principal purpose of the society and upon the extent of its powers in a memorandum the provisions of which comply with the requirements of this Part of this Schedule;
 - (b) agreeing upon rules for the regulation of the society which comply with the requirements of this Part of this Schedule;
 - (c) sending to the central office four copies of the memorandum and the rules, each copy signed by at least ten of those persons (or, if there are only ten, by all of them) and by the intended secretary.

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- (2) Where copies of the memorandum and rules are sent to the central office in accordance with sub-paragraph (1)(c) above, the central office, if satisfied that—
- (a) the provisions of the memorandum are in conformity with this Act and any instruments under it,
 - (b) the rules are in conformity with this Act,
 - (c) the intended name of the society is not, in its opinion, undesirable,
- shall register the society and issue it with a certificate of incorporation.
- (3) On registering a building society under sub-paragraph (2) above, the central office shall—
- (a) retain and register one copy of the memorandum and of the rules,
 - (b) return another copy to the secretary of the society, together with a certificate of registration, and
 - (c) keep another copy, together with a copy of the certificate of incorporation, and of the certificate of registration of the memorandum and the rules, in the public file of the society.
- [^{F3}(4) In this Act “memorandum”, in relation to a building society, means the memorandum of the purpose and the extent of the powers of the society including the record of any alteration under paragraph 4 below.]

Textual Amendments

- F3** Sch. 2 Pt. I para. 1(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. 56(2); S.I. 1997/2668, art. 2, Sch. Pt. II(w)(z)(xxxiii)

The memorandum

- 2 [^{F4}(1) The memorandum of a building society shall state the purpose or principal purpose of the society to be that of making loans which are secured on residential property and are funded substantially by its members.
- (2) The memorandum of a building society shall specify—
- (a) the name of the society and the address of its principal office;
 - (b) any purposes of the society other than that mentioned in sub-paragraph (1) above; and
 - (c) the powers of the society.]

(4) The provisions of the memorandum of a building society, as read with the provisions of this Act as in force for the time being, are binding upon—

 - (a) each of the members and officers of the society; and
 - (b) all persons claiming on account of a member or under the rules;

and all such members, officers and persons so claiming and all persons dealing with the society shall be taken to have notice of those provisions.

[^{F5}(5) Where any adoptable power conferred by virtue of an instrument under a provision of this Act ceases, by reason of the amendment or revocation of the instrument, to be available to building societies or building societies of any description, every society

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affected by the amendment or revocation shall annex to its memorandum a note of the fact that, as from the operative date of the instrument, it no longer has that power and shall send a copy of the note to the central office which shall keep the copy in the public file of the society.]

Textual Amendments

- F4** Sch. 2 Pt. I para. 2(1)(2) substituted for Sch. 2 Pt. I para. 2(1)-(3) (1.12.1997 in specified cases and for specified purposes and otherwise) by 1997 c. 32, ss. 43, 47(3), **Sch. 7 para. 56(3)**; S.I. 1997/2668, art. 2, **Sch. Pt. II(w)(z)(xxxiii)**
- F5** Sch. 2 Pt. I para. 2(5) 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(3), 47(3), Sch. 7 para. 56(4), **Sch. 9**; S.I. 1997/2668, art. 2, **Sch. Pt. II(w)(y)(z)(xxxiii)(cc)(xviii)**

The rules

- 3 (1) The rules of a building society shall provide for the matters specified in the Table in sub-paragraph (4) below.
- (2) The rules of a building society are binding upon each of the members and officers of the society and on all persons claiming on account of a member or under the rules; and all such members, officers and persons (but no others) shall be taken to have notice of the rules.
- (3) Nothing in this paragraph shall be taken to authorise any provision to be made which is inconsistent with this Act or an instrument made under it by the Commission or the Treasury or to affect the operation of any provision of this Act making rules void to any specified extent.

- (4) The Table referred to in sub-paragraph (1) above is as follows:—

TABLE OF MATTERS TO BE COVERED BY THE RULES

1. The name of the society and the address of its principal Office.
2. The manner in which the [^{F6} funds of the society are] to be raised.
3. The manner in which the terms are to be determined on which shares are to be issued and the manner in which shareholders are to be informed of changes in the terms on which their shares are held.
4. Whether any preferential or deferred shares are to be issued and, if so, within what limits.
5. The manner in which [^{F7} loans] are to be made and repaid, and the conditions on which a borrower may redeem the amount due from him before the end of the period for which the [loan] was made.
6. The manner in which losses are to be ascertained and provided for.
7. The manner in which membership is to cease.
8. The manner of remunerating the auditors.

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9. As respects directors— (a) the manner of electing them and whether they may be co-opted; (b) any conditions which must be satisfied with respect to the holding of shares in the society if a person is to become, or is to remain, a director; (c) the manner of remunerating and, where it is not to be fixed by resolution at the annual general meeting, the maximum amount of the remuneration to be paid to, directors; and (d) the circumstances in which pensions may be awarded to persons by virtue of their office as director and the method of determining the terms of such pensions.

10. The powers and duties of the board of directors.

11. The custody of the mortgage deeds and other securities belonging to the society.

12. The form, custody and use of the society's common seal.

13. The calling and holding of meetings and, in particular— (a) the right of members to requisition meetings; (b) the right of members to move resolutions at meetings; (c) the manner in which notice of any resolutions to be moved at meetings is to be given to members; (d) the procedure to be observed at meetings; (e) the form of notice for the convening of a meeting and the manner of its service; (f) the voting rights of members, the right to demand a poll and the manner in which a poll is to be taken.

14. The entitlement of members to participate in the distribution of any surplus assets after payments to creditors, on the winding up, or dissolution by consent, of the society.

Textual Amendments

F6 Words in [Sch. 2 Pt. I para. 3\(4\)](#) 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. 56\(5\)\(a\)](#); S.I. 1997/2668, art. 2, [Sch. Pt. II\(w\)\(z\)\(xxxiii\)](#)

F7 Words in [Sch. 2 Pt. I para. 3\(4\)](#) 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. 56\(5\)\(b\)](#); S.I. 1997/2668, art. 2, [Sch. Pt. II\(w\)\(z\)\(xxxiii\)](#)

Requirements for alteration of purpose, powers and rules

- 4 ^[F8](1) A building society may by special resolution alter its purposes, alter its powers or alter its rules.]
- (2) Where a building society alters its purpose or powers or its rules under this paragraph, it shall send to the central office—
- (a) three copies of a record of the alteration signed by the secretary; and
 - (b) a statutory declaration by the secretary that the alteration was effected by a resolution passed as a special resolution and that the record is a true record of the resolution.
- (3) On altering its purpose or powers or its rules under this paragraph the building society shall determine the date on which it intends the alteration to take effect; and the record of the alteration shall specify that date (in this paragraph referred to as “the specified date”).

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- (4) Where copies of a record of an alteration of a building society’s purpose, powers or rules are sent to the central office under sub-paragraph (2) above and the central office is satisfied that the alteration is in conformity with this Act and (where applicable) any instruments under it, the central office shall, [^{F9}subject to paragraph 19] below—
- (a) retain and register one of the copies,
 - (b) return another to the secretary of the society together with a certificate of registration of the alteration, and
 - (c) keep another copy, together with a copy of the certificate of registration of the alteration, in the public file of the society.
- (5) An alteration of the purpose or powers or of the rules of a building society under this paragraph shall take effect on the specified date or, if registration of the alteration is not effected under sub-paragraph (4) above until a later date, that later date.
- (6) Any provision in the rules of a building society that the memorandum or rules may be altered without passing a special resolution shall be void.
- (7) If a building society arranges for the publication in consolidated form of its rules or memorandum as altered for the time being, it shall send a copy to the central office and the central office—
- (a) shall keep the copy in the public file of the society, but
 - (b) shall not register the copy.
- (8) If a building society fails to comply with sub-paragraph (2) above, the society shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale and so shall any officer who is also guilty of the offence.

Textual Amendments

- F8** Sch. 2 Pt. I para. 4(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. 56(6)**; S.I. 1997/2668, art. 2, **Sch. Pt. II(w)(z)(xxxiii)**
- F9** Words in Sch. 2 Pt. I para. 4(4) 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(3), 47(3), Sch. 7 para. 56(7), **Sch. 9**; S.I. 1997/2668, art. 2, **Sch. Pt. II(w)(y)(z)(xxxiii)(ce)(xviii)**

Modifications etc. (not altering text)

- C4** Sch. 2 para. 4(1)(3) modified (3.1.1995) by 1994 c. 40, ss. 17(2), 82(2)

Membership

- 5 [^{F10}(1) The rules of a building society shall provide that no person shall be a member of the society unless he is a shareholding member or a borrowing member or both.
- (2) In this Act, in relation to a building society—
- “borrowing member” means, subject to sub-paragraphs (2A) and (2B) and paragraph 29(2) below, an individual who is indebted to the society—
- (a) in respect of a loan which is fully secured on land; or
 - (b) if the rules of the society so provide, in respect of a loan which is (within the meaning of the rules) substantially secured on land;
- “shareholding member” means a person who holds a share in the society.

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- (2A) If the rules of a building society so provide, an individual shall cease to be a borrowing member at any time if at that time the society—
- (a) takes possession of, or exercises its power of sale in relation to, the whole or any part of the land on which the loan is secured; or
 - (b) obtains an order for foreclosure absolute or, in Scotland, foreclosure in respect of the whole or any part of that land.
- (2B) Unless the rules of a building society so provide, an individual shall not be a borrowing member at any time if at that time the loan is owed to the society in equity rather than at law.]
- (3) A person who is a minor—
- (a) may, if the rules do not otherwise provide, be admitted as a member of a building society and give all necessary receipts; but
 - (b) may not [^{F11}propose a resolution,]vote or hold any office in the society; and
 - (c) may not [^{F12}join in requisitioning a special meeting or]nominate, or join in nominating, a person for election as a director of the society.

Textual Amendments

- F10** Sch. 2 Pt. I para. 5(1)-(2B) substituted for Sch. 2 para. 5(1)(2) (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. 2(1), 47(3) (with s. 46(1), Sch. 8 paras. 4, 5); S.I. 1997/2668, art. 2, Sch. Pt. II(b)(aa)(i)(ii)
- F11** Words in Sch. 2 Pt. I para. 5(3)(b) 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. 2(2)(a), 47(3) (with s. 46(1), Sch. 8 paras. 4, 5); S.I. 1997/2668, art. 2, Sch. Pt. II(b)(aa)(i)(ii)
- F12** Words in Sch. 2 Pt. I para. 5(3)(c) 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. 2(2)(b), 47(3) (with s. 46(1), Sch. 8 paras. 4, 5); S.I. 1997/2668, art. 2, Sch. Pt. II(b)(aa)(i)(ii)

Liability of members

- ^{F136} (1) The liability at any time of a shareholding member of a building society shall be limited to the amount which, at that time, has been actually paid, or is in arrear, on his shares in the society.
- (2) The liability at any time of a borrowing member of a building society shall be limited to the amount 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

- F13** Sch. 2 Pt. I para. 6 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. 2(3), 47(3) (with s. 46(1), Sch. 8 paras. 4, 5); S.I. 1997/2668, art. 2, Sch. Pt. II(b)(aa)(i)(ii)

Joint shareholders

- 7 (1) Two or more persons may jointly hold shares in a building society and the following provisions of this paragraph shall apply to any shares so held.

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- (2) In this paragraph, in relation to any shares jointly held, “representative joint holder” means that one of the joint holders who is named first in the records of the society.
- (3) Except where the rules of the society otherwise provide, any notice or other document may be given or sent by the society to the joint holders by being given or sent to the representative joint holder; but this sub-paragraph shall not prevent any of the joint holders from exercising the rights under this Act of a member of a building society to obtain from the society on demand a copy of the summary financial statement, the annual accounts and the annual business statement.
- (4) For the purpose of determining—
- (a) who is entitled to vote in an election of directors of the society;
 - (b) who is qualified to vote on a resolution of the society, and
 - (c) where it is relevant, the number of votes a person may then give,
- the shares shall be treated as held by the representative joint holder alone; and accordingly a person who is a member of the society by reason only of being a joint holder of those shares (other than the representative joint holder) shall not be entitled to vote in any such election or qualified to vote on any such resolution.
- (5) For the purposes of sections 87 and 93 to 102 the shares shall be treated as held by the representative joint holder alone; and accordingly a person who is a member of the society by reason only of being a joint holder of those shares (other than the representative joint holder) shall not be regarded as a member of the society for the purposes of those sections.
- [^{F14}(5A) In its application to section 100, sub-paragraph (5) above shall have effect subject to the provisions of section 102A.]
- (6) The representative joint holder (but none of the other joint holders) shall have the right to join in making an application under section 56 and any reference in that section to the total membership of a building society shall be construed accordingly.
- (7) In the register to be maintained under paragraph 13 below the entry of that one of the joint holders who is the representative joint holder shall indicate that fact.
- (8) The joint holders shall be entitled to choose the order in which they are named in the records of the society.

Textual Amendments

F14 Sch. 2 para. 7(5A) inserted (1.5.1995 with application as mentioned in [s. 2\(2\)](#) of the amending Act) by [1995 c. 5, s. 1\(2\)](#)

Joint borrowers

- 8 (1) Where [^{F15}a loan] secured on land is made by a building society to two or more persons jointly the following provisions of this paragraph shall apply to their rights as borrowing members of the society.
- (2) In this paragraph, in relation to any rights of theirs as borrowing members, “representative joint borrowers” means that one of the joint borrowers who is named first in the records of the society.

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- (3) Except where the rules of the society otherwise provide, any notice or other document may be given or sent by the society to the joint borrowers by being given or sent to the representative joint borrowers; but this sub-paragraph shall not prevent any of the joint borrowers from exercising the rights under this Act of a borrowing member of a building society to obtain from the society on demand a copy of the summary financial statement, the annual accounts and the annual business statement.
- (4) For the purpose of determining—
- (a) who is entitled to vote in any election of directors of the society, and
 - (b) who is qualified to vote on a resolution of the society,
- the rights of the joint borrowers as borrowing members of the society shall be treated as the rights of the representative joint borrower alone; and accordingly a person who is a member of the society by reason only of being a joint borrower (other than the representative joint borrower) shall not be entitled to vote in any such election or qualified to vote on any such resolution.
- (5) For the purposes of sections 87 and 93 to 102 the rights of the joint borrowers as borrowing members of the society shall be treated as the rights of the representative joint borrower alone; and accordingly a person who is a member of the society by reason only of being a joint borrower (other than the representative joint borrower) shall not be regarded as a borrowing member of the society for the purposes of those sections.
- (6) The representative joint borrower (but none of the other joint borrowers) shall have the right to join in making an application under section 56 and any reference in that section to the total membership of a building society shall be construed accordingly.
- (7) In the register to be maintained under paragraph 13 below the entry of that one of the joint borrowers who is the representative joint borrower shall indicate that fact.
- (8) The joint borrowers shall be entitled to choose the order in which they are named in the records of the society.

Textual Amendments

F15 Words in Sch. 2 para. 8(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. 56(8)**; S.I. 1997/2668, art. 2, **Sch. Pt. II(w)(z)(xxxiii)**

Use and change of name

- 9 (1) The common seal of a building society shall bear the registered name of the society.
- [^{F16}(2) Every building society shall paint or affix, and keep painted or affixed, its registered name on the outside of every office or place in which its business is carried on, in a conspicuous position and in letters easily legible.
- (2A) Every building society shall state its registered name in legible characters in all of the following documents, namely—
- (a) its business letters;

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- (b) its account statements, including those relating to deposit, share, loan or mortgage accounts;
 - (c) its passbooks;
 - (d) its notices and publications, including all documents sent to members;
 - (e) its invoices and receipts;
 - (f) its letters of credit and any instruments creating or acknowledging its indebtedness;
 - (g) its contracts, agreements, mortgages and deeds; and
 - (h) its bills of exchange, promissory notes, endorsements, cheques and orders for money or goods.]
- (3) A building society may change its name by special resolution.
- (4) Where a society changes its name in accordance with this paragraph notice of the change of name shall be sent to the central office and, unless the central office is of the opinion that the changed name is undesirable, the central office shall register the notice of the change of name and give the society a certificate of registration.
- (5) A change of name shall take effect on the date on which the certificate of registration under sub-paragraph (4) above is issued or on such later date as may be specified in the certificate.
- (6) The central office shall keep a copy of the certificate of registration issued under sub-paragraph (4) above in the public file of the society.
- (7) A change of name shall not affect the rights and obligations of the society or of any of its members or of any other person concerned.
- [^{F17}(8) For the purposes of this paragraph and paragraphs 10 to 10C below “registered name”, in relation to a building society, means the name of the society which is for the time being registered with the central office.]

Textual Amendments

F16 Sch. 2 Pt. I para. 9(2)(2A) substituted for Sch. 2 para. 9(2) (1.12.1997) by 1997 c. 32, s. 36(1); S.I. 1997/2668, art. 2, Sch. Pt. I(h)

F17 Sch. 2 Pt. I para. 9(8) inserted (1.12.1997) by 1997 c. 32, s. 36(2); S.I. 1997/2668, art. 2, Sch. Pt. I(h)

Offences relating to society's name

- [^{F18}10 (1) If a building society does not—
- (a) paint or affix its registered name; or
 - (b) keep its registered name painted or affixed,
- as required by paragraph 9(2) above, the society shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (2) A building society which, without reasonable excuse, does not comply with paragraph 9(2A) above shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Status: Point in time view as at 01/06/1998.

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- (3) If an officer of a building society or a person on its behalf issues or authorises the issue of any document mentioned in paragraph 9(2A)(a) to (g) above, in which the society's registered name is not stated as required by that paragraph, he shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (4) If an officer of a building society or a person on its behalf signs or authorises to be signed on behalf of the building society any document mentioned in paragraph 9(2A)(h) above in which the society's registered name is not stated as required by that paragraph—
- (a) he shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale; and
 - (b) he shall be further personally liable to the holder of the bill of exchange, promissory note, cheque or order for money or goods for the amount of it (unless it is duly paid by the building society).
- (5) If a building society fails to send to the central office a notice which it is required to send to it under paragraph 9(4) 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.]

Textual Amendments

F18 Sch. 2 Pt. I para. 10 substituted (1.12.1997) by 1997 c. 32, s. 36(3); S.I. 1997/2668, art. 2, Sch. Pt. I(h)

[^{F19}Restrictions on business names]

Textual Amendments

F19 Cross-heading inserted (1.12.1997) by 1997 c. 32, s. 36(4); S.I. 1997/2668, art. 2, Sch. Pt. I(h)

- [^{F20}10A(1) This paragraph and paragraph 10B below apply where a building society carries on business under a name other than the following, namely—
- (a) its registered name;
 - (b) its registered name with the omission of the words "Building Society"; and
 - (c) its registered name with an addition which merely indicates that the business is carried on in succession to a former building society with which it has merged.
- (2) The society shall not, without the written approval of the Commission, carry on business under a name which—
- (a) would be likely to give the impression that the business is connected with Her Majesty's Government or with any local authority, or
 - (b) includes any word or expression for the time being specified in regulations made under sub-paragraph (3) below.
- (3) The Commission may, with the consent of the Treasury, by regulations—
- (a) specify words or expressions for the use of which as or as part of a business name the approval of the Commission is required by sub-paragraph (2) above, and

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- (b) in relation to any such word or expression, specify a Government department or other body for the purposes of sub-paragraph (4) below.
- (4) Where the society proposes to carry on business under a name which is or includes any such word or expression, and a government department or other body is specified under sub-paragraph (3)(b) above in relation to that word or expression, the society shall—
- (a) request (in writing) the relevant body to indicate whether (and if so why) it has any objections to the proposal, and
- (b) submit to the Commission a statement that such a request has been made and a copy of any response received from the relevant body.
- (5) For the purposes of this paragraph “local authority” means—
- (a) any local authority within the meaning of the ^{M4}Local Government Act 1972, the Common Council of the City of London or the Council of the Isles of Scilly;
- (b) any local authority within the meaning of the ^{M5}Local Government etc. (Scotland) Act 1994;
- (c) any district council within the meaning of the ^{M6}Local Government Act (Northern Ireland) 1972.]

Textual Amendments

F20 Sch. 2 Pt. I paras. 10A-10C inserted (1.12.1997) by 1997 c. 32, s. 36(4); S.I. 1997/2668, art. 2, Sch. Pt. I(h)

Marginal Citations

M4 1972 c.70.

M5 1994 c.39.

M6 1972 c.9 (N.I.).

[^{F21}Use of business names: required disclosure]

Textual Amendments

F21 Cross-heading inserted (1.12.1997) by 1997 c. 32, s. 36(4); S.I. 1997/2668, art. 2, Sch. Pt. I(h)

[^{F22}10B(1) Paragraph 9(2A) above shall have effect as if after the words “in legible characters” there were inserted the words “which are reasonably prominent”.

- (2) The society shall in all documents mentioned in paragraph 9(2A) above state in legible characters an address in the United Kingdom at which service of any document relating in any way to the business will be effective.
- (3) The society shall also in any premises where the business is carried on and to which the members of the society, the customers of the business or suppliers of any goods or services to the business have access, display in a prominent position so that it may easily be read by such persons a notice containing the society’s registered name and the address mentioned in sub-paragraph (2) above.

Status: Point in time view as at 01/06/1998.

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- (4) The society shall secure that the registered name and the address mentioned in sub-paragraph (2) above is immediately given, by written notice, to any person with whom anything is done or discussed in the course of the business and who asks for the registered name or the address.
- (5) The Commission may, with the consent of the Treasury, by regulations require a notice under sub-paragraph (3) or (4) above to be displayed or given in a specified form.]

Textual Amendments

F22 Sch. 2 Pt. I paras. 10A-10C inserted (1.12.1997) by 1997 c. 32, s. 36(4); S.I. 1997/2668, art. 2, Sch. Pt. I(h)

[^{F23}Use of business names: supplementary]

Textual Amendments

F23 Cross-heading inserted (1.12.1997) by 1997 c. 32, s. 36(4); S.I. 1997/2668, art. 2, Sch. Pt. I(h)

- ^{F24}10(1) A building society which contravenes paragraph 10A(2) above shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (2) A building society which, without reasonable excuse, does not comply with paragraph 9(2A) or 10B(2), (3) or (4) above, or any regulations made under paragraph 10B(5) above, shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
 - (3) Where paragraph 10A above applies any legal proceedings brought by the society to enforce a right arising out of a contract made in the course of the business in respect of which the society was, at the time the contract was made, in breach of paragraph 9(2A) or 10B(2), (3) or (4) above shall be dismissed if the defendant (or, in Scotland, the defender) to the proceedings shows—
 - (a) that he has a claim against the plaintiff (pursuer) arising out of that contract which he has been unable to pursue by reason of the plaintiff's (pursuer's) breach of paragraph 9(2A) or 10B(2), (3) or (4) above, or
 - (b) that he has suffered some financial loss in connection with the contract by reason of the latter's breach of paragraph 9(2A) or 10B(2), (3) or (4) above, unless the court before which the proceedings are brought is satisfied that it is just and equitable to let the proceedings continue.
 - (4) Sub-paragraph (3) above is without prejudice to the right of any person to enforce such rights as he may have against another person in any proceedings brought by that person.
 - (5) Regulations made under paragraph 10A(3) or 10B(5) above shall be made by statutory instrument subject to annulment by resolution of either House of Parliament.

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- (6) Such regulations may contain such transitional provisions and savings as the Commission thinks fit, and may make different provision for different cases or classes of case.]

Textual Amendments

F24 Sch. 2 Pt. I paras. 10A-10C inserted (1.12.1997) by 1997 c. 32, s. 36(4); S.I. 1997/2668, art. 2, Sch. Pt. I(h)

Change of principal office

- 11 (1) A building society may change its principal office—
- (a) in such manner as its rules direct, or
 - (b) if there is no such direction in the rules, [^{F25}by an ordinary resolution].
- (2) Notice of any such change and of the date of it shall, within seven days after the change, be sent to the central office and the central office shall keep the notice in the public file of the society.
- (3) It is not necessary to alter the memorandum or rules of a building society by reason only that its principal office is changed.
- (4) If a building society fails to send to the central office a notice which it is required to send to it under sub-paragraph (2) above, the society shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale and so shall any officer who is also guilty of the offence.

Textual Amendments

F25 Words in Sch. 2 Pt. I para. 11(1)(b) substituted (9.6.1997) by 1997 c. 32, s. 43, Sch. 7 para. 56(9); S.I. 1997/1427, art. 2(k)(n)(xv)

Societies to supply copies of rules etc.

- 12 (1) A building society shall, on demand, give a copy of its statutory documents—
- (a) free of charge, to any member of the society to whom a copy of those documents has not previously been given, and
 - (b) to any other person, upon payment of such fee as the society may require, not exceeding the prescribed amount.
- (2) The reference in sub-paragraph (1) above to a copy of a building society's statutory documents is a reference to—
- (a) a printed copy of the society's rules for the time being, with a copy of the certificate of incorporation of the society annexed to it, and
 - (b) a printed copy of the memorandum of the society for the time being.

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- (3) If a building society fails to comply with the requirements of sub-paragraph (1) above, the society shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale and so shall any officer who is also guilty of the offence.
- (4) In sub-paragraph (1) above the “prescribed amount” means £1 or such other amount as the Commission prescribes by order made by statutory instrument.

Register of members

- 13 ^[F26](1) Every building society shall maintain a register of members showing—
- (a) the name and address of each member; and
 - (b) whether each member is a shareholding member or a borrowing member or both.]
- (2) The register shall be kept at the principal office or at such other place or places as the directors think fit.
 - (3) If a building society contravenes sub-paragraph (1) above, the society shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale and so shall any officer who is also guilty of the offence.
 - (4) For the purposes of this Act “registered address” in relation to a member of a building society, means—
 - (a) the address shown in the register maintained under this paragraph, except in a case where paragraph (b) below applies;
 - (b) where the member has requested that communications from the society be sent to some other address, that other address.

Textual Amendments

F26 Sch. 2 Pt. I para. 13(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. 56(10)**; S.I. 1997/2668, art. 2, **Sch. Pt. II(w)(z)(xxxiii)**

Exception to duties to send documents

- 14 (1) A building society is not obliged by any provision of this Act or its rules to send a notice or other document to a member in whose case the society has reason to believe that communications sent to him at his registered address are unlikely to be received by him.
- (2) Where the requirement relates to notice of a meeting or postal ballot of the society, the society must, instead, comply with the advertising requirements of paragraph 35 below.

Right of members to obtain particulars from the register

- 15 ^[F27](1) At any time when a building society—
- (a) has had its authorisation revoked under section 43; and
 - (b) has not been re-authorised under section 44,

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a member of the society shall, subject to sub-paragraph (1A) below, have the right to obtain, from the register kept under paragraph 13 above, the names and addresses of members of the society, for the purpose of communicating with them on a subject relating to the affairs of the society.

- (1A) Sub-paragraph (1) above shall not apply unless the member in question—
- (a) is qualified under the rules of the society to join in a members' requisition for a special meeting, or to join in nominating a person for election as a director; or
 - (b) would be so qualified if any requirements as to length of time a person must have been a shareholding or borrowing member were omitted.
- (2) If, at any time not falling within sub-paragraph (1) above, a member of a building society who is qualified under the rules of the society to join in a members' requisition for a special meeting, or to join in nominating a person for election as a director, makes a written application to the Commission for the right to obtain names and addresses from the register, the Commission—
- (a) if satisfied that the applicant—
 - (i) requires that right for the purpose of communicating with members of the society on a subject relating to its affairs; and
 - (ii) has not, since making the application, voluntarily ceased to be a member of the society; and
 - (b) having regard to the interests of the members as a whole and to all the other circumstances; and
 - (c) on payment by the applicant of a fee of £25 or such other amount as may be prescribed,
- may direct that the applicant shall have the right to obtain from the register the names and addresses of the members for the purpose of communicating with them on that subject.]
- (3) Any direction under sub-paragraph (2) above may be given subject to such limitations or conditions as the Commission may think fit.
- (4) Before giving a direction under sub-paragraph (2) above, the Commission shall give particulars of the application to the building society and shall afford the society an opportunity of making representations with respect to the application; and the Commission shall, if the applicant or the society so requests, afford to the applicant and to the society an opportunity of being heard by it.
- (5) A member entitled under this paragraph to obtain the names of members of a building society may apply in writing to the society, describing in the application the subject on which he proposes to communicate with other members of the society; and the society shall give him all necessary information as to the place or places where the register, or part of it, is kept, and reasonable facilities for inspecting the register and taking a copy of any names and addresses in the register.
- (6) A building society shall not be obliged to disclose to a member making an application under this paragraph any particulars contained in the register other than the names of the members and their addresses, and may construct the register in such a way that it is possible to disclose the names and addresses to inspection without disclosing any such other particulars.

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- [^{F28}(7) No information obtained under sub-paragraph (1) or (2) above or this sub-paragraph and relating to a member of the society may be disclosed except—
- (a) with the consent of that member; or
 - (b) in the case of information obtained under sub-paragraph (1) or (2) above, for purposes connected with the purpose mentioned in that paragraph.
- (8) Any person who discloses information in contravention of sub-paragraph (7) above 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.
- (9) The Treasury may, by regulations, prescribe the amount of any fees payable under sub-paragraph (2) above; and regulations under this sub-paragraph may include—
- (a) provision for any fees so payable to be reduced or for payment of any fees to be waived by the Commission in circumstances determined by or under the regulations; and
 - (b) such incidental, supplementary and transitional provision as appears to the Treasury to be necessary or expedient.
- (10) The power to make regulations under sub-paragraph (9) above is exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (11) The amounts received by the Commission under sub-paragraph (2) above shall be applied as an appropriation in aid of money provided by Parliament for the expenses of the Commission under this Act, and in so far as not so applied, shall be paid into the Consolidated Fund.]

Textual Amendments

- F27** Sch. 2 Pt. I para. 15(1)(1A)(2) substituted for Sch. 2 para. 15(1)(2) (9.6.1997) by 1997 c. 32, s. 37(1); S.I. 1997/1427, art. 2(i)
- F28** Sch. 2 Pt. I para. 15(7)-(11) inserted (9.6.1997) by 1997 c. 32, s. 37(2); S.I. 1997/1427, art. 2(i)

[^{F29}PART II

CAPACITY OF SOCIETY AND POWER OF DIRECTORS TO BIND IT]

Textual Amendments

- F29** Sch. 2 Pt. II 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. 3(2), 47(3), Sch. 1; S.I. 1997/2668, art. 2, Sch. Pt. II(c)

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[^{F30} Capacity of society not limited by its memorandum]

Textual Amendments

F30 Sch. 2 Pt. II 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. 3(2), 47(3), **Sch. 1**; S.I. 1997/2668, art. 2, **Sch. Pt. II(c)**

- [^{F31}16 (1) The validity of an act done by a building society shall not be called into question on the ground of lack of capacity by reason of anything included in the society's memorandum.
- (2) A member of a building society may bring proceedings to restrain the doing of an act which but for sub-paragraph (1) above would be beyond the society's capacity; but no such proceedings shall lie in respect of an act to be done in fulfilment of a legal obligation arising from a previous act of the society.
- (3) It remains the duty of the directors of a building society to observe any limitations on their powers flowing from the society's memorandum; and action by the directors which but for sub-paragraph (1) above would be beyond the society's capacity may only be ratified by the society by special resolution.
- (4) A resolution ratifying such action shall not affect any liability incurred by the directors or any other person; relief from any such liability must be agreed to separately by special resolution.]

Textual Amendments

F31 Sch. 2 Pt. II 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. 3(2), 47(3), **Sch. 1**; S.I. 1997/2668, art. 2, **Sch. Pt. II(c)**

[^{F32} Power of directors to bind society]

Textual Amendments

F32 Sch. 2 Pt. II 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. 3(2), 47(3), **Sch. 1**; S.I. 1997/2668, art. 2, **Sch. Pt. II(c)**

- [^{F33}17 (1) In favour of a person dealing with a building society in good faith, the power of the board of directors to bind the society, or authorise others to do so, shall not be limited by reason of anything included in the society's constitution, that is to say, its memorandum and rules.
- (2) For this purpose—
- (a) a person deals with a building society if he is a party to any transaction or other act to which the society is a party;
- (b) a person shall not be regarded as acting in bad faith by reason only of his knowing that an act is beyond the powers of the directors under the society's constitution; and

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- (c) a person shall be presumed to have acted in good faith unless the contrary is proved.
- (3) The references above to limitations on the directors' powers under the society's constitution include limitations deriving from a resolution of the society passed at a general meeting or special meeting or on a postal ballot, or from any agreement between the members of the society.
- (4) Notwithstanding anything in paragraph 3(2) above, sub-paragraph (1) above applies in relation to members of the society, and to persons claiming on account of members or under the rules of the society, as it applies in relation to other persons.
- (5) Sub-paragraph (1) above does not affect any right of a member of the society to bring proceedings to restrain the doing of an act which is beyond the powers of the directors; but no such proceedings shall lie in respect of an act to be done in fulfilment of a legal obligation arising from a previous act of the society.
- (6) Nor does that sub-paragraph affect any liability incurred by the directors, or any other person, by reason of the directors' exceeding their powers.]

Textual Amendments

F33 Sch. 2 Pt. II 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. 3(2), 47(3), **Sch. 1**; S.I. 1997/2668, art. 2, **Sch. Pt. II(c)**

[^{F34} No duty to enquire as to capacity of society etc.]

Textual Amendments

F34 Sch. 2 Pt. II 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. 3(2), 47(3), **Sch. 1**; S.I. 1997/2668, art. 2, **Sch. Pt. II(c)**

- ^{F35}18 (1) A party to a transaction with a building society is not bound to enquire as to whether it is permitted by the society's constitution or as to any limitation on the powers of the board of directors to bind the society or authorise others to do so.
- (2) Notwithstanding anything in paragraph 3(2) above, sub-paragraph (1) above applies in relation to members of the society as it applies in relation to other persons.]

Textual Amendments

F35 Sch. 2 Pt. II 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. 3(2), 47(3), **Sch. 1**; S.I. 1997/2668, art. 2, **Sch. Pt. II(c)**

Powers of central office

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PART III

MEETINGS, RESOLUTIONS AND POSTAL BALLOTS

Modifications etc. (not altering text)

- C5** Sch. 2 Pt. III (paras. 20–36) excluded (*temp.*) by S.I. 1986/2168, **art. 3(1)(2)**
C6 Sch. 2 Pt. III (paras. 20–36) modified by S.I. 1987/426, **art. 4**

Annual general meeting

- 20 (1) Subject to sub-paragraph (2) below, every building society shall hold a meeting in the first four months of each financial year as its annual general meeting (in addition to any other meetings in that year) and shall specify the meeting as such in the notices calling it.
- (2) Sub-paragraph (1) above does not require a building society to hold an annual general meeting in the calendar year in which it is incorporated.
- (3) If default is made in holding a meeting in accordance with sub-paragraph (1) above, the Commission may—
- (a) call, or direct the calling of, an annual general meeting in that financial year, and
 - (b) give such ancillary or consequential directions as it thinks expedient, including directions modifying or supplementing the operation of the rules of the society in relation to the calling, holding and conducting of the meeting.
- (4) Notwithstanding anything in the rules of a building society, the business which may be dealt with at the annual general meeting shall include any resolution whether special or not.
- (5) In any case where default is made—
- (a) in holding an annual general meeting in accordance with sub-paragraph (1) above, or
 - (b) in complying with any directions of the Commission given under sub-paragraph (3) above,

the building society shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale and so shall any officer who is also guilty of the offence.

[^{F36}Special meeting on members' requisition]

Textual Amendments

- F36** Sch. 2 Pt. III para. 20A and cross-heading 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. 25, 47(3)**; S.I. 1997/2668, **art. 2, Sch. Pt. II(q)**

^{F37}20A(1) On a members' requisition, a building society shall—

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- (a) duly call a special meeting, and specify the meeting as such in the notice calling it; and
- (b) if so required by the requisition, send to each member entitled to receive notice of the meeting a copy of a statement of not more than 500 words with respect to the matters to be dealt with at the meeting;

and where a meeting is so called no business shall be conducted at the meeting other than that stated in the notice calling it or (where applicable) that mentioned in sub-paragraph (8)(b) below.

- (2) A members' requisition is a requisition of not less than the requisite number of members of the society; and that number is 100 or such lesser number as may be specified in the rules of the society.
- (3) The requisition—
 - (a) must state the objects of the meeting, be signed by the requisitionists and be deposited at the society's principal office; and
 - (b) may consist of several documents in like form each signed by one or more requisitionists and each after the first deposited within three months of the date on which the first was deposited.
- (4) Where the requisition consists of several documents, the date of its deposit shall be taken to be the date on which the document signed by the requisitionist making up the requisite number is deposited at the society's principal office.
- (5) The rules of the society may require a requisitionist—
 - (a) to state his full name and address;
 - (b) to fulfil one or other of the following conditions, namely—
 - (i) to have been a shareholding member for a specified period and to hold, or to have held at any time during that period, shares in the society to such value (not greater than the prescribed amount) as is specified in the rules; and
 - (ii) to have been a borrowing member for a specified period and to owe to the society, or to have owed to the society at any time during that period, a mortgage debt of such amount (not greater than the prescribed amount) as is so specified; and
 - (c) to identify a share or mortgage account with the society which will evidence the fact that he fulfils one or other of those conditions;and in this sub-paragraph "specified period" means such period (not more than two years) before the date of the requisition as is specified in the rules.
- (6) No objection may be made by virtue of such rules to the requisition or, where the requisition consists of several documents, to any of those documents unless it is made within 14 days of the requisition or document being deposited at the society's principal office.
- (7) The rules of the society may also require a sum of money, not exceeding £25 per requisitionist, to be deposited with the requisition; and, where any money is so deposited, it shall be forfeited to the society, or returned to the persons who deposited it, as provided by the rules.
- (8) The rules shall not provide for any deposited money to be forfeited to the society except—

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- (a) where a quorum is not present within half an hour after the time appointed for the meeting; or
 - (b) where and to the extent that those eligible to vote at the meeting decide by ordinary resolution that the money should be applied to defray the whole or any part of the expenses of holding the meeting.
- (9) If the rules of a building society so provide, sub-paragraph (1) above does not require the society—
- (a) to call a special meeting if the only or main object of the meeting is to move a resolution in substantially the same terms as any resolution which has been defeated at a meeting or on a postal ballot during the period beginning with the third annual general meeting before the date on which the requisition is deposited at the society's principal office; or
 - (b) to call a special meeting to be held during the period of four months beginning one month after the end of its financial year.
- (10) Sub-paragraph (1)(b) above does not require the society to send copies of a statement to members entitled to receive notice of a meeting in any case where—
- (a) publicity for the statement would be likely to diminish substantially the confidence in the society of investing members of the public; or
 - (b) the rights conferred by sub-paragraph (1)(b) above are being abused to seek needless publicity for defamatory matter or for frivolous or vexatious purposes;
- and that provision shall not be taken to confer any rights on members, or to impose any duties on a building society, in respect of a statement which does not relate directly to the affairs of the society.
- (11) Where sub-paragraph (1)(b) above requires copies of a statement to be sent to members entitled to receive notice of a meeting, the proceedings at the meeting are not invalidated by—
- (a) the accidental omission to send a copy of the statement to a member entitled to receive one, or
 - (b) the non-receipt of such a copy by such a member.
- (12) The Commission shall hear and determine any dispute arising under sub-paragraph (10)(a) above, whether on the application of the society or of any other person who claims to be aggrieved.
- (13) The Commission may, with the consent of the Treasury, by order substitute—
- (a) for the number specified in sub-paragraph (2) above; or
 - (b) for the sum specified in sub-paragraph (7) above,
- such other number or sum as appears to it to be appropriate; and an order under this subsection may make such supplementary, transitional and saving provision as appears to the Commission to be necessary or expedient.
- (14) The power to make an order under sub-paragraph (13) above is exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

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Textual Amendments

- F37** Sch. 2 Pt. III para. 20A and cross-heading 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. 25, 47(3); S.I. 1997/2668, art. 2, Sch. Pt. II(q)

[^{F38}Failure to comply with members' requisition]

Textual Amendments

- F38** Sch. 2 Pt. III para. 20B and cross-heading 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. 26, 47(3); S.I. 1997/2668, art. 2, Sch. Pt. II(r)

- ^{F39}20B(1) This paragraph applies where a members' requisition is deposited at a building society's principal office and the society is not relieved of the obligation to call a special meeting by paragraph 20A(9)(a) above.
- (2) Subject to sub-paragraph (5) below, if the society does not within 28 days from the date of the deposit of the requisition duly call a meeting to be held within 63 days from that date—
- (a) the requisitionists, or any proportion of them exceeding one half, may themselves call a meeting to be held within five months from that date; and
- (b) no business shall be conducted at a meeting so called other than that stated in the notice calling it or (where applicable) that mentioned in paragraph 20A(8)(b) above.
- (3) A meeting called under sub-paragraph (2) above by requisitionists shall be called in the same manner, as nearly as may be, as that in which meetings are to be called by the society.
- (4) If—
- (a) paragraph 20A(1)(b) above requires the society to send to each member entitled to receive notice of the meeting a copy of a statement of not more than 500 words with respect to the matters to be dealt with at the meeting; and
- (b) subject to sub-paragraph (5) below, that requirement is not complied with within 28 days from the date of the deposit of the requisition,
- the requisitionists, or any proportion of them exceeding one half, may themselves send a copy of the statement to each such member.
- (5) If the rules of the society make such provision as is mentioned in paragraph 20A(9)(b) above, any days falling within the period there mentioned shall be disregarded in determining any period for the purposes of sub-paragraph (2) or (4)(b) above.
- (6) Any reasonable expenses incurred by the requisitionists by reason of the failure of the society to call a meeting, or to comply with such a requirement as is mentioned in sub-paragraph (4) above, shall be repaid to the requisitionists by the society.
- (7) Any sum so repaid shall be recoverable by the society from such of the directors of the society as were responsible for the failure (whether by the retention of fees or other remuneration in respect of services or otherwise).]

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Textual Amendments

- F39** Sch. 2 Pt. III para. 20B and cross-heading 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. 26, 47(3); S.I. 1997/2668, art. 2, **Sch. Pt. II(r)**

Length of notice for calling meetings

- 21 (1) Any provision contained in the rules of a building society shall be void to the extent that it provides for the calling of a meeting of the society (other than an adjourned meeting) by less than 21 days' notice expiring with the date of the meeting or, if earlier, the date specified by the society, under its rules, as the final date for the receipt of instruments appointing proxies to vote at the meeting.
- (2) A meeting of a building society may be called by 21 days' notice, unless the rules provide for longer notice of the meeting to be given.
- (3) Where notice of a meeting is given in accordance with sub-paragraph (2) above, the notice shall be taken for the purposes of this Act or any other enactment to have been duly given according to the rules of the building society.

Persons entitled to notice of meetings

- 22 (1) Subject to the provisions of this Part of this Schedule, notice of a meeting of a building society shall be given to every member of the society who would be eligible to vote at the meeting if the meeting were held on the date of the notice.
- [^{F40}(2) Notice of the meeting shall, subject to those provisions, be given also to every person—
- (a) who becomes a shareholding or borrowing member of the society after the date of the notice under sub-paragraph (1) above and before the specified date; or
- (b) who, being such a member at the date of that notice, attains the age of 18 after that date and on or before the date of the meeting,
- and who would (in either case) be eligible to vote at the meeting if he remained such a member until the date of the meeting.
- (2A) In sub-paragraph (2) above “the specified date” means the date specified by the society as the final date for the receipt of instruments appointing proxies to vote at the meeting.]
- (3) Accidental omission to give notice of a meeting to, or non-receipt of notice of a meeting by, any person entitled to receive notice of the meeting does not invalidate the proceedings at that meeting.

Textual Amendments

- F40** Sch. 2 Pt. III para. 22(2)(2A) substituted for Sch. 2 Pt. III para. 22(2) (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. 57(2)**; S.I. 1997/2668, art. 2, **Sch. Pt. II(w)(z)(xxxiv)**

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Modifications etc. (not altering text)

C7 Sch. 2 Pt. III paras. 22, 34 excluded by S.I. 1987/426, art. 3

Members' entitlement to vote on resolutions

- 23 [F41(1) A member of a building society is entitled to vote—
- (a) on an ordinary resolution or a special resolution if he was, at the end of the last financial year before the voting date, and is, on that date, a shareholding or borrowing member of the society;
 - (b) on a shareholding members' resolution, if he was, at the end of that year, and is, on that date, a shareholding member of the society; and
 - (c) on a borrowing members' resolution if he was, at the end of that year, and is, on that date, a borrowing member of the society,
- but subject, in either case, to paragraphs 5(3), 7(4) and 8(4) above and, in the case of paragraphs (a) and (b), to sub-paragraph (3) below.]
- (2) Subject to the following provisions of this paragraph, any provision in the rules of a building society is void to the extent that it would have the effect of restricting the rights conferred on members by sub-paragraph (1) above.
- [F42(3) If the rules of the society so provide, a shareholding member is not entitled to vote on an ordinary resolution or a special resolution as such a member, or to vote on a shareholding members' resolution—
- (a) if he did not have a qualifying shareholding at the qualifying shareholding date; or
 - (b) if he ceased to hold shares at some time between that date and the voting date.
- (4) Where a building society's rules make such provision as is mentioned in sub-paragraph (3)(a) above, a shareholding member shall be taken to have had a qualifying shareholding at the qualifying shareholding date if he had such a holding—
- (a) at the end of the last financial year before the voting date, except where paragraph (b) below applies; or
 - (b) in a case where the voting date falls during that part of a financial year which follows the conclusion of the annual general meeting commenced in that year, at the beginning of the period of 56 days immediately preceding the voting date for members voting in person at a meeting or, as the case may be, on a postal ballot.]

(5) For the purposes of this paragraph a member of a building society has a “qualifying shareholding” at any time if at that time he holds shares in the society to a value not less than the prescribed amount or such lesser amount as may be specified in the rules.

(6) In this paragraph “voting date”, with reference to any resolution, means—

 - (a) the date of the meeting at which the resolution is intended to be moved, except where paragraph (b) or (c) below applies;
 - (b) where voting on the resolution is to be conducted by postal ballot, the date which the society specifies as the final date for the receipt of completed ballot papers;

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- (c) in the case of a member appointing a proxy to vote instead of him at a meeting, the date which the society specifies as the final date for the receipt of instruments appointing proxies to vote on that resolution.

Textual Amendments

- F41** Sch. 2 Pt. III para. 23(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. 57(3)**; S.I. 1997/2668, art. 2, **Sch. Pt. II(w)(z)(xxxiv)**
- F42** Sch. 2 Pt. III para. 23(3)(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. 57(4)**; S.I. 1997/2668, art. 2, **Sch. Pt. II(w)(z)(xxxiv)**

Proxies

- 24 (1) A member of a building society who is entitled to attend and vote at a meeting of the society—
- (a) may appoint another person (whether a member of the society or not) as his proxy, to attend and, subject to sub-paragraph (3) below, to vote at the meeting instead of him, and
 - (b) may direct the proxy how to vote at the meeting.
- (2) Where the society, under its rules, specifies a final date for the receipt of instruments appointing proxies to vote at a meeting, a person appointed a proxy by a member who at that date is entitled to attend and vote at the meeting may act as his proxy at the meeting whether or not the member ceases to be so entitled after that date.
- (3) A proxy is entitled to vote on a poll but, subject to any provision in the rules of the building society, not otherwise.
- (4) In every notice calling a meeting of a building society there shall appear with reasonable prominence a statement—
- (a) that a member entitled to attend and vote may appoint a proxy (or, where it is allowed, one or more proxies) to attend and vote at the meeting instead of him;
 - (b) that the proxy need not be a member of the society; and
 - (c) that the member may direct the proxy how to vote at the meeting.
- [^{F43}(4A) Every form for the appointment of a proxy sent by a building society to persons entitled to notice of a meeting of the society must contain provision enabling that person to direct the proxy how to vote at the meeting.]
- (5) If default is made in complying with sub-paragraph (4) above in respect of a meeting of a building society, [^{F44}or in complying with sub-paragraph (4A) above in respect of a form of appointment of a proxy,]the society shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale, and so shall any officer who is also guilty of the offence.
- (6) Any provision contained in the rules of a building society shall be void in so far as it would have the effect of requiring the instrument appointing a proxy, or any other document necessary to show the validity of, or otherwise relating to, the appointment of a proxy, to be received by the society or any other person more than seven days

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before a meeting or adjourned meeting in order that the appointment may be effective at the meeting or adjourned meeting.

Textual Amendments

- F43** Sch. 2 Pt. III para. 24(4A) 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. 57(5)**; S.I. 1997/2668, art. 2, **Sch. Pt. II(w)(z)(xxxiv)**
- F44** Words in Sch. 2 Pt. III para. 24(5) 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. 57(6)**; S.I. 1997/2668, art. 2, **Sch. Pt. II(w)(z)(xxxiv)**

Right to demand a poll

- 25 (1) Any provision contained in the rules of a building society shall be void in so far as it would have the effect either—
- (a) of excluding the right to demand a poll at a meeting of the society on any question other than the election of a chairman of the meeting or the adjournment of the meeting, or
 - (b) of making ineffective a demand for a poll on any such question which is made by not less than ten members having the right to vote at the meeting.
- (2) The instrument appointing a proxy to vote at a meeting of a building society shall be taken also to confer authority to demand or join in demanding a poll; and for the purposes of sub-paragraph (1) above a demand by a person as proxy of a member shall be the same as the demand by the member.

Special resolutions

- 26 No resolution of a building society shall be passed as a special resolution ^[F45], or as a shareholding members' resolution, unless it is required to be so passed by or under any provision of this Act or by the rules of the society.

Textual Amendments

- F45** Words in Sch. 2 Pt. III para. 26 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. 57(7)**; S.I. 1997/2668, art. 2, **Sch. Pt. II(w)(z)(xxxiv)**

- 27 (1) A resolution of a building society shall be a special resolution when it has been passed by not less than three-quarters of the number of the members of the society qualified to vote on a special resolution and voting either—
- (a) in person or by proxy on a poll on the resolution at a meeting of the society of which notice specifying the intention to move the resolution as a special resolution has been duly given; or
 - (b) in a postal ballot on the resolution of which notice specifying that the resolution will not be effective unless it is passed as a special resolution has been duly given.

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- (2) In any rules made by a building society on or after 1st October 1960, whether before or after the commencement of this Act, “special resolution”, unless the context otherwise requires, means a special resolution as defined in this paragraph.
- [^{F46}27A A resolution of a building society shall be a shareholding members’ resolution when it has been passed by not less than three-quarters of the number of the shareholding members of the society—
- (a) qualified to vote on a shareholding members’ resolution; and
 - (b) voting in person or by proxy on a poll on the resolution at a meeting of the society of which notice specifying the intention to move the resolution as a shareholding members’ resolution has been duly given.]

Textual Amendments

- F46** Sch. 2 Pt. III para. 27A 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. 57(8)**; S.I. 1997/2668, art. 2, **Sch. Pt. II((w)(z)(xxxiv)**

Borrowing members’ resolutions

- 28 No resolution of a building society shall be passed as a borrowing members’ resolution unless it is required to be so passed by or under any provision of this Act or by the rules of the society.
- 29 [^{F47}(1) A resolution of a building society shall be a borrowing members’ resolution when it has been passed by a majority of the borrowing members of the society voting in person or by proxy on a poll on the resolution at a meeting of the society of which notice specifying the intention to move the resolution as a borrowing members’ resolution has been duly given.]
- [^{F48}(2) For the purposes of this Part of this Schedule, an individual who is indebted to a building society in respect of a loan fully secured on land is not a borrowing member of the society at any time if at that time the amount of his mortgage debt is less than the prescribed amount.]
- (3) Where a borrowing member’s resolution approving a transfer of engagements by a building society is moved, only those borrowing members whose mortgages are to be transferred shall be entitled to vote on the resolution.
- (4) In any rules made by a building society after the commencement of this paragraph, “borrowing members’ resolution”, unless the context otherwise requires, means a borrowing members’ resolution as defined in this paragraph.

Textual Amendments

- F47** Sch. 2 Pt. III para. 29(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. 57(9)**; S.I. 1997/2668, art. 2, **Sch. Pt. II(w)(z)(xxxiv)**
- F48** Sch. 2 Pt. III para. 29(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. **2(4)**, 47(3) (with s. 46(1), Sch. 8 paras. 4, 5); S.I. 1997/2668, art. 2, **Sch. Pt. II(b)**

Status: Point in time view as at 01/06/1998.

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Transfer resolutions

- 30 (1) The transfer resolutions required for the purposes of section 97 for the approval by members of a building society of a transfer of its business are two resolutions, of which—
- (a) one is passed as a borrowing members' resolution, and
 - (b) the other ("the requisite shareholders' resolution") is passed in accordance with sub-paragraphs (2) to (5) below.
- (2) In a case where the successor is to be a specially formed company, the requisite shareholders' resolution—
- (a) must be passed as a [^{F49}shareholding members' resolution], and
 - (b) must be passed on a poll on which not less than [^{F50}50] per cent. of the members of the society qualified to vote on a [^{F49}shareholding members' resolution] voted;
- and the notice of the resolution required by [^{F51}paragraph 27A above] must specify that the resolution will not be effective unless both of the requirements specified in this sub-paragraph are fulfilled.
- (3) Subject to any direction under sub-paragraph (5) below, in a case where the successor is to be an existing company, the requisite shareholders' resolution must be passed as a [^{F52}shareholding members' resolution] and either—
- (a) must be passed by not less than 50 per cent. of the members qualified to vote on a [^{F52}shareholding members' resolution], or
 - (b) must be passed by the holders, being members qualified to vote on a [^{F52}shareholding members' resolution], of shares in the society to a value, on the voting date, representing not less than 90 per cent. of the total value of the shares held on that date by the members so qualified to vote;
- and, in either case, the resolution must be a resolution in relation to which the notice required by [^{F53}paragraph 27A] above includes a statement specifying that the resolution will not be effective unless either of the above requirements is fulfilled [^{F54}has been duly given].
- (4) If the Commission considers it expedient, in relation to a transfer of the business of a building society to an existing company, to do so for the purpose of protecting the investments of the shareholders or of depositors with the society, the Commission may give a direction under sub-paragraph (5) below.
- (5) A direction under this sub-paragraph is a direction that, for the purposes of the transfer of business specified in the direction, the requisite shareholders' resolution is to be effective if it is passed as a [^{F55}shareholding members' resolution].
- (6) The Treasury, after consultation with the Commission, may by order amend sub-paragraph (2)(b), (3)(a) or (3)(b) above so as to substitute for the percentage for the time being specified in the subparagraph such other percentage as it thinks appropriate.
- (7) The power to make orders under sub-paragraph (6) above is exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Status: Point in time view as at 01/06/1998.

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- (8) In this paragraph “voting date”, with reference to a requisite shareholders’ resolution, has the same meaning as in paragraph 23(6) above.

Textual Amendments

- F49** Words in Sch. 2 Pt. III para. 30(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. 57(10)(a)**; S.I. 1997/2668, art. 2, **Sch. Pt. II(w)(z)(xxxiv)**
- F50** Words in Sch. 2 para. 30(2)(b) substituted (5.12.1997) by S.I. 1997/2714, **art. 2**
- F51** Words in Sch. 2 Pt. III para. 30(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. 57(10)(b)**; S.I. 1997/2668, art. 2, **Sch. Pt. II(w)(z)(xxxiv)**
- F52** Words in Sch. 2 Pt. III para. 30(3) 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. 57(11)(a)**; S.I. 1997/2668, art. 2, **Sch. Pt. II(w)(z)(xxxiv)**
- F53** Words in Sch. 2 Pt. III para. 30(3) 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. 57(11)(b)**; S.I. 1997/2668, art. 2, **Sch. Pt. II(w)(z)(xxxiv)**
- F54** Words in Sch. 2 Pt. III para. 30(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(3), 47(3), **Sch. 7 para. 57(11)(c)**, **Sch. 9**; S.I. 1997/2668, art. 2, **Sch. Pt. II(w)(y)(z)(xxxiv)(cc)(xviii)**
- F55** Words in Sch. 2 Pt. III para. 30(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. 57(12)**; S.I. 1997/2668, art. 2, **Sch. Pt. II(w)(z)(xxxiv)**

Members’ right to propose and circulate resolutions

- 31 (1) If at least the requisite number of qualified members of a building society give notice to the society of their intention to have moved on their behalf a resolution, other than [^{F56}a shareholding members’ resolution or] a borrowing members’ resolution, specified in the notice at an annual general meeting of the society, it shall be the duty of the society, subject to sub-paragraphs (4), (5) and (6) below—
- (a) to include in the notice of the annual general meeting a notice specifying the intention to have the resolution moved on their behalf at the meeting and, where applicable, the intention to move it as a special resolution;
 - (b) at the request of the members intending to have the resolution moved on their behalf, to send to each member entitled to receive notice of the meeting a copy of any statement of not more than [^{F57}500 words] with respect to the matter referred to in the resolution.
- (2) For the purposes of sub-paragraph (1) above—
- (a) “the requisite number”—
 - [^{F58}(i) in the case of a society in relation to which the difference between the total assets of the society as shown in the accounts last prepared by it under section 72 immediately before the date on which the members gave notice to the society under sub-paragraph (1) above and the aggregate of—
 - (aa) the liquid assets of the society as shown in those accounts in pursuance of regulations under section 73(7); and

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- (bb) the fixed assets of the society as so shown,
exceeds £100 million, is fifty or such lesser number as is specified
for the purpose in the rules of the society, and]
- (ii) in the case of any other society is ten or such lesser number as is
specified for the purpose in the rules of the society;
- (b) every member of a building society is a “qualified member” unless the rules
make other provision for the purpose which is not rendered void under sub-
paragraph (3) below.
- (3) Any provision contained in the rules of a building society shall be void to the extent
that it would have the effect of requiring a qualified member, for the purposes of sub-
paragraph (1) above,—
- [^{F59}(a) to have been a member for more than two years ending with the qualifying
date; or
- (b) if he claims eligibility as a shareholding member, to hold, or to have held at
any time, shares in the society to a value greater than the prescribed amount
in force on the qualifying date; or
- (c) if he claims eligibility as a borrowing member, to owe to the society, or to
have owed to the society at any time, a mortgage debt of an amount greater
than the prescribed amount in force on the qualifying date;]
- and for the purposes of this sub-paragraph the qualifying date is the date on which
the notice is given to the society under sub-paragraph (1) above.
- (4) Sub-paragraph (1) above does not require a building society to send notices of a
resolution or copies of a statement to members of the society in any case where—
- (a) publicity for the resolution or, as the case may be, the statement would be
likely to diminish substantially the confidence in the society of investing
members of the public; or
- (b) the rights conferred by sub-paragraph (1) are being abused to seek needless
publicity for defamatory matter or for frivolous or vexatious purposes;
- and that sub-paragraph shall not be taken to confer any rights on members, or to
impose any duties on a building society, in respect of a resolution or statement which
does not relate directly to the affairs of the society.
- (5) If the rules of a building society so provide, sub-paragraph (1) above does not require
notice of a resolution to be given to members of the society if the resolution is in
substantially the same terms as any resolution which has been defeated at a meeting
or on a postal ballot during the period beginning with the third annual general meeting
before the date on which notice of the resolution is given to the society.
- (6) No copies of a statement with respect to a resolution shall be sent to members
of a building society if, on any of the grounds in sub-paragraph (4) or (5) above,
the society does not give the notice of the resolution to them required by sub-
paragraph (1)(a) above.
- (7) The Commission shall hear and determine any dispute arising under sub-
paragraph (4)(a) above, whether on the application of the building society or of any
other person who claims to be aggrieved.
- (8) If a building society fails to comply with the requirements of sub-paragraph (1) above
where notice is duly given under that sub-paragraph, the society shall be liable on

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summary conviction to a fine not exceeding level 4 on the standard scale and so shall any officer who is also guilty of the offence.

Textual Amendments

- F56** Words in **Sch. 2 Pt. III para. 31(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. 57(13)(a)**; S.I. 1997/2668, art. 2, **Sch. Pt. II(w)(z)(xxxiv)**
- F57** Words in **Sch. 2 Pt. III para. 31(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. 57(13)(b)**; S.I. 1997/2668, art. 2, **Sch. Pt. II(w)(z)(xxxiv)**
- F58** **Sch. 2 Pt. III para. 31(2)(a)(i)** substituted (1.1.1998) by S.I. 1997/2840, **art. 2(2)** (with transitional provisions in art. 3)
- F59** **Sch. 2 Pt. III para. 31(3)(a)-(c)** substituted for **Sch. 2 para. 31(3)(a)(b)** (1.1.1998) by S.I. 1997/2840, **art. 2(3)** (with transitional provisions in art. 3)

Members' resolutions: supplementary provisions

- 32 (1) Notice of a resolution given under paragraph 31(1) above must be given to the building society not later than the last day of the financial year preceding the financial year in which is held the annual general meeting at which it is intended to move the resolution; and any statement to be sent to members under paragraph 31 (1)(b) above must also be notified to the society not later than that day.
- (2) The notices of a resolution and the copies of a statement required to be sent to members by paragraph 31(1)(a) or (b) above shall be sent to them in the same manner and (so far as practicable) at the same time as the notice of the annual general meeting at which the resolution is intended to be moved; and, where it is not practicable for them to be sent at the same time as the notice, they shall be sent as soon as practicable thereafter.
- (3) Where notices of a resolution, or copies of a statement in respect of a resolution, intended to be moved at a meeting of a building society are required to be sent to any persons, the proceedings at the meeting are not invalidated by—
- (a) the accidental omission to send a notice or copy to a person entitled to receive one, or
 - (b) the non-receipt of a notice or copy by such a person.
- (4) The Commission may by order vary—
- (a) the definition of “requisite number” or “qualified member” in sub-paragraph (2) of paragraph 31 above, or
 - (b) the descriptions of provisions which are rendered void by sub-paragraph (3) of that paragraph.
- whether by the addition of any description or other provision or by the substitution or deletion of any definition, description or other provision for the time being specified or contained in that paragraph.
- (5) An order under sub-paragraph (4) above shall be made by statutory instrument subject to annulment in pursu" ance of a resolution of either House of Parliament.

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- (6) An order under sub-paragraph (4) above may contain transitional, consequential or supplementary provision.

Postal ballots

- 33 (1) The rules of a building society may provide for the voting in an election of directors or on any resolution of the society [^{F60}(other than a shareholding members' resolution or a borrowing members' resolution)] to be conducted in all, or in any particular, circumstances by postal ballot; and in this Act "ballot" or "postal ballot", in relation to an election or a resolution of the society, means the postal ballot, if any, taking place by virtue of those rules in the case of the election or the resolution in question.
- (2) Where, under the rules of a society, a postal ballot is to take place, the following provisions of this paragraph have effect.
- (3) Notice of a postal ballot shall be given not less than 21 nor more than 56 days before the date which the society specifies as the final date for the receipt of completed ballot papers (referred to in this paragraph as "the voting day").
- (4) Subject to the provisions of this Part of this Schedule, notice of a postal ballot shall be given to every member of the society who would be entitled to vote in the election or on the resolution if the voting date for the election or the resolution fell on the date of the notice.
- [^{F61}(5) Notice of the postal ballot shall, subject to those provisions, be given also to every person—
- (a) who becomes a shareholding or borrowing member of the society after the date of the notice under sub-paragraph (4) above and before the voting day; or
 - (b) who, being such a member at the date of that notice, attains the age of 18 after that date and on or before the voting day,
- and who would (in either case) be eligible to vote in the election or on the resolution if he remained such a member until that day.]
- (6) Notice of a postal ballot—
- (a) shall contain such other notices relating to the election or resolution, and
 - (b) shall be accompanied by such other documents,
- as would be required to be given or sent to a member in connection with notice of a meeting, had it been intended to hold the election or vote on the resolution at a meeting instead of by postal ballot with the exception, however, of any notice relating to voting by proxy at a meeting.
- (7) Accidental omission—
- (a) to give notice of a postal ballot, or
 - (b) to send any document required by sub-paragraph (6) above to accompany such a notice,
- to any person entitled to receive it, or non-receipt of such a notice or document by such a person, does not invalidate the postal ballot.

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Textual Amendments

- F60** Words in Sch. 2 Pt. III para. 33(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. 57(14)**; S.I. 1997/2668, art. 2, **Sch. Pt. II(w)(z)(xxxiv)**
- F61** Sch. 2 Pt. III para. 33(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. 57(15)**; S.I. 1997/2668, art. 2, **Sch. Pt. II(w)(z)(xxxiv)**

Declarations to be made in proxy and ballot forms

- 34 (1) If a member of a building society who purports to exercise his right—
- (a) to appoint a proxy to vote instead of him at a meeting of the society, or
 - (b) to vote in a postal ballot, or
 - (c) to vote on a poll at a meeting of the society,
- fails to make a declaration in accordance with sub-paragraph (2) below in the instrument of appointment or, as the case may be, on the voting paper, the appointment made or, as the case may be, the vote cast by him is invalid.
- [^{F62}(2) A person making a declaration in pursuance of sub-paragraph (1) above shall—
- (a) declare that he has attained the age of 18 years or will have attained that age on or before the voting date or, where he is voting by proxy, on or before the date of the meeting;
 - (b) where the vote is to be cast on a shareholding members' resolution, declare—
 - (i) that on the voting date he is or, so far as he can reasonably foresee, will be a shareholder of the society; and
 - (ii) where the person is not entitled to vote unless he had a qualifying shareholding on the qualifying shareholding date, that he had or, so far as he can reasonably foresee, will have such a shareholding on that date;
 - (c) where the vote is to be cast on a borrowing members' resolution, declare that on the voting date he is or, so far as he can reasonably foresee, will be a borrowing member of the society; and
 - (d) where the vote is to be cast on an ordinary or special resolution, declare either as mentioned in paragraph (b) above, or as mentioned in paragraph (c) above, or both.]
- (3) A building society shall secure that every document issued by it for use as a voting paper or as an instrument for the appointment of a proxy incorporates a form of declaration under this paragraph for completion by the member using it.
- (4) If a building society fails to comply with the requirements of sub-paragraph (3) above, the society shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale and so shall any officer who is also guilty of the offence.
- (5) In this paragraph—
- “qualifying shareholding” shall be construed in accordance with paragraph 23(5) above;
- “qualifying shareholding date” has the same meaning as it has for the purposes of paragraph 23 above; and

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“voting date” has the meaning given by paragraph 23(6) above.

Textual Amendments

F62 Sch. 2 Pt. III para. 34(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. 57(16)**; S.I. 1997/2668, art. 2, **Sch. Pt. II(w)(z)(xxxiv)**

Modifications etc. (not altering text)

C8 Sch. 2 Pt. III paras. 22, 34 excluded by S.I. 1987/426, **art. 3**

Advertising requirements in lieu of notice of meetings, etc.

- 35 (1) The advertising requirements referred to in paragraph 14 above, in relation to notices of meetings or postal ballots of building societies, are as follows.
- (2) Notice of the holding of the meeting or of the postal ballot must be given either—
- by displaying a notice in a prominent position in every branch office, or
 - by advertisement in one or more newspapers circulating in the areas in which the members of the society reside,
- according as the rules of the society provide.
- (3) The notice must be given not later than 21 days before the date of the proposed meeting or, as the case may be, the final date for the receipt of completed ballot papers.
- (4) The notice shall state where members may obtain copies of the resolutions and any statements with respect to the matter referred to in a resolution, forms relating to voting by proxy and, in the case of a postal ballot, the ballot papers.

The prescribed amount

- 36 (1) For the purposes of this Part of this Schedule, the “prescribed amount” is £100 or such other amount as the Commission, with the consent of the Treasury, by order specifies for the time being.
- (2) The power to make an order under sub-paragraph (1) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) An order under sub-paragraph (1) above may contain transitional, consequential or supplementary provision.

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[^{F63}SCHEDULE 2A

DISCHARGE OF MORTGAGES: SUPPLEMENTARY PROVISIONS

Textual Amendments

F63 Sch. 2A inserted (1.12.1997) by 1997 c. 32, s. 7(2), **Sch. 2**; S.I. 1997/2668, art. 2, **Sch. Pt. I(a)**

Main provisions

- 1 (1) When all money intended to be secured by a mortgage given to a building society has been fully paid or discharged, the society may endorse on or annex to the mortgage one or other of the following—
- (a) a receipt in the prescribed form signed by any person acting under the authority of the board of directors;
 - (b) a reconveyance of the mortgaged property to the mortgagor;
 - (c) a reconveyance of the mortgaged property to such person of full age, and on such trusts (if any), as the mortgagor may direct.
- (2) Where in pursuance of sub-paragraph (1) above a receipt is endorsed on or annexed to a mortgage, not being a charge or incumbrance registered under the ^{M7}Land Registration Act 1925, the receipt shall operate in accordance with section 115(1), (3), (6) and (8) of the ^{M8}Law of Property Act 1925 (discharge of mortgages by receipt) in the like manner as a receipt which fulfils all the requirements of subsection (1) of that section.
- (3) Section 115(9) of the Law of Property Act 1925 shall not apply to a receipt in the prescribed form endorsed or annexed by a building society in pursuance of sub-paragraph (1) above; and in the application of that subsection to a receipt so endorsed or annexed which is not in that form, the receipt shall be taken to be executed in the manner required by the statute relating to the society if it is signed as mentioned in sub-paragraph (1)(a) above.
- (4) The foregoing sub-paragraphs shall, in the case of a mortgage of registered land, have effect without prejudice to the operation of the Land Registration Act 1925 or any rules in force under it.
- (5) In this paragraph—
- “mortgage” includes a further charge;
 - “the mortgagor”, in relation to a mortgage, means the person for the time being entitled to the equity of redemption; and
 - “registered land” has the same meaning as in the Land Registration Act 1925.
- (6) This paragraph does not extend to Scotland.

Marginal Citations

M7 1925 c.21.

M8 1925 c.20.

Status: Point in time view as at 01/06/1998.

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Application of paragraph 1 to Northern Ireland

- 2 (1) In its application to Northern Ireland, paragraph 1 above shall have effect with the following modifications.
- (2) In sub-paragraph (1) after the words “on such trusts” there shall be inserted the words “or uses”.
- (3) In sub-paragraph (2)—
- (a) for the words from “charge” to “Property Act 1925” there shall be substituted the words “charge on registered land, the receipt shall operate in accordance with Article 3(1), (7) and (9) of the ^{M9}Property (Discharge of Mortgage by Receipt) (Northern Ireland) Order 1983”; and
- (b) for the words “subsection (1) of that section” there shall be substituted the words “paragraph (1) of that Article”.
- (4) For sub-paragraphs (3) and (4) there shall be substituted the following sub-paragraphs—
- “(3) If the mortgage is registered in accordance with the ^{M10}Registration of Deeds Act (Northern Ireland) 1970, the registrar under that Act shall—
- (a) on production of the receipt mentioned in sub-paragraph (1) above make a note in the Abstract Book against the entry relating to the mortgage that the mortgage is satisfied; and
- (b) grant a certificate, either on the mortgage or separately, that the mortgage is satisfied.
- (4) The certificate granted under sub-paragraph (3)(b) above shall—
- (a) be received in all courts and proceedings without further proof; and
- (b) have the effect of clearing the register of the mortgage.”
- (5) In sub-paragraph (5) for the definition of “registered land” there shall be substituted the following definition—
- ““registered land” means land the title to which is registered under Part III of the ^{M11}Land Registration Act (Northern Ireland) 1970.”

Marginal Citations

- M9** S.I. 1983/766 (N.I.9).
M10 1970 c.25 (N.I.).
M11 1970 c.18 (N.I.).

Power to prescribe form of documents]

- 3 (1) The Chief Registrar may make rules for prescribing anything authorised or required by paragraph 1 above to be prescribed; and in this Schedule “prescribed” means prescribed by rules made under this paragraph.
- (2) The power to make rules under this paragraph shall be exercisable by statutory instrument.

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SCHEDULE 3

Sections 9 and 41 to 44.

AUTHORISATION; SUPPLEMENTARY PROVISIONS

PART I

PRELIMINARY

- 1 In this Schedule—
- “authorisation” means authorisation under section 9 or on renewal under section 41 or reauthorisation under section 44;
 - “conditions” means conditions to be complied with by a building society and imposed on the grant of authorisation under section 9, on the renewal of authorisation under section 41, on reauthorisation under section 44 or under section 42;
 - “revocation”, with reference to authorisation, means revocation under section 43.

PART II

AUTHORISATION

Procedure for authorisation

- 2 (1) An application for authorisation—
- (a) shall be made in such manner as the Commission may specify, either generally or in any particular case; and
 - (b) shall be accompanied by such information as the Commission may reasonably require, either generally or in any particular case, in order to decide whether or not to grant authorisation and whether with or without conditions.
- (2) If required to do so by notice from the Commission given at any time after an application for authorisation has been made and before a decision has been reached on the application, the applicant shall furnish to the Commission such additional information as it may reasonably require in order to reach a decision on the application.
- (3) If on an application for authorisation the Commission proposes to impose conditions the provisions of Part III of this Schedule shall apply.
- (4) If the Commission proposes to refuse to grant authorisation it shall serve a notice on the applicant stating—
- (a) that it proposes to refuse to grant authorisation;
 - (b) the grounds for the proposed refusal; and
 - (c) that the applicant may make representations with respect to the proposed refusal within such period of not less than 28 days as may be specified in the

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notice and that, if the applicant so requests, the Commission will afford to it an opportunity of being heard by the Commission within that period.

- (5) If the grounds for the proposed refusal include the ground that any officer of the society is not a fit and proper person to hold office in the society the Commission shall also serve the notice specified in sub-paragraph (4) above on the officer concerned giving him the like right to make representations and to be heard with respect to his fitness and propriety for office.
- (6) The Commission shall, before reaching a decision on the application, consider any representations made to it in accordance with sub-paragraph (4) or (5) above.
- (7) If, on an application for authorisation, the Commission refuses to grant authorisation it shall serve on the society and, subject to paragraph 10 below, on every director of and the chief executive of the society, and every other person on whom a notice was served under sub-paragraph (5) above, a notice stating the Commission's decision and the grounds for it and, subject to sub-paragraph (8) below, shall do so before the expiry of the period of 6 months beginning with the date on which the application was received.
- (8) In any case where, under sub-paragraph (2) above, the Commission requires additional information with respect to an application, the latest time for the giving of a notice under sub-paragraph (7) above with respect to the application shall be the expiry of whichever of the following periods first expires, namely—
 - (a) the period of 6 months beginning with the date on which the additional information is furnished to the Commission; and
 - (b) the period of 12 months beginning with the date on which the application was received by the Commission.
- (9) In the application of this paragraph to an application for the renewal of authorisation under section 41—
 - (a) sub-paragraph (7) shall have effect with the substitution of 3 for 6 months; and
 - (b) sub-paragraph (8) shall have effect with the substitution of 3 for 6 months and of 6 for 12 months respectively.

Offences in connection with application

- 3 (1) Any building society which furnishes any information or makes any statement which is false or misleading in a material particular in connection with an application for authorisation shall be liable, on conviction on indictment or on summary conviction, to a fine which, on summary conviction, shall not exceed the statutory maximum.
- (2) Any person who knowingly or recklessly furnishes any information or makes any statement which is false or misleading in a material particular in connection with an application for authorisation shall be liable—
 - (a) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or both; or
 - (b) on summary conviction, to a fine not exceeding the statutory maximum.

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PART III

IMPOSITION OF CONDITIONS

- 4 (1) If the Commission proposes to impose conditions it shall serve on the society and, subject to paragraph 10 below, on every director of the society and its chief executive a notice stating—
- (a) that the Commission proposes to impose conditions;
 - (b) what the conditions will be;
 - (c) the grounds for their imposition; and
 - (d) that the society may make representations with respect to the proposed imposition of the conditions within such period of not less than 14 days as may be specified in the notice and that, if the society so requests, the Commission will afford to it an opportunity of being heard by the Commission within that period.
- (2) If any condition proposed to be imposed on the society includes a requirement for the removal from office of any officer of the society the Commission shall also serve the notice specified in sub-paragraph (1) above on the officer whose removal is proposed giving him the like right to make representations and to be heard with respect to his proposed removal from office.
- (3) The Commission shall, before reaching a decision on whether to impose conditions and, if so, what conditions, consider any representations made in accordance with sub-paragraph (1) or (2) above and, except where paragraph 5 below applies, the Commission shall serve on the society and, subject to paragraph 10 below, on every director of and the chief executive of the society and every other person on whom a notice was served under sub-paragraph (2) above, a notice stating its decision.
- (4) If the Commission decides to impose conditions the notice under sub-paragraph (3) above shall—
- (a) specify the conditions, and
 - (b) state the grounds for its decision to impose them.
- (5) The Commission may not impose conditions on grounds other than those stated, or grounds included in those stated, in the notice served by it under sub-paragraph (1) above.
- 5 (1) This paragraph applies where the Commission has decided to impose conditions but proposes to impose conditions different from and more onerous than those stated in the notice served by the Commission under paragraph 4(1) above.
- (2) The Commission shall serve on the society and, subject to paragraph 10 below, on every director of the society and its chief executive, a notice stating—
- (a) what conditions the Commission proposes to impose;
 - (b) the grounds for the imposition of those conditions instead of the conditions stated in the notice under paragraph 4(1) above; and
 - (c) that the society may make representations with respect to the conditions the Commission proposes to impose within such period of not less than seven days as may be specified in the notice and that, if the society so

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requests, the Commission will afford to it an opportunity of being heard by the Commission within that period.

- (3) If any condition proposed to be imposed on the society includes a requirement for the removal from office of any officer of the society the Commission shall also serve the notice specified in sub-paragraph (2) above on the officer whose removal is proposed giving him the like right to make representations and to be heard with respect to his proposed removal from office.
- (4) The Commission shall, before reaching a decision on whether to impose conditions different from those stated in the notice served under paragraph 4(1) above and, if so, what conditions, consider any representations made in accordance with sub-paragraph (2) or (3) above and shall serve on the society and subject to paragraph 10 below, on every director of and the chief executive of the society and every other person on whom a notice was served under sub-paragraph (3) above, a notice stating its decision.
- (5) If the Commission decides to impose conditions the notice under sub-paragraph (4) above shall—
 - (a) specify the conditions, and
 - (b) state the grounds for their imposition.
- (6) The Commission may not impose conditions on grounds other than those stated, or grounds included in those stated, in the notice served by it under sub-paragraph (2) above.

PART IV

REVOCATION OF AUTHORISATION

Procedure for revocation

- 6 (1) If the Commission proposes to revoke a society's authorisation it shall serve on the society and, subject to paragraph 10 below, on every director and its chief executive a notice stating—
 - (a) that the Commission proposes to revoke the authorisation
 - (b) the grounds for the proposed revocation; and
 - (c) that the society may make representations with respect to the proposed revocation within such period of not less than 14 days as may be specified in the notice and that, if the society so requests, it will be afforded an opportunity of being heard by the Commission within that period.
- (2) If the grounds for the proposed revocation include the ground that any officer of the society is not a fit and proper person to hold office in the society the Commission shall also serve the notice specified in sub-paragraph (1) above on the officer concerned giving him the like right to make representations and to be heard with respect to his fitness and propriety for office.
- (3) The Commission shall, before reaching a decision on whether to revoke the authorisation, consider any representations made to it in accordance with sub-paragraph (1) or (2) above and, except where paragraph 7 below applies the

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- Commission shall serve on the society and, subject to paragraph 10 below, on every director of and the chief executive of the society and every other person on whom a notice was served under sub-paragraph (2) above, a notice stating its decision.
- (4) If the Commission decides to revoke a society's authorisation, the notice under sub-paragraph (3) above shall state the grounds for the decision.
- (5) The Commission may not revoke a society's authorisation on grounds other than those stated, or grounds included in those stated, in the notice served under sub-paragraph (1) above.
- 7 (1) This paragraph applies where the Commission proposes, instead of revoking a society's authorisation, to impose conditions.
- (2) The Commission shall serve on the society and, subject to paragraph 10 below, on every director of the society and its chief executive a notice stating—
- (a) that it proposes to impose conditions instead of revoking the society's authorisation;
 - (b) what conditions it proposes to impose;
 - (c) the grounds for the imposition of conditions instead of revoking the society's authorisation; and
 - (d) that the society may make representations with respect to the conditions the Commission proposes to impose within such period of not less than seven days as may be specified in the notice and that, if the society so requests, it will be afforded an opportunity of being heard by the Commission within that period.
- (3) If any condition proposed to be imposed on the society includes a requirement for the removal from office of any officer of the society, the Commission shall also serve the notice specified in sub-paragraph (2) above on the officer whose removal is proposed giving him a like right to make representations and to be heard with respect to his proposed removal from office.
- (4) The Commission shall, before reaching a decision on whether to impose conditions and, if so, what conditions, consider any representations made in accordance with sub-paragraph (2) or (3) above and, except where paragraph 8 below applies, the Commission shall serve on the society and, subject to paragraph 10 below, on every director of and the chief executive of the society and every other person on whom a notice was served under sub-paragraph (3) above, a notice stating its decision.
- (5) If the Commission decides to impose conditions the notice under sub-paragraph (4) above shall—
- (a) specify the conditions, and
 - (b) state the grounds for their imposition.
- (6) The Commission may not impose conditions on grounds other than those stated, or grounds included in those stated, in the notice served by the Commission under sub-paragraph (2) above.
- 8 (1) This paragraph applies where the Commission has decided, instead of revoking a society's authorisation, to impose conditions but proposes to impose conditions

Status: Point in time view as at 01/06/1998.

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different from and more onerous than those stated in the notice served by the Commission under paragraph 7(2) above.

- (2) The Commission shall serve on the society and, subject to paragraph 10 below, on every director of the society and its chief executive, a notice stating—
 - (a) what conditions it proposes to impose;
 - (b) the grounds for the imposition of those conditions instead of the conditions stated in the notice under paragraph 7(2) above; and
 - (c) that the society may make representations with respect to the conditions the Commission proposes to impose within such period of not less than seven days as may be specified in the notice and that, if the society so requests, the Commission will afford to it an opportunity of being heard by the Commission within that period.
- (3) If any condition proposed to be imposed on the society includes a requirement for the removal from office of any officer of the society the Commission shall also serve the notice specified in sub-paragraph (2) above on the officer whose removal is proposed giving him the like right to make representations and to be heard with respect to his proposed removal from office.
- (4) The Commission shall, before reaching a decision on whether to impose conditions different from those stated in the notice served under paragraph 7(2) above and, if so, what conditions, consider any representations made in accordance with sub-paragraph (2) or (3) above and shall serve on the society and, subject to paragraph 10 below, on every director of and the chief executive of the society and every other person on whom a notice was served under sub-paragraph (3) above, a notice stating its decision.
- (5) If the Commission decides to impose conditions the notice under sub-paragraph (4) above shall—
 - (a) specify the conditions, and
 - (b) state the grounds for their imposition.
- (6) The Commission may not impose conditions on grounds other than those stated, or grounds included in those stated, in the notice served by it under sub-paragraph (2) above.

PART V

SUPPLEMENTARY

Imposition of conditions on appeal

- 9 (1) The modifications of the provisions of Part III of this Schedule in their application to the imposition of conditions by the Commission in pursuance of a direction of an appeal tribunal under section 47(6) or (7) are as follows.
- (2) The notice under paragraph 4(1) shall be served on the society and the other persons there specified within the period of 14 days beginning with the date on which the Commission received notice of the tribunal's decision under subsection (10) of that section; and a copy shall also be sent within that period to the tribunal.

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- (3) The notice under paragraph 4(1) may specify, as the period within which representations may be made, a period of not less than 7 days.
- (4) If the Commission serves a notice under paragraph 5(2) on the society and the other persons there specified it shall send a copy of the notice to the tribunal.

Notice to directors and chief executives

- 10 Where any provision of this Schedule requires notice of any matter to be served on every director of a building society that requirement is satisfied by serving notice on each director whose appointment has been officially notified and the non-receipt of a notice of a matter by a director or the chief executive does not affect the validity of any action on the part of the Commission.

^{F64}SCHEDULE 4

Textual Amendments

F64 Sch. 4 repealed (1.12.1997) by 1997 c. 32, s. 12(1)(a); S.I. 1997/2668, art. 2, Sch. Pt. I(b)(o)(i)

SCHEDULE 5

Section 24.

THE BUILDING SOCIETIES INVESTOR PROTECTION BOARD

Modifications etc. (not altering text)

C9 Sch. 5: power to repeal conferred (9.6.1997) by 1997 c. 32, s. 32(5)(a); S.I. 1997/1427, art. 2(g)

Constitution

- 1 (1) The Board shall consist of seven members as follows, namely—
- (a) the First Commissioner for the time being, who shall be the chairman of the Board,
 - (b) two members appointed by the First Commissioner from among the other members of the Commission, and
 - (c) four other members appointed under sub-paragraph (2) below;
- and the First Commissioner shall appoint one of his two appointees to be deputy chairman of the Board.
- (2) The four members to be appointed under this sub-paragraph shall be appointed by the Treasury, after consultation with the First Commissioner, and of those four, three

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shall be persons who are or have been directors, chief executives or managers of building societies.

- (3) Each appointed member of the Board may, with the approval of the First Commissioner and subject to sub-paragraph (4) below appoint an alternate member to perform his duties as a member in his absence.
- (4) In the case of a person appointed a member of the Board as a present or former director, chief executive or manager of a building society any alternate shall himself be or have been such a director, chief executive or manager.

Appointment and tenure of office

- 2 (1) Subject to the following provisions of this paragraph a person shall hold and vacate office as a member or as deputy chairman of the Board in accordance with the terms of the instrument appointing him.
- (2) A person appointed by the First Commissioner under paragraph 1(1)(b) above shall vacate his office as a member of the Board if he ceases to be a member of the Commission and the person appointed by the First Commissioner to be deputy chairman of the Board shall vacate his office as such in the same event.
- (3) A person appointed under paragraph 1(2) above shall be appointed for a term not exceeding two years but he may be reappointed on his ceasing to hold office or at any time thereafter.
- (4) A person appointed under paragraph 1(2) above may at any time resign his office as a member by giving to the Treasury a signed notice stating that he resigns from that office.

Allowances

- 3 The Board shall pay to each member such allowances in respect of expenses as the Board may, with the consent of the Treasury, determine.

Proceedings

- 4 (1) The Board shall determine its own procedure, including the quorum necessary for its meetings.
 - (2) The validity of any proceedings of the Board shall not be affected by any vacancy among the members or by any defect in the appointment of any member.
- 5 (1) The fixing of the common seal of the Board shall be authenticated by the signature of the chairman of the Board or some other person authorised by the Board to act for that purpose.
 - (2) A document purporting to be duly executed under the seal of the Board shall be received in evidence and deemed to be so executed, unless the contrary is proved.

Status: Point in time view as at 01/06/1998.

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[^{F66}Performance of functions]

Textual Amendments

F66 Sch. 5 para. 5A and cross-heading preceding it inserted (9.6.1997) by 1997 c. 32, s. 43, Sch. 7 para. 58; S.I. 1997/1427, art. 2(k)(n)(xvi)

- ^{F67}5A The Board may authorise—
- (a) any member or members of the Board,
 - (b) any committee or sub-committee of the Board, or
 - (c) any officer, servant or agent of the Board,
- to perform on behalf of the Board such of the Board's functions (including the power conferred by this paragraph) as are specified in the authorisation.]

Textual Amendments

F67 Sch. 5 para. 5A and cross-heading preceding it inserted (9.6.1997) by 1997 c. 32, s. 43, Sch. 7 para. 58; S.I. 1997/1427, art. 2(k)(n)(xvi)

Accounts, audit and annual report

- 6 (1) The Board may determine its own financial year.
- (2) It shall be the duty of the Board—
- (a) to keep proper accounts and proper records in relation to the accounts; and
 - (b) to prepare in respect of any period (referred to in this paragraph as “the initial period”) beginning with the commencement date for section 24 and ending with the beginning of the Board's first financial year and in respect of each of its financial years a statement of accounts showing the state of affairs and income and expenditure of the Board.
- (3) A statement of accounts prepared in accordance with sub-paragraph (2)(b) above shall be audited by auditors appointed by the Board and the auditors shall report to the Board stating whether in their opinion the provisions of sub-paragraph (2) above have been complied with.
- ^{F68}(4) A person shall not be appointed as auditor by the Board unless he is eligible for appointment as a company auditor under section 25 of the Companies Act 1989.]
- (5) It shall be the duty of the Board, as soon as possible after the end of the initial period and of each of its financial years, to prepare a report on the discharge of its functions during that period or, as the case may be, during that financial year.
- (6) It shall be the duty of the Board to publish, in such manner as it thinks appropriate, every statement of account prepared in accordance with sub-paragraph (2)(b) above and every report prepared in accordance with sub-paragraph (5) above.

Status: Point in time view as at 01/06/1998.

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Textual Amendments

F68 Sch. 5 para. 6(4) substituted (1.10.1991) by S. I. 1991/1997, reg. 2, Sch. para. 65(2) (with reg. 4).

SCHEDULE 6

Section 27 (12).

INSOLVENCY PAYMENTS: TRUSTS AND JOINT OR CLIENT ACCOUNT HOLDINGS

Modifications etc. (not altering text)

C10 Sch. 6: power to repeal conferred (9.6.1997) by 1997 c. 32, s. 32(5)(b)(ii); S.I. 1997/1427, art. 2(g)

- 1 (1) The following provisions of this Schedule have effect for the purposes of section 27.
- (2) In this Schedule “investment”, in relation to a building society, means the rights of a person arising from a deposit made by him, or a predecessor in title of his, with the society or the interest of a person constituted by a share of his in the society; and that person is referred to as holding, or as the holder of, the investment.
- 2 (1) Where any persons hold an investment in a building society as trustees then, unless the investment is held on trust for a person absolutely entitled to it as against the trustees, the trustees shall be treated as a single and continuing body of persons, distinct from the persons who may from time to time be the trustees and if the same persons hold different investments as trustees under different trusts, they shall be treated as a separate and distinct body with respect to each of those trusts.
- (2) For the purpose of this Schedule an investment is held on trust for a person absolutely entitled to it as against the trustees where that person has the exclusive right, subject only to satisfying any outstanding charge, lien or other right of the trustees to resort to the investment for payment of duty, taxes, costs or other outgoings, to direct how the investment shall be dealt with.
- (3) Any reference in sub-paragraph (1) or (2) above to a person absolutely entitled to an investment as against the trustees includes a reference to two or more persons who are so entitled jointly; and in the application of sub-paragraph (2) to Scotland the words from “subject” to “outgoings” are omitted.
- 3 Where an investment is held on trust for any person absolutely entitled to it, or as the case may be, for two or more persons so entitled jointly, that person or, as the case may be, those persons jointly shall be treated as entitled to the investment without the intervention of any trust.
- 4 (1) Except in the case of a partnership, where two or more persons are jointly entitled to an investment and paragraph 2(1) above does not apply, each of them shall be treated as having a separate investment of an amount produced by dividing the amount of

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the investment to which they are jointly entitled by the number of persons who are so entitled.

- (2) Where two or more persons hold, or are absolutely entitled to, an investment as partners, the partnership shall be treated as holding, or as being absolutely entitled to, the investment as a single person distinct from the persons of whom the partnership is composed.
- 5 Where an investment is made by a person whose business is the provision of professional services or the carrying on of investment business (within the meaning of the Financial Services Act 1986) with money held to the account of clients of his, each of them shall be treated as having a separate investment of an amount equal to so much of the amount of the investment as represents money held to his account as a client.
- 6 The Board may decline to make any payment under section 27 in respect of an investment until the person claiming to be entitled to it informs the Board of the capacity in which he is entitled to the investment; and if it appears to the Board—
- (a) that the persons entitled to an investment are so entitled as trustees, or
 - (b) that paragraph 3 above applies to an investment, or
 - (c) that two or more persons are jointly entitled to an investment other than as trustees, or
 - (d) that paragraph 5 above applies to an investment,
- the Board may decline to make any payment in respect of the investment until sufficient information has been disclosed to it to enable it to determine what payment (if any) should be made under that section and to whom.
- 7 In this Schedule “jointly entitled” means—
- (a) in England and Wales and Northern Ireland, beneficially entitled as joint tenants, tenants in common or as coparceners, and
 - (b) in Scotland, beneficially entitled as joint owners or owners in common.
- [^{F698} In the application of this Schedule in relation to investments in an office of a building society in another EEA State, references to persons entitled in any of the following capacities, namely—
- (a) as trustees;
 - (b) as partners; or
 - (c) as persons jointly entitled other than as trustees,
- shall be construed as references to persons entitled under the law of that State in a capacity appearing to the Board to correspond as nearly as may be to that capacity.]

Textual Amendments

F69 Sch. 6 para. 8 inserted (1.7.1995) by S.I. 1995/1442, reg. 44 (with transitional and transitory provisions in regs. 53(2), 54)

Status: Point in time view as at 01/06/1998.

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SCHEDULE 7

Section 32.

INVESTORS: SPECIAL PROVISIONS

Members or depositors dying

- 1
- (1) The provisions of this paragraph have effect where a member of, or depositor with, a building society dies, testate or intestate, domiciled in any part of the United Kingdom leaving a sum of money in the funds of the society not exceeding £5000.
 - (2) If a person claiming to be beneficially entitled to the sum of money under the will or the applicable law of intestacy furnishes to the society—
 - (a) satisfactory evidence of the death, and
 - (b) a statutory declaration that the member or depositor has died and that the person claiming the amount is beneficially entitled under the will or the applicable law of intestacy to receive it,the society may, without probate of the will or the grant of letters of administration or confirmation, as the case may be, pay the sum of money to that person.
 - (3) Where a building society has paid a sum of money to any person in reliance on evidence of death and a statutory declaration furnished as mentioned in sub-paragraph (2) above, the payment shall be valid and effectual with respect to any demand against the funds of the society from any other person claiming to be entitled to it but without prejudice to that other person's pursuing his remedy for the amount against the person who received it.
 - (4) The Treasury may from time to time by order direct that this paragraph shall have effect as if for the reference in sub-paragraph (1) above to £5,000 there were substituted a reference to such higher amount as may be specified in the order.
 - (5) An order under sub-paragraph (4) above shall apply in relation to deaths occurring after the expiration of a period of one month beginning with the date on which the order comes into force.
 - (6) The power to make an order under sub-paragraph (4) above 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.

Receipts by depositors under age

- 2
- Any receipt or acknowledgment given to a building society by a person who is a minor in respect of the payment to him of any sum due in respect of a deposit made by him with the society, shall not be invalid on the ground of his minority.

Status: Point in time view as at 01/06/1998.

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[^{F70}SCHEDULE 7A

DIRECTIONS: SUPPLEMENTARY PROVISIONS]

Textual Amendments

F70 *Sch. 7A* 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. 13(2), 47(3), **Sch. 3**; S.I. 1997/2668, art. 2, **Sch. Pt. II(k)**

Preliminary

- 1 In this Schedule “direction” means a direction under section 36(3), (5), (6), (7) or (10).

Procedure for giving proposed direction

- 2 (1) If the Commission proposes to give a direction, it shall serve on the society and, subject to paragraph 5 below, on every director of the society and its chief executive a notice stating—
- (a) that the Commission proposes to give the direction;
 - (b) what the direction will be;
 - (c) the grounds for giving it; and
 - (d) that the society may make representations with respect to the proposed direction within such period of not less than 14 days as may be specified in the notice and that, if the society so requests, the Commission will afford to it an opportunity of being heard by the Commission within that period.
- (2) If a direction proposed to be given to the society includes a requirement for the removal from office of any officer of the society, the Commission shall also serve the notice specified in sub-paragraph (1) above on the officer whose removal is proposed giving him the like right to make representations and to be heard with respect to his proposed removal from office.
- (3) The Commission shall—
- (a) before deciding whether to give a direction and, if so, what direction, consider any representations made in accordance with sub-paragraph (1) or (2) above; and
 - (b) except where paragraph 3 below applies, serve on the society and, subject to paragraph 5 below, on every director of and the chief executive of the society and every other person on whom a notice was served under sub-paragraph (2) above, a notice stating its decision.
- (4) If the Commission decides to give a direction, the notice under sub-paragraph (3) above shall—
- (a) specify the direction, and
 - (b) state the grounds for the decision to give it.

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- (5) The Commission may not give a direction on grounds other than those stated, or grounds included in those stated, in the notice served by it under sub-paragraph (1) above.

Procedure for giving different direction

- 3
- (1) This paragraph applies where the Commission has decided to give a direction but proposes to give a direction different from and more onerous than that stated in the notice served by the Commission under paragraph 2(1) above.
- (2) The Commission shall serve on the society and, subject to paragraph 5 below, on every director of the society and its chief executive, a notice stating—
- (a) what direction the Commission proposes to give;
 - (b) the grounds for the giving of that direction instead of the direction stated in the notice under paragraph 2(1) above; and
 - (c) that the society may make representations with respect to the direction the Commission proposes to give within such period of not less than seven days as may be specified in the notice and that, if the society so requests, the Commission will afford to it an opportunity of being heard by the Commission within that period.
- (3) If any direction proposed to be given to the society includes a requirement for the removal from office of any officer of the society, the Commission shall also serve the notice specified in sub-paragraph (2) above on the officer whose removal is proposed giving him the like right to make representations and to be heard with respect to his proposed removal from office.
- (4) The Commission shall—
- (a) before deciding whether to give a direction different from that stated in the notice served under paragraph 2(1) above and, if so, what direction, consider any representations made in accordance with sub-paragraph (2) or (3) above; and
 - (b) serve on the society and, subject to paragraph 5 below, on every director of and the chief executive of the society and every other person on whom a notice was served under sub-paragraph (3) above, a notice stating its decision.
- (5) If the Commission decides to give a different direction, the notice under sub-paragraph (4) above shall—
- (a) specify the direction, and
 - (b) state the grounds for the decision to give it.
- (6) The Commission may not give a direction on grounds other than those stated, or grounds included in those stated, in the notice served by it under sub-paragraph (2) above.

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Different directions on appeal

- 4 (1) The modifications of the provisions of paragraph 2 and 3 above in their application to the giving of a different direction by the Commission in pursuance of a direction of an appeal tribunal under section 47(6) or (7A) are as follows.
- (2) The notice under paragraph 2(1) shall be served on the society and the other persons there specified within the period of 14 days beginning with the date on which the Commission received notice of the tribunal's decision under section 47(10); and a copy shall also be sent within that period to the tribunal.
- (3) The notice under paragraph 2(1) may specify, as the period within which representations may be made, a period of not less than 7 days.
- (4) If the Commission serves a notice under paragraph 3(2) on the society and the other persons there specified it shall send a copy of the notice to the tribunal.

Notice to directors and chief executives

- 5 Where any provision of this Schedule requires notice of any matter to be served on every director of a building society, that requirement is satisfied by serving notice on each director whose appointment has been officially notified and the non-receipt of a notice of a matter by a director or the chief executive does not affect the validity of any action on the part of the Commission.

SCHEDULE 8

Section 34.

POWERS TO PROVIDE SERVICES

[^{F71}PART I

THE SERVICES

Textual Amendments

F71 Parts of Sch. 8 varied by [S.I. 1988/1141](#), arts. 5, 6, [Sch. 5](#) so as to have effect as set out in that Sch. 5

- 1 Banking services.
- 2 Investment services.
- 3 Insurance services.
- 4 Trusteeship.
- 5 Executorship.
- 6 Land services.]

Status: Point in time view as at 01/06/1998.

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PART II

GENERAL RESTRICTIONS ON SERVICES

- 1 Subject to paragraphs 2, 3, 4 and 5 below, no power conferred on a building society to provide a service of a description specified in Part I of this Schedule of itself confers power—
- (a) to perform the activities of—
 - (i) taking deposits in circumstances which require authorisation under the Banking Act 1987 (or would require authorisation were the taker not a building society),
 - (ii) making advances or loans of any description,
 - (iii) acquiring the right to be paid any sum owing to another person arising out of any arrangement under which money is borrowed or goods or services are provided on credit,
 - (iv) acquiring land,
 - (v) acquiring or holding any asset the power to acquire or hold which is derived from section 19 of this Act by virtue of an order made under, or partly under, that section,
 - (vi) acquiring or holding relevant investments, or
 - (vii) underwriting risks of any description, or
 - [^{F72}(b) (i) to maintain a place of business in any country or territory for the purpose of providing that service unless the society also conducts the principal business of a building society in that country or territory, save where that service is provided in any of the countries listed in paragraph (ii) below;
 - (ii) any member State, Austria, Finland, Iceland, Liechtenstein, Norway, Sweden and Switzerland,]

but nothing in this paragraph prohibits performance of any activity performance of which is within the capacity of a building society by virtue of any power arising otherwise than under this Schedule.

Textual Amendments

F72 Sch. 8 Pt. II para. 1(b) substituted (1. 6. 1992) by S.I. 1992/509, art.3

- 2 Paragraph 1 above shall not be taken to prevent—
- (a) the power to provide banking services from conferring the power—
 - (i) to arrange the taking of deposits,
 - (ii) to arrange the lending of money, and
 - (iii) to arrange the bailment of leasable chattels,
 - (b) the power to provide investment services from conferring the power to arrange the acquisition or holding of relevant investments, or
 - (c) the power to provide insurance services from conferring the power to arrange the provision of insurance of any description.
- 3 Where, as part of the power to provide banking services, a building society becomes guarantor of the discharge of liabilities of another person and is required to pay sums which that other person is obliged to pay, the right to recover those sums from that other person (with or without interest on them) shall not be treated as excluded by paragraph 1 above.

Status: Point in time view as at 01/06/1998.

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[^{F73}4 The right to recover any sum overdrawn (with or without interest on it) on an unauthorised overdraft on an account with a building society shall not be treated as excluded by paragraph 1 above.]

Textual Amendments
F73 Sch. 8 Pt. II para. 4 substituted by S.I. 1989/839, art. 3(a)

5 Acquiring or holding relevant investments shall not be treated as excluded by paragraph 1 above where it arises out of—
(a) any element of investment services comprising—
 (i) acquiring or holding relevant investments as a nominee,
 (ii) establishment and management of pension schemes,
 (iii) establishment and management of personal equity plans, or
 (iv) establishment and management of collective investment schemes,
(b) the service of trusteeship, or
(c) the service of executorship.

[^{F74}6 Paragraph 1 above shall not be taken to prevent the power to provide the service of trusteeship or the power to provide the service of executorship from conferring the power on a building society acting in the capacity of trustee or personal representative—
(i) to make advances or loans of any description, or
(ii) to acquire land.]

Textual Amendments
F74 Sch. 8 Pt. II para. 6 added by S.I. 1989/839, art. 3(b)

PART III

RESTRICTIONS IN RELATION TO CERTAIN SERVICES

Banking services

1 In relation to the power to provide banking services—
^{F75}(a)
^{F76}(b)
^{F76}(c)
^{F75}(d)
^{F75}(e)
(f) provision of foreign exchange services, except where it arises for the purpose of or in the course of the provision of money transmission services, is restricted, save in excepted transactions, to their provision to individuals,
(g) arranging the provision of foreign exchange services is, subject to the exception in subparagraph (f) above, restricted, save in excepted transactions, to their provision to individuals, and

Status: Point in time view as at 01/06/1998.

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- (h) administration of the issue of shares or corresponding membership rights by bodies corporate or of transferable instruments and registration of the transfer or cancellation of such shares, rights or instruments is restricted to administration and registration by a building society which has a qualifying asset holding.

Textual Amendments

F75 Sch. 8 Pt. III para. 1(a)(d)(e) deleted (1.6.1995) by S.I. 1995/1189, art. 2

F76 Sch. 8 Pt. III para. 1(b)(c) repealed by S.I. 1989/839, art. 3(c)

Investment services

- 2 In relation to the power to provide investment services—
- (a) managing investments (except in relation to management of pension schemes) is restricted to managing by a building society which has a qualifying asset holding,
 - (b) acquiring and holding relevant investments as a nominee is restricted to acquisition and holding by a building society which has a qualifying asset holding,
 - (c) establishment and management of pension schemes is restricted to schemes which do not include provisions requiring the investment of any of the funds within the scheme in shares in or deposits with a building society of which the trustee or manager of the scheme is a subsidiary,
 - (d) establishment of personal equity plans is restricted to establishment by a building society which has a qualifying asset holding, and
 - (e) establishment of collective investment schemes is restricted to establishment by a building society which has a qualifying asset holding.

Trusteeship

- [^{F773} In relation to the power to provide the service of trusteeship—
- (a) a building society may not accept trusteeship of a prohibited trust, and
 - (b) a building society which becomes aware that a trust of which it is trustee has become a prohibited trust shall retire as trustee of that trust as soon as it is practicable to do so.]

Textual Amendments

F77 Sch. 8 Pt. III para. 3 substituted by S.I. 1989/839, art. 3(d)

Land services

- 4 In relation to the power to provide land services—
- (a) the carrying on of estate agency work is restricted to carrying on by a subsidiary or other associated body of a building society,
 - (b) removal and storage of furniture is restricted to removal and storage by a subsidiary or other associated body of a building society which society has a qualifying asset holding,

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- (c) management of land is restricted to management by a building society which has a qualifying asset holding,
 - (d) management of land is restricted to land which is or is to be used primarily for residential purposes or for purposes incidental to the use of adjoining land under the same management which is or is to be used primarily for residential purposes,
 - (e) arranging the management of land is restricted to land which is or is to be used primarily for residential purposes or for purposes incidental to the use of adjoining land under the same management which is or is to be used primarily for residential purposes,
 - (f) development of land is restricted to development by a building society which has a qualifying asset holding,
 - (g) development of land is restricted to land which is to be used primarily for residential purposes or for purposes incidental to the use of adjoining land developed by the developer which is or is to be used primarily for residential purposes,
 - (h) development of land is restricted to land of a local authority in Great Britain or of a development corporation or land which is charged in favour of the developer of the land to secure repayment of the costs of development, and
 - (i) arranging the development of land is restricted to land which is to be used primarily for residential purposes or for purposes incidental to the use of adjoining land developed by the developer which is or is to be used primarily for residential purposes.
- 5 No employee of a building society, a subsidiary or other associated body of which carries on estate agency work, whose duties include—
- (a) making a report on the value of land which is to secure an advance,
 - (b) making an assessment of the adequacy of the security of an advance to be secured on land, or
 - (c) authorising the making of an advance to be secured on land,
- shall perform any service on behalf of that subsidiary or other associated body.

PART IV

SUPPLEMENTARY

Powers—general

- 1 Any power derived from this Schedule to perform any activity includes the power to arrange its performance but a restriction in Part III of this Schedule on the power to perform any activity does not imply an equivalent restriction on the power to arrange its performance.

Powers—specific services

- 2 Without prejudice to the general scope of any service specified in Part I of this Schedule—
- (a) the power to provide banking services includes power,
 - (i) to administer the issue of, and payments in respect of, shares or corresponding membership rights in bodies corporate or

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- transferable instruments and to register the transfer or cancellation of such shares, rights or instruments, and
- (ii) to provide advice on taxation and financial planning,
- (b) the power to provide investment services includes power to provide advice on taxation and financial planning,
- (c) the power to provide the service of executorship includes power—
- (i) to act as administrator of the estates of deceased persons, and
- (ii) to assist in the making of wills, and
- (d) the power to provide land services includes power to carry out the removal and storage of furniture.

Banking—particular provisions

- 3 (1) A building society shall, so far as regards the carrying on of an activity which comprises provision of a banking service for the purposes of this Schedule, be treated for all purposes as a bank and a banker and as carrying on the business of banking or a banking undertaking whether or not it would be so treated apart from this paragraph.
- (2) This paragraph does not affect the determination of any question as to the status of a building society as a bank or banker for other purposes.
- 4 Where an account of a person with a building society has, by virtue of the provision of banking services under this Schedule, become overdrawn, it shall be the duty of the building society to take all reasonable steps to recover as soon as practicable from that person the amount due to it on the overdrawn account.
- 5 (1) For the purposes of paragraph 1(f) and (g) of Part III of this Schedule, a transaction consisting in the provision of foreign exchange services is an excepted transaction where the value of the transaction is less than £10,000.
- (2) For the purposes of subparagraph (1) above the value of a transaction consisting in the provision of foreign exchange services is, where the building society is selling foreign currency, the sum paid to it and, where the building society is purchasing foreign currency, the sum paid by it.

Land services—sanction

- 6 If a person performs any service in contravention of paragraph 5 of Part III of this Schedule he shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Interpretation

- 7 This Schedule is to be construed as relating only to the capacity of building societies to provide the services for the time being specified in it and not as making lawful any activity, whether of a building society or a subsidiary or other associated body of a building society, which would not be lawful apart from this Schedule.

Modifications etc. (not altering text)

C11 Sch. 8 Pt. IV para. 7 extended (1. 1. 1993) by S.I. 1992/3218, reg. 82(1), Sch. 10 Pt. I para.22(d)

- 8 In this Schedule—

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“arranging”, in relation to the performance of any activity, includes—

(a) arranging its performance on behalf of the person in respect of whom the activity is performed as well as the person who performs the activity, and

(b) acting as agent on behalf of either such person;

[^{F78}“bailment”, in relation to Scotland, means “hire”;

“chattels” means—

(i) in relation to England and Wales and Northern Ireland, all personal chattels other than things in action and money, and

(ii) in relation to Scotland, all corporeal moveables except money;]

“collective investment scheme” has the meaning which it bears in section 75 of the Financial Services Act 1986;

“corresponding membership right” has the meaning which it bears in section 18(17) of this Act;

“development corporation” means any of the following bodies:

(a) in England, a development corporation within the meaning of the New Towns Act 1981;

(b) in Wales, the Development Board for Rural Wales established by section 1 of the Development of Rural Wales Act 1976 and the Welsh Development Agency established by section 1 of the Welsh Development Agency Act 1975;

(c) in Scotland, a development corporation within the meaning of the New Towns (Scotland) Act 1968;

(d) in Northern Ireland, the Department of the Environment for Northern Ireland and the Northern Ireland Housing Executive referred to in article 3 of the Housing (Northern Ireland) Order 1981;

“estate agency work” has the same meaning as in the Estate Agents Act 1979;

“land services” means services relating to the acquisition, management, development or disposal of land;

[^{F79}“leasable chattels” means chattels which are, or are to be, subject to bailment to a person in return for periodical payments by that person under an agreement which may but need not contain provision (or be part of a series of agreements containing provision) for the property in those chattels to become vested in that person;]

“local authority in Great Britain” means any of the following authorities:

(a) in England ^{F80} . . . , a county council, a district council, a London borough council, a parish ^{F80} . . . council, the Common Council of the City of London, and the Council of the Isles of Scilly;

(aa) [^{F81}in Wales, a county council, a county borough council and a community council;]

(b) in Scotland, a local authority within the meaning of section 235 of the Local Government (Scotland) Act 1973;

“managing investments” means activity of the kind specified in paragraph 14 of Part II (activities constituting investment business) of Schedule 1 to the Financial Services Act 1986;

“pension scheme” means—

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- (a) a retirement benefits scheme within the meaning of, and which is approved or a candidate for approval by the Commissioners of Inland Revenue for the purposes of, Chapter I of Part XIV of the Income and Corporation Taxes Act 1988 (retirement benefit schemes), or
- (b) a personal pension scheme within the meaning of, and which is approved or a candidate for approval by the Commissioners of Inland Revenue under, Chapter IV (personal pension schemes) of that Part of that Act,

and for the purposes of this definition a scheme is a candidate for approval for the purposes of the first or, as the case may be, under the second of those Chapters if it has been prepared with a view to being so approved and steps are being taken towards obtaining that approval;

“personal equity plan” means a plan for the purposes of section 333 (personal equity plans) of the Income and Corporation Taxes Act 1988;

“the principal business of a building society” means the business of raising funds (whether by the issue of shares or receiving deposits) for the purposes of the society or of making advances secured on land;

[^{F82}“prohibited trust” means a trust which is either—

- (a) a trust under which the majority in number of the beneficiaries who are for the time being ascertained are non-charitable corporate bodies, or
- (b) a trust of funds in a pension scheme which includes provisions requiring the investment of any of those funds in shares in or deposits with a building society of which the trustee is a subsidiary.]

“relevant investment” means—

- (a) any share or corresponding membership right in a body corporate, and
- (b) any other asset, right or interest falling within any paragraph of Part I (investments) of Schedule 1 to the Financial Services Act 1986; and

“transferable instrument” means—

- (a) where the issuer of the instrument is a building society, an instrument which is a transferable bearer instrument or a transferable non-bearer instrument for the purposes of section 7 of this Act, and
- (b) in any other case, an instrument which would, were the issuer a building society, be such a transferable bearer instrument or transferable non-bearer instrument.

Textual Amendments

F78 Definitions inserted by S.I. 1989/839, **art. 3(e)**

F79 Definition substituted by S.I. 1989/839, **art. 3(f)**

F80 Words in Sch. 8 repealed (1.4.1996) by 1994 c. 19, s. 66(6)(8), Sch. 16 para. 79, **Sch. 18** (with ss. 54(4)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 4, **Sch. 2**

F81 Para. (aa) in Sch. 8 inserted (1.4.1996) by 1994 c. 19, s. 66(6), **Sch. 16 para. 79** (with ss. 54(4)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 4, **Sch. 2**

F82 Definition inserted by S.I. 1989/839, **art. 3(g)**

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[^{F83}SCHEDULE 8A

TRANSFER DIRECTIONS: MODIFICATIONS OF PART X

Textual Amendments

F83 Sch. 8A inserted (9.6.1997) by 1997 c. 32, s. 17(2), **Sch. 4**; S.I. 1997/1427, **art. 2(c)**

PART I

DIRECTIONS UNDER SECTION 42B(3)

Preliminary

- 1 This Part of this Schedule applies where a direction is given under section 42B(3) (“the direction”).

Compensation for loss of office]

- 2 (1) The consent of the Commission shall be sufficient authority for the provision for any such compensation as is mentioned in section 96(1)(a).
- (2) A resolution of the board of directors passed in pursuance of the direction shall be sufficient authority for any such payments as are mentioned in section 96(1)(b).

Statements to members

- 3 (1) The following provisions of this paragraph shall apply in place of paragraph 1 of Schedule 16.
- (2) The society shall send to every member entitled to notice of a meeting of the society, a statement containing—
- (a) the particulars required, in relation to prescribed matters, by regulations under section 42B(8); and
 - (b) particulars of any other matters required by the Commission in the case of the particular transfer of engagements,
- with or without other particulars regarding that transfer.
- (3) The statement shall be sent—
- (a) where the Commission has given the society a direction under section 42B(1) (a), within the period (not being less than 28 days) specified in the notice of confirmation under section 42C(2)(b);
 - (b) where the Commission has not given the society such a direction, within 14 days of the board of directors passing a resolution in pursuance of the direction.

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- (4) No statement shall be sent unless its contents, so far as they concern the prescribed matters or any matter of which particulars are required to be given under subparagraph (2)(b) above, have been approved by the Commission.
- (5) A failure to comply with a requirement of this paragraph shall not invalidate the transfer of engagements; but, if the society fails without reasonable excuse to comply with such a requirement the society shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale and so shall any officer who is also guilty of the offence.

Application for confirmation

- 4 No application for confirmation by the Commission of the transfer of engagements may be made under Part III of Schedule 16 until after the society has complied with the requirements of paragraph 3 above.

Grounds for not confirming transfer

- 5 Section 95 shall apply as if—
 - (a) for paragraphs (a) and (b) of subsection (4) there were substituted the following paragraph—
 - “(a) the members or a proportion of them would be unreasonably prejudiced by the transfer;” and
 - (b) in subsection (6), for the words “paragraphs (a), (b) and (c)” there were substituted the words “ paragraphs (a) and (c) ” and, in paragraph (a), the words “, including the calling of a further meeting,” were omitted.

PART II

DIRECTIONS UNDER SECTION 42B(4)

Preliminary

- 6 This Part of this Schedule applies where a direction is given under section 42B(4) (“the direction”).

Compensation for loss of office

- 7 (1) The consent of the Commission shall be sufficient authority for the provision for any such compensation as is mentioned in section 99(2)(a).
- (2) A resolution of the board of directors passed in pursuance of the direction shall be sufficient authority for any such payments as are mentioned in section 99(2)(b).

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Increased remuneration

- 8 If the Commission consents to the inclusion of any such provision as is mentioned in section 99A(1), it shall not be necessary for an ordinary resolution approving the provision to be put before a meeting of the society.

Statements to members

- 9 (1) The following provisions of this paragraph shall apply in place of Part I of Schedule 17.
- (2) The society shall send to every member entitled to notice of a meeting of the society, a statement containing—
- (a) the particulars required, in relation to prescribed matters, by regulations under section 42B(8); and
 - (b) particulars of any other matters required by the Commission in the case of the particular transfer of business,
- with or without other particulars regarding that transfer.
- (3) The statement shall be sent—
- (a) where the Commission has given the society a direction under section 42B(1)(b), within the period (not being less than 28 days) specified in the notice of confirmation under section 42C(2)(b);
 - (b) where the Commission has not given the society such a direction, within 14 days of the board of directors passing a resolution in pursuance of the direction.
- (4) No statement shall be sent unless its contents, so far as they concern the prescribed matters or any matter of which particulars are required to be given under subparagraph (2)(b) above, have been approved by the Commission.
- (5) A failure to comply with a requirement of this paragraph shall not invalidate the transfer of business; but, if the society fails without reasonable excuse to comply with such a requirement the society shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale and so shall any officer who is also guilty of the offence.

Modifications etc. (not altering text)

C12 Sch. 8A para. 9 amended (2.3.1998) by S.I. 1998/212, reg. 5(1), Sch. 3

Application for confirmation

- 10 No application for confirmation by the Commission of the transfer of business may be made under Part II of Schedule 17 until after the society has complied with the requirements of paragraph 9 above.

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Grounds for not confirming transfer

- 11 Section 98 shall apply as if—
- (a) for paragraphs (a) and (b) of subsection (3) there were substituted the following paragraph—
 - “(a) the members or a proportion of them would be unreasonably prejudiced by the transfer;”;
 - (b) in subsection (5), for the words “paragraphs (a), (b), (c) and (d)” there were substituted the words “ paragraphs (a), (c) and (d) ”; and
 - (c) in subsection (6), the words “the calling of a further meeting,” were omitted.

SCHEDULE 9

Section 68(4).

DIRECTORS: REQUISITE PARTICULARS OF RESTRICTED TRANSACTIONS

Preliminary

- 1 In this Schedule—
- “the financial year” means the financial year to which the statement under section 68(3) relates;
 - “restricted transaction or arrangement” means any transaction or arrangement falling within section 65(1) particulars of which are required to be included in that statement;
- and other expressions have the same meaning as in those sections.

The requisite particulars

- 2 (1) The particulars of a restricted transaction or arrangement required by section 68(3) are particulars of the principal terms of the transaction or arrangement.
- (2) Without prejudice to the generality of sub-paragraph (1) above, the following particulars of a restricted transaction or arrangement are required—
- (a) a statement of the fact either that the transaction or arrangement was made or that it subsisted during the financial year;
 - (b) the name of the person from whom it was made and, where that person is or was connected with a director of the building society, the name of that director;
 - (c) in the case of [^{F84}a loan] or any related guarantee—
 - (i) the amount of the mortgage debt or corresponding liability both at the beginning and at the end of the financial year;
 - (ii) the maximum amount of that debt or liability during that year;
 - (iii) the amount of any interest which, having fallen due, has not been paid; and
 - (iv) the amount of any provision made in the accounts in respect of any failure or anticipated failure by the borrower to repay the whole or part of the loan or to pay the whole or part of any interest on it;
 - (d) in the case of a disposal of property by way of lease or hire—
 - (i) the value of the property;

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- (ii) the amount of any rental which, having fallen due, has not been paid; and
- (iii) the amount of any provision made in the accounts in respect of any failure or anticipated failure by the lessee or hirer to pay the whole or part of the rent;
- (e) in the case of any payment made on behalf of the director or person connected with him, the amount of the payment; and
- (f) in the case of a guarantee or security—
 - (i) the amount for which the building society was liable under the guarantee or security both at the beginning and at the end of the financial year;
 - (ii) the maximum amount for which the society may become liable; and
 - (iii) any amount paid and any liability incurred by the society for the purposes of fulfilling the guarantee or security (including any loss incurred by reason of its enforcement).

Textual Amendments

F84 Words in [Sch. 9 para. 2\(2\)\(c\)](#) 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, s. 43, Sch. 7 para. 59; S.I. 1997/2668, art. 2, Sch. Pt. II\(w\)\(z\)\(xxxv\)](#)

SCHEDULE 10

Section 69(7).

REQUISITE PARTICULARS OF INCOME OR RELATED BUSINESSES

PART I

REQUISITE PARTICULARS WHERE NO ADOPTION OF PART II

Conveyancers

- 1 Where the business associate of the building society provides conveyancing services the requisite particulars of its business in any financial year are the following—
- (a) the number of cases in which it has provided conveyancing services in respect of [^{F85}a loan] secured on land and the purchase of the land both to the society and to the borrower;
 - (b) the number of cases in which it has provided the society (but not the borrower) with conveyancing services in respect of [^{F85}a loan] secured on land;
 - (c) the aggregate amount of the fees paid to it by the society or by or on behalf of the borrower for the provision of conveyancing services falling within sub-paragraphs (a) and (b) above;
 - (d) the aggregate of the amounts paid to it by the society by way of commission for its having introduced investment business to the society;

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- (e) the aggregate amount of any fees paid to it by the society in consideration of the provision of conveyancing services in respect of any land held by the society [^{F86}under section 6, 10, 17 or 19];
- (f) the aggregate amount of any fees paid to it by the society in consideration of the provision of [^{F87}administrative services] to the society.

Textual Amendments

- F85** Words in **Sch. 10 paras. 1, 2, 5, 6** 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. 60(2)(a)**; S.I. 1997/2668, art. 2, **Sch. Pt. II(w)(z)(xxxvi)**
- F86** Words in **Sch. 10 paras. 1, 2, 5, 6** 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. 60(2)(b)**, **Sch. 9**; S.I. 1997/2668, art. 2, **Sch. Pt. II(w)(y)(z)(xxxvi)(cc)(xix)**
- F87** Words in **Sch. 10 paras. 1-8** substituted (9.6.1997) by 1997 c. 32, s. 43, **Sch. 7 para. 60(1)**; S.I. 1997/1427, **art. 2(k)(n)(xvii)**

Valuers and surveyors

- 2 Where the business associate of the building society provides the services of surveying and valuing property the requisite particulars of its business in any financial year are the following—
- (a) the number of cases in which it has, in respect of any land which is to secure [^{F88}a loan], surveyed the land or provided a valuation of it on behalf of the society or the borrower or both;
 - (b) the number of cases in which it has, on behalf of the society (but not the borrower), surveyed any land which is to secure [^{F88}a loan] or provided the society with a valuation of it;
 - (c) the aggregate amount of the fees paid to it by the society or by or on behalf of the borrower for the provision of the services falling within subparagraphs (a) and (b) above;
 - (d) the aggregate of the amounts paid to it by the society by way of commission for its having introduced investment business to the society;
 - (e) the aggregate amount of any fees paid to it by the society in consideration of the provision of surveying or valuing services in respect of any property held by the society [^{F89}under section 6, 10, 17 or 19];
 - (f) the aggregate amount of any fees paid to it by the society in consideration of the provision of [^{F90}administrative services] to the society.

Textual Amendments

- F88** Words in **Sch. 10 paras. 1, 2, 5, 6** 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. 60(2)(a)**; S.I. 1997/2668, art. 2, **Sch. Pt. II(w)(z)(xxxvi)**
- F89** Words in **Sch. 10 paras. 1, 2, 5, 6** 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. 60(2)(b)**, **Sch. 9**; S.I. 1997/2668, art. 2, **Sch. Pt. II(w)(y)(z)(xxxvi)(cc)(xix)**
- F90** Words in **Sch. 10 paras. 1-8** substituted (9.6.1997) by 1997 c. 32, s. 43, **Sch. 7 para. 60(1)**; S.I. 1997/1427, **art. 2(k)(n)(xvii)**

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Accountants

- 3 Where the business associate of the building society provides accountancy services the requisite particulars of its business in any financial year are the following—
- (a) the aggregate amount of the fees paid to it by the society for the provision of accountancy services; and
 - (b) the aggregate amount of any fees paid to it by the society in consideration of the provision of [^{F91}administrative services] to the society.

Textual Amendments

F91 Words in [Sch. 10 paras. 1-8](#) substituted (9.6.1997) by [1997 c. 32, s. 43, Sch. 7 para. 60\(1\)](#); [S.I. 1997/1427, art. 2\(k\)\(n\)\(xvii\)](#)

Insurance agents, etc.

- 4 Where the business associate of the building society arranges for the provision of relevant insurance the requisite particulars of its business in any financial year are the following—
- (a) the aggregate of the amounts paid to it by the society or by way of commission by insurers in respect of relevant insurance effected by the society or by borrowers in compliance with the terms on which [^{F92}loans] secured on land are made by the society; and
 - (b) the aggregate amount of any fees paid to it by the society in consideration of the provision of [^{F93}administrative services] to the society.

Textual Amendments

F92 Word in [Sch. 10 paras. 4, 8](#) 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. 60\(3\)](#); [S.I. 1997/2668, art. 2, Sch. Pt. II\(w\)\(z\)\(xxxvi\)](#)

F93 Words in [Sch. 10 paras. 1-8](#) substituted (9.6.1997) by [1997 c. 32, s. 43, Sch. 7 para. 60\(1\)](#); [S.I. 1997/1427, art. 2\(k\)\(n\)\(xvii\)](#)

PART II

REQUISITE PARTICULARS ON ADOPTION OF THIS PART

Conveyancers

- 5 Where the business associate of the building society provides conveyancing services the requisite particulars of its business in any financial year are the following—
- (a) the prescribed band within which falls the estimated number of cases in which it has provided conveyancing services in respect of [^{F94}a loan] secured on land and the purchase of the land both to the society and to the borrower;

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- (b) the prescribed band within which falls the estimated number of cases in which it has provided the society (but not the borrower) with conveyancing services in respect of [^{F94}a loan] secured on land;
- (c) the prescribed band within which falls the estimated aggregate amount of the fees paid to it by the society or by or on behalf of the borrower for the provision of conveyancing services falling within sub-paragraphs (a) and (b) above;
- (d) the prescribed band within which falls the estimated aggregate of the amounts paid to it by the society by way of commission for its having introduced investment business to the society;
- (e) the prescribed band within which falls the estimated aggregate amount of any fees paid to it by the society in consideration of the provision of conveyancing services in respect of any land held by the society [^{F95}under section 6, 10, 17 or 19];
- (f) the prescribed band within which falls the estimated aggregate of any fees paid to it by the society in consideration of the provision of [^{F96}administrative services] to the society.

Textual Amendments

- F94** Words in Sch. 10 paras. 1, 2, 5, 6 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. 60(2)(a); S.I. 1997/2668, art. 2, Sch. Pt. II(w)(z)(xxxvi)
- F95** Words in Sch. 10 paras. 1, 2, 5, 6 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. 60(2)(b), Sch. 9; S.I. 1997/2668, art. 2, Sch. Pt. II(w)(y)(z)(xxxvi)(cc)(xix)
- F96** Words in Sch. 10 paras. 1-8 substituted (9.6.1997) by 1997 c. 32, s. 43, Sch. 7 para. 60(1); S.I. 1997/1427, art. 2(k)(n)(xvii)

Valuers and surveyors

- 6 Where the business associate of the building society provides the services of surveying and valuing property the requisite particulars of its business in any financial year are the following—
- (a) the prescribed band within which falls the estimated number of cases in which it has, in respect of any land which is to secure [^{F97}a loan], surveyed the land or provided a valuation of it on behalf of the society or the borrower or both;
 - (b) the prescribed band within which falls the estimated number of cases in which it has, on behalf of the society (but not the borrower), surveyed any land which is to secure an advance or provided the society with a valuation of it;
 - (c) the prescribed band within which falls the estimated aggregate amount of the fees paid to it by the society or by or on behalf of the borrower for the provision of the services falling within sub-paragraphs (a) and (b) above;
 - (d) the prescribed band within which falls the estimated aggregate of the amounts paid to it by the society by way of commission for its having introduced investment business to the society;
 - (e) the prescribed band within which falls the estimated aggregate of any fees paid to it by the society in consideration of the provision of surveying or

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valuing services in respect of any property held by the society [^{F98}under section 6, 10, 17 or 19];

- (f) the prescribed band within which falls the estimated aggregate amounts of any fees paid to it by the society in consideration of the provision of [^{F99}administrative services] to the society.

Textual Amendments

- F97** Words in **Sch. 10 paras. 1, 2, 5, 6** 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. 60(2)(a)**; S.I. 1997/2668, art. 2, **Sch. Pt. II(w)(z)(xxxvi)**
- F98** Words in **Sch. 10 paras. 1, 2, 5, 6** 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. 60(2)(b)**, **Sch. 9**; S.I. 1997/2668, art. 2, **Sch. Pt. II(w)(y)(z)(xxxvi)(cc)(xix)**
- F99** Words in **Sch. 10 paras. 1-8** substituted (9.6.1997) by 1997 c. 32, s. 43, **Sch. 7 para. 60(1)**; S.I. 1997/1427, **art. 2(k)(n)(xvii)**

Accountants

- 7 Where the business associate of the building society provides accountancy services the requisite particulars of its business in any financial year are the following—
- (a) the prescribed band within which falls the estimated aggregate amount of the fees paid to it by the society for the provision of accountancy services; and
- (b) the prescribed band within which falls the estimated aggregate amount of any fees paid to it by the society in consideration of the provision of [^{F100}administrative services] to the society.

Textual Amendments

- F100** Words in **Sch. 10 paras. 1-8** substituted (9.6.1997) by 1997 c. 32, s. 43, **Sch. 7 para. 60(1)**; S.I. 1997/1427, **art. 2(k)(n)(xvii)**

Insurance agents, etc.

- 8 Where the business associate of the building society arranges for the provision of relevant insurance the requisite particulars of its business in any financial year are the following—
- (a) the prescribed band within which falls the estimated aggregate of the amounts paid to it by the society or by way of commission by insurers in respect of relevant insurance effected by the society or by borrowers in compliance with the terms on which [^{F101}loans] secured on land are made by the society; and
- (b) the prescribed band within which falls the estimated aggregate amount of any fees paid to it by the society in consideration of the provision of [^{F102}administrative services] to the society.

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Textual Amendments

- F101** Words in [Sch. 10 paras. 4, 8](#) 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. 60\(3\)](#); S.I. 1997/2668, art. 2, [Sch. Pt. II\(w\)\(z\)\(xxxvi\)](#)
- F102** Words in [Sch. 10 paras. 1-8](#) substituted (9.6.1997) by 1997 c. 32, s. 43, [Sch. 7 para. 60\(1\)](#); S.I. 1997/1427, [art. 2\(k\)\(n\)\(xvii\)](#)

PART III

SUPPLEMENTARY

Power to prescribe bands for Part II particulars

- 9 (1) The Commission, with the consent of the Treasury, may by order prescribe, for the purposes of the provisions of Part II of this Schedule,—
- (a) series of numbers by reference to limits specified in the order, or
 - (b) series of monetary amounts by reference to limits so specified;
- and, in any provision of Part II, “prescribed band” means, in relation to cases, any series of numbers so prescribed for the purposes of that provision and, in relation to monetary amounts, any series of monetary amounts so prescribed for the purposes of that provision.
- (2) The power conferred by this paragraph includes power to prescribe different series of numbers or of monetary amounts for the purposes of different provisions.
- (3) The power to make an order under this paragraph is exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Interpretation

- 10 (1) In this Schedule—
- “administrative services” means services falling within section 69(4);
 - “business associate” and “associated”, in relation to a building society, have the same meaning as in section 69;
 - “financial year” means a financial year of the society with which the business associate is associated;
 - “prescribed band” has the meaning given by paragraph 9(1) above; and
 - “relevant insurance” means insurance falling within section 69(3)(d).
- (2) In section 69, “the volume of the business”, in relation to any business constituted by the provision of any services referred to in any provision of Part I or Part II of this Schedule means—
- (a) in the case of a paragraph of Part I, the aggregate of all the fees and commissions which are the subject of the requisite particulars under that paragraph; and

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- (b) in the case of a paragraph of Part II, the aggregate of the amounts which are specified in orders under paragraph 9 above as the upper limits of the prescribed bands within which fall the estimated aggregates of the fees or commissions or other amounts received which are the subject of the requisite particulars under the provisions of that paragraph

SCHEDULE 11

Section 77.

AUDITORS: APPOINTMENT, TENURE, QUALIFICATIONS

Modifications etc. (not altering text)

C13 Sch. 11 excluded by [S.I. 1986/2168](#), [art. 12\(a\)](#)

Appointment

- 1 (1) The first auditors of a building society may be appointed by the directors at any time before the first general meeting of the building society following the end of the society's first financial year and auditors so appointed shall hold office until the conclusion of that meeting.
- (2) If the directors fail to exercise their powers under sub-paragraph (1) above those powers may be exercised by the building society in general meeting.
- 2 The directors, or the building society in general meeting, may fill any casual vacancy in the office of auditor; but while any such vacancy continues, the surviving or continuing auditor or auditors (if any) may act.
- 3 (1) If at any annual general meeting of a building society no auditors are appointed or re-appointed, the Commission may appoint a person to fill the vacancy; and the society shall, within one week of the power of the Commission becoming exercisable, give it notice of that fact.
- (2) If a building society fails to give the notice required by sub-paragraph (1) above the society shall be liable on summary conviction—
- (a) to a fine not exceeding level 3 on the standard scale, and
- (b) in the case of a continuing offence, to an additional fine not exceeding £40 for every day during which the offence continuesX;
- and so shall any officer who is also guilty of the offence.
- 4 (1) A resolution at a general meeting of a building society—
- (a) appointing as auditor a person other than a retiring auditor; or
- (b) filling a casual vacancy in the office of auditor; or
- (c) reappointing as auditor a retiring auditor who was appointed by the directors to fill a casual vacancy; or
- (d) removing an auditor before the expiration of his term of office,

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shall not be effective unless notice of the intention to move it has been given to the society not less than twenty-eight days before the meeting at which it is moved.

- (2) A building society shall give to its members notice of any such resolution at the same time and in the same manner as it gives notice of the meeting, or, if that is not practicable, shall give them notice of the resolution, not less than twenty-one days before the meeting, either by advertisement in a newspaper having an appropriate circulation or in any other way allowed by the rules of the society.
- (3) On receipt of notice of such an intended resolution as is mentioned above the society shall forthwith send a copy of it—
 - (a) to the person proposed to be appointed or removed, as the case may be;
 - (b) in a case within sub-paragraph (1)(a), to the retiring auditor; and
 - (c) where, in a case within sub-paragraph (1)(b) or (c), the casual vacancy was caused by the resignation of an auditor, to the auditor who resigned.
- (4) Where notice is given of such a resolution as is mentioned in sub-paragraphs (1)(a) or (d) and the retiring auditor, or (as the case may be) the auditor proposed to be removed, makes with respect to the intended resolution representations, in writing to the society (not exceeding a reasonable length) and requests their notification to the members, the society shall (unless the representations are received by it too late to do so)—
 - (a) in any notice of the resolution given to members, state the fact of the representations having been made, and
 - (b) send a copy of the representations to every member to whom notice of the meeting is or has been sent.
- (5) if a copy of such representations is not sent out as required by sub-paragraph (4) above because it was received too late or because of the society's default, the auditor may (without prejudice to his right to be heard orally) require that the representations shall be read out at the meeting.
- (6) The building society or any person claiming to be aggrieved may, within fourteen days of the receipt by the society of any representations made to it under sub-paragraph (4) above, apply in accordance with sub-paragraph (7) or (8) below to—
 - (a) the High Court, or
 - (b) the Commission,

for an order that copies of the representations need not or, as the case may be, shall not be sent out nor the representations read out at the meeting.

- (7) An application under this sub-paragraph is an application to the High Court on the ground that the auditor is abusing the rights conferred by sub-paragraph (4) above to secure needless publicity for defamatory matter, and if the court is satisfied that the auditor is so abusing those rights it may by order direct that copies of the representations need not be sent out nor the representations read out at the meeting; and the court may further order the society's costs on the application to be paid in whole or in part by the auditor notwithstanding that he is not a party to the application.
- (8) An application under this sub-paragraph is an application to the Commission on the ground that the sending out of copies of or the reading out at the meeting of the representations would be likely to diminish substantially the confidence in the society of investing members of the public and if the Commission is satisfied that the sending out of copies of the representations or the reading of them would have that effect it

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shall by order direct that copies of the representations shall not be sent out nor the representations read at the meeting.

- (9) The building society shall—
- (a) if the High Court makes an order under sub-paragraph (7) above or the Commission makes an order under sub-paragraph (8) above, send within fourteen days of the decision a statement setting out the effect of the order to the persons mentioned in sub-paragraph (4)(b) above; and
 - (b) if not, either send a copy of the written representations made under sub-paragraph (4) above to those persons or cause the representations to be read out at the meeting.
- (10) If default is made in complying with sub-paragraph (4) or (9) above the building society shall be liable—
- (a) on conviction on indictment to a fine; or
 - (b) on summary conviction to a fine not exceeding the statutory maximum and, in the case of a continuing offence, to a fine not exceeding one tenth of the statutory maximum for every day during which the offence continues;
- and so shall any officer who is also guilty of the offence.

Qualification and disqualification of auditors

- 5 (1) A person is not qualified for appointment as auditor of a building society^{F103} unless—
- (a) he is eligible for appointment as a company auditor under section 25 of the Companies Act 1989; or
 - (b) he is a member of a body of accountants, established in the United Kingdom or another member State, which is for the time being designated by order of the Commission made with the consent of the Treasury.]
- (2) None of the following persons is qualified for appointment as an auditor of a building society—
- (a) a director or employee of the society;
 - (b) a person who is a partner of, or in the employment of, or who employs, a director or employee of the society;
 - (c) a person who is ^{F104}ineligible by virtue of section 27 of the Companies Act 1989 for appointment as auditor of a company which is a ^{F105}subsidiary undertaking] of the society.]
 - ^{F106}(d)
- (3) Nothing in this paragraph shall prevent the appointment as auditor of a Scottish firm if none of the partners of the firm is by virtue of this paragraph disqualified for appointment as auditor of the society.
- (4) The power to make an order under ^{F107}sub-paragraph (1)(b)] above is exercisable by statutory instrument subject to annulment by a resolution of either House of Parliament.
- (5) No person shall act as auditor of a building society at a time when he knows that he is disqualified from appointment to that office; and if an auditor of a building society to his knowledge becomes so disqualified during his term of office he shall thereupon

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vacate his office and give notice to the society that he has vacated it by reason of that disqualification.

- (6) A person who acts as auditor in contravention of sub-paragraph (5), or fails without reasonable excuse to give notice of vacating his office as required by that sub-paragraph, shall be liable—
- (a) on conviction on indictment to a fine; or
 - (b) on summary conviction to a fine not exceeding the statutory maximum and, in the case of a continuing offence, to an additional fine not exceeding one-tenth of the statutory maximum for every day during which the offence continues.

Textual Amendments

- F103** Words in Sch. 11 para. 5(1) substituted (01.10.1991) by S.I. 1991/1997, reg. 2, Sch. para. 65(3) (with reg. 4)
- F104** Words in Sch. 11 para. 5(2)(c) substituted (01.10.1991) by S.I. 1991/1997, reg. 2, Sch. para. 65(4) (with reg. 4)
- F105** Words in Sch. 11 para. 5(2)(c) substituted (1.12.1997) by 1997 c. 32, s. 43, Sch. 7 para. 61(a); S.I. 1997/2668, art. 2, Sch. Pt. I(j)(I)(xv)
- F106** Sch. 11 para. 5(2)(d) repealed (13.11.1995) by S.I. 1995/2723, reg. 2
- F107** Words in Sch. 11 para. 5(4) substituted (1.12.1997) by 1997 c. 32, s. 43, Sch. 7 para. 61(b); S.I. 1997/2668, art. 2, Sch. Pt. I(j)(I)(xv)

Removal of auditors

- 6
- (1) A building society may by resolution in general meeting remove an auditor before the expiration of his term of office, notwithstanding anything in any agreement between it and him.
 - (2) Where a resolution removing an auditor is passed at a general meeting of a building society, the society shall within 14 days give notice of that fact to the central office.
 - (3) If a building society fails to give the notice required by sub-paragraph (2) above the society shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale and, in the case of a continuing offence, to an additional fine not exceeding £40 for every day during which the offence continues and so shall every officer who is also guilty of the offence.
 - (4) Nothing in this paragraph is to be taken as depriving a person removed under it of compensation or damages that may be payable to him in respect of the termination of his appointment as auditor.

Resignation of auditors

- 7
- (1) An auditor of a building society may resign his office by depositing a notice to that effect at the principal office of the society; and any such notice operates to bring his term of office to an end on the date on which the notice is deposited, or on such later date as may be specified in it.

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- (2) An auditor's notice of resignation shall not be effective unless it contains either—
- (a) a statement to the effect that there are no circumstances connected with his resignation which he considers should be brought to the notice of the members of, or depositors with, the society, or
 - (b) a statement of any such circumstances as are mentioned above.
- (3) Where a notice under this paragraph is deposited at the principal office of a building society it shall within fourteen days send a copy of that notice—
- (a) to the central office, and
 - (b) if the notice contains a statement under sub-paragraph (2)(b) above, to every person who under section 76(8) is entitled to receive a copy of the summary financial statement.
- (4) The building society or any person claiming to be aggrieved may, within fourteen days of the receipt by the society of a notice containing a statement under sub-paragraph (2)(b), apply in accordance with sub-paragraph (5) or (6) below to—
- (a) the High Court; or
 - (b) the Commission,
- for an order that copies of the notice need not or, as the case may be, shall not be sent out.
- (5) An application under this sub-paragraph is an application to the High Court on the ground that the auditor is using the notice to secure needless publicity for defamatory matter, and if the court is satisfied that the auditor is using the notice for that purpose it may by order direct that copies of it need not be sent out; and the court may further order the society's costs on the application to be paid in whole or in part by the auditor, notwithstanding that he is not a party to the application.
- (6) An application under this sub-paragraph is an application to the Commission on the ground that the sending out of the notice would be likely to diminish substantially the confidence in the society of investing members of the public; and if the Commission is satisfied that the sending out of the notice would be likely to have that effect it shall by order direct that copies of it shall not be sent out.
- (7) The building society shall, within fourteen days of the decision of the High Court or of the Commission, send to the persons mentioned in sub-paragraph (3)—
- (a) if the court makes an order under sub-paragraph (5) above or the Commission makes an order under sub-paragraph (6), a statement setting out the effect of the order; and
 - (b) if not, a copy of the notice containing the statement under sub-paragraph (2)(b).
- (8) If default is made in complying with sub-paragraph (3) or sub-paragraph (7) the building society shall be liable—
- (a) on conviction on indictment to a fine; or
 - (b) on summary conviction to a fine not exceeding the statutory maximum and, in the case of a continuing offence, to a fine not exceeding one tenth of the statutory maximum for every day during which the offence continues;

and so shall any officer who is also guilty of the offence.

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- 8 (1) Where an auditor's notice of resignation contains a statement under paragraph 7(2) (b) above he may also deposit at the principal office of the society a requisition signed by him calling on the directors of the society forthwith duly to convene a special general meeting of the society for the purpose of receiving and considering such explanation of the circumstances connected with this resignation as he may wish to place before the meeting.
- (2) Where an auditor's notice of resignation contains such a statement the auditor may request the society to send to its members—
- (a) before the general meeting at which his term of office would otherwise expire or expires, as the case may be; or
 - (b) before any general meeting at which it is proposed to fill the vacancy caused by his resignation,
- a statement in writing (not exceeding a reasonable length) of the circumstances connected with his resignation.
- (3) The society shall in that case (unless the statement is received by it too late for it to comply)—
- (a) in any notice of the meeting given to members state the fact of the statement having been made, and
 - (b) send a copy of the statement to every member to whom notice of the meeting is or has been sent.
- (4) If the directors of the society do not within 21 days from the date of the deposit of a requisition under this paragraph proceed duly to convene a meeting for a day not more than 28 days after the date on which the notice convening the meeting is given, every director who failed to take all reasonable steps to secure that a meeting was so convened shall be liable—
- (a) on conviction on indictment to a fine; or
 - (b) on summary conviction to a fine not exceeding the statutory maximum.
- (5) If a copy of the statement mentioned in sub-paragraph (2) is not sent out as required by sub-paragraph (3) because it was received too late or because of the society's default, the auditor may (without prejudice to his right to be heard orally) require that the statement be read out at the meeting.
- (6) Copies of a statement need not be sent out and the statement need not be read out at the meeting if—
- (a) on an application made to the High Court by the society or a person aggrieved, the court is satisfied that the rights conferred by this paragraph are being abused to secure needless publicity for defamatory matter; or
 - (b) on an application to the Commission by the society or a person aggrieved, the Commission is satisfied that the circulating or reading out of the statement would be likely to diminish substantially the confidence in the society of investing members of the public.
- (7) If the High Court makes an order under sub-paragraph (6)(a) above it may also order the society's costs of the application to be paid by the auditor notwithstanding that he is not a party to the application.
- (8) An auditor who has resigned his office is entitled to attend any such meeting as is mentioned in sub-paragraph (2)(a) or (b) and to receive all notices of, and other communications relating to, any such meeting which any member of the society is

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entitled to receive, and to be heard at any such meeting which he attends on any part of the business of the meeting which concerns him as former auditor of the society.

- 9 In the application of this Schedule to Scotland, references to the High Court shall be read as references to the Court of Session.

SCHEDULE 12

Section 83.

SCHEMES FOR INVESTIGATION OF COMPLAINTS

PART I

MATTERS TO BE PROVIDED FOR IN SCHEMES

The matters for which provision is, subject to [^{F108}Part III of this Schedule], to be made are the following:

Textual Amendments

F108 Words in Sch. 12 Pt. I substituted (1.12.1997) by 1997 c. 32, s. 43, Sch. 7 para. 62(1); S.I. 1997/2668, art. 2, Sch. Pt. I(1)(xvi)

Administration

- 1 The establishment and functioning of an independent body (whether corporate or unincorporate) which is to administer the scheme.
- 2 The identity of the members.
- 3 The manner in which the expenses of the scheme are to be met by the members.

The adjudicator

- 4 The appointment of an independent adjudicator to conduct investigations under the scheme and his tenure of office and remuneration.

Scope of scheme

- 5 The matters action in relation to which is to be subject to investigation under the scheme and the grounds for making it subject to investigation.

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Functions of adjudicator

- 6 The duty of the adjudicator to investigate, and make determinations on, actions duly referred for investigation.
- 7 The powers of, and procedure to be followed in the conduct of investigations by, the adjudicator.
- 8 The powers of the adjudicator on the making of determinations.

Determinations and their effects

- 9 The extent to which determinations are binding.
- 10 The manner in which determinations are to be communicated and published.

Reports by investigators to administering body

- 11 The making to the body administering the scheme of regular reports by the adjudicator as to the discharge of his functions, and their publication.

Amendment or revocation of scheme

- 12 The manner of amending or revoking the scheme.

Accession to membership

- 13 Accession to membership of other societies.

Withdrawal from membership

- 14 Withdrawal from membership.

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F109 PART II

REQUIREMENTS FOR RECOGNISED SCHEMES: MATTERS OF COMPLAINT

Textual Amendments

F109 Sch. 12 Pt. II repealed (1.12.1997) by 1997 c. 32, ss. 43, 46(2), Sch. 7 para. 62(2), **Sch. 9**; S.I. 1997/2668, art. 2, **Sch. Pt. I(j)(i)(xvi)(o)(viii)**

Share accounts

- 1 The operation or termination of a share account and the grant or refusal to grant a shareholder other facilities normally available to shareholders of his description.

Note: The operation or termination of a share account includes any aspect of the relationship or termination of the relationship between the society and a shareholder as such and in particular the operation or termination of any services incidental to such accounts.

Note: The grant of facilities includes the terms on which they are granted.

Deposit accounts

- 2 The operation or termination of a deposit account and the grant or refusal to grant a depositor other facilities normally available to depositors of his description.

Note: The operation or termination of a deposit account includes any aspect of the relationship or the termination of the relationship between the society and a depositor as such, including in particular the operation or termination of any services incidental to such accounts.

Note: The grant of facilities includes the terms on which they are granted.

Borrowing members: class 1 or class 2 advances

- 3 The operation or termination of the account of a member borrowing on a class 1 or class 2 advance and the grant or refusal to grant a borrowing member of that description other or further class 1, or as the case may be, class 2 advances secured on the same or different land or other facilities normally available to borrowing members of his description.

Note: The operation or termination of the account of a borrowing member includes any aspect of the relationship or the termination of the relationship between the society and a borrowing member as such, including in particular the exercise of the right of foreclosure or any other power over the land by virtue of the mortgage.

Note: The grant of advances includes the terms on which they are granted.

Status: Point in time view as at 01/06/1998.

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Borrowers: mobile home loans

- 4 The operation or termination of the account of a borrower under section 15 and the grant or refusal to grant a borrower under that section other facilities normally available to borrowers of his description.

Note: The operation or termination of the account of a borrower under section 15 includes any aspect of the relationship or the termination of the relationship between the lender and such a borrower, including in particular the exercise of any power over the security.

Note: The grant of facilities includes the terms on which they are granted.

Borrowers: other loans

- 5 The operation or termination of the account of a borrower under section 16 and the grant or refusal to grant a borrower under that section other facilities normally available to borrowers of his description.

Note: The operation or termination of the account of a borrower under section 16 includes any aspect of the relationship or the termination of the relationship between the lender and such a borrower including in particular, in the case of a secured loan, the exercise of any power over the security.

Note: The grant of facilities includes the terms on which they are granted.

Money transmission services

- 6 The terms on which are provided, the operation of, or the withdrawal of money transmission services.

Note: “Money transmission services” means the services of that description provided in accordance with Schedule 8 to this Act.

Foreign exchange facilities

- 7 The terms on which are provided, the operation of, or the withdrawal of foreign exchange services.

Note: “Foreign exchange services” means services of that description provided in accordance with Schedule 8 to this Act.

Agency payments and receipts

- 8 The terms on which payments are made or received as agents or the operation or withdrawal of the service.

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Note: The payments made or received as agents are those made or received in accordance with Schedule 8 to this Act.

Provision of credit

- 9 The operation or termination of the account of a borrower with the person providing the credit.

Note: The credit provided is credit provided under arrangements for the provision of credit in accordance with Schedule 8 to this Act.

PART III

MINIMUM REQUIREMENTS FOR RECOGNISED SCHEMES: OTHER PROVISIONS

Grounds of complaint

- [^{F110}1 (1) The grounds for making action by a building society or connected undertaking subject to investigation under the scheme must be that the action constitutes—
- (a) in the case of a building society, a breach of the society's obligations under this Act, its rules or any contract, or
 - (b) in the case of a connected undertaking, a breach of the undertaking's obligations under its rules (if any) or any contract, or
 - (c) unfair treatment, or
 - (d) maladministration, or
 - (e) a decision to which sub-paragraph (2) below applies, or action consequential on such a decision,
- in relation to the complainant and has caused him pecuniary loss or expense or inconvenience.
- (2) This sub-paragraph applies to any decision in connection with the provision of a relevant service which is made otherwise than in the legitimate exercise of commercial judgment.]

Textual Amendments

F110 Sch. 12 Pt. III para. 1 substituted (1.12.1997) by 1997 c. 32, s. 34(2); S.I. 1997/2668, art. 2, Sch. Pt. I(f)

Permissible exclusions from investigation

- 2 A scheme must not exclude action from investigation on any other than the following grounds, that is to say—
- (a) that the complaint is frivolous or vexatious;
 - (b) that the action is the subject of proceedings in a court of law or was the subject of such proceedings in which a judgment on the merits was given;

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- [^{F111}(bb) that the action is the subject of an investigation by another adjudicator (by whatever name called) operating under a comparable scheme (whether or not a recognised scheme), or was the subject of such an investigation in which a decision on the merits was made;]
- (c) that, where the society or [^{F112}connected undertaking] has a procedure for the resolution of complaints by it (an “internal procedure”), the procedure has not been invoked or has not been exhausted;
- (d) that there has been undue delay in having the matter investigated under the scheme [^{F113}, or in furnishing evidence in support of the complaint]; or
- (e) that the action in question occurred outside the United Kingdom.

Note: An international procedure for resolution of complaints is not to be treated as having been invoked unless the complainant has made his complaint to the principal office of the society or, as the case may be, [^{F114}of the connected undertaking] and is not to be treated as having been exhausted unless more than three months has elapsed since the complainant invoked it without any decision on his complaint having been communicated to him.

Note: Delay in having a matter investigated under the scheme is not “undue delay” unless at least six months (disregarding the period for exhausting the society’s or [^{F115}connected undertaking’s] internal procedure) has expired since the matter came to the knowledge of the complainant; and a person is not, for this purpose, to be presumed to have knowledge of the contents of a document which contains or relates to the terms or proposed terms of any transaction between him and the society.

[^{F116}*Note:* Delay in furnishing evidence in support of the complaint is not “undue delay” unless at least six months have elapsed since the adjudicator acknowledged receipt of the complaint.]

Textual Amendments

- F111** Sch. 12 Pt. III para. 2(bb) inserted (1.12.1997) by 1997 c. 32, s. 43, **Sch. 7 para. 62(3)(a)**; S.I. 1997/2668, art. 2, **Sch. Pt. I(l)(xvi)**
- F112** Words in Sch. 12 Pt. III para. 2(c) substituted (1.12.1997) by 1997 c. 32, s. 43, **Sch. 7 para. 62(3)(b)**; S.I. 1997/2668, art. 2, **Sch. Pt. I(l)(xvi)**
- F113** Words in Sch. 12 Pt. III para. 2(d) inserted (1.12.1997) by 1997 c. 32, s. 34(3)(a); S.I. 1997/2668, art. 2, **Sch. Pt. I(f)**
- F114** Words in Sch. 12 Pt. III para. 2 substituted (1.12.1997) by 1997 c. 32, s. 43, **Sch. 7 para. 62(3)(c)**; S.I. 1997/2668, art. 2, **Sch. Pt. I(l)(xvi)**
- F115** Words in Sch. 12 Pt. III para. 2 substituted (1.12.1997) by 1997 c. 32, s. 43, **Sch. 7 para. 62(3)(d)**; S.I. 1997/2668, art. 2, **Sch. Pt. I(l)(xvi)**
- F116** Note in Sch. 12 Pt. III para. 2 inserted (1.12.1997) by 1997 c. 32, s. 34(3)(b); S.I. 1997/2668, art. 2, **Sch. Pt. I(f)**

Functions of adjudicator

- 3 A scheme must, as regards the duties and powers attached to the investigation of complaints under the scheme—

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- (a) impose on the adjudicator a duty, subject to the provision made in pursuance of sub-paragraph (c) below, to investigate and determine any complaint duly made;
- (b) impose on the adjudicator a duty to afford the complainant and the society or ^{F117}connected undertaking] an opportunity to make representations (whether orally or in writing) in relation to the action complained of;
- (c) confer power on the adjudicator to advise, mediate or act as conciliator before proceeding further with an investigation;
- (d) confer power on the adjudicator to extend the scope of his investigation to other matters related to the action complained of; and
- (e) confer on an adjudicator such powers to require information and documents relevant to the matter to be furnished to him as are necessary for the purposes of the investigation.

Textual Amendments

F117 Words in *Sch. 12 Pt. III paras. 3-5, 6(1), 7* substituted (1.12.1997) by 1997 c. 32, s. 43, **Sch. 7 para. 62(4)**; S.I. 1997/2668, art. 2, **Sch. Pt. I(j)(1)(xvi)**

- 4
- (1) Subject to any provision made in pursuance of sub-paragraph (3) below, a scheme must authorise the adjudicator, in reaching his decision, to have regard to, but not to be bound by, any matter (whether or not of obligation) relevant to the action complained of and to question any decision.
 - (2) A scheme must impose on the adjudicator a duty, in reaching his decision, to have regard to—
 - (a) the rules (if any) of the society or ^{F118}connected undertaking];
 - (b) the provisions of any deed or contract binding the society and the complainant or, as the case may be, the ^{F118}connected undertaking] and the complainant;
 - (c) the provisions of any code of conduct applicable to the conduct by the society or ^{F118}connected undertaking] of its affairs or business;
 - (d) any advertisement issued by the society or ^{F118}connected undertaking] in connection with any aspect of its activities and any communication with the complainant.
 - (3) Subject to sub-paragraph (4) below, a scheme may preclude the adjudicator, in his determination, from questioning the merits of any decision taken by the society or ^{F118}connected undertaking] with reference to—
 - (a) the taking or conduct of legal proceedings to enforce any right of the society or ^{F118}connected undertaking]; or
 - (b) the creditworthiness, for the purposes of any advance or other service or facility, of the complainant;

but not otherwise.
 - (4) Where investigation of a complaint on the ground of maladministration involves consideration by the adjudicator of any decision taken with reference to the creditworthiness of the complainant the scheme must confer power on the adjudicator

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to direct the society or associated body to take its decision again and reach it by proper procedures.

Textual Amendments

F118 Words in Sch. 12 Pt. III paras. 3-5, 6(1), 7 substituted (1.12.1997) by 1997 c. 32, s. 43, Sch. 7 para. 62(4); S.I. 1997/2668, art. 2, Sch. Pt. I(j)(1)(xvi)

- 5 (1) Subject to sub-paragraph (2) below, a scheme must confer power on the adjudicator, by his determination, to do either or both of the following, that is to say—
- (a) direct the society or [^{F119}connected undertaking] whose action is complained of to take or desist from taking such steps as are specified in the determination;
 - (b) order the society or [^{F119}connected undertaking] whose action is complained of to pay the complainant a sum by way of compensation for the loss, expense or inconvenience caused by the action.
- (2) A scheme may impose a limit on the amount of compensation that a society or [^{F119}connected undertaking] may be ordered to pay a complainant, but the limit must not be less than £100,000.

Textual Amendments

F119 Words in Sch. 12 Pt. III paras. 3-5, 6(1), 7 substituted (1.12.1997) by 1997 c. 32, s. 43, Sch. 7 para. 62(4); S.I. 1997/2668, art. 2, Sch. Pt. I(j)(1)(xvi)

Effect of determinations and their communication

- 6 (1) Subject to any provision made in pursuance of sub-paragraph (2) or (3) below, a scheme must provide that, if the complainant, by notice to the adjudicator within the period specified in the scheme, accepts his determination the society or [^{F120}connected undertaking] is under an obligation to take the steps it is directed to take or pay the compensation awarded or both.
- (2) A scheme may relieve a society of the obligation imposed by a determination if, but only if, the society undertakes an obligation to give notice to its members of the reasons for its non-fulfilment of the obligations imposed by the determination in the next directors' report under section 75 and to give notice of those reasons to the public in such manner as the adjudicator requires.
- (3) A scheme may relieve [^{F121}a connected undertaking] of the obligations imposed by a determination if, but only if, each of the building societies [^{F122}of which it is a connected undertaking] undertakes an obligation to give notice to its members of the reasons for the non-fulfilment of the obligations imposed by the determination in the next directors' report under section 75 and to give notice of those reasons to the public in such manner as the adjudicator requires.

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Textual Amendments

- F120** Words in Sch. 12 Pt. III paras. 3-5, 6(1), 7 substituted (1.12.1997) by 1997 c. 32, s. 43, **Sch. 7 para. 62(4)**; S.I. 1997/2668, art. 2, **Sch. Pt. I(j)(1)(xvi)**
- F121** Words in Sch. 12 Pt. III para. 6(3) substituted (1.12.1997) by 1997 c. 32, s. 43, **Sch. 7 para. 62(5)(a)**; S.I. 1997/2668, art. 2, **Sch. Pt. I(j)(1)(xvi)**
- F122** Words in Sch. 12 Pt. III para. 6(3) substituted (1.12.1997) by 1997 c. 32, s. 43, **Sch. 7 para. 62(5)(b)**; S.I. 1997/2668, art. 2, **Sch. Pt. I(j)(1)(xvi)**

- 7 A scheme must impose on the adjudicator an obligation not to disclose, whether in his determination or otherwise, any information or opinion furnished in confidence to the society or, as the case may be, to the [^{F123}connected undertaking] for the purpose of any action on its part.

Textual Amendments

- F123** Words in Sch. 12 Pt. III paras. 3-5, 6(1), 7 substituted (1.12.1997) by 1997 c. 32, s. 43, **Sch. 7 para. 62(4)**; S.I. 1997/2668, art. 2, **Sch. Pt. I(j)(1)(xvi)**

Reports by adjudicator to administering body

- 8 A scheme must require reports by the adjudicator as to the discharge of his functions to be made to the body administering the scheme not less frequently than once in every year.

Publication

- 9 (1) A scheme must permit the body administering the scheme to publish the whole or any parts of the reports made to them by the adjudicator.
- (2) A scheme, if it makes the provision authorised by paragraph 6(2) or (3) above, must require the body administering the scheme to send to the Commission, not less frequently than once in every year, particulars of the cases in which building societies have undertaken the alternative obligation authorised by either or both of those subparagraphs.

SCHEDULE 13

SCHEMES FOR INVESTIGATION OF COMPLAINTS: RECOGNITION, ACCESSION, ETC.

Preliminary

- 1 For the purposes of this Schedule, a scheme—

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“qualifies for recognition” if it makes provision for the matters specified in Part I of Schedule 12 and [^{F124}the services] action in relation to which is subject to investigation under the scheme consist of or include one or more [^{F124}relevant services]; and

“conforms to the relevant requirements” if, in relation to a [^{F125}relevant service], it makes action in relation to [^{F125}that service] subject to investigation in accordance with Part III of that Schedule;

and any reference to a scheme qualifying for recognition, or being recognised, to any “extent” indicates recognition of it for the purpose of investigations of action in relation to one or more [^{F126}relevant services].

Textual Amendments

F124 Words in Sch. 13 para. 1 substituted (1.12.1997) by 1997 c. 32, s. 43, Sch. 7 para. 63(2)(a); S.I. 1997/2668, art. 2, Sch. Pt. I(j)(l)(xvii)

F125 Words in Sch. 13 para. 1 substituted (1.12.1997) by 1997 c. 32, s. 43, Sch. 7 para. 63(2)(b); S.I. 1997/2668, art. 2, Sch. Pt. I(j)(l)(xvii)

F126 Words in Sch. 13 para. 1 substituted (1.12.1997) by 1997 c. 32, s. 43, Sch. 7 para. 63(2)(c); S.I. 1997/2668, art. 2, Sch. Pt. I(j)(l)(xvii)

- 2 (1) The function of the Commission of granting recognition of schemes is exercisable, in accordance with paragraph 4 or 5 below, on the Commission’s own motion or on a submission for its approval made by or on behalf of any building societies.
- (2) In this Schedule, in relation to a scheme recognised by the Commission to any extent, a “direction for its recognition” means a direction that the scheme is, to the extent specified in the direction, a scheme recognised by the Commission.

The register of recognised schemes

- 3 (1) The central office shall maintain a register of recognised schemes for the investigation of complaints (“the register”), and the register shall—
 - (a) contain a copy of every scheme and the direction for its recognition a copy of which is directed to be kept in it by any provision of this Part of this Schedule; and
 - (b) be available for inspection on reasonable notice by members of the public on payment of the prescribed fee.
- (2) Any member of the public shall be entitled, on payment of the prescribed fee, to be furnished with a copy of any scheme and the direction for its recognition kept in the register.

Procedure for recognition: Commission’s initiative

- 4 (1) If it appears to the Commission, from its own enquiries or from information made available to it, that a scheme has been made or is in operation which qualifies for

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recognition the Commission shall consider the scheme and the extent to which it qualifies for recognition.

- (2) If, on consideration of a scheme, the Commission is satisfied that the scheme qualifies for recognition and conforms to the relevant requirements in relation to one or more [^{F127}relevant services], the Commission shall approve the scheme as a recognised scheme to such extent as it considers appropriate.
- (3) The Commission shall, on approving a scheme under this paragraph, give a direction for its recognition.
- (4) On giving a direction for the recognition of a scheme, the Commission shall send a copy of the scheme and of the direction to the central office; and the central office shall keep the copy of the scheme and of the direction in the register.

Textual Amendments

F127 Words in *Sch. 13 para. 4(2)* substituted (1.12.1997) by 1997 c. 32, s. 43, *Sch. 7 para. 63(3)*; S.I. 1997/2668, art. 2, *Sch. Pt. 1(j)(l)(xvii)*

Procedure for recognition: submission by societies

- 5 (1) Submission by or on behalf of building societies of a scheme for approval by the Commission as a recognised scheme shall be made by an application for recognition which shall be—
 - (a) made in such manner as the Commission specifies, either generally or in any particular case; and
 - (b) accompanied by such information as the Commission may reasonably require, either generally or in any particular case, in order to make its decision on the application;

and in this paragraph “the applicants” means those societies or the person acting on their behalf for the purposes of the application.

- (2) Where an application is made to the Commission for recognition of a scheme then—
 - (a) if it appears to the Commission that the scheme qualifies for recognition and conforms to the relevant requirements in respect of one or more [^{F128}relevant services], the Commission shall approve the scheme as a recognised scheme to such extent as it considers appropriate;
 - (b) if it appears to the Commission that the scheme, with modifications, will, in addition to qualifying for recognition, conform to the relevant requirements in respect of one or more [^{F128}relevant services], and the applicants agree on appropriate modifications within the period of 21 days from the date on which the Commission notifies the applicants of the modifications it proposes for their agreement, the Commission shall approve the scheme as modified as a recognised scheme to such extent as it considers appropriate;

but otherwise it shall withhold its approval.

- (3) The Commission shall, on approving a scheme, give a direction for its recognition and send copies of the direction to the applicants.

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- (4) On giving a direction for the recognition of a scheme, the Commission shall also send a copy of the scheme and of the direction to the central office; and the central office shall keep the copy of the scheme and of the direction in the register.

Textual Amendments

F128 Words in Sch. 13 para. 5(2) substituted (1.12.1997) by 1997 c. 32, s. 43, Sch. 7 para. 63(4); S.I. 1997/2668, art. 2, Sch. Pt. I(j)(I)(xvii)

Procedure on accession to schemes

- 6 (1) A building society [^{F129}or connected undertaking of a building society] which accedes to a recognised scheme or has acceded to a scheme which becomes a recognised scheme shall, within the period of 21 days beginning with the date of its accession or on which it receives a copy of the direction for its recognition, as the case may be, send a notice of that fact to the central office and to the Commission.
- (2) A notice by a society [^{F130}or undertaking] under sub-paragraph (1) above shall specify [^{F131}the relevant services] action in relation to which by the society [^{F130}or undertaking] is subject to investigation under the scheme.
- (3) The central office, on receiving such a notice from a society, shall, if satisfied that the scheme is a recognised scheme to the extent required to enable the society to comply with its duty under section 83(3) in relation to [^{F132}the relevant services] specified in the notice record the accession of the society to the scheme in the public file of the society.
- [^{F133}(3A) The central office, on receiving such a notice from a connected undertaking of a society, shall, if satisfied that the scheme is a recognised scheme to the extent required to enable the society to comply with its duty under section 83(4) in relation to the relevant services specified in the notice record the accession of the undertaking to the scheme in the public file of the society.]
- (4) If a building society [^{F134}or connected undertaking] fails to comply with sub-paragraph (1) above, the society [^{F135}or undertaking] 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 continuesX;
- and so shall any director of the society [^{F135}or undertaking] who is also guilty of the offence.

Textual Amendments

F129 Words in Sch. 13 para. 6(1) inserted (1.12.1997) by 1997 c. 32, s. 43, Sch. 7 para. 63(5); S.I. 1997/2668, art. 2, Sch. Pt. I(j)(I)(xvii)

F130 Words in Sch. 13 para. 6(2) inserted (1.12.1997) by 1997 c. 32, s. 43, Sch. 7 para. 63(6)(a); S.I. 1997/2668, art. 2, Sch. Pt. I(j)(I)(xvii)

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- F131** Words in Sch. 13 para. 6(2) substituted (1.12.1997) by 1997 c. 32, s. 43, **Sch. 7 para. 63(6)(b)**; S.I. 1997/2668, art. 2, **Sch. Pt. I(j)(l)(xvii)**
- F132** Words in Sch. 13 para. 6(3) substituted (1.12.1997) by 1997 c. 32, s. 43, **Sch. 7 para. 63(7)**; S.I. 1997/2668, art. 2, **Sch. Pt. I(j)(l)(xvii)**
- F133** Sch. 13 para. 6(3A) inserted (1.12.1997) by 1997 c. 32, s. 43, **Sch. 7 para. 63(8)**; S.I. 1997/2668, art. 2, **Sch. Pt. I(j)(l)(xvii)**
- F134** Words in Sch. 13 para. 6(4) inserted (1.12.1997) by 1997 c. 32, s. 43, **Sch. 7 para. 63(9)(a)**; S.I. 1997/2668, art. 2, **Sch. Pt. I(j)(l)(xvii)**
- F135** Words in Sch. 13 para. 6(4) inserted (1.12.1997) by 1997 c. 32, s. 43, **Sch. 7 para. 63(9)(b)**; S.I. 1997/2668, art. 2, **Sch. Pt. I(j)(l)(xvii)**

Withdrawal of recognition

- 7 (1) The Commission may withdraw its recognition of a scheme if it appears to the Commission that—
- (a) the scheme does not conform to the relevant requirements; or
 - (b) the scheme is so operated as not to conform to those requirements.
- (2) Withdrawal of recognition of a scheme under this paragraph may operate in relation to the scheme as a whole or to the extent to which the scheme makes one or more ^{F136}relevant services] subject to investigation under it.

Textual Amendments

- F136** Words in Sch. 13 para. 7(2) substituted (1.12.1997) by 1997 c. 32, s. 43, **Sch. 7 para. 63(10)**; S.I. 1997/2668, art. 2, **Sch. Pt. I(j)(l)(xvii)**

- 8 (1) If the Commission proposes at any time to withdraw recognition of a scheme to any extent, it shall serve on each member, on the body administering the scheme and on the adjudicator under the scheme, a notice stating—
- (a) that the Commission proposes to withdraw recognition and to what extent;
 - (b) the grounds for the proposed withdrawal of recognition; and
 - (c) that the person receiving the notice may make representations with respect to the proposed withdrawal within such period of not less than 14 days as may be specified in the notice.
- (2) The Commission shall, before reaching a decision on whether to withdraw recognition, consider any representations made to it in accordance with sub-paragraph (1) above and shall serve on every person on whom it served a notice under that sub-paragraph a notice stating its decision and the grounds for it.
- 9 Withdrawal of recognition by the Commission shall take effect as from such date as is specified in the notice of its decision, being a date not less than one year nor more than two years after the date of the notice.

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Withdrawal from membership

- 10 (1) A building society [^{F137}or connected undertaking of a building society]wishing to withdraw from membership of a recognised scheme shall send notice of its proposed withdrawal to the central office and to the Commission.
- (2) A notice by a society [^{F138}or undertaking]under sub-paragraph (1) above shall specify [^{F139}the relevant services]action in relation to which by the society [^{F138}or undertaking]is subject to investigation under the scheme and the recognised scheme or recognised schemes of which it is or, on its withdrawal, will become a member under which, as regards each of [^{F139}the relevant services] specified in the notice, action by the society [^{F138}or undertaking]is or will be subject to investigation.
- (3) The central office, on receiving such a notice from a society, if satisfied that its withdrawal from the scheme will not result in a failure by it to comply with the duty imposed on it by section 83(3), shall confirm the withdrawal of the society from the scheme; but, if the central office is not so satisfied, the central office shall withhold its confirmation.
- [^{F140}(3A) The central office, on receiving such a notice from a connected undertaking of a society, if satisfied that its withdrawal from the scheme will not result in a failure by the society to comply with the duty imposed on it by section 83(4), shall confirm the withdrawal of the undertaking from the scheme; but, if the central office is not so satisfied, the central office shall withhold its confirmation.]
- (4) If the central office withholds its confirmation of a society's [^{F141}or undertaking's]withdrawal from a scheme, the society [^{F142}or undertaking]shall continue to a member of the scheme and bound and entitled under the scheme accordingly.
- (5) On confirming the withdrawal of a society [^{F143}or connected undertaking of a society]from a scheme the central office shall send to the society [^{F144}or undertaking]and to the Commission notice of its decision and the central office shall record the decision in the public file of the society.

Textual Amendments

- F137** Words in Sch. 13 para. 10(1) inserted (1.12.1997) by 1997 c. 32, s. 43, **Sch. 7 para. 63(11)**; S.I. 1997/2668, art. 2, **Sch. Pt. I(j)(l)(xvii)**
- F138** Words in Sch. 13 para. 10(2) inserted (1.12.1997) by 1997 c. 32, s. 43, **Sch. 7 para. 63(12)(a)**; S.I. 1997/2668, art. 2, **Sch. Pt. I(j)(l)(xvii)**
- F139** Words in Sch. 13 para. 10(2) substituted (1.12.1997) by 1997 c. 32, s. 43, **Sch. 7 para. 63(12)(b)**; S.I. 1997/2668, art. 2, **Sch. Pt. I(j)(l)(xvii)**
- F140** Sch. 13 para. 10(3A) inserted (1.12.1997) by 1997 c. 32, s. 43, **Sch. 7 para. 63(13)**; S.I. 1997/2668, art. 2, **Sch. Pt. I(j)(l)(xvii)**
- F141** Words in Sch. 13 para. 10(4) inserted (1.12.1997) by 1997 c. 32, s. 43, **Sch. 7 para. 63(14)(a)**; S.I. 1997/2668, art. 2, **Sch. Pt. I(j)(l)(xvii)**
- F142** Words in Sch. 13 para. 10(4) inserted (1.12.1997) by 1997 c. 32, s. 43, **Sch. 7 para. 63(14)(b)**; S.I. 1997/2668, art. 2, **Sch. Pt. I(j)(l)(xvii)**
- F143** Words in Sch. 13 para. 10(5) inserted (1.12.1997) by 1997 c. 32, s. 43, **Sch. 7 para. 63(15)(a)**; S.I. 1997/2668, art. 2, **Sch. Pt. I(j)(l)(xvii)**

Status: Point in time view as at 01/06/1998.

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F144 Words in [Sch. 13 para. 10\(5\)](#) inserted (1.12.1997) by [1997 c. 32, s. 43](#), [Sch. 7 para. 63\(15\)\(b\)](#); [S.I. 1997/2668, art. 2](#), [Sch. Pt. I\(j\)\(l\)\(xvii\)](#)

SCHEDULE 14

Section 85.

SETTLEMENT OF DISPUTES

Modifications etc. (not altering text)

C14 [Sch. 14](#) excluded (*temp.*) by [S.I. 1986/2168, art. 3\(1\)\(4\)](#)

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 [^{F145}paragraph 20A(10)(a) or 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.

Textual Amendments

F145 Words in [Sch. 14 para. 1\(4\)](#) 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. 64\(1\)](#); [S.I. 1997/2668, art. 2](#), [Sch. Pt. II\(w\)\(z\)\(xxxvii\)](#)

Status: Point in time view as at 01/06/1998.

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- 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.

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 [^{F146}or a revised election address], in accordance with section 61(7), or
 - (b) any document required to be sent under [^{F147}paragraph 20A(1)(b) or 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 [^{F148}paragraph 20A(1)(b) or 31(1)] are being abused to seek needless publicity for defamatory matter.

Textual Amendments

F146 Words in [Sch. 14 para. 4\(1\)](#) 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. 64\(2\)\(a\)](#); S.I. 1997/2668, art. 2, [Sch. Pt. II\(w\)\(z\)\(xxxvii\)](#)

Status: Point in time view as at 01/06/1998.

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F147 Words in **Sch. 14 para. 4(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. 64(2)(b)**; S.I. 1997/2668, art. 2, **Sch. Pt. II(w)(z)(xxxvii)**

F148 Words in **Sch. 14 para. 4(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. 64(3)**; S.I. 1997/2668, art. 2, **Sch. Pt. II(w)(z)(xxxvii)**

[^{F149}Calling of special meeting]

Textual Amendments

F149 **Sch. 14 para. 4A** and cross-heading preceding it 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. 64(4)**; S.I. 1997/2668, art. 2, **Sch. Pt. II(w)(z)(xxxvii)**

[^{F150}4A If the rules of the society so provide, any dispute in respect of a refusal by a building society to call a special meeting required to be called under paragraph 20A(1)(a) of Schedule 2 to this Act shall be referred to arbitration.]

Textual Amendments

F150 **Sch. 14 para. 4A** and cross-heading preceding it 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. 64(4)**; S.I. 1997/2668, art. 2, **Sch. Pt. II(w)(z)(xxxvii)**

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 [^{F151}Part I of the Arbitration Act 1996] the rules of the society shall be treated as an arbitration agreement.
- (7) In relation to Scotland, sub-paragraph (6) above shall be omitted.

Textual Amendments

F151 Words in **Sch. 14 Pt. II para. 5(6)** substituted (31.1.1997) by 1996 c. 23, s. 107(1), **Sch. 3 para. 47** (with s. 81(2)); S.I. 1996/3146, **art. 3** (with transitional provisions in **art. 4, Sch. 2**)

Status: Point in time view as at 01/06/1998.

Changes to legislation: Building Societies Act 1986 is up to date with all changes known to be in force on or before 02 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

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 [^{F152}relevant service] action in relation to which is subject to investigation under section 83 may, if the complainant and the society or, as the case may be, the complainant and the [^{F153}connected undertaking] 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.

Textual Amendments

F152 Words in Sch. 14 para. 7(1) substituted (1.12.1997) by 1997 c. 32, s. 43, Sch. 7 para. 64(5)(a); S.I. 1997/2668, art. 2, Sch. Pt. I(j)(I)(xviii)

F153 Words in Sch. 14 para. 7(1) substituted (1.12.1997) by 1997 c. 32, s. 43, Sch. 7 para. 64(5)(b); S.I. 1997/2668, art. 2, Sch. Pt. I(j)(I)(xviii)

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.

SCHEDULE 15

Section 90.

APPLICATION OF COMPANIES WINDING UP LEGISLATION TO BUILDING SOCIETIES

PART I

GENERAL MODE OF APPLICATION

- 1 The enactments which comprise the companies winding up legislation (referred to in this Schedule as “the enactments”) are the provisions of—
- (a) Parts IV, VI, VII^{F154}, XII and XIII] of the ^{M16}Insolvency Act 1986, or

Status: Point in time view as at 01/06/1998.

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[^{F155}(b) Articles 5 to 8 of Part I and Parts V, VII and XI of the Insolvency (Northern Ireland) Order 1989; or]

and, in so far as they relate to offences under any such enactment, sections 430 and 432 of, and Schedule 10 to, the Insolvency Act 1986 or [^{F156}Articles 2(6) and 373 of, and Schedule 7 to, the Insolvency (Northern Ireland) Order 1989].

Textual Amendments

F154 Words substituted by [Companies Act 1989 \(c. 40, SIF 27\)](#), [s. 211\(2\)\(a\)](#) (subject to a saving as referred to in [S.I. 1990/1392](#), [art. 4\(a\)](#))

F155 Sch. 15 para. 1(b) substituted (N.I.) (1.10.1991) by [S.I. 1989/2405 \(N.I. 19\)](#), [arts. 2\(1\), 381](#), [Sch. 9 Pt. II para. 45\(a\)\(i\)](#); [S.R. 1991/411](#), [art. 2](#)

F156 Words in Sch. 15 para. 1 substituted (N.I.) (1.10.1991) by [S.I. 1989/2405 \(N.I. 19\)](#), [arts. 2\(1\), 381](#), [Sch. 9 Pt. II para. 45\(a\)\(ii\)](#); [S.R. 1991/411](#), [art. 2](#)

Marginal Citations

M16 [1986 c. 45](#)

- 2 Subject to the following provisions of this Schedule, the enactments apply to the winding up of building societies as they apply to the winding up of companies limited by shares and registered under the ^{M17}Companies Act 1985 or (as the case may be) the Companies (Northern Ireland) Order 1986.

Marginal Citations

M17 [1985 c. 6](#).

- 3 (1) The enactments shall, in their application to building societies, have effect with the substitution—
- (a) for “company” of “building society”;
 - (b) for “the registrar of companies” or “the registrar” of “the central office”;
 - (c) for “the articles” of “the rules”; and
 - (d) for “registered office” of “principal office”.
- (2) In the application of the enactments to building societies—
- (a) every reference to the officers, or to a particular officer, of a company shall have effect as a reference to the officers, or to the corresponding officer, of the building society and as including a person holding himself out as such an officer; and
- [^{F157}(b) every reference to an administrative receiver shall be omitted.]

Textual Amendments

F157 [Sch. 15 para. 3\(2\)\(b\)](#) substituted (1.12.1997) by [1997 c. 32, s. 43](#), [Sch. 7 para. 65](#); [S.I. 1997/2668](#), [art. 2](#), [Sch. Pt. I\(j\)\(l\)\(xix\)](#)

Status: Point in time view as at 01/06/1998.

Changes to legislation: Building Societies Act 1986 is up to date with all changes known to be in force on or before 02 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- 4 (1) Where any of the enactments as applied to building societies requires a notice or other document to be sent to the central office, it shall have effect as if it required the central office to keep the notice or document in the public file of the society concerned and to record in that file the date on which the notice or document is placed in it.
- (2) Where any of the enactments, as so applied, refers to the registration, or to the date of registration, of such a notice or document, that enactment shall have effect as if it referred to the placing of the notice or document in the public file or (as the case may be) to the date on which it was placed there.
- 5 Any enactment which specifies a money sum altered by order under section 416 of the ^{M18}Insolvency Act 1986, or, as the case may be, [^{F158}Article 362 of the Insolvency (Northern Ireland) Order 1989], (powers to alter monetary limits) applies with the effect of the alteration.

Textual Amendments

F158 Words in Sch. 15 para. 5 substituted (N.I.) (1.10.1991) by S.I. 1989/2405 (N.I. 19), arts. 2(1), 381, Sch. 9 Pt. II para. 45(b); S.R. 1991/411, art. 2

Marginal Citations

M18 1986 c. 45.

PART II

MODIFIED APPLICATION OF INSOLVENCY ACT 1986

PARTS IV AND XII

Preliminary

- 6 In this Part of this Schedule, Part IV of the Insolvency Act 1986 is referred to as “Part IV”; and that Act is referred to as “the Act”.

Members of a building society as contributories in winding up

- 7 (1) Section 74 (liability of members) of the Act is modified as follows.
- (2) In subsection (1), the reference to any past member shall be omitted.
- (3) Paragraphs (a) to (d) of subsection (2) shall be omitted; and so shall subsection (3).
- (4) The extent of the liability of a member of a building society in a winding up shall not exceed the extent of his liability under paragraph 6 of Schedule 2 to this Act.
- 8 Sections 75 to 78 and 83 in Chapter I of Part IV (miscellaneous provisions not relevant to building societies) do not apply.
- 9 (1) Section 79 (meaning of “contributory”) of the Act does not apply.
- (2) In the enactments as applied to a building society, “contributory”—

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- (a) means every person liable to contribute to the assets of the society in the event of its being wound up, and
- (b) for the purposes of all proceedings for determining, and all proceedings prior to the determination of, the persons who are to be deemed contributories, includes any person alleged to be a contributory, and
- (c) includes persons who are liable to pay or contribute to the payment of—
 - (i) any debt or liability of the building society being wound up, or
 - (ii) any sum for the adjustment of rights of members among themselves, or
 - (iii) the expenses of the winding up;

but does not include persons liable to contribute by virtue of a declaration by the court under section 213 (imputed responsibility for fraudulent trading) or section 214 (wrongful trading) of the Act.

Voluntary winding up

- 10 (1) Section 84 of the Act does not apply.
- (2) In the enactments as applied to a building society, the expression “resolution for voluntary winding up” means a resolution passed under section 88(1) of this Act.
- 11 In subsection (1) of section 101 (appointment of liquidation committee) of the Act, the reference to functions conferred on a liquidation committee by or under that Act shall have effect as a reference to its functions by or under that Act as applied to building societies.
- 12 (1) Section 107 (distribution of property) of the Act does not apply; and the following applies in its place.
- (2) Subject to the provisions of Part IV relating to preferential payments, a building society’s property in a voluntary winding up shall be applied in satisfaction of the society’s liabilities to creditors (including any liability resulting from the variation to the liquidator’s duty effected by section 28 or 31 of this Act) *pari passu* and, subject to that application, in accordance with the rules of the society.
- 13 Sections 110 and 111 (liquidator accepting shares, etc. as consideration for sale of company property) of the Act do not apply.
- 14 Section 116 (saving for certain rights) of the Act shall also apply in relation to the dissolution by consent of a building society as it applies in relation to its voluntary winding up.

Winding up by the court

- 15 In sections 117 (High Court and county court jurisdiction) and 120 (Court of Session and sheriff court jurisdiction) of the Act, each reference to a company’s share capital paid up or credited as paid up shall have effect as a reference to the amount standing to the credit of shares in a building society as shown by the latest balance sheet.
- 16 Section 122 (circumstances in which company may be wound up by the court) of the Act does not apply.
- 17 Section 124 (application for winding up) of the Act does not apply.

Status: Point in time view as at 01/06/1998.

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- 18 (1) In section 125 (powers of court on hearing of petition) of the Act, subsection (1) applies with the omission of the words from “but the court” to the end of the subsection.
- (2) The conditions which the court may impose under section 125 of the Act include conditions for securing—
- (a) that the building society be dissolved by consent of its members under section 87, or
 - (b) that the society amalgamates with, or transfers its engagements to, another building society under section 93 or 94, or
 - (c) that the society transfers its business to a company under section 97,
- and may also include conditions for securing that any default which occasioned the petition be made good and that the costs, or in Scotland the expenses, of the proceedings on that petition be defrayed by the person or persons responsible for the default.
- 19 Section 126 (power of court, between petition and winding up order, to stay or restrain proceedings against company) of the Act has effect with the omission of subsection (2).
- 20 If, before the presentation of a petition for the winding up by the court of a building society, an instrument of dissolution under section 87 is placed in the society’s public file, section 129(1) (commencement of winding up by the court) of the Act shall also apply in relation to the date on which the instrument is so placed and to any proceedings in the course of the dissolution as it applies to the commencement date for, and proceedings in, a voluntary winding up.
- 21 (1) Section 130 of the Act (consequences of winding-up order) shall have effect with the following modifications.
- (2) Subsections (1) and (3) shall be omitted.
- (3) A building society shall, within 15 days of a winding-up order being made in respect of it, give notice of the order to the central office; and the central office shall keep the notice in the public file of the society.
- (4) If a building society fails to comply with sub-paragraph (3) above, it 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.
- 22 Section 140 (appointment of liquidator by court in certain circumstances) of the Act does not apply.
- 23 In the application of sections 141(1) and 142(1) (liquidation committees), of the Act to building societies, the references to functions conferred on a liquidation committee by or under that Act shall have effect as references to its functions by or under that Act as so applied.
- 24 The conditions which the court may impose under section 147 (power to stay or sist winding up) of the Act shall include those specified in paragraph 18(2) above.
- 25 Section 154 (adjustment of rights of contributories) of the Act shall have the effect with the modification that any surplus is to be distributed in accordance with the rules of the society.

Status: Point in time view as at 01/06/1998.

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- 26 In section 165(2) (liquidator’s powers) of the Act, the reference to an extraordinary resolution shall have effect as a reference to a special resolution.

Winding up: general

- 27 Section 187 (power to make over assets to employees) of the Act does not apply.
- 28 (1) In section 201 (dissolution: voluntary winding up) of the Act, subsection (2) applies without the words from “and on the expiration” to the end of the subsection and, in subsection (3), the word “However” shall be omitted.
- (2) Sections 202 to 204 (early dissolution) of the Act do not apply.
- 29 In section 205 (dissolution: winding up by the court) of the Act, subsection (2) applies with the omission of the words from “and, subject” to the end of the subsection; and in subsections (3) and (4) references to the Secretary of State shall have effect as references to the Commission.

Penal provisions

- 30 Sections 216 and 217 of the Act (restriction on re-use of name) do not apply.
- 31 (1) Sections 218 and 219 (prosecution of delinquent officers) of the Act do not apply in relation to offences committed by members of a building society acting in that capacity.
- (2) Sections 218(5) of the Act and subsections (1) and (2) of section 219 of the Act do not apply.
- (3) The references in subsections (3) and (4) of section 219 of the Act to the Secretary of State shall have effect as references to the Commission; and the reference in subsection (3) to subsection 218 of the Act shall have effect as a reference to that section as supplemented by paragraph 32 below.
- 32 (1) Where a report is made to the prosecuting authority (within the meaning of section 218) under section 218(4) of the Act, in relation to an officer of a building society, he may, if he thinks fit, refer the matter to the Commission for further enquiry.
- (2) On such a reference to it the Commission shall exercise its power under section 55(1) of this Act to appoint one or more investigators to investigate and report on the matter.
- (3) An answer given by a person to a question put to him in exercise of the powers conferred by section 55 on a person so appointed may be used in evidence against the person giving it.

Preferential debts

- 33 Section 387 (meaning in Schedule 6 of “the relevant date”) of the Act applies with the omission of subsections (2) and (4) to (6).

Status: Point in time view as at 01/06/1998.

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[^{F159}PART III

MODIFIED APPLICATION OF INSOLVENCY (NORTHERN IRELAND) ORDER 1989

Textual Amendments

F159 Sch. 15 paras. 34-55E substituted (N.I.) (1.10.1991) for Sch. 15 paras. 34-55 by S.I. 1989/2405 (N.I. 19), arts. 2(1), 381, **Sch. 9 Pt. II para. 45(c)**; S.R. 1991/411, **art. 2**

PARTS V AND XI

Preliminary

- 34 In this Part of this Schedule, Part V of the Insolvency (Northern Ireland) Order 1989 is referred to as “Part V”, that Order is referred to as “the Order” and references to “Articles” are references to Articles of that Order.

Members of a building society as contributories in winding up

- 35 (1) Article 61 (liability of members) is modified as follows.
- (2) In paragraph (1), the reference to any past member shall be omitted.
- (3) Sub-paragraphs (a) to (d) of paragraph (2) shall be omitted; and so shall paragraph (3).
- (4) The extent of the liability of a member of a building society in a winding up shall not exceed the extent of his liability under paragraph 6 of Schedule 2 to this Act.

- 36 Articles 62 to 65 and 69 in Chapter I of Part V (miscellaneous provisions not relevant to building societies) do not apply.

- 37 In the enactments as applied to a building society, “contributory”—
- (a) means every person liable to contribute to the assets of the society in the event of its being wound up, and
- (b) for the purposes of all proceedings for determining, and all proceedings prior to the determination of, the persons who are to be deemed contributories, includes any person alleged to be a contributory, and
- (c) includes persons who are liable to pay or contribute to the payment of—
- (i) any debt or liability of the building society being wound up, or
- (ii) any sum for the adjustment of rights of members among themselves, or
- (iii) the expenses of the winding up;
- but does not include persons liable to contribute by virtue of a declaration by the Court under Article 177 (imputed responsibility for fraudulent trading) or Article 178 (wrongful trading).

Voluntary winding up

- 38 (1) Article 70 does not apply.

Status: Point in time view as at 01/06/1998.

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- (2) In the enactments as applied to a building society, the expression “resolution for voluntary winding up” means a resolution passed under section 88(1) of this Act.
- 39 In paragraph (1) of Article 87 (appointment of liquidation committee), the reference to functions conferred on a liquidation committee by or under the Order shall have effect as a reference to its functions by or under the Order as applied to building societies.
- 40 (1) Article 93 (distribution of property) does not apply; and the following applies in its place.
- (2) Subject to the provisions of Part V relating to preferential payments, a building society’s property in a voluntary winding up shall be applied in satisfaction of the society’s liabilities to creditors (including any liability resulting from the variation to the liquidator’s duty effected by section 28 or 31 of this Act) *pari passu* and, subject to that application, in accordance with the rules of the society.
- 41 Articles 96 and 97 (liquidator accepting shares, etc, as consideration for sale of company property) do not apply.
- 42 Article 101 (saving for certain rights) shall also apply in relation to the dissolution by consent of a building society as it applies in relation to its voluntary winding up.
- Winding up by the High Court*
- 43 Article 102 (circumstances in which company may be wound up by the High Court) does not apply.
- 44 Article 104 (application for winding up) does not apply.
- 45 (1) In Article 105 (powers of High Court on hearing of petition), paragraph (1) applies with the omission of the words from “but the Court” to the end of the paragraph.
- (2) The conditions which the High Court may impose under Article 105 include conditions for securing—
- (a) that the building society be dissolved by consent of its members under section 87, or
 - (b) that the society amalgamates with, or transfers its engagements to, another building society under section 93 or 94, or
 - (c) that the society transfers its business to a company under section 97,
- and may also include conditions for securing that any default which occasioned the petition be made good and that the costs of the proceedings on that petition be defrayed by the person or persons responsible for the default.
- 46 Article 106 (power of High Court, between petition and winding-up order, to stay or restrain proceedings against company) has effect with the omission of paragraph (2).
- 47 If, before the presentation of a petition for the winding up by the High Court of a building society, an instrument of dissolution under section 87 is placed in the society’s public file, Article 109(1) (commencement of winding up by the High Court) shall also apply in relation to the date on which the instrument is so placed and to any proceedings in the course of the dissolution as it applies to the commencement date for, and proceedings in, a voluntary winding up.
- 48 (1) Article 110 (consequences of winding-up order) shall have effect with the following modifications.

Status: Point in time view as at 01/06/1998.

Changes to legislation: Building Societies Act 1986 is up to date with all changes known to be in force on or before 02 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (2) Paragraphs (1) and (3) shall be omitted.
- (3) A building society shall, within 15 days of a winding-up order being made in respect of it, give notice of the order to the central office; and the central office shall keep the notice in the public file of the society.
- (4) If a building society fails to comply with sub-paragraph (3) above, it 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.
- 49 Article 119 (appointment of liquidator by High Court in certain circumstances) does not apply.
- 50 In the application of Article 120(1) (liquidation committee) to building societies, the references to functions conferred on a liquidation committee by or under the Order shall have effect as references to its function by or under the Order as so applied.
- 51 The conditions which the High Court may impose under Article 125 (power to stay winding up) shall include those specified in paragraph 45(2) above.
- 52 Article 132 (adjustment of rights of contributories) shall have effect with the modification that any surplus is to be distributed in accordance with the rules of the society.
- 53 In Article 140(2) (liquidator's powers), the reference to an extraordinary resolution shall have effect as a reference to a special resolution.

Winding up: general

- 54 Article 158 (power to make over assets to employees) does not apply.
- 55 (1) In Article 166 (dissolution: voluntary winding up), paragraph (2) applies without the words from “and on the expiration” to the end of the paragraph and, in paragraph (3), the word “However” shall be omitted.
- (2) Articles 167 and 168 (early dissolution) do not apply.
- 55A In Article 169 (dissolution: winding up by the High Court) paragraph (1) applies with the omission of the words from “and, subject” to the end of the paragraph; and in paragraphs (2) and (3) references to the Department shall have effect as references to the Commission.

Penal provisions

- 55B Articles 180 and 181 (restriction on re-use of name) do not apply.
- 55C (1) Articles 182 and 183 (prosecution of delinquent officers) do not apply in relation to offences committed by members of a building society acting in that capacity.
- (2) Article 182(4) and paragraphs (1) and (2) of Article 183 do not apply.
- (3) The references in paragraphs (3) and (5) of Article 183 to the Department shall have effect as references to the Commission; and the reference in paragraph (3) to Article 182 shall have effect as a reference to that Article as supplemented by paragraph 55D below.

Status: Point in time view as at 01/06/1998.

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- 55D (1) Where a report is made to the prosecuting authority (within the meaning of Article 182) under Article 182(3), in relation to an officer of a building society, he may, if he thinks fit, refer the matter to the Commission for further enquiry.
- (2) On such a reference to it the Commission shall exercise its power under section 55(1) of this Act to appoint one or more investigators to investigate and report on the matter.
- (3) An answer given by a person to a question put to him in exercise of the powers conferred by section 55 on a person so appointed may be used in evidence against the person giving it.

Preferential debts

- 55E Article 347 (meaning in Schedule 4 of “the relevant date”) applies with the omission of paragraphs (2) and (4) to (6).]

PART IV

DISSOLUTION OF BUILDING SOCIETY WOUND UP (ENGLAND
AND WALES, SCOTLAND AND NORTHERN IRELAND)

- 56 (1) Where a building society has been wound up voluntarily, it is dissolved as from 3 months from the date of the placing in the public file of the society of the return of the final meetings of the society and its creditors made by the liquidator under—
- (a) section 94 or (as the case may be) 106 of the ^{M19}Insolvency Act 1986 (as applied to building societies), or on such other date as is determined in accordance with section 201 of that Act, or
- (b) Article [^{F160}80 or (as the case may be) 92 of the Insolvency (Northern Ireland) Order 1989](as so applied), or on such other date as is determined in accordance with that Article,
- as the case may be.
- (2) Where a building society has been wound up by the court, it is dissolved as from 3 months from the date of the placing in the public file of the society of—
- (a) the liquidator’s notice under section 172(8) of the ^{M20}Insolvency Act 1986 (as applied to building societies) [^{F161}or, as the case may be, Article 146(7) of the Insolvency (Northern Ireland) Order 1989 (as applied to building societies)], or
- (b) the notice of the completion of the winding up from the official receiver or the [^{F162}official receiver for Northern Ireland],
- or on such other date as is determined in accordance with section 205 of that Act [^{F163}or Article 169 of that Order], as the case may be.

Textual Amendments

F160 Words in Sch. 15 para. 56(1)(b) substituted (N.I.) (1.10.1991) by S.I. 1989/2405 (N.I. 19), arts. 2(1), 381, Sch. 9 Pt. II para. 45(d)(i); S.R. 1991/411, art. 2

F161 Words in Sch. 15 para. 56(2)(a) inserted (N.I.) (1.10.1991) by S.I. 1989/2405 (N.I. 19), arts. 2(1), 381, Sch. 9 Pt. II para. 45(d)(ii); S.R. 1991/411, art. 2

Status: Point in time view as at 01/06/1998.

Changes to legislation: Building Societies Act 1986 is up to date with all changes known to be in force on or before 02 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

F162 Words in Sch. 15 para. 56(2)(b) substituted (N.I.) (1.10.1991) by S.I. 1989/2405 (N.I. 19), arts. 2(1), 381, Sch. 9 Pt. II para. 45(d)(iii); S.R. 1991/411, art. 2

F163 Words in Sch. 15 para. 56(2) inserted (N.I.) (1.10.1991) by S.I. 1989/2405 (N.I. 19), arts. 2(1), 381, Sch. 9 Pt. II para. 45(d)(iv); S.R. 1991/411, art. 2

Marginal Citations

M19 1986 c. 45

M20 1986 c. 45.

- 57 (1) Sections 654 to 658 of the ^{M21}Companies Act 1985 or Articles 605 to 609 of the Companies (Northern Ireland) Order 1986 (provisions as to corporate property as bona vacantia) shall have the same effect in relation to the property of a dissolved building society (whether dissolved under section 87 or following its winding up) as they have in relation to the property of a dissolved company, but with the following modifications.
- (2) Paragraph 3(1) above shall apply to those sections for the purpose of their application to building societies.
- (3) Subsection (2) of section 654 and subsections (1) and (3) of section 655 apply without the words “or 653”; and the references in those subsections to section 651 shall have effect as references to section 91 of this Act.
- (4) Paragraph (2) of Article 605 and paragraph (1) of Article 606 apply without the words “or 604”; and references in those paragraphs to Article 602 shall have effect as references to section 91 of this Act.

Marginal Citations

M21 1985 c. 6.

Insolvency rules and fees: England and Wales and Scotland

- 58 (1) Rules may be made under section 411 of the Insolvency Act for the purpose of giving effect, in relation to building societies, to the provisions of the applicable winding up legislation.
- (2) An order made by the competent authority under section 414 of the Insolvency Act 1986 may make provision for fees to be payable under that section in respect of proceedings under the applicable winding up legislation and the performance by the official receiver or the Secretary of State of functions under it.

Insolvency rules and fees: Northern Ireland

- 59 (1) Rules may be made under [^{F164}Article 359 of the Insolvency (Northern Ireland) Order 1989] for the purpose of giving effect in relation to building societies, to the provisions of the applicable winding up legislation.
- [^{F165}(2) An order made by the Department of Economic Development under Article 361 of the Insolvency (Northern Ireland) Order 1989 may make provision for fees to be payable under that Article in respect of proceedings under the applicable winding-up legislation and the performance by the official receiver for Northern Ireland or that Department of functions under it.]

Status: Point in time view as at 01/06/1998.

Changes to legislation: Building Societies Act 1986 is up to date with all changes known to be in force on or before 02 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

- F164** Words in Sch. 15 para. 59(1) substituted (N.I.) (1.10.1991) by S.I. 1989/2405 (N.I. 19), arts. 2(1), 381, Sch. 9 Pt. II para. 45(e)(i); S.R. 1991/411, art. 2
- F165** Sch. 15 para. 59(2) substituted (N.I.) (1.10.1991) by S.I. 1989/2405 (N.I. 19), arts. 2(1), 381, Sch. 9 Pt. II para. 45(e)(ii); S.R. 1991/411, art. 2

[^{F166}SCHEDULE 15A

APPLICATION OF OTHER COMPANIES INSOLVENCY LEGISLATION TO BUILDING SOCIETIES

Textual Amendments

- F166** Sch. 15A inserted (1.12.1997) by 1997 c. 32, s. 39(2), Sch. 6; S.I. 1997/2668, art. 2, Sch. Pt. I(i)

PART I

GENERAL MODE OF APPLICATION

- 1 (1) Subject to the provisions of this Schedule, the enactments specified in sub-paragraph (2) below (referred to in this Schedule as “the enactments”) apply in relation to building societies as they apply in relation to companies limited by shares and registered under the ^{M22}Companies Act 1985 or (as the case may be) the ^{M23}Companies (Northern Ireland) Order 1986.
- (2) The enactments referred to in sub-paragraph (1) above are—
- (a) Parts I and II, Chapter I of Part III, Parts VI, VII, XII and XIII, section 434 and Part XVIII of the ^{M24}Insolvency Act 1986, or
 - (b) Parts I to IV, VII, XI and XII and Article 378 of the ^{M25}Insolvency (Northern Ireland) Order 1989,
- and, in so far as they relate to offences under any such enactment, sections 430 and 432 of, and Schedule 10 to, the ^{M26}Insolvency Act 1986 or Article 2(6) and 373 of, and Schedule 7 to, the ^{M27}Insolvency (Northern Ireland) Order 1989.

Marginal Citations

- M22** 1985 c.6.
M23 S.I. 1986/1032 (N.I.6).
M24 1986 c.45.
M25 S.I. 1989/2405 (N.I.19).
M26 1986 c.45.
M27 S.I. 1989/2405 (N.I.19).

Status: Point in time view as at 01/06/1998.

Changes to legislation: Building Societies Act 1986 is up to date with all changes known to be in force on or before 02 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- 2 (1) The enactments shall, in their application to building societies, have effect with the substitution—
 - (a) for “company” of “building society”;
 - (b) for “the registrar of companies” or “the registrar” of “the central office”;
 - (c) for “the articles” of “the rules”; and
 - (d) for “registered office” of “principal office”.
 - (2) In the application of the enactments to building societies—
 - (a) every reference to the officers, or to a particular officer, of a company shall have effect as a reference to the officers, or to the corresponding officer, of the building society and as including a person holding himself out as such an officer; and
 - (b) every reference to an administrative receiver shall be omitted.
 - 3 (1) Where any of the enactments as applied to building societies requires a notice or other document to be sent to the central office, it shall have effect as if it required the central office to keep the notice or document in the public file of the society concerned and to record in that file the date on which the notice or document is placed in it.
 - (2) Where any of the enactments, as so applied, refers to the registration, or to the date of registration, of such a notice or document, that enactment shall have effect as if it referred to the placing of the notice or document in the public file or (as the case may be) to the date on which it was placed there.
 - 4 (1) Rules may be made under section 411 of the ^{M28}Insolvency Act 1986 or, as the case may be, Article 359 of the ^{M29}Insolvency (Northern Ireland) Order 1989 for the purpose of giving effect, in relation to building societies, to the provisions of the enactments.
 - (2) An order made by the competent authority under section 414 of the Insolvency Act 1986 may make provision for fees to be payable under that section in respect of proceedings under the enactments and the performance by the official receiver or the Secretary of State of functions under them.
 - (3) An order made by the Department of Economic Development under Article 361 of the Insolvency (Northern Ireland) Order 1989 may make provision for fees to be payable under that Article in respect of proceedings under the enactments and the performance by the official receiver or that Department of functions under them.
- Marginal Citations**
M28 1986 c.45.
M29 S.I. 1989/2405 (N.I.19).
- 5 Any enactment which specifies a money sum altered by order under section 416 of the Insolvency Act 1986, or, as the case may be, Article 362 of the Insolvency (Northern Ireland) Order 1989, (powers to alter monetary limits) applies with the effect of the alteration.

Status: Point in time view as at 01/06/1998.

Changes to legislation: Building Societies Act 1986 is up to date with all changes known to be in force on or before 02 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

VALID FROM 17/08/2001

[
 F167 5A In this Schedule, “scheme manager” has the same meaning as in the Financial Services and Markets Act 2000.]

Textual Amendments

F167 Sch. 15A para. 5A 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. 210\(d\)](#) (with [art. 13\(3\)](#), [Sch. 5](#)); [S.I. 2001/3538](#), [art. 2](#)

PART II

MODIFIED APPLICATION OF PARTS I AND II AND CHAPTER I OF PART III OF INSOLVENCY ACT 1986

Preliminary

6 In this Part of this Schedule, the ^{M30}Insolvency Act 1986 is referred to as “the Act”.

Marginal Citations

M30 1986 c.45.

Voluntary arrangements

- 7 Section 1 of the Act (proposals for voluntary arrangements) has effect as if—
- (a) it required any proposal under Part I of the Act to be so framed as to enable a building society to comply with the requirements of this Act; and
 - (b) any reference to debts included a reference to liabilities owed to the holders of shares in a building society.
- 8 In section 2 (procedure where nominee is not liquidator or administrator) and section 3 (summoning of meetings) of the Act as applied to a building society, any reference to a meeting of the society is a reference to—
- (a) a meeting of both shareholding and borrowing members of the society; and
 - (b) a meeting of shareholding members alone.

VALID FROM 01/01/2003

[
 F168 8A In subsection (2) of section 4A of the Act (approval of arrangement) as applied to a building society, paragraph (b) and the word “or” immediately preceding that paragraph are omitted.]

Status: Point in time view as at 01/06/1998.

Changes to legislation: Building Societies Act 1986 is up to date with all changes known to be in force on or before 02 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

F168 Sch. 15A para. 8A inserted (1.1.2003) by 2000 c. 39, s. 2, **Sch. 2 Pt. II para. 14(3)**; S.I. 2002/2711, **art. 2** (subject to **arts. 3-5**)

9 In section 6 of the Act (challenge of decisions) as applied to a building society, “contributory”—

- (a) means every person liable to contribute to the assets of the society in the event of its being wound up, and
- (b) for the purposes of all proceedings for determining, and all proceedings prior to the determination of, the persons who are to be deemed contributories, includes any person alleged to be a contributory, and
- (c) includes persons who are liable to pay or contribute to the payment of—
 - (i) any debt or liability of the building society being wound up, or
 - (ii) any sum for the adjustment of rights of members among themselves, or
 - (iii) the expenses of the winding up;

but does not include persons liable to contribute by virtue of a declaration by the court under section 213 (imputed responsibility for fraudulent trading) or section 214 (wrongful trading) of the Act.

[^{F169}9A In section 7A of the Act (prosecution of delinquent officers) as applied to a building society—

- (a) in subsection (2), for paragraphs (i) and (ii) there is substituted “ the [^{F170}Authority] ”,
- (b) subsections (3) to (7) are omitted,
- (c) in subsection (8), for “Secretary of State” there is substituted “ [^{F170}Authority] ”.]

Textual Amendments

F169 Sch. 15A para. 9A inserted (*prosp.*) by 2000 c. 39, ss. 2, 16(1)(2), **Sch. 2 Pt. II para. 14(4)**

F170 Words in Sch. 15A para. 9A 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. 210(e)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2**

[^{F169}9A In section 7A of the Act (prosecution of delinquent officers) as applied to a building society—

- (a) in subsection (2), for paragraphs (i) and (ii) there is substituted “ the Commission ”
- (b) subsections (3) to (7) are omitted,
- (c) in subsection (8), for “Secretary of State” there is substituted “ Commission ”.]

Textual Amendments

F169 Sch. 15A para. 9A inserted (*prosp.*) by 2000 c. 39, ss. 2, 16(1)(2), **Sch. 2 Pt. II para. 14(4)**

Status: Point in time view as at 01/06/1998.

Changes to legislation: Building Societies Act 1986 is up to date with all changes known to be in force on or before 02 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Administration orders

- 10 (1) Section 8 of the Act (power of court to make administration order) has effect as if it included provision that, where—
- (a) an application for an administration order to be made in relation to a building society is made by the Commission (with or without other parties); and
 - (b) the society has defaulted in an obligation to pay any sum due and payable in respect of any deposit or share,
- the society shall be deemed for the purposes of subsection (1) to be unable to pay its debts.
- (2) In subsection (3) of that section, paragraph (c) and, in subsection (4) of that section, the words from “nor where” to the end are omitted.
- 11 (1) Subsection (1) of section 9 of the Act (application for administration order) as applied to a building society has effect as if—
- (a) it enabled an application to the court for an administration order to be by petition presented, with or without other parties, by the Commission or by a shareholding member entitled under section 89(3) of this Act to petition for the winding up of the society; and
 - (b) the words from “or by the clerk” to “on companies)” were omitted.
- (2) In subsection (2)(a) of that section as so applied, the reference to any person who has appointed, or is or may be entitled to appoint, an administrative receiver of the society is a reference to the Commission (unless it is a petitioner).
- (3) Subsection (3) of that section, and in subsection (4) of that section, the words “Subject to subsection (3),” are omitted.
- 12 In section 10 of the Act (effect of application for administration order), the following are omitted, namely—
- (a) in subsection (2), paragraphs (b) and (c); and
 - (b) subsection (3).
- 13 In section 11 of the Act (effect of administration order), the following are omitted, namely—
- (a) in subsection (1), paragraph (b) and the word “and” immediately preceding that paragraph;
 - (b) in subsection (3), paragraph (b);
 - (c) in subsection (4), the words “an administrative receiver of the company has vacated office under subsection (1)(b), or”; and
 - (d) subsection (5).
- 14 In subsection (1) of section 12 of the Act (notification of administration order), the reference to every invoice, order for goods or business letter is a reference to every statement of account, order for goods or services, business letter or advertisement.
- 15 Subsection (3) of section 13 of the Act (appointment of administrator) has effect as if it enabled an application for an order under subsection (2) of that section to be made by the Commission.

Status: Point in time view as at 01/06/1998.

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- 16 (1) Subject to sub-paragraph (2) below, section 14 of the Act (general powers of administrator) has effect as if it required the administrator of a building society, in exercising his powers under that section—
- (a) to ensure compliance with the provisions of this Act; and
 - (b) not to appoint to be a director any person who is not a fit and proper person to hold that position.
- (2) Sub-paragraph (1)(a) above does not apply in relation to section 5, 6 or 7 of this Act or paragraph (a) of the seventh criterion in section 45(3) of this Act.
- (3) In subsection (4) of that section as applied to a building society, the reference to any power conferred by the Act or the ^{M31}Companies Act 1985 or by the memorandum or articles of association is a reference to any power conferred by this Act or by the society's memorandum or rules.
- (4) Subsection (8) of section 45 of this Act applies for the purposes of sub-paragraph (1) (b) above as it applies for the purposes of the seventh criterion in subsection (3) of that section.

Marginal Citations

M31 1985 c.6.

- 17 (1) Subject to sub-paragraph (3) below, paragraph 16 of Schedule 1 to the Act (powers of administrators) as applied to a building society has effect as if it conferred power to transfer liabilities in respect of deposits with or shares in the society.
- (2) No transfer under that paragraph shall be a transfer of engagements for the purposes of Part X of this Act.
- (3) No transfer under that paragraph which, apart from sub-paragraph (2) above, would be a transfer of engagements for the purposes of that Part shall be made unless it is approved by the court, or by meetings summoned under section 23(1) or 25(2) of the Act (as modified by paragraph 21 or 23 below).
- 18 In section 15 of the Act (power to deal with charged property etc.)—
- (a) subsection (1) is omitted; and
 - (b) for subsections (3) and (4) there is substituted the following subsection—
“(3) Subsection (2) applies to any security other than one which, as created, was a floating charge.”
- 19 (1) Section 17 of the Act (general duties of administrator) has effect as if, instead of the requirement imposed by subsection (3), it required the administrator of a building society to summon a meeting of the society's creditors if—
- (a) he is requested, in accordance with the rules, to do so by 500 of the society's creditors, or by one-tenth, in number or value, of those creditors, or
 - (b) he is directed to do so by the court.
- (2) That section also has effect as if it required the administrator of a building society to summon a meeting of the society's shareholding members if—
- (a) he is requested, in accordance with the rules, to do so by 500 of the society's shareholding members, or by one-tenth, in number, of those members, or
 - (b) he is directed to do so by the court.

Status: Point in time view as at 01/06/1998.

Changes to legislation: Building Societies Act 1986 is up to date with all changes known to be in force on or before 02 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- 20 In subsection (4) of section 19 of the Act (vacation of office) as applied to a building society, the words “in priority to any security to which section 15(1) then applies” are omitted.
- 21 (1) Subsection (1) of section 23 of the Act (statement of proposals) as applied to a building society has effect as if—
- (a) the reference to the central office included a reference to the Commission and the Investor Protection Board;
 - (b) the reference to all creditors included a reference to all holders of shares in the society; and
 - (c) the reference to a meeting of the society’s creditors included a reference to a meeting of holders of shares in the society.
- (2) In subsection (2) of that section as so applied, references to members of the society do not include references to holders of shares in the society.
- 22 Section 24 of the Act (consideration of proposals by creditors’ meeting) as applied to a building society has effect as if any reference to a meeting of creditors included a reference to a meeting of holders of shares in the society.
- 23 (1) Section 25 of the Act (approval of substantial revisions) as applied to a building society has effect as if—
- (a) subsection (2) required the administrator to send a statement in the prescribed form of his proposed revisions to the Commission and to the Investor Protection Board; and
 - (b) the reference in that subsection to a meeting of creditors included a reference to a meeting of holders of shares in the society.
- (2) In subsection (3) of that section as so applied, references to members of the society do not include references to holders of shares in the society.
- 24 Subsection (1) of section 27 of the Act (protection of interests of creditors and members) has effect—
- (a) as if it enabled the Commission or Investor Protection Board to apply to the court by petition for an order under that section; and
 - (b) in relation to an application by the Commission or that Board, as if the words “(including at least himself)” were omitted.

Receivers and managers

- 25 In section 38 of the Act (receivership accounts), “prescribed” means prescribed by regulations made by statutory instrument by the Commission.
- 26 In subsection (1) of section 39 of the Act (notification that receiver or manager appointed), the reference to every invoice, order for goods or business letter is a reference to every statement of account, order for goods or services, business letter or advertisement.

Status: Point in time view as at 01/06/1998.

Changes to legislation: Building Societies Act 1986 is up to date with all changes known to be in force on or before 02 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- 27 Section 40 (payment of debts out of assets subject to floating charge) and sections 42 to 49 (administrative receivers) of the Act are omitted.

PART III

MODIFIED APPLICATION OF PARTS II, III AND IV OF INSOLVENCY (NORTHERN IRELAND) ORDER 1989

Preliminary

- 28 In this Part of this Schedule, the ^{M32}Insolvency (Northern Ireland) Order 1989 is referred to as “the Order”.

Marginal Citations

M32 S.I. 1989/2405 (N.I.19).

Voluntary arrangements

- 29 Article 14 of the Order (proposals for voluntary arrangements) has effect as if—
- (a) it required any proposal under Part II of the Order to be so framed as to enable a building society to comply with the requirements of this Act; and
 - (b) any reference to debts included a reference to liabilities owed to the holders of shares in a building society.
- 30 In Article 15 (procedure where nominee is not liquidator or administrator) and Article 16 (summoning of meetings) of the Order as applied to a building society, any reference to meetings of the society is a reference to—
- (a) a meeting of both shareholding and borrowing members of the society; and
 - (b) a meeting of shareholding members alone.

VALID FROM 02/02/2004

[^{F171}30A In paragraph (2) of Article 17A of the Order (approval of arrangement) as applied to a building society, sub-paragraph (b) and the word “or” immediately preceding that sub-paragraph are omitted.]

Textual Amendments

F171 Sch. 15A para. 30A inserted (*prosp.*) by S.I. 2002/3152, arts. 1(2)(3), 4, Sch. 2 para. 14(3)

- 31 In Article 19 of the Order (challenge of decisions) as applied to a building society, “contributory”—
- (a) means every person liable to contribute to the assets of the society in the event of its being wound up, and
 - (b) for the purposes of all proceedings for determining, and all proceedings prior to the determination of, the persons who are to be deemed contributories, includes any person alleged to be a contributory, and
 - (c) includes persons who are liable to pay or contribute to the payment of—

Status: Point in time view as at 01/06/1998.

Changes to legislation: Building Societies Act 1986 is up to date with all changes known to be in force on or before 02 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (i) any debt or liability of the building society being wound up, or
- (ii) any sum for the adjustment of rights of members among themselves, or
- (iii) the expenses of the winding up;

but does not include persons liable to contribute by virtue of a declaration by the High Court under Article 177 (imputed responsibility for fraudulent trading) or Article 178 (wrongful trading) of the Order.

VALID FROM 02/02/2004

- [
^{F172}31A In Article 20A of the Order (prosecution of delinquent officers) as applied to a building society—
- (a) in paragraph (2) for the words “the Department”, in each place where they occur, there are substituted the words “ the Financial Services Authority ”,
 - (b) paragraphs (3) to (7) are omitted,
 - (c) in paragraph (8)—
 - (i) after the words “Northern Ireland” there are inserted the words “ or the Financial Services Authority ”, and
 - (ii) after the words “Northern Ireland” and the words “the Director”, in the second place where they occur, there are inserted the words “ or the Financial Services Authority ”,
 - (d) in paragraph (9) after the words “for Northern Ireland” there are inserted the words “ or the Financial Services Authority ”.]

Textual Amendments

F172 Sch. 15A para. 31A inserted (*prosp.*) by S.I. 2002/3152, arts. 1(2)(3), 4, Sch. 2 para. 14(4)

Administration orders

- 32 (1) Article 21 of the Order (power of High Court to make administration order) has effect as if it included provision that, where—
- (a) an application for an administration order to be made in relation to a building society is made by the Commission (with or without other parties); and
 - (b) the society has defaulted in an obligation to pay any sum due and payable in respect of any deposit or share,
- the society shall be deemed for the purposes of paragraph (1) to be unable to pay its debts.
- (2) In paragraph (3) of that Article, sub-paragraph (c) and, in paragraph (4) of that Article, the words from “nor where” to the end are omitted.
- 33 (1) Paragraph (1) of Article 22 of the Order (application for administration order) as applied to a building society has effect as if—

Status: Point in time view as at 01/06/1998.

Changes to legislation: *Building Societies Act 1986 is up to date with all changes known to be in force on or before 02 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (a) it enabled an application to the High Court for an administration order to be by petition presented, with or without other parties, by the Commission or by a shareholding member entitled under section 89(3) of this Act to petition for the winding up of the society; and
 - (b) the words from “or by the chief clerk” to “on companies)”, in the second place where they occur, were omitted.
- (2) In paragraph (2)(a) of that Article as so applied, the reference to any person who has appointed, or is or may be entitled to appoint, an administrative receiver of the society is a reference to the Commission (unless it is a petitioner).
- (3) Paragraph (3) of that Article, and in paragraph (4) of that Article, the words “Subject to paragraph (3),” are omitted.
- 34 In Article 23 of the Order (effect of application for administration order), the following are omitted, namely—
- (a) in paragraph (2), sub-paragraphs (b) and (c); and
 - (b) paragraph (3).
- 35 In Article 24 of the Order (effect of administration order), the following are omitted, namely—
- (a) in paragraph (1), sub-paragraph (b) and the word “and” immediately preceding that sub-paragraph;
 - (b) in paragraph (3), sub-paragraph (b);
 - (c) in paragraph (4), the words “an administrative receiver of the company has vacated office under paragraph (1)(b), or”; and
 - (d) paragraph (5).
- 36 In paragraph (1) of Article 25 of the Order (notification of administration order), the reference to every invoice, order for goods or business letter is a reference to every statement of account, order for goods or services, business letter or advertisement.
- 37 Paragraph (3) of Article 26 of the Order (appointment of administrator) has effect as if it enabled an application for an order under paragraph (2) of that Article to be made by the Commission.
- 38 (1) Subject to sub-paragraph (2) below, Article 27 of the Order (general powers of administrator) has effect as if it required the administrator of a building society, in exercising his powers under that Article—
- (a) to ensure compliance with the provisions of this Act; and
 - (b) not to appoint to be a director any person who is not a fit and proper person to hold that position.
- (2) Sub-paragraph (1)(a) above does not apply in relation to section 5, 6 or 7 of this Act or paragraph (a) of the seventh criterion in section 45(3) of this Act.
- (3) In paragraph (4) of that Article as applied to a building society, the reference to any power conferred by the Order or the ^{M33}Companies (Northern Ireland) Order 1986 or by the memorandum or articles of association is a reference to any power conferred by this Act or by the society’s memorandum or rules.

Status: Point in time view as at 01/06/1998.

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- (4) Subsection (8) of section 45 of this Act applies for the purposes of sub-paragraph (1) (b) above as it applies for the purposes of the seventh criterion in subsection (3) of that section.

Marginal Citations

M33 [S.I. 1986/1032 \(N.I.6\)](#).

- 39 (1) Subject to sub-paragraph (3) below, paragraph 17 of Schedule 1 to the Order (powers of administrators) as applied to a building society has effect as if it conferred power to transfer liabilities in respect of deposits with or shares in the society.
- (2) No transfer under that paragraph shall be a transfer of engagements for the purposes of Part X of this Act.
- (3) No transfer under that paragraph which, apart from sub-paragraph (2) above, would be a transfer of engagements for the purposes of that Part shall be made unless it is approved by the High Court, or by meetings summoned under Article 35(1) or 37(2) of the Order (as modified by paragraph 43 or 45 below).
- 40 In Article 28 of the Order (power to deal with charged property etc.)—
- (a) paragraph (1) is omitted; and
- (b) for paragraphs (3) and (4) there is substituted the following paragraph—
- “(3) Paragraph (2) applies to any security other than one which, as created, was a floating charge.”
- 41 (1) Article 29 of the Order (general duties of administrator) has effect as if, instead of the requirement imposed by paragraph (3), it required the administrator of a building society to summon a meeting of the society’s creditors if—
- (a) he is requested, in accordance with the rules, to do so by 500 of the society’s creditors, or by one-tenth, in number or value, of those creditors, or
- (b) he is directed to do so by the High Court.
- (2) That Article also has effect as if it required the administrator of a building society to summon a meeting of the society’s shareholding members if—
- (a) he is requested, in accordance with the rules, to do so by 500 of the society’s shareholding members, or by one-tenth, in number, of those members, or
- (b) he is directed to do so by the High Court.
- 42 In paragraph (4) of Article 31 of the Order (vacation of office) as applied to a building society, the words “in priority to any security to which Article 28(1) then applies” are omitted.
- 43 (1) Paragraph (1) of Article 35 of the Order (statement of proposals) as applied to a building society has effect as if—
- (a) the reference to the central office included a reference to the Commission and the Investor Protection Board;
- (b) the reference to all creditors included a reference to all holders of shares in the society; and
- (c) the reference to a meeting of the society’s creditors included a reference to a meeting of holders of shares in the society.

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- (2) In paragraph (2) of that Article as so applied, references to members of the society do not include references to holders of shares in the society.
- 44 Article 36 of the Order (consideration of proposals by creditors' meeting) as applied to a building society has effect as if any reference to a meeting of creditors included a reference to a meeting of holders of shares in the society.
- 45 (1) Article 37 of the Order (approval of substantial revisions) as applied to a building society has effect as if—
- (a) paragraph (2) required the administrator to send a statement in the prescribed form of his proposed revisions to the Commission and to the Investor Protection Board; and
 - (b) the reference in that paragraph to a meeting of creditors included a reference to a meeting of holders of shares in the society.
- (2) In paragraph (3) of that Article as so applied, references to members of the society do not include references to holders of shares in the society.
- 46 Paragraph (1) of Article 39 of the Order (protection of interests of creditors and members) has effect—
- (a) as if it enabled the Commission or Investor Protection Board to apply to the High Court by petition for an order under that section; and
 - (b) in relation to an application by the Commission or that Board, as if the words "(including at least himself)" were omitted.

Receivers and managers

- 47 In Article 48 of the Order (receivership accounts), "prescribed" means prescribed by regulations made by statutory instrument by the Commission.
- 48 In paragraph (1) of Article 49 of the Order (notification that receiver or manager appointed), the reference to every invoice, order for goods or business letter is a reference to every statement of account, order for goods or services, business letter or advertisement.
- 49 Article 50 (payment of debts out of assets subject to floating charge) and Articles 52 to 59 (administrative receivers) of the Order are omitted.]

SCHEDULE 16

Sections 93, 94 and 95.

MERGERS: SUPPLEMENTARY PROVISIONS

Modifications etc. (not altering text)

C15 Sch. 16 excluded by S.I. 1986/2168, art. 9(2)(b)(3)

Status: Point in time view as at 01/06/1998.

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PART I

ISSUE OF STATEMENTS TO MEMBERS

- 1 (1) A building society which desires—
 - (a) to amalgamate with one or more other building societies, or
 - (b) to transfer its engagements to another building society, or
 - (c) to undertake to fulfil the engagements of another building society,

shall, unless the Commission, in the case of a society desirous of undertaking to fulfil another’s engagements, has consented under section 94(5) to its proceeding by resolution of the board of directors, send to every member entitled to notice of a meeting of the society a statement concerning the matters specified in sub-paragraph (4) below.
- (2) A building society shall include the statement referred to in sub-paragraph (1) above in or with the notice to be sent to its members of the meeting of the society at which the resolutions require for the approval of the amalgamation or, as the case may be, the transfer are to be moved.
- (3) No statement shall be sent unless its contents, so far as they concern the matters specified in sub-paragraph (4) below, have been approved by the Commission.
- (4) Those matters are the following, namely—
 - (a) the financial position of the building society and that of the other building society or societies participating in the amalgamation or transfer;
 - (b) the interest of the directors of the building society in the amalgamation or transfer of engagements;
 - (c) the compensation or other consideration (if any) proposed to be paid to or in respect of the directors or other officers of the building society and of the other building society or societies participating in the amalgamation or transfer;
 - (d) the payments (if any) to be made to members of the building society and of the other building society or societies participating in the amalgamation or transfer by way of a distribution of funds in consideration of the amalgamation or transfer;
 - (e) the changes (if any) to be made, in connection with the amalgamation or transfer of engagements, in the terms governing outstanding [^{F173}loans made by the building society which are secured on land];
 - (f) any other matter which the Commission requires in the case of the particular amalgamation or transfer of engagements.
- ^{F174}(5)
- (6) Any expression used in this paragraph and in section 96 has the same meaning in this paragraph as in that section.

Textual Amendments

F173 Words in **Sch. 16 Pt. I para. 1(4)(e)** 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. 66(1)(a)**; **S.I. 1997/2668**, art. 2, **Sch. Pt. II(w)(z)(xxxviii)**

Status: Point in time view as at 01/06/1998.

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F174 Sch. 16 Pt. I para. 1(5) repealed (1.12.1997) by 1997 c. 32, ss. 43, 46(2), Sch. 7 para. 66(1)(b), Sch. 9; S.I. 1997/2668, art. 2, Sch. Pt. I(j)(k)(l)(xx)(o)(ix)

PART II

NOTIFICATION OF PROPOSALS FOR MERGER

Modifications etc. (not altering text)

C16 Sch. 16 Pt. II (paras. 2–6) excluded by S.I. 1986/2169, art. 10

Preliminary

2 In this Part of this Schedule—

“merger” means an amalgamation of building societies under section 93 or a transfer of all the engagements of one building society to another under section 94; and “merger” has a corresponding meaning;

“merger proposal”, in relation to a building society, means a proposal in writing, by another building society desiring to merge with it, for the societies to merge, with or without terms for the merger; and “proposer” has a corresponding meaning;

“merger resolutions”, in relation to a building society, means the resolutions required for the approval of a merger of the society with another building society under section 93(2) or 94(2);

“merger statement” means a statement containing the requisite particulars of a merger proposal; and

“requisite particulars”, in relation to a merger proposal, means the particulars required by paragraph 3(2) below to be given in a merger statement.

Modifications etc. (not altering text)

C17 Definition applied (1.6.1999) by S.I. 1999/1215, reg. 3(6)

Duty to notify members

3 (1) Subject to sub-paragraph (3) below, it shall be the duty of a building society receiving a merger proposal to send, in accordance with this Part of this Schedule, a merger statement in respect of the proposal to every member entitled to notice of a meeting of the society.

(2) A merger statement must contain the following particulars—

- (a) the fact that a merger proposal has been made, and
- (b) the identity of the proposer,

with or without other particulars regarding the proposal.

(3) Sub-paragraph (1) above does not require a merger statement to be sent to members if the proposer has requested in writing that the requisite particulars are to be treated

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as confidential; and, where such a request is made and is at a later date withdrawn in writing, the society receiving the proposal shall, for the purposes of this Part of this Schedule, treat the proposal as having been received on that date instead of any earlier date.

- 4 (1) A building society shall include in or with every notice of its annual general meeting a merger statement with respect to any merger proposal, other than a proposal of which notice has already been given under this paragraph,—
- (a) received by it during the period of 12 months ending with the ninth month of the last financial year of the society before that meeting; or
 - (b) treated by paragraph 3(3) above as having been received by it during the last three months of that financial year;

and the society may also include, under this sub-paragraph, a merger statement with respect to any proposal received, or treated as received, by it after the end of either period.

[^{F175}(2) In any case where merger resolutions are to be moved at any meeting of a building society, every notice of the meeting shall have included in or with it—

- (a) a merger statement with respect to any merger proposal, other than a proposal of which notice has already been given under this paragraph, received by it more than 42 days before the date of the meeting; and
- (b) a transfer proposal notification with respect to any transfer proposal so received by it.

(3) In this paragraph and paragraph 5 below—

“transfer proposal” has the same meaning as in Part IA of Schedule 17;
“transfer proposal notification” means a transfer proposal notification (within the meaning of that Part) required to be sent to members by paragraph 5B(1) of that Schedule.]

Textual Amendments

F175 Sch. 16 Pt. II para. 4(2)(3) substituted for Sch. 16 Pt. II para. 4(2) (1.12.1997) by 1997 c. 32, s. 43, Sch. 7 para. 66(2); S.I. 1997/2668, art. 2, Sch. Pt. I(j)(l)(xx)

Duty to notify central office

- 5 (1) Where a building society sends a merger statement [^{F176}or transfer proposal notification]to its members under paragraph 4 above in connection with a meeting of the society, it shall send a copy of the statement [^{F177}or notification]to the central office at least 14 days before the date of the meeting.
- (2) The central office shall keep the copy of a merger statement [^{F178}or transfer proposal notification]received by it from a building society in the public file of that society.

Textual Amendments

F176 Words in Sch. 16 Pt. II para. 5(1) inserted (1.12.1997) by 1997 c. 32, s. 43, Sch. 7 para. 66(3)(a); S.I. 1997/2668, art. 2, Sch. Pt. I(j)(l)(xx)

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F177 Words in Sch. 16 Pt. II para. 5(1) inserted (1.12.1997) by 1997 c. 32, s. 43, Sch. 7 para. 66(3)(b); S.I. 1997/2668, art. 2, Sch. Pt. I(j)(l)(xx)

F178 Words in Sch. 16 Pt. II para. 5(2) inserted (1.12.1997) by 1997 c. 32, s. 43, Sch. 7 para. 66(4); S.I. 1997/2668, art. 2, Sch. Pt. I(j)(l)(xx)

Penalty

- 6 If default is made by a building society in complying with paragraph 4(1), 4(2) or 5 above, the society shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale; and so shall any officer who is also guilty of the offence.

PART III

CONFIRMATION BY COMMISSION: PROCEDURE

- 7 An application for confirmation by the Commission of an amalgamation or transfer of engagements shall be made in such manner as the Commission may prescribe.
- 8 (1) Where a building society applies to the Commission for confirmation of an amalgamation or transfer or engagements, the society shall publish notice of the application in any one or more of the London Gazette, the Edinburgh Gazette or the Belfast Gazette, as the Commission directs and, if it so directs, in one or more newspapers.
- (2) A notice published in pursuance of sub-paragraph (1) above shall—
- (a) state that any interested party has the right to make representations to the Commission with respect to the application; and
 - (b) specify a date determined by the Commission before which any written representations or notice of a person's intention to make oral representations must be received by the Commission; and
 - (c) specify a date determined by the Commission as the day on which it intends to hear any oral representations.
- 9 (1) After the date specified in pursuance of paragraph 8(2)(b) above, the Commission shall—
- (a) determine the time and place at which oral representations may be made;
 - (b) give notice of that determination to the building societies participating in the amalgamation or transfer and any persons who have given notice of their intention to make oral representations; and
 - (c) send copies of the written representations received by the Commission to the building societies participating in the amalgamation or transfer.
- (2) The Commission shall allow any building society participating in the amalgamation or transfer an opportunity to comment on the written representations, whether at a hearing or in writing before the expiration of such period as the Commission specifies in a notice to the society.

Status: Point in time view as at 01/06/1998.

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SCHEDULE 17

Section 97 and 98.

TRANSFERS OF BUSINESS: SUPPLEMENTARY PROVISIONS

[^{F179}PART I

ISSUE OF STATEMENT OR SUMMARY TO MEMBERS

Textual Amendments

F179 Sch. 17 Pts. I, IA substituted for Sch. 17 Pt. I (1.12.1997) by 1997 c. 32, s. 30(3), Sch. 5 Pts. I, II; S.I. 1997/2668, art. 2, Sch. Pt. I(e)

^{F180}*Preliminary*

Textual Amendments

F180 Sch. 17 Pts. I, IA substituted for Sch. 17 Pt. I (1.12.1997) by 1997 c. 32, s. 30(3), Sch. 5 Pts. I, II; S.I. 1997/2668, art. 2, Sch. Pt. I(e)

^{F181}₁ In this Part of this Schedule—

“prescribed matters” in relation to any transfer of the business of a building society to its successor, means the matters relating to the transfer, the society, its officers, members or depositors, or the successor, which are prescribed in regulations made under paragraph 5(1) below;

“transfer statement”, in relation to a transfer of business by a building society, means the statement with respect to the transfer which may be sent or handed to members of the society under paragraph 2 below;

“transfer summary”, in relation to a transfer of business by a building society, means the summary of the transfer statement which may be sent to members of the society under that paragraph.

Textual Amendments

F181 Sch. 17 Pts. I, IA substituted for Sch. 17 Pt. I (1.12.1997) by 1997 c. 32, s. 30(3), Sch. 5 Pts. I, II; S.I. 1997/2668, art. 2, Sch. Pt. I(e)

^{F182}*Duty to send transfer statements or summaries to members*

Textual Amendments

F182 Sch. 17 Pts. I, IA substituted for Sch. 17 Pt. I (1.12.1997) by 1997 c. 32, s. 30(3), Sch. 5 Pts. I, II; S.I. 1997/2668, art. 2, Sch. Pt. I(e)

^{F183}₂ A building society which desires to transfer its business shall, in accordance with this Part of this Schedule, send a transfer statement, or a transfer summary, to every member entitled to notice of a meeting of the society.

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Textual Amendments

F183 Sch. 17 Pts. I, IA substituted for Sch. 17 Pt. I (1.12.1997) by 1997 c. 32, s. 30(3), Sch. 5 Pts. I, II; S.I. 1997/2668, art. 2, Sch. Pt. I(e)

Modifications etc. (not altering text)

C18 Sch. 17 para. 2 amended (2.3.1998) by S.I. 1998/212, reg. 4, Sch. 2

- F1843** (1) A transfer statement, in relation to a transfer of business by a building society, shall contain—
- (a) the particulars required, in relation to the prescribed matters, by the regulations made under paragraph 5(1) below, and
 - (b) particulars of any other matters required by the Commission in the case of the particular transfer,
- with or without other particulars regarding the transfer.
- (2) A transfer summary, in relation to a transfer of business by a building society, shall contain—
- (a) the information required by the regulations made under paragraph 5(2) below, and
 - (b) any other information required by the Commission in the case of the particular transfer,
- with or without other particulars regarding the transfer.

Textual Amendments

F184 Sch. 17 Pts. I, IA substituted for Sch. 17 Pt. I (1.12.1997) by 1997 c. 32, s. 30(3), Sch. 5 Pts. I, II; S.I. 1997/2668, art. 2, Sch. Pt. I(e)

- F1854** (1) Subject to sub-paragraph (3) below, a building society shall, in relation to a transfer of business, include a transfer statement, or a transfer summary, in or with the notice to be sent to its members of the meeting of the society at which the requisite transfer resolutions are to be moved.
- (2) Subject to sub-paragraph (3) below, where a building society sends a transfer summary, a transfer statement—
- (a) shall be handed forthwith and free of charge to any member to whom the summary was sent who asks for such a statement at an office or branch of the society; and
 - (b) shall be sent forthwith and free of charge to any such member who asks for such a statement otherwise than at such an office or branch.
- (3) No transfer statement shall be sent or handed to a member unless its contents, so far as they concern the prescribed matters or any matter of which particulars are required to be given under paragraph 3(1)(b) above, have been approved by the Commission.

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Textual Amendments

F185 Sch. 17 Pts. I, IA substituted for Sch. 17 Pt. I (1.12.1997) by 1997 c. 32, s. 30(3), Sch. 5 Pts. I, II; S.I. 1997/2668, art. 2, Sch. Pt. I(e)

- ^{F186} (1) The Commission, with the consent of the Treasury, may make regulations for the purpose of specifying, as prescribed matters, the matters of which transfer statements are to give particulars; and the regulations may also require particulars to be given of any alternatives to the particular transfer which were available to the society making the transfer.
- (2) The Commission, with the consent of the Treasury, may make regulations for the purpose of specifying the information which transfer summaries are to give.
- (3) Any power to make regulations under this paragraph is exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

Textual Amendments

F186 Sch. 17 Pts. I, IA substituted for Sch. 17 Pt. I (1.12.1997) by 1997 c. 32, s. 30(3), Sch. 5 Pts. I, II; S.I. 1997/2668, art. 2, Sch. Pt. I(e)

[^{F187}PART IA

NOTIFICATION OF PROPOSALS FOR TRANSFERS OF BUSINESS

Textual Amendments

F187 Sch. 17 Pts. I, IA substituted for Sch. 17 Pt. I (1.12.1997) by 1997 c. 32, s. 30(3), Sch. 5 Pts. I, II; S.I. 1997/2668, art. 2, Sch. Pt. I(e)

^{F188}Preliminary

Textual Amendments

F188 Sch. 17 Pts. I, IA substituted for Sch. 17 Pt. I (1.12.1997) by 1997 c. 32, s. 30(3), Sch. 5 Pts. I, II; S.I. 1997/2668, art. 2, Sch. Pt. I(e)

- ^{F189}5A In this Part of this Schedule—
- “requisite particulars”, in relation to a transfer proposal, means the particulars required by paragraph 5B(2) below to be given in a transfer proposal notification;
- “transfer”, in relation to a building society, means a transfer of the whole of its business to a company under section 97;

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“transfer proposal”, in relation to a building society, means a proposal in writing by a company for a transfer by the society to the company, with or without terms for the transfer; and “proposer” has a corresponding meaning;
“transfer proposal notification” means a notification containing the requisite particulars of a transfer proposal;
“transfer resolutions”, in relation to a building society, means the resolutions required for the approval of a transfer by the society under section 97.

Textual Amendments

F189 Sch. 17 Pts. I, IA substituted for Sch. 17 Pt. I (1.12.1997) by 1997 c. 32, s. 30(3), Sch. 5 Pts. I, II; S.I. 1997/2668, art. 2, Sch. Pt. I(e)

Modifications etc. (not altering text)

C19 Definition applied (1.6.1999) by S.I. 1999/1215 reg. 3(6)

^{F190}Duty to notify members

Textual Amendments

F190 Sch. 17 Pts. I, IA substituted for Sch. 17 Pt. I (1.12.1997) by 1997 c. 32, s. 30(3), Sch. 5 Pts. I, II; S.I. 1997/2668, art. 2, Sch. Pt. I(e)

- ^{F191}5B (1) Subject to sub-paragraph (3) below, it shall be the duty of a building society receiving a transfer proposal to send, in accordance with this Part of this Schedule, a transfer proposal notification in respect of the proposal to every member entitled to notice of a meeting of the society.
- (2) A transfer proposal notification must contain the following particulars—
- (a) the fact that a transfer proposal has been made, and
 - (b) the identity of the proposer;
- with or without other particulars regarding the proposal.
- (3) Sub-paragraph (1) above does not require a transfer proposal notification to be sent to members if the proposer has requested in writing that the requisite particulars are to be treated as confidential; and, where such a request is made and is at a later date withdrawn in writing, the society receiving the proposal shall, for the purposes of this Part of this Schedule, treat the proposal as having been received on that date instead of any earlier date.

Textual Amendments

F191 Sch. 17 Pts. I, IA substituted for Sch. 17 Pt. I (1.12.1997) by 1997 c. 32, s. 30(3), Sch. 5 Pts. I, II; S.I. 1997/2668, art. 2, Sch. Pt. I(e)

- ^{F192}5C A building society shall include in or with every notice of its annual general meeting a transfer proposal notification with respect to any transfer proposal, other than a proposal of which notice has already been given under this paragraph—

Status: Point in time view as at 01/06/1998.

Changes to legislation: Building Societies Act 1986 is up to date with all changes known to be in force on or before 02 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) received by it during the period of 12 months ending with the ninth month of the last financial year of the society before that meeting; or
- (b) treated by paragraph 5B(3) above as having been received by it during the last three months of that financial year;

and the society may also include, under this paragraph, a transfer proposal notification with respect to any proposal received, or treated as received, by it after the end of either period.]

Textual Amendments

F192 Sch. 17 Pts. I, IA substituted for Sch. 17 Pt. I (1.12.1997) by 1997 c. 32, s. 30(3), Sch. 5 Pts. I, II; S.I. 1997/2668, art. 2, Sch. Pt. I(e)

F193 Duty to notify central office

Textual Amendments

F193 Sch. 17 Pts. I, IA substituted for Sch. 17 Pt. I (1.12.1997) by 1997 c. 32, s. 30(3), Sch. 5 Pts. I, II; S.I. 1997/2668, art. 2, Sch. Pt. I(e)

- ^{F194}5D (1) Where a building society sends a transfer proposal notification to its members under paragraph 5C above in connection with a meeting of the society, it shall send a copy of the notification to the central office at least 14 days before the date of the meeting.
- (2) The central office shall keep the copy of a transfer proposal notification received by it from a building society in the public file of that society.

Textual Amendments

F194 Sch. 17 Pts. I, IA substituted for Sch. 17 Pt. I (1.12.1997) by 1997 c. 32, s. 30(3), Sch. 5 Pts. I, II; S.I. 1997/2668, art. 2, Sch. Pt. I(e)

F195 Penalty

Textual Amendments

F195 Sch. 17 Pts. I, IA substituted for Sch. 17 Pt. I (1.12.1997) by 1997 c. 32, s. 30(3), Sch. 5 Pts. I, II; S.I. 1997/2668, art. 2, Sch. Pt. I(e)

- ^{F196}5E If default is made by a building society in complying with paragraph 5C or 5D above, the society shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale; and so shall any officer who is also guilty of the offence.

Status: Point in time view as at 01/06/1998.

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Textual Amendments

F196 Sch. 17 Pts. I, IA substituted for Sch. 17 Pt. I (1.12.1997) by 1997 c. 32, s. 30(3), Sch. 5 Pts. I, II; S.I. 1997/2668, art. 2, Sch. Pt. I(e)

PART II

CONFIRMATION BY COMMISSION: PROCEDURE

- 6 An application by a building society for confirmation by the Commission of a transfer of its business to a company shall be made in such manner as the Commission may prescribe.
- 7 (1) Where a building society applies for confirmation of a transfer of its business, the society shall publish a notice of the application in any one or more of the London Gazette, the Edinburgh Gazette or the Belfast Gazette, as the Commission directs and, if it so directs, in one or more newspapers.
- (2) A notice published in pursuance of sub-paragraph (1) above shall—
- (a) state that any interested party has the right to make representations to the Commission with respect to the application;
 - (b) specify a date determined by the Commission before which any written representations or notice of a person's intention to make oral representations must be received by the Commission; and
 - (c) specify a date determined by the Commission as the day on which it intends to hear any oral representations.
- 8 (1) After the date specified in the notice in pursuance of paragraph 7(2)(b) above, the Commission shall—
- (a) determine the time and place at which oral representations may be made;
 - (b) give notice of that determination to the building society making the transfer and any persons who have given notice of their intention to make oral representations; and
 - (c) send copies of the written representations received by the Commission to the building society making the transfer.
- (2) The Commission shall allow the building society making the transfer an opportunity to comment on the written representations, whether at a hearing or in writing, before the expiration of such period as the Commission specifies in a notice to the society.

Status: Point in time view as at 01/06/1998.

Changes to legislation: Building Societies Act 1986 is up to date with all changes known to be in force on or before 02 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULE 18

Section 120.

AMENDMENTS OF ENACTMENTS

PART I

UNITED KINGDOM

M³⁴Bankers' Books Evidence Act 1879 (c.11)

Marginal Citations

M34 1879 c. 11.

- 1 In section 9(1) of the Bankers' Books Evidence Act 1879 (meaning of "bank" and "banker" for purposes of that Act), after paragraph (a) there shall be inserted the following—
- “(aa) a building society (within the meaning of the Building Societies Act 1986);”.

Land Registration Act 1925 (c.21)

- 2 In section 25(1) (proprietor's power to create charges) of the ^{M³⁵}Land Registration Act 1925, in paragraph (b), for the words from "under" to "with" there shall be substituted "(within the meaning of the Building Societies Act 1986), in accordance with."

Marginal Citations

M35 1925 c. 21.

Payment of Wages Act 1960 (c. 37)

- 3 (1) This paragraph amends the ^{M³⁶}Payment of Wages Act 1960 as follows.
- (2) In section 1(3) (authorised means of payment of wages), after paragraph (a) there shall be inserted—
- “(aa) payment into an account at a building society, being an account standing in the name of the person to whom the payment is due, or an account standing in the name of that person jointly with one or more other persons;”.
- (3) In section 2(1) (requirements applicable to authorised payments) after "bank" there shall be inserted " or building society ”.
- (4) In section 7(1) (interpretation)—
- (a) after "way)" in the definition of "account", there shall be inserted " and, in relation to a building society, includes a share account and a deposit account (however described) ”,
- (b) after the definition of "bank", there shall be inserted—

Status: Point in time view as at 01/06/1998.

Changes to legislation: Building Societies Act 1986 is up to date with all changes known to be in force on or before 02 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

““building society” means a building society within the meaning of the Building Societies Act 1986;” and

- (c) in the definition of “branch”, after “head office of the bank” there shall be inserted, “ and, in relation to a building society, includes the principal office of the society; ”.

Marginal Citations

M36 8 & 9 Eliz. 2 c. 37.

Trustee Investments Act 1961 (c. 62)

- 4 (1) This paragraph amends the ^{M37}Trustee Investments Act 1961 as follows.
- (2) In Part II of Schedule 1 (narrower range investments requiring advice), for paragraph 12 there shall be substituted—
- “12 In deposits with a building society within the meaning of the Building Societies Act 1986.”.
- (3) In Part III of Schedule 1 (wider range investments), for paragraph 2 there shall be substituted—
- “2 In shares in a building society within the meaning of the Building Societies Act 1986.”.

Marginal Citations

M37 9 & 10 Eliz. 2 c. 62.

Stock Transfer Act 1963 (c.18)

- 5 In section 1(4) of the ^{M38}Stock Transfer Act 1963 (simplified transfer of certain securities, not to apply to building society securities), for “1962” there shall be substituted “ 1986 ”.

Marginal Citations

M38 1963 c. 18.

Industrial and Provident Societies Act 1965 (c.12)

- 6 In section 31(b) of the ^{M39}Industrial and Provident Societies Act 1965 (authorised investments), for “society registered under the Building Societies Acts” there shall be substituted “ building society within the meaning of the Building Societies Act 1986 ”.

Marginal Citations

M39 1965 c. 12

Status: Point in time view as at 01/06/1998.

Changes to legislation: Building Societies Act 1986 is up to date with all changes known to be in force on or before 02 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Income and Corporation Taxes Act 1970 (c.10)

F1977

Textual Amendments

F197 Sch. 18 para. 7 repealed by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), s. 844, [Sch. 31](#)

Banking and Financial Dealings Act 1971 (c.80)

8 (1) This paragraph amends the ^{M40}Banking and Financial Dealings Act 1971 as follows.

(2) In section 2(1) (power to suspend financial dealings on bank holidays) after paragraph (g) there shall be inserted—

“; and

(h) a direction that, subject as aforesaid, no building society shall, on that day, except with permission so granted, effect in the course of its business any transaction or, according as may be specified in the order, a transaction of such kind as may be so specified.”

(3) In section 2(6) after the definition of “authorised dealer in gold” there shall be inserted—

““building society” means a building society within the meaning of the Building Societies Act 1986.”.

Marginal Citations

M40 [1971 c. 80](#).

Local Government Act 1972 (c.70)

9 In Schedule 12A (access to information: exempt information) to the ^{M41}Local Government Act 1972—

(a) in Part II, in paragraph 2(d) for “1962” there shall be substituted “ 1986 ”; and

(b) in Part III, in paragraph 1(1), after the definition of “protected informant” there shall be inserted the following definition—

““registered”, in relation to information required to be registered under the Building Societies Act 1986, means recorded in the public file of any building society (within the meaning of that Act);”.

Marginal Citations

M41 [1972 c. 70](#).

Consumer Credit Act 1974 (c. 39)

10 (1) This paragraph amends the ^{M42}Consumer Credit Act 1974 as follows.

Status: Point in time view as at 01/06/1998.

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- (2) In section 16(1) (consumer credit agreement with certain bodies exempt from regulation) the words “or building society” shall be omitted and, after paragraph (f), there shall be inserted the words “, or
(g) a building society.”.
- (3) In section 16(3) (Secretary of State’s duty to consult before making orders), after paragraph (d) there shall be inserted the words “or
(e) under subsection (1)(g) without consulting the Building Societies Commission and the Treasury.”.
- (4) In section 189(1) (definitions), for the definition of “building society” there shall be substituted the following definition—
““building society” means a building society within the meaning of the Building Societies Act 1986;”.

Marginal Citations

M42 1974 c. 39.

Solicitors Act 1974 (c.47)

- 11 (1) This paragraph amends the ^{M43}Solicitors Act 1974 as follows.
- (2) In section 32 (accounts rules and trust accounts rules), in subsections (1) and (2), in paragraph (a), after “banks”, there shall be inserted “ or with building societies ” and, in the words following paragraph (c), the word “banks” shall be omitted.
- (3) In section 33 (interest on clients’ money) in subsections (1) and (3), after “bank”, there shall be inserted “ or with a building society ”.
- (4) In section 85 (bank accounts)—
 - (a) after “account with a bank” there shall be inserted “ or a building society ”, and
 - (b) in paragraphs (a) and (b) after “bank” there shall be inserted “ or society ”.
- (5) In section 87(1) (interpretation), after the definition of “bank” there shall be inserted—
““building society” means a building society within the meaning of the Building Societies Act 1986; and a reference to an account with a building society is a reference to a deposit account.”.

Marginal Citations

M43 1974 c. 47.

Home Purchase Assistance and Housing Corporation Guarantee Act 1978 (c.27)

- [^{F198}12 In section 3(1) (building society law) of the ^{M44}Home Purchase Assistance and Housing Corporation Guarantee Act 1978, after “determining” there shall be added the word “ (a) ” and at the end of that subsection there shall be added the words—

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“(b) the classification of the advance, or any such further advance, for the purposes of Part III of the Building Societies Act 1986.”.]

Textual Amendments

F198 Sch. 18 para. 12 repealed (S.) by [Housing \(Scotland\) Act 1987 \(c. 26, SIF 61\)](#), s. 339, **Sch. 24**

Marginal Citations

M44 1978 c. 27.

Banking Act 1979 (c.37)

F199¹³

Textual Amendments

F199 Sch. 18 para. 13 repealed by [Banking Act 1987 \(c. 22, SIF 10\)](#), s. 108(2), **Sch. 7 Pt. I**

Charging Orders Act 1979 (c.53)

14 In section 6(1) (interpretation) of the ^{M45}Charging Orders Act 1979, in the definition of “building society”, for “1962” there shall be substituted “ 1986 ”.

Marginal Citations

M45 1979 c. 53.

Finance Act 1982 (c.39)

F200¹⁵

Textual Amendments

F200 Sch. 18 para. 15 repealed by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), s. 844, **Sch. 31**

Companies Act 1985 (c.6)

F201¹⁶

Textual Amendments

F201 Sch. 18 paras. 16, 17 repealed by [Companies Act 1989 \(c. 40, SIF 27\)](#), ss. 211(2)(b), 212, **Sch. 24**

Insolvency Act 1985 (c.65)

F202¹⁷

Status: Point in time view as at 01/06/1998.

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Textual Amendments

F202 Sch. 18 paras. 16, 17 repealed by Companies Act 1989 (c. 40, SIF 27), ss. 211(2)(b), 212, Sch. 24

Housing Act 1985 (c. 68)

- 18 (1) This paragraph amends the ^{M46}Housing Act 1985 as follows.
- (2) In section 442(5) (consultations by Secretary of State regarding forms of local authority indemnity agreement) for “Chief Registrar of Friendly Societies” in paragraph (a), there shall be substituted “Building Societies Commission”.
- (3) In section 447 (recognised lending institutions) and in section 448 (recognised savings institutions) for “designated building societies” there shall be substituted “building societies”.
- [^{F203}(4) For section 450 (modifications of building society law) there shall be substituted the following section—

“ Modifications of building society law.

So much of an advance by a building society which is partly financed under section 445 (assistance for first-time buyers) or the corresponding Scottish or Northern Ireland provisions as is so financed shall be treated as not forming part of the advance for the purpose of determining—

- (a) whether the advance, or any further advance made within two years of the date of purchase, is beyond the powers of the society, and
- (b) the classification of the advance, or any such further advance, for the purposes of Part III of the Building Societies Act 1986.”.]

- (5) In section 622 (minor definitions) for the definition of “building society” there shall be substituted—

““building society” means a building society within the meaning of the Building Societies Act 1986”.

Textual Amendments

F203 Sch. 18 para. 18(4) 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. 46(2), 47(3), Sch. 9; S.I. 1997/2668, art. 2, Sch. Pt. II(y)(cc)(xx)

Marginal Citations

M46 1985 c. 68.

Housing Associations Act 1985 (c.69)

- 19 (1) This paragraph amends the ^{M47}Housing Associations Act 1985 as follows.
- (2) Sections 63 to 66 (building society advances) and in section 72 (minor definitions) the definitions of, and in section 73 (index of definitions) the entries relating to, “building society”, “Chief Registrar” and “officer” shall be omitted.

Status: Point in time view as at 01/06/1998.

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- (3) In section 84(5) and 86(4) (consultation by Secretary of State regarding building society indemnities) for “Chief Registrar of Friendly Societies” there shall be substituted “ Building Societies Commission ”.
- (4) In section 101 (minor definitions), for the definition of “building society” there shall be substituted—
- ““building society” means a building society within the meaning of the Building Societies Act 1986;”.

Marginal Citations

M47 1985 c. 69.

PART II

NORTHERN IRELAND

Industrial and Provident Societies Act (Northern Ireland) 1969 (c.24 N.I.)

- 20 In section 31(b) of the ^{M48}Industrial and Provident Societies Act (Northern Ireland) 1969 (authorised investments) for “society registered under the Building Societies Act” there shall be substituted “ building society within the meaning of the Building Societies Act 1986. ”.

Marginal Citations

M48 1969 c. 24 (N.I.).

^{M49}*Payment of Wages Act (Northern Ireland 1970)*

Marginal Citations

M49 1970 c. 12 (N.I.).

- ^{F204}21

Textual Amendments

F204 Sch. 18 para. 21 repealed by S.I. 1988/796, art. 27(2), **Sch. 5 Pt. II**

Private Streets (Northern Ireland) Order 1980 (S.I. 1980/1086 (N.I.12))

- 22 In Article 33 (security not to be deemed prior mortgage under Building Societies Acts) of the ^{M50}Private Streets (Northern Ireland) Order 1980 for the words from “section 32” where they first occur onwards there shall be substituted “ section 11(2) (d) or (4)(d) of the Building Societies Act 1986 ”.

Status: Point in time view as at 01/06/1998.

Changes to legislation: Building Societies Act 1986 is up to date with all changes known to be in force on or before 02 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Marginal Citations

M50 S.I. 1980/1086 (N.I. 12).

Housing (Northern Ireland) Order 1981 (S.I. 1981/156 (N.I.3))

- 23 (1) This paragraph amends the ^{M51}Housing (Northern Ireland) Order 1981 as follows.
- (2) In Article 2(2) (interpretation) after the definition of “building regulations” there shall be inserted—
- ““building society” means a building society within the meaning of the Building Societies Act 1986”.
- [^{F205}(3) For Article 155 (building society law) there shall be substituted the following section—

“ Modifications of building society law.

So much of an advance by a building society which is partly financed under this Part or sections 445 to 449 of the Housing Act 1985 or the Home Purchase Assistance and Housing Corporation Guarantee Act 1978 as is so financed shall be treated as not forming part of the advance for the purpose of determining—

- (a) whether the advance, or any further advance made within two years of the date of purchase, is beyond the powers of the society, and
- (b) the classification of the advance, or any such further advance, for the purposes of Part III of the Building Societies Act 1986.”.]
- (4) In Article 155A (exclusion of Restrictive Trade Practices Act 1976), after “Scottish Provisions” there shall be inserted “ (namely, sections 445 to 447 of the Housing Act 1985 or the Home Purchase Assistance and Housing Corporation Guarantee Act 1978) ”.
- (5) In Article 156(5)(b) (consultations by the Department regarding forms of indemnity agreements) for “Registrar of Friendly Societies for Northern Ireland” there shall be substituted “ Building Societies Commission ”.
- (6) For paragraph 1 of Schedule 10 there shall be substituted—
- “1 Building Societies.”.

Textual Amendments

F205 Sch. 18 para. 23(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. 46(2), 47(3), Sch. 9; S.I. 1997/2668, art. 2, Sch. Pt. II(y)(ce)(xx)

Marginal Citations

M51 S.I. 1981/156 (N.I. 3).

Status: Point in time view as at 01/06/1998.

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Property (Discharge of Mortgage by Receipt)
(Northern Ireland) Order 1983 (S.I. 1983/766 (N.I.9))

- 24 In Article 3(10) of the ^{M52}Property (Discharge of Mortgage by Receipt) (Northern Ireland) Order 1983, after “applies” in the definition of “mortgage” there shall be inserted “ and, subject to paragraph 2(7) of Schedule 4 to the Building Societies Act 1986, does not include a mortgage to which that paragraph 2 applies. ”.

Marginal Citations

M52 [S.I. 1983/766 \(N.I.9\)](#).

Housing (Northern Ireland) Order 1983 (S.I. 1983/1118 (N.I.15))

- 25 In Article 3(4) of the ^{M53}Housing (Northern Ireland) Order 1983, in the definition of “building society” for the words from “1962” onwards there shall be substituted “ 1986 ”.

Marginal Citations

M53 [S.I. 1983/1118 \(N.I.15\)](#).

Companies (Northern Ireland) Order 1986

- ^{F206}26

Textual Amendments

F206 [Sch. 18 para. 26](#) repealed (N.I.) (1.10.1991) by [S.I. 1989/2404 \(N.I. 18\)](#), arts. 25(3), 37, [Sch. 5 Pt. I](#); [S.R. 1991/410](#), [art. 1\(2\)](#)

SCHEDULE 19

Section 120.

REPEALS AND REVOCATIONS

PART I

REPEALS: GENERAL

Chapter	Short title	Extent of repeal
37 & 38 Vict. c. 42.	The Building Societies Act 1874.	Section 1. Section 4. Section 32.

Status: Point in time view as at 01/06/1998.

Changes to legislation: *Building Societies Act 1986 is up to date with all changes known to be in force on or before 02 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

57 & 58 Vict. c. 47.	The Building Societies Act 1894.	Section 8(1). Section 29.
8 & 9 Eliz. 2 c. 64.	The Building Societies Act 1960.	Section 72. Section 73(1). Section 77. In Schedule 5, the entry relating to paragraph 4 of section 32 of the Building Societies Act 1874.
9 & 10 Eliz. 2 c. 62.	The Trustee Investments Act 1961.	In Part IV of Schedule 1, paragraphs 3A and 7.
10 & 11 Eliz. 2 c. 37.	The Building Societies Act 1962.	The whole Act.
1965 c. 32.	The Administration of Estates (Small Payments) Act 1965.	In Schedules 1 and 3, the entries relating to the Building Societies Act 1962.
69 c. 46.	The Family Law Reform Act 1969.	In Schedule 1, the entry relating to the Building Societies Act 1962.
1970 c. 10.	The Income and Corporation Taxes Act 1970.	In section 343(5), the words “union or”.
1974 c. 39.	The Consumer Credit Act 1974.	In section 16, in subsection (1) the words “or building society,” and, in subsections (1)(e) and (3)(c), the word “or”.
1974 c. 46.	The Friendly Societies Act 1974.	In Schedule 10, paragraph 9.
1974 c. 47.	The Solicitors Act 1974.	In section 32, in subsections (1) and (2), the word “banks”.
1974 c. 49.	The Insurance Companies Act 1974.	In Schedule 1, the entries relating to the Building Societies Act 1962.
1978 c. 27.	The Home Purchase Assistance and Housing Corporation Guarantee Act 1978.	In section 3, subsections (2) to (4).
1979 c. 37.	The Banking Act 1979.	In paragraph 6 of Schedule 1, the words from “within” to the end.

Status: Point in time view as at 01/06/1998.

Changes to legislation: Building Societies Act 1986 is up to date with all changes known to be in force on or before 02 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

		In Schedule 6, paragraphs 6, 7, 16, and 17.
1982 c. 50.	The Insurance Companies Act 1982.	In Schedule 5, paragraphs 3 and 5.
1984 c. 28.	The County Courts Act 1984.	In Schedule 2, paragraph 26.
1985 c. 9.	The Companies Consolidation (Consequential Provisions) Act 1985.	In Schedule 2, the entries relating to the Building Societies Act 1962.
1985 c. 58.	The Trustee Savings Banks Act 1985.	In Schedule 1, paragraph 11(2)(a) and so much of that sub-paragraph as relates to the section 59 specified therein.
1985 c. 61.	The Administration of Justice Act 1985.	Section 66.
1985 c. 68.	The Housing Act 1985.	In section 458, the definition of “designated building society”. In section 459, the entry relating to “designated buildings society”.
1985 c. 69.	The Housing Associations Act 1985.	Sections 63 to 66. In Section 72, the definitions of “building society”, “Chief Registrar” and “officer”. In section 73, the entries relating to “building society”, “Chief registrar” and “officer”.
1985 c. 71.	The Housing (Consequential Provisions) Act 1985.	In Schedule 2, paragraphs 5 and 6.

PART II

REVOCATION EXTENDING TO GREAT BRITAIN

Number	Title	Extent of revocation
S.I. 1981/1488.	The Building Societies (Authorisation) Regulations 1981.	The whole Regulations.

Status: Point in time view as at 01/06/1998.

Changes to legislation: Building Societies Act 1986 is up to date with all changes known to be in force on or before 02 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

PART III

REPEALS AND REVOCATIONS EXTENDING ONLY TO NORTHERN IRELAND

Chapter or number	Short title	Extent of repeal or revocation
1967 c. 5 (N.I.).	The Administration of Estates (Small Payments) Act (Northern Ireland) 1967.	In Schedule 1, the entry relating to the Building Societies Act 1874.
1967 c. 31 (N.I.).	The Building Societies Act (Northern Ireland) 1967.	The whole Act.
1969 c. 24 (N.I.).	The Industrial and Provident Societies Act (Northern Ireland) 1969.	In section 101(1), the definition of “Building Societies Acts”.
1969 c. 28 (N.I.).	The Age of Majority Act (Northern Ireland) 1969	In Schedule 1, the entry relating to the Building Societies Act (Northern Ireland) 1967.
1969 c. 31 (N.I.).	The Age of Majority Act (Northern Ireland) 1969.	In Part I of Schedule 1, the entry relating to the Building Societies Act (Northern Ireland) 1967.
1970 c. 18 (N.I.).	The Land Registration Act (Northern Ireland) 1970.	In Schedule 12 the entry relating to the Building Societies Act (Northern Ireland) 1967.
1978 c. 23.	The Judicature (Northern Ireland) Act 1978.	In Schedule 5, in Part II the entry relating to the Building Societies Act (Northern Ireland) 1967.
S.I. 1979/1573 (N.I.12).	The Statutory Rules (Northern Ireland) Order 1979.	In Schedule 4 the entry relating to the Building Societies Act (Northern Ireland) 1967.
1980 c. 25.	The Insurance Companies Act 1980.	In Schedule 3, paragraph 3.
S.I. 1981/156 (N.I.3).	The Housing (Northern Ireland) Order 1981.	Article 156(6). In Part II of Schedule 2, the entry relating to the Building Societies Act (Northern Ireland) 1967.
S.R. 1982/155 (N.I.).	The Building Societies (Authorisation) Regulations (Northern Ireland) 1982.	The whole Regulations.

Status: Point in time view as at 01/06/1998.

Changes to legislation: Building Societies Act 1986 is up to date with all changes known to be in force on or before 02 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

S.I. 1983/776 (N.I.9).	The Property (Discharge of Mortgage by Receipt) (Northern Ireland) Order 1983.	In Article 3(10), in the definition of “mortgage” the words “section 37 of the Building Societies Act (Northern Ireland) 1967”.
S.I. 1983/1118 (N.I.15).	The Housing (Northern Ireland) Order 1983.	In Schedule 10, the entry relating to the Building Societies Act (Northern Ireland) 1967.
1985 c. 71.	The Housing (Consequential Provisions) Act 1985.	In Schedule 2, paragraphs 13, 51(2) and 51(5)(a).
S.I. 1986/1035 (N.I.9).	The Companies Consolidation (Consequential Provisions) (Northern Ireland) Order 1986.	In Part I of Schedule 1, the entry relating to the Building Societies Act (Northern Ireland) 1967.

SCHEDULE 20

Section 120.

TRANSITIONAL AND SAVING PROVISIONS

Preliminary

- 1 In this Schedule—
- “the commencement date for” any provision of this Act means the date on which that provision comes into operation;
 - [^{F207}“existing society” means a building society registered at the passing of this Act under the repealed enactments; and
 - “existing rules” means the rules of a society in force immediately before the commencement date for section 5.]

Textual Amendments

F207 Definitions in Sch. 20 para. 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. 67(a), **Sch. 9**; S.I. 1997/2668, art. 2, **Sch. Pt. II(w)(y)(z)(xxxix)(cc)(xxi)**

Adoption of powers and alteration of rules

F208₂

Textual Amendments

F208 Sch. 20 paras. 2-4, 18 repealed (1.12.1997) by 1997 c. 32, ss. 43, 46(2), Sch. 7 para. 67(b), **Sch. 9**; S.I. 1997/2668, art. 2, **Sch. Pt. I(j)(k)(l)(xxi)(o)(x)**

F209₃

Status: Point in time view as at 01/06/1998.

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Textual Amendments

F209 Sch. 20 paras. 2-4, 18 repealed (1.12.1997) by 1997 c. 32, ss. 43, 46(2), Sch. 7 para. 67(b), **Sch. 9**; S.I. 1997/2668, art. 2, **Sch. Pt. I(j)(k)(l)(xxi)(o)(x)**

Default powers

F210₄

Textual Amendments

F210 Sch. 20 paras. 2-4, 18 repealed (1.12.1997) by 1997 c. 32, ss. 43, 46(2), Sch. 7 para. 67(b), **Sch. 9**; S.I. 1997/2668, art. 2, **Sch. Pt. I(j)(k)(l)(xxi)(o)(x)**

Registration with existing authorities

5 A building society which, at the commencement date for section 5, was registered under the ^{M54}Building Societies Act (Northern Ireland) 1967 or registered or deemed to be registered in Northern Ireland under the enactments repealed by that Act shall be treated, for the purposes of this Act, as registered with the central office immediately before the commencement of that section.

Marginal Citations

M54 1967 c. 31. (N.I.).

Authorisation under existing enactments

6 (1) A building society which, at the commencement date for section 9 is authorised to raise money and accept deposits under—
(a) the ^{M55}Building Societies (Authorisation) Regulations 1981, or
(b) the ^{M56} Building Societies (Authorisation) Regulations (Northern Ireland) 1982,

shall be treated, whether or not the requirements of subsection (4) of section 9 would be fulfilled in its case, at the commencement of that section as authorised for the purposes of this Act (in particular Part VI).

(2) The central office shall record in the public file of each building society to which sub-paragraph (1) above applies the fact that, by virtue of that sub-paragraph, the society is to be treated as authorised for the purposes of this Act.

Marginal Citations

M55 S.I. 1981/1488.

M56 S.R. 1982/155 (N.I.).

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Anticipation of powers: declaratory provision

- [^{F211}7 (1) It is hereby declared that every building society has had, as from 19th December 1985, power, for the purposes of any power conferred by this Act on building societies or building societies of its description, to do such things, subject to sub-paragraph (2) 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.
- (2) Sub-paragraph (1)(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 sub-paragraph, “conditional”, in relation to contracts with respect to the exercise of a power, means conditional on the power’s becoming exercisable by the society.
- (3) 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 8 of this Schedule.]

Textual Amendments

F211 Sch. 20 paras. 7-13, 15, 17 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. 67(b), Sch. 9; S.I. 1997/2668, art. 2, Sch. Pt. II(w)(y)(z)(xxxix)(cc)(xxi)

Unlawful anticipation of powers

- [^{F212}8 (1) Where a building society adopts any adoptable power under paragraph 2 or 3 above—
- (a) it shall, by virtue of this paragraph, assume an obligation, enforceable as provided in paragraph 9 below, not to exercise that power until the date on which the memorandum of its powers takes effect as respects that power, and
 - (b) it shall send to the central office, with the documents required by paragraph 2(1) or 3(1) above a declaration as respects that power made on behalf of the society which satisfies the requirements of this paragraph.
- (2) The obligation assumed by virtue of this paragraph on the adoption of a power does not extend to the exercise of any power included in the adoptable power which the society has under the law in force at any time before the registration takes effect.
- (3) A declaration, to satisfy the requirements of this paragraph, must be made by the chairman of the board of directors of the society, by one other director and by the chief executive of the society and it must either—
- (a) state that, to the best of the knowledge and belief of the declarants, after due enquiry, the society has not, or has not with the permitted qualification,

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- carried on any activity comprised in the power during the period which began one year before the specified date (or with 1 April 1986, if later) and expired with the date of the meeting at which the power was adopted, or
- (b) state that, to the best of the knowledge and belief of the declarants, after due enquiry, the society, with specified exceptions, has not, or has not with the permitted qualification, carried on any activity comprised in the power during the period which began one year before the specified date (or with 1 April 1986, if later) and expired with the date of the meeting at which the power was adopted.
- (4) The qualification of the statement so required which is permitted is that in so far as the society has, at any time during the said period, carried on any activity comprised in the power to which the statement relates, the society had the power to carry on that activity at that time under the law in force at that time.
- (5) The exceptions to the statement so required must not include activities of the society which constitute significant excesses of its powers during the said period; and a declaration specifying activities as exceptions to the statement so required must also state the opinion of the declarants that the activities are believed not to constitute significant excesses of the society's powers during the period to which the declaration relates.]

Textual Amendments

F212 Sch. 20 paras. 7-13, 15, 17 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. 67(b), Sch. 9; S.I. 1997/2668, art. 2, Sch. Pt. II(w)(y)(z)(xxxix)(cc)(xxi)

Penalty for breach of undertaking

- [^{F213}9 If, in breach of the obligation assumed by virtue of paragraph 8 above, a building society exercises any power to which the obligation extends, 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) every officer of the society who is also guilty of the offence shall be liable, on summary conviction to a fine not exceeding the statutory maximum.]

Textual Amendments

F213 Sch. 20 paras. 7-13, 15, 17 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. 67(b), Sch. 9; S.I. 1997/2668, art. 2, Sch. Pt. II(w)(y)(z)(xxxix)(cc)(xxi)

Penalty for false declaration

- [^{F214}10 If the statement in a declaration made for the purposes of paragraph 8 above is false, then, any person who made the statement knowing it to be false or reckless as to whether it was true or false shall be liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or both, and

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- (b) on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or both.]

Textual Amendments

F214 Sch. 20 paras. 7-13, 15, 17 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. 67(b), Sch. 9; S.I. 1997/2668, art. 2, Sch. Pt. II(w)(y)(z)(xxxix)(cc)(xxi)

Powers of central office

- [^{F215}11 (1) The central office, on receiving from a building society the declaration required by and the other documents referred to in paragraph 8 above, shall refer to the Commission for its determination the question whether or not the memorandum of the society's powers is to be registered.
- (2) On a reference to the Commission of the question whether or not the memorandum of a society's power is to be registered—
- (a) if the declaration contains the statement specified in paragraph 8(3)(a) above and the Commission has no reasonable cause to believe that the society in question has carried on any activity comprised in the power to which the obligation imposed by paragraph 8 above extends at any time during the period which begin one year before the specified date (or with 1st April 1986, if later) and expired on the date on which it considers the reference, the Commission shall direct the central office to register the memorandum, and
 - (b) in any other case, the Commission may, as it thinks fit, direct the central office to register, or not to register, the memorandum.
- (3) The Commission, in deciding, in a case falling within sub-paragraph (2)(b) above, whether or not to direct the registration of the memorandum of a society's powers may have regard to all the circumstances of the case.
- (4) No registration of a memorandum shall be effected by the central office under paragraph 2(2) or 3(2) above before the expiry of the period of 21 days beginning with the date on which it receives the declaration required by and the other documents referred to in paragraph 8 above.
- (5) If the central office, in pursuance of a direction of the Commission under sub-paragraph (2) above, refuses registration of the memorandum of a society's powers under sub-paragraph (1) above it shall serve on the society a notice—
- (a) recording its refusal,
 - (b) specifying the activity which is believed to constitute a breach of the society's obligation, and
 - (c) directing the society to make an application to the Commission under section 38 for a determination under that section whether the activity was or was not within the powers of the society at the time specified under sub-paragraph (b) above,
- and shall send a copy of the notice to the Commission.
- (6) The central office shall comply with any direction as regards the registration of the memorandum of the society's powers given to it by the Commission consequent on the Commission's determination of the society's powers under section 38.

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(7) Nothing in the foregoing provisions of this Schedule implies that it is improper for any of the following, that is to say—

- (a) the Chief Registrar or any assistant registrar of the central office,
- (b) the assistant registrar of friendly societies for Scotland,
- (c) the registrar of building societies for Northern Ireland, or
- (d) the Commission,

to give to a building society or building societies generally an indication of the action the Commission might or might not take in exercising its functions under this paragraph; and no decision of the Commission under this paragraph shall be liable to be set aside by reason of the indication having been given.

(8) In this paragraph “the specified date” has the same meaning as in paragraph 2 or, as the case may be, 3 above.]

Textual Amendments

F215 Sch. 20 paras. 7-13, 15, 17 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. 67(b), Sch. 9; S.I. 1997/2668, art. 2, Sch. Pt. II(w)(y)(z)(xxxix)(cc)(xxi)

Permissible securities for advances

[^{F216}12(1) Until provision is made by an order under section 10(6) prescribing the descriptions of equitable interests in land which may be taken as security for advances secured on land, building societies may advance money on the security of an equitable interest in land in England and Wales or Northern Ireland in addition to a mortgage of the freehold or leasehold estate where the lease or a related instrument includes provision entitling the leaseholder to acquire a beneficial interest of any extent in the freehold or a greater leasehold interest and the right to acquire that interest is assigned as additional security.

(2) Until such provision is made, section 17(10) shall have effect with the substitution of a reference to an equitable interest of the description specified in sub-paragraph (1) above for the reference to an equitable interest specified in an order under section 10(6).

(3) On the making of the first order under section 10(6) this paragraph shall cease to have effect.]

Textual Amendments

F216 Sch. 20 paras. 7-13, 15, 17 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. 67(b), Sch. 9; S.I. 1997/2668, art. 2, Sch. Pt. II(w)(y)(z)(xxxix)(cc)(xxi)

[^{F217}13 Until provision is made by an order under section 12(3) prescribing indemnities given by a local authority as a description of additional security for the purposes of section 11(4)(c), an indemnity given under section 442 of the ^{M57}Housing Act 1985, under section 31 of the ^{M58}Tenants’ Rights, Etc. (Scotland) Act 1980 or under Article 156 of the ^{M59}Housing (Northern Ireland) Order 1981 shall be such a security; and

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on the making of the first order under section 12(3) this paragraph shall cease to have effect.]

Textual Amendments

F217 Sch. 20 paras. 7-13, 15, 17 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. 67(b), Sch. 9; S.I. 1997/2668, art. 2, Sch. Pt. II(w)(y)(z)(xxxix)(cc)(xxi)

Marginal Citations

M57 1985 c. 68.

M58 1980 c. 52.

M59 S.I. 1981/156 (N.I.3).

Existing business names

- 14 Any person who, at the commencement date for section 107, uses a name for business purposes which indicates a connection between—
- (a) that person, or his business, and a building society, or
 - (b) that person, or his business, and building societies generally,
- shall be deemed for the purposes of section 107 to have been given approval, under subsection (4) of that section, by the Commission for the continued use of that name.

Directors in office

- [^{F218}15(1) Except as provided in this paragraph, an existing director shall be treated for the purposes of sections 60 and 61 as having been duly elected a director on the date of his appointment as a director or, as the case may be, of his most recent re-appointment to that office before the commencement date.
- (2) An existing director who holds office as director by virtue of holding some other position in the society shall, except in a case within sub-paragraph (4) below, be treated for the purposes of sections 60 and 61 as having been duly elected a director at the commencement date.
 - (3) If the term of office of an existing director would, in accordance with the terms on which he holds office, expire on an earlier date than is provided for by sub-paragraph (1) above, he shall vacate office on that earlier date.
 - (4) An existing director who has attained the normal retirement age, or the compulsory retirement age (if any), as the case may be, before the commencement date shall retire from office at the first annual general meeting of the society after the commencement date.
 - (5) If, at the commencement date, an existing director, other than a director falling within sub-paragraph (2) above, has held office since the date of his appointment or most recent re-appointment for a period longer than is provided for in section 60(11)(a), he shall retire from office at the first annual general meeting of the society after the commencement date.
 - (6) In this paragraph—

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“the commencement date” means the commencement date for sections 60 and 61;

“existing director” means any director of a building society in office immediately before the commencement date; and

“the compulsory retirement age” and “the normal retirement age” have the meanings given in section 60(8).]

Textual Amendments

F218 Sch. 20 paras. 7-13, 15, 17 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. 67(b), Sch. 9; S.I. 1997/2668, art. 2, Sch. Pt. II(w)(y)(z)(xxxix)(cc)(xxi)

Existing financial years

16 In the case of a building society established before 25th August 1894—

(a) if—

(i) before 1st October 1962 the society had altered its financial year in exercise of the power conferred by section 70(2) of the ^{M60}Building Societies Act 1960, or

(ii) after that date and before the commencement date for section 117, the society has exercised the corresponding power conferred by section 128(2) of the ^{M61}Building Societies Act 1962,

“financial year” shall, after the date on which the society exercised the power, have the meaning given in section 117 and shall (so far as may be relevant for the purposes of this Act) include the period for which the society made up its accounts in the exercise of the power, and

(b) subject to the preceding provisions of this paragraph, “financial year” means a period of 12 months ending with the time up to which, at the commencement date for section 117, the accounts of the society were annually made up.

Marginal Citations

M60 1960 c. 64.

M61 1962 c. 37.

Qualifying assets

[^{F219}17 For the purposes of the application of section 118 by reference to the annual accounts of a building society prepared before the first financial year for which accounts under Part VIII of this Act are prepared, the reference to the total commercial assets of a society shall have effect as a reference to the amount in the last balance sheet prepared under the Building Societies Act 1962 which represents the total assets constituted by mortgage debts outstanding to the society.]

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Textual Amendments

F219 Sch. 20 paras. 7-13, 15, 17 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. 67(b), **Sch. 9**; S.I. 1997/2668, art. 2, **Sch. Pt. II(w)(y)(z)(xxxix)(cc)(xxi)**

Provision of conveyancing services for building societies

F220 18

Textual Amendments

F220 Sch. 20 paras. 2-4, 18 repealed (1.12.1997) by 1997 c. 32, ss. 43, 46(2), Sch. 7 para. 67(b), **Sch. 9**; S.I. 1997/2668, art. 2, **Sch. Pt. I(j)(k)(l)(xx)(o)(x)**

PROSPECTIVE

SCHEDULE 21

Section 124.

PROVISION OF CONVEYANCING SERVICES BY
RECOGNISED INSTITUTIONS AND PRACTITIONERS

F221 ...

Textual Amendments

F221 Sch. 21 repealed (22.7.2004) by **Statute Law (Repeals) Act 2004** (c. 14), **Sch. 1 Pt. 17** Group 2

F221

F221

Textual Amendments

F221 Sch. 21 repealed (22.7.2004) by **Statute Law (Repeals) Act 2004** (c. 14), **Sch. 1 Pt. 17** Group 2

F221

Textual Amendments

F221 Sch. 21 repealed (22.7.2004) by **Statute Law (Repeals) Act 2004** (c. 14), **Sch. 1 Pt. 17** Group 2

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F221

Textual Amendments

F221 Sch. 21 repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), [Sch. 1 Pt. 17](#) Group 2

F221

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Textual Amendments

F221 Sch. 21 repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), [Sch. 1 Pt. 17](#) Group 2

F221

Textual Amendments

F221 Sch. 21 repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), [Sch. 1 Pt. 17](#) Group 2

F221

Textual Amendments

F221 Sch. 21 repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), [Sch. 1 Pt. 17](#) Group 2

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