



Building Societies Act 1986

1986 CHAPTER 53

PART VI

POWERS OF CONTROL OF THE COMMISSION

Powers in relation to authorisation

41 Power to direct application to renew authorisation.

- (1) If, with respect to a building society for which an authorisation is in force, the Commission has reason to believe that the society's business is or may be being conducted in a way that may not adequately protect the investments of shareholders and depositors then, subject to subsections (2) and (3) below, it may by notice direct the society to make an application under this section to renew its authorisation.
 - (2) The power conferred on the Commission by this section is not exercisable more than once during any period of five years during the whole of which the society has held a current authorisation except where, during that period, the society has, under section 94, undertaken to fulfill the engagements of another society.
 - (3) A notice under subsection (1) above shall require the society to make the application for renewal within such period as is specified in the notice, being a period not shorter than three nor longer than six months beginning with the date of the notice, but the Commission may, on representations being made to it, extend or further extend the period within which the application is to be made.
 - (4) A notice under subsection (1) shall indicate the grounds on which the Commission has decided to give a direction under this section.
 - (5) Authorisation, if renewed under this section, shall be granted unconditionally or subject to conditions as provided by subsection (6) or (7) below.
- [^{F1}(5A) The Commission shall not grant renewed authorisation to a society if it appears to the Commission that—
- (a) the society is closely linked with any person; and

Status: Point in time view as at 18/07/1996. This version of this provision has been superseded.

Changes to legislation: Building Societies Act 1986, Section 41 is up to date with all changes known to be in force on or before 21 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)

- (b) the society's close links with that person, or any matters relating to any non-EEA laws or administrative provisions to which that person is subject, are such as would prevent the effective exercise by the Commission of its supervisory functions in relation to the society.]
- (6) Subject to subsection [F²(5A) above and subsection](11) below, the Commission, on an application duly made for renewal of authorisation under this section, shall grant unconditional authorisation to the society if it is satisfied that—
- (a) the society has qualifying capital of an amount which is not less than the prescribed minimum;
 - (b) the society has adequate reserves and other designated capital resources;
 - (c) the chairman of the board of directors and any executive directors, the chief executive, the secretary and the managers (if any) are each fit and proper persons to hold their respective offices in the society;
 - (d) the board of directors, with the chief executive and secretary, have the capacity and intention to direct the affairs of the society in accordance with the criteria of prudent management and have secured that those criteria are being satisfied; F³ . . .
- [F⁴(dd) each of the persons who, either alone or with any associate or associates, has a qualifying holding in the society is a fit and proper person to have such a holding; and]
- (e) the investments of shareholders and depositors will be adequately protected without the imposition of conditions.
- (7) If the Commission, on an application so made, is not satisfied of the matters specified in subsection (6) above in relation to the society, it shall, subject to subsection [F²(5A) above and subsection](10) below—
- (a) if it is satisfied that the imposition of conditions would secure the protection of the investments of shareholders and depositors, grant authorisation subject to such conditions to be complied with by the society (whether or not they correspond to any conditions in force as respects the current authorisation) as the Commission thinks fit to impose to secure that purpose; or
 - (b) if not so satisfied, refuse to grant the authorisation;
- and if it refuses to grant authorisation under this section the authorisation current under section 9 shall expire on the date specified by the Commission in the notice of its refusal except where section 46(4) applies.
- (8) If the Commission refuses to grant authorisation to a building society under this section it shall inform the central office of the fact and the date on which the current authorisation of the society expires; and the central office shall record that date in the public file of the society.
- (9) Subsections (6) and (7) of section 9 apply as respects the imposition of conditions on the renewal of authorisation under this section as they apply as respects the imposition of conditions under that section.
- (10) The provisions of Schedule 3 to this Act regulating—
- (a) the making and determination of applications for authorisation,
 - (b) the furnishing of information or additional information in connection with such applications, and
 - (c) the imposition of conditions of authorisation,

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apply in relation to authorisation under this section.

- (11) The making of an application under this section at the direction of the Commission shall not preclude the Commission, at any time while the application is pending, from imposing conditions on the society's authorisation under section 42 or revoking the society's authorisation under section 43; but if it revokes the authorisation the proceedings under this section shall abate.
- (12) An authorisation granted under this section shall be treated for the purposes of this Act as an authorisation granted under section 9 and in particular subsection (9) of that section shall apply as if any conditions had been imposed under subsection (5) of that section.
- (13) Any expression used in this section to which a meaning is given by section 9(13) has that meaning in this section.
- (14) This section shall expire at the end of the period of 5 years beginning with the date on which this Act is passed unless continued in force by an order under subsection (15) below.
- (15) The Treasury may from time to time by order provide that this section shall continue in force for a period not exceeding 5 years from the coming into operation of the order.
- (16) The power to make an order under subsection (15) 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.
- (17) Section 45 applies for the interpretation of "adequate reserves" and "designated capital resources" in subsection (6) above.

Subordinate Legislation Made

P1 S. 41: s. 41(15) power exercised (3.7.1991) by S.I. 1991/1518.

Textual Amendments

F1 S. 41(5A) inserted (18.7.1996) by S.I. 1996/1669, reg. 6(2)

F2 Words in s. 41(6)(7) inserted (18.7.1996) by S.I. 1996/1669, reg. 6(2)

F3 S. 41(6): word following paragraph (d) omitted (1.1.1993) by virtue of S.I. 1992/3218, reg. 69

F4 S. 41(6)(dd) inserted (1 1.1993) by S.I. 1992/3218, reg. 69

Modifications etc. (not altering text)

C1 S. 41 continued for 5 years from 25.7.1991 by S.I. 1991/1518, art. 2 (revoked (25.7.1996) by S.I. 1996/1844, art. 2).

S. 41 continued for 5 years from 25.7.1996 by S.I. 1996/1844, art. 2

C2 S. 41(6)(a) modified (1.1.1993) by S.I. 1992/3218, reg. 83, Sch. 11 Pt. IV para. 18(2)(a)

Status:

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