

SCHEDULES

SCHEDULE 1

Section 3(2).

[PART II OF SCHEDULE 2 TO 1986 ACT]

CAPACITY OF SOCIETY AND POWER OF DIRECTORS TO BIND IT

Capacity of society not limited by its memorandum

- 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.

Power of directors to bind society

- 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
 - (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.

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- (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.

No duty to enquire as to capacity of society etc.

- 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.

SCHEDULE 2

Section 7(2).

[SCHEDULE 2A TO 1986 ACT]

DISCHARGE OF MORTGAGES: SUPPLEMENTARY PROVISIONS

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 Land Registration Act 1925, the receipt shall operate in accordance with section 115(1), (3), (6) and (8) of the 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.

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- (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.

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 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 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 Land Registration Act (Northern Ireland) 1970.”

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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.

SCHEDULE 3

Section 13(2).

[SCHEDULE 7A TO 1986 ACT]

DIRECTIONS: SUPPLEMENTARY PROVISIONS

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

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- (b) state the grounds for the decision to give it.
- (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.

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.

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- (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 4

Section 17(2).

[SCHEDULE 8A TO 1986 ACT]
 TRANSFER DIRECTIONS: MODIFICATIONS OF PART X

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

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- (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.
- (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).

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- (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).

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.

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.

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—

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- “(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 5

Section 30(3).

INFORMATION ABOUT TRANSFERS OR PROPOSED TRANSFERS OF BUSINESS

PART I

[PART I OF SCHEDULE 17 TO 1986 ACT]

ISSUE OF STATEMENT OR SUMMARY TO MEMBERS

Preliminary

- 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.

Duty to send transfer statements or summaries to members

- 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.
- 3 (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—

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- (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.
- 4 (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.
- 5 (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.

PART II

[PART IA OF SCHEDULE 17 TO 1986 ACT]

NOTIFICATION OF PROPOSALS FOR TRANSFERS OF BUSINESS

Preliminary

- 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.

Duty to notify members

- 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.
- 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—
- (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.

Duty to notify central office

- 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.

Penalty

- 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.

SCHEDULE 6

Section 39(2).

[SCHEDULE 15A TO 1986 ACT]

APPLICATION OF OTHER COMPANIES INSOLVENCY LEGISLATION TO BUILDING SOCIETIES

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 Companies Act 1985 or (as the case may be) the 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 Insolvency Act 1986, or
 - (b) Parts I to IV, VII, XI and XII and Article 378 of the 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 Insolvency Act 1986 or Article 2(6) and 373 of, and Schedule 7 to, the Insolvency (Northern Ireland) Order 1989.
- 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.

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- 4 (1) Rules may be made under section 411 of the Insolvency Act 1986 or, as the case may be, 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 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.
- 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.

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 Insolvency Act 1986 is referred to as “the Act”.

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.
- 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

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- (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.

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.

Status: This is the original version (as it was originally enacted).

- 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.
- 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 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.
- 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: This is the original version (as it was originally enacted).

- 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.
- 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 Insolvency (Northern Ireland) Order 1989 is referred to as “the Order”.

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.

- 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—
 - (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.

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.

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- (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—
- (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 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.

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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.
- 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.
- (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.

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- 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 7

Section 43.

OTHER AMENDMENTS OF 1986 ACT

The Building Societies Commission

- 1 In subsection (4) of section 1 of the 1986 Act (the Building Societies Commission), for paragraph (c) there shall be substituted the following paragraph—
- “(c) to secure that the principal purpose of building societies remains that of making loans which are secured on residential property and are funded substantially by their members;”.

Annual and other reports

- 2 In section 4 of the 1986 Act (annual and other reports), subsection (2) shall cease to have effect.

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Authorisation to raise funds and borrow money

- 3 (1) In subsection (3) of section 9 of the 1986 Act (authorisation to raise funds and borrow money), paragraph (d) and the word “or” immediately preceding that paragraph shall cease to have effect.
- (2) In subsection (7), for the words “subsidiary or associated body” there shall be substituted the words “connected undertaking”.
- (3) In subsection (13) of that section, for the definition of “qualifying deferred shares” there shall be substituted the following definition—
- ““qualifying deferred shares” means deferred shares which constitute own funds of the society.”.
- (4) After that subsection there shall be inserted the following subsection—
- “(13A) In determining for the purposes of subsection (4)(b) above whether a person is a fit and proper person to hold any particular office, regard shall be had, in particular—
- (a) to his probity;
 - (b) to his competence and soundness of judgement for fulfilling the responsibilities of that office;
 - (c) to the diligence with which he is fulfilling or likely to fulfil those responsibilities; and
 - (d) to whether the interests of shareholders or depositors of the society are, or are likely to be, in any way threatened by his holding that office.”

The Building Societies Investor Protection Board

- 4 In subsection (4) of section 24 of the 1986 Act (the Building Societies Investor Protection Board), after the definition of the “1995 Regulations” there shall be inserted the following definition—
- ““administrator”, in relation to a participating institution, means an administrator of the institution under Part II of the Insolvency Act 1986 or Part III of the Insolvency (Northern Ireland) Order 1989;”.

The Investor Protection Fund

- 5 (1) In subsection (5) of section 25 of the 1986 Act (the Investor Protection Fund), in the definition of “the expenses attributable to the insolvency” for the words “paragraphs (a) to (d)” there shall be substituted the words “paragraphs (a) to (c)”.
- (2) In subsection (7) of that section, after the word “authorises” there shall be inserted the words “the Bank of England or”.

Meaning of “insolvency” etc.

- 6 In subsection (2) of section 25A of the 1986 Act (meaning of “insolvency” etc.), for the word “society” there shall be substituted the word “institution”.

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Payments to investors

- 7
- (1) In subsection (3) of section 27 of the 1986 Act (payments to investors), for the words “such other authorised institution or building society” there shall be substituted the words “such institution (whether the Bank of England, an authorised institution or a building society)”.
 - (2) In subsection (4A) of that section, after the word “liquidator”, in each place where it occurs, there shall be inserted the words “or administrator”.
 - (3) In subsection (9) of that section, after the word “liquidator”, in both places where it occurs, there shall be inserted the words “or administrator”.
 - (4) In subsection (9A)(a) of that section, after the word “liquidator”, in both places where it occurs, there shall be inserted the words “or administrator”.

Membership of insolvency committees etc

- 8 After section 27 of the 1986 Act there shall be inserted the following section—

“27A Membership of insolvency committees etc

- (1) The following provisions of this section have effect notwithstanding that the Board may not yet have made or become liable to make a payment under section 27(1) in relation to a participating institution which has become insolvent.
- (2) The Board shall at all times be entitled to receive any notice or other document required to be sent to a creditor of the institution whose debt has been proved.
- (3) A duly authorised representative of the Board shall be entitled—
 - (a) to attend any meeting of creditors of the institution and to make representations as to any matter for decision at that meeting;
 - (b) to be a member of any committee established under section 301 of the Insolvency Act 1986;
 - (c) to be a commissioner under section 30 of the Bankruptcy (Scotland) Act 1985;
 - (d) to be a member of a committee established for the purposes of Part IV or V of the Insolvency Act 1986 under section 101 of that Act or under section 141 or 142 of that Act;
 - (e) to be a member of any committee established under Article 274 of the Insolvency (Northern Ireland) Order 1989; and
 - (f) to be a member of a committee established for the purposes of Part V or VI of the Insolvency (Northern Ireland) Order 1989 under Article 87 or under Article 120 of that Order.
- (4) Where a representative of the Board exercises his right to be a member of such a committee as is mentioned in paragraph (b), (d), (e) or (f) of subsection (3) above, or to be a commissioner by virtue of paragraph (c) of that subsection—
 - (a) he may not be removed except with the consent of the Board; and
 - (b) his appointment under that subsection shall be disregarded for the purposes of any provision made by or under any enactment which

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specifies a minimum or maximum number of members of such a committee or commission.”

Liability of insolvent society in respect of payments made by Board

- 9 For subsection (6) of section 28 of the 1986 Act (liability of insolvent society in respect of payments made by Board) there shall be substituted the following subsection—

“(6) Where by virtue of paragraph 3 of Schedule 6 to this Act the insolvency payment is or is to be made by the Board to a person other than the person to whom the institution is liable in respect of the protected investment, any reference in the preceding provisions of this section to the liability to the investor shall be construed as a reference to the liability of the institution to the person to whom that payment would fall to be made by the Board apart from that paragraph.”

Power to obtain information

- 10 In subsection (3) of section 29A of the 1986 Act (power to obtain information), after the word “liquidator” there shall be inserted the words “or administrator”.

Voluntary schemes

- 11 For subsections (1) to (3) of section 31 of the 1986 Act (voluntary schemes) there shall be substituted the following subsections—

- “(1) In this section “voluntary arrangements” means arrangements entered into by any two or more building societies for the purpose of making funds available to meet losses incurred by persons who have deposited money with, or who have shares in, an insolvent building society which is a party to the arrangements.
- (2) A building society shall not enter into any voluntary arrangements until the arrangements have been approved by the Commission and authorised by a resolution passed, at a general meeting of the society or on a postal ballot, as a special resolution.
- (3) The Commission shall not approve any voluntary arrangements unless it is satisfied that the arrangements comply with the Deposit Guarantee Schemes Directive (94/19/EC).”

Power to direct application to renew authorisation

- 12 (1) Section 41 of the 1986 Act (power to direct application to renew authorisation) shall become permanent; and accordingly subsections (14) to (16) of that section shall cease to have effect.
- (2) In subsection (6) of that section, for paragraph (b) there shall be substituted the following paragraph—
- “(b) the society has adequate reserves and other capital resources;”.
- (3) In subsection (7) of that section, for paragraphs (a) and (b) there shall be substituted the following paragraphs—

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- “(a) if those matters include the matter specified in paragraph (a) of that subsection, refuse to grant authorisation; or
- (b) in any other case—
 - (i) 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
 - (ii) if not so satisfied, refuse to grant the authorisation;”.

(4) For subsection (13) of that section there shall be substituted the following subsection—

“(13) Any expression used in this section to which a meaning is given by subsection (13) of section 9 has that meaning in this section; and for the purposes of this section subsection (13A) of that section shall apply as if the reference to subsection (4)(b) of that section were a reference to subsection (6)(c) of this section.”

(5) For subsection (17) of that section there shall be substituted the following subsection—

“(17) In this section “adequate” means adequate having regard to the range and scale of the society’s business; and in this subsection—

- (a) “business” includes business the society proposes to carry on; and
- (b) the reference to the society’s business includes, where it has connected undertakings, a reference to the business of those undertakings.”

Imposition of conditions on current authorisation

- 13 (1) In subsection (5)(b) of section 42 of the 1986 Act (imposition of conditions on current authorisation), for the words “subsidiary or other associated body” there shall be substituted the words “connected undertaking”.
- (2) At the beginning of subsection (7) of that section there shall be inserted the words “Subject to section 42A”.

Revocation of authorisation

- 14 (1) In subsection (1) of section 43 of the 1986 Act (revocation of authorisation), for the word “or” immediately following paragraph (c) there shall be substituted the following paragraphs—
- “(cc) the Commission is satisfied that a direction under section 42B(1) has not been complied with by the society;
 - (cd) it appears to the Commission that—
 - (i) a composition or arrangement with creditors has been made in respect of the society;
 - (ii) a receiver or manager of the society’s undertaking has been appointed;

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- (iii) possession has been taken, by or on behalf of the holders of any debenture secured by a charge, of any property of the society; or
- (iv) an administration order has been made in relation to the society under section 8 of the Insolvency Act 1986; or”.

(2) For subsection (7) of that section there shall be substituted the following subsections—

“(7) If, when a society’s authorisation is revoked, a member is under an obligation to make payments to the society—

- (a) which represent instalments of the amount due in respect of a share in the society; and
- (b) which, by virtue of section 9(1), the society is prohibited from accepting,

the obligation shall (subject to anything in the rules of the society or any agreement between the society and the member) be suspended in respect of each instalment for the period during which no authorisation is in force.

(7A) If, in a case falling within subsection (7) above, reauthorisation is granted—

- (a) the first suspended instalment shall be payable on the first payment day after reauthorisation is granted; and
- (b) a subsequent instalment shall be payable on each payment day after that until the amount due in respect of the share is paid in full.”

Reauthorisation

15 (1) In subsection (4) of section 44 of the 1986 Act (reauthorisation), for paragraph (b) there shall be substituted the following paragraph—

“(b) the society has adequate reserves and other capital resources;”.

(2) In subsection (5) of that section, in paragraph (a), for the words “are or include” there shall be substituted the words “include either of”.

(3) For subsection (9A) of that section there shall be substituted the following subsection—

“(9A) Any expression used in this section to which a meaning is given by subsection (13) of section 9 has that meaning in this section; and for the purposes of this section subsection (13A) of that section shall apply as if the reference to subsection (4)(b) of that section were a reference to subsection (4)(c) of this section.”

(4) For subsection (10) of that section there shall be substituted the following subsection—

“(10) In this section “adequate” means adequate having regard to the range and scale of the society’s business; and in this subsection—

- (a) “business” includes business the society proposes to carry on; and
- (b) the reference to the society’s business includes, where it has connected undertakings, a reference to the business of those undertakings.”

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Powers to avoid apparent association with other bodies

- 16 Section 51 of the 1986 Act (powers to avoid apparent association with other bodies) shall cease to have effect.

Powers to obtain information and documents etc.

- 17 (1) In subsection (1)(a) of section 52 of the 1986 Act (powers to obtain information and documents etc.), after the words “section 9,” there shall be inserted the words “Part IV,”.
- (2) In subsection (2) of that section—
- (a) for the words “subsidiaries or other associated bodies” there shall be substituted the words “connected undertakings”; and
 - (b) for the words “subsidiary or associated body” there shall be substituted the words “connected undertaking”.
- (3) Subsection (3) of that section shall cease to have effect.
- (4) In subsection (4) of that section—
- (a) for the words “subsidiary of or other body associated with” there shall be substituted the words “connected undertaking”;
 - (b) for the words “that body” there shall be substituted the words “that undertaking”; and
 - (c) for the words “subsidiary or associated body” there shall be substituted the words “connected undertaking”.
- (5) In subsection (5) of that section—
- (a) for the words “subsidiary or associated body” there shall be substituted the words “or connected undertaking”;
 - (b) for the words “the body”, in each place where they occur, there shall be substituted the words “the society or undertaking”; and
 - (c) in paragraph (d), for the words “accountant approved by the Commission” there shall be substituted the words “approved accountant or other person with relevant professional skill”.
- (6) For subsection (6) of that section there shall be substituted the following subsections—
- “(5A) Subject to subsection (4) above, the Commission may authorise a member, servant or agent of the Commission, on producing evidence of his authority, to require a building society or connected undertaking—
- (a) to furnish to him forthwith such specified information as the Commission considers it needs for the purposes of its supervisory functions;
 - (b) to produce to him forthwith such documents or other material as the Commission considers it needs for those purposes;
 - (c) to provide to him forthwith such explanations of specified matters as the Commission considers it needs for those purposes.
- (6) Where by virtue of subsection (5)(a) to (c) above the Commission has power, or by virtue of subsection (5A) above an authorised person has power, to require the furnishing of any information, the production of any document or material or the provision of any explanation, by a building society or

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connected undertaking, the Commission or authorised person shall have the like power as regards any person who—

- (a) is or has been an officer or employee or agent of the society or undertaking; or
- (b) in the case of documents or material, appears to the Commission or authorised person to have the document or material in his possession or under his control.”

(7) For subsection (9) of that section there shall be substituted the following subsection—

“(9) Where, by virtue of subsection (5), (5A) or (6) above, the Commission or an authorised person requires the production by a building society or connected undertaking or any other person of documents or material, the Commission or authorised person may—

- (a) if the documents or material are produced, take copies of or extracts from them and require the person who produced them, or any other person who is a present or past director or officer of, or is or was at any time employed by, the building society or connected undertaking concerned, to provide an explanation of the documents or material; and
- (b) if the documents or material are not produced, require the person who was required to produce the documents or material to state, to the best of his knowledge and belief, where the documents or material are.”

(8) For subsection (13) of that section there shall be substituted the following subsection—

“(13) In this section—

“agent”, in relation to a building society or connected undertaking, includes its bankers, accountants, solicitors and auditors;

“approved”, in relation to an accountant or other person with relevant professional skill, means approved by the Commission;

“specified” means specified in a notice or requirement under this section.”

Right of entry to obtain information and documents

18 After section 52 of the 1986 Act there shall be inserted the following section—

“52A Right of entry to obtain information and documents

- (1) Any member, servant or agent of the Commission may, on producing if required evidence of his authority, enter any premises occupied by a person on whom a notice has been served under section 52 for the purpose of—
 - (a) obtaining there the information, documents or other material or explanations required by that notice; and
 - (b) facilitating the exercise by the Commission of the powers conferred by subsection (5) of that section.

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- (2) Subject to subsection (3) below, any member, servant or agent of the Commission may, on producing if required evidence of his authority, enter any premises occupied by any person on whom a notice could be served under section 52 for the purpose of obtaining there such information, documents or other material or explanations as—
 - (a) are specified in the authority; and
 - (b) are information, documents or other material or explanations that could have been required by such a notice.
- (3) The Commission shall not authorise any person to act under subsection (2) above unless it has reasonable cause to believe that if a notice under section 52 were served it would not be complied with or that any documents or other material to which it would relate would be removed, tampered with or destroyed.
- (4) Any person who intentionally obstructs a person exercising rights conferred by this section shall be liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale or both.”

Confidentiality of information obtained by Commission

- 19 (1) In subsection (2) of section 53 of the 1986 Act (confidentiality of information obtained by Commission)—
 - (a) for paragraph (b) there shall be substituted the following paragraph—
 - “(b) with a view to the institution of, or otherwise for the purposes of—
 - (i) any civil proceedings by or at the relation of or against the Commission or by the Investor Protection Board arising out of the discharge of their respective functions under this Act; or
 - (ii) any civil proceedings in which the Commission will have or has a right to be heard;” and
 - (b) after the word “enable”, in each place where it occurs, there shall be inserted the words “or assist”.
 - (2) In subsection (3) of that section, after the word “enable” there shall be inserted the words “or assist”.
 - (3) In subsection (11) of that section, for the words “subsidiary or associated body” there shall be substituted the words “connected undertaking”.
 - (4) In subsection (14) of that section, for the word “subsidiaries” there shall be substituted the words “subsidiary undertakings”.

Information disclosed to Commission from other sources

- 20 In subsection (3A) of section 54 of the 1986 Act (information disclosed to Commission from other sources), after the word “enabling”, in both places where it occurs, there shall be inserted the words “or assisting”.

Status: This is the original version (as it was originally enacted).

Investigations on behalf of Commission

- 21 In subsection (2) of section 55 of the 1986 Act (investigations on behalf of Commission), for paragraphs (a) and (b) there shall be substituted the words “a connected undertaking of the building society under investigation”.

Inspections and special meetings: general

- 22 (1) In subsection (1) of section 56 of the 1986 Act (inspections and special meetings: general), for the words “subsidiary of or body associated with” there shall be substituted the words “connected undertaking of”.
- (2) In subsections (3) and (4) of that section—
- (a) for the words “subsidiary of or body associated with” there shall be substituted the words “connected undertaking of”; and
 - (b) for the words “subsidiary or associated body” there shall be substituted the words “connected undertaking”.
- (3) In subsections (6) and (8) of that section, for the words “subsidiary or associated body” there shall be substituted the words “connected undertaking”.

Inspections: supplementary provisions

- 23 In subsection (1) of section 57 of the 1986 Act (inspections: supplementary provisions), for the words “subsidiary of or body associated with”, in both places where they occur, there shall be substituted the words “connected undertaking of”.

Restrictions on loans etc. to directors

- 24 (1) In subsection (1) of section 65 of the 1986 Act (restrictions on loans etc. to directors)
- (a) in paragraph (a), for the words “an advance or other loan” there shall be substituted the words “a loan”; and
 - (b) in paragraph (c), for the words “any services for the time being specified in Part I of Schedule 8 to this Act” there shall be substituted the words “any service of a kind which is provided by building societies for individuals in the ordinary course of business”.
- (2) In subsection (10) of that section—
- (a) the word “and” immediately following the definition of “provision of funds” shall cease to have effect; and
 - (b) after the definition of “relevant” there shall be inserted the following definition—
- ““subsidiary” has the meaning given by section 736 of the Companies Act 1985.”

Directors etc. not to accept commissions in connection with loans

- 25 (1) In subsection (1) of section 67 of the 1986 Act (directors etc. not to accept commissions in connection with loans), for the word “advances” there shall be substituted the word “loans”.

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- (2) In subsection (5) of that section, for the words “an additional advance”, “an advance” and “the advance” there shall be substituted the words “an additional loan”, “a loan” and “the loan” respectively.
- (3) In subsection (7) of that section, for the words “an advance” there shall be substituted the words “a loan”.

Records of loans etc. for directors

- 26 In subsection (6) of section 68 of the 1986 Act (records of loans etc. for directors), for the words “the prescribed fee” there shall be substituted the words “such fee (not exceeding £5) as the society may from time to time determine”.

Records of income of related businesses

- 27 (1) In subsection (2) of section 69 of the 1986 Act (records of income of related businesses)—
 - (a) in paragraph (b), for the word “advances” there shall be substituted the word “loans”; and
 - (b) for paragraph (c) there shall be substituted the following paragraph—
 - “(c) is not a connected undertaking of the society;”.
- (2) In subsections (7)(b) and (8) of that section, after the words “its directors” there shall be inserted the words “and other officers”.
- (3) In subsection (15) of that section, for the words “the prescribed fee” there shall be substituted the words “such fee (not exceeding £5) as the society may from time to time determine”.

Interpretation of Part VII

- 28 In subsection (3)(a) of section 70 of the 1986 Act (interpretation of Part VII), after the words “of his” there shall be inserted the words “but does not include any person who has attained the age of 18”.

Accounting records and systems of business control etc.

- 29 (1) In subsection (3)(c) of section 71 of the 1986 Act (accounting records and systems of business control etc.), for the words “any provision of Part II or Part III” there shall be substituted the words “section 6 or 7”.
- (2) In subsection (6) of that section, for the words “statement in writing” there shall be substituted the word “record”.
- (3) In subsection (10) of that section, for the following, namely—
 - (a) the words “subsidiary undertakings or other associated bodies linked by resolution”; and
 - (b) the words “subsidiary undertakings or other associated bodies”; and
 - (c) the words “subsidiary undertakings and other associated bodies”,
 there shall be substituted the words “connected undertakings”.
- (4) Subsection (10A) of that section shall cease to have effect.

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Contents and form of annual accounts

- 30 In subsection (8)(c) of section 73 of the 1986 Act (contents and form of annual accounts), for the words “bodies associated with them” there shall be substituted the words “their associated undertakings”.

Duty of directors to prepare annual business statement

- 31 In subsection (2) of section 74 of the 1986 Act (duty of directors to prepare annual business statement), for the words “subsidiary undertakings or associated bodies”, in both places where they occur, there shall be substituted the words “connected undertakings”.

Directors' report

- 32 (1) In subsection (1) of section 75 (directors' report)—
- (a) in paragraph (b), for the words “subsidiary undertakings or other bodies associated with it” there shall be substituted the words “connected undertakings”; and
 - (b) for paragraph (c) there shall be substituted the following paragraph—
 - “(c) a statement as to the matters mentioned in subsection (1A) below.”
- (2) After that subsection there shall be inserted the following subsection—
- “(1A) The said matters are—
- (a) whether the society has acquired or established, or allowed a subsidiary undertaking to acquire or establish, a business to which subsection (3) and subsection (4) or, as the case may be, subsection (5) of section 92A applied;
 - (b) if the society has acquired or established, or allowed such an undertaking to acquire or establish, such a business, what the business is and whether the society complied with the requirements of subsection (1) of that section; and
 - (c) if the society did not comply with those requirements, why the society nevertheless proceeded, or allowed the undertaking to proceed, with the acquisition or establishment.”
- (3) In subsection (2) of that section—
- (a) for the words “subsidiary undertakings or other associated bodies” there shall be substituted the words “connected undertakings”; and
 - (b) for the words “subsidiary undertakings and associated bodies” there shall be substituted the words “connected undertakings”.
- (4) In subsection (4) of that section, for the words from “the prescribed information” to “regulations” there shall be substituted the words “the review, information and statement required by subsection (1) above and, where applicable, the review required by subsection (2) above”.

Summary financial statement for members and depositors

- 33 (1) In subsection (2) of section 76 of the 1986 Act (summary financial statement for members and depositors)—

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- (a) for the words “subsidiary undertakings or other associated bodies” there shall be substituted the words “connected undertakings”; and
- (b) for the words “subsidiary undertakings and other associated bodies” there shall be substituted the words “connected undertakings”.

(2) In subsection (9)(a) of that section, for paragraph (a) there shall be substituted the following paragraph—

- “(a) any individual who for the first time subscribes for shares in the society, on his first subscribing for the shares, and”.

Auditor’s report and powers

- 34 (1) In subsection (4) of section 79 of the 1986 Act (auditor’s report and powers), for the words “subsidiary undertaking”, in each place where they occur, there shall be substituted the words “connected undertaking”.
- (2) Subsection (5) of that section shall cease to have effect.
- (3) In subsection (9) of that section, for the words “subsidiary undertaking of or is associated with” there shall be substituted the words “connected undertaking of”.

Auditor’s duties to Commission and related rights

- 35 (1) In subsection (2) of section 82 of the 1986 Act (auditor’s duties to Commission and related rights)—
- (a) after paragraph (a) there shall be inserted the word “and”; and
 - (b) paragraph (c) and the word “and” immediately preceding that paragraph shall cease to have effect.
- (2) In subsection (3) of that section, paragraph (d) shall cease to have effect.
- (3) In subsection (4) of that section, for the words “subsidiary undertakings or other associated bodies linked by resolution”, in both places where they occur, there shall be substituted the words “connected undertakings”.
- (4) In subsection (8) of that section, for the words “subsidiary undertakings or other associated bodies” there shall be substituted the words “connected undertakings”.

Investigation of complaints: supplementary provisions

- 36 (1) Subsection (1) of section 84 of the 1986 Act (investigation of complaints: supplementary provisions) shall cease to have effect.
- (2) In subsections (2), (3), (4) and (5) of that section, for the words “associated body” there shall be substituted the words “connected undertaking”.
- (3) In subsection (9) of that section, for the words “section 83(5)” there shall be substituted the words “section 83(4)”.
- (4) In subsection (10) of that section, for the words “section 83(3) or (5)” there shall be substituted the words “section 83(3) or (4)”.
- (5) In subsection (11) of that section, for the words “associated body’s” there shall be substituted the words “connected undertaking’s”.

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Settlement of disputes

- 37 In subsection (1) of section 85 of the 1986 Act (settlement of disputes), for the words “a depositor with the society” there shall be substituted the words “one or more members of the society or a complainant”.

Dissolution by consent

- 38 In subsection (8) of section 87 of the 1986 Act (dissolution by consent), for the words “or to a company” there shall be substituted the words “or the transfer of its business to a company”.

Winding up: grounds and petitioners

- 39 In subsection (4) of section 89 of the 1986 Act (winding up: grounds and petitioners), for paragraph (b) there shall be substituted the following paragraph—
“(b) the reference to its existing for an illegal purpose includes a reference to its existing after it has ceased to comply with the requirement imposed by section 5(1)(a) (purpose or principal purpose).”

Winding up or dissolution: supplementary

- 40 For section 92 of the 1986 Act there shall be substituted the following section—

“92 Supplementary

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

Amalgamations

- 41 In subsection (2) of section 93 of the 1986 Act (amalgamations)—
(a) for paragraph (a) there shall be substituted the following paragraph—
“(a) agree the purpose or principal purpose of their successor to be that of making loans which are secured on residential property and are funded substantially by its members, and agree upon the extent of its powers, in a memorandum which complies with the requirements of Schedule 2 to this Act;”; and
(b) for paragraph (c) there shall be substituted the following paragraph—
“(c) each approve the terms of the amalgamation by two resolutions which also approve the memorandum and the rules of their successor and of which—
(i) one is passed as a shareholding members' resolution, and
(ii) the other is passed as a borrowing members' resolution,
in accordance with the applicable provisions of that Schedule;”.

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Transfer of engagements

- 42 In subsections (2), (4) and (5) of section 94 of the 1986 Act (transfer of engagements), for the words “special resolution” there shall be substituted the words “shareholding members' resolution”.

Mergers: provisions supplementing sections 93 and 94

- 43 (1) In subsection (3) of section 95 of the 1986 Act (mergers: provisions supplementing sections 93 and 94), for the words “subsections (4) to (9)” there shall be substituted the words “subsections (4) to (6)”.
- (2) Subsections (7) to (9) of that section shall cease to have effect.

Mergers: compensation for loss of office etc.

- 44 (1) In subsection (1) of section 96 (mergers: compensation for loss of office etc.)—
- (a) in paragraph (a), for the words “the resolution” there shall be substituted the words “one of the two resolutions”; and
 - (b) in paragraph (b), for the words “the special resolution” there shall be substituted the words “the two resolutions”.
- (2) In subsection (4) of that section, for the words “the special resolution”, in both places where they occur, there shall be substituted the words “each of the two resolutions”.
- (3) In subsection (6) of that section, for the words “a special resolution of the society” there shall be substituted the words “the two resolutions required by section 94(5)(a)”.
- (4) In subsection (8) of that section, in the definition of “loss of office”, for the words “a subsidiary of that society or in an associated body” there shall be substituted the words “any other body”.

Transfer of business to commercial company

- 45 (1) In subsection (2) of section 97 of the 1986 Act (transfer of business to commercial company), after the words “section 99,” there shall be inserted the words “section 99A,”.
- (2) In subsection (3) of that section, the words from “and for the purposes” to the end shall cease to have effect.
- (3) In subsection (12) of that section, after the definition of “the requisite protective provisions” there shall be inserted the following definition—
- ““the requisite shareholders’ resolution’ has the meaning given by paragraph 30(1) of Schedule 2;”.
- (4) After that subsection there shall be inserted the following subsection—
- “(13) References in this section, and the other applicable provisions of this Act, to a company include references to a body corporate which—
- (a) is incorporated in an EEA State other than the United Kingdom; and
 - (b) has power under its constitution to offer its shares or debentures to the public;

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and in this subsection “EEA State” means a Contracting Party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993.”

Regulated terms: compensation for loss of office etc.

- 46 In subsection (6) of section 99 of the 1986 Act (regulated terms: compensation for loss of office etc.), in the definition of “loss of office”, for the words “a subsidiary of that society or in an associated body” there shall be substituted the words “any other body”.

Distribution and share rights

- 47 In subsection (4) of section 100 of the 1986 Act (distribution and share rights), for the words “requisite transfer resolution” there shall be substituted the words “requisite shareholders' resolution”.

Power to amend etc. to assimilate to company law

- 48 In subsection (2) of section 104 of the 1986 Act (power to amend etc. to assimilate to company law), at the end of paragraph (d) there shall be inserted the words “or insolvency”.

Limited power to anticipate future statutory instrument powers

- 49 Section 105 of the 1986 Act (limited power to anticipate future statutory instrument powers) shall cease to have effect.

Power to require building society to change misleading name

- 50 Section 108 of the 1986 Act (power to require building society to change misleading name) shall cease to have effect.

Offences: liability of officers etc.

- 51 In subsection (2) of section 112 of the 1986 Act (offences: liability of officers etc.), after the words “section 9(11),” there shall be inserted the words “section 43A(7),”.

Qualifying asset holding for certain powers

- 52 Section 118 of the 1986 Act (qualifying asset holding for certain powers) shall cease to have effect.

Interpretation

- 53 (1) In subsection (1) of section 119 of the 1986 Act (interpretation)—
- (a) the definitions of “adopt”, “adopted”, “adoptable powers”, “advance secured on land”, “advance fully secured on land”, “advance secured on third party land”, “mobile home loan”, “qualifying asset holding”, “subsidiary” and “total commercial assets” shall cease to have effect;
 - (b) for the definitions of “associated body”, “associated” and “linked by resolution” there shall be substituted the following definition—

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- ““associated undertaking” shall be construed in accordance with paragraph 20 of Schedule 4A to the Companies Act 1985 read—
- (a) in conjunction with sections 259 and 260 of, and paragraphs 5 to 11 of Schedule 10A to, that Act; and
 - (b) as if the reference to an undertaking included in the consolidation were a reference to an undertaking which would be so included if consolidated accounts were being prepared at the material time;”;
- (c) for the definitions of “borrowing members' resolution” and “borrowing member” there shall be substituted the following definitions—
- ““borrowing members’ resolution’ has the meaning given by paragraph 29(1) of Schedule 2 to this Act and, subject to paragraph 29(2), “borrowing member” has the meaning given by paragraph 5 of that Schedule;”;
- (d) after the definition of “the Commission” there shall be inserted the following definition—
- ““connected undertaking” means a subsidiary undertaking or an associated undertaking;”;
- (e) for the definition of “the court” there shall be substituted the following definition—
- ““the court”, in relation to a building society, means the court which has jurisdiction under the applicable winding up legislation to wind up the society;”;
- (f) after the definition of “the criteria of prudent management” there shall be inserted the following definition—
- ““currency” includes ecus;”;
- (g) for the definition of “deposit” there shall be substituted the following definition—
- ““deposit” includes—
- (a) a loan; and
 - (b) a subordinated deposit, that is to say, a deposit which, on a winding up, would fall to be repaid only after repayment in full had been made to the holders of shares in the society other than deferred shares,
- and cognate expressions shall be construed accordingly;”;
- (h) after the definition of “heritable security” there shall be inserted the following definition—
- ““interest”, in relation to shares, includes dividends;”;
- (i) after the definition of “Investor Protection Board” there shall be inserted the following definitions—
- ““land”, in the expression “loan secured on land”, has the meaning given by section 6A(8);
- “loan secured on land” and “loan fully secured on land” shall be construed in accordance with sections 6A and 6B respectively;”;

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- (j) for the definition of “member” there shall be substituted the following definition—
 - ““member” shall be construed in accordance with paragraph 5 of Schedule 2 to this Act;”;
 - (k) for the definition of “mortgage debt” there shall be substituted the following definition—
 - ““mortgage debt”, in relation to a loan secured on land and any time, means the total amount outstanding at that time in respect of—
 - (a) the principal of the loan;
 - (b) interest on the loan; and
 - (c) any other sum which the borrower is obliged to pay the society under the terms of the loan;”;
 - (l) after the definition of “officially notified” there shall be inserted the following definition—
 - ““ordinary resolution” means a resolution which will be effective without being passed as a special resolution, shareholding members' resolution or borrowing members' resolution;”
 - (m) after the definition of “the repealed enactments” there shall be inserted the following definition—
 - ““residential property” has the meaning given by section 5(10);”;
 - (n) for the definition of “share” there shall be substituted the following definition—
 - ““share”, in relation to a building society, shall be construed in accordance with section 8;”;
 - (o) after the definition of “shareholder and depositor” there shall be inserted the following definitions—
 - ““shareholding member” has the meaning given by paragraph 5 of Schedule 2 to this Act;
 - “shareholding members’ resolution’ has the meaning given by paragraph 27A of that Schedule;”.
- (2) In subsection (2) of that section, for the word “advances” there shall be substituted the word “loans”.
- (3) In subsection (3) of that section—
- (a) in paragraph (a), the words “by him” and “to him” shall cease to have effect; and
 - (b) in paragraph (b), for the words “an advance” there shall be substituted the words “a loan”.
- (4) After subsection (3) of that section there shall be inserted the following subsection—
- “(3A) Any reference in this Act (however expressed) to loans being owed to a building society or a subsidiary undertaking of a building society is a reference to their being so owed either at law or in equity.”
- (5) For subsection (4) of that section there shall be substituted the following subsection—

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- “(4) Subject to sections 9A(7) and 83A(7), the value in sterling of—
- (a) any transaction effected by or with a building society or connected undertaking in another currency, or
 - (b) any assets or liabilities of a building society or connected undertaking denominated in another currency,
- shall be determined for any purpose of this Act in accordance with directions given by the Commission under this subsection.”

Northern Ireland

- 54 In subsection (1) of section 122 of the 1986 Act (Northern Ireland), the words “section 15,” shall cease to have effect.

The Commission

- 55 In paragraph 11(1) of Schedule 1 to the 1986 Act (performance of functions), for the words “any member or members of the Commission” there shall be substituted the following paragraphs—
- “(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.”

Establishment, incorporation and constitution

- 56 (1) Part I of Schedule 2 to the 1986 Act (establishment, incorporation and constitution) shall be amended as follows.
- (2) For sub-paragraph (4) of paragraph 1 (requirements for establishment) there shall be substituted the following sub-paragraph—
- “(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.”
- (3) For sub-paragraphs (1) to (3) of paragraph 2 (the memorandum) there shall be substituted the following sub-paragraphs—
- “(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) Sub-paragraph (5) of that paragraph shall cease to have effect.
- (5) In sub-paragraph (4) of paragraph 3 (the rules)—
- (a) in item 2 of the Table, for the words “stock or funds of the society is or are” there shall be substituted the words “funds of the society are”; and

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- (b) in item 5 of the Table, for the word “advances” there shall be substituted the word “loans” and for the word “advance” there shall be substituted the word “loan”.
- (6) For sub-paragraph (1) of paragraph 4 (requirements for alteration of purpose, powers and rules) there shall be substituted the following sub-paragraph—
- “(1) A building society may by special resolution alter its purposes, alter its powers or alter its rules.”
- (7) In sub-paragraph (4) of that paragraph, the words “subject to paragraph 19 below” shall cease to have effect.
- (8) In sub-paragraph (1) of paragraph 8 (joint borrowers), for the words “an advance” there shall be substituted the words “a loan”.
- (9) In sub-paragraph (1)(b) of paragraph 11 (change of principal office), for the words “then at a general meeting specially called for the purpose in accordance with the rules” there shall be substituted the words “by an ordinary resolution”.
- (10) For sub-paragraph (1) of paragraph 13 (register of members) there shall be substituted the following sub-paragraph—
- “(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.”

Meetings, resolutions and postal ballots

- 57 (1) Part III of Schedule 2 to the 1986 Act (meetings, resolutions and postal ballots) shall be amended as follows.
- (2) For sub-paragraph (2) of paragraph 22 (persons entitled to notice of meetings) there shall be substituted the following sub-paragraphs—
- “(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) For sub-paragraph (1) of paragraph 23 (members' entitlement to vote on resolutions) there shall be substituted the following sub-paragraph—
- “(1) A member of a building society is entitled to vote—

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- (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.”
- (4) For sub-paragraphs (3) and (4) of that paragraph there shall be substituted the following sub-paragraphs—
 - “(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) After sub-paragraph (4) of paragraph 24 (proxies) there shall be inserted the following sub-paragraph—
 - “(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.”
- (6) In sub-paragraph (5) of that paragraph, after the words “building society,” there shall be inserted the words “or in complying with sub-paragraph (4A) above in respect of a form of appointment of a proxy.”.
- (7) In paragraph 26 (special resolutions), after the words “as a special resolution” there shall be inserted the words “, or as a shareholding members' resolution.”.
- (8) After paragraph 27 there shall be inserted the following paragraph—
 - “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—

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- (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.”
- (9) For sub-paragraph (1) of paragraph 29 (borrowing members' resolutions) there shall be substituted the following sub-paragraph—
 - “(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.”
- (10) In sub-paragraph (2) of paragraph 30 (transfer resolutions)—
 - (a) for the words “special resolution”, in both places where they occur, there shall be substituted the words “shareholding members' resolution”; and
 - (b) for the words “sub-paragraph (a) or sub-paragraph (b) of paragraph 27(1) above, as the case may be,” there shall be substituted the words “paragraph 27A above”.
- (11) In sub-paragraph (3) of that paragraph—
 - (a) for the words “special resolution”, in each place where they occur, there shall be substituted the words “shareholding members' resolution”;
 - (b) for the words “paragraph 27” there shall be substituted the words “paragraph 27A”; and
 - (c) the words “has been duly given” shall cease to have effect.
- (12) In sub-paragraph (5) of that paragraph, for the words “special resolution” there shall be substituted the words “shareholding members' resolution”.
- (13) In sub-paragraph (1) of paragraph 31 (members' rights to propose and circulate resolutions)—
 - (a) after the words “other than” there shall be inserted the words “a shareholding members' resolution or”; and
 - (b) for the words “100 words” there shall be substituted the words “500 words”.
- (14) In sub-paragraph (1) of paragraph 33 (postal ballots), after the words “resolution of the society”, in the first place where they occur, there shall be inserted the words “(other than a shareholding members' resolution or a borrowing members' resolution)”.
- (15) For sub-paragraph (5) of that paragraph there shall be substituted the following sub-paragraph—
 - “(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,

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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.”

(16) For sub-paragraph (2) of paragraph 34 (declarations to be made in proxy and ballot forms) there shall be substituted the following sub-paragraph—

“(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.”

The Building Societies Investor Protection Board

58 After paragraph 5 of Schedule 5 to the 1986 Act (the Building Societies Investor Protection Board) there shall be inserted the following paragraph—

“Performance of functions

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.”

Directors: requisite particulars of restricted transactions

59 In paragraph 2(2)(c) of Schedule 9 to the 1986 Act (directors: requisite particulars of restricted transactions), for the words “an advance or other loan” there shall be substituted the words “a loan”.

Status: This is the original version (as it was originally enacted).

Requisite particulars of income of related business

- 60 (1) In paragraphs 1 to 8 of Schedule 10 to the 1986 Act (requisite particulars of income of related business), for the words “management services”, in each place where they occur, there shall be substituted the words “administrative services”.
- (2) In paragraphs 1, 2, 5 and 6 of that Schedule—
- (a) for the words “an advance”, in each place where they occur, there shall be substituted the words “a loan”; and
 - (b) the words “under section 6, 10, 17 or 19” shall cease to have effect.
- (3) In paragraphs 4 and 8 of that Schedule, for the word “advances” there shall be substituted the word “loans”.

Auditors: appointment, tenure and qualifications

- 61 In paragraph 5 of Schedule 11 to the 1986 Act (auditors: appointment, tenure and qualifications)—
- (a) in sub-paragraph (2)(c), for the word “subsidiary” there shall be substituted the words “subsidiary undertaking”; and
 - (b) in sub-paragraph (4), for the words “sub-paragraph (1)(f)” there shall be substituted the words “sub-paragraph (1)(b)”.

Schemes for investigation of complaints

- 62 (1) In Part I of Schedule 12 to the 1986 Act (schemes for investigation of complaints), for the words “Parts II and III of this Schedule” there shall be substituted the words “Part III of this Schedule”.
- (2) Part II of that Schedule (matters of complaint) shall cease to have effect.
- (3) In paragraph 2 of Part III of that Schedule (other requirements)—
- (a) after paragraph (b) there shall be inserted the following paragraph—
 - “(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;”;
 - (b) in paragraph (c), for the words “associated body” there shall be substituted the words “connected undertaking”;
 - (c) in the first note, for the words “the registered office of the associated body” there shall be substituted the words “of the connected undertaking”; and
 - (d) in the second note, for the words “associated body's” there shall be substituted the words “connected undertaking's”.
- (4) In paragraphs 3 to 5, 6(1) and 7 of that Part of that Schedule, for the words “associated body”, in each place where they occur, there shall be substituted the words “connected undertaking”.
- (5) In paragraph 6(3) of that Part of that Schedule—
- (a) for the words “an associated body” there shall be substituted the words “a connected undertaking”; and

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- (b) for the words “with which it is associated” there shall be substituted the words “of which it is a connected undertaking”.

Recognition etc. of schemes for investigation of complaints

- 63 (1) Schedule 13 to the 1986 Act (recognition etc. of schemes for investigation of complaints) shall be amended as follows.
- (2) In paragraph 1 (preliminary)—
- (a) in the definition of “qualifies for recognition”, for the words “the matters”, in the second place where those words occur, there shall be substituted the words “the services” and for the words “of the prescribed matters of complaint” there shall be substituted the words “relevant services”;
- (b) in the definition of “conforms to the relevant requirements”, for the words “prescribed matter of complaint” there shall be substituted the words “relevant service” and for the words “that matter” there shall be substituted the words “that service”; and
- (c) for the words “prescribed matters of complaint”, in the second place where they occur, there shall be substituted the words “relevant services”.
- (3) In paragraph 4(2) (procedure for recognition: Commission’s initiative), for the words “prescribed matters of complaint” there shall be substituted the words “relevant services”.
- (4) In paragraph 5(2) (procedure for recognition: submission by societies), for the words “of the prescribed matters of complaint”, in both places where they occur, there shall be substituted the words “relevant services”.
- (5) In sub-paragraph (1) of paragraph 6 (procedure on accession to schemes), after the words “building society” there shall be inserted the words “or connected undertaking of a building society”.
- (6) In sub-paragraph (2) of that paragraph—
- (a) after the word “society”, in both places where it occurs, there shall be inserted the words “or undertaking”; and
- (b) for the words “the prescribed matters of complaint” there shall be substituted the words “the relevant services”.
- (7) In sub-paragraph (3) of that paragraph, for the words “the prescribed matters of complaint” there shall be substituted the words “the relevant services”.
- (8) After that sub-paragraph there shall be inserted the following sub-paragraph—
- “(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.”
- (9) In sub-paragraph (4) of that paragraph—
- (a) after the words “building society” there shall be inserted the words “or connected undertaking”; and

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- (b) after the word “society”, in the second and third places where it occurs, there shall be inserted the words “or undertaking”.
- (10) In paragraph 7(2) (withdrawal of recognition), for the words “prescribed matters of complaint” there shall be substituted the words “relevant services”.
- (11) In sub-paragraph (1) of paragraph 10 (withdrawal from membership), after the words “building society” there shall be inserted the words “or connected undertaking of a building society”.
- (12) In sub-paragraph (2) of that paragraph—
 - (a) after the word “society”, in each place where it occurs, there shall be inserted the words “or undertaking”; and
 - (b) for the words “the prescribed matters of complaint”, in both places where they occur, there shall be substituted the words “the relevant services”.
- (13) After sub-paragraph (3) of that paragraph there shall be inserted the following sub-paragraph—

“(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.”
- (14) In sub-paragraph (4) of that paragraph—
 - (a) after the word “society's” there shall be inserted the words “or undertaking's”; and
 - (b) after the word “society” there shall be inserted the words “or undertaking”.
- (15) In sub-paragraph (5) of that paragraph—
 - (a) after the word “society”, in the first place where it occurs, there shall be inserted the words “or connected undertaking of a society”; and
 - (b) after the word “society”, in the second place where it occurs, there shall be inserted the words “or undertaking”.

Settlement of disputes

- 64
- (1) In paragraph 1(4) of Schedule 14 to the 1986 Act (settlement of disputes), for the words “paragraph 31(4)(a)” there shall be substituted the words “paragraph 20A(10)(a) or 31(4)(a)”.
 - (2) In sub-paragraph (1) of paragraph 4 of that Schedule—
 - (a) after the words “an election address” there shall be inserted the words “or a revised election address”; and
 - (b) for the words “paragraph 31(1)” there shall be substituted the words “paragraph 20A(1)(b) or 31(1)”.
 - (3) In sub-paragraph (2) of that paragraph, for the words “paragraph 31(1)” there shall be substituted the words “paragraph 20A(1)(b) or 31(1)”.
 - (4) After that paragraph there shall be inserted the following paragraph—

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“Calling of special meeting

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.”

- (5) In paragraph 7(1) of that Schedule—
- (a) for the words “prescribed matter of complaint” there shall be substituted the words “relevant service”; and
 - (b) for the words “associated body” there shall be substituted the words “connected undertaking”.

Application of companies winding up legislation to building societies

65 In paragraph 3(2) of Schedule 15 to the 1986 Act (application of companies winding up legislation to building societies), for paragraph (b) there shall be substituted the following paragraph—

“(b) every reference to an administrative receiver shall be omitted.”

Mergers: supplementary provisions

66 (1) In paragraph 1 of Schedule 16 to the 1986 Act (mergers: supplementary provisions)

- (a) in sub-paragraph (4)(e), for the words “class 1 or 2 advances made by the building society” there shall be substituted the words “loans made by the building society which are secured on land”; and
- (b) sub-paragraph (5) shall cease to have effect.

(2) For sub-paragraph (2) of paragraph 4 of that Schedule there shall be substituted the following sub-paragraphs—

“(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.”

(3) In sub-paragraph (1) of paragraph 5 of that Schedule—

- (a) after the words “merger statement” there shall be inserted the words “or transfer proposal notification”; and

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- (b) after the words “the statement” there shall be inserted the words “or notification”.
- (4) In sub-paragraph (2) of that paragraph, after the words “merger statement” there shall be inserted the words “or transfer proposal notification”.

Transitional and saving provisions

- 67 In Schedule 20 to the 1986 Act (transitional and saving provisions), the following shall cease to have effect, namely—
- (a) in paragraph 1, the definitions of “existing society” and “existing rules”; and
 - (b) paragraphs 2 to 4, 7 to 15 and 17 and 18.

SCHEDULE 8

Section 46(1).

TRANSITIONAL PROVISIONS AND SAVINGS

Alterations of purpose, powers and rules

- 1 (1) At any time during the period beginning two months after the passing of this Act and ending with the commencement of sections 1 and 2 of this Act, a building society may, for the purposes of the transition to the 1986 Act as amended by those sections—
- (a) by special resolution, alter its purpose or principal purpose, alter its powers and alter its rules; and
 - (b) send to the central office four copies of a record of the alterations accompanied by a statutory declaration by the secretary that the alterations were effected by a resolution passed as a special resolution and that the record is a true record of the resolution.
- (2) On altering its purpose or principal purpose, its powers and its rules under this paragraph, the building society shall determine the date on which the society intends the alterations to take effect and the record of the alterations sent to the central office shall specify that date (in this paragraph referred to as “the specified date”).
- (3) Subject to sub-paragraph (4) below, the central office, if satisfied that the alterations are in conformity with the 1986 Act as amended by sections 1 and 2 of this Act, shall—
- (a) retain and register one copy of the record of the alterations;
 - (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 that registration certificate, in the public file of the society.
- (4) No registration of a record of alterations shall be effected by the central office under sub-paragraph (3) above before the end of the period of 21 days beginning with the date on which it receives copies of the record under sub-paragraph (1) above.
- (5) A record of alterations registered under this paragraph shall take effect on the specified date or, if registration of the record is not effected until a later date, that later date.

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- 2 (1) Before the end of the transitional period each existing building society shall—
- (a) by special resolution, alter its purpose or principal purpose, alter its powers and alter its rules, so as (in each case) to secure conformity with the 1986 Act as amended by sections 1 and 2 of this Act; and
 - (b) send to the central office four copies of a record of the alterations accompanied by a statutory declaration by the secretary that the alterations were effected by a resolution passed as a special resolution and that the record is a true record of the resolution.
- (2) On altering its purpose or principal purpose, its powers and its rules under this paragraph, the building society shall determine the date on which the society intends the alterations to take effect and the record of the alterations sent to the central office shall specify that date (in this paragraph referred to as “the specified date”).
- (3) No date shall be specified under sub-paragraph (2) above which falls more than six months after the date of the meeting at which the special resolution was agreed.
- (4) Subject to sub-paragraph (5) below, the central office, if satisfied that the alterations are in conformity with the 1986 Act as amended by sections 1 and 2 of this Act, shall—
- (a) retain and register one copy of the record of the alterations;
 - (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 that registration certificate, in the public file of the society.
- (5) No registration of a record of alterations shall be effected by the central office under sub-paragraph (4) above before the end of the period of 21 days beginning with the date on which it receives copies of the record under sub-paragraph (1) above.
- (6) A record of alterations registered under this paragraph shall take effect on the specified date or, if registration of the record is not effected until a later date, that later date.
- (7) In this paragraph—
- “existing building society” means a building society registered under the 1986 Act immediately before the commencement of sections 1 and 2 of this Act;
- “the transitional period” means the period beginning with that commencement and expiring with such day as the Commission, with the consent of the Treasury, prescribes by order made by a statutory instrument.

Default powers

- 3 (1) If the central office has not, before the end of the transitional period, received from an existing building society copies of a record of alterations in accordance with paragraph 1 or 2 above, the society shall be treated as having, by special resolution—
- (a) altered its purpose or principal purpose to that required by section 5(1) of the 1986 Act as amended by section 1(1) of this Act;
 - (b) so altered its powers as to include all powers which were exercisable by it immediately before the commencement of sections 1 and 2 of this Act; and
 - (c) made such alteration of its rules as, in conformity with model rules made under this paragraph, the central office directs.

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- (2) The Commission may, by order made by a statutory instrument made with the consent of the Treasury, prescribe model rules for building societies for the purposes of this paragraph.
- (3) Where, under this paragraph, a society is treated as having by special resolution, altered its purpose or principal purpose, its powers and its rules, the central office shall prepare three copies of a record of the alterations and shall—
 - (a) retain and register one copy;
 - (b) return another to the secretary of the society, together with a certificate of registration; and
 - (c) keep another copy, together with a copy of that certificate, in the public file of the society.
- (4) A record of alterations so registered shall have effect for all purposes of the society's memorandum and rules until further alterations are made under paragraph 4 of Schedule 2 to the 1986 Act.
- (5) Such fee as is prescribed shall be due from the society to the Chief Registrar for the registration of a record of alterations under this paragraph.
- (6) In this paragraph—

“existing building society” means a building society registered under the 1986 Act immediately before the commencement of sections 1 and 2 of this Act;

“prescribed”—

 - (a) except in sub-paragraph (5) above, means prescribed by the Commission, with the consent of the Treasury, by order made by statutory instrument; and
 - (b) in that sub-paragraph, means prescribed by the Chief Registrar, with the consent of the Treasury, by order so made;

“the transitional period” means the period beginning with that commencement and expiring with such day as is prescribed.

Existing members to whom advances have been made

- 4 (1) Nothing in section 2 of this Act shall affect the operation of sub-paragraph (2) of paragraph 6 of Schedule 2 to the 1986 Act in relation to any person who, immediately before the commencement of that section, is the holder of a share on which an advance has been made.
- (2) Nothing in that section shall affect the operation of sub-paragraph (3) of that paragraph in relation to any person who, immediately before the commencement of that section, is a member of a building society to whom an advance has been made under rules made in pursuance of paragraph 5(1) or (2) of that Schedule.

Existing borrowing members which are corporations

- 5 Nothing in section 2 of this Act shall affect the operation of Schedule 2 to the 1986 Act in relation to any body corporate which, immediately before the commencement of that section, is a borrowing member of a building society within the meaning given by paragraph 5(2) of that Schedule (as substituted by that section).

Status: This is the original version (as it was originally enacted).

Existing fully secured loans

- 6 (1) Subject to subsection (7) of section 6B of the 1986 Act—
- (a) any advance which immediately before the commencement of that section was or was treated as a class 1 advance shall be treated as a loan falling within paragraph (a) of subsection (4) of that section;
 - (b) any advance which immediately before that commencement was or was treated as a class 2 advance shall be treated as a loan falling within that paragraph if the building society concerned determines that, on the assumption mentioned in sub-paragraph (2) below, it would have been a class 1 advance;
 - (c) any advance not falling within paragraph (b) above which immediately before that commencement was or was treated as a class 2 advance shall be treated as a loan falling within paragraph (b) of that subsection; and
 - (d) any advance which immediately before that commencement neither was nor was treated as a class 1 or a class 2 advance shall be treated as a loan falling within paragraph (c) of that subsection.
- (2) The assumption is that section 11 of the 1986 Act had effect at all material times—
- (a) with the substitution for paragraph (b) of subsection (2) of the following paragraph—
 - “(b) the land is for residential use;”;
 - (b) with the omission from subsection (3) of the words “by the borrower or a dependant of his of a prescribed description”.

Existing shareholders

- 7 Unless the contrary is shown, a building society may assume that any shares in the society which are held by an individual at the commencement of section 8 of this Act are held otherwise than as a bare trustee (or, in Scotland, a simple trustee) for a body corporate, or for persons who include a body corporate.

Existing depositors and shareholders

- 8 (1) Nothing in section 9 of this Act shall affect the operation of the 1986 Act in relation to—
- (a) any deposit accepted by a building society from an individual before the commencement of that section;
 - (b) any deposit accepted by a building society from an individual to whom sub-paragraph (2) below applies which is to be credited to a deposit account opened before that commencement;
 - (c) any deposit accepted by a building society from an individual which is to be credited to a tax-exempt special savings account opened before that commencement; or
 - (d) any share issued by a building society to a body corporate before that commencement.
- (2) This sub-paragraph applies to an individual if—
- (a) a deposit of his is held in a deposit account opened before the commencement of section 9 of this Act;

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- (b) he has been notified by the building society that he may transfer the deposit without penalty into an account which, at the date of the notice, was an equivalent share account; and
- (c) he has chosen not to do so.

(3) In this paragraph—

“access period”, in relation to a deposit or share account, means the period of notice required for making withdrawals from the account;

“equivalent share account”, in relation to a deposit account, means a share account—

- (a) whose access period is no longer than that of the deposit account; and
- (b) whose rate of interest is not less than that of each other share account with the society which has the same access period or, where there is no such account, that of any one share account with the society which has a longer access period;

“tax-exempt special savings account” has the meaning given by section 326A(2) of the Income and Corporation Taxes Act 1988.

(4) In relation to anything which, after the commencement of section 9 of this Act, is done by a building society under paragraph (d) of section 8(2) of the 1986 Act, sub-paragraphs (1) and (2) above shall have effect as if any reference to that commencement were a reference to the expiry of the period mentioned in that paragraph.

*Existing transfer statements referring to the
abolition of priority liquidation distribution rights*

9 (1) Where before the commencement of section 40 of this Act, a building society issued a transfer statement which satisfies the requirements of sub-paragraph (2) below and either—

- (a) the transfer of the society’s business to the company which is to be its successor is effected after that commencement; or
- (b) that transfer was effected after the relevant date and before that commencement and the company is not being wound up at that commencement,

section 100 of the 1986 Act shall be deemed to have had effect in relation to the transfer as if section 40 of this Act had come into force on that date.

(2) The requirements of this sub-paragraph are that the statement—

- (a) referred to the possibility of provision being made to the like effect as section 40 of this Act; and
- (b) stated that, if such provision were made, either no rights to priority liquidation distributions would be conferred on qualifying members of the society or, if such rights had been so conferred, they would be withdrawn.

(3) In this paragraph—

“the relevant date” means 6th November 1996;

“transfer statement” has the same meaning as in Part I of Schedule 17 to the 1986 Act.

Status: This is the original version (as it was originally enacted).

Existing specially formed successor companies

- 10 (1) This paragraph applies where before the passing of this Act a company has been specially formed by a building society to be its successor.
- (2) Nothing in section 101 of the 1986 Act as substituted by section 41 of this Act shall be taken—
- (a) to impose any requirement which would not be imposed, or to render void any provision, allotment or registration which would not be rendered void, if that section of this Act had not been enacted; or
 - (b) to prevent any alterations in the provisions of the company’s articles of association which are such as to secure that the company does not contravene, or that those provisions are consistent with, subsection (1) of section 101 of that Act as so substituted.

SCHEDULE 9

Section 46(2).

REPEALS AND REVOCATIONS

<i>Reference</i>	<i>Short title or title</i>	<i>Extent of repeal or revocation</i>
1974 c. 47.	Solicitors Act 1974.	Section 86.
1978 c. 27.	Home Purchase Assistance and Housing Corporation Guarantee Act 1978.	Section 3(1)(b).
S.I. 1981/156 (N.I.3).	Housing (Northern Ireland) Order 1981.	Article 155.
1985 c. 68.	Housing Act 1985.	Section 450.
1986 c. 53.	Building Societies Act 1986.	Section 4(2). In section 9(3), paragraph (d) and the word “or” immediately preceding that paragraph. In section 28(1), the words “as in respect of a contractual debt incurred immediately before the institution began to be wound up”. Section 33. Sections 38 to 40. In section 41, subsections (14) to (16). Section 51. Section 52(3).

Status: This is the original version (as it was originally enacted).

<i>Reference</i>	<i>Short title or title</i>	<i>Extent of repeal or revocation</i>
		In section 60(17), the definition of “ordinary resolution”.
		In section 65(10), the word “and” immediately following the definition of “provision of funds”.
		Section 71(10A).
		Section 79(5).
		In section 82, in subsection (2), paragraph (c) and the word “and” immediately preceding that paragraph and, in subsection (3), paragraph (d).
		Section 84(1).
		In section 95, subsections (7) to (9).
		In section 97(3), the words from “and for the purposes” to the end.
		In section 100, in subsection (2), paragraph (c) and the word “and” immediately before that paragraph, and subsections (5) and (6).
		Section 105.
		Section 108.
		Section 118.
		In section 119, in subsection (1), the definitions of “adopt”, “adopted”, “adoptable powers”, “advance secured on land”, “advance fully secured on land”, “advance secured on third party land”, “mobile home loan”, “qualifying asset holding”, “subsidiary” and “total commercial assets” and, in subsection (3)(a), the words “by him” and “to him”.

Status: This is the original version (as it was originally enacted).

<i>Reference</i>	<i>Short title or title</i>	<i>Extent of repeal or revocation</i>
		In section 122(1), the words “section 15,”.
		In Schedule 2, paragraph 2(5), in paragraph 4(4), the words “subject to paragraph 19 below” and, in paragraph 30(3), the words “has been duly given”.
		In Schedule 10, in paragraphs 1, 2, 5 and 6, the words “under section 6, 10, 17 or 19”.
		In Schedule 12, Part II.
		In Schedule 16, paragraph 1(5).
		In Schedule 18, paragraphs 18(4) and 23(3).
		In Schedule 20, in paragraph 1, the definitions of “existing society” and “existing rules”, and paragraphs 2 to 4, 7 to 15 and 17 and 18.
1987 c. 22.	Banking Act 1987.	In Schedule 6, in paragraph 26, sub-paragraphs (1) and (8).
S.I. 1988/1153.	Building Societies (Transfer of Business) Regulations 1988.	Regulations 9 and 10. In the Schedule, in Part I, paragraph 14(c) and, in Part III, paragraphs 4 and 5.
1994 c. 40.	Deregulation and Contracting Out Act 1994.	Sections 16 and 17. In Schedule 11, paragraph 7(6).
S.I. 1995/1442.	Credit Institutions (Protection of Depositors) Regulations 1995.	Regulation 41(5).
