



Building Societies Act 1997

1997 CHAPTER 32

PART III

ACCOUNTABILITY TO MEMBERS

29 Acquisition or establishment of a business

After section 92 of the 1986 Act there shall be inserted the following section—

“New business

92A Acquisition or establishment of a business

- (1) A building society—
 - (a) in order to acquire, or allow a subsidiary undertaking to acquire, a business to which subsections (3) and (4) below apply; or
 - (b) in order to establish, or allow such an undertaking to establish, a business to which subsections (3) and (5) below apply,must resolve so to do by an ordinary resolution; but a failure to comply with this subsection shall not invalidate any transaction or other act.
- (2) In order to be effective for the purposes of subsection (1) above, an ordinary resolution of a building society must be passed by a majority of the members of the society entitled to vote on such a resolution and voting either—
 - (a) in person or by proxy on a poll on the resolution at a meeting of the society; or
 - (b) in a postal ballot on the resolution;and in a case falling within paragraph (a) above, a form for the appointment of a proxy shall be sent to each person entitled to notice of the meeting.
- (3) This subsection applies to a business which is proposed to be acquired or established if, in the opinion of the board of directors of the society—

Status: This is the original version (as it was originally enacted).

- (a) the greater part of the income of the business is or will be derived from activities having no connection with loans secured on residential property;
 - (b) the greater part of the resources of the business are or will be devoted to such activities; or
 - (c) the greater part of the business consists or will consist of such activities.
- (4) This subsection applies to a business which is proposed to be acquired if X is not less than 15 per cent of Y where—
- X = the amount or value of the consideration to be given for the shares, voting rights or assets proposed to be acquired;
 - Y = the amount of the society's own funds as at the relevant date.
- (5) This subsection applies to a business which is proposed to be established if X is not less than 15 per cent of Y where—
- X = the aggregate of the following as estimated by the society, namely—
- (a) the cost of acquiring, developing, adapting or repairing any premises required for the purposes of the business;
 - (b) the initial cost of acquiring any plant or equipment, or any intellectual property, so required;
 - (c) the initial cost of employing or training staff so required;
 - (d) the cost of obtaining any professional advice required in connection with the establishment of the business;
 - (e) any other non-recurring items of expenditure to be incurred in that connection; and
 - (f) in the case of a business proposed to be established by a subsidiary undertaking, the amount of any capital to be provided by the society which will not be used for defraying items of expenditure falling within the foregoing paragraphs;
- Y = the amount of the society's own funds as at the relevant date.
- (6) Where a business is proposed to be acquired or established by a syndicate whose members include a building society or subsidiary undertaking—
- (a) subsection (1) above shall have effect as if the business were proposed to be acquired or (as the case may be) established by the society; and
 - (b) whichever of subsections (4) and (5) above is applicable shall have effect as if X were only so much of X as is referable to participation in the syndicate by the society or undertaking.
- (7) For the purposes of subsections (1)(a) and (4) above, two or more proposed acquisitions by a building society or subsidiary undertaking which will form part of a larger acquisition or series of acquisitions shall be treated as a single acquisition.
- (8) Nothing in this section shall apply in relation to a building society in so far as it undertakes, in accordance with section 94 and Schedule 16 to this Act, to fulfil engagements transferred to it in accordance with that section and that Schedule.
- (9) In this section—

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“initial”, in relation to any cost, means incurred, or likely in the directors' opinion to be incurred, not later than 12 months after the establishment of the business;

“intellectual property” includes—

(a) any patent, know-how, trade mark, service mark, registered design, copyright or design right; and

(b) any licence under or in respect of any such right;

“the relevant date”, in relation to a building society, means—

(a) the date of the end of its last financial year or, failing that, the date of its establishment; or

(b) where it has been involved in a transfer of engagements, the date of that transfer,

whichever is the later.

- (10) The Commission may, with the consent of the Treasury, by order substitute for the percentage specified in subsection (4) or (5) above such other percentage as appears to it to be appropriate; and an order under this subsection may make such supplementary, transitional and saving provision as appears to the Commission to be necessary or expedient.
- (11) The Commission may, with the consent of the Treasury, by order vary subsections (5) and (9) above by adding to or deleting from them any provision or by varying any provision contained in them; and an order under this subsection may make—
- (a) different provisions for different cases or purposes; and
- (b) such supplementary, transitional and saving provision as appears to the Commission to be necessary or expedient.
- (12) The power to make an order under subsection (10) or (11) above is exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.”