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## STATUTORY INSTRUMENTS

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# 2001 No. 3592

## The Financial Services and Markets Act 2000 (Transitional Provisions) (Partly Completed Procedures) Order 2001

### PART III

#### MUTUAL SOCIETIES

##### CHAPTER I

##### PROCEDURES TAKING EFFECT AFTER COMMENCEMENT AS PROCEDURES UNDER THE ACT

#### Interpretation

25. In this Part—

“the Mutual Societies Order” means the Financial Services and Markets Act 2000 (Mutual Societies) Order 2001(1);

“Schedule 3” means Schedule 3 to the Building Societies Act;

“Schedule 13” means Schedule 13 to the Friendly Societies Act(2).

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#### Commencement Information

**II** Art. 25 in force at 1.12.2001, see [art. 1\(2\)](#)

#### Applications for authorisation

26.—(1) Subject to paragraph (2), where an application for authorisation has been made by a friendly society under section 32 of the Friendly Societies Act or by a building society under section 9 of the Building Societies Act but that application has not been decided before commencement, it is to be treated after commencement as an application for permission made to the Authority under section 40 or, where the society making the application has a Part IV permission, as an application under section 44 for the variation of that permission.

(2) Paragraph (1) does not apply to an application for authorisation—

(a) which was made pursuant to a direction given under section 39 of the Friendly Societies Act or under section 41 of the Building Societies Act; and

(b) which has not been granted or refused before commencement,

and any such application lapses on commencement.

(3) An application which is treated by virtue of paragraph (1) as an application under section 40 or 44 is treated for the purposes of section 52(1) or (2) as having been received by the Authority—

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(1) S.I.2001/2617.

(2) Schedule 13 was amended by [S.I. 1994 1984](#).

**Status:** Point in time view as at 31/12/2020.

**Changes to legislation:** There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Transitional Provisions) (Partly Completed Procedures) Order 2001, PART III. (See end of Document for details)

- (a) in the case of an application from a friendly society, on the date from which the period of 6 months referred to in paragraph 2(5) of Schedule 13 started to run;
- (b) in the case of an application from a building society, on the date on which it was received by the Building Societies Commission.

(4) An application which is treated pursuant to paragraph (1) as an application under section 40 or 44 is not to be treated as incomplete for the purposes of section 52(2) if it complied with the procedure applicable to it when it was originally made.

(5) Paragraph (4) does not affect the power of the Authority to require information under section 51(4) and (6).

(6) Where, in any particular case—

(a) information has been required—

- (i) by the Friendly Societies Commission pursuant to paragraph 2 of Schedule 13; or
- (ii) by the Building Societies Commission pursuant to paragraph 2(2) of Schedule 3; and

(b) that information has not been provided before commencement,

the requirement has effect after commencement as if it had been imposed by the Authority under section 51(4).

#### Commencement Information

**I2** Art. 26 in force at 1.12.2001, see [art. 1\(2\)](#)

#### Notice of intention to refuse application or to impose conditions

**27.**—(1) This article applies to—

- (a) a notice given to a friendly society under paragraph 7 or 8 of Schedule 13 (as applied by paragraph 3(1) of that Schedule) of intention to impose conditions following an application for authorisation (other than a notice served pursuant to paragraph 9 of that Schedule);
- (b) a notice given to a friendly society under paragraph 3(2) of Schedule 13;
- (c) a notice given to a building society under paragraph 4(1) or 5(2) of Schedule 3 (as applied by paragraph 2(3) of that Schedule) of intention to impose conditions following an application for authorisation (other than a notice served pursuant to paragraph 9 of that Schedule);
- (d) a notice given to a building society under paragraph 2(4) of Schedule 3.

(2) Where, before commencement—

- (a) a notice to which this article applies has been served on a society;
- (b) the application to which the notice relates has not been refused or granted in accordance with Schedule 13 or Schedule 3 (as the case may be);

the notice ceases to have effect on commencement and the Authority must, as soon as practicable after commencement, notify every recipient of the notice of that fact.

(3) Paragraph (2) does not affect the power of the Authority to serve a notice under section 52(6) or (7) in respect of the application (as effective by virtue of article 26).

#### Commencement Information

**I3** Art. 27 in force at 1.12.2001, see [art. 1\(2\)](#)

## Surrenders of authorisation

28.—(1) This article applies where—

- (a) a request by a friendly society for a direction under section 40(3) of the Friendly Societies Act was made but no notice has been given under paragraph 10(6) of Schedule 13 before commencement;
- (b) a request by a building society under section 43(3)(a) or (b) of the Building Societies Act was made but was not granted before commencement.

(2) If the society which made the request has on commencement a Part IV permission, the request is to be treated after commencement as an application made to the Authority under section 44 for variation of that Part IV permission.

### Commencement Information

I4 Art. 28 in force at 1.12.2001, see [art. 1\(2\)](#)

## Notice of intention to withdraw or revoke authorisation

29.—(1) Where—

- (a) before commencement a notice has been served on a friendly society under paragraph 10(1) of Schedule 13;
- (b) no notice of a decision has been served under paragraph 10(4) of that Schedule; and
- (c) the society has a Part IV permission on commencement,

the notice has effect after commencement as if it were a notice given by the Authority under section 53(4).

(2) Where—

- (a) before commencement, a notice has been served on a building society under paragraph 6(1) of Schedule 3;
- (b) no notice has been served under paragraph 6(3) of that Schedule; and
- (c) the society has a Part IV permission on commencement,

the notice has effect after commencement as if it were a notice given by the Authority under section 53(4).

(3) A notice having effect under paragraph (1) or (2) has effect—

- (a) as if it gave notice that the Authority proposes to vary the society's permission by imposing a requirement that it refrain from carrying on the activity or activities (whether regulated or not) covered by the notice;
- (b) as if it informed the society and any relevant recipients that they may make representations to the Authority (whether or not the matter has been referred to the Tribunal) within—
  - (i) the new period (if any) specified for this purpose under article 90; or
  - (ii) if there is no new period so specified, within the period specified in the notice for the purpose of paragraph 10(1)(c) of Schedule 13 or paragraph 6(1)(c) of Schedule 3;
- (c) as if it informed the recipient that the variation takes effect on—
  - (i) the new date (if any) specified for this purpose under article 90; or
  - (ii) if no new date is so specified, then on the date (if any) specified in the notice as the date on which the direction would be given or the revocation take effect;

*Status: Point in time view as at 31/12/2020.*

*Changes to legislation: There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Transitional Provisions) (Partly Completed Procedures) Order 2001, PART III. (See end of Document for details)*

- (d) as if it informed the society and any relevant recipients that they have a right to refer the matter to the Tribunal—
  - (i) within the new period (if any) specified for this purpose under article 90; or
  - (ii) if there is no new period so specified, within 28 days from commencement.
- (4) Where a notice has effect under paragraph (1) or (2)—
  - (a) the Authority must decide whether to issue a notice under section 53(7) or (8);
  - (b) in taking that decision, section 41 applies to the Authority;
  - (c) the Authority must have regard to any representations made before commencement in relation to the notice given under Schedule 13 or Schedule 3.
- (5) Notwithstanding section 53(2)(c), where the notice having effect under paragraph (1) or (2) did not specify a date on which the direction would be given or the revocation take effect, the Authority may specify in the notice given under paragraph (4)(a) the date on which the variation takes effect (being a date not earlier than the date of that notice).
- (6) For the purposes of this article, a “relevant recipient” is a person who was served with the notice pursuant to paragraph 10(2) of Schedule 13 or paragraph 6(2) of Schedule 3.

#### Commencement Information

**I5** Art. 29 in force at 1.12.2001, see [art. 1\(2\)](#)

#### Mutual societies: notice of intention to impose conditions

- 30.**—(1) This article applies to—
- (a) a notice served under paragraph 7(1) of Schedule 13 or, where one or more notices have been served under paragraph 8(2) of that Schedule proposing to impose more onerous conditions than proposed in the first notice, then to the latest notice;
  - (b) a notice served under paragraph 4(1) of Schedule 3 or, where one or more notices have been served under paragraph 5(2) of that Schedule proposing to impose more onerous conditions than proposed in the first notice, then to the latest notice.
- (2) Where—
- (a) a notice falling within paragraph (1)(a) has been served proposing to impose conditions on a current authorisation pursuant to section 36 of the Friendly Societies Act but no notice has been served (following that notice) under paragraph 7(5) or 8(6) of Schedule 13; or
  - (b) a notice falling within paragraph (1)(b) has been served proposing to impose conditions on a current authorisation pursuant to section 42 of the Building Societies Act but no notice has been served (following that notice) under paragraph 4(3) or 5(4) of Schedule 3; and
  - (c) in either case, the society has a Part IV permission at commencement,
- the notice has effect after commencement as if it were a notice given by the Authority under section 53(4).
- (3) Paragraphs (3) to (6) of article 29 apply to a notice having effect under paragraph (2) with the following modifications—
- (a) the references in those paragraphs to a notice having effect under article 29(1) or (2) are read as references to a notice having effect under paragraph (2) of this article;
  - (b) the requirement referred to in article 29(3)(a) is a requirement that the society act in the manner which would be required by the proposed conditions or refrain from acting in the manner which would be prohibited by the proposed conditions;

- (c) the reference in article 29(5) to the date on which the direction would be given or the revocation take effect were a reference to the date on which the conditions would be imposed;
  - (d) the reference in article 29(6) to paragraph 10(2) of Schedule 13 is a reference to paragraph 7(2) or 8(3) of that Schedule;
  - (e) the reference in article 29(6) to paragraph 6(2) of Schedule 3 is a reference to paragraph 4(2) or 5(3) of that Schedule.
- (4) The references in paragraph (2)(a) and (b) to a notice served proposing to impose conditions include reference to a notice served following a direction given—
- (a) under section 59(7) or (10) of the Friendly Societies Act from a tribunal constituted in accordance with that section; or (as the case may be)
  - (b) under section 47(6) or (7) of the Building Societies Act from a tribunal constituted in accordance with that section.

**Commencement Information**

**I6** Art. 30 in force at 1.12.2001, see [art. 1\(2\)](#)

**Notice of intention to give a direction under section 51 of Friendly Societies Act**

**31.**—(1) Where—

- (a) before commencement a notice has been served on a friendly society under section 51(2) of the Friendly Societies Act;
- (b) no direction has been given under section 51(6) as a result of that notice and the society has not been notified of a decision not to give a direction; and
- (c) at commencement, the friendly society has a Part IV permission,

the notice has effect after commencement as if it were a notice given by the Authority under section 53(4).

(2) Paragraphs (3) to (5) of article 29 apply to a notice having effect under paragraph (1) with the following modifications—

- (a) the references in those paragraphs to a notice having effect under article 29(1) or (2) are read as references to a notice having effect under paragraph (1) of this article;
- (b) the references in those paragraphs to relevant recipients are omitted;
- (c) the requirement referred to in article 29(3)(a) is a requirement that the society refrain from accepting any new members.

**Commencement Information**

**I7** Art. 31 in force at 1.12.2001, see [art. 1\(2\)](#)

**Proceedings under section 52A of the Friendly Societies Act**

**32.**—(1) Subject to paragraph (2), any proceedings pending before the court for an injunction under section 52A(3) of the Friendly Societies Act lapse on commencement.

(3) Section 52A was inserted by S.I. [1994/1984](#) and has been amended by S.I. [1997/2849](#).

**Status:** Point in time view as at 31/12/2020.

**Changes to legislation:** There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Transitional Provisions) (Partly Completed Procedures) Order 2001, PART III. (See end of Document for details)

(2) Any court before which proceedings under section 52A of the Friendly Societies Act are pending at commencement may by order make provision for such incidental, consequential and supplementary matters (including as to costs) as are appropriate having regard to paragraph (1).

#### Commencement Information

**I8** Art. 32 in force at 1.12.2001, see [art. 1\(2\)](#)

### Conditions imposed under section 42A of the Building Societies Act but not confirmed before commencement

**33.**—(1) Where, before commencement—

- (a) a notice has been given under section 42A(3) of the Building Societies Act imposing or varying conditions under section 42 of that Act as a matter of urgency;
- (b) no notice has been given under section 42A(8) of that Act of a decision under section 42A(7) of that Act,

the notice has effect after commencement as if it were a notice given by the Authority under section 53(4).

(2) Paragraphs (3) to (6) of article 29 apply to a notice having effect under paragraph (1) with the following modifications—

- (a) the references in those paragraphs to a notice having effect under article 29(1) or (2) are read as references to a notice having effect under paragraph (1) of this article;
- (b) the requirement referred to in article 29(3)(a) is a requirement that the society act in the manner which would be required by the proposed conditions or refrain from acting in the manner which would be prohibited by the proposed conditions;
- (c) the reference in article 29(5) to the date on which the direction would be given or the revocation take effect were a reference to the date on which the conditions would be imposed;
- (d) the reference in article 29(6) to paragraph 6(2) of Schedule 3 is a reference to section 42A(5) of the Building Societies Act;
- (e) the reference in article 29(6) to paragraph 10(2) of Schedule 13 is omitted.

#### Commencement Information

**I9** Art. 33 in force at 1.12.2001, see [art. 1\(2\)](#)

### Notice of intention to give a direction under section 50 of the Building Societies Act

**34.**—(1) Where—

- (a) a notice was given to a building society before commencement under section 50(3) of the Building Societies Act;
- (b) no direction has been given following that notice under section 50(5) of that Act and the society has not been notified of a decision not to give a direction,

the notice has effect after commencement as if it were a notice given by the Authority under section 53(4).

(2) Paragraphs (3) to (5) of article 29 apply to a notice having effect under paragraph (1) with the following modifications—

- (a) the references in those paragraphs to a notice having effect under article 29(1) or (2) are read as references to a notice having effect under paragraph (1) of this article;
- (b) the references in those paragraphs to relevant recipients are omitted;
- (c) the requirement referred to in article 29(3)(a) is a requirement that the building society act in a manner which would be required by the proposed direction and refrain from acting in a manner which would be prohibited by the proposed direction.

#### Commencement Information

**I10** Art. 34 in force at 1.12.2001, see [art. 1\(2\)](#)

## CHAPTER II

### PROCEDURES TAKING EFFECT AFTER COMMENCEMENT AS PROCEDURES UNDER THE AMENDED BUILDING SOCIETIES ACT

#### Interpretation

**35.** In this Chapter—

- (a) references to “the original Building Societies Act” are references to that Act as it had effect immediately before commencement;
- (b) references to “the amended Building Societies Act” are references to that Act as it has effect immediately after commencement by virtue of Schedule 18 to the Act, the Mutual Societies Order and any other Order made under the Act.

#### Commencement Information

**I11** Art. 35 in force at 1.12.2001, see [art. 1\(2\)](#)

#### Notice of proposed directions under section 36 of the Building Societies Act

**36.—**(1) This article applies to a notice served under paragraph 2(1) of Schedule 7A to the original Building Societies Act<sup>(4)</sup> or, where one or more notices has been served under paragraph 3(2) of that Schedule proposing to give a more onerous direction than proposed in the first notice, then to the latest notice.

(2) Where—

- (a) a notice falling within paragraph (1) has been served before commencement proposing to give a direction under section 36(3), (5), (6), (7) or (10) of the original Building Societies Act<sup>(5)</sup>;
- (b) no notice has been served (following that notice) of a decision under paragraph 2(3)(b) or 3(4)(b) of Schedule 7A to that Act;

the notice has effect (subject to paragraph (3)) after commencement as if it were a warning notice given by the Authority under section 46A(1) of the amended Building Societies Act<sup>(6)</sup> (by virtue of paragraph (a) of that subsection).

(3) Notwithstanding section 46A(8)(d)(i) of the amended Building Societies Act, section 394 does not apply to a notice having effect under paragraph (2).

<sup>(4)</sup> Schedule 7A was inserted by the Building Societies Act 1997, Schedule 3.

<sup>(5)</sup> Section 36 was substituted by the Building Societies Act 1997, section 13(1).

<sup>(6)</sup> Section 46A was inserted by paragraph 148 of Schedule 3 to the Mutual Societies Order.

**Status:** Point in time view as at 31/12/2020.

**Changes to legislation:** There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Transitional Provisions) (Partly Completed Procedures) Order 2001, PART III. (See end of Document for details)

(4) Where a copy of the notice falling within paragraph (2)(a) above was served on any person in accordance with paragraph 2(2) or 3(3) of Schedule 7A to the original Building Societies Act, that notice is treated after commencement as if it was a copy of the warning notice given to that person under section 393(1).

(5) A notice having effect under paragraph (2) has effect—

- (a) as if it gave notice that the Authority proposes to give a direction in the terms set out in the notice;
- (b) as if it informed the society and any relevant recipients that they may make representations to the Authority within 28 days or within the period (if longer than 28 days) specified in the notice for the purpose of paragraph 2(1)(d) or 3(2)(c) of Schedule 7A to the original Building Societies Act (as the case may be);
- (c) as if it stated that section 394 does not apply.

(6) Where a notice has effect under paragraph (2) the Authority must have regard when deciding whether to give a decision notice under section 46A(3) of the amended Building Societies Act to any representations made before commencement in relation to the notice given under Schedule 7A to the original Building Societies Act.

(7) For the purposes of this article, a “relevant recipient” is a person who was served with the notice pursuant to paragraph 2(2) or 3(3) of Schedule 7A to the original Building Societies Act.

#### Commencement Information

**I12** Art. 36 in force at 1.12.2001, see [art. 1\(2\)](#)

### Prohibition orders under section 36A of the Building Societies Act

**37.**—(1) Where, before commencement—

- (a) a notice has been served under section 36A(1) of the original Building Societies Act<sup>(7)</sup> of intention to make a prohibition order directed to a society;
- (b) no prohibition order has been made under section 36A(6) of that Act and the society has not been notified of a decision not to issue such an order,

the notice has effect after commencement as if it were a warning notice given under section 36A(5) of the amended Building Societies Act<sup>(8)</sup>.

(2) A notice having effect under paragraph (1) has effect—

- (a) as if it stated that section 394 of the Act does not apply;
- (b) as if it informed the society that it may make representations to the Authority within a period of 28 days or within the period (if longer) specified for the purpose of section 36A(5)(c) of the original Building Societies Act.

#### Commencement Information

**I13** Art. 37 in force at 1.12.2001, see [art. 1\(2\)](#)

### Unconfirmed directions under section 42B of the Building Societies Act

**38.**—(1) Where, before commencement—

<sup>(7)</sup> Section 36A was inserted by the Building Societies Act 1997, section 14.

<sup>(8)</sup> Section 36A(5) was substituted by paragraph 142(c) of Schedule 3 to the Mutual Societies Order.



- (a) a direction has been given under section 42B(1)(a) or (b) of the original Building Societies Act(9), being a direction which requires confirmation pursuant to section 42C(2)(b) of that Act(10);
- (b) that direction has not ceased to have effect by virtue of section 42C(2)(b);
- (c) the direction has not been confirmed pursuant to section 42C(2)(b),

the direction has effect after commencement (subject to paragraph (2)) as if it were a warning notice given by the Authority under section 46A(1) (by virtue of paragraph (b) of that subsection) of the amended Building Societies Act(11).

(2) Notwithstanding section 46A(8)(d)(i) of the amended Building Societies Act, sections 393 and 394 do not apply to a notice having effect under paragraph (1).

(3) A notice having effect under paragraph (1) has effect—

- (a) as if it gave notice that the Authority proposes to give a direction under section 42B(1) of the amended Building Societies Act;
- (b) as if it informed the society that it may make representations to the Authority within 28 days;
- (c) as if it stated that section 394 does not apply.

(4) Where a notice has effect under paragraph (1) the Authority must have regard when deciding whether to give a decision notice under section 46A(3) of the amended Building Societies Act, to any representations made before commencement pursuant to section 42C(3) of the original Building Societies Act.

(5) Where, in respect of a direction having effect under paragraph (1)—

- (a) a person was entitled pursuant to section 46 of the original Building Societies Act to bring an appeal against the direction;
- (b) the period in which an appeal could be brought has not expired before commencement;
- (c) that person has not brought an appeal in relation to the direction,

the right of appeal lapses at commencement, without prejudice to any right that person may have to refer the matter to the Financial Services and Markets Tribunal if a decision notice is subsequently given under section 46A(3) of the amended Building Societies Act(12).

#### **Commencement Information**

**I14** Art. 38 in force at 1.12.2001, see [art. 1\(2\)](#)

(9) Section 42B was inserted by the Building Societies Act 1997, section 17.

(10) Section 42C was inserted by the Building Societies Act 1997, section 18.

(11) Section 46A was inserted by paragraph 148 of the Schedule 3 to the Mutual Societies Order.

(12) Section 46A(3) was inserted by paragraph 148 of Schedule 3 to the Mutual Societies Order.

**Status:**

Point in time view as at 31/12/2020.

**Changes to legislation:**

There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Transitional Provisions) (Partly Completed Procedures) Order 2001, PART III.