

Changes to legislation: Building Societies Act 1986, SCHEDULE 17 is up to date with all changes known to be in force on or before 03 June 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULES

SCHEDULE 17

Section 97 and 98.

TRANSFERS OF BUSINESS: SUPPLEMENTARY PROVISIONS

Modifications etc. (not altering text)

- C1** Sch. 17: power to modify conferred (16.1.2009) by [Building Societies \(Funding\) and Mutual Societies \(Transfers\) Act 2007 \(c. 26\)](#), **ss. 3, 6(2)**; S.I. 2009/36, art. 2
- C2** Sch. 17 applied (with modifications) (5.3.2009) by [The Mutual Societies \(Transfers\) Order 2009 \(S.I. 2009/509\)](#), arts. 1(2), **3-18**

^{F1}[PART I

ISSUE OF STATEMENT OR SUMMARY TO MEMBERS

Textual Amendments

- F1** Sch. 17 Pts. I, IA substituted for Sch. 17 Pt. I (1.12.1997) by [1997 c. 32, s. 30\(3\)](#), [Sch. 5 Pts. I, II](#); S.I. 1997/2668, art. 2, **Sch. Pt. I(e)**

^{F2}Preliminary

Textual Amendments

- F2** Sch. 17 Pts. I, IA substituted for Sch. 17 Pt. I (1.12.1997) by [1997 c. 32, s. 30\(3\)](#), [Sch. 5 Pts. I, II](#); S.I. 1997/2668, art. 2, **Sch. Pt. I(e)**

^{F3}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.

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Textual Amendments

- F3** Sch. 17 Pts. I, substituted for Sch. 17 Pt. I (1.12.1997) by 1997 c. 32, s. 30(3), Sch. 5 Pts. I, II; S.I. 1997/2668, art. 2, **Sch. Pt. I(e)**

^{F4}Duty to send transfer statements or summaries to members

Textual Amendments

- F4** Sch. 17 Pts. I, IA substituted for Sch. 17 Pt. I (1.12.1997) by 1997 c. 32, s. 30(3), Sch. 5 Pts. I, II; S.I. 1997/2668, art. 2, **Sch. Pt. I(e)**

- ^{F52} 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.

Textual Amendments

- F5** Sch. 17 Pts. I, IA substituted for Sch. 17 Pt. I (1.12.1997) by 1997 c. 32, s. 30(3), Sch. 5 Pts. I, II; S.I. 1997/2668, art. 2, **Sch. Pt. I(e)**

Modifications etc. (not altering text)

- C3** Sch. 17 para. 2 amended (2.3.1998) by S.I. 1998/212, reg. 4, **Sch. 2**

- ^{F63} (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 [^{F7}appropriate authority]] in the case of the particular transfer,
- with or without other particulars regarding the transfer.
- (2) A transfer summary, in relation to a transfer of business by a building society, shall contain—
- (a) the information required by the regulations made under paragraph 5(2) below, and
 - (b) any other information required by the [^{F7}appropriate authority] in the case of the particular transfer,
- with or without other particulars regarding the transfer.

Textual Amendments

- F6** Sch. 17 Pts. I, IA substituted for Sch. 17 Pt. I (1.12.1997) by 1997 c. 32, s. 30(3), Sch. 5 Pts. I, II; S.I. 1997/2668, art. 2, **Sch. Pt. I(e)**
- F7** Words in Sch. 17 substituted (1.4.2013) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2013 \(S.I. 2013/496\)](#), art. 1(1), **Sch. 8 para. 60(2)** (with Sch. 12)

- ^{F84} (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

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to be sent to its members of the meeting of the society at which the requisite transfer resolutions are to be moved.

[^{F9}(1A) Where a transfer statement or transfer summary is required under sub-paragraph (1) to be sent to a member in or with the notice of the meeting of the society at which the requisite transfer resolutions are to be moved—

- (a) in a case where notice of that meeting is given to that member electronically in accordance with paragraph 22A of Schedule 2, the transfer statement or transfer summary may be sent to him electronically only if it is sent to the same electronic address, and at the same time as the notice;
- (b) in a case where notice of that meeting is given on a web site in accordance with paragraph 22B of Schedule 2, the requirement to send the statement or summary to that member shall also be treated as satisfied if the conditions set out in sub-paragraph (1B) are satisfied.

(1B) The conditions of this sub-paragraph are satisfied in the case of a transfer statement or transfer summary if—

- (a) the society and that member have agreed that information which is required to be sent to him may instead be accessed by him on a web site;
- (b) the agreement applies to the statement or summary in question;
- (c) at the same time and in the same manner as the society notifies that member of the publication of the notice of the meeting, it notifies him of—
 - (i) the publication of the statement or summary on a web site,
 - (ii) the address of that web site,
 - (iii) the place on that web site where that statement or summary may be accessed, and how it may be accessed; and
- (d) the statement or summary is published continuously on that web site throughout the period beginning when the member is notified in accordance with paragraph (a) and ending with the decision of the [^{F7}appropriate authority] whether to confirm the transfer pursuant to section 98.

(1C) Where, in a case in which sub-paragraph (1A)(b) is relied on for compliance with a requirement under sub-paragraph (1)—

- (a) a statement is published for a part, but not all, of the period mentioned in subparagraph (1B)(d), but
- (b) the failure to publish it throughout that period is wholly attributable to circumstances which it would not be reasonable to have expected the society to prevent or avoid,

the failure shall not invalidate the proceedings of a meeting or prevent the requirements of sub-paragraph (1B) from being treated as fulfilled in relation to section 98.]

(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.

[^{F10}(2A) Where a transfer statement is required to be sent to a member under sub-paragraph (2) (b)—

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- (a) it may be sent to him electronically only if it is sent to an electronic address notified by him to the society for the purpose;
 - (b) the requirement to send it shall also be treated as satisfied if the conditions set out in sub-paragraph (2B) are satisfied.
- (2B) The conditions of this sub-paragraph are satisfied in the case of a transfer statement if—
- (a) the society and that member have agreed information which is required to be sent to him may instead be accessed by him on a web site;
 - (b) the agreement applies to the transfer statement in question;
 - (c) the society notifies the member forthwith, on receiving a request from him for such a statement, of—
 - (i) the publication of the statement on a web site,
 - (ii) the address of that web site,
 - (iii) the place on that web site where the statement may be accessed and how it may be accessed; and
 - (d) that statement is published continuously on that web site for the period beginning with the giving of that notification and ending with the decision of the [^{F7}appropriate authority] whether to confirm the transfer pursuant to section 98.
- (2C) Where, in a case in which sub-paragraph (2A)(b) is relied on for compliance with a requirement under sub-paragraph (2)(b)—
- (a) a statement is published for a part, but not all, of the period mentioned in subparagraph (2B)(d), but
 - (b) the failure to publish it throughout that period is wholly attributable to circumstances which it would not be reasonable to have expected the society to prevent or avoid,
- the failure shall not invalidate the proceedings of a meeting or prevent the requirements of sub-paragraph (2B) from being treated as fulfilled in relation to section 98.]
- (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 [^{F7}appropriate authority] .
- [^{F11}(4) The PRA must consult the FCA before approving a statement under sub-paragraph (3).]

Textual Amendments

- F7** Words in Sch. 17 substituted (1.4.2013) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2013 \(S.I. 2013/496\)](#), art. 1(1), **Sch. 8 para. 60(2)** (with Sch. 12)
- F8** Sch. 17 Pts. I, IA substituted for Sch. 17 Pt. I (1.12.1997) by [1997 c. 32, s. 30\(3\)](#), Sch. 5 Pts. I, II; S.I. 1997/2668, art. 2, **Sch. Pt. I(e)**
- F9** Sch. 17 para. 4(1A)-(1C) inserted (20.3.2003) by [The Building Societies Act 1986 \(Electronic Communications\) Order 2003 \(S.I. 2003/404\)](#), arts. 1(1), **27(2)**
- F10** Sch. 17 para. 4(2A)-(2C) inserted (20.3.2003) by [The Building Societies Act 1986 \(Electronic Communications\) Order 2003 \(S.I. 2003/404\)](#), arts. 1(1), **27(3)**

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F11 Sch. 17 para. 4(4) inserted (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), art. 1(1), **Sch. 8 para. 60(3)** (with Sch. 12)

- F12**⁵ (1) The [^{F13}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 [^{F13}Treasury], may make regulations for the purpose of specifying the information which transfer summaries are to give.
- (3) Any power to make regulations under this paragraph is exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Textual Amendments

F12 Sch. 17 Pts. I, IA substituted for Sch. 17 Pt. I (1.12.1997) by 1997 c. 32, s. 30(3), Sch. 5 Pts. I, **II**; S.I. 1997/2668, art. 2, **Sch. Pt. I(e)**

F13 Words in Sch. 17 para. 5(1)(2) substituted (17.8.2001 for certain purposes and otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 8, 13(1), **Sch. 3 Pt. II para. 212(b)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2**

Modifications etc. (not altering text)

C4 Sch. 17 para. 5(1) function of Building Societies Commission transferred (1.12.2001) to Treasury by S.I. 2001/2617 arts. 2(b), 4(1), Sch. I Pt. III

^{F14}[PART IA

NOTIFICATION OF PROPOSALS FOR TRANSFERS OF BUSINESS

Textual Amendments

F14 Sch. 17 Pts. I, IA substituted for Sch. 17 Pt. I (1.12.1997) by 1997 c. 32, s. 30(3), Sch. 5 Pts. I, **II**; S.I. 1997/2668, art. 2, **Sch. Pt. I(e)**

^{F15}Preliminary

Textual Amendments

F15 Sch. 17 Pts. I, IA substituted for Sch. 17 Pt. I (1.12.1997) by 1997 c. 32, s. 30(3), Sch. 5 Pts. I, **II**; S.I. 1997/2668, art. 2, **Sch. Pt. I(e)**

F16^{5A} In this Part of this Schedule—

“requisite particulars”, in relation to a transfer proposal, means the particulars required by paragraph 5B(2) below to be given in a transfer proposal notification;

“transfer”, in relation to a building society, means a transfer of the whole of its business to a company under section 97;

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

Textual Amendments

F16 Sch. 17 Pts. I, IA substituted for Sch. 17 Pt. I (1.12.1997) by [1997 c. 32, s. 30\(3\)](#), [Sch. 5 Pts. I, II](#); [S.I. 1997/2668, art. 2](#), [Sch. Pt. I\(e\)](#)

Modifications etc. (not altering text)

C5 Definition applied (1.6.1999) by [S.I. 1999/1215 reg. 3\(6\)](#)

^{F17}Duty to notify members

Textual Amendments

F17 Sch. 17 Pts. I, IA substituted for Sch. 17 Pt. I (1.12.1997) by [1997 c. 32, s. 30\(3\)](#), [Sch. 5 Pts. I, II](#); [S.I. 1997/2668, art. 2](#), [Sch. Pt. I\(e\)](#)

- ^{F18}5B (1) Subject to sub-paragraph (3) below, it shall be the duty of a building society receiving a transfer proposal to send, in accordance with this Part of this Schedule, a transfer proposal notification in respect of the proposal to every member entitled to notice of a meeting of the society.
- (2) A transfer proposal notification must contain the following particulars—
- (a) the fact that a transfer proposal has been made, and
 - (b) the identity of the proposer;
- with or without other particulars regarding the proposal.
- (3) Sub-paragraph (1) above does not require a transfer proposal notification to be sent to members if the proposer has requested in writing that the requisite particulars are to be treated as confidential; and, where such a request is made and is at a later date withdrawn in writing, the society receiving the proposal shall, for the purposes of this Part of this Schedule, treat the proposal as having been received on that date instead of any earlier date.

Textual Amendments

F18 Sch. 17 Pts. I, IA substituted for Sch. 17 Pt. I (1.12.1997) by [1997 c. 32, s. 30\(3\)](#), [Sch. 5 Pts. I, II](#); [S.I. 1997/2668, art. 2](#), [Sch. Pt. I\(e\)](#)

- ^{F19}5C [A building society shall include in or with every notice of its annual general meeting ^{F20}(1)] a transfer proposal notification with respect to any transfer proposal, other than a proposal of which notice has already been given under this paragraph—

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- (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.

[Where a transfer proposal notification is required under sub-paragraph (1) to be sent ^{F21}(2) to a member in or with the notice of an annual general meeting of the society—

- (a) in a case where notice of that meeting is given to that member electronically in accordance with paragraph 22A of Schedule 2, the transfer proposal notification may be sent to him electronically only if it is sent to the same electronic address, and at the same time as the notice.
- (b) in a case where notice of that meeting is given on a website in accordance with paragraph 22B of Schedule 2, the requirement to send it shall also be treated as satisfied if the conditions set out in sub-paragraph (3) are satisfied.

(3) The conditions of this sub-paragraph are satisfied in the case of a transfer proposal notification if—

- (a) the society and the member have agreed that information that is required to be sent to him may instead be accessed by him on a web site;
- (b) the agreement applies to the transfer proposal notification in question;
- (c) at the same time and in the same manner as the society notifies that person of the publication of the notice of the meeting, it notifies him of—
 - (i) the publication of the transfer proposal notification on a web site,
 - (ii) the address of that web site,
 - (iii) the place on that web site where that notification may be accessed, and how it may be accessed; and
- (d) the notification is published continuously on that web site throughout the period beginning when the person is notified in accordance with paragraph (c) and ending with the conclusion of the meeting.

(4) Where, in a case in which sub-paragraph (2)(b) is relied on for compliance with a requirement under sub-paragraph (1)—

- (a) a statement is published for a part, but not all, of the period mentioned in subparagraph (3)(d), but
- (b) the failure to publish it throughout that period is wholly attributable to circumstances which it would not be reasonable to have expected the society to prevent or avoid,

the failure shall not invalidate the proceedings of a meeting.]

Textual Amendments

F19 Sch. 17 Pts. I, IA substituted for Sch. 17 Pt. I (1.12.1997) by 1997 c. 32, s. 30(3), Sch. 5 Pts. I, II; S.I. 1997/2668, art. 2, **Sch. Pt. I(e)**

F20 Sch. 17 para. 5C(1) renumbered (20.3.2003) by [The Building Societies Act 1986 \(Electronic Communications\) Order 2003 \(S.I. 2003/404\)](#), arts. 1(1), **28(2)**

F21 Sch. 17 paras. 5C(2)-(4) inserted (20.3.2003) by [The Building Societies Act 1986 \(Electronic Communications\) Order 2003 \(S.I. 2003/404\)](#), arts. 1(1), **28(2)**

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^{F22}Duty to notify [^{F27}appropriate authority]]

Textual Amendments

F22 Sch. 17 Pts. I, IA substituted for Sch. 17 Pt. I (1.12.1997) by 1997 c. 32, s. 30(3), Sch. 5 Pts. I, II; S.I. 1997/2668, art. 2, **Sch. Pt. I(e)**

- ^{F23}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 [^{F24}FCA and, if the society is a PRA-authorised person, the PRA] at least 14 days before the date of the meeting.
- (2) The [^{F25}FCA must] keep the copy of a transfer proposal notification received by it from a building society in the public file of that society.

Textual Amendments

F23 Sch. 17 Pts. I, IA substituted for Sch. 17 Pt. I (1.12.1997) by 1997 c. 32, s. 30(3), Sch. 5 Pts. I, II; S.I. 1997/2668, art. 2, **Sch. Pt. I(e)**

F24 Words in Sch. 17 para. 5D(1) substituted (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), art. 1(1), **Sch. 8 para. 60(4)(a)** (with Sch. 12)

F25 Words in Sch. 17 para. 5D(2) substituted (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), art. 1(1), **Sch. 8 para. 60(4)(b)** (with Sch. 12)

^{F26}Penalty

Textual Amendments

F26 Sch. 17 Pts. I, IA substituted for Sch. 17 Pt. I (1.12.1997) by 1997 c. 32, s. 30(3), Sch. 5 Pts. I, II; S.I. 1997/2668, art. 2, **Sch. Pt. I(e)**

- ^{F27}~~F28~~^{F28}(1) 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.
- [^{F29}(2) But no offence is committed under this paragraph, in a case in which paragraph 5C(2) (b) is relied on for compliance with a requirement under paragraph 5C(1), where—
- (a) a transfer proposal notification is published for a part, but not all, of the period mentioned in paragraph 5C(3)(d); and
 - (b) the failure to publish that notification throughout that period is wholly attributable to circumstances which it would not be reasonable to have expected the society to prevent or avoid.]

Textual Amendments

F27 Sch. 17 Pts. I, IA substituted for Sch. 17 Pt. I (1.12.1997) by 1997 c. 32, s. 30(3), Sch. 5 Pts. I, II; S.I. 1997/2668, art. 2, **Sch. Pt. I(e)**

F28 Sch. 17 para. 5E(1) renumbered (20.3.2003) by The Building Societies Act 1986 (Electronic Communications) Order 2003 (S.I. 2003/404), arts. 1(1), **28(3)**

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F29 Sch. 17 para. 5E(2) inserted (20.3.2003) by [The Building Societies Act 1986 \(Electronic Communications\) Order 2003 \(S.I. 2003/404\)](#), arts. 1(1), **28(3)**

PART II

CONFIRMATION BY [F7 APPROPRIATE AUTHORITY] : PROCEDURE

- 6 An application by a building society for confirmation by the [F7 appropriate authority] of a transfer of its business tschedule 16o a company shall be made in such manner as the [F7 appropriate authority] may [F30 direct].

Textual Amendments

F30 Word in Sch. 17 para. 6 substituted (17.8.2001 for certain purposes and otherwise 1.12.2001) by [S.I. 2001/2617](#), arts. 2, 8, 13(1), [Sch. 3 Pt. II para. 212\(d\)](#) (with [art. 13\(3\)](#), [Sch. 5](#)); [S.I. 2001/3538](#), [art. 2](#)

- 7 (1) Where a building society applies for confirmation of a transfer of its business, the society shall publish a notice of the application in any one or more of the London Gazette, the Edinburgh Gazette or the Belfast Gazette, as the [F7 appropriate authority] directs and, if it so directs, in one or more newspapers.
- (2) A notice published in pursuance of sub-paragraph (1) above shall—
- (a) state that any interested party has the right to make representations to the [F7 appropriate authority] with respect to the application;
 - (b) specify a date determined by the [F7 appropriate authority] before which any written representations or notice of a person's intention to make oral representations must be received by the [F7 appropriate authority]; and
 - (c) specify a date determined by the [F7 appropriate authority] as the day on which it intends to hear any oral representations.
- 8 (1) After the date specified in the notice in pursuance of paragraph 7(2)(b) above, the Commission shall—
- (a) determine the time and place at which oral representations may be made;
 - (b) give notice of that determination to the building society making the transfer and any persons who have given notice of their intention to make oral representations; and
 - (c) send copies of the written representations received by the Commission to the building society making the transfer.
- (2) The Commission shall allow the building society making the transfer an opportunity to comment on the written representations, whether at a hearing or in writing, before the expiration of such period as the Commission specifies in a notice to the society.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 5(11)-(14) inserted by [2007 c. 26 s. 1\(2\)](#)
- s. 5(13)(a) substituted by [S.I. 2013/496 Sch. 8 para. 4\(4\)](#)
- s. 7(6A)-(6C) inserted by [2007 c. 26 s. 1\(1\)\(a\)](#)
- s. 7(8A) inserted by [2007 c. 26 s. 1\(1\)\(c\)](#)
- s. 176ZB excluded by [S.I. 2017/400 reg. 14](#)
- s. 246ZA-246ZC excluded by [S.I. 2017/400 reg. 15](#)
- s. 246ZD excluded by [S.I. 2017/400 reg. 16](#)