



Building Societies Act 1986

1986 CHAPTER 53

PART II

CONSTITUTION OF BUILDING SOCIETIES

Establishment

5 Establishment, constitution and powers.

[^{F1}(1) A society may be established under this Act if (and only if) it complies with the following requirements, namely—

- (a) its purpose or principal purpose is that of making loans which are secured on residential property and are funded substantially by its members; and
- (b) its principal office is in the United Kingdom.]

(2) A society is established under this Act on compliance by the persons establishing it with the scheduled requirements and is incorporated under this Act as from the date of registration by the [^{F2}FCA] .

(3) A society incorporated under this Act is referred to in this Act as a “building society”.

(4) A society incorporated under the repealed enactments whose principal office, as registered with the central office immediately before the commencement of this section, was in the United Kingdom, shall be deemed to be registered (and accordingly as incorporated) under this Act.

[^{F3}(4A) If, after its establishment, a building society fails to comply with the requirements imposed by subsection (1)(a) or (b) above—

- (a) the powers conferred on the [^{F4}appropriate authority] by section 36 or 37 shall become exercisable in relation to the society; but
- (b) the failure shall not affect the validity of any transaction or other act.]

[^{F5}(5) Subject to the provisions of this Act, a building society shall have the powers conferred on it by its memorandum.]

Status: Point in time view as at 01/04/2013.

Changes to legislation: Building Societies Act 1986, Cross Heading: Establishment is up to date with all changes known to be in force on or before 13 July 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)

- (8) Schedule 2 to this Act has effect as respects the constitution, powers, and regulation of building societies and in that Schedule—
- (a) Part I makes provision with respect to the constitution, memorandum, rules and certain incidents of membership;
 - [^{F6}(b) Part II makes provision with respect to the capacity of a society and the powers of its directors to bind it; and]
 - (c) Part III makes provision with respect to meetings, postal ballots and resolutions;
- [^{F7}and in this section “scheduled”, with reference to requirements for establishment, means contained in that Schedule]
- (9) Any obligation imposed by this Act or the rules of a building society to give or send notices or other documents to members is subject to paragraph 14 of that Schedule.
- [^{F8}(10) In this Act “residential property” means land at least 40 per cent of which—
- (a) is normally used as, or in connection with, one or more dwellings; or
 - (b) has been, is being or is to be developed or adapted for such use;
- and for the purposes of this subsection, the area of any land which comprises a building or other structure containing two or more storeys shall be taken to be the aggregate of the floor areas of each of those storeys.]

Textual Amendments

- F1** S. 5(1) substituted (1.12.1997 in specified cases and for specified purposes and otherwise in accordance with art. 2(2)-(5) of S.I. 1997/2668) by 1997 c. 32, **ss. 1(1)**, 47(3); S.I. 1997/2668, **art. 2, Sch. Pt. II(a)**
- F2** Word in s. 5(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. 4(2)** (with Sch. 12)
- F3** S. 5(4A) inserted (1.12.1997 in specified cases and for specified purposes and otherwise in accordance with art. 2(2)-(5) of S.I. 1997/2668) by 1997 c. 32, **ss. 1(2)**, 47(3); S.I. 1997/2668, **art. 2, Sch. Pt. II(a)**
- F4** Word in s. 5(4A) substituted (1.4.2013) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2013](#) (S.I. 2013/496), **art. 1(1), Sch. 8 para. 4(3)** (with Sch. 12)
- F5** S. 5(5) substituted for s. 5(5)-(7) (1.12.1997 in specified cases and for specified purposes and otherwise in accordance with art. 2(2)-(5) of S.I. 1997/2668) by 1997 c. 32, **ss. 1(3)**, 47(3); S.I. 1997/2668, **art. 2, Sch. Pt. II(a)**
- F6** S. 5(8)(b) substituted (1.12.1997 in specified cases and for specified purposes and otherwise in accordance with art. 2(2)(3)(5) of S.I. 1997/2668) by 1997 c. 32, **ss. 3(1)(a)**, 47(3); S.I. 1997/2668, **art. 2, Sch. Pt. II(c)**
- F7** Words in s. 5(8) substituted (1.12.1997 in specified cases and for specified purposes and otherwise in accordance with art. 2(2)(3)(5) of S.I. 1997/2668) by 1997 c. 32, **ss. 3(1)(b)**, 47(3); S.I. 1997/2668, **art. 2, Sch. Pt. II(c)**
- F8** S. 5(10) substituted (1.12.1997 in specified cases and for specified purposes and otherwise in accordance with art. 2(2)-(5) of S.I. 1997/2668) by 1997 c. 32, **ss. 1(4)**, 47(3); S.I. 1997/2668, **art. 2, Sch. Pt. II(a)**

Modifications etc. (not altering text)

- C1** S. 5 applied (with modifications) (7.4.2010) by [The Building Societies \(Financial Assistance\) Order 2010](#) (S.I. 2010/1188), **arts. 1(2), 3(1)(2)**
- C2** S. 5(4A) modified (7.4.2010) by [The Building Societies \(Financial Assistance\) Order 2010](#) (S.I. 2010/1188), **arts. 1(2), 3(4), 4(4)**

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C3 S. 5(8)(c) excluded (*temp.*) by S.I. 1986/2168, **art. 3(1)(2)**

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