



# Building Societies Act 1986

## 1986 CHAPTER 53

### PART VII

#### MANAGEMENT OF BUILDING SOCIETIES

##### *Directors and other officers*

#### **58 Directors: number**

- (1) Every building society shall have at least two directors.
- (2) One of the directors shall be appointed to be chairman of the board of directors.

#### **59 Chief executive and secretary**

- (1) Every building society shall have a chief executive, that is to say, a person who is employed by the society and who either alone or jointly with one or more other persons, is or will be responsible under the immediate authority of the directors for the conduct of the business of the society.
- (2) Every building society shall have a secretary.
- (3) The offices of chief executive and secretary of a building society may be held by the same person.
- (4) The chief executive and the secretary of a building society shall be appointed by the directors of the society.
- (5) The directors of a building society shall, as regards the appointment of the secretary or the chief executive of the society, take all reasonable steps to secure that the person appointed is a person who has the requisite knowledge and experience to discharge the functions of his office.
- (6) Where a person becomes or ceases to be the chief executive of a building society, the society shall within one month give notice of that fact to the central office, stating

the person's full name and address and the date on which he became, or ceased to be, chief executive; and the central office shall record the person's name and the date on which he began to hold, or, as the case may be, ceased to hold office, in the public file of the society.

- (7) Anything required or authorised to be done by or to the secretary or chief executive of a building society may, if the office is vacant or there is for any other reason no secretary or chief executive capable of acting, be done by or to any assistant or deputy secretary or assistant or deputy chief executive, as the case may be, or, if there is no assistant or deputy capable of acting, by or to any officer of the society authorised generally or specially for that purpose by the directors.

## **60 Directors: elections and retirement**

- (1) Except in so far as they may be co-opted by virtue of subsection (13) below, the directors of a building society must be elected to office, either—
- (a) at the annual general meeting of the society, or
  - (b) by postal ballot of the members conducted during that part of the financial year of the society which precedes the date on which the annual general meeting is held,
- as the rules provide.
- (2) The persons entitled to vote in an election of directors of a building society are those members of the society who, on the voting date, are entitled to vote on an ordinary resolution of the society.
- (3) A person entitled to vote in an election of directors of a building society shall have one vote for every vacancy which is to be filled by the election but cannot be required to cast all or any of his votes.
- (4) Subject to subsections (6), (7) and (9) below and to paragraph 5(3) of Schedule 2 to this Act, any person is eligible to be elected a director of a building society.
- (5) The rules of a building society may require its directors to retire at a prescribed age without eligibility for re-election or reappointment; and, if the age so prescribed is no greater than the age which is the normal retirement age for the purposes of this section, subsection (7) below shall have no application to the directors of the society.
- (6) If the rules of a building society make the provision authorised by subsection (5) above, a person who has attained the age so prescribed shall not be eligible to be elected as a director of the society.
- (7) Except in a case where the operation of this subsection is excluded by subsection (5) above, if a person has attained the normal retirement age for directors, he shall not be eligible to be elected a director of a building society unless—
- (a) he has been approved as eligible for election by resolution of the board of directors, and
  - (b) his age and the reasons for the board's approval of his eligibility have been notified to every person entitled to vote at the election.
- (8) In this section " the normal retirement age ", in relation to the directors of a building society, means 70 years or such lesser age as the rules of the society prescribe as the normal retirement age for its directors ; and " the compulsory retirement age ", for a

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society whose rules make the provision authorised by subsection (5) above, means the age so prescribed in its rules.

- (9) The rules of a building society may impose, as a condition of a person's eligibility to be or to remain a director of the society, a requirement that he shall hold beneficially shares in the society not less in value than the amount prescribed by the rules, but the minimum holding to be required shall not exceed £1,000 or such other amount as may be substituted for it by order of the Commission under this subsection.
- (10) The rules of a building society may impose, as conditions of the validity of a person's nomination for election as a director, requirements as to—
- (a) the minimum number of members who must join in nominating him,
  - (b) their qualifications as respects length of membership of and the value of shares held in the society, and
  - (c) the depositing of money with the society in connection with his candidature, but no other requirements; and rules made by virtue of this subsection must comply with section 61.
- (11) A director of a building society shall retire from office—
- (a) in any case not provided for by paragraph (b) below, subsection (12) below or rules under section 61(10), at the third annual general meeting of the society following the date of his election, and
  - (b) in a case where he had attained the normal retirement age at his election, at the next annual general meeting following that date;
- subject (in either case) to any provision for his earlier retirement on the grounds of ceasing to hold the requisite shares in the society contained in the rules of the society.
- (12) A director of a building society attaining the normal retirement age or, as the case may be, the compulsory retirement age shall, subject to any provision of the rules for earlier retirement, retire from office at the next annual general meeting of the society.
- (13) If the rules of a building society so provide, the directors for the time being may appoint as additional directors or to fill any vacancy on the board of directors any person who—
- (a) has not attained—
    - (i) the normal retirement age, or
    - (ii) the compulsory retirement age (where that age is less than the normal retirement age), and
  - (b) appears to them to be fit and proper to be a director, not being a person who, having been nominated for election as a director at any election held within the preceding twelve months, was not elected as a director.
- (14) A person who is co-opted under subsection (13) above shall cease to hold office at the end of the permitted period unless he is elected as a director of the society in accordance with this section within that period.
- (15) A person who holds office as, or is to his knowledge nominated for election or proposed for appointment under subsection (13) above as, a director of a building society shall, not later than 28 days before he attains the normal retirement age or, as the case may be, the compulsory retirement age for directors of the society, give the society notice of the date on which he will attain that age; and if he fails to do so he shall be liable on summary conviction—
- (a) to a fine not exceeding level 3 on the standard scale; and

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- (b) in the case of a continuing offence, to an additional fine not exceeding £40 for every week during which the offence continues.
- (16) The power of the Commission to make an order under subsection (9) above—
- (a) includes power to make such transitional provision as it considers necessary or expedient, and
  - (b) shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (17) In this section—
- " ordinary resolution " means a resolution which will be effective without being passed as a special resolution or borrowing members' resolution;
  - " permitted period ", in relation to a co-opted director, has the meaning given by section 61(12); and
  - " the voting date " means—
    - (a) in the case of an election at a meeting, the date of the meeting, except where paragraph below applies;
    - (b) in the case of an election conducted by postal ballot, the date which the society specifies as the final date for the receipt of completed ballot papers ;
    - (c) in a case where a member appoints a proxy to vote at the meeting for him, the date which the society specifies as the final date for receipt of instruments appointing proxies to vote at the election ; and, for the purposes of this Act, the date of a person's election to office as a director of a building society, in a case where the rules provide for election by postal ballot, is the date of the meeting at which the declaration of the result of the ballot is made.

## **61 Directors: supplementary provisions as to elections, etc.**

- (1) Rules made under section 60(10)(a), in order to comply with this section, must not require—
- (a) in the case of a society with a qualifying asset holding, more than fifty members, and
  - (b) in the case of any other society, more than ten members,
- to join in nominating a person for election as a director.
- (2) Rules under section 60(10)(b), in order to comply with this section, must not require a nominating member to have been a member for more than two years before the date of the nomination or to hold, or have at any time during that period held, shares in the society to a value greater than £100.
- (3) Rules made under section 60(10)(c), in order to comply with this section—
- (a) must not require more than £250 to be deposited with the society;
  - (b) must not require the money to be deposited before the date which, under the rules, is the closing date for the nomination of candidates for the election ; and
  - (c) must provide for the return of the deposit to the candidate in the event of his securing—
    - (i) not less than 5 per cent, of the total number of votes cast for all the candidates in the election; or

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- (ii) not less than 20 per cent, of the number of votes cast for the candidate who is elected with the smallest number of votes.
- (4) The Commission may, by order, amend subsection (1), (2) or (3)(a) or (c) above so as to substitute for the number, the maximum value of shares, the maximum amount of the deposit or the percentage of votes required to be secured respectively such other number, value, amount or percentage as it thinks appropriate.
- (5) The power to make orders under subsection (4) above—
- (a) includes power to make such transitional provision as the Commission considers necessary or expedient, and
  - (b) is exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) If a building society, in a case where the board of directors has approved as eligible for election a person who has attained the normal retirement age, fails to notify every person entitled to vote at the election as required by section 60(7), 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; but no such failure shall invalidate the election.
- (7) If a duly nominated candidate for election as a director of a building society furnishes the society with an election address of not more than 200 words before the closing date for nominations, then, subject to subsection (8) below—
- (a) it shall be the duty of the society to send a copy of the address to each member of the society who is entitled to vote in the election ;
  - (b) each member's copy shall be sent in the same manner and, so far as practicable, at the same time as the notice of the meeting at which the election is to be conducted or the ballot papers are sent out, as the case may be, or as soon as is practicable thereafter; and
  - (c) if the building society fails to comply with the requirements of this subsection 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 liable for the offence ;
- but no such failure shall invalidate the election.
- (8) Subsection (7) above does not require a building society to send copies of an address to members of the society in any case where—
- (a) publicity for the address would be likely to diminish substantially the confidence in the society of investing members of the public, or
  - (b) the rights conferred by that subsection are being abused to seek needless publicity for defamatory matter or for frivolous or vexatious purposes;
- and that subsection shall not be taken to confer any rights on members, or to impose any duties on a building society, in respect of an address which does not relate directly to the affairs of the society.
- (9) The Commission shall hear and determine any dispute arising under subsection (8)(a) above, whether on the application of the society or of any other person who claims to be aggrieved.
- (10) The rules of a building society, if they provide for the retirement by rotation of its directors, may provide that a person elected to fill a vacant seat on the board must retire

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at the annual general meeting at which, in accordance with the rules for retirement by rotation, the seat is to fall vacant.

- (11) Subsection (10) above applies to any vacancy arising when an elected director ceases to hold office for any reason before the annual general meeting at which (disregarding his age) the seat is due to fall vacant under section 60(11)(a).
- (12) For the purposes of section 60(17) "the permitted period", with reference to the tenure of office of co-opted directors, is the period beginning with the date of the co-opted director's appointment and ending with whichever of the following first occurs, that is to say—
- (i) in the case of a building society which elects its directors at its annual general meeting, the conclusion of the next such meeting following his appointment;
  - (ii) in the case of a building society which elects its directors by postal ballot, the declaration at its annual general meeting of the result of the next such ballot conducted after his appointment;
  - (iii) the expiration of the period of sixteen months beginning with the date of his appointment;

but a general meeting or postal ballot shall be disregarded for the purposes of this paragraph if the closing date for the nomination of candidates falls before the date of the co-opted director's appointment.

- (13) Where a person becomes or ceases to be a director of a building society, the society shall within one month give notice of that fact to the central office, stating the person's full name and address and the date on which he became, or ceased to be, a director; and the central office shall record the person's name and the date on which he began to hold, or, as the case may be, ceased to hold office, in the public file of the society.
- (14) If a building society fails to comply with subsection (13) 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.