

## SCHEDULES

### SCHEDULE 11

#### AUDITORS : APPOINTMENT, TENURE, QUALIFICATIONS

##### *Resignation of auditors*

- 7 (1) An auditor of a building society may resign his office by depositing a notice to that effect at the principal office of the society ; and any such notice operates to bring his term of office to an end on the date on which the notice is deposited, or on such later date as may be specified in it.
- (2) An auditor's notice of resignation shall not be effective unless it contains either—
- (a) a statement to the effect that there are no circumstances connected with his resignation which he considers should be brought to the notice of the members of, or depositors with, the society, or
  - (b) a statement of any such circumstances as are mentioned above.
- (3) Where a notice under this paragraph is deposited at the principal office of a building society it shall within fourteen days send a copy of that notice—
- (a) to the central office, and
  - (b) if the notice contains a statement under sub-paragraph (2)(b) above, to every person who under section 76(8) is entitled to receive a copy of the summary financial statement.
- (4) The building society or any person claiming to be aggrieved may, within fourteen days of the receipt by the society of a notice containing a statement under sub-paragraph (2)(b), apply in accordance with sub-paragraph (5) or (6) below to—
- (a) the High Court; or
  - (b) the Commission,
- for an order that copies of the notice need not or, as the case may be, shall not be sent out.
- (5) An application under this sub-paragraph is an application to the High Court on the ground that the auditor is using the notice to secure needless publicity for defamatory matter, and if the court is satisfied that the auditor is using the notice for that purpose it may by order direct that copies of it need not be sent out; and the court may further order the society's costs on the application to be paid in whole or in part by the auditor, notwithstanding that he is not a party to the application.
- (6) An application under this sub-paragraph is an application to the Commission on the ground that the sending out of the notice would be likely to diminish substantially the confidence in the society of investing members of the public ; and if the Commission is satisfied that the sending out of the notice would be likely to have that effect it shall by order direct that copies of it shall not be sent out.
- (7) The building society shall, within fourteen days of the decision of the High Court or of the Commission, send to the persons mentioned in sub-paragraph (3)—

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

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- (a) if the court makes an order under sub-paragraph (5) above or the Commission makes an order under sub-paragraph (6), a statement setting out the effect of the order; and
  - (b) if not, a copy of the notice containing the statement under sub-paragraph (2) (b).
- (8) If default is made in complying with sub-paragraph (3) or sub-paragraph (7) the building society shall be liable—
  - (a) on conviction on indictment to a fine ; or
  - (b) on summary conviction to a fine not exceeding the statutory maximum and, in the case of a continuing offence, to a fine not exceeding one tenth of the statutory maximum for every day during which the offence continues ;and so shall any officer who is also guilty of the offence.
- 8 (1) Where an auditor's notice of resignation contains a statement under paragraph 7(2)(b) above he may also deposit at the principal office of the society a requisition signed by him calling on the directors of the society forthwith duly to convene a special general meeting of the society for the purpose of receiving and considering such explanation of the circumstances connected with his resignation as he may wish to place before the meeting.
- (2) Where an auditor's notice of resignation contains such a statement the auditor may request the society to send to its members—
  - (a) before the general meeting at which his term of office would otherwise expire or expires, as the case may be; or
  - (b) before any general meeting at which it is proposed to fill the vacancy caused by his resignation,a statement in writing (not exceeding a reasonable length) of the circumstances connected with his resignation.
- (3) The society shall in that case (unless the statement is received by it too late for it to comply)—
  - (a) in any notice of the meeting given to members state the fact of the statement having been made, and
  - (b) send a copy of the statement to every member to whom notice of the meeting is or has been sent.
- (4) If the directors of the society do not within 21 days from the date of the deposit of a requisition under this paragraph proceed duly to convene a meeting for a day not more than 28 days after the date on which the notice convening the meeting is given, every director who failed to take all reasonable steps to secure that a meeting was so convened shall be liable—
  - (a) on conviction on indictment to a fine ; or
  - (b) on summary conviction to a fine not exceeding the statutory maximum.
- (5) If a copy of the statement mentioned in sub-paragraph (2) is not sent out as required by sub-paragraph (3) because it was received too late or because of the society's default, the auditor may (without prejudice to his right to be heard orally) require that the statement be read out at the meeting.
- (6) Copies of a statement need not be sent out and the statement need not be read out at the meeting if—

- (a) on an application made to the High Court by the society or a person aggrieved, the court is satisfied "that the rights conferred by this paragraph are being abused to secure needless publicity for defamatory matter ; or
  - (b) on an application to the Commission by the society or a person aggrieved, the Commission is satisfied that the circulating or reading out of the statement would be likely to diminish substantially the confidence in the society of investing members of the public.
- (7) If the High Court makes an order under sub-paragraph (6)(a) above it may also order the society's costs of the application to be paid by the auditor notwithstanding that he is not a party to the application.
- (8) An auditor who has resigned his office is entitled to attend any such meeting as is mentioned in sub-paragraph (2)(a) or (b) and to receive all notices of, and other communications relating to, any such meeting which any member of the society is entitled to receive, and to be heard at any such meeting which he attends on any part of the business of the meeting which concerns him as former auditor of the society.
- 9 In the application of this Schedule to Scotland, references to the High Court shall be read as references to the Court of Session.