

*Status: Point in time view as at 01/04/2013.*

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## SCHEDULES

### SCHEDULE 14

Section 85.

#### SETTLEMENT OF DISPUTES

##### Modifications etc. (not altering text)

**C1** Sch. 14 excluded (*temp.*) by S.I. 1986/2168, art. 3(1)(4)

#### PART I

##### PROCEEDINGS IN COURT

###### *Jurisdiction of the court*

- 1 (1) No court other than the High Court or, in the case of a building society whose principal office is in Scotland the Court of Session, shall have jurisdiction to hear and determine disputes to which this paragraph applies; and, in this Part of this Schedule, “the court” means the High Court or, as the case may be, the Court of Session.
- (2) This paragraph applies to any dispute—
- (a) between a building society and a member of the society in his capacity as a member, or
  - (b) between a building society and a representative of such a member in that capacity,
- in respect of any rights or obligations arising from the rules of the society or any provision of this Act or any statutory instrument under it.
- (3) Except in the cases referred to in sub-paragraph (5) below, no disputes to which this paragraph applies may be referred to arbitration.
- (4) The court shall not hear and determine any dispute arising out of section 61(8)(a) or [F<sup>1</sup>paragraph 20A(10)(a) or 31(4)(a)] of Schedule 2 to this Act.
- (5) The court shall not hear and determine any dispute which is required to be referred to arbitration under paragraph 4 below or which is referred to the [F<sup>2</sup>FCA] under paragraph 6 or to an adjudicator under paragraph 7 below except as provided in paragraph 2 below.

##### Textual Amendments

**F1** Words in Sch. 14 para. 1(4) 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. 43, 47(3), Sch. 7 para. 64(1); S.I. 1997/2668, art. 2, Sch. Pt. II(w)(z)(xxxvii)

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**F2** Word in Sch. 14 para. 1(5) substituted (1.4.2013) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2013 \(S.I. 2013/496\)](#), art. 1(1), **Sch. 8 para. 56(2)** (with Sch. 12)

- 2 The court may hear and determine a dispute falling within paragraph 1(5) above in any case where, on the application of any person concerned, it appears to the court—
- (a) that application has been made by either party to the dispute to the other party for the purpose of having the dispute settled by arbitration, and
  - (b) that either arbitrators have not been appointed within 40 days of that application or the arbitrators have refused, or have neglected for a period of 21 days, to proceed with the reference or make an award.

*Right of [F3FCA and PRA] to be heard*

**Textual Amendments**

**F3** Words in Sch. 14 para. 3 heading substituted (1.4.2013) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2013 \(S.I. 2013/496\)](#), art. 1(1), **Sch. 8 para. 56(3)** (with Sch. 12)

- 3
- (1) Any person who institutes proceedings in the court in relation to a dispute to which paragraph 1 above applies shall give notice of the fact and of the matter in dispute to the [F4FCA and, if the society is a PRA-authorised person, the PRA] .
  - (2) The court shall not proceed to hear a dispute to which paragraph 1 applies until the court is satisfied that the notice required by sub-paragraph (1) above has been given.
  - (3) The [F4FCA and, if the society is a PRA-authorised person, the PRA] shall be entitled, with the leave of the court, to attend and to be heard at any hearing of a dispute to which paragraph 1 applies.

**Textual Amendments**

**F4** Words in Sch. 14 para. 3 substituted (1.4.2013) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2013 \(S.I. 2013/496\)](#), art. 1(1), **Sch. 8 para. 56(4)** (with Sch. 12)

## PART II

### ARBITRATION

*Circulation of election addresses, resolutions and statements*

- 4
- (1) If the rules of the society so provide, any dispute in respect of a refusal by a building society to send to its members—
    - (a) copies of an election address [F5or a revised election address], in accordance with section 61(7), or
    - (b) any document required to be sent under [F6paragraph 20A(1)(b) or 31(1)] of Schedule 2 to this Act,
 shall, unless the refusal is on one of the grounds specified in sub-paragraph (2) below, be referred to arbitration.

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- (2) Those grounds are—
- (a) that publicity for the document in question would be likely to diminish substantially the confidence in the society of investing members of the public, or
  - (b) that the rights conferred by section 61(7) or [<sup>F7</sup>paragraph 20A(1)(b) or 31(1)] are being abused to seek needless publicity for defamatory matter.

#### Textual Amendments

- F5** Words in Sch. 14 para. 4(1) inserted (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. 43, 47(3), **Sch. 7 para. 64(2)(a)**; S.I. 1997/2668, art. 2, **Sch. Pt. II(w)(z)(xxxvii)**
- F6** Words in Sch. 14 para. 4(1) 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. 43, 47(3), **Sch. 7 para. 64(2)(b)**; S.I. 1997/2668, art. 2, **Sch. Pt. II(w)(z)(xxxvii)**
- F7** Words in Sch. 14 para. 4(2) 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. 43, 47(3), **Sch. 7 para. 64(3)**; S.I. 1997/2668, art. 2, **Sch. Pt. II(w)(z)(xxxvii)**

#### <sup>F8</sup>[Calling of special meeting]

#### Textual Amendments

- F8** Sch. 14 para. 4A and cross-heading preceding it inserted (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. 43, 47(3), **Sch. 7 para. 64(4)**; S.I. 1997/2668, art. 2, **Sch. Pt. II(w)(z)(xxxvii)**

- [<sup>F9</sup>4A If the rules of the society so provide, any dispute in respect of a refusal by a building society to call a special meeting required to be called under paragraph 20A(1)(a) of Schedule 2 to this Act shall be referred to arbitration.]

#### Textual Amendments

- F9** Sch. 14 para. 4A and cross-heading preceding it inserted (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. 43, 47(3), **Sch. 7 para. 64(4)**; S.I. 1997/2668, art. 2, **Sch. Pt. II(w)(z)(xxxvii)**

#### *Procedure on a reference to arbitration*

- 5 (1) This paragraph has effect in relation to an arbitration under paragraph 4(1) above.
- (2) One or more arbitrators shall be appointed in the manner provided for by the rules of the building society; and so shall another arbitrator if an appointed arbitrator dies or refuses to act.
- (3) No arbitrator acting on a reference shall be beneficially interested (whether directly or indirectly) in the funds of the society.
- (4) The rules of the society may provide for the procedure to be followed on a reference to arbitration.

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- (5) An award made by arbitrators, or the majority of them, shall be final and binding.
- (6) For the purposes of [<sup>F10</sup>Part I of the Arbitration Act 1996] the rules of the society shall be treated as an arbitration agreement.
- (7) In relation to Scotland, sub-paragraph (6) above shall be omitted.

#### Textual Amendments

**F10** Words in Sch. 14 Pt. II para. 5(6) substituted (31.1.1997) by 1996 c. 23, s. 107(1), **Sch. 3 para. 47** (with s. 81(2)); S.I. 1996/3146, **art. 3** (with transitional provisions in **art. 4, Sch. 2**)

#### *Access to register of members*

- 6 (1) Any dispute as to the rights of a member of a building society under paragraph 15 of Schedule 2 to this Act shall be referred to the [<sup>F11</sup>FCA] .
- (2) The reference of a dispute to the [<sup>F11</sup>FCA] under this paragraph shall be treated as a reference to arbitration; and its award shall have the same effect as that of an arbitrator acting in a reference under paragraph 4(1) above.
- [<sup>F12</sup>(3) The FCA must consult the PRA before making any such award.]

#### Textual Amendments

**F11** Word in Sch. 14 para. 6 substituted (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), **art. 1(1), Sch. 8 para. 56(5)(a)** (with Sch. 12)

**F12** Sch. 14 para. 6(3) inserted (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), **art. 1(1), Sch. 8 para. 56(5)(b)** (with Sch. 12)

#### *Disputes cognizable under a scheme*

<sup>F13</sup>7 .....

#### Textual Amendments

**F13** Sch. 14 para. 7 repealed (1.12.2001) by S.I. 2001/2617 arts. 2(b), 13(2), Sch. 4 (with art. 13(3), Sch. 5); S.I. 2001/3538 art. 2

#### *General*

- 8 In this Part of this Schedule, in relation to an arbitration in Scotland, references to an arbitrator shall be read as references to an arbiter.

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