

*Status: Point in time view as at 01/02/1991.*

**Changes to legislation:** Building Societies Act 1986, Cross Heading: Winding up by the court is up to date with all changes known to be in force on or before 30 August 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)

## SCHEDULES

### SCHEDULE 15

#### APPLICATION OF COMPANIES WINDING UP LEGISLATION TO BUILDING SOCIETIES

#### PART II

#### MODIFIED APPLICATION OF INSOLVENCY ACT 1986

#### PARTS IV AND XII

##### *Winding up by the court*

- 15 In sections 117 (High Court and county court jurisdiction) and 120 (Court of Session and sheriff court jurisdiction) of the Act, each reference to a company's share capital paid up or credited as paid up shall have effect as a reference to the amount standing to the credit of shares in a building society as shown by the latest balance sheet.
- 16 Section 122 (circumstances in which company may be wound up by the court) of the Act does not apply.
- 17 Section 124 (application for winding up) of the Act does not apply.
- 18 (1) In section 125 (powers of court on hearing of petition) of the Act, subsection (1) applies with the omission of the words from "but the court" to the end of the subsection.
- (2) The conditions which the court may impose under section 125 of the Act include conditions for securing—
- (a) that the building society be dissolved by consent of its members under section 87, or
  - (b) that the society amalgamates with, or transfers its engagements to, another building society under section 93 or 94, or
  - (c) that the society transfers its business to a company under section 97,
- and may also include conditions for securing that any default which occasioned the petition be made good and that the costs, or in Scotland the expenses, of the proceedings on that petition be defrayed by the person or persons responsible for the default.
- 19 Section 126 (power of court, between petition and winding up order, to stay or restrain proceedings against company) of the Act has effect with the omission of subsection (2).
- 20 If, before the presentation of a petition for the winding up by the court of a building society, an instrument of dissolution under section 87 is placed in the society's public file, section 129(1) (commencement of winding up by the court) of the Act

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shall also apply in relation to the date on which the instrument is so placed and to any proceedings in the course of the dissolution as it applies to the commencement date for, and proceedings in, a voluntary winding up.

- 21     (1) Section 130 of the Act (consequences of winding-up order) shall have effect with the following modifications.
- (2) Subsections (1) and (3) shall be omitted.
- (3) A building society shall, within 15 days of a winding-up order being made in respect of it, give notice of the order to the central office; and the central office shall keep the notice in the public file of the society.
- (4) If a building society fails to comply with sub-paragraph (3) above, it shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale; and so shall any officer who is also guilty of the offence.
- 22     Section 140 (appointment of liquidator by court in certain circumstances) of the Act does not apply.
- 23     In the application of sections 141(1) and 142(1) (liquidation committees), of the Act to building societies, the references to functions conferred on a liquidation committee by or under that Act shall have effect as references to its functions by or under that Act as so applied.
- 24     The conditions which the court may impose under section 147 (power to stay or sist winding up) of the Act shall include those specified in paragraph 18(2) above.
- 25     Section 154 (adjustment of rights of contributories) of the Act shall have the effect with the modification that any surplus is to be distributed in accordance with the rules of the society.
- 26     In section 165(2) (liquidator's powers) of the Act, the reference to an extraordinary resolution shall have effect as a reference to a special resolution.

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