

**Changes to legislation:** Building Societies Act 1986, Paragraph 34 is up to date with all changes known to be in force on or before 28 September 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) View outstanding changes

## SCHEDULES

### SCHEDULE 2

#### ESTABLISHMENT, INCORPORATION AND CONSTITUTION OF BUILDING SOCIETIES

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

- C1 Sch. 2 modified (3.1.1995) by 1994 c. 40, ss. 17(3), 82(2)
- C1 Sch. 2 applied (with modifications) (7.4.2010) by The Building Societies (Financial Assistance) Order 2010 (S.I. 2010/1188), arts. 1(2), 8

### PART III

#### MEETINGS, RESOLUTIONS AND POSTAL BALLOTS

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

- C1 Sch. 2 Pt. III (paras. 20–36) excluded (*temp.*) by S.I. 1986/2168, art. 3(1)(2)
- C1 Sch. 2 Pt. III (paras. 20–36) modified by S.I. 1987/426, art. 4

##### *Declarations to be made in proxy and ballot forms*

- 34 (1) If a member of a building society who purports to exercise his right—
- (a) to appoint a proxy to vote instead of him at a meeting of the society, or
  - (b) to vote in a postal [<sup>F1</sup>or electronic] ballot, or
  - (c) to vote on a poll at a meeting of the society,
- fails to make a declaration in accordance with sub-paragraph (2) below in the <sup>F2</sup>... appointment or, as the case may be, on the voting paper, the appointment made or, as the case may be, the vote cast by him is invalid.
- <sup>F3</sup>(2) A person making a declaration in pursuance of sub-paragraph (1) above shall—
- (a) declare that he has attained the age of 18 years or will have attained that age on or before the voting date or, where he is voting by proxy, on or before the date of the meeting;
  - (b) where the vote is to be cast on a shareholding members' resolution, declare—
    - (i) that on the voting date he is or, so far as he can reasonably foresee, will be a shareholder of the society; and
    - (ii) where the person is not entitled to vote unless he had a qualifying shareholding on the qualifying shareholding date, that he had or, so far as he can reasonably foresee, will have such a shareholding on that date;

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- (c) where the vote is to be cast on a borrowing members' resolution, declare that on the voting date he is or, so far as he can reasonably foresee, will be a borrowing member of the society; and
- (d) where the vote is to be cast on an ordinary or special resolution, declare either as mentioned in paragraph (b) above, or as mentioned in paragraph (c) above, or both.]

[<sup>F4</sup>(2A) Where an appointment of a proxy is [<sup>F5</sup>returned in an electronic communication in accordance with paragraph 24(1D)], the requirements of sub-paragraph (2) above are satisfied only if—

- (a) the appointment incorporates the terms of the declaration required by that subparagraph; and
- (b) the authenticity and integrity of the appointment is established (whether by an electronic signature or otherwise) in such manner as may have been agreed between the member and the society.

(2B) Where a member voting in a postal ballot returns a completed voting paper electronically as mentioned in sub-paragraph (6E)(b) of paragraph 33 above, the requirements of sub-paragraph (2) above are satisfied only if—

- (a) the voting paper incorporates the terms of the declaration required by that subparagraph; and
- (b) the authenticity and integrity of the completed paper is established (whether by electronic signature or otherwise) in such manner as may have been agreed between the member and the society.

(2C) Where a member registers a vote on a web site in accordance with sub-paragraph (8) (b) of paragraph 33A above, the requirements of sub-paragraph (2) above are satisfied only if—

- (a) at the place on the web site where the voting facility is accessed, the member has confirmed the terms of the declaration specified by that sub-paragraph; and
- (b) the authenticity and integrity of the member's vote is established (whether by electronic signature or otherwise) in such a manner as may have been agreed between the member and the society.]

(3) A building society shall secure that every document issued by it for use as a voting paper [<sup>F6</sup>and every] appointment of a proxy incorporates a form of declaration under this paragraph for completion by the member using it.

[<sup>F7</sup>(3A) A building society shall ensure that—

- (a) every voting paper sent by it to a member by means of an electronic communication incorporates a declaration in accordance with sub-paragraph (2) above, and
- (b) every voting facility provided by it on a web site is accompanied by such a declaration,

for completion or confirmation by the member purporting to exercise his right to vote.]

(4) If a building society fails to comply with the requirements of sub-paragraph (3) 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.

(5) In this paragraph—

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[<sup>F8</sup>“authenticity” and “integrity”, with reference to an electronic communication, must be construed in accordance with section 15(2) of the Electronic Communications Act 2000;

“electronic signature” has the same meaning as in section 7(2) of that Act;]

“qualifying shareholding” shall be construed in accordance with paragraph 23(5) above;

“qualifying shareholding date” has the same meaning as it has for the purposes of paragraph 23 above; and

“voting date” has the meaning given by paragraph 23(6) above.

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### Textual Amendments

- F1** Words in Sch. 2 para. 34(1)(b) inserted (20.3.2003) by [The Building Societies Act 1986 \(Electronic Communications\) Order 2003 \(S.I. 2003/404\)](#), arts. 1(1), **30(11)**
- F2** Words in Sch. 2 para. 34(1) omitted (20.3.2003) by virtue of [The Building Societies Act 1986 \(Electronic Communications\) Order 2003 \(S.I. 2003/404\)](#), arts. 1(1), **29(6)(a)**
- F3** Sch. 2 Pt. III para. 34(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. 57(16)**; S.I. 1997/2668, art. 2, **Sch. Pt. II(w)(z)(xxxiv)**
- F4** Sch. 2 para. 34(2A)-(2C) inserted (20.3.2003) by [The Building Societies Act 1986 \(Electronic Communications\) Order 2003 \(S.I. 2003/404\)](#), arts. 1(1), **19(2)**
- F5** Words in Sch. 2 para. 34(2A) substituted (12.4.2011) by [The Mutual Societies \(Electronic Communications\) Order 2011 \(S.I. 2011/593\)](#), arts. 1(1), **2(2)**
- F6** Words in Sch. 2 para. 34(3) substituted (20.3.2003) by [The Building Societies Act 1986 \(Electronic Communications\) Order 2003 \(S.I. 2003/404\)](#), arts. 1(1), **29(6)(b)**
- F7** Sch. 2 para. 34(3A) inserted (20.3.2003) by [The Building Societies Act 1986 \(Electronic Communications\) Order 2003 \(S.I. 2003/404\)](#), arts. 1(1), **19(3)**
- F8** Words in Sch. 2 para. 34(5) inserted (20.3.2003) by [The Building Societies Act 1986 \(Electronic Communications\) Order 2003 \(S.I. 2003/404\)](#), arts. 1(1), **19(4)**
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### Modifications etc. (not altering text)

- C1** Sch. 2 Pt. III paras. 22, 34 excluded by [S.I. 1987/426](#), **art. 3**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 5(11)-(14) inserted by [2007 c. 26 s. 1\(2\)](#)
- s. 5(13)(a) substituted by [S.I. 2013/496 Sch. 8 para. 4\(4\)](#)
- s. 7(6A)-(6C) inserted by [2007 c. 26 s. 1\(1\)\(a\)](#)
- s. 7(8A) inserted by [2007 c. 26 s. 1\(1\)\(c\)](#)
- s. 176ZB excluded by [S.I. 2017/400 reg. 14](#)
- s. 246ZA-246ZC excluded by [S.I. 2017/400 reg. 15](#)
- s. 246ZD excluded by [S.I. 2017/400 reg. 16](#)