

Status: Point in time view as at 01/01/1998.

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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)

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)

C2 Sch. 2 Pt. III (paras. 20–36) modified by S.I. 1987/426, art. 4

Annual general meeting

- 20 (1) Subject to sub-paragraph (2) below, every building society shall hold a meeting in the first four months of each financial year as its annual general meeting (in addition to any other meetings in that year) and shall specify the meeting as such in the notices calling it.
- (2) Sub-paragraph (1) above does not require a building society to hold an annual general meeting in the calendar year in which it is incorporated.
- (3) If default is made in holding a meeting in accordance with sub-paragraph (1) above, the Commission may—
- (a) call, or direct the calling of, an annual general meeting in that financial year, and
 - (b) give such ancillary or consequential directions as it thinks expedient, including directions modifying or supplementing the operation of the rules of the society in relation to the calling, holding and conducting of the meeting.
- (4) Notwithstanding anything in the rules of a building society, the business which may be dealt with at the annual general meeting shall include any resolution whether special or not.
- (5) In any case where default is made—
- (a) in holding an annual general meeting in accordance with sub-paragraph (1) above, or

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- (b) in complying with any directions of the Commission given under subparagraph (3) above,

the building 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.

[^{F1}Special meeting on members' requisition]

Textual Amendments

- F1** Sch. 2 Pt. III para. 20A and cross-heading 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. 25, 47(3); S.I. 1997/2668, art. 2, Sch. Pt. II(q)

[^{F2}20A(1) On a members' requisition, a building society shall—

- (a) duly call a special meeting, and specify the meeting as such in the notice calling it; and
- (b) if so required by the requisition, send to each member entitled to receive notice of the meeting a copy of a statement of not more than 500 words with respect to the matters to be dealt with at the meeting;

and where a meeting is so called no business shall be conducted at the meeting other than that stated in the notice calling it or (where applicable) that mentioned in subparagraph (8)(b) below.

- (2) A members' requisition is a requisition of not less than the requisite number of members of the society; and that number is 100 or such lesser number as may be specified in the rules of the society.
- (3) The requisition—
- (a) must state the objects of the meeting, be signed by the requisitionists and be deposited at the society's principal office; and
- (b) may consist of several documents in like form each signed by one or more requisitionists and each after the first deposited within three months of the date on which the first was deposited.
- (4) Where the requisition consists of several documents, the date of its deposit shall be taken to be the date on which the document signed by the requisitionist making up the requisite number is deposited at the society's principal office.
- (5) The rules of the society may require a requisitionist—
- (a) to state his full name and address;
- (b) to fulfil one or other of the following conditions, namely—
- (i) to have been a shareholding member for a specified period and to hold, or to have held at any time during that period, shares in the society to such value (not greater than the prescribed amount) as is specified in the rules; and
- (ii) to have been a borrowing member for a specified period and to owe to the society, or to have owed to the society at any time during that period, a mortgage debt of such amount (not greater than the prescribed amount) as is so specified; and

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- (c) to identify a share or mortgage account with the society which will evidence the fact that he fulfils one or other of those conditions;
and in this sub-paragraph “specified period” means such period (not more than two years) before the date of the requisition as is specified in the rules.
- (6) No objection may be made by virtue of such rules to the requisition or, where the requisition consists of several documents, to any of those documents unless it is made within 14 days of the requisition or document being deposited at the society’s principal office.
- (7) The rules of the society may also require a sum of money, not exceeding £25 per requisitioner, to be deposited with the requisition; and, where any money is so deposited, it shall be forfeited to the society, or returned to the persons who deposited it, as provided by the rules.
- (8) The rules shall not provide for any deposited money to be forfeited to the society except—
- (a) where a quorum is not present within half an hour after the time appointed for the meeting; or
 - (b) where and to the extent that those eligible to vote at the meeting decide by ordinary resolution that the money should be applied to defray the whole or any part of the expenses of holding the meeting.
- (9) If the rules of a building society so provide, sub-paragraph (1) above does not require the society—
- (a) to call a special meeting if the only or main object of the meeting is to move a resolution in substantially the same terms as any resolution which has been defeated at a meeting or on a postal ballot during the period beginning with the third annual general meeting before the date on which the requisition is deposited at the society’s principal office; or
 - (b) to call a special meeting to be held during the period of four months beginning one month after the end of its financial year.
- (10) Sub-paragraph (1)(b) above does not require the society to send copies of a statement to members entitled to receive notice of a meeting in any case where—
- (a) publicity for the statement would be likely to diminish substantially the confidence in the society of investing members of the public; or
 - (b) the rights conferred by sub-paragraph (1)(b) above are being abused to seek needless publicity for defamatory matter or for frivolous or vexatious purposes;
- and that provision shall not be taken to confer any rights on members, or to impose any duties on a building society, in respect of a statement which does not relate directly to the affairs of the society.
- (11) Where sub-paragraph (1)(b) above requires copies of a statement to be sent to members entitled to receive notice of a meeting, the proceedings at the meeting are not invalidated by—
- (a) the accidental omission to send a copy of the statement to a member entitled to receive one, or
 - (b) the non-receipt of such a copy by such a member.

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- (12) The Commission shall hear and determine any dispute arising under sub-paragraph (10)(a) above, whether on the application of the society or of any other person who claims to be aggrieved.
- (13) The Commission may, with the consent of the Treasury, by order substitute—
- (a) for the number specified in sub-paragraph (2) above; or
 - (b) for the sum specified in sub-paragraph (7) above,
- such other number or sum as appears to it to be appropriate; and an order under this subsection may make such supplementary, transitional and saving provision as appears to the Commission to be necessary or expedient.
- (14) The power to make an order under sub-paragraph (13) above is exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

Textual Amendments

- F2** Sch. 2 Pt. III para. 20A and cross-heading 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. 25, 47(3); S.I. 1997/2668, art. 2, Sch. Pt. II(q)

[^{F3}Failure to comply with members' requisition]

Textual Amendments

- F3** Sch. 2 Pt. III para. 20B and cross-heading 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. 26, 47(3); S.I. 1997/2668, art. 2, Sch. Pt. II(r)

- ^{F4}20B(1) This paragraph applies where a members' requisition is deposited at a building society's principal office and the society is not relieved of the obligation to call a special meeting by paragraph 20A(9)(a) above.
- (2) Subject to sub-paragraph (5) below, if the society does not within 28 days from the date of the deposit of the requisition duly call a meeting to be held within 63 days from that date—
- (a) the requisitionists, or any proportion of them exceeding one half, may themselves call a meeting to be held within five months from that date; and
 - (b) no business shall be conducted at a meeting so called other than that stated in the notice calling it or (where applicable) that mentioned in paragraph 20A(8)(b) above.
- (3) A meeting called under sub-paragraph (2) above by requisitionists shall be called in the same manner, as nearly as may be, as that in which meetings are to be called by the society.
- (4) If—
- (a) paragraph 20A(1)(b) above requires the society to send to each member entitled to receive notice of the meeting a copy of a statement of not more than 500 words with respect to the matters to be dealt with at the meeting; and

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- (b) subject to sub-paragraph (5) below, that requirement is not complied with within 28 days from the date of the deposit of the requisition, the requisitionists, or any proportion of them exceeding one half, may themselves send a copy of the statement to each such member.
- (5) If the rules of the society make such provision as is mentioned in paragraph 20A(9)(b) above, any days falling within the period there mentioned shall be disregarded in determining any period for the purposes of sub-paragraph (2) or (4)(b) above.
- (6) Any reasonable expenses incurred by the requisitionists by reason of the failure of the society to call a meeting, or to comply with such a requirement as is mentioned in sub-paragraph (4) above, shall be repaid to the requisitionists by the society.
- (7) Any sum so repaid shall be recoverable by the society from such of the directors of the society as were responsible for the failure (whether by the retention of fees or other remuneration in respect of services or otherwise).]

Textual Amendments

- F4** Sch. 2 Pt. III para. 20B and cross-heading 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. 26, 47(3); S.I. 1997/2668, art. 2, Sch. Pt. II(r)

Length of notice for calling meetings

- 21 (1) Any provision contained in the rules of a building society shall be void to the extent that it provides for the calling of a meeting of the society (other than an adjourned meeting) by less than 21 days' notice expiring with the date of the meeting or, if earlier, the date specified by the society, under its rules, as the final date for the receipt of instruments appointing proxies to vote at the meeting.
- (2) A meeting of a building society may be called by 21 days' notice, unless the rules provide for longer notice of the meeting to be given.
- (3) Where notice of a meeting is given in accordance with sub-paragraph (2) above, the notice shall be taken for the purposes of this Act or any other enactment to have been duly given according to the rules of the building society.

Persons entitled to notice of meetings

- 22 (1) Subject to the provisions of this Part of this Schedule, notice of a meeting of a building society shall be given to every member of the society who would be eligible to vote at the meeting if the meeting were held on the date of the notice.
- [^{F5}(2) Notice of the meeting shall, subject to those provisions, be given also to every person—
- (a) who becomes a shareholding or borrowing member of the society after the date of the notice under sub-paragraph (1) above and before the specified date; or
- (b) who, being such a member at the date of that notice, attains the age of 18 after that date and on or before the date of the meeting,
- and who would (in either case) be eligible to vote at the meeting if he remained such a member until the date of the meeting.

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- (2A) In sub-paragraph (2) above “the specified date” means the date specified by the society as the final date for the receipt of instruments appointing proxies to vote at the meeting.]
- (3) Accidental omission to give notice of a meeting to, or non-receipt of notice of a meeting by, any person entitled to receive notice of the meeting does not invalidate the proceedings at that meeting.

Textual Amendments

- F5** Sch. 2 Pt. III para. 22(2)(2A) substituted for Sch. 2 Pt. III para. 22(2) (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(2)**; S.I. 1997/2668, art. 2, **Sch. Pt. II(w)(z)(xxxiv)**

Modifications etc. (not altering text)

- C3** Sch. 2 Pt. III paras. 22, 34 excluded by S.I. 1987/426, **art. 3**

Members’ entitlement to vote on resolutions

- 23 [F⁶(1) A member of a building society is entitled to vote—
- (a) on an ordinary resolution or a special resolution if he was, at the end of the last financial year before the voting date, and is, on that date, a shareholding or borrowing member of the society;
 - (b) on a shareholding members’ resolution, if he was, at the end of that year, and is, on that date, a shareholding member of the society; and
 - (c) on a borrowing members’ resolution if he was, at the end of that year, and is, on that date, a borrowing member of the society,
- but subject, in either case, to paragraphs 5(3), 7(4) and 8(4) above and, in the case of paragraphs (a) and (b), to sub-paragraph (3) below.]
- (2) Subject to the following provisions of this paragraph, any provision in the rules of a building society is void to the extent that it would have the effect of restricting the rights conferred on members by sub-paragraph (1) above.
- [F⁷(3) If the rules of the society so provide, a shareholding member is not entitled to vote on an ordinary resolution or a special resolution as such a member, or to vote on a shareholding members’ resolution—
- (a) if he did not have a qualifying shareholding at the qualifying shareholding date; or
 - (b) if he ceased to hold shares at some time between that date and the voting date.
- (4) Where a building society’s rules make such provision as is mentioned in sub-paragraph (3)(a) above, a shareholding member shall be taken to have had a qualifying shareholding at the qualifying shareholding date if he had such a holding—
- (a) at the end of the last financial year before the voting date, except where paragraph (b) below applies; or
 - (b) in a case where the voting date falls during that part of a financial year which follows the conclusion of the annual general meeting commenced in that year, at the beginning of the period of 56 days immediately preceding the

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voting date for members voting in person at a meeting or, as the case may be, on a postal ballot.]

- (5) For the purposes of this paragraph a member of a building society has a “qualifying shareholding” at any time if at that time he holds shares in the society to a value not less than the prescribed amount or such lesser amount as may be specified in the rules.
- (6) In this paragraph “voting date”, with reference to any resolution, means—
- (a) the date of the meeting at which the resolution is intended to be moved, except where paragraph (b) or (c) below applies;
 - (b) where voting on the resolution is to be conducted by postal ballot, the date which the society specifies as the final date for the receipt of completed ballot papers;
 - (c) in the case of a member appointing a proxy to vote instead of him at a meeting, the date which the society specifies as the final date for the receipt of instruments appointing proxies to vote on that resolution.

Textual Amendments

- F6** Sch. 2 Pt. III para. 23(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. 57(3)**; S.I. 1997/2668, art. 2, **Sch. Pt. II(w)(z)(xxxiv)**
- F7** Sch. 2 Pt. III para. 23(3)(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. 57(4)**; S.I. 1997/2668, art. 2, **Sch. Pt. II(w)(z)(xxxiv)**

Proxies

- 24 (1) A member of a building society who is entitled to attend and vote at a meeting of the society—
- (a) may appoint another person (whether a member of the society or not) as his proxy, to attend and, subject to sub-paragraph (3) below, to vote at the meeting instead of him, and
 - (b) may direct the proxy how to vote at the meeting.
- (2) Where the society, under its rules, specifies a final date for the receipt of instruments appointing proxies to vote at a meeting, a person appointed a proxy by a member who at that date is entitled to attend and vote at the meeting may act as his proxy at the meeting whether or not the member ceases to be so entitled after that date.
- (3) A proxy is entitled to vote on a poll but, subject to any provision in the rules of the building society, not otherwise.
- (4) In every notice calling a meeting of a building society there shall appear with reasonable prominence a statement—
- (a) that a member entitled to attend and vote may appoint a proxy (or, where it is allowed, one or more proxies) to attend and vote at the meeting instead of him;
 - (b) that the proxy need not be a member of the society; and
 - (c) that the member may direct the proxy how to vote at the meeting.

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- [^{F8}(4A) Every form for the appointment of a proxy sent by a building society to persons entitled to notice of a meeting of the society must contain provision enabling that person to direct the proxy how to vote at the meeting.]
- (5) If default is made in complying with sub-paragraph (4) above in respect of a meeting of a building society, [^{F9}or in complying with sub-paragraph (4A) above in respect of a form of appointment of a proxy,]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.
- (6) Any provision contained in the rules of a building society shall be void in so far as it would have the effect of requiring the instrument appointing a proxy, or any other document necessary to show the validity of, or otherwise relating to, the appointment of a proxy, to be received by the society or any other person more than seven days before a meeting or adjourned meeting in order that the appointment may be effective at the meeting or adjourned meeting.

Textual Amendments

- F8** Sch. 2 Pt. III para. 24(4A) 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. 57(5)**; S.I. 1997/2668, art. 2, **Sch. Pt. II(w)(z)(xxxiv)**
- F9** Words in Sch. 2 Pt. III para. 24(5) 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. 57(6)**; S.I. 1997/2668, art. 2, **Sch. Pt. II(w)(z)(xxxiv)**

Right to demand a poll

- 25 (1) Any provision contained in the rules of a building society shall be void in so far as it would have the effect either—
- (a) of excluding the right to demand a poll at a meeting of the society on any question other than the election of a chairman of the meeting or the adjournment of the meeting, or
 - (b) of making ineffective a demand for a poll on any such question which is made by not less than ten members having the right to vote at the meeting.
- (2) The instrument appointing a proxy to vote at a meeting of a building society shall be taken also to confer authority to demand or join in demanding a poll; and for the purposes of sub-paragraph (1) above a demand by a person as proxy of a member shall be the same as the demand by the member.

Special resolutions

- 26 No resolution of a building society shall be passed as a special resolution [^{F10}, or as a shareholding members' resolution,]unless it is required to be so passed by or under any provision of this Act or by the rules of the society.

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Textual Amendments

F10 Words in Sch. 2 Pt. III para. 26 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. 57(7)**; S.I. 1997/2668, art. 2, **Sch. Pt. II(w)(z)(xxxiv)**

- 27 (1) A resolution of a building society shall be a special resolution when it has been passed by not less than three-quarters of the number of the members of the society qualified to vote on a special resolution and voting either—
- (a) in person or by proxy on a poll on the resolution at a meeting of the society of which notice specifying the intention to move the resolution as a special resolution has been duly given; or
 - (b) in a postal ballot on the resolution of which notice specifying that the resolution will not be effective unless it is passed as a special resolution has been duly given.
- (2) In any rules made by a building society on or after 1st October 1960, whether before or after the commencement of this Act, “special resolution”, unless the context otherwise requires, means a special resolution as defined in this paragraph.
- [^{F11}27A A resolution of a building society shall be a shareholding members’ resolution when it has been passed by not less than three-quarters of the number of the shareholding members of the society—
- (a) qualified to vote on a shareholding members’ resolution; and
 - (b) voting in person or by proxy on a poll on the resolution at a meeting of the society of which notice specifying the intention to move the resolution as a shareholding members’ resolution has been duly given.]

Textual Amendments

F11 Sch. 2 Pt. III para. 27A 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. 57(8)**; S.I. 1997/2668, art. 2, **Sch. Pt. II((w)(z)(xxxiv)**

Borrowing members’ resolutions

- 28 No resolution of a building society shall be passed as a borrowing members’ resolution unless it is required to be so passed by or under any provision of this Act or by the rules of the society.
- 29 [^{F12}(1) A resolution of a building society shall be a borrowing members’ resolution when it has been passed by a majority of the borrowing members of the society voting in person or by proxy on a poll on the resolution at a meeting of the society of which notice specifying the intention to move the resolution as a borrowing members’ resolution has been duly given.]
- [^{F13}(2) For the purposes of this Part of this Schedule, an individual who is indebted to a building society in respect of a loan fully secured on land is not a borrowing member of the society at any time if at that time the amount of his mortgage debt is less than the prescribed amount.]

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- (3) Where a borrowing member’s resolution approving a transfer of engagements by a building society is moved, only those borrowing members whose mortgages are to be transferred shall be entitled to vote on the resolution.
- (4) In any rules made by a building society after the commencement of this paragraph, “borrowing members’ resolution”, unless the context otherwise requires, means a borrowing members’ resolution as defined in this paragraph.

Textual Amendments

- F12** Sch. 2 Pt. III para. 29(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. 57(9)**; S.I. 1997/2668, art. 2, **Sch. Pt. II(w)(z)(xxxiv)**
- F13** Sch. 2 Pt. III para. 29(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. **2(4)**, 47(3) (with s. 46(1), Sch. 8 paras. 4, 5); S.I. 1997/2668, art. 2, **Sch. Pt. II(b)**

Transfer resolutions

- 30 (1) The transfer resolutions required for the purposes of section 97 for the approval by members of a building society of a transfer of its business are two resolutions, of which—
- (a) one is passed as a borrowing members’ resolution, and
 - (b) the other (“the requisite shareholders’ resolution”) is passed in accordance with sub-paragraphs (2) to (5) below.
- (2) In a case where the successor is to be a specially formed company, the requisite shareholders’ resolution—
- (a) must be passed as a [^{F14}shareholding members’ resolution], and
 - (b) must be passed on a poll on which not less than [^{F15}50] per cent. of the members of the society qualified to vote on a [^{F14}shareholding members’ resolution] voted;
- and the notice of the resolution required by [^{F16}paragraph 27A above] must specify that the resolution will not be effective unless both of the requirements specified in this sub-paragraph are fulfilled.
- (3) Subject to any direction under sub-paragraph (5) below, in a case where the successor is to be an existing company, the requisite shareholders’ resolution must be passed as a [^{F17}shareholding members’ resolution] and either—
- (a) must be passed by not less than 50 per cent. of the members qualified to vote on a [^{F17}shareholding members’ resolution], or
 - (b) must be passed by the holders, being members qualified to vote on a [^{F17}shareholding members’ resolution], of shares in the society to a value, on the voting date, representing not less than 90 per cent. of the total value of the shares held on that date by the members so qualified to vote;

and, in either case, the resolution must be a resolution in relation to which the notice required by [^{F18}paragraph 27A] above includes a statement specifying that the

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resolution will not be effective unless either of the above requirements is fulfilled [F19has been duly given].

- (4) If the Commission considers it expedient, in relation to a transfer of the business of a building society to an existing company, to do so for the purpose of protecting the investments of the shareholders of or depositors with the society, the Commission may give a direction under sub-paragraph (5) below.
- (5) A direction under this sub-paragraph is a direction that, for the purposes of the transfer of business specified in the direction, the requisite shareholders' resolution is to be effective if it is passed as a [F20shareholding members' resolution].
- (6) The Treasury, after consultation with the Commission, may by order amend sub-paragraph (2)(b), (3)(a) or (3)(b) above so as to substitute for the percentage for the time being specified in the subparagraph such other percentage as it thinks appropriate.
- (7) The power to make orders under sub-paragraph (6) above is exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (8) In this paragraph "voting date", with reference to a requisite shareholders' resolution, has the same meaning as in paragraph 23(6) above.

Textual Amendments

- F14** Words in Sch. 2 Pt. III para. 30(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(10)(a); S.I. 1997/2668, art. 2, Sch. Pt. II(w)(z)(xxxiv)
- F15** Words in Sch. 2 para. 30(2)(b) substituted (5.12.1997) by S.I. 1997/2714, art. 2
- F16** Words in Sch. 2 Pt. III para. 30(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(10)(b); S.I. 1997/2668, art. 2, Sch. Pt. II(w)(z)(xxxiv)
- F17** Words in Sch. 2 Pt. III para. 30(3) 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(11)(a); S.I. 1997/2668, art. 2, Sch. Pt. II(w)(z)(xxxiv)
- F18** Words in Sch. 2 Pt. III para. 30(3) 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(11)(b); S.I. 1997/2668, art. 2, Sch. Pt. II(w)(z)(xxxiv)
- F19** Words in Sch. 2 Pt. III para. 30(3) repealed (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, 46(3), 47(3), Sch. 7 para. 57(11)(c), Sch. 9; S.I. 1997/2668, art. 2, Sch. Pt. II(w)(y)(z)(xxxiv)(cc)(xviii)
- F20** Words in Sch. 2 Pt. III para. 30(5) 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(12); S.I. 1997/2668, art. 2, Sch. Pt. II(w)(z)(xxxiv)

Members' right to propose and circulate resolutions

- 31 (1) If at least the requisite number of qualified members of a building society give notice to the society of their intention to have moved on their behalf a resolution, other than [F21a shareholding members' resolution or] a borrowing members' resolution,

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specified in the notice at an annual general meeting of the society, it shall be the duty of the society, subject to sub-paragraphs (4), (5) and (6) below—

- (a) to include in the notice of the annual general meeting a notice specifying the intention to have the resolution moved on their behalf at the meeting and, where applicable, the intention to move it as a special resolution;
- (b) at the request of the members intending to have the resolution moved on their behalf, to send to each member entitled to receive notice of the meeting a copy of any statement of not more than [^{F22}500 words] with respect to the matter referred to in the resolution.

(2) For the purposes of sub-paragraph (1) above—

- (a) “the requisite number”—
 - [^{F23}(i) in the case of a society in relation to which the difference between the total assets of the society as shown in the accounts last prepared by it under section 72 immediately before the date on which the members gave notice to the society under sub-paragraph (1) above and the aggregate of—
 - (aa) the liquid assets of the society as shown in those accounts in pursuance of regulations under section 73(7); and
 - (bb) the fixed assets of the society as so shown, exceeds £100 million, is fifty or such lesser number as is specified for the purpose in the rules of the society, and]
 - (ii) in the case of any other society is ten or such lesser number as is specified for the purpose in the rules of the society;
 - (b) every member of a building society is a “qualified member” unless the rules make other provision for the purpose which is not rendered void under sub-paragraph (3) below.

(3) Any provision contained in the rules of a building society shall be void to the extent that it would have the effect of requiring a qualified member, for the purposes of sub-paragraph (1) above,—

- [^{F24}(a) to have been a member for more than two years ending with the qualifying date; or
- (b) if he claims eligibility as a shareholding member, to hold, or to have held at any time, shares in the society to a value greater than the prescribed amount in force on the qualifying date; or
- (c) if he claims eligibility as a borrowing member, to owe to the society, or to have owed to the society at any time, a mortgage debt of an amount greater than the prescribed amount in force on the qualifying date;]

and for the purposes of this sub-paragraph the qualifying date is the date on which the notice is given to the society under sub-paragraph (1) above.

(4) Sub-paragraph (1) above does not require a building society to send notices of a resolution or copies of a statement to members of the society in any case where—

- (a) publicity for the resolution or, as the case may be, the statement would be likely to diminish substantially the confidence in the society of investing members of the public; or
- (b) the rights conferred by sub-paragraph (1) are being abused to seek needless publicity for defamatory matter or for frivolous or vexatious purposes;

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and that sub-paragraph shall not be taken to confer any rights on members, or to impose any duties on a building society, in respect of a resolution or statement which does not relate directly to the affairs of the society.

- (5) If the rules of a building society so provide, sub-paragraph (1) above does not require notice of a resolution to be given to members of the society if the resolution is in substantially the same terms as any resolution which has been defeated at a meeting or on a postal ballot during the period beginning with the third annual general meeting before the date on which notice of the resolution is given to the society.
- (6) No copies of a statement with respect to a resolution shall be sent to members of a building society if, on any of the grounds in sub-paragraph (4) or (5) above, the society does not give the notice of the resolution to them required by sub-paragraph (1)(a) above.
- (7) The Commission shall hear and determine any dispute arising under sub-paragraph (4)(a) above, whether on the application of the building society or of any other person who claims to be aggrieved.
- (8) If a building society fails to comply with the requirements of sub-paragraph (1) above where notice is duly given under that sub-paragraph, 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.

Textual Amendments

- F21** Words in [Sch. 2 Pt. III para. 31\(1\)](#) 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. 57\(13\)\(a\)](#); [S.I. 1997/2668, art. 2](#), [Sch. Pt. II\(w\)\(z\)\(xxxiv\)](#)
- F22** Words in [Sch. 2 Pt. III para. 31\(1\)](#) 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. 57\(13\)\(b\)](#); [S.I. 1997/2668, art. 2](#), [Sch. Pt. II\(w\)\(z\)\(xxxiv\)](#)
- F23** [Sch. 2 Pt. III para. 31\(2\)\(a\)\(i\)](#) substituted (1.1.1998) by [S.I. 1997/2840, art. 2\(2\)](#) (with transitional provisions in art. 3)
- F24** [Sch. 2 Pt. III para. 31\(3\)\(a\)-\(c\)](#) substituted for [Sch. 2 para. 31\(3\)\(a\)\(b\)](#) (1.1.1998) by [S.I. 1997/2840, art. 2\(3\)](#) (with transitional provisions in art. 3)

Members' resolutions: supplementary provisions

- 32 (1) Notice of a resolution given under paragraph 31(1) above must be given to the building society not later than the last day of the financial year preceding the financial year in which is held the annual general meeting at which it is intended to move the resolution; and any statement to be sent to members under paragraph 31 (1)(b) above must also be notified to the society not later than that day.
- (2) The notices of a resolution and the copies of a statement required to be sent to members by paragraph 31(1)(a) or (b) above shall be sent to them in the same manner and (so far as practicable) at the same time as the notice of the annual general meeting at which the resolution is intended to be moved; and, where it is not practicable for them to be sent at the same time as the notice, they shall be sent as soon as practicable thereafter.

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- (3) Where notices of a resolution, or copies of a statement in respect of a resolution, intended to be moved at a meeting of a building society are required to be sent to any persons, the proceedings at the meeting are not invalidated by—
- (a) the accidental omission to send a notice or copy to a person entitled to receive one, or
 - (b) the non-receipt of a notice or copy by such a person.
- (4) The Commission may by order vary—
- (a) the definition of “requisite number” or “qualified member” in sub-paragraph (2) of paragraph 31 above, or
 - (b) the descriptions of provisions which are rendered void by sub-paragraph (3) of that paragraph.
- whether by the addition of any description or other provision or by the substitution or deletion of any definition, description or other provision for the time being specified or contained in that paragraph.
- (5) An order under sub-paragraph (4) above shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) An order under sub-paragraph (4) above may contain transitional, consequential or supplementary provision.

Postal ballots

- 33 (1) The rules of a building society may provide for the voting in an election of directors or on any resolution of the society [^{F25}(other than a shareholding members’ resolution or a borrowing members’ resolution)] to be conducted in all, or in any particular, circumstances by postal ballot; and in this Act “ballot” or “postal ballot”, in relation to an election or a resolution of the society, means the postal ballot, if any, taking place by virtue of those rules in the case of the election or the resolution in question.
- (2) Where, under the rules of a society, a postal ballot is to take place, the following provisions of this paragraph have effect.
- (3) Notice of a postal ballot shall be given not less than 21 nor more than 56 days before the date which the society specifies as the final date for the receipt of completed ballot papers (referred to in this paragraph as “the voting day”).
- (4) Subject to the provisions of this Part of this Schedule, notice of a postal ballot shall be given to every member of the society who would be entitled to vote in the election or on the resolution if the voting date for the election or the resolution fell on the date of the notice.
- [^{F26}(5) Notice of the postal ballot shall, subject to those provisions, be given also to every person—
- (a) who becomes a shareholding or borrowing member of the society after the date of the notice under sub-paragraph (4) above and before the voting day; or
 - (b) who, being such a member at the date of that notice, attains the age of 18 after that date and on or before the voting day,
- and who would (in either case) be eligible to vote in the election or on the resolution if he remained such a member until that day.]

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(6) Notice of a postal ballot—

- (a) shall contain such other notices relating to the election or resolution, and
- (b) shall be accompanied by such other documents,

as would be required to be given or sent to a member in connection with notice of a meeting, had it been intended to hold the election or vote on the resolution at a meeting instead of by postal ballot with the exception, however, of any notice relating to voting by proxy at a meeting.

(7) Accidental omission—

- (a) to give notice of a postal ballot, or
- (b) to send any document required by sub-paragraph (6) above to accompany such a notice,

to any person entitled to receive it, or non-receipt of such a notice or document by such a person, does not invalidate the postal ballot.

Textual Amendments

- F25** Words in Sch. 2 Pt. III para. 33(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. 57(14)**; S.I. 1997/2668, art. 2, **Sch. Pt. II(w)(z)(xxxiv)**
- F26** Sch. 2 Pt. III para. 33(5) 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(15)**; S.I. 1997/2668, art. 2, **Sch. Pt. II(w)(z)(xxxiv)**

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 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 instrument of 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.

- [^{F27}(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;
 - (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

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- (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.]
- (3) A building society shall secure that every document issued by it for use as a voting paper or as an instrument for the appointment of a proxy incorporates a form of declaration under this paragraph for completion by the member using it.
- (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—
“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.

Textual Amendments

F27 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)**

Modifications etc. (not altering text)

C4 Sch. 2 Pt. III paras. 22, 34 excluded by S.I. 1987/426, **art. 3**

Advertising requirements in lieu of notice of meetings, etc.

- 35 (1) The advertising requirements referred to in paragraph 14 above, in relation to notices of meetings or postal ballots of building societies, are as follows.
- (2) Notice of the holding of the meeting or of the postal ballot must be given either—
(a) by displaying a notice in a prominent position in every branch office, or
(b) by advertisement in one or more newspapers circulating in the areas in which the members of the society reside,
according as the rules of the society provide.
- (3) The notice must be given not later than 21 days before the date of the proposed meeting or, as the case may be, the final date for the receipt of completed ballot papers.
- (4) The notice shall state where members may obtain copies of the resolutions and any statements with respect to the matter referred to in a resolution, forms relating to voting by proxy and, in the case of a postal ballot, the ballot papers.

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The prescribed amount

- 36 (1) For the purposes of this Part of this Schedule, the “prescribed amount” is £100 or such other amount as the Commission, with the consent of the Treasury, by order specifies for the time being.
- (2) The power to make an order under sub-paragraph (1) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) An order under sub-paragraph (1) above may contain transitional, consequential or supplementary provision.

Status:

Point in time view as at 01/01/1998.

Changes to legislation:

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