

Status: Point in time view as at 20/03/2003.

Changes to legislation: Building Societies Act 1986, Part III is up to date with all changes known to be in force on or before 31 May 2024. 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 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 [^{F1}Authority] 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 [^{F1}Authority] given under sub-paragraph (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.

Textual Amendments

- F1** Word in Sch. 2 para. 20(3)(5)(b) substituted (17.8.2001 for certain purposes and otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 8, 13(1), **Sch. 3 Pt. II para. 200(i)** (with S. 13(3), Sch. 5); S.I. 2001/3538, **art. 2**

^{F2}[Special meeting on members' requisition]

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}[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 sub-paragraph (8)(b) below.

[Where a copy of a statement is required to be sent to a member under sub-^{F4}(1A) paragraph (1)(b)—

- (a) it may be sent to him electronically only if it is sent to an electronic address notified by the member for the purpose; but
- (b) the requirement to send it shall also be treated as satisfied if the conditions set out in sub-paragraph (1B) are satisfied.

(1B) The requirements of this sub-paragraph are satisfied in the case of a statement if—

- (a) the society and that member have agreed that information which is required to be sent to him may instead be accessed by him on a web site;
- (b) the agreement applies to the statement in question;
- (c) no later than one working day after the statement is first capable of being accessed on a web site that person is notified, in a manner agreed between him and the society, of—
 - (i) the publication of the statement on a web site,
 - (ii) the address of that web site,
 - (iii) the place on that web site where the statement may be accessed, and how it may be accessed; and
- (d) a copy of the statement is published continuously on that web site throughout the period beginning (so far as practicable) at the same time as copies of the

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statement are sent to members in accordance with sub-paragraph (1)(b), and ending with the conclusion of the meeting.]

- (2) A members' requisition is a requisition of not less than the requisite number of members of the society; and that number is [^{F5}500] 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
 - (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 requisitionist, 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—

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- (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 [^{F6}or electronic] 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.
- [^{F7}(11A) Where, in a case in which sub-paragraph (1A)(b) is relied on for compliance with a requirement of sub-paragraph (1)(b)—
- (a) a statement is published for a part, but not all, of the period mentioned in subparagraph (1B)(d), but
 - (b) the failure to publish it throughout that period is wholly attributable to circumstances which it would not be reasonable to have expected the society to prevent or avoid,
- the failure shall not invalidate the proceedings at the meeting.]
- (12) The [^{F8}Authority] 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 [^{F9}Treasury may], 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 [^{F10}them] to be appropriate; and an order under this subsection may make such supplementary, transitional and saving provision as appears to the [^{F11}Treasury] 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.

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Textual Amendments

- F3** 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)
- F4** Sch. 2 para. 20A(1A)(1B) inserted (20.3.2003) by The Building Societies Act 1986 (Electronic Communications) Order 2003 (S.I. 2003/404), arts. 1(1), 13(2)
- F5** Figure in Sch. 2 para. 20A substituted (1.12.1999) by S.I. 1999/3031, art. 2
- F6** Words in Sch. 2 para. 20A(9)(a) inserted (20.3.2003) by The Building Societies Act 1986 (Electronic Communications) Order 2003 (S.I. 2003/404), arts. 1(1), 30(6)(b)
- F7** Sch. 2 para. 20A(11A) inserted (20.3.2003) by The Building Societies Act 1986 (Electronic Communications) Order 2003 (S.I. 2003/404), arts. 1(1), 13(3)
- F8** Word in Sch. 2 para. 20A(12) substituted (17.8.2001 for certain purposes and otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 8, 13(1), Sch. 3 Pt. II para. 200(j) (with S. 13(3), Sch. 5); S.I. 2001/3538, art. 2
- F9** Words in Sch. 2 para. 20A(13) substituted (17.8.2001 for certain purposes and otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 8, 13(1), Sch. 3 Pt. II para. 200(k)(i) (with S. 13(3), Sch. 5); S.I. 2001/3538, art. 2
- F10** Word in Sch. 2 para. 20A(13) substituted (17.8.2001 for certain purposes and otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 8, 13(1), Sch. 3 Pt. II para. 200(k)(ii) (with S. 13(3), Sch. 5); S.I. 2001/3538, art. 2
- F11** Word in Sch. 2 para. 20A(13) substituted (17.8.2001 for certain purposes and otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 8, 13(1), Sch. 3 Pt. II para. 200(k)(iii) (with S. 13(3), Sch. 5); S.I. 2001/3538, art. 2

Modifications etc. (not altering text)

- C3** Sch. 2 para. 20A(13): Functions of Building Societies Commission transferred (1.12.2001) to the Treasury by S.I. 2001/2617 arts. 2(b), 4(1), Sch. 1 Pt. III; S.I. 2001/3538, art. 2

^{F12}[Failure to comply with members' requisition]

Textual Amendments

- F12** 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)

^{F13}[20B1) 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—

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- (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
- (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

- F13** 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 [^{F14}appointments of] 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.

Textual Amendments

- F14** Words in Sch. 2 para. 21(1) substituted (20.3.2003) by [The Building Societies Act 1986 \(Electronic Communications\) Order 2003 \(S.I. 2003/404\)](#), arts. 1(1), [29\(3\)\(a\)](#)

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.

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- ^{F15}[(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.
- (2A) In sub-paragraph (2) above “the specified date” means the date specified by the society as the final date for the receipt of [^{F16}appointments of] 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

- F15** 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)**
- F16** Words in Sch. 2 para. 22(2A) substituted (20.3.2003) by **The Building Societies Act 1986 (Electronic Communications) Order 2003** (S.I. 2003/404), arts. 1(1), **29(3)(b)**

Modifications etc. (not altering text)

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

^{F17}Transmission of notice of meeting to an electronic address

Textual Amendments

- F17** Sch. 2 paras. 22A, 22B and cross-headings inserted (20.3.2003) by **The Building Societies Act 1986 (Electronic Communications) Order 2003** (S.I. 2003/404), arts. 1(1), **14**

- 22A (1) Where a notice of a meeting of a society is required to be sent to a person under any provision of this Act, the notice may be sent to him electronically only if it is sent to an electronic address notified by him to the society for the purpose.
- (2) In a case in which this paragraph is relied on for compliance with a requirement to send a notice, a notice given in accordance with this paragraph is to be treated as given to a person on the day that the notice is transmitted.

Publication of notice of meeting on a web site

- 22B (1) A requirement under any provision of this Act to send a notice of a meeting of the society to a person shall also be treated as satisfied if the conditions set out in sub-paragraph (2) are satisfied.

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- (2) The conditions of this sub-paragraph are satisfied in the case of a notice of a meeting of a society if—
- (a) the society and the person have agreed that notices which are required to be sent to him may instead be accessed by him on a web site;
 - (b) the agreement applies to the notice in question
 - (c) that person is notified, in a manner agreed between him and the society for that purpose, of—
 - (i) the publication of the notice on a web site,
 - (ii) the address of that web site, and
 - (iii) the place on that web site where the notice may be accessed, and how it may be accessed; and
 - (d) the notice is published continuously on that web site throughout the period beginning with the giving of that notification and ending with the conclusion of the meeting.
- (3) A notification given for the purposes of sub-paragraph (2)(c) must—
- (a) state that it concerns a notice of a meeting of the society served in accordance with this Act;
 - (b) specify the place, date and time of the meeting; and
 - (c) state whether the meeting is to be an annual or special general meeting.
- (4) In a case in which this paragraph is relied on for compliance with a requirement to send a notice, a notice given in accordance with this paragraph is to be treated as given to a person on the day that person is notified in compliance with sub-paragraphs (2)(c) and (3).
- (5) Where, in a case in which this paragraph is relied on for compliance with a requirement to send a notice of a meeting—
- (a) a notice is published for a part, but not all, of the period mentioned in sub-paragraph (2)(d), but
 - (b) the failure to publish it throughout that period is wholly attributable to circumstances which it would not be reasonable to have expected the society to prevent or avoid,
- the failure shall not invalidate the proceedings of the meeting.]

Members' entitlement to vote on resolutions

- 23 ^{F18}(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.]

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- (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.
- ^{F19}(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 voting date for members voting in person at a meeting or, as the case may be, on a postal [^{F20}or electronic] 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 [^{F21}or by electronic ballot in the case of which not all the voting is electronic (within the meaning of paragraph 33A of Schedule 2)], the date which the society specifies as the final date for the receipt of completed ballot papers;
 - ^{F22}(bb) in the case of an election conducted by electronic ballot in which all the voting is electronic voting (within the meaning of that paragraph), the date which the society specifies as the final date for registering votes;]
 - (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 [^{F23}appointments of] proxies to vote on that resolution.

Textual Amendments

- F18** 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)**
- F19** 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)**
- F20** Words in Sch. 2 para. 23(4)(b) inserted (20.3.2003) by **The Building Societies Act 1986 (Electronic Communications) Order 2003** (S.I. 2003/404), arts. 1(1), **30(7)(a)**

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- F21** Words in Sch. 2 para. 23(6)(b) inserted (20.3.2003) by [The Building Societies Act 1986 \(Electronic Communications\) Order 2003 \(S.I. 2003/404\)](#), arts. 1(1), **30(7)(b)**
- F22** Sch. 2 para. 23(6)(bb) inserted (20.3.2003) by [The Building Societies Act 1986 \(Electronic Communications\) Order 2003 \(S.I. 2003/404\)](#), arts. 1(1), **30(7)(c)**
- F23** Words in Sch. 2 para. 23(6)(c) substituted (20.3.2003) by [The Building Societies Act 1986 \(Electronic Communications\) Order 2003 \(S.I. 2003/404\)](#), arts. 1(1), **29(3)(c)**

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.
- [^{F24}(1A) A form for the appointment of a proxy may only be sent electronically to a person if it is sent to an electronic address notified by that person to the society for the purpose.
- (1B) The appointment of a proxy may be contained in an electronic communication sent by a member to an electronic address notified by or on behalf of the society for the purpose.]
- (2) Where the society, under its rules, specifies a final date for the receipt of [^{F25}appointments of] 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.
- ^{F26}[(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, [^{F27}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 [^{F28}the appointment of a proxy, or any] 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

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meeting or adjourned meeting in order that the appointment may be effective at the meeting or adjourned meeting.

Textual Amendments

- F24** Sch. 2 para. 24(1A)(1B) inserted (20.3.2003) by [The Building Societies Act 1986 \(Electronic Communications\) Order 2003 \(S.I. 2003/404\)](#), arts. 1(1), **15**
- F25** Words in Sch. 2 para. 24(2) substituted (20.3.2003) by [The Building Societies Act 1986 \(Electronic Communications\) Order 2003 \(S.I. 2003/404\)](#), arts. 1(1), **29(3)(d)**
- F26** 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\(w\)\(z\)\(xxxiv\)](#)
- F27** 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\(w\)\(z\)\(xxxiv\)](#)
- F28** Words in Sch. 2 para. 24(6) substituted (20.3.2003) by [The Building Societies Act 1986 \(Electronic Communications\) Order 2003 \(S.I. 2003/404\)](#), arts. 1(1), **29(4)**

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) [^{F29}Any appointment of] 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.

Textual Amendments

- F29** Words in Sch. 2 para. 25(2) substituted (20.3.2003) by [The Building Societies Act 1986 \(Electronic Communications\) Order 2003 \(S.I. 2003/404\)](#), arts. 1(1), **29(5)**

Special resolutions

- 26 No resolution of a building society shall be passed as a special resolution [^{F30}, 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.

Textual Amendments

- F30** 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\(w\)\(z\)\(xxxiv\)](#)

Status: Point in time view as at 20/03/2003.

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- 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 [^{F31}or electronic] 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.

Textual Amendments

F31 Words in Sch. 2 para. 27(1)(b) inserted (20.3.2003) by [The Building Societies Act 1986 \(Electronic Communications\) Order 2003 \(S.I. 2003/404\)](#), arts. 1(1), **30(8)**

- [^{F32}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

F32 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 [^{F33}(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.]
- ^{F34}[(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

- F33** 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)**
- F34** 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 [^{F35}shareholding members' resolution], and
 - (b) must be passed on a poll on which not less than [^{F36}50] per cent. of the members of the society qualified to vote on a [^{F35}shareholding members' resolution] voted;

and the notice of the resolution required by [^{F37}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 [^{F38}shareholding members' resolution] and either—
- (a) must be passed by not less than 50 per cent. of the members qualified to vote on a [^{F38}shareholding members' resolution], or
 - (b) must be passed by the holders, being members qualified to vote on a [^{F38}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 [^{F39}paragraph 27A] above includes a statement specifying that the resolution will not be effective unless either of the above requirements is fulfilled [^{F40}has been duly given].

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- (4) If the [^{F41}Authority] 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 [^{F41}it] 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 [^{F42}shareholding members' resolution].
- (6) The Treasury ^{F43} . . . 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 [^{F44}they think] 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

- F35** 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)**
- F36** Words in Sch. 2 para. 30(2)(b) substituted (5.12.1997) by S.I. 1997/2714, **art. 2**
- F37** 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)**
- F38** 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)**
- F39** 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)**
- F40** 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)**
- F41** Words in Sch. 2 para. 30(4) substituted (17.8.2001 for certain purposes and otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 8, 13(1), **Sch. 3 Pt. II para. 200(l)(i)(ii)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2**
- F42** 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)**
- F43** Words in Sch. 2 para. 30(6) 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**
- F44** Words in Sch. 2 para. 30(6) substituted (17.8.2001 for certain purposes and otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 8, 13(1), **Sch. 3 Pt. II para. 200(m)(ii)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2**

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

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than ^{F45}a shareholding members' resolution or] a borrowing members' resolution, 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 ^{F46}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”—

^{F47}[(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 ^{F48}five hundred] 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 ^{F49}one hundred] 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,—

- ^{F50}[(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 [^{F51}or electronic] 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 [^{F52}Authority] 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

- F45** 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)**
- F46** 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)**
- F47** 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**)
- F48** Words in Sch. 2 para. 31(2)(a)(i) substituted (1.12.1999) by S.I. 1999/3033, **art. 2**
- F49** Words in Sch. 2 para 31(2)(a)(ii) substituted (1.12.1999) by S.I. 1999/3033 art. 2
- F50** 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**)
- F51** Words in Sch. 2 para. 31(5) inserted (20.3.2003) by **The Building Societies Act 1986 (Electronic Communications) Order 2003** (S.I. 2003/404), arts. 1(1), **30(9)**
- F52** Words in Sch. 2 para. 31(7) substituted (17.8.2001 for certain purposes and otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 8, 13(1), **Sch. 3 Pt. II para. 200(n)** (with **art. 13(3)**, **Sch. 5**); S.I. 2001/3538, **art. 2**

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.

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- (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.
- [^{F53}(2A) Sub-paragraph (2B) applies where, in a case in which a society gives notice in accordance with paragraph 22A or 22B of this Schedule of the annual general meeting at which a resolution is intended to be moved, the notice of the resolution and the copy of a statement in respect of the resolution that are required to be sent to a member under paragraph 31(1)(a) or (b) are not transmitted or published at the same time as the notice.
- (2B) The requirement of sub-paragraph (2) to send a member his notice of the resolution and his copy of a statement in the same manner as the notice of the annual general meeting is satisfied if—
- (a) a notice of the resolution and a copy of the statement are made available to the member in the same way as the notice; or
 - (b) such a notice and such a copy (without being made available to the member in that way) are sent to the member in a manner set out by the society for the purpose in the notice.
- (2C) Where a notice of a resolution and copy of a statement are sent to a member electronically under sub-paragraph (2B), they must be sent to an electronic address notified by the member for the purpose.
- (2D) The requirements of sub-paragraph (2) or (2B)(a) are satisfied by the publication of a notice of the resolution and a copy of the statement on a web site only if—
- (a) the notice of the annual general meeting at which the resolution is intended to be moved is a notice given to that member by being published on a web site;
 - (b) an agreement between the society and the member to his accessing information on a web site applies to the notice of a resolution and copy of a statement for the meeting in question;
 - (c) the member is notified, in a manner agreed between the society and the member, of—
 - (i) the publication of the notice of a resolution and copy of a statement on a web site,
 - (ii) the address of that web site,
 - (iii) the place on that web site where the notice and copy may be accessed, and how they may be accessed;
 - (d) the notification for the purposes of paragraph (c) is given no later than the day after the date on which the notice of a resolution and the copy of a statement are first capable of being accessed on the notified web site;
 - (e) that date was the same as the date on which the notice of the annual general meeting was first capable of being accessed on a web site or (in a case to which sub-paragraph (2B)(a) applies) was as soon as practicable after that date;
 - (f) the notice of a resolution and copy of a statement are continuously published on the notified web site for a period beginning (so far as practicable) at the same time as the notices and statements are sent to members in accordance

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with sub-paragraph (2), and ending with the conclusion of the annual general meeting at which the resolution is moved.]

- (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.
- [^{F54}(3A) Where, in a case in which sub-paragraph (2D) is relied on for compliance with a requirement of sub-paragraph (2) or (2B)(a)—
- (a) a notice or copy published for a part, but not all, of the period mentioned in subparagraph (2D)(f), but
 - (b) the failure to publish it throughout that period is wholly attributable to circumstances which it would not be reasonable to have expected the society to prevent or avoid,
- the failure shall not invalidate the proceedings at the meeting.]
- (4) The [^{F55}Treasury] 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 pursu" ance of a resolution of either House of Parliament.
- (6) An order under sub-paragraph (4) above may contain transitional, consequential or supplementary provision.

Textual Amendments

- F53** Sch. 2 para. 32(2A)-(2D) inserted (20.3.2003) by [The Building Societies Act 1986 \(Electronic Communications\) Order 2003 \(S.I. 2003/404\)](#), arts. 1(1), **16(2)**
- F54** Sch. 2 para. 32(3A) inserted (20.3.2003) by [The Building Societies Act 1986 \(Electronic Communications\) Order 2003 \(S.I. 2003/404\)](#), arts. 1(1), **16(3)**
- F55** Words in Sch. 2 para. 32(4) substituted (17.8.2001 for certain purposes and otherwise 1.12.2001) by [S.I. 2001/2617](#), arts. 2, 8, 13(1), **Sch. 3 Pt. II para. 200(o)** (with art. 13(3), Sch. 5); [S.I. 2001/3538](#), **art. 2**

Modifications etc. (not altering text)

- C5** Sch. 2 paras. 32(4)(6): Functions of Building Societies Commission transferred (1.12.2001) to the Treasury by [S.I. 2001/2617](#), arts. 2(b), 4(1), **Sch. 1 Pt. III**; [S.I. 2001/3538](#), **art. 2**

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 [^{F56}(other than a shareholding members’ resolution

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or a borrowing members' resolution)] to be conducted in all, or in any particular, circumstances by postal ballot; ^{F57} ...

[^{F58}(1A) Rules made pursuant to sub-paragraph (1) may also make provision in relation to the use of electronic communications in the conduct of a postal ballot.]

(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.

^{F59}[(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.]

[^{F60}(5A) Where a notice of a postal ballot is required to be given to a person by sub-paragraph (4) or (5), the notice may be sent to him electronically only if it is sent to an electronic address notified by the person to the society for the purpose.

(5B) In a case in which notice of a postal ballot is sent electronically to an electronic address in accordance with sub-paragraph (5A), the notice is to be treated as given to a person on the day on which it is transmitted.

(5C) A requirement of sub-paragraph (4) or (5) to send a notice of a postal ballot shall also be treated as satisfied if—

(a) the society and the person have agreed that notices which are required to be sent to him may instead be accessed by him on a web site;

(b) the agreement applies to the notice in question

(c) that person is notified, in a manner agreed between him and the society for that purpose, of—

(i) the publication of the notice on a web site,

(ii) the address of that web site, and

(iii) the place on that web site where the notice may be accessed, and how it may be accessed; and

(d) the notice is published continuously on that web site throughout the period beginning with the giving of that notification and ending with the voting date (within the meaning of section 60(17)).

(5D) In a case in which sub-paragraph (5B) is relied on for compliance with a requirement of sub-paragraph (4) or (5), a notice of a postal ballot is to be treated as sent to a

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person on the day when notification is given in accordance with sub-paragraph (5C) (d).

(5E) Where, in a case in which sub-paragraph (5C) is relied on for compliance with a requirement of sub-paragraph (4) or (5)—

- (a) a notice of a postal ballot is published for a part, but not all, of the period mentioned in sub-paragraph (5C)(d), but
- (b) the failure to publish it throughout that period is wholly attributable to circumstances which it would not be reasonable to have expected the society to prevent or avoid,

the failure shall not invalidate the postal ballot.]

(6) Notice of a postal ballot—

- (a) shall contain such other notices relating to the election or resolution [^{F61}(“related notices”)], and
- (b) shall be accompanied by such other documents [^{F62}(“accompanying 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.

[^{F63}(6A) Where the notice of a postal ballot is required by sub-paragraph (6) to contain a related notice or to be accompanied by an accompanying document—

- (a) in a case where the notice of that ballot is given to a person electronically in accordance with sub-paragraph (5A), the related notice or accompanying document may be sent to him electronically only if it is sent to the same electronic address, and at the same time as the notice of the postal ballot;
- (b) in a case where notice of that ballot is given on a web site in accordance with sub-paragraph (5C), the requirement to send the related notice or accompanying document to that person shall also be treated as satisfied if the conditions set out in sub-paragraph (6B) are satisfied.

(6B) The conditions of this sub-paragraph are satisfied in the case of a related notice or accompanying document if—

- (a) the society and that member have agreed that information which is required to be sent to him may instead be accessed by him on a web site;
- (b) the agreement applies to the related notice or accompanying document in question;
- (c) at the same time and in the same manner as the society notifies that person of the publication of the notice of the postal ballot, it notifies him of—
 - (i) the publication of the related notice or accompanying document on a web site,
 - (ii) the address of that web site,
 - (iii) the place on that web site where that statement or notification may be accessed, and how it may be accessed; and
- (d) the related notice or accompanying document is published continuously on that web site throughout the period beginning with the giving of that notification in accordance with paragraph (c) and ending with the voting date (within the meaning of section 60(17)).

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(6C) Where notice of a postal ballot and any related notice or accompanying document is sent to a person electronically, that person may return the completed voting paper to the society either—

- (a) by post; or
- (b) electronically by sending it to an electronic address notified by the society to that person for the purpose,

unless the rules of the society make provision to the contrary.]

(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.

[^{F64}(7A) Where, in a case in which sub-paragraph (6A)(b) is relied on for compliance with a requirement of sub-paragraph (6)—

- (a) a related notice or accompanying document is published for a part, but not all, of the period mentioned in sub-paragraph (6B)(d), but
- (b) the failure to publish it throughout that period is wholly attributable to circumstances which it would not be reasonable to have expected the society to prevent or avoid,

the failure shall not invalidate the postal ballot.]

Textual Amendments

- F56** 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)**
- F57** Words in Sch. 2 para. 33(1) omitted (20.3.2003) by virtue of [The Building Societies Act 1986 \(Electronic Communications\) Order 2003 \(S.I. 2003/404\)](#), arts. 1(1), 17(2), 30(10)
- F58** Sch. 2 para. 33(1A) inserted (20.3.2003) by [The Building Societies Act 1986 \(Electronic Communications\) Order 2003 \(S.I. 2003/404\)](#), arts. 1(1), **17(3)**
- F59** 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)**
- F60** Sch. 2 para. 33(5A)-(5E) inserted (20.3.2003) by [The Building Societies Act 1986 \(Electronic Communications\) Order 2003 \(S.I. 2003/404\)](#), arts. 1(1), **17(4)**
- F61** Words in Sch. 2 para. 33(6)(a) inserted (20.3.2003) by [The Building Societies Act 1986 \(Electronic Communications\) Order 2003 \(S.I. 2003/404\)](#), arts. 1(1), **17(5)(a)**
- F62** Words in Sch. 2 para. 33(6)(b) inserted (20.3.2003) by [The Building Societies Act 1986 \(Electronic Communications\) Order 2003 \(S.I. 2003/404\)](#), arts. 1(1), **17(5)(b)**
- F63** Sch. 2 para. 33(6A)-(6C) inserted (20.3.2003) by [The Building Societies Act 1986 \(Electronic Communications\) Order 2003 \(S.I. 2003/404\)](#), arts. 1(1), **17(6)**
- F64** Sch. 2 para. 33(7A) inserted (20.3.2003) by [The Building Societies Act 1986 \(Electronic Communications\) Order 2003 \(S.I. 2003/404\)](#), arts. 1(1), **17(7)**

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¶^{F65}Electronic ballots

Textual Amendments

F65 Sch. 2 para 33A and cross-heading inserted (20.3.2003) by [The Building Societies Act 1986 \(Electronic Communications\) Order 2003 \(S.I. 2003/404\)](#), arts. 1(1), **18**

- 33A. (1) Where—
- (a) the rules of a building society provide for a postal ballot to be conducted in any circumstances in the case of an election or resolution, and
 - (b) those rules do not expressly prohibit the conduct of an electronic ballot in those circumstances,
- the ballot in the case of that election or resolution may, in those circumstances, be an electronic ballot instead of a postal ballot.
- (2) A ballot in the case of an election or resolution is an electronic ballot if it is conducted—
- (a) in accordance with the following provisions of this paragraph as to electronic voting; and
 - (b) in so far as it is not conducted with those provisions, as if it were a postal ballot.
- (3) But voting in the case of an election or resolution may not be conducted by an electronic ballot in which all the voting is electronic voting in accordance with sub-paragraphs (8) to (10) unless the rules of the society expressly permit it.
- (4) The rules of a building society may provide for voting in the case of—
- (a) an election of directors, or
 - (b) a resolution of the society other than a share holding members' resolution or a borrowing members' resolution,
- to be conducted by an electronic ballot in which all the voting is electronic voting in accordance with sub-paragraphs (8) to (10).
- (5) Where voting may be conducted by electronic ballot by virtue of sub-paragraph (1) the rules of the society may contain provision supplementing rules relating to postal ballots in so far as it is necessary to provide for the conduct of electronic voting in accordance with sub-paragraphs (8) to (10).
- (6) Where voting may be conducted by electronic ballot by virtue of sub-paragraph (1) or (3) the rules of the society may make provision as to the consequences of any irregularities occurring in the course of a ballot, including (but not restricted to) provision as to the validity of multiple votes cast by a member in the same election or on the same resolution.
- (7) In the case of an electronic ballot, the society is not required to send notice of the ballot to any person if—
- (a) that person has agreed, in accordance with sub-paragraph (9)(a) below, that notices of electronic ballots and a voting facility may be accessed by him on a web site; and
 - (b) the society notifies that person in accordance with sub-paragraph (9)(c) below.
- (8) The voting of a person in an electronic ballot is electronic if—

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- (a) a person has access on a web site to the notice of the electronic ballot, any document which is required to accompany the notice and a facility for registering his vote;
 - (b) that person registers his vote by means of that facility; and
 - (c) the conditions set out in sub-paragraph (9) are satisfied.
- (9) The conditions of this sub-paragraph are satisfied if—
- (a) the society and the person have agreed that notices of electronic ballots, any document which is required to accompany the notice, and a voting facility may be accessed by him on a web site;
 - (b) that agreement applies to the electronic ballot and accompanying documents in question;
 - (c) that person is notified, in a manner agreed for the purpose between him and the society of—
 - (i) the publication of the notice and documents and the availability of the voting facility on a web site,
 - (ii) the address of that web site, and
 - (iii) the place on that web site where the notice, any such documents, and the facility may be accessed, and how they may be accessed; and
 - (d) the notice and each such document continues to be published and the facility continues to be available on that web site throughout the period beginning with the giving of that notification and ending with the date which the society specifies as the final date for the registration of votes.
- (10) A notice given for the purposes of sub-paragraph (9)(c) must—
- (a) state that it concerns a notice of an electronic ballot given in accordance with this Act; and
 - (b) state whether the voting to be conducted by the electronic ballot is in an election or on a resolution or both.
- (11) Nothing in sub-paragraph (9) shall invalidate an electronic ballot where—
- (a) any notice or document that is required to be published, and any facility which is required to be made available, for the period mentioned in sub-paragraph (6)(d) is published or made available for a part, but not all, of that period, but
 - (b) the failure to publish that notice or document, or make that facility available, throughout that period is wholly attributable to circumstances which it would not be reasonable to have expected the society to prevent or avoid.
- (12) Sub-paragraphs (3) to (7) of paragraph 33 apply, with the modification specified in subparagraph (13) below, in relation to notices of an electronic ballot as they apply in relation to notices of a postal ballot.
- (13) Sub-paragraph (3) of paragraph 33 has effect as if the reference to the receipt of completed ballot papers included a reference to the registration of votes by means of a voting facility on a web site.
- (14) For the purposes of sub-paragraph (3) of paragraph 33 (as applied to electronic ballots by sub-paragraph (13) above), in a case in which a person is notified for the purposes of subparagraph (9)(c), a notice of an electronic ballot is treated as given to a person on the day when notification is given in accordance with that sub-paragraph.]

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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 [^{F66}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 ^{F67}... 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.
- ^{F68}[(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
 - (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.]
- ^{F69}(2A) Where an appointment of a proxy is contained in an electronic communication sent in accordance with paragraph 24(1A)(b), 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—

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- (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 [^{F70}and every] appointment of a proxy incorporates a form of declaration under this paragraph for completion by the member using it.

[^{F71}(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—

[^{F72}“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.

Textual Amendments

- F66** 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)**
- F67** 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)**
- F68** 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)**
- F69** 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)**
- F70** 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)**
- F71** 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)**
- F72** 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)

C6 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 [^{F73}or electronic] 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 [^{F74}or for the registration of votes in an electronic ballot (as the case may be)].
- (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 [^{F75}, or, in the case of an electronic ballot, how members may access electronic voting facilities].

Textual Amendments

- F73** Words in Sch. 2 para. 35(1) inserted (20.3.2003) by [The Building Societies Act 1986 \(Electronic Communications\) Order 2003 \(S.I. 2003/404\)](#), arts. 1(1), [30\(12\)\(a\)](#)
- F74** Words in Sch. 2 para. 35(3) inserted (20.3.2003) by [The Building Societies Act 1986 \(Electronic Communications\) Order 2003 \(S.I. 2003/404\)](#), arts. 1(1), [30\(12\)\(b\)](#)
- F75** Words in Sch. 2 para. 35(4) inserted (20.3.2003) by [The Building Societies Act 1986 \(Electronic Communications\) Order 2003 \(S.I. 2003/404\)](#), arts. 1(1), [30\(12\)\(c\)](#)

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 [^{F76}Treasury by order specify] 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.

Textual Amendments

- F76** Words in Sch. 2 para. 36(1) substituted (17.8.2001 for certain purposes and otherwise 1.12.2001) by [S.I. 2001/2617](#), arts. 2, 8, 13(1), [Sch. 3 Pt. II para. 200\(p\)](#) (with [S. 13\(3\)](#), [Sch. 5](#)); [S.I. 2001/3538](#), [art. 2](#)

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Modifications etc. (not altering text)

- C7** Sch. 2 para. 36(1)(3): functions of Building Societies Commission transferred (1.12.2001) to the Treasury by S.I. 2001/2617, arts. 2(b), 4(1), **Sch. 1 Pt. III**; S.I. 2001/3538, **art. 2**

Status:

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