



# Building Societies Act 1986

## 1986 CHAPTER 53

### PART X

#### DISSOLUTION, WINDING UP, MERGERS AND TRANSFER OF BUSINESS

##### *Transfer of business to commercial company*

#### **100 Regulated terms etc: distributions and share rights.**

- (1) Subject to subsections (2) to (10) below, the terms of a transfer of business by a building society to the company which is to be its successor may include provision for part of the funds of the society or its successor to be distributed among, or other rights in relation to shares in the successor conferred on, members of the society in consideration of the transfer.
- (2) The terms of a transfer of a society's business must—
  - (a) require its successor to assume as from the vesting date a liability to every qualifying member of the society as in respect of a deposit made with the successor corresponding in amount to the value of the qualifying shares held by him in the society; and
  - (b) confer a right, subject to subsection (7) below, to a distribution of funds, whether of the society or its successor, by way of bonus on every qualifying member of the society equal to the relevant proportion of the value of the qualifying shares held by him in the society; <sup>F1</sup> . . .
  - <sup>F1</sup>(c) . . . . .
- (3) For the purposes of the liabilities assumed under subsection (2)(a) above by the society's successor, a member is a qualifying member if he held shares in the society on the day immediately preceding the vesting date and his qualifying shares are those held by him on that day.
- (4) For the purposes of the rights conferred under subsection (2)(b) above on members of the society, a member is a qualifying member if he held shares in the society on the qualifying day and was not eligible to vote on the [<sup>F2</sup> requisite shareholders'

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resolution], his qualifying shares are those held by him on that day and the relevant proportion is the portion which (as shown in the latest balance sheet of the society) the society’s reserves bear to its total liability to its members in respect of shares.

<sup>F3</sup>(5) .....

<sup>F3</sup>(6) .....

(7) The [<sup>F4</sup>appropriate authority] may, where it confirms a transfer of a society’s business to an existing company, as it thinks fit having regard to what is equitable between the members of the society, direct that no bonus distribution of funds in pursuance of subsection (2)(b) above shall be made or that the amount distributed shall be such lesser amount as it provides for in the direction; and where the [<sup>F4</sup>appropriate authority] gives a direction under this subsection no liability to make such a distribution shall arise or, as the case may be, that liability shall be discharged by payment of the lesser amount.

[<sup>F5</sup>(8) The terms of a transfer of a society's business may confer a right to acquire shares in the successor on a member of the society only if the member—

- (a) held shares in the society throughout the period of two years ending with the qualifying day, or
- (b) on that day, holds deferred shares in the society that are of a class described in the transfer agreement;

and it is unlawful for any right in relation to shares to be conferred in contravention of this subsection.]

(9) Where the successor is an existing company, any distribution of funds to members of the society, except for the distribution required by subsection (2)(b) above, shall only be made to those members who held shares in the society throughout the period of two years which expired with the qualifying day; and it is unlawful for any distribution to be made in contravention of the provisions of this subsection.

(10) The following restrictions apply to any distribution of funds, or any conferring of rights in relation to shares, in connection with the transfer of its business from the society to its successor where the successor is a company specially formed by the society, that is to say—

- (a) no distribution shall be made except that required by subsection (2)(b) above; and
- (b) where negotiable instruments acknowledging rights to shares are issued by the successor within the period of two years beginning with the vesting date, no such instruments shall be issued to former members of the society unless they are also issued, and on the same terms, to all other members of the company;

and it is unlawful for any distribution of funds to be made in contravention of the provisions of this subsection.

(11) Where the successor is a specially formed company, the terms of the transfer must include provision to secure that the society ceases to hold any shares in the successor by the date on which the society is to dissolve.

(12) Any terms of a transfer of business to which subsection (2), (8), (9), (10) or (11) above apply are regulated terms for the purposes of section 97.

(13) In subsections (4), (5), (8) and (9) above, “qualifying day” means the day specified in the transfer agreement as the qualifying day for the purposes of this subsection.

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#### Textual Amendments

- F1** S. 100(2)(c) and word preceding it repealed (21.3.1997) by 1997 c. 32, ss. 40(a), 46(2), **Sch. 9**
- F2** Words in s. 100(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. 47**; S.I. 1997/2668, art. 2, **Sch. Pt. II(w)(z)(xxviii)**
- F3** S. 100(5)(6) repealed (21.3.1997) by 1997 c. 32, ss. 40(b), 46(2), **Sch. 9**
- F4** Words in s. 100(7) substituted (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), art. 1(1), **Sch. 8 para. 43** (with Sch. 12)
- F5** S. 100(8) substituted (18.2.2014) by Financial Services (Banking Reform) Act 2013 (c. 33), s. 148(2), **Sch. 9 para. 8(2)**

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

- C1** S. 100 modified (21.3.1997) by 1997 c. 32, s. 46(1), **Sch. 8 para. 9(1)**
- C2** Ss. 97-102D: power to modify conferred (16.1.2009) by Building Societies (Funding) and Mutual Societies (Transfers) Act 2007 (c. 26), ss. 3, 6(2); S.I. 2009/36, art. 2
- C3** Ss. 97-102D applied (with modifications) (5.3.2009) by The Mutual Societies (Transfers) Order 2009 (S.I. 2009/509), arts. 1(2), **3-18**
- C4** Ss. 97-102D excluded by 2009 c. 1, s. 84D(6) (as inserted (10.1.2015) by The Building Societies (Bail-in) Order 2014 (S.I. 2014/3344), arts. 1, **2(3)**)

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

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

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