



Building Societies Act 1986

1986 CHAPTER 53

PART X

DISSOLUTION, WINDING UP, MERGERS AND TRANSFER OF BUSINESS

Transfer of business to commercial company

[^{F1}102D Provisions supplementary to sections 102B and 102C.

- (1) This section has effect for the purposes of sections 102B and 102C.
- (2) “Trustee account holder”, in relation to any society, is a person who is the holder of an account as respects which all the conditions in subsection (4) are satisfied and which he holds in trust for another person, but subject to subsection (5).
- (3) Any reference in this section or in sections 102B and 102C to the holder of an account (however expressed) includes a reference to a person to whom the society has advanced a loan secured on land.
- (4) The conditions referred to in subsection (2) are—
 - (a) that he is a member of the society by virtue of holding that account;
 - (b) that the account holder—
 - (i) is the sole account holder or the representative joint holder (within the meaning of paragraph 7 of Schedule 2 to this Act), or
 - (ii) in the case of a borrowing member, is not a joint borrower or is the representative joint borrower (within the meaning of paragraph 8 of that Schedule);
 - (c) that it is not reasonably practicable for any one or more of the persons for whom he holds the account, by reason of ill-health or old age or any physical or mental incapacity or disability, to act in relation to the account himself.
- (5) Where a person holds more than one account in trust for any other person or persons and the beneficiary or any of the beneficiaries in respect of two or more of those accounts (“the duplicate accounts”) are the same, then—

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- (a) the account holder shall not be a trustee account holder in respect of any of those duplicate accounts except the one which was first opened, and
 - (b) accordingly, section 102B(3) and (4) shall apply only in relation to that first opened duplicate account.
- (6) “Beneficiary”, in relation to any account or any trustee account holder, is the person or any of the persons for whose benefit the account is held or for whose benefit the trustee account holder holds the account (as the case may be).
- (7) Any beneficiary of any account who is a child shall be disregarded for the purposes of subsection (4) above unless he suffers ill-health or any physical or mental incapacity or disability which if suffered by an adult would prevent it being reasonably practicable for such an adult to act in relation to the account himself.
- (8) In any case where—
- (a) the identity of the trustee account holder changes during any period which is relevant to the distribution in question, and
 - (b) the account is not closed but continues to be held for the benefit of the same beneficiaries (disregarding any who have died),
- the trustee account holders during that period shall be treated for the purpose of section 102B and the distribution as one person.
- (9) Any reference to a person holding an account in trust for any other person includes a reference—
- (a) to any person holding an account for another person in pursuance of any order, direction or authority made or given under [^{F2}the Mental Capacity Act 2005] or under Part VIII of the ^{M1}Mental Health (Northern Ireland) Order 1986;
 - [^{F3}(b) to an attorney holding an account for another person under—
 - (i) an enduring power of attorney or lasting power of attorney registered under the Mental Capacity Act 2005, or
 - (ii) an enduring power registered under the Enduring Powers of Attorney (Northern Ireland) Order 1987;]
 - (c) in relation to Scotland—
 - (i) to a curator bonis and a judicial factor holding an account for another person; and
 - (ii) to a person holding an account for another person under a factory and commission or power of attorney which continues to have effect by virtue of section 71 of the ^{M2}Law Reform (Miscellaneous Provisions) (Scotland) Act 1990;
- and references to a beneficiary shall be construed accordingly.
- (10) Where rights to acquire shares are to be conferred on one or more members of the society by reference to more than one account, in accordance with the provisions of section 102B, those rights shall not, without more, be taken, for the purposes of section 100(8), to confer rights to acquire the shares in priority to other subscribers.
- (11) The [^{F4}Treasury may] make regulations prescribing—
- (a) the time within which the notice required by section 102B(4)(a) must be given, and
 - (b) the minimum time which may be specified in the notice for the purposes of section 102B(4)(b),

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but, if such regulations are not made, any such notice must be given in such time, and must specify such time, as will give the trustee account holder a reasonable opportunity to make the declaration and give it to the society in compliance with the notice.

- (12) Regulations under subsection (11) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

Textual Amendments

- F1** Ss. 102B-102D inserted (21.3.1997 with application as mentioned in s. 2(2) of the amending Act) by 1997 c. 41, s. 1(1)
- F2** Words in s. 102D(9)(a) substituted (1.10.2007) by Mental Capacity Act 2005 (c. 9), s. 68(1), Sch. 6 para. 32(a) (with ss. 27-29, 62); S.I. 2007/1897, art. 2(1)(d)
- F3** S. 102D(9)(b) substituted (1.10.2007) by Mental Capacity Act 2005 (c. 9), s. 68(1), Sch. 6 para. 32(b) (with ss. 27-29, 62); S.I. 2007/1897, art. 2(1)(d)
- F4** Words in s. 102D(11) substituted (17.8.2001 for specified purposes and otherwise 1.12.2001) by S.I. 2001/2617, art. 13(1), Sch. 3 Pt. II, para. 186 (with art. 13(3), Sch. 5); S.I. 2001/3538, art. 2(a)

Modifications etc. (not altering text)

- C1** 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
- C2** 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
- C3** 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))
- C4** S. 102D(11): Functions of Building Societies Commission transferred (1.12.2001) to the Treasury by S.I. 2001/2617, art. 4(1), Sch. 1 Pt. III (with art. 5); S.I. 2001/3538, art. 2(a)

Marginal Citations

- M1** S.I. 1986/595 (N.I. 4).
- M2** 1990 c. 40.

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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](#)