



Building Societies Act 1986

1986 CHAPTER 53

PART IV

PROTECTION OF INVESTORS

Investor Protection Scheme

26 Power to levy contributions and to borrow money in event of insolvency.

- (1) For the purposes of the protective scheme provisions of this Part a building society becomes insolvent—
- on the making of a winding-up order against it,
 - on the passing of a resolution for a creditor's voluntary winding up, or
 - on the holding of a creditors' meeting summoned under section 95 of the ^{M1}Insolvency Act 1986 or [^{F1}Article 81 of the Insolvency (Northern Ireland) Order 1989] (effect of insolvency on members' voluntary winding up);

and the occurrence of any of those events constitutes a "building society insolvency" for the purposes of those provisions.

- (2) If a building society becomes insolvent the Board may levy contributions to the Fund for the purposes of making insolvency payments to investors at such level of investor protection as the Board determines under section 27 and meeting the other expenses attributable to the insolvency.
- (3) All building societies (other than the insolvent building society) authorised on the date of the insolvency are liable to contribute to the Fund and are in the protective scheme provisions of this Part referred to as "contributory societies".
- (4) If, on a building society becoming insolvent, the Board determines to levy contributions under subsection (2) above then, subject to subsection (10) below, it shall levy a contribution from each of the contributory societies and the amount of the contribution due from a society shall be determined by applying to its share and

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deposit base a percentage determined by the Board for the purpose of the contributions levied to meet the expenses attributable to the insolvency.

- (5) The Board, in determining for the purposes of a building society insolvency
- (a) whether or not to levy contributions and, if so,
 - (b) the percentage to be applied under subsection (4) above to the share and deposit bases of the contributory societies, and
 - (c) the level of investor protection to be given by the insolvency payments to investors,

shall have regard to the factors specified in subsection (6) below.

- (6) Those factors are-
- (a) the amount available to meet the expenses attributable to the insolvency from the contributions leviable from contributory societies, and
 - (b) the amount of the expenses attributable to the insolvency at any level of investor protection.

- (7) If it appears to the Board, as respects a building society insolvency, that the contributions it has levied will be insufficient to make the insolvency payments to investors at the level of investor protection determined by the Board under section 27, the Board may levy further contributions under subsection (2) above from the contributory societies.

- (8) Contributions to the Fund shall be levied on a contributory society by the Board by service on the society of a notice specifying the amount (or further amount) due, which shall be paid by the society not later than twenty-one days after the date on which the notice is served.

- (9) In relation to any contribution, the share and deposit base of a contributory society is such amount as represents the aggregate of so much of the society's liabilities as is referable to sums deposited with the society or to shares in the society as shown in the latest balance sheet sent to the Commission in accordance with section 81.

- (10) No contributory society shall be required to pay a contribution if, or to the extent that, the amount of that contribution, together with previous contributions levied under this section for the purposes of any building society insolvency, after allowing for any repayments made to it under section 29, amounts to more than 0.3 per cent. of the society's share and deposit base as ascertained for the purposes of the contribution in question.

- (11) Nothing in subsection (10) above—
- (a) shall entitle a society to repayment of any contribution previously made, or
 - (b) shall prevent the Board from proceeding to levy contributions from other contributory societies in whose case the limit in that subsection has not been reached.

- (12) The Treasury may, after consultation with the Board, by order made by statutory instrument, amend subsection (10) above so as to substitute for the percentage for the time being specified in that subsection such other percentage as may be specified in the order.

- (13) No order shall be made under subsection (12) above unless a draft of it has been laid before and approved by a resolution of each House of Parliament.

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- (14) If, as respects a building society insolvency, it appears to the Board desirable to do so for the purpose of facilitating the making of insolvency payments to investors, the Board may borrow temporarily for that purpose subject, however, to the limit imposed by subsection (15) below.
- (15) The aggregate of the amounts outstanding in respect of the principal of and interest due on sums borrowed under subsection (14) above shall not at any time exceed the aggregate of the sums leviable at that time from contributory societies for the purposes of any insolvency.
- (16) Any sums borrowed by the Board under subsection (14) above in respect of a building society insolvency shall be repaid as soon as practicable after the contributions levied in respect of the insolvency have been paid by the contributory societies.
- (17) In this section “the level of investor protection”, in relation to insolvency payments to investors, means the proportion applicable for the purpose of calculating the amount of those payments under section 27.

Textual Amendments

F1 Words in s. 26(1)(c) substituted (N.I.) (01.10.1991) by S.I. 1989/2405 (N.I. 19), arts. 2(1), 381, **Sch. 9 Pt. II para. 42**; S.R. 1991/411, **art.2**

Modifications etc. (not altering text)

C1 S. 26(9) modified by S.I. 1986/2169, **art. 8**

Marginal Citations

M1 1986 c. 45.

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