



# Building Societies Act 1986

## 1986 CHAPTER 53

### PART VI

#### POWERS OF CONTROL OF THE [F<sup>1</sup>APPROPRIATE AUTHORITY]

*F<sup>1</sup>[Powers in relation to principal purpose and nature limits]*

#### [F<sup>1</sup>36 Power to direct restructuring of business etc.

- (1) The provisions of this section have effect where, by reason of a building society's failure to comply with—
  - (a) the requirement imposed by section 5(1)(a) or (b) (purpose or principal purpose and principal office);
  - (b) the requirement imposed by section 6(1) (the lending limit); or
  - (c) the requirement imposed by section 7(1) (the funding limit),the powers conferred by this section become exercisable by the [F<sup>2</sup>appropriate authority] in relation to the society (the requirements referred to in paragraphs (a), (b) and (c) above being referred to in this section as “the relevant statutory requirements”).
- (2) The [F<sup>2</sup>appropriate authority] may give the society a direction under subsection (3), (5) or (6) below.
- (3) A direction by the [F<sup>2</sup>appropriate authority] under this subsection is a direction requiring the society, within a specified period, to submit for its approval a plan (in this section referred to as a “restructuring plan”) designed to secure the following purposes, that is to say—
  - (a) that the society will, by the end of a specified period, comply with the relevant statutory requirements as applied at the last day of that period, and
  - (b) that it will not thereafter fail to comply with those requirements.
- (4) For the purpose of applying the relevant statutory requirements as directed by subsection (3)(a) above—

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- (a) in the case of a requirement which operates by reference to a quarter day, the day as at which the requirements are to be applied shall be treated as such a day; and
- (b) the assets and liabilities of the society shall be determined by reference to a balance sheet prepared by the directors by reference to that day and sent to the [F<sup>2</sup>appropriate authority] within the period of three months beginning with that day;

and subsection (4) of section 81 shall apply in the event of a default in complying with this provision as it applies in the event of a default in complying with subsection (2) of that section.

(5) A direction by the [F<sup>2</sup>appropriate authority] under this subsection is a direction requiring the society—

- (a) within a specified period, to submit to its members for their approval at a meeting the requisite transfer resolutions for a transfer of the business of the society to a company under section 97; and
- (b) to notify the [F<sup>2</sup>appropriate authority][F<sup>3</sup>and, if the appropriate authority is the PRA, the FCA] of the result of the meeting.

(6) A direction by the [F<sup>2</sup>appropriate authority] under this subsection is a direction requiring the society, at its option, either—

- (a) within a specified period, to submit for approval a restructuring plan; or
- (b) within a specified period, to submit to its members for their approval at a meeting the requisite transfer resolutions for a transfer of the business of the society to a company under section 97;

and, within a specified period, to notify the [F<sup>2</sup>appropriate authority][F<sup>4</sup>and, if the appropriate authority is the PRA, the FCA] of the option it has decided to pursue.

(7) Where the [F<sup>2</sup>appropriate authority] gives a direction under subsection (3), (5) or (6) above, it may also give a direction under this subsection—

- (a) imposing limitations on the issue of shares, the acceptance of deposits or the making of loans;
- (b) requiring the society within a specified period to take certain steps, or to refrain from adopting or pursuing a particular course of action, or to restrict the scope of its business in a particular way;
- (c) requiring the society within a specified period to take steps with regard to the conduct of the business of any connected undertaking of the society;
- (d) requiring within a specified period the removal of any director or other officer.

(8) Where a restructuring plan is submitted by a society to the [F<sup>2</sup>appropriate authority] under subsection (3) or (6) above then—

- (a) if it appears to the [F<sup>2</sup>appropriate authority] that the plan is reasonably likely to secure its purposes, the [F<sup>2</sup>appropriate authority] shall approve it and direct the society to carry it out;
- (b) if it appears to it that the plan is, with modifications, likely to secure its purposes and the [F<sup>2</sup>appropriate authority] and the society agree on appropriate modifications within the period of 21 days from the date on which the [F<sup>2</sup>appropriate authority] notifies the society of the modifications it proposes for the society's agreement, the [F<sup>2</sup>appropriate authority] shall approve the plan as modified and direct the society to carry it out;

but otherwise it shall reject the plan.

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- (9) Where a meeting is held, in pursuance of a direction under subsection (5) or (6) above, for the purpose of voting on the requisite transfer resolutions, then—
- (a) if the resolutions are agreed to and the confirmation of the transfer by the [F<sup>2</sup>appropriate authority] is obtained, the society shall proceed under section 97 to transfer its business to a successor company;
  - (b) if either resolution is disagreed to, the society shall notify the [F<sup>2</sup>appropriate authority] of that fact as soon as it is practicable to do so.
- (10) In the event of the [F<sup>2</sup>appropriate authority] receiving a notice from a society under subsection (9)(b) above, it may, if it thinks fit, serve on the society a direction requiring it, within a specified period, to submit to the [F<sup>2</sup>appropriate authority] for its approval a restructuring plan; and if the [F<sup>2</sup>appropriate authority] does so, subsection (8) above shall apply as if the plan had been submitted under subsection (3) above.
- (11) The [F<sup>2</sup>appropriate authority] may, if it thinks fit, extend or further extend any period during which a building society is to take any steps required of it under any of the foregoing provisions of this section and may do so whether or not application is made to it before the expiry of the period in question.
- (12) If a building society which has been directed under subsection (8) above to carry out a restructuring plan fails, within the period allowed to it under the foregoing provisions of this section, to secure the purpose of the plan specified in subsection (3)(a) above, the powers conferred on the [F<sup>2</sup>appropriate authority] by section 36A shall become exercisable in relation to the society.
- (13) If a building society fails, within the period allowed to it under the foregoing provisions of this section—
- (a) where it has been given a direction under subsection (3) or (10) above, to submit a restructuring plan;
  - (b) where it has been given a direction under subsection (5) above, to submit to members the requisite transfer resolutions;
  - (c) where it has been given a direction under subsection (6) above, to either submit a restructuring plan or submit to members the requisite transfer resolutions;
  - (d) where it has been given a direction under subsection (7) above, to comply with any requirement imposed by the direction;
  - (e) where it has been directed under subsection (8) above to carry out a restructuring plan, to secure the purpose of the plan specified in subsection (3) (a) above;
  - (f) to agree to the requisite transfer resolutions submitted to the members in pursuance of subsection (5) or (6) above; or
  - (g) where it has agreed to the requisite transfer resolutions, to proceed under section 97 to transfer its business to the successor company,
- or if the [F<sup>2</sup>appropriate authority] rejects a restructuring plan under subsection (8) above, the powers conferred on the [F<sup>2</sup>appropriate authority] by section 37 shall become exercisable in relation to the society.

<sup>F5</sup>(14) . . . . .

- (15) In this section—
- “confirmation”, “the requisite transfer resolutions” and “transfer” have the same meaning as in section 97;
  - “quarter day” has the same meaning as in sections 6 and 7.

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(16) Nothing in this section implies that it is improper for the [<sup>F2</sup>appropriate authority] to give to a building society or building societies generally an indication of the action it might or might not take in relation to any proposed activity of theirs.]

[<sup>F6</sup>(17) The PRA must consult the FCA before issuing a direction under this section.]

#### **Textual Amendments**

- F1** S. 36 and cross-heading 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. 13(1), 47(3)**; S.I. 1997/2668, art. 2, **Sch. Pt. II(k)**
- F2** Words in s. 36 substituted (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), art. 1(1), **Sch. 8 para. 10(2)** (with Sch. 12)
- F3** Words in s. 36(5)(b) inserted (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), art. 1(1), **Sch. 8 para. 10(3)** (with Sch. 12)
- F4** Words in s. 36(6) inserted (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), art. 1(1), **Sch. 8 para. 10(4)** (with Sch. 12)
- F5** S. 36(14) 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(1)**
- F6** S. 36(17) inserted (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), art. 1(1), **Sch. 8 para. 10(5)** (with Sch. 12)

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

- C1** S. 36 restricted (7.4.2010) by The Building Societies (Financial Assistance) Order 2010 (S.I. 2010/1188), arts. 1(2), **3(3)**, 4(3)
- C2** S. 36(1) modified (7.4.2010) by The Building Societies (Financial Assistance) Order 2010 (S.I. 2010/1188), arts. 1(2), **3(4)**, 4(4)

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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](#)