



Building Societies Act 1997

1997 CHAPTER 32

PART II

POWERS OF CONTROL OF COMMISSION

14 Power to make prohibition orders.

After section 36 of the 1986 Act there shall be inserted the following section—

“36A Power to make prohibition orders.

- (1) Where by virtue of section 36(12) the powers conferred by this section become exercisable in relation to a building society, the Commission may serve on the society a notice of the Commission’s intention to issue a prohibition order directed to the society.
- (2) A prohibition order under this section is an order—
 - (a) prohibiting, subject to the saving or transitional provisions of the order, the continuance or, as the case may be, the carrying on of the activity specified in the order after a date so specified, either absolutely or unless conditions so specified are complied with; and
 - (b) requiring, subject to the saving or transitional provisions of the order, the disposal within a period specified in the order of all assets acquired or otherwise in its possession by virtue of the activity.
- (3) A disposal of assets in pursuance of a prohibition order shall vest the assets in the transferee but without prejudice to any claim against the society by a person who had an interest in the assets.
- (4) The saving or transitional provisions which may be included in a prohibition order shall be such as appear to the Commission to be just having regard to—
 - (a) the interests of shareholders of and depositors with the society; and
 - (b) the interests of other persons who will be affected by the order.

Changes to legislation: There are currently no known outstanding effects for the Building Societies Act 1997, Section 14. (See end of Document for details)

- (5) A notice under subsection (1) above of the Commission's intention to issue a prohibition order shall—
 - (a) specify the date on which the order is to be issued, being a date not earlier than the end of the period of 21 days beginning with the date of the notice;
 - (b) specify the terms of the order, including any saving or transitional provisions proposed to be included in it; and
 - (c) inform the society of its right to make representations to the Commission, not less than 7 days before the date specified in the order, as to the provisions to be included in the order.
- (6) After considering any representations made by the society, the Commission may make the prohibition order with such saving and transitional provisions (if any) as it thinks just; and where it does so, the Commission—
 - (a) shall issue the order by causing it to be served on the society; and
 - (b) shall direct the central office to keep a copy of it in the public file of the society.
- (7) A prohibition order so made and issued shall, subject to subsection (11) below, take effect on the date specified in the order.
- (8) A copy of any order issued under subsection (6) above shall also be served on each director and on the chief executive of the society.
- (9) The requirement of subsection (8) above, so far as it relates to directors, is satisfied by serving a copy on each director whose appointment has been officially notified and the non-receipt of a copy by a director or the chief executive does not affect the validity of the order.
- (10) Subject to subsection (11) below, a prohibition order shall remain in force until revoked by the Commission.
- (11) The Commission may suspend or revoke a prohibition order so far as it relates to an asset the disposal of which appears to it, on the application of the society, to be impracticable.
- (12) If a society contravenes a prohibition order issued against it under this section—
 - (a) the power conferred on the Commission by section 37(1) shall become exercisable in relation to the society; and
 - (b) the Commission may exercise that power or certify the contravention in writing to the High Court, or do both of those things;but the contravention shall not invalidate any transaction or other act.
- (13) On receiving such a certification, the High Court—
 - (a) may inquire into the case; and
 - (b) after hearing any witnesses who may be produced against or on behalf of the society and after hearing any statement which may be offered in defence, may punish the society in like manner as if it had been guilty of contempt of the court.
- (14) Where a contravention of a prohibition order which is so certified is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any officer of the society he, as well as the society,

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may be punished in like manner as if he had been guilty of contempt of the court.

(15) In the application of this section to a building society whose principal office is in Scotland, references to the High Court shall be read as references to the Court of Session.”

Commencement Information

II [S. 14](#) in force at 1.12.1997 by [S.I. 1997/2668](#), art. 2, **Sch. Pt. II** (subject as mentioned in art. 2(2)-(5) of that S.I.)

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