
STATUTORY INSTRUMENTS

2001 No. 2636

The Financial Services and Markets Act 2000 (Transitional Provisions) (Authorised Persons etc.) Order 2001

PART III

EFFECT OF RESTRICTIONS AND PROHIBITIONS IMPOSED UNDER OLD LAW

Conditions and directions under the Building Societies Act

Conditions and directions imposed under the Building Societies Act

50.—(1) This article applies where immediately before commencement a building society was subject to—

- (a) a condition imposed under section 9(5) of the Building Societies Act;
- (b) a condition imposed under section 41 of that Act;
- (c) a condition imposed under section 42 of that Act (including any which was imposed as a matter of urgency pursuant to section 42A of that Act⁽¹⁾ if it has been confirmed by a notice given under section 42A(8) of that Act);
- (d) a condition imposed under section 44 of that Act;
- (e) a direction given under section 50 of that Act.

(2) Where this article applies, the condition or direction has effect after commencement as if it were a requirement imposed on the building society under section 43.

Direction under section 43A of the Building Societies Act

51.—(1) Where—

- (a) immediately before commencement, a building society was subject to a direction given under 43A of the Building Societies Act⁽²⁾; and
- (b) by virtue of this Order the building society has a Part IV permission on commencement, the direction has effect, after commencement, as if it were a requirement (or requirements) imposed on the society under section 43.

(2) If the direction was one falling within section 43B(2) of the Building Societies Act⁽³⁾ but was not confirmed under that section before commencement, the requirement having effect under paragraph (1) ceases to have effect at the end of 28 days beginning with the day on which the direction was given.

⁽¹⁾ Section 42A was inserted by the Building Societies Act 1997 s. 16.

⁽²⁾ Section 43A was inserted by the Building Societies Act 1997 s. 19.

⁽³⁾ Section 43B was inserted by the Building Societies Act 1997 s. 20.

(3) References in paragraphs (1) and (2) to a direction do not include a direction varying a previous direction; but where a direction has been varied before commencement, the references in paragraph (1) are to the direction as varied even in a case where, by virtue of section 43B(2)(b) of the Building Societies Act, the variation was due to cease to have effect at a time falling after commencement unless confirmed by the Authority before that time.

(4) A requirement having effect under paragraph (1) ceases to have effect on the occurrence of a relevant event.

(5) In the case of a society which immediately before commencement held an authorisation granted for the purposes of the Building Societies Act, the reference in paragraph (4) to a relevant event is to be read as follows—

- (a) if the requirement originally had effect as a direction given by virtue of section 43A(1)(a) or (b) of the Building Societies Act (cases where authorisation was to be revoked), and—
 - (i) the Authority decides to discontinue the proceedings originated by the proposal to revoke the society's authorisation under the Building Societies Act; or
 - (ii) the decision to revoke the authorisation is reversed by a tribunal, the giving of a notice of discontinuance under section 389, or the tribunal's determination, is a relevant event;
- (b) if the requirement originally had effect as a direction given by virtue of section 43A(1)(d) of the Building Societies Act (request to revoke authorisation or cancel registration) and the society subject to it withdraws the application, the withdrawal of the application is a relevant event.

(6) In the case of a society which immediately before commencement did not hold an authorisation for the purposes of the Building Societies Act, but formerly held such an authorisation, the reference in paragraph (4) to a relevant event is to the society ceasing to have any liability in respect of shares or deposits (within the meaning of the Building Societies Act) for which it had a liability at a time when it held that authorisation.

(7) Nothing in paragraph (2) or (4) prevents the Authority from exercising its power under section 45 to vary the society's Part IV permission in order to continue in effect the requirement having effect under paragraph (1).