

*Status: Point in time view as at 17/08/2001.*

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## SCHEDULES

### SCHEDULE 14

Section 85.

#### SETTLEMENT OF DISPUTES

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

**C1** Sch. 14 excluded (*temp.*) by S.I. 1986/2168, art. 3(1)(4)

#### PART I

##### PROCEEDINGS IN COURT

###### *Jurisdiction of the court*

- 1 (1) No court other than the High Court or, in the case of a building society whose principal office is in Scotland the Court of Session, shall have jurisdiction to hear and determine disputes to which this paragraph applies; and, in this Part of this Schedule, “the court” means the High Court or, as the case may be, the Court of Session.
- (2) This paragraph applies to any dispute—
- (a) between a building society and a member of the society in his capacity as a member, or
  - (b) between a building society and a representative of such a member in that capacity,
- in respect of any rights or obligations arising from the rules of the society or any provision of this Act or any statutory instrument under it.
- (3) Except in the cases referred to in sub-paragraph (5) below, no disputes to which this paragraph applies may be referred to arbitration.
- (4) The court shall not hear and determine any dispute arising out of section 61(8)(a) or [F<sup>1</sup>paragraph 20A(10)(a) or 31(4)(a)] of Schedule 2 to this Act.
- (5) The court shall not hear and determine any dispute which is required to be referred to arbitration under paragraph 4 below or which is referred to the [F<sup>2</sup>Authority] under paragraph 6 or to an adjudicator under paragraph 7 below except as provided in paragraph 2 below.

##### Textual Amendments

**F1** Words in Sch. 14 para. 1(4) 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. 43, 47(3), Sch. 7 para. 64(1); S.I. 1997/2668, art. 2, Sch. Pt. II(w)(z)(xxxvii)

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**F2** Word in [Sch. 14 para. 1\(5\)](#) substituted (17.8.2001 for certain purposes and otherwise 1.12.2001) by [S.I. 2001/2617](#) arts. 2, 8, 13(1), Sch. 3 Pt. II para. 208(a)(i) (with art. 13(3), Sch. 5); [S.I. 2001/3538](#), [art. 2](#)

- 2 The court may hear and determine a dispute falling within paragraph 1(5) above in any case where, on the application of any person concerned, it appears to the court—
- (a) that application has been made by either party to the dispute to the other party for the purpose of having the dispute settled by arbitration, and
  - (b) that either arbitrators have not been appointed within 40 days of that application or the arbitrators have refused, or have neglected for a period of 21 days, to proceed with the reference or make an award.

*Right of [<sup>F3</sup>Authority] to be heard*

**Textual Amendments**

**F3** Words in cross-heading substituted (17.8.2001 for certain purposes and otherwise 1.12.2001) by [S.I. 2001/2617](#), arts. 2, 8, 13(1), [Sch. 3 Pt. II para. 208\(a\)\(ii\)](#) (with art. 13(3), Sch. 5); [S.I. 2001/3538](#), [art. 2](#)

- 3 (1) Any person who institutes proceedings in the court in relation to a dispute to which paragraph 1 above applies shall give notice of the fact and of the matter in dispute to the [<sup>F4</sup>Authority].
- (2) The court shall not proceed to hear a dispute to which paragraph 1 applies until the court is satisfied that the notice required by sub-paragraph (1) above has been given.
- (3) The [<sup>F4</sup>Authority] shall be entitled, with the leave of the court, to attend and to be heard at any hearing of a dispute to which paragraph 1 applies.

**Textual Amendments**

**F4** Words in [Sch. 14 para. 3](#) substituted (14.8.2001 for certain purposes and otherwise 1.12.2001) by [S.I. 2001/2617](#) arts. 2, 8, 13(1) Sch. 3 Pt. II para. 208(a)(ii) (with art. 13(3), Sch. 5); [2001/3538 art. 2](#)

## PART II

### ARBITRATION

*Circulation of election addresses, resolutions and statements*

- 4 (1) If the rules of the society so provide, any dispute in respect of a refusal by a building society to send to its members—
- (a) copies of an election address [<sup>F5</sup>or a revised election address], in accordance with section 61(7), or
  - (b) any document required to be sent under [<sup>F6</sup>paragraph 20A(1)(b) or 31(1)] of Schedule 2 to this Act,

shall, unless the refusal is on one of the grounds specified in sub-paragraph (2) below, be referred to arbitration.

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- (2) Those grounds are—
- (a) that publicity for the document in question would be likely to diminish substantially the confidence in the society of investing members of the public, or
  - (b) that the rights conferred by section 61(7) or [<sup>F7</sup>paragraph 20A(1)(b) or 31(1)] are being abused to seek needless publicity for defamatory matter.

#### Textual Amendments

- F5** Words in [Sch. 14 para. 4\(1\)](#) inserted (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. 43, 47\(3\)](#), [Sch. 7 para. 64\(2\)\(a\)](#); [S.I. 1997/2668, art. 2, Sch. Pt. II\(w\)\(z\)\(xxxvii\)](#)
- F6** Words in [Sch. 14 para. 4\(1\)](#) 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. 43, 47\(3\)](#), [Sch. 7 para. 64\(2\)\(b\)](#); [S.I. 1997/2668, art. 2, Sch. Pt. II\(w\)\(z\)\(xxxvii\)](#)
- F7** Words in [Sch. 14 para. 4\(2\)](#) 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. 43, 47\(3\)](#), [Sch. 7 para. 64\(3\)](#); [S.I. 1997/2668, art. 2, Sch. Pt. II\(w\)\(z\)\(xxxvii\)](#)

#### *[<sup>F8</sup>Calling of special meeting]*

#### Textual Amendments

- F8** [Sch. 14 para. 4A](#) and cross-heading preceding it inserted (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. 43, 47\(3\)](#), [Sch. 7 para. 64\(4\)](#); [S.I. 1997/2668, art. 2, Sch. Pt. II\(w\)\(z\)\(xxxvii\)](#)

- [<sup>F9</sup>4A If the rules of the society so provide, any dispute in respect of a refusal by a building society to call a special meeting required to be called under paragraph 20A(1)(a) of Schedule 2 to this Act shall be referred to arbitration.]

#### Textual Amendments

- F9** [Sch. 14 para. 4A](#) and cross-heading preceding it inserted (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. 43, 47\(3\)](#), [Sch. 7 para. 64\(4\)](#); [S.I. 1997/2668, art. 2, Sch. Pt. II\(w\)\(z\)\(xxxvii\)](#)

#### *Procedure on a reference to arbitration*

- 5 (1) This paragraph has effect in relation to an arbitration under paragraph 4(1) above.
- (2) One or more arbitrators shall be appointed in the manner provided for by the rules of the building society; and so shall another arbitrator if an appointed arbitrator dies or refuses to act.
- (3) No arbitrator acting on a reference shall be beneficially interested (whether directly or indirectly) in the funds of the society.
- (4) The rules of the society may provide for the procedure to be followed on a reference to arbitration.

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- (5) An award made by arbitrators, or the majority of them, shall be final and binding.
- (6) For the purposes of [<sup>F10</sup>Part I of the Arbitration Act 1996] the rules of the society shall be treated as an arbitration agreement.
- (7) In relation to Scotland, sub-paragraph (6) above shall be omitted.

#### Textual Amendments

**F10** Words in [Sch. 14 Pt. II para. 5\(6\)](#) substituted (31.1.1997) by [1996 c. 23, s. 107\(1\)](#), [Sch. 3 para. 47](#) (with [s. 81\(2\)](#)); [S.I. 1996/3146, art. 3](#) (with transitional provisions in [art. 4, Sch. 2](#))

#### *Access to register of members*

- 6 (1) Any dispute as to the rights of a member of a building society under paragraph 15 of Schedule 2 to this Act shall be referred to the [<sup>F11</sup>Authority].
- (2) The reference of a dispute to the [<sup>F11</sup>Authority] under this paragraph shall be treated as a reference to arbitration; and its award shall have the same effect as that of an arbitrator acting in a reference under paragraph 4(1) above.

#### Textual Amendments

**F11** Words in [Sch. 15 para. 6\(1\)\(2\)](#) substituted (17.8.2001 for certain purposes and otherwise 1.12.2001) by 2001/2617 arts. 2, 8, 13(1), [Sch. 3 Pt. II para. 208\(a\)\(i\)](#) (with [art. 13\(3\), Sch. 5](#)); [S.I. 2001/3538 art. 2](#)

#### *Disputes cognizable under a scheme*

- [<sup>F127</sup> (1) Any dispute relating to a [<sup>F13</sup>relevant service] action in relation to which is subject to investigation under section 83 may, if the complainant and the society or, as the case may be, the complainant and the [<sup>F14</sup>connected undertaking] agree, instead of being determined by the adjudicator under the scheme, be referred to him as arbitrator.
- (2) The reference of a dispute to an adjudicator under sub-paragraph (1) above shall be treated as a reference to arbitration, and his award shall have the same effect as that of an arbitrator acting in a reference under paragraph 4(1) above.
- (3) Any expression used in this paragraph and section 83 has the same meaning in this paragraph as in that section.]

#### Textual Amendments

**F12** [Sch. 14 para. 7](#) omitted (17.8.2001 for certain purposes otherwise *prosp.*) by virtue of [S.I. 2001/2617 arts. 2, 8, 13\(1\)](#), [Sch. 3 Pt. II para. 208\(b\)](#) (with [art. 13\(3\), Sch. 5](#)) and repealed (*prosp.*) by [S.I. 2001/2617, arts. 2\(b\), 13\(2\), Sch. 4](#) (with [art. 13\(3\), Sch. 5](#))

**F13** Words in [Sch. 14 para. 7\(1\)](#) substituted (1.12.1997) by [1997 c. 32, s. 43, Sch. 7 para. 64\(5\)\(a\)](#); [S.I. 1997/2668, art. 2, Sch. Pt. I\(j\)\(l\)\(xviii\)](#)

**F14** Words in [Sch. 14 para. 7\(1\)](#) substituted (1.12.1997) by [1997 c. 32, s. 43, Sch. 7 para. 64\(5\)\(b\)](#); [S.I. 1997/2668, art. 2, Sch. Pt. I\(j\)\(l\)\(xviii\)](#)

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### *General*

- 8 In this Part of this Schedule, in relation to an arbitration in Scotland, references to an arbitrator shall be read as references to an arbiter.

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