

---

STATUTORY INSTRUMENTS

---

**1992 No. 3218**

**The Banking Coordination (Second Council Directive) Regulations 1992**

**PART VIII**

**AMENDMENTS OF BUILDING SOCIETIES ACT**

*Information*

**Power of Commission to obtain information and documents etc.**

**75.** In subsection (1) of section 52 of the Building Societies Act (powers to obtain information and documents etc.), for the words from “any of its functions” to the end there shall be substituted the following paragraphs—

- “(a) any of its functions under Part I, section 9, the foregoing sections of this Part, Part X and sections 107 and 108; and
- (b) any of its functions under the Banking Coordination (Second Council Directive) Regulations 1992.”

**Confidentiality of certain information obtained by Commission**

**76.—**(1) In subsection (2) of section 53 of the Building Societies Act (confidentiality of certain information obtained by Commission), paragraph (g) shall be omitted.

(2) After that subsection there shall be inserted the following subsection—

“(2A) As regards the disclosure of information with a view to the institution of, or otherwise for the purposes of, any proceedings in respect of the society under the Bankruptcy (Scotland) Act 1985(1) or the Insolvency Act 1986(2), the disclosures permitted by subsection (2)(b) above do not include the disclosure of information relating to a person who (not being a director or other officer of the society) is or has been, to the knowledge of the Commission, involved in an attempt to secure the survival of the society as a going concern.”

(3) In subsection (4)(a) of that section, after sub-paragraph (ii) there shall be inserted the words “and (in either case) the disclosure would, in its opinion, be in accordance with article 12(7) of the First Council Directive”.

(4) In subsection (5) of that section(3), for paragraph (b) there shall be substituted the following paragraph—

- “(b) by the Bank, of any of its functions under the Banking Act 1987 or as a monetary authority or supervisor of money market and gilt market institutions;”.

---

(1) 1985 c. 66.

(2) 1986 c. 45.

(3) 1986 c. 53; section 53(5) has been amended by paragraph 26(4) of Schedule 6 to the Banking Act 1987 (c. 22).

(5) In subsection (6) of that section, for the words from “it is desirable” to the end there shall be substituted the following paragraphs—

“(a) it is desirable or expedient that the information should be disclosed in the interests of shareholders or depositors or, in the case of information for the Secretary of State, in the public interest; and

(b) disclosure is in accordance with article 12(7) of the First Council Directive.”

(6) At the end of subsection (7) of that section there shall be inserted the words “if the disclosure is made with a view to facilitating the discharge of any of the functions mentioned in paragraph (b) or, as the case may be, paragraph (c) above”.

(7) At the end of subsection (8) of that section there shall be inserted the words “if the disclosure is made with a view to facilitating the discharge of any prescribed functions of the authority”.

(8) In subsection (9)(a) of that section, for the words “the functions” there shall be substituted the words “the supervisory functions”.

(9) After subsection (11) of that section there shall be inserted the following subsection—

“(11A) Subsection (11) above does not apply in relation to disclosures to an overseas regulatory authority which is not a supervisory authority in another member State unless the Commission is satisfied that the authority is subject to restrictions on further disclosures at least equivalent to those imposed by this section and section 54.”

(10) After subsection (13) of that section there shall be inserted the following subsections—

“(13A) Information which is disclosed to a person with a view to facilitating or assisting the discharge of any functions shall not be used otherwise than with a view to facilitating or assisting the discharge of those functions.

(13B) Any person who uses information in contravention of subsection (13A) above shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding level 5 on the standard scale or to both.”

(11) After subsection (14) of that section there shall be inserted the following subsections—

“(15) Any reference in this section to facilitating or assisting the discharge of any functions is a reference to facilitating or assisting the discharge of those functions in relation to—

(a) a financial market; or

(b) persons carrying on the business of banking or insurance, Consumer Credit Act businesses or the business of providing other financial services;

and in this subsection ‘Consumer Credit Act business’ has the same meaning as in the Banking Coordination (Second Council Directive) Regulations 1992.

(16) Any reference in this section or section 54 to the Commission’s functions under this Act includes a reference to its functions under those Regulations.”

### **Information disclosed to Commission from other sources**

77.—(1) After subsection (3) section 54 of the Building Societies Act(4) (information disclosed to Commission from other sources) there shall be inserted the following subsections—

“(3A) If information is disclosed by the Bank of England to the Commission for the purpose of enabling it better to discharge its functions under this Act—

---

(4) 1986 c. 53; subsections (4) and (5) of section 54 were omitted by paragraph 26(5) of Schedule 6 to the Banking Act 1987 (c. 22).

- (a) subsection (1) of section 53 applies to that information as it applies to information obtained or furnished under or for the purposes of this Act; but
- (b) the references in subsections (2) to (11) of that section to the disclosure of information do not extend to the disclosure of that information unless—
  - (i) the Bank of England consents to the disclosure; and
  - (ii) the disclosure is for the purpose of enabling the Commission better to discharge its functions under this Act.

(3B) If information is disclosed to the Commission by the relevant supervisory authority in another member State, or is obtained by the Commission, or by a person acting on its behalf, in another member State—

- (a) subsection (1) of section 53 applies to that information as it applies to information obtained or furnished under or for the purposes of this Act; but
- (b) the references in subsections (2) to (11) of that section to the disclosure of information do not extend to the disclosure of that information unless—
  - (i) in the case of information disclosed to the Commission by the relevant supervisory authority in another member State, that authority consents to its disclosure; or
  - (ii) in the case of information obtained by the Commission, or by a person acting on its behalf, in another member State, the relevant supervisory authority in that State consents to its disclosure.”

(2) In subsection (6) of that section, after the words “overseas regulatory authority” there shall be inserted the words “which is not the relevant supervisory authority in another member State”.