

Changes to legislation: Building Societies Act 1986, Cross Heading: Appointment is up to date with all changes known to be in force on or before 09 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULES

SCHEDULE 11

^{F1} AUDITORS: APPOINTMENT, TENURE...

Textual Amendments

- F1** Words in Sch. 11 heading omitted (6.4.2008) by virtue of [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), art. 2(2), [Sch. 1 para. 14\(a\)](#), Sch. 2 (with arts. 6, 11, 12)

Modifications etc. (not altering text)

- C1** Sch. 11 excluded by [S.I. 1986/2168](#), [art. 12\(a\)](#)

Appointment

- 1 (1) The [^{F1}first auditor] of a building society may be appointed by the directors at any time before the first general meeting of the building society following the end of the society's first financial year [^{F2}and an auditor] so appointed shall hold office until the conclusion of that meeting.
- (2) If the directors fail to exercise their powers under sub-paragraph (1) above those powers may be exercised by the building society in general meeting.

Textual Amendments

- F1** Words in Sch. 11 para. 1(1) substituted (29.6.2008) by [The Building Societies Act 1986 \(Accounts, Audit and EEA State Amendments\) Order 2008 \(S.I. 2008/1519\)](#), art. 1(2), [Sch. 2 para. 8\(a\)\(i\)](#)
- F2** Words in Sch. 11 para. 1(1) substituted (29.6.2008) by [The Building Societies Act 1986 \(Accounts, Audit and EEA State Amendments\) Order 2008 \(S.I. 2008/1519\)](#), art. 1(2), [Sch. 2 para. 8\(a\)\(ii\)](#)

- 2 The directors, or the building society in general meeting, may fill any casual vacancy in the office of auditor; but while any such vacancy continues, the surviving or continuing auditor or auditors (if any) may act.
- 3 (1) If at any annual general meeting of a building society no [^{F3}auditor is] appointed or re-appointed, the [^{F4}appropriate authority] may appoint a person to fill the vacancy; and the society shall, within one week of the power of the [^{F4}appropriate authority] becoming exercisable, [^{F5}give notice to the FCA and, if the society is a PRA-
authorised person, to the PRA] of that fact.
- (2) If a building society fails to give the notice required by sub-paragraph (1) above the society shall be liable on summary conviction—
- (a) to a fine not exceeding level 3 on the standard scale, and
 - (b) in the case of a continuing offence, to an additional fine not exceeding £40 for every day during which the offence continuesX;

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and so shall any officer who is also guilty of the offence.

Textual Amendments

- F3** Words in Sch. 11 para. 3(1) substituted (29.6.2008) by [The Building Societies Act 1986 \(Accounts, Audit and EEA State Amendments\) Order 2008 \(S.I. 2008/1519\)](#), art. 1(2), [Sch. 2 para. 8\(b\)](#)
- F4** Words in Sch. 11 para. 3(1) substituted (1.4.2013) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2013 \(S.I. 2013/496\)](#), art. 1(1), [Sch. 8 para. 55\(2\)\(a\)](#) (with Sch. 12)
- F5** Words in Sch. 11 para. 3(1) substituted (1.4.2013) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2013 \(S.I. 2013/496\)](#), art. 1(1), [Sch. 8 para. 55\(2\)\(b\)](#) (with Sch. 12)

^{F6}3A

Textual Amendments

- F6** Sch. 11 para. 3A omitted (with effect in accordance with reg. 1(4) of the amending S.I.) by virtue of [The Statutory Auditors and Third Country Auditors Regulations 2017 \(S.I. 2017/516\)](#), regs. 1(2), [2\(6\)\(a\)](#)

[^{F7}3B (1) This paragraph applies to the appointment of an auditor or auditors under section 77, where the building society has an audit committee.

- (2) Before an appointment to which this paragraph applies is made—
- (a) the audit committee of the building society must make a recommendation to the directors in connection with the appointment, and
 - (b) the directors must propose an auditor or auditors for appointment ^{F8}...
- (3) Before the audit committee makes a recommendation or the directors make a proposal under sub-paragraph (2), the committee^{F9}... must carry out a selection procedure in accordance with Article 16(3) of the Audit Regulation.
- (4) The audit committee must in its recommendation—
- (a) identify its first and second choice candidates for appointment, [^{F10}drawn from those auditors who have participated in a selection procedure under sub-paragraph (3),]
 - (b) give reasons for the choices so identified,
 - (c) state that—
 - (i) the recommendation is free from influence by a third party, and
 - (ii) no contractual term of the kind mentioned in [^{F11}Article 16(6) of the Audit Regulation] has been imposed on the building society.

[^{F12}(5) The directors must include in their proposal—

- (a) the recommendation made by the audit committee in connection with the appointment, and
- (b) if the proposal of the directors departs from the preference of the audit committee—
 - (i) a recommendation for a candidate or candidates for appointment drawn from those auditors who have participated in a selection procedure under sub-paragraph (3), and
 - (ii) the reasons for not following the audit committee's recommendation.

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- (6) Where the audit committee recommends re-appointment of the society's existing auditor or auditors, and the directors are in agreement, sub-paragraphs (3) and (4) (a) and (b) do not apply.]

Textual Amendments

- F7** Sch. 11 paras. 3A-3C inserted (17.6.2016) by [The Statutory Auditors and Third Country Auditors Regulations 2016 \(S.I. 2016/649\)](#), reg. 1(1)(a), **Sch. 4 para. 8(a)** (with reg. 1(6))
- F8** Words in Sch. 11 para. 3B(2)(b) omitted (with effect in accordance with reg. 1(4) of the amending S.I.) by virtue of [The Statutory Auditors and Third Country Auditors Regulations 2017 \(S.I. 2017/516\)](#), regs. 1(2), **2(6)(b)(i)**
- F9** Words in Sch. 11 para. 3B(3) omitted (with effect in accordance with reg. 1(4) of the amending S.I.) by virtue of [The Statutory Auditors and Third Country Auditors Regulations 2017 \(S.I. 2017/516\)](#), regs. 1(2), **2(6)(b)(ii)**
- F10** Words in Sch. 11 para. 3B(4)(a) inserted (with effect in accordance with reg. 1(4) of the amending S.I.) by [The Statutory Auditors and Third Country Auditors Regulations 2017 \(S.I. 2017/516\)](#), regs. 1(2), **2(6)(b)(iii)**
- F11** Words in Sch. 11 para. 3B(4)(c) substituted (with effect in accordance with reg. 1(4) of the amending S.I.) by [The Statutory Auditors and Third Country Auditors Regulations 2017 \(S.I. 2017/516\)](#), regs. 1(2), **2(6)(b)(iv)**
- F12** Sch. 11 para. 3B(5)(6) substituted for Sch. 11 para. 3B(5)-(7) (with effect in accordance with reg. 1(4) of the amending S.I.) by [The Statutory Auditors and Third Country Auditors Regulations 2017 \(S.I. 2017/516\)](#), regs. 1(2), **2(6)(b)(v)**

- 3C (1) This paragraph applies to the appointment of an auditor or auditors under section 77, where the building society does not have an audit committee.
- (2) Before an appointment to which this paragraph applies is made the directors must propose an auditor or auditors for appointment.
- (3) Before the directors make a proposal under sub-paragraph (2), they must carry out a selection procedure in accordance with Article 16(3) of the Audit Regulation [^{F13}, from which their proposed auditor or auditors must be drawn] .
- [^{F14}(4) Sub-paragraph (3) does not apply in relation to a proposal to re-appoint the society's existing auditor or auditors.]]

Textual Amendments

- F7** Sch. 11 paras. 3A-3C inserted (17.6.2016) by [The Statutory Auditors and Third Country Auditors Regulations 2016 \(S.I. 2016/649\)](#), reg. 1(1)(a), **Sch. 4 para. 8(a)** (with reg. 1(6))
- F13** Words in Sch. 11 para. 3C(3) inserted (with effect in accordance with reg. 1(4) of the amending S.I.) by [The Statutory Auditors and Third Country Auditors Regulations 2017 \(S.I. 2017/516\)](#), regs. 1(2), **2(6)(c)(i)**
- F14** Sch. 11 para. 3C(4) substituted for Sch. 11 para. 3C(4)-(6) (with effect in accordance with reg. 1(4) of the amending S.I.) by [The Statutory Auditors and Third Country Auditors Regulations 2017 \(S.I. 2017/516\)](#), regs. 1(2), **2(6)(c)(ii)**

- [^{F15}3D.(1) A person who has been, or will have been, auditor of a building society in respect of every financial year comprised in the maximum engagement period may not be appointed as auditor of the society in respect of any financial year which begins

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within the period of 4 years beginning with the day after the last day of the last financial year of the maximum engagement period.

- (2) A person who is a member of the same network as the auditor mentioned in sub-paragraph (1) may not be appointed as auditor of the society in respect of any financial year which begins within the period of 4 years mentioned in that sub-paragraph.
- (3) In this paragraph “network” means an association of persons, other than a firm, co-operating in audit work by way of—
 - (a) profit-sharing;
 - (b) cost-sharing;
 - (c) common ownership, control or management;
 - (d) common quality control policies and procedures;
 - (e) common business strategy; or
 - (f) use of a common name.

Textual Amendments

F15 Sch. 11 paras. 3D, 3E inserted (with effect in accordance with reg. 1(4) of the amending S.I.) by [The Statutory Auditors and Third Country Auditors Regulations 2017 \(S.I. 2017/516\)](#), regs. 1(2), **2(6)(d)**

- [
^{F16}3DA. (1) If—
- (a) a building society appoints, or purports to appoint, an auditor or auditors, and
 - (b) the appointment or purported appointment is made in breach of paragraph 3B, 3C or 3D (requirements applying to appointment of auditors),
- the appropriate authority may appoint another auditor or auditors in place of the auditor or auditors referred to in paragraph (a).
- (2) The breach of paragraph 3B, 3C or 3D does not invalidate any report made under this Part by the auditor or auditors on the building society’s annual reports or accounts before the auditor or auditors are replaced under sub-paragraph (1) of this paragraph.
 - (3) But where the breach in question is a breach of paragraph 3D, sections 1248 and 1249 of the Companies Act 2006 (Secretary of State’s power to require second audit for companies) apply as if—
 - (a) the building society were a company;
 - (b) references to the Secretary of State were to the appropriate audit authority;
 - (c) references to the registrar of companies were to the FCA and, if the society is a PRA-authorised person, to the PRA;
 - (d) the auditor was not an appropriate person, or the auditors were not appropriate persons, for the period during which the audit was conducted;
 - (e) section 1248(9) was omitted.
 - (4) Within one week of becoming aware of the breach of paragraph 3B, 3C or 3D, the building society must give notice to the appropriate authority that the power under sub-paragraph (1) of this paragraph has become exercisable.
 - (5) If the building society fails to give the notice required by sub-paragraph (4), the society shall be liable on summary conviction—
 - (a) to a fine not exceeding level 3 on the standard scale; and

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- (b) in the case of a continuing offence, to an additional fine not exceeding £40 for every day during which the offence continues;
and so shall any officer who is also guilty of the offence.]

Textual Amendments

- F15** Sch. 11 paras. 3D, 3E inserted (with effect in accordance with reg. 1(4) of the amending S.I.) by [The Statutory Auditors and Third Country Auditors Regulations 2017 \(S.I. 2017/516\)](#), regs. 1(2), **2(6)(d)**
F16 Sch. 11 para. 3DA inserted (with effect in accordance with reg. 2(1) of the amending S.I.) by [The Statutory Auditors Regulations 2017 \(S.I. 2017/1164\)](#), reg. 1(2)(3), **Sch. 1 para. 3** (with reg. 2(6)(7))

- 3E. (1) Where a person is auditor of a building society in respect of consecutive financial years, the maximum engagement period of the person as auditor of the society—
(a) begins with the first of those years (see the appropriate entry in the first column of the following Table), and
(b) ends with the financial year specified in the corresponding entry in the second column of the Table:

First financial year of the maximum engagement period	Last financial year of the maximum engagement period
A financial year of the society beginning before 17 June 1994	The last financial year of the society to begin before 17 June 2020.
A financial year of the society beginning— (a) on or after 17 June 1994, and (b) before 17 June 2003	The last financial year of the society to begin before 17 June 2023.
A financial year of the society beginning— (a) on or after 17 June 2003, and (b) before 17 June 2016	<i>No qualifying selection procedure</i> Where neither the first financial year of the maximum engagement period nor any subsequent financial year is one in respect of which the auditor has been appointed following the carrying out of a qualifying selection procedure, the later of— (a) the last financial year of the society to begin before 17 June 2016, and (b) the last financial year of the society to begin within the period of 10 years beginning with the first day of the first financial year of the maximum engagement period. <i>No qualifying selection procedure within 10 years</i> Where the last day of the last financial year of the society to begin within the period of 10 years beginning with the first day of the last financial year of the society in respect of which the auditor was appointed following a qualifying

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**First financial year of the
maximum engagement period**

**Last financial year of the
maximum engagement period**

selection procedure is before 17 June 2016—

(a) the last financial year of the society to begin before 17 June 2016, unless
 (b) the auditor is appointed following a qualifying selection procedure for the first financial year of the society to begin on or after 17 June 2016, in which case it is the last financial year of the society to begin within the period of 20 years beginning with the first day of the first financial year of the maximum engagement period.

Qualifying selection procedure within 10 years

In any other case, the earlier of—

(a) the last financial year of the society to begin within the period of 10 years beginning with the first day of the last financial year of the society in respect of which the auditor was appointed following a qualifying selection procedure, and
 (b) the last financial year of the society to begin within the period of 20 years beginning with the first day of the first financial year of the maximum engagement period.

A financial year of the society beginning on or after 17 June 2016

The earlier of—

(a) the last financial year of the society to begin within the period of 10 years beginning with the first day of the last financial year of the society in respect of which the auditor was appointed following a qualifying selection procedure, and
 (b) the last financial year of the society to begin within the period of 20 years beginning with the first day of the first financial year of the maximum engagement period.

- (2) Where the first financial year of the maximum engagement period begins on or after 17 June 2003, the maximum engagement period may be extended by a period of no more than 2 years with the approval of the competent authority.
- (3) Such approval may be given by the competent authority only if it is satisfied that exceptional circumstances exist.
- (4) Where the competent authority gives its approval as mentioned in sub-paragraph (2)

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- (a) the second column of the Table in sub-paragraph (1) has effect with the necessary modifications, and
 - (b) the first appointment to be made after the end of the period as so extended must be made following a qualifying selection procedure.
- (5) In this paragraph “qualifying selection procedure” means—
- (a) in the case of an appointment in respect of a financial year beginning on or after 17 June 2016 made after the Statutory Auditors and Third Country Auditors Regulations 2017 come into force—
 - (i) if the society has an audit committee, a selection procedure that complies with the requirements of paragraph 3B(3) and (4)(a) and (b), and
 - (ii) if the society does not have an audit committee, a selection procedure that complies with the requirements of Article 16(3) of the Audit Regulation;
 - (b) in any other case, a selection procedure that substantially meets the requirements of Article 16(2) to (5) of the Audit Regulation [^{F17}as it had effect immediately before IP completion day], having regard to the circumstances at the time (including whether the society had an audit committee).]

Textual Amendments

- F15** Sch. 11 paras. 3D, 3E inserted (with effect in accordance with reg. 1(4) of the amending S.I.) by [The Statutory Auditors and Third Country Auditors Regulations 2017 \(S.I. 2017/516\)](#), regs. 1(2), **2(6)(d)**
- F17** Words in [Sch. 11 para. 3E\(5\)\(b\)](#) inserted (31.12.2020) by [The Statutory Auditors and Third Country Auditors \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/177\)](#), regs. 2, **38** (as amended by [S.I. 2020/523](#), regs. 1(2), **14(i)**); 2020 c. 1, Sch. 5 para. 1(1)

- 4 (1) A resolution at a general meeting of a building society—
- (a) appointing as auditor a person other than a retiring auditor; or
 - (b) filling a casual vacancy in the office of auditor; or
 - (c) reappointing as auditor a retiring auditor who was appointed by the directors to fill a casual vacancy; or
 - (d) removing an auditor before the expiration of his term of office,
- shall not be effective unless notice of the intention to move it has been given to the society not less than twenty-eight days before the meeting at which it is moved.
- (2) A building society shall give to its members notice of any such resolution at the same time and in the same manner as it gives notice of the meeting, or, if that is not practicable, shall give them notice of the resolution, not less than twenty-one days before the meeting, either by advertisement in a newspaper having an appropriate circulation or in any other way allowed by the rules of the society.
- (3) On receipt of notice of such an intended resolution as is mentioned above the society shall forthwith send a copy of it—
- (a) to the person proposed to be appointed or removed, as the case may be;
 - (b) in a case within sub-paragraph (1)(a), to the retiring auditor; and
 - (c) where, in a case within sub-paragraph (1)(b) or (c), the casual vacancy was caused by the resignation of an auditor, to the auditor who resigned.

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- (4) Where notice is given of such a resolution as is mentioned in sub-paragraphs (1)(a) or (d) and the retiring auditor, or (as the case may be) the auditor proposed to be removed, makes with respect to the intended resolution representations, in writing to the society (not exceeding a reasonable length) and requests their notification to the members, the society shall (unless the representations are received by it too late to do so)—
 - (a) in any notice of the resolution given to members, state the fact of the representations having been made, and
 - (b) send a copy of the representations to every member to whom notice of the meeting is or has been sent.
 - (5) if a copy of such representations is not sent out as required by sub-paragraph (4) above because it was received too late or because of the society's default, the auditor may (without prejudice to his right to be heard orally) require that the representations shall be read out at the meeting.
 - (6) The building society or any person claiming to be aggrieved may, within fourteen days of the receipt by the society of any representations made to it under sub-paragraph (4) above, apply in accordance with sub-paragraph (7) or (8) below to—
 - (a) the High Court, or
 - (b) the [^{F18}appropriate authority],for an order that copies of the representations need not or, as the case may be, shall not be sent out nor the representations read out at the meeting.
 - (7) An application under this sub-paragraph is an application to the High Court on the ground that the auditor is abusing the rights conferred by sub-paragraph (4) above to secure needless publicity for defamatory matter, and if the court is satisfied that the auditor is so abusing those rights it may by order direct that copies of the representations need not be sent out nor the representations read out at the meeting; and the court may further order the society's costs on the application to be paid in whole or in part by the auditor notwithstanding that he is not a party to the application.
 - (8) An application under this sub-paragraph is an application to the [^{F19}appropriate authority] on the ground that the sending out of copies of or the reading out at the meeting of the representations would be likely to diminish substantially the confidence in the society of investing members of the public and if the [^{F19}appropriate authority] is satisfied that the sending out of copies of the representations or the reading of them would have that effect it shall by order direct that copies of the representations shall not be sent out nor the representations read at the meeting.
 - (9) The building society shall—
 - (a) if the High Court makes an order under sub-paragraph (7) above or the [^{F20}appropriate authority] makes an order under sub-paragraph (8) above, send within fourteen days of the decision a statement setting out the effect of the order to the persons mentioned in sub-paragraph (4)(b) above; and
 - (b) if not, either send a copy of the written representations made under sub-paragraph (4) above to those persons or cause the representations to be read out at the meeting.
- [^{F21}(9A) Sub-paragraphs (9B) and (9C) apply where—
 - (a) a copy of representations is required to be sent under sub-paragraph (4)(b) or (9)(b); or

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(b) a statement is required to be sent under sub-paragraph (9)(a).

(9B) Where a copy of representations or a statement is required to be sent to a member—

- (a) it may be sent to him electronically only if it is sent to an electronic address notified by the member for the purpose; but
- (b) the requirement to send it shall also be treated as satisfied if the conditions set out in sub-paragraph (9C) are satisfied.

(9C) The conditions of this sub-paragraph are satisfied in the case of a copy of representations or a statement if—

- (a) the society and the member have agreed that information that is required to be sent to him may instead be accessed by him on a web site;
- (b) the agreement applies to the representations or statement in question;
- (c) the member is notified^{F22} ... of—
 - (i) the publication of the copy of the representations or the statement on a web site,
 - (ii) the address of that web site,
 - (iii) the place on that web site where the representations or statement may be accessed, and how it may be accessed,and where the notification concerns the publication of a statement required to be sent by sub-paragraph (9)(a), the member is notified within the period specified in that paragraph; and
- (d) the copy of the representations or the statement is published continuously on that web site throughout the period beginning with the date on which notification is given in accordance with paragraph (c) and ending with the conclusion of the meeting.]

(10) If default is made in complying with sub-paragraph (4) or (9) above the building society shall be liable—

- (a) on conviction on indictment to a fine; or
- (b) on summary conviction to a fine not exceeding the statutory maximum and, in the case of a continuing offence, to a fine not exceeding [^{F23}one tenth of the statutory maximum][^{F23}one-tenth of the greater of £5,000 or the amount corresponding to level 4 on the standard scale for summary offences] for every day during which the offence continues;

and so shall any officer who is also guilty of the offence.

[^{F24}(10A) Where, in a case in which sub-paragraph (9A)(b) is relied on for compliance with a requirement of sub-paragraph (4) or (9)—

- (a) a copy of representations or a statement is published on a web site for a part, but not all, of the period mentioned in sub-paragraph (9C)(d), but
- (b) the failure to publish it throughout that period is wholly attributable to circumstances which it would not be reasonable to have expected the society to prevent or avoid,

no offence is committed under sub-paragraph (10) by reason of that failure.]

Textual Amendments

F18 Words in Sch. 11 para. 4(6)(b) substituted (1.4.2013) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2013 \(S.I. 2013/496\)](#), art. 1(1), [Sch. 8 para. 55\(3\)](#) (with [Sch. 12](#))

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- F19** Words in Sch. 11 para. 4(8) substituted (1.4.2013) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2013 \(S.I. 2013/496\)](#), art. 1(1), **Sch. 8 para. 55(3)** (with Sch. 12)
- F20** Words in Sch. 11 para. 4(9) substituted (1.4.2013) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2013 \(S.I. 2013/496\)](#), art. 1(1), **Sch. 8 para. 55(3)** (with Sch. 12)
- F21** Sch. 11 para. 4(9A)-(9C) inserted (20.3.2003) by [The Building Societies Act 1986 \(Electronic Communications\) Order 2003 \(S.I. 2003/404\)](#), arts. 1(1), **22(2)**
- F22** Words in Sch. 11 para. 4(9C)(c) omitted (18.2.2014) by virtue of [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#), s. 148(2), **Sch. 9 para. 14(2)**
- F23** Words in Sch. 11 para. 4(10)(b) substituted (E.W.) (12.3.2015) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Fines on Summary Conviction\) Regulations 2015 \(S.I. 2015/664\)](#), reg. 1(1), **Sch. 3 para. 4(a)** (with reg. 5(1))
- F24** Sch. 11 para. 4(10A) inserted (20.3.2003) by [The Building Societies Act 1986 \(Electronic Communications\) Order 2003 \(S.I. 2003/404\)](#), arts. 1(1), **22(3)**

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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](#)