

Changes to legislation: Building Societies Act 1986, SCHEDULE 11 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

Section 77.

^{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 [^{F2}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 [^{F3}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

- 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\(a\)\(i\)](#)
- F3** 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 [^{F4}auditor is] appointed or re-appointed, the [^{F5}appropriate authority] may appoint a person to fill the vacancy; and the society shall, within one week of the power of the [^{F5}appropriate authority] becoming exercisable, [^{F6}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

- F4** 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\(b\)](#)
- 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\(2\)\(a\)](#) (with Sch. 12)
- F6** 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)

^{F7}3A

Textual Amendments

- F7** 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\(6\)\(a\)](#)

^{F8}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 ^{F9}...
- (3) Before the audit committee makes a recommendation or the directors make a proposal under sub-paragraph (2), the committee^{F10}... 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, [^{F11}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 [^{F12}Article 16(6) of the Audit Regulation] has been imposed on the building society.

[^{F13}(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

- F8** 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))
- F9** 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)**
- F10** 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)**
- F11** 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)**
- F12** 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)**
- F13** 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 [^{F14}, from which their proposed auditor or auditors must be drawn] .
- [^{F15}(4) Sub-paragraph (3) does not apply in relation to a proposal to re-appoint the society's existing auditor or auditors.]]

Textual Amendments

- F8** 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))
- F14** 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)**
- F15** 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)**

- [^{F16}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

F16 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}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-authorized 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

- F16** 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** 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 [^{F18}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

- F16** 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)**
- F18** 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 [^{F19}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 [^{F20}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 [^{F20}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 [^{F21}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.
- [^{F22}(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^{F23} ... 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 [^{F24}one tenth of the statutory maximum][^{F24}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.

- [^{F25}(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

- F19** 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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- F20** 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)
- F21** 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)
- F22** 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)**
- F23** 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)**
- F24** 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))
- F25** 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)**

Qualification and disqualification of auditors

F265

Textual Amendments

- F26** Sch. 11 para. 5 repealed (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), art. 2(2), **Sch. 2** (with arts. 6, 11, 12)

[F27] Tenure

Textual Amendments

- F27** Sch. 11 paras. 5A, 5B and heading 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(b)** (with reg. 1(6))

F285A

Textual Amendments

- F28** Sch. 11 paras. 5A, 5B omitted (1.5.2017) by virtue of [The Statutory Auditors and Third Country Auditors Regulations 2017 \(S.I. 2017/516\)](#), regs. 1(2), **2(6)(e)**

Maximum engagement period: transitional arrangements

F285B]

Textual Amendments

- F28** Sch. 11 paras. 5A, 5B omitted (1.5.2017) by virtue of [The Statutory Auditors and Third Country Auditors Regulations 2017 \(S.I. 2017/516\)](#), regs. 1(2), **2(6)(e)**

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Removal of auditors

- 6 (1) A building society may by resolution in general meeting remove an auditor before the expiration of his term of office, notwithstanding anything in any agreement between it and him.
- (2) Where a resolution removing an auditor is passed at a general meeting of a building society, the society shall within 14 days give notice of that fact to the [^{F29}FCA and, if the society is a PRA-authorised person, the PRA] .
- (3) If a building society fails to give the notice required by sub-paragraph (2) above the society shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale and, 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 every officer who is also guilty of the offence.
- (4) Nothing in this paragraph is to be taken as depriving a person removed under it of compensation or damages that may be payable to him in respect of the termination of his appointment as auditor.
- [^{F30}(5) An auditor may not be removed from office before the expiration of that auditor's term of office except—
- (a) by resolution under this paragraph, or
 - (b) in accordance with paragraph 6ZA.]

Textual Amendments

- F29** Words in Sch. 11 para. 6(2) 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\(4\)](#) (with Sch. 12)
- F30** Sch. 11 para. 6(5) 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\(c\)](#) (with reg. 1(6))

Application to court to remove auditor from office

- [^{F31}6ZA(1) The competent authority may apply to the High Court for an order removing an auditor of a building society from office if the authority considers that there are proper grounds for removing the auditor from office.
- (2) The members of a building society may apply to the High Court for an order removing an auditor of the building society from office if the applicant or applicants consider that there are proper grounds for removing the auditor from office.
- (3) If the court is satisfied, on hearing an application under sub-paragraph (1), that there are proper grounds for removing the auditor from office, it may make an order removing the auditor from office.
- (4) If the court is satisfied, on hearing an application under sub-paragraph (2), that—
- (a) the applicants represent in total—
 - (i) not less than 5% of the voting rights of all the members having a right to vote at a general meeting of the building society, or
 - (ii) not less than 5% in nominal value of the amount standing to the credit of shares in a building society as shown by the latest balance sheet, and
 - (b) there are proper grounds for removing the auditor from office,

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the court may make an order removing the auditor from office.

- (5) For the purposes of this paragraph, divergence of opinions on accounting treatments or audit procedures are not to be taken to be proper grounds for removing an auditor from office.]

Textual Amendments

- F31** Sch. 11 para. 6ZA 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(d)** (with reg. 1(6))

[^{F32}Removal of auditor on improper grounds

Textual Amendments

- F32** Sch. 11 para. 6A and cross-heading inserted (29.6.2008) by [The Building Societies Act 1986 \(Accounts, Audit and EEA State Amendments\) Order 2008 \(S.I. 2008/1519\)](#), arts. 1(2), **6(1)**

- 6A. (1) Where an auditor of a building society is removed from office [^{F33}, other than by order of the High Court made under paragraph 6ZA,] an application may be made to the High Court under this paragraph.
- (2) The persons who may make such an application are—
- (a) any member of the society who was also a member at the time of the removal;
 - [^{F34}(b) the FCA; and
 - (c) if the society is a PRA-authorised person, the PRA.]
- (3) If the court is satisfied that the removal was—
- (a) on grounds of divergence of opinion on accounting treatments or audit procedures, or
 - (b) on any other improper grounds,
- it may make such order as it thinks fit for giving relief in respect of the removal.
- (4) The court may, in particular—
- (a) declare that any resolution of the society removing an auditor, or appointing a new auditor in his place, is void;
 - (b) require the directors of the society to re-appoint the auditor until the next general meeting of the society;
 - (c) give directions as to the conduct of the society's affairs in the future.]

Textual Amendments

- F33** Words in Sch. 11 para. 6A(1) 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(e)** (with reg. 1(6))
- F34** Sch. 11 para. 6A(2)(b)(c) substituted for Sch. 11 para. 6A(2)(b) (1.4.2013) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2013 \(S.I. 2013/496\)](#), art. 1(1), **Sch. 8 para. 55(5)** (with Sch. 12)

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Resignation of auditors

- 7 (1) An auditor of a building society may resign his office by depositing a notice to that effect at the principal office of the society; and any such notice operates to bring his term of office to an end on the date on which the notice is deposited, or on such later date as may be specified in it.
- (2) An auditor's notice of resignation shall not be effective unless it contains either—
- (a) a statement to the effect that there are no circumstances connected with his resignation which he considers should be brought to the notice of the members of, or depositors with, the society, or
 - (b) a statement of any such circumstances as are mentioned above.
- (3) Where a notice under this paragraph is deposited at the principal office of a building society it shall within fourteen days send a copy of that notice—
- (a) to the ^{F35}FCA and, if the society is a PRA-^{F35}authorised person, the PRA], and
 - (b) if the notice contains a statement under sub-paragraph (2)(b) above, to every person who under section 76(8) is entitled to receive a copy of the summary financial statement.
- (4) The building society or any person claiming to be aggrieved may, within fourteen days of the receipt by the society of a notice containing a statement under sub-paragraph (2)(b), apply in accordance with sub-paragraph (5) or (6) below to—
- (a) the High Court; or
 - (b) the ^{F36}appropriate authority],
- for an order that copies of the notice need not or, as the case may be, shall not be sent out.
- (5) An application under this sub-paragraph is an application to the High Court on the ground that the auditor is using the notice to secure needless publicity for defamatory matter, and if the court is satisfied that the auditor is using the notice for that purpose it may by order direct that copies of it need not be sent out; 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.
- (6) An application under this sub-paragraph is an application to the ^{F37}appropriate authority] on the ground that the sending out of the notice would be likely to diminish substantially the confidence in the society of investing members of the public; and if the ^{F37}appropriate authority] is satisfied that the sending out of the notice would be likely to have that effect it shall by order direct that copies of it shall not be sent out.
- (7) The building society shall, within fourteen days of the decision of the High Court or of the ^{F38}appropriate authority], send to the persons mentioned in sub-paragraph (3) —
- (a) if the court makes an order under sub-paragraph (5) above or the ^{F38}appropriate authority] makes an order under sub-paragraph (6), a statement setting out the effect of the order; and
 - (b) if not, a copy of the notice containing the statement under sub-paragraph (2)(b).

^{F39}(7A) Sub-paragraphs (7B) and (7C) apply where—

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- (a) the reference to a notice containing a statement under sub-paragraph (2)(b) is required to be sent to a person under sub-paragraph (3)(b) or sub-paragraph (7)(b); or
- (b) a statement is required to be sent under sub-paragraph (7)(a).

(7B) Where a notice or a statement is required to be sent to a person, the notice or statement may be sent to him electronically only if—

- (a) in a case where a person mentioned in sub-paragraph (3)(b) has notified the society of an electronic address for the purpose of this paragraph, it is sent to that address; or
- (b) in a case where no electronic address has been notified for the purpose of this paragraph, it is sent to an electronic address notified by him for the purpose of subsection (8B) of section 76 (electronic address for the reception of summary financial statement for members and depositors).

(7C) The requirement to send a notice or a statement shall also be treated as satisfied if—

- (a) the society and a person mentioned in sub-paragraph (3)(b) 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 notice or statement in question;
- (c) [^{F40}the person] is notified of—
 - (i) the publication of the notice or statement on a web site,
 - (ii) the address of that web site, and
 - (iii) the place on that web site where the notice or statement may be accessed, and how it may be accessed; and
- (d) the notice or statement is published on the web site throughout a period of at least 14 days, beginning with the day on which the person is notified in accordance with paragraph (c).]

(8) If default is made in complying with sub-paragraph (3) or sub-paragraph (7) 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 [^{F41}one tenth of the statutory maximum] [^{F41}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.

[^{F42}(8A) Where, in a case in which sub-paragraph (7C) is relied on for compliance with a requirement under sub-paragraph (3) or (7)—

- (a) a notice or a statement is published for a part, but not all, of the period mentioned in sub-paragraph (7C)(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 (8) by reason of that failure.]

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Textual Amendments

- F35** Words in Sch. 11 para. 7(3)(a) 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\(6\)\(a\)](#) (with Sch. 12)
- F36** Words in Sch. 11 para. 7(4) 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\(6\)\(b\)](#) (with Sch. 12)
- F37** Words in Sch. 11 para. 7(6) 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\(6\)\(b\)](#) (with Sch. 12)
- F38** Words in Sch. 11 para. 7(7) 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\(6\)\(b\)](#) (with Sch. 12)
- F39** Sch. 11 para. 7(7A)-(7C) inserted (20.3.2003) by [The Building Societies Act 1986 \(Electronic Communications\) Order 2003 \(S.I. 2003/404\)](#), arts. 1(1), [23\(2\)](#)
- F40** Words in Sch. 11 para. 7(7C)(c) substituted (18.2.2014) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#), s. 148(2), [Sch. 9 para. 14\(3\)](#)
- F41** Words in Sch. 11 para. 7(8)(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\(b\)](#) (with reg. 5(1))
- F42** Sch. 11 para. 7(8A) inserted (20.3.2003) by [The Building Societies Act 1986 \(Electronic Communications\) Order 2003 \(S.I. 2003/404\)](#), arts. 1(1), [23\(3\)](#)

- 8 (1) Where an auditor's notice of resignation contains a statement under paragraph 7(2)(b) above he may also deposit at the principal office of the society a requisition signed by him calling on the directors of the society forthwith duly to convene a special general meeting of the society for the purpose of receiving and considering such explanation of the circumstances connected with this resignation as he may wish to place before the meeting.
- (2) Where an auditor's notice of resignation contains such a statement the auditor may request the society to send to its members—
- (a) before the general meeting at which his term of office would otherwise expire or expires, as the case may be; or
 - (b) before any general meeting at which it is proposed to fill the vacancy caused by his resignation,
- a statement in writing (not exceeding a reasonable length) of the circumstances connected with his resignation.
- (3) The society shall in that case (unless the statement is received by it too late for it to comply)—
- (a) in any notice of the meeting given to members state the fact of the statement having been made, and
 - (b) send a copy of the statement to every member to whom notice of the meeting is or has been sent.
- [^{F43}(3A) Where a copy of a statement is required to be sent to a member under sub-paragraph (3)(b)—
- (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 (3B) are satisfied.
- (3B) The conditions of this sub-paragraph are satisfied in the case of a copy of a statement if—

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- (a) the society and the member have agreed that information which is required to be sent to him may instead be accessed by him on a web site;
 - (b) the agreement applies to the statement in question;
 - (c) that member is notified ^{F44}... of—
 - (i) the publication of the statement on a web site,
 - (ii) the address of that web site, and
 - (iii) the place on that web site where the notice may be accessed, and how it may be accessed; and
 - (d) the statement is published continuously on that web site throughout the period beginning with the giving of that notification and ending with the conclusion of the meeting.
- (3C) Where, in a case in which sub-paragraph (3A)(b) is relied on for compliance with a requirement under sub-paragraph (3)(b)—
 - (a) a statement is published for a part, but not all, of the period mentioned in subparagraph (3B)(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,

that failure shall not invalidate the proceedings of the meeting.]
- (4) If the directors of the society do not within 21 days from the date of the deposit of a requisition under this paragraph proceed duly to convene a meeting for a day not more than 28 days after the date on which the notice convening the meeting is given, every director who failed to take all reasonable steps to secure that a meeting was so convened shall be liable—
 - (a) on conviction on indictment to a fine; or
 - (b) on summary conviction to a fine not exceeding the statutory maximum.
- (5) If a copy of the statement mentioned in sub-paragraph (2) is not sent out as required by sub-paragraph (3) 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 statement be read out at the meeting.
- (6) Copies of a statement need not be sent out and the statement need not be read out at the meeting if—
 - (a) on an application made to the High Court by the society or a person aggrieved, the court is satisfied that the rights conferred by this paragraph are being abused to secure needless publicity for defamatory matter; or
 - (b) on an application to the [^{F45}PRA] by the society or a person aggrieved, the [^{F45}PRA] is satisfied that the circulating or reading out of the statement would be likely to diminish substantially the confidence in the society of investing members of the public.
- (7) If the High Court makes an order under sub-paragraph (6)(a) above it may also order the society's costs of the application to be paid by the auditor notwithstanding that he is not a party to the application.
- (8) An auditor who has resigned his office is entitled to attend any such meeting as is mentioned in sub-paragraph (2)(a) or (b) and to receive all notices of, and other communications relating to, any such meeting which any member of the society is

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entitled to receive, and to be heard at any such meeting which he attends on any part of the business of the meeting which concerns him as former auditor of the society.

Textual Amendments

- F43** Sch. 11 para. 8(3A)-(3C) inserted (20.3.2003) by [The Building Societies Act 1986 \(Electronic Communications\) Order 2003 \(S.I. 2003/404\)](#), arts. 1(1), **24**
- F44** Words in Sch. 11 para. 8(3B)(c) omitted (18.2.2014) by virtue of [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#), s. 148(2), **Sch. 9 para. 14(4)**
- F45** Word in Sch. 11 para. 8(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(7)** (with Sch. 12)

^{F46}Duty of auditor to notify appropriate audit authority

Textual Amendments

- F46** Sch. 11 paras. 8A-8C and cross-headings inserted (29.6.2008) by [The Building Societies Act 1986 \(Accounts, Audit and EEA State Amendments\) Order 2008 \(S.I. 2008/1519\)](#), arts. 1(2), **6(2)**

- 8A. (1) Where an auditor of a building society ceases for any reason to hold office, he must notify the appropriate audit authority.
- (2) The notice must—
- (a) inform the appropriate audit authority that he has ceased to hold office, and
 - (b) if the auditor resigns, be accompanied by a copy of the auditor's notice of resignation.
- (3) The notice required by this paragraph must also be accompanied by a statement of the reasons for his ceasing to hold office unless—
- (a) the auditor resigns, and
 - (b) the notice of resignation contains a statement under paragraph 7(2)(b).
- (4) The auditor must comply with this paragraph—
- (a) if the auditor resigns, at the same time as he deposits his notice of resignation at the principal office of the building society;
 - (b) in any other case, not later than the end of the period of fourteen days beginning with the date on which he ceases to hold office.
- (5) A person ceasing to hold office as auditor who fails to comply with this paragraph commits an offence.
- (6) If that person is a firm an offence is committed by—
- (a) the firm, and
 - (b) every officer of the firm who is in default.
- (7) A person guilty of an offence under this paragraph is liable—
- (a) on conviction on indictment, to a fine;
 - (b) on summary conviction, to a fine not exceeding the statutory maximum.

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Duty of building society to notify appropriate audit authority

- 8B. (1) Where an auditor ceases to hold office before the end of his term of office, the building society must notify the appropriate audit authority.
- (2) The notice must—
- (a) inform the appropriate audit authority that the auditor has ceased to hold office, and
 - (b) be accompanied by—
 - (i) a statement by the society of the reasons for his ceasing to hold office, or
 - (ii) if the auditor resigns, and his notice of resignation contains a statement under paragraph 7(2)(b), a copy of that statement.
- (3) The society must give notice under this paragraph—
- (a) if the auditor resigns, not later than the end of the period of fourteen days beginning with the date on which the auditor's notice of resignation is deposited at the society's principal office;
 - (b) in any other case, not later than the end of the period of fourteen days beginning with the date on which the auditor ceases to hold office.
- (4) If a building society fails to comply with this paragraph, an offence is committed by—
- (a) the society, and
 - (b) every officer of the society who is in default.
- (5) A person guilty of an offence under this paragraph is liable—
- (a) on conviction on indictment, to a fine, and
 - (b) on summary conviction, to a fine not exceeding the statutory maximum.

[^{F47}Interpretation]

Textual Amendments

F47 Sch. 11 para. 8C heading substituted (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(f)** (with [reg. 1\(6\)](#))

^{F48}^{F49} [18C(1)] In this Schedule—

“appropriate audit authority” means—

- (a) the Secretary of State, or
- (b) if the Secretary of State has delegated functions under section 1252 of the Companies Act 2006 ^{F50} to a body whose functions include receiving the equivalent notice under section 522 ^{F51} or 523 ^{F52} of that Act, that body;

^{F53}“audit committee” means a body which performs—

- (a) the functions referred to in—
 - (i) rule 7.1.3 of the Disclosure Guidance and Transparency Rules sourcebook made by the Financial Conduct Authority under the Financial Services and Markets Act 2000; or

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(ii) rule 2.4 of the Audit Committee Part of the Rulebook made by the Prudential Regulation Authority under that Act; or

(b) equivalent functions;]

“Audit Regulation” means Regulation 537/2014 of the European Parliament and of the Council on specific requirements regarding statutory audit of public interest entities and repealing Commission Decision 2005/989/EC; and

“competent authority” means the Financial Reporting Council Limited^{F54}.

[^{F55}(1A) For the purposes of the definition of “audit committee”, references to rules made by the Prudential Regulation Authority or the Financial Conduct Authority are to those rules as they have effect on IP completion day.]

[^{F56}(2) For the purposes of this Schedule, a person is auditor of a building society in respect of a financial year if the auditor is required to report on the accounts of the society for that financial year.]]]

Textual Amendments

- F48** Sch. 11 para. 8C substituted (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(g)** (with reg. 1(6))
- F49** Sch. 11 para. 8C renumbered as Sch. 11 para. 8C(1) (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)(f)(i)**
- F50** 2006 c. 46.
- F51** Section 522 was amended by [S.I. 2015/1732](#).
- F52** Section 523 was amended by section 18 of the Deregulation Act 2015.
- F53** Words in Sch. 11 para. 8C(1) substituted (31.12.2020) by [The Building Societies Legislation \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1187\)](#), regs. 1, **7(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F54** A company registered in England and Wales with number 02486368.
- F55** Sch. 11 para. 8C(1A) inserted (31.12.2020) by [The Building Societies Legislation \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1187\)](#), regs. 1, **7(b)** (as amended by [S.I. 2020/1301](#), regs. 1, 3, **Sch. para. 4(c)**); 2020 c. 1, Sch. 5 para. 1(1)
- F56** Sch. 11 para. 8C(2) 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)(f)(ii)**

9 In the application of this Schedule to Scotland, references to the High Court shall be read as references to the Court of Session.

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Changes and effects yet to be applied to :

- Sch. 11 para. 5 omitted by [S.I. 2008/948 Sch. 1 para. 14\(b\)](#)

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](#)