

Status: Point in time view as at 31/12/1997.

Changes to legislation: Building Societies Act 1986, Part I is up to date with all changes known to be in force on or before 14 June 2024. 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)

SCHEDULES

SCHEDULE 2

ESTABLISHMENT, INCORPORATION AND CONSTITUTION OF BUILDING SOCIETIES

Modifications etc. (not altering text)

C1 Sch. 2 modified (3.1.1995) by 1994 c. 40, ss. 17(3), 82(2)

PART I

GENERAL

Requirements for establishment

- 1 (1) Any ten or more persons may establish a society under this Act by taking the following steps—
 - (a) agreeing upon the purpose or principal purpose of the society and upon the extent of its powers in a memorandum the provisions of which comply with the requirements of this Part of this Schedule;
 - (b) agreeing upon rules for the regulation of the society which comply with the requirements of this Part of this Schedule;
 - (c) sending to the central office four copies of the memorandum and the rules, each copy signed by at least ten of those persons (or, if there are only ten, by all of them) and by the intended secretary.
- (2) Where copies of the memorandum and rules are sent to the central office in accordance with sub-paragraph (1)(c) above, the central office, if satisfied that—
 - (a) the provisions of the memorandum are in conformity with this Act and any instruments under it,
 - (b) the rules are in conformity with this Act,
 - (c) the intended name of the society is not, in its opinion, undesirable,shall register the society and issue it with a certificate of incorporation.
- (3) On registering a building society under sub-paragraph (2) above, the central office shall—
 - (a) retain and register one copy of the memorandum and of the rules,
 - (b) return another copy to the secretary of the society, together with a certificate of registration, and
 - (c) keep another copy, together with a copy of the certificate of incorporation, and of the certificate of registration of the memorandum and the rules, in the public file of the society.

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- [^{F1}(4) In this Act “memorandum”, in relation to a building society, means the memorandum of the purpose and the extent of the powers of the society including the record of any alteration under paragraph 4 below.]

Textual Amendments

- F1** Sch. 2 Pt. I 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. 56(2)**; S.I. 1997/2668, art. 2, **Sch. Pt. II(w)(z)(xxxiii)**

The memorandum

- 2 [^{F2}(1) The memorandum of a building society shall state the purpose or principal purpose of the society to be that of making loans which are secured on residential property and are funded substantially by its members.
- (2) The memorandum of a building society shall specify—
- (a) the name of the society and the address of its principal office;
 - (b) any purposes of the society other than that mentioned in sub-paragraph (1) above; and
 - (c) the powers of the society.]
- (4) The provisions of the memorandum of a building society, as read with the provisions of this Act as in force for the time being, are binding upon—
- (a) each of the members and officers of the society; and
 - (b) all persons claiming on account of a member or under the rules;
- and all such members, officers and persons so claiming and all persons dealing with the society shall be taken to have notice of those provisions.
- [^{F3}(5) Where any adoptable power conferred by virtue of an instrument under a provision of this Act ceases, by reason of the amendment or revocation of the instrument, to be available to building societies or building societies of any description, every society affected by the amendment or revocation shall annex to its memorandum a note of the fact that, as from the operative date of the instrument, it no longer has that power and shall send a copy of the note to the central office which shall keep the copy in the public file of the society.]

Textual Amendments

- F2** Sch. 2 Pt. I para. 2(1)(2) substituted for Sch. 2 Pt. I para. 2(1)-(3) (1.12.1997 in specified cases and for specified purposes and otherwise) by 1997 c. 32, ss. 43, 47(3), **Sch. 7 para. 56(3)**; S.I. 1997/2668, art. 2, **Sch. Pt. II(w)(z)(xxxiii)**
- F3** Sch. 2 Pt. I para. 2(5) repealed (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, 46(3), 47(3), **Sch. 7 para. 56(4)**, **Sch. 9**; S.I. 1997/2668, art. 2, **Sch. Pt. II(w)(y)(z)(xxxiii)(cc)(xviii)**

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The rules

- 3 (1) The rules of a building society shall provide for the matters specified in the Table in sub-paragraph (4) below.
- (2) The rules of a building society are binding upon each of the members and officers of the society and on all persons claiming on account of a member or under the rules; and all such members, officers and persons (but no others) shall be taken to have notice of the rules.
- (3) Nothing in this paragraph shall be taken to authorise any provision to be made which is inconsistent with this Act or an instrument made under it by the Commission or the Treasury or to affect the operation of any provision of this Act making rules void to any specified extent.

- (4) The Table referred to in sub-paragraph (1) above is as follows:—

TABLE OF MATTERS TO BE COVERED BY THE RULES

1. The name of the society and the address of its principal Office.
2. The manner in which the [^{F4}funds of the society are] to be raised.
3. The manner in which the terms are to be determined on which shares are to be issued and the manner in which shareholders are to be informed of changes in the terms on which their shares are held.
4. Whether any preferential or deferred shares are to be issued and, if so, within what limits.
5. The manner in which [^{F5}loans] are to be made and repaid, and the conditions on which a borrower may redeem the amount due from him before the end of the period for which the [loan] was made.
6. The manner in which losses are to be ascertained and provided for.
7. The manner in which membership is to cease.
8. The manner of remunerating the auditors.
9. As respects directors— (a) the manner of electing them and whether they may be co-opted; (b) any conditions which must be satisfied with respect to the holding of shares in the society if a person is to become, or is to remain, a director; (c) the manner of remunerating and, where it is not to be fixed by resolution at the annual general meeting, the maximum amount of the remuneration to be paid to, directors; and (d) the circumstances in which pensions may be awarded to persons by virtue of their office as director and the method of determining the terms of such pensions.
10. The powers and duties of the board of directors.
11. The custody of the mortgage deeds and other securities belonging to the society.
12. The form, custody and use of the society's common seal.
13. The calling and holding of meetings and, in particular— (a) the right of members to requisition meetings; (b) the right of members to move resolutions at meetings; (c) the manner in which notice of any resolutions to be moved at meetings is to be given

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to members; (d) the procedure to be observed at meetings; (e) the form of notice for the convening of a meeting and the manner of its service; (f) the voting rights of members, the right to demand a poll and the manner in which a poll is to be taken.

14. The entitlement of members to participate in the distribution of any surplus assets after payments to creditors, on the winding up, or dissolution by consent, of the society.

Textual Amendments

- F4** Words in **Sch. 2 Pt. I para. 3(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. 56(5)(a)**; S.I. 1997/2668, art. 2, **Sch. Pt. II(w)(z)(xxxiii)**
- F5** Words in **Sch. 2 Pt. I para. 3(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. 56(5)(b)**; S.I. 1997/2668, art. 2, **Sch. Pt. II(w)(z)(xxxiii)**

Requirements for alteration of purpose, powers and rules

- 4 [F⁶(1) A building society may by special resolution alter its purposes, alter its powers or alter its rules.]
- (2) Where a building society alters its purpose or powers or its rules under this paragraph, it shall send to the central office—
- (a) three copies of a record of the alteration signed by the secretary; and
 - (b) a statutory declaration by the secretary that the alteration was effected by a resolution passed as a special resolution and that the record is a true record of the resolution.
- (3) On altering its purpose or powers or its rules under this paragraph the building society shall determine the date on which it intends the alteration to take effect; and the record of the alteration shall specify that date (in this paragraph referred to as “the specified date”).
- (4) Where copies of a record of an alteration of a building society’s purpose, powers or rules are sent to the central office under sub-paragraph (2) above and the central office is satisfied that the alteration is in conformity with this Act and (where applicable) any instruments under it, the central office shall, [F⁷subject to paragraph 19] below—
- (a) retain and register one of the copies,
 - (b) return another to the secretary of the society together with a certificate of registration of the alteration, and
 - (c) keep another copy, together with a copy of the certificate of registration of the alteration, in the public file of the society.
- (5) An alteration of the purpose or powers or of the rules of a building society under this paragraph shall take effect on the specified date or, if registration of the alteration is not effected under sub-paragraph (4) above until a later date, that later date.
- (6) Any provision in the rules of a building society that the memorandum or rules may be altered without passing a special resolution shall be void.

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- (7) If a building society arranges for the publication in consolidated form of its rules or memorandum as altered for the time being, it shall send a copy to the central office and the central office—
- (a) shall keep the copy in the public file of the society, but
 - (b) shall not register the copy.
- (8) If a building society fails to comply with sub-paragraph (2) above, the society shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale and so shall any officer who is also guilty of the offence.

Textual Amendments

- F6** Sch. 2 Pt. I 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. 56(6)**; S.I. 1997/2668, art. 2, **Sch. Pt. II(w)(z)(xxxiii)**
- F7** Words in Sch. 2 Pt. I para. 4(4) repealed (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, 46(3), 47(3), Sch. 7 para. 56(7), **Sch. 9**; S.I. 1997/2668, art. 2, **Sch. Pt. II(w)(y)(z)(xxxiii)(cc)(xviii)**

Modifications etc. (not altering text)

- C1** Sch. 2 para. 4(1)(3) modified (3.1.1995) by 1994 c. 40, ss. 17(2), 82(2)

Membership

- 5 ^{F8}(1) The rules of a building society shall provide that no person shall be a member of the society unless he is a shareholding member or a borrowing member or both.
- (2) In this Act, in relation to a building society—
- “borrowing member” means, subject to sub-paragraphs (2A) and (2B) and paragraph 29(2) below, an individual who is indebted to the society—
 - (a) in respect of a loan which is fully secured on land; or
 - (b) if the rules of the society so provide, in respect of a loan which is (within the meaning of the rules) substantially secured on land;
 - “shareholding member” means a person who holds a share in the society.
- (2A) If the rules of a building society so provide, an individual shall cease to be a borrowing member at any time if at that time the society—
- (a) takes possession of, or exercises its power of sale in relation to, the whole or any part of the land on which the loan is secured; or
 - (b) obtains an order for foreclosure absolute or, in Scotland, foreclosure in respect of the whole or any part of that land.
- (2B) Unless the rules of a building society so provide, an individual shall not be a borrowing member at any time if at that time the loan is owed to the society in equity rather than at law.]
- (3) A person who is a minor—
- (a) may, if the rules do not otherwise provide, be admitted as a member of a building society and give all necessary receipts; but
 - (b) may not ^{F9}propose a resolution,]vote or hold any office in the society; and

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- (c) may not ^{F10}join in requisitioning a special meeting or]nominate, or join in nominating, a person for election as a director of the society.

Textual Amendments

- F8** Sch. 2 Pt. I para. 5(1)-(2B) substituted for Sch. 2 para. 5(1)(2) (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. 2(1), 47(3)** (with s. 46(1), Sch. 8 paras. 4, 5); S.I. 1997/2668, art. 2, **Sch. Pt. II(b)(aa)(i)(ii)**
- F9** Words in Sch. 2 Pt. I para. 5(3)(b) 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. 2(2)(a), 47(3)** (with s. 46(1), Sch. 8 paras. 4, 5); S.I. 1997/2668, art. 2, **Sch. Pt. II(b)(aa)(i)(ii)**
- F10** Words in Sch. 2 Pt. I para. 5(3)(c) 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. 2(2)(b), 47(3)** (with s. 46(1), Sch. 8 paras. 4, 5); S.I. 1997/2668, art. 2, **Sch. Pt. II(b)(aa)(i)(ii)**

Liability of members

- ^{F116} (1) The liability at any time of a shareholding member of a building society shall be limited to the amount which, at that time, has been actually paid, or is in arrear, on his shares in the society.
- (2) The liability at any time of a borrowing member of a building society shall be limited to the amount which, at that time, is payable under the mortgage or other security by which his indebtedness to the society in respect of the loan is secured.]

Textual Amendments

- F11** Sch. 2 Pt. I para. 6 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. 2(3), 47(3)** (with s. 46(1), Sch. 8 paras. 4, 5); S.I. 1997/2668, art. 2, **Sch. Pt. II(b)(aa)(i)(ii)**

Joint shareholders

- 7 (1) Two or more persons may jointly hold shares in a building society and the following provisions of this paragraph shall apply to any shares so held.
- (2) In this paragraph, in relation to any shares jointly held, “representative joint holder” means that one of the joint holders who is named first in the records of the society.
- (3) Except where the rules of the society otherwise provide, any notice or other document may be given or sent by the society to the joint holders by being given or sent to the representative joint holder; but this sub-paragraph shall not prevent any of the joint holders from exercising the rights under this Act of a member of a building society to obtain from the society on demand a copy of the summary financial statement, the annual accounts and the annual business statement.
- (4) For the purpose of determining—
- (a) who is entitled to vote in an election of directors of the society;
 - (b) who is qualified to vote on a resolution of the society, and
 - (c) where it is relevant, the number of votes a person may then give,

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the shares shall be treated as held by the representative joint holder alone; and accordingly a person who is a member of the society by reason only of being a joint holder of those shares (other than the representative joint holder) shall not be entitled to vote in any such election or qualified to vote on any such resolution.

(5) For the purposes of sections 87 and 93 to 102 the shares shall be treated as held by the representative joint holder alone; and accordingly a person who is a member of the society by reason only of being a joint holder of those shares (other than the representative joint holder) shall not be regarded as a member of the society for the purposes of those sections.

[^{F12}(5A) In its application to section 100, sub-paragraph (5) above shall have effect subject to the provisions of section 102A.]

(6) The representative joint holder (but none of the other joint holders) shall have the right to join in making an application under section 56 and any reference in that section to the total membership of a building society shall be construed accordingly.

(7) In the register to be maintained under paragraph 13 below the entry of that one of the joint holders who is the representative joint holder shall indicate that fact.

(8) The joint holders shall be entitled to choose the order in which they are named in the records of the society.

Textual Amendments

F12 Sch. 2 para. 7(5A) inserted (1.5.1995 with application as mentioned in s. 2(2) of the amending Act) by 1995 c. 5, s. 1(2)

Joint borrowers

8 (1) Where [^{F13}a loan] secured on land is made by a building society to two or more persons jointly the following provisions of this paragraph shall apply to their rights as borrowing members of the society.

(2) In this paragraph, in relation to any rights of theirs as borrowing members, “representative joint borrowers” means that one of the joint borrowers who is named first in the records of the society.

(3) Except where the rules of the society otherwise provide, any notice or other document may be given or sent by the society to the joint borrowers by being given or sent to the representative joint borrowers; but this sub-paragraph shall not prevent any of the joint borrowers from exercising the rights under this Act of a borrowing member of a building society to obtain from the society on demand a copy of the summary financial statement, the annual accounts and the annual business statement.

(4) For the purpose of determining—

- (a) who is entitled to vote in any election of directors of the society, and
- (b) who is qualified to vote on a resolution of the society,

the rights of the joint borrowers as borrowing members of the society shall be treated as the rights of the representative joint borrower alone; and accordingly a person who is a member of the society by reason only of being a joint borrower (other than the

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representative joint borrower) shall not be entitled to vote in any such election or qualified to vote on any such resolution.

- (5) For the purposes of sections 87 and 93 to 102 the rights of the joint borrowers as borrowing members of the society shall be treated as the rights of the representative joint borrower alone; and accordingly a person who is a member of the society by reason only of being a joint borrower (other than the representative joint borrower) shall not be regarded as a borrowing member of the society for the purposes of those sections.
- (6) The representative joint borrower (but none of the other joint borrowers) shall have the right to join in making an application under section 56 and any reference in that section to the total membership of a building society shall be construed accordingly.
- (7) In the register to be maintained under paragraph 13 below the entry of that one of the joint borrowers who is the representative joint borrower shall indicate that fact.
- (8) The joint borrowers shall be entitled to choose the order in which they are named in the records of the society.

Textual Amendments

F13 Words in Sch. 2 para. 8(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. 56(8)**; S.I. 1997/2668, art. 2, **Sch. Pt. II(w)(z)(xxxiii)**

Use and change of name

- 9 (1) The common seal of a building society shall bear the registered name of the society.
- [^{F14}(2) Every building society shall paint or affix, and keep painted or affixed, its registered name on the outside of every office or place in which its business is carried on, in a conspicuous position and in letters easily legible.
- (2A) Every building society shall state its registered name in legible characters in all of the following documents, namely—
 - (a) its business letters;
 - (b) its account statements, including those relating to deposit, share, loan or mortgage accounts;
 - (c) its passbooks;
 - (d) its notices and publications, including all documents sent to members;
 - (e) its invoices and receipts;
 - (f) its letters of credit and any instruments creating or acknowledging its indebtedness;
 - (g) its contracts, agreements, mortgages and deeds; and
 - (h) its bills of exchange, promissory notes, endorsements, cheques and orders for money or goods.]
 - (3) A building society may change its name by special resolution.
 - (4) Where a society changes its name in accordance with this paragraph notice of the change of name shall be sent to the central office and, unless the central office is of

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the opinion that the changed name is undesirable, the central office shall register the notice of the change of name and give the society a certificate of registration.

- (5) A change of name shall take effect on the date on which the certificate of registration under sub-paragraph (4) above is issued or on such later date as may be specified in the certificate.
- (6) The central office shall keep a copy of the certificate of registration issued under sub-paragraph (4) above in the public file of the society.
- (7) A change of name shall not affect the rights and obligations of the society or of any of its members or of any other person concerned.
- [^{F15}(8) For the purposes of this paragraph and paragraphs 10 to 10C below “registered name”, in relation to a building society, means the name of the society which is for the time being registered with the central office.]

Textual Amendments

- F14** Sch. 2 Pt. I para. 9(2)(2A) substituted for Sch. 2 para. 9(2) (1.12.1997) by 1997 c. 32, s. 36(1); S.I. 1997/2668, art. 2, Sch. Pt. I(h)
- F15** Sch. 2 Pt. I para. 9(8) inserted (1.12.1997) by 1997 c. 32, s. 36(2); S.I. 1997/2668, art. 2, Sch. Pt. I(h)

Offences relating to society's name

- [^{F16}10 (1) If a building society does not—
- (a) paint or affix its registered name; or
 - (b) keep its registered name painted or affixed,
- as required by paragraph 9(2) above, the society shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (2) A building society which, without reasonable excuse, does not comply with paragraph 9(2A) above shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
 - (3) If an officer of a building society or a person on its behalf issues or authorises the issue of any document mentioned in paragraph 9(2A)(a) to (g) above, in which the society's registered name is not stated as required by that paragraph, he shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
 - (4) If an officer of a building society or a person on its behalf signs or authorises to be signed on behalf of the building society any document mentioned in paragraph 9(2A)(h) above in which the society's registered name is not stated as required by that paragraph—
 - (a) he shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale; and
 - (b) he shall be further personally liable to the holder of the bill of exchange, promissory note, cheque or order for money or goods for the amount of it (unless it is duly paid by the building society).
 - (5) If a building society fails to send to the central office a notice which it is required to send to it under paragraph 9(4) above, the society shall be liable on summary

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conviction to a fine not exceeding level 3 on the standard scale and so shall any officer who is also guilty of the offence.]

Textual Amendments

F16 Sch. 2 Pt. I para. 10 substituted (1.12.1997) by 1997 c. 32, s. 36(3); S.I. 1997/2668, art. 2, Sch. Pt. I(h)

[^{F17}Restrictions on business names]

Textual Amendments

F17 Cross-heading inserted (1.12.1997) by 1997 c. 32, s. 36(4); S.I. 1997/2668, art. 2, Sch. Pt. I(h)

^{F18}10A(1) This paragraph and paragraph 10B below apply where a building society carries on business under a name other than the following, namely—

- (a) its registered name;
 - (b) its registered name with the omission of the words “Building Society”; and
 - (c) its registered name with an addition which merely indicates that the business is carried on in succession to a former building society with which it has merged.
- (2) The society shall not, without the written approval of the Commission, carry on business under a name which—
- (a) would be likely to give the impression that the business is connected with Her Majesty’s Government or with any local authority, or
 - (b) includes any word or expression for the time being specified in regulations made under sub-paragraph (3) below.
- (3) The Commission may, with the consent of the Treasury, by regulations—
- (a) specify words or expressions for the use of which as or as part of a business name the approval of the Commission is required by sub-paragraph (2) above, and
 - (b) in relation to any such word or expression, specify a Government department or other body for the purposes of sub-paragraph (4) below.
- (4) Where the society proposes to carry on business under a name which is or includes any such word or expression, and a government department or other body is specified under sub-paragraph (3)(b) above in relation to that word or expression, the society shall—
- (a) request (in writing) the relevant body to indicate whether (and if so why) it has any objections to the proposal, and
 - (b) submit to the Commission a statement that such a request has been made and a copy of any response received from the relevant body.
- (5) For the purposes of this paragraph “local authority” means—
- (a) any local authority within the meaning of the ^{M1}Local Government Act 1972, the Common Council of the City of London or the Council of the Isles of Scilly;

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- (b) any local authority within the meaning of the ^{M2}Local Government etc. (Scotland) Act 1994;
- (c) any district council within the meaning of the ^{M3}Local Government Act (Northern Ireland) 1972.]

Textual Amendments

F18 Sch. 2 Pt. I paras. 10A-10C inserted (1.12.1997) by 1997 c. 32, s. 36(4); S.I. 1997/2668, art. 2, Sch. Pt. I(h)

Marginal Citations

M1 1972 c.70.
M2 1994 c.39.
M3 1972 c.9 (N.I.).

[^{F19}Use of business names: required disclosure]

Textual Amendments

F19 Cross-heading inserted (1.12.1997) by 1997 c. 32, s. 36(4); S.I. 1997/2668, art. 2, Sch. Pt. I(h)

- [^{F20}10~~B~~1) Paragraph 9(2A) above shall have effect as if after the words “in legible characters” there were inserted the words “which are reasonably prominent”.
- (2) The society shall in all documents mentioned in paragraph 9(2A) above state in legible characters an address in the United Kingdom at which service of any document relating in any way to the business will be effective.
 - (3) The society shall also in any premises where the business is carried on and to which the members of the society, the customers of the business or suppliers of any goods or services to the business have access, display in a prominent position so that it may easily be read by such persons a notice containing the society’s registered name and the address mentioned in sub-paragraph (2) above.
 - (4) The society shall secure that the registered name and the address mentioned in sub-paragraph (2) above is immediately given, by written notice, to any person with whom anything is done or discussed in the course of the business and who asks for the registered name or the address.
 - (5) The Commission may, with the consent of the Treasury, by regulations require a notice under sub-paragraph (3) or (4) above to be displayed or given in a specified form.]

Textual Amendments

F20 Sch. 2 Pt. I paras. 10A-10C inserted (1.12.1997) by 1997 c. 32, s. 36(4); S.I. 1997/2668, art. 2, Sch. Pt. I(h)

Status: Point in time view as at 31/12/1997.

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[^{F21}Use of business names: supplementary]

Textual Amendments

F21 Cross-heading inserted (1.12.1997) by 1997 c. 32, s. 36(4); S.I. 1997/2668, art. 2, Sch. Pt. I(h)

^{F22}10(1) A building society which contravenes paragraph 10A(2) above shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

- (2) A building society which, without reasonable excuse, does not comply with paragraph 9(2A) or 10B(2), (3) or (4) above, or any regulations made under paragraph 10B(5) above, shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (3) Where paragraph 10A above applies any legal proceedings brought by the society to enforce a right arising out of a contract made in the course of the business in respect of which the society was, at the time the contract was made, in breach of paragraph 9(2A) or 10B(2), (3) or (4) above shall be dismissed if the defendant (or, in Scotland, the defender) to the proceedings shows—
- (a) that he has a claim against the plaintiff (pursuer) arising out of that contract which he has been unable to pursue by reason of the plaintiff's (pursuer's) breach of paragraph 9(2A) or 10B(2), (3) or (4) above, or
- (b) that he has suffered some financial loss in connection with the contract by reason of the latter's breach of paragraph 9(2A) or 10B(2), (3) or (4) above, unless the court before which the proceedings are brought is satisfied that it is just and equitable to let the proceedings continue.
- (4) Sub-paragraph (3) above is without prejudice to the right of any person to enforce such rights as he may have against another person in any proceedings brought by that person.
- (5) Regulations made under paragraph 10A(3) or 10B(5) above shall be made by statutory instrument subject to annulment by resolution of either House of Parliament.
- (6) Such regulations may contain such transitional provisions and savings as the Commission thinks fit, and may make different provision for different cases or classes of case.]

Textual Amendments

F22 Sch. 2 Pt. I paras. 10A-10C inserted (1.12.1997) by 1997 c. 32, s. 36(4); S.I. 1997/2668, art. 2, Sch. Pt. I(h)

Change of principal office

- 11 (1) A building society may change its principal office—
- (a) in such manner as its rules direct, or
- (b) if there is no such direction in the rules, [^{F23}by an ordinary resolution].

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- (2) Notice of any such change and of the date of it shall, within seven days after the change, be sent to the central office and the central office shall keep the notice in the public file of the society.
- (3) It is not necessary to alter the memorandum or rules of a building society by reason only that its principal office is changed.
- (4) If a building society fails to send to the central office a notice which it is required to send to it under sub-paragraph (2) above, the society shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale and so shall any officer who is also guilty of the offence.

Textual Amendments

F23 Words in Sch. 2 Pt. I para. 11(1)(b) substituted (9.6.1997) by 1997 c. 32, s. 43, Sch. 7 para. 56(9); S.I. 1997/1427, art. 2(k)(n)(xv)

Societies to supply copies of rules etc.

- 12 (1) A building society shall, on demand, give a copy of its statutory documents—
 - (a) free of charge, to any member of the society to whom a copy of those documents has not previously been given, and
 - (b) to any other person, upon payment of such fee as the society may require, not exceeding the prescribed amount.
- (2) The reference in sub-paragraph (1) above to a copy of a building society's statutory documents is a reference to—
 - (a) a printed copy of the society's rules for the time being, with a copy of the certificate of incorporation of the society annexed to it, and
 - (b) a printed copy of the memorandum of the society for the time being.
- (3) If a building society fails to comply with the requirements of sub-paragraph (1) above, the society shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale and so shall any officer who is also guilty of the offence.
- (4) In sub-paragraph (1) above the "prescribed amount" means £1 or such other amount as the Commission prescribes by order made by statutory instrument.

Register of members

- 13 ^[F24](1) Every building society shall maintain a register of members showing—
 - (a) the name and address of each member; and
 - (b) whether each member is a shareholding member or a borrowing member or both.]
- (2) The register shall be kept at the principal office or at such other place or places as the directors think fit.
- (3) If a building society contravenes sub-paragraph (1) above, the society shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale and so shall any officer who is also guilty of the offence.

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- (4) For the purposes of this Act “registered address” in relation to a member of a building society, means—
- (a) the address shown in the register maintained under this paragraph, except in a case where paragraph (b) below applies;
 - (b) where the member has requested that communications from the society be sent to some other address, that other address.

Textual Amendments

F24 Sch. 2 Pt. I para. 13(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. 56(10)**; S.I. 1997/2668, art. 2, **Sch. Pt. II(w)(z)(xxxiii)**

Exception to duties to send documents

- 14 (1) A building society is not obliged by any provision of this Act or its rules to send a notice or other document to a member in whose case the society has reason to believe that communications sent to him at his registered address are unlikely to be received by him.
- (2) Where the requirement relates to notice of a meeting or postal ballot of the society, the society must, instead, comply with the advertising requirements of paragraph 35 below.

Right of members to obtain particulars from the register

- 15 ^{F25}(1) At any time when a building society—
- (a) has had its authorisation revoked under section 43; and
 - (b) has not been re-authorised under section 44,
- a member of the society shall, subject to sub-paragraph (1A) below, have the right to obtain, from the register kept under paragraph 13 above, the names and addresses of members of the society, for the purpose of communicating with them on a subject relating to the affairs of the society.
- (1A) Sub-paragraph (1) above shall not apply unless the member in question—
- (a) is qualified under the rules of the society to join in a members’ requisition for a special meeting, or to join in nominating a person for election as a director; or
 - (b) would be so qualified if any requirements as to length of time a person must have been a shareholding or borrowing member were omitted.
- (2) If, at any time not falling within sub-paragraph (1) above, a member of a building society who is qualified under the rules of the society to join in a members’ requisition for a special meeting, or to join in nominating a person for election as a director, makes a written application to the Commission for the right to obtain names and addresses from the register, the Commission—
- (a) if satisfied that the applicant—
 - (i) requires that right for the purpose of communicating with members of the society on a subject relating to its affairs; and

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- (ii) has not, since making the application, voluntarily ceased to be a member of the society; and
 - (b) having regard to the interests of the members as a whole and to all the other circumstances; and
 - (c) on payment by the applicant of a fee of £25 or such other amount as may be prescribed,
- may direct that the applicant shall have the right to obtain from the register the names and addresses of the members for the purpose of communicating with them on that subject.]
- (3) Any direction under sub-paragraph (2) above may be given subject to such limitations or conditions as the Commission may think fit.
 - (4) Before giving a direction under sub-paragraph (2) above, the Commission shall give particulars of the application to the building society and shall afford the society an opportunity of making representations with respect to the application; and the Commission shall, if the applicant or the society so requests, afford to the applicant and to the society an opportunity of being heard by it.
 - (5) A member entitled under this paragraph to obtain the names of members of a building society may apply in writing to the society, describing in the application the subject on which he proposes to communicate with other members of the society; and the society shall give him all necessary information as to the place or places where the register, or part of it, is kept, and reasonable facilities for inspecting the register and taking a copy of any names and addresses in the register.
 - (6) A building society shall not be obliged to disclose to a member making an application under this paragraph any particulars contained in the register other than the names of the members and their addresses, and may construct the register in such a way that it is possible to disclose the names and addresses to inspection without disclosing any such other particulars.
 - [^{F26}(7) No information obtained under sub-paragraph (1) or (2) above or this sub-paragraph and relating to a member of the society may be disclosed except—
 - (a) with the consent of that member; or
 - (b) in the case of information obtained under sub-paragraph (1) or (2) above, for purposes connected with the purpose mentioned in that paragraph.
 - (8) Any person who discloses information in contravention of sub-paragraph (7) above shall be liable—
 - (a) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or both; and
 - (b) on summary conviction, to a fine not exceeding the statutory maximum.
 - (9) The Treasury may, by regulations, prescribe the amount of any fees payable under sub-paragraph (2) above; and regulations under this sub-paragraph may include—
 - (a) provision for any fees so payable to be reduced or for payment of any fees to be waived by the Commission in circumstances determined by or under the regulations; and
 - (b) such incidental, supplementary and transitional provision as appears to the Treasury to be necessary or expedient.

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- (10) The power to make regulations under sub-paragraph (9) above is exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (11) The amounts received by the Commission under sub-paragraph (2) above shall be applied as an appropriation in aid of money provided by Parliament for the expenses of the Commission under this Act, and in so far as not so applied, shall be paid into the Consolidated Fund.]

Textual Amendments

- F25** Sch. 2 Pt. I para. 15(1)(1A)(2) substituted for Sch. 2 para. 15(1)(2) (9.6.1997) by 1997 c. 32, s. 37(1); S.I. 1997/1427, art. 2(i)
- F26** Sch. 2 Pt. I para. 15(7)-(11) inserted (9.6.1997) by 1997 c. 32, s. 37(2); S.I. 1997/1427, art. 2(i)

Status:

Point in time view as at 31/12/1997.

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