



# Building Societies Act 1986

## 1986 CHAPTER 53

### PART XI

#### MISCELLANEOUS AND SUPPLEMENTARY AND CONVEYANCING SERVICES

##### *Miscellaneous and supplementary*

#### **119 Interpretation.**

(1) In this Act, except where the context otherwise requires—

[<sup>F1</sup>“adopt” and “adopted”, in relation to powers, and “adoptable powers” have the meaning given by paragraph 1 of Schedule 2 of this Act;]

[<sup>F1</sup>“advance secured on land” and “advance fully secured on land” have the meanings given by section 10(1) and (11) and references to class 1 or class 2 advances are to be construed in accordance with sections 11 and 12;]

[<sup>F1</sup>[<sup>F2</sup>“advance secured on third party land” has the meaning given by section 10(4A);]

“the annual accounts” has the meaning given by section 72(10);

“the annual business statement” has the meaning given by section 74(1);

“the applicable winding up legislation” and “the companies winding up legislation” have the meanings given by section 90;

[<sup>F3</sup>“associated undertaking” shall be construed in accordance with paragraph 20 of Schedule 4A to the <sup>M1</sup>Companies Act 1985 read—

(a) in conjunction with sections 259 and 260 of, and paragraphs 5 to 11 of Schedule 10A to, that Act; and

(b) as if the reference to an undertaking included in the consolidation were a reference to an undertaking which would be so included if consolidated accounts were being prepared at the material time;]

<sup>F4</sup>  
...

[<sup>F5</sup>“the Authority” means the Financial Services Authority;]

[<sup>F6</sup>“ballot” means an electronic ballot or a postal ballot, as the case may be;]

*Status: Point in time view as at 01/10/2003. This version of this provision has been superseded.*

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[<sup>F7</sup>“borrowing members’ resolution” has the meaning given by paragraph 29(1) of Schedule 2 to this Act and, subject to paragraph 29(2), “borrowing member” has the meaning given by paragraph 5 of that Schedule;]

“building society” means a building society incorporated (or deemed to be incorporated) under this Act;

<sup>F8</sup>  
 . . .  
<sup>F8</sup>  
 . . .  
<sup>F8</sup>  
 . . .

[<sup>F9</sup>“connected undertaking” means a subsidiary undertaking or an associated undertaking;]

[<sup>F10</sup>“the court”, in relation to a building society, means the court which has jurisdiction under the applicable winding up legislation to wind up the society;]

<sup>F8</sup>  
 . . .

<sup>F11</sup>[<sup>F12</sup> . . .;]

“deferred shares” means shares of a class defined by order of the [<sup>F13</sup>Treasury], in a statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament;

[<sup>F14</sup>“deposit” includes—

- (a) a loan; and
- (b) a subordinated deposit, that is to say, a deposit which, on a winding up, would fall to be repaid only after repayment in full had been made to the holders of shares in the society other than deferred shares,

and cognate expressions shall be construed accordingly;]

“dispose”, in relation to any property, includes the granting of any interest in or right over it;

[<sup>F6</sup>“electronic address” includes any number or address used for the purposes of receiving electronic communications which are sent electronically;]

[<sup>F6</sup>“electronic ballot”, in relation to an election or resolution of a building society, means the electronic ballot taking place, in accordance with paragraph 33A of Schedule 2 to this Act, in the case of the election or resolution;]

[<sup>F6</sup>“electronic communication” means an electronic communication within the meaning of the Electronic Communications Act 2000 the processing of which on receipt is intended to produce writing;]

“executive”, in relation to a director, means a person who holds office as a director and also as chief executive, secretary or manager;

“financial year” is to be construed in accordance with section 117;

“heritable security” means a security capable of being constituted over any land by disposition or assignation of that interest in security of any debt and of being recorded in the Register of Sasines or, as the case may be, in the Land Register of Scotland and includes a security constituted by a standard security and any other charge enforceable in the same manner as a standard security;

[<sup>F15</sup>“interest”, in relation to shares, includes dividends;]

<sup>F16</sup>  
 . . .

[<sup>F17</sup>“land”, in the expression “loan secured on land”, has the meaning given by section 6A(8);

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“loan secured on land” and “loan fully secured on land” shall be construed in accordance with sections 6A and 6B respectively;]

“manager”, in relation to a building society, means a person (other than the chief executive) employed by the society who, under the immediate authority of a director or the chief executive of the society exercises managerial functions or is responsible for maintaining accounts or other records of the society;

[<sup>F18</sup>“member” shall be construed in accordance with paragraph 5 of Schedule 2 to this Act;]

“memorandum” has the meaning given by paragraph 1 of Schedule 2 to the Act;

[<sup>F1</sup>“mobile home loan” means a loan under section 15;]

“mortgage” includes charge;

[<sup>F19</sup>“mortgage debt”, in relation to a loan secured on land and any time, means the total amount outstanding at that time in respect of—

- (a) the principal of the loan;
- (b) interest on the loan; and
- (c) any other sum which the borrower is obliged to pay the society under the terms of the loan;]

<sup>F20</sup>  
...

[<sup>F21</sup>“notice” means written notice but includes a notice in an electronic communication to the extent only that this Act provides for the manner in which the notice may be given electronically, and “notice to” and “notify” shall be construed accordingly;]

“officer”, in relation to a building society, means any director, chief executive, secretary or manager of the society; and, in relation to any offence, “officer” also includes any person who purports to act as an officer of the society; and in relation to any other body corporate means the corresponding officers of that body;

“officially notified”, in relation to the appointment or address of a director or the chief executive of a building society, means respectively notified to, and the last address notified to, the [<sup>F22</sup>Authority] under section 61(13) or 59(6), as the case may be;

[<sup>F23</sup>“ordinary resolution” means a resolution which will be effective without being passed as a special resolution, shareholding members’ resolution or borrowing members’ resolution;]

[<sup>F24</sup>“own funds” means own funds as defined in Section 1 of Chapter 2 of Title V of the Banking Consolidation Directive;]

<sup>F25</sup>  
...

[<sup>F6</sup>“postal ballot”, in relation to an election or resolution of a building society, means any postal ballot taking place by virtue of any rules of the society made in accordance with paragraph 33 of Schedule 2 to this Act, in the case of the election or resolution;]

“the public file”, in relation to a building society, means the file relating to the society which the [<sup>F26</sup>Authority] is required to maintain under section 106;

[<sup>F1</sup>“qualifying asset holding”, in relation to a building society, shall be construed in accordance with section 118;]

“registered address”, in relation to a member of a building society, has the meaning given by paragraph 13 of Schedule 2 to this Act;

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“the repealed enactments” means the <sup>M2</sup>Building Societies Act 1962 or the <sup>M3</sup>Building Societies Act 1874 or, in relation to Northern Ireland, the <sup>M4</sup>Building Societies Act (Northern Ireland) 1967;

[<sup>F27</sup>“residential property” has the meaning given by section 5(10);]

[<sup>F28</sup>“share”, in relation to a building society, shall be construed in accordance with section 8;]

“shareholder and depositor” includes a potential shareholder or depositor;

[<sup>F29</sup>“shareholding member” has the meaning given by paragraph 5 of Schedule 2 to this Act;

“shareholding members” resolution’ has the meaning given by paragraph 27A of that Schedule;]

“special resolution” has the meaning given by paragraph 27 of Schedule 2 to this Act;

[<sup>F1</sup>“subsidiary” [<sup>F30</sup>has the meaning given by section 736 of] the <sup>M5</sup>Companies Act 1985;]

<sup>F31</sup>[“Subsidiary undertaking” shall be construed in accordance with the provisions of section 258 of the Companies Act 1985, read in conjunction with sections 259 and 260 of, and Schedule 10A to, that Act;]

“summary financial statement” has the meaning given by section 76(1);

[<sup>F1</sup>“total commercial assets”, in relation to a building society, means the aggregate of its class 1 assets, its class 2 assets and its class 3 assets.]

[<sup>F32</sup>(1A) Any reference in this Act to the seal of the Authority is a reference to the seal provided for in regulations made under section 109(1)(b) of the Friendly Societies Act 1974 (and not to the Authority’s common seal).]

(2) In relation to [<sup>F33</sup>loans] secured on land in Scotland, “mortgage” means a heritable security, “mortgagor” and “mortgagee” mean respectively the debtor and creditor in a heritable security and connected expressions shall be construed accordingly.

<sup>F34</sup>(2A) . . . . .

[<sup>F35</sup>(2B) In this Act “The Banking Consolidation Directive” means Directive 2000/12/EC of the European Parliament and of the Council of 20 March 2000 relating to the taking up and pursuit of the business of credit institutions.

<sup>F36</sup>(2C) . . . . .]

(3) For the purposes of any provision of this Act referring to the value of a person’s shareholding in a building society—

(a) the value of a person’s shares shall be taken as the amount standing to his credit in respect of payments made <sup>F37</sup>. . . on the shares and interest credited <sup>F37</sup>. . . by way of capitalisation; and

(b) shares held by a person to whom, as the holder of the share, the society has made [<sup>F38</sup>a loan], shall be disregarded.

<sup>F39</sup>[(3A) Any reference in this Act (however expressed) to loans being owed to a building society or a subsidiary undertaking of a building society is a reference to their being so owed either at law or in equity.]

<sup>F40</sup>[(4) Subject to [<sup>F41</sup>section 9A(7)], the value in sterling of—

(a) any transaction effected by or with a building society or connected undertaking in another currency, or

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- (b) any assets or liabilities of a building society or connected undertaking denominated in another currency, shall be determined for any purpose of this Act in accordance with directions given by the [<sup>F42</sup>Authority] under this subsection.
- (5) The foregoing provisions of this Act shall be construed and have effect as if section 124 and Schedule 21 were contained in another Act and references in those provisions to this Act shall be construed accordingly.

### Textual Amendments

- F1** Definitions in s. 119(1) 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(2), 47(3), **Sch. 7 para. 53(1)(a)**, **Sch. 9**; S.I. 1997/2668, art. 2, Sch. Pts. I(j)(k)(l)(xiv), **II(w)(y)(z)(xxxi)(cc)(xvi)**
- F2** Words in s. 119(1) inserted (3.1.1995) by 1994 c. 40, ss. 39, 82(2)(e), **Sch. 11 para. 7(6)**
- F3** Definition in s. 119(1) substituted for definitions (9.6.1997 for certain purposes only, 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. 53(1)(b)**; S.I. 1997/1427, **art. 2(k)(n)(xii)**; S.I. 1997/2668, art. 2, Sch. Pts. I(j)(l)(xiv), **II(w)(z)(xxxi)**
- F4** Definition of “authorisation” in s. 119(1) repealed (1.12.2001) by S.I. 2001/2617, arts. 2(b), 13(2), **Sch. 4** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2**
- F5** Definition of “the Authority” in s. 119(1) inserted (17.8.2001 for certain purposes otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 8, 13(1), **Sch. 3 Pt. II para. 197(ii)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2**
- F6** Words in s. 119(1) inserted (20.3.2003) by **The Building Societies Act 1986 (Electronic Communications) Order 2003** (S.I. 2003/404), arts. 1(1), **9(2)**
- F7** Definition in s. 119(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. 53(1)(c)**; S.I. 1997/2668, art. 2, Sch. Pts. I(j)(l)(xiv), **II(w)(z)(xxxi)**
- F8** Definitions of “the central office”, “the Chief Registrar”, “the Commission” and “the criteria of prudent management” in s. 119(1) repealed (1.12.2001) by S.I. 2001/2617, arts. 2(b), 13(2), **Sch. 4** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2**
- F9** Definition in s. 119(1) inserted (9.6.1997 for certain purposes only, 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. 53(1)(d)**; S.I. 1997/1427, **art. 2(k)(n)(xii)**; S.I. 1997/2668, art. 2, Sch. Pts. I(j)(l)(xiv), **II(w)(z)(xxxi)**
- F10** Definition in s. 119(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. 53(1)(e)**; S.I. 1997/2668, art. 2, Sch. Pts. I(j)(l)(xiv), **II(w)(z)(xxxi)**
- F11** Words in S. 119(1) repealed (1.12.2001) by S.I. 2001/3649 art. 199(3)
- F12** Definition in s. 119(1) inserted (1.12.1997 in specified cases and for specified purposes and otherwise in accordance with art. 2(2)(3)(5) of S.I. 1997/2668) by 1997 c. 32, ss. 43, 47(3), **Sch. 7 para. 53(1)(f)**; S.I. 1997/2668, art. 2, Sch. Pts. I(j)(l)(xiv), **II(w)(z)(xxxi)**
- F13** Words in the definition of “deferred shares” s. 119(1) substituted (17.8.2001 for certain purposes otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 8, 13(1), **Sch. 3 Pt. II para. 197(a)(iv)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2**
- F14** Definition in s. 119(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. 53(1)(g)**; S.I. 1997/2668, art. 2, Sch. Pts. I(j)(l)(xiv), **II(w)(z)(xxxi)**
- F15** Definition in s. 119(1) inserted (1.12.1997 in specified cases and for specified purposes and otherwise in accordance with art. 2(2)(3)(5) of S.I. 1997/2668) by 1997 c. 32, ss. 43, 47(3), **Sch. 7 para. 53(1)(h)**; S.I. 1997/2668, art. 2, Sch. Pts. I(j)(l)(xiv), **II(w)(z)(xxxi)**

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- F16** Definition of “Investor Protection Board” in s. 119(1) repealed (1.12.2001) by S.I. 2001/2617, arts. 2(b), 13(2), **Sch. 4** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2**
- F17** Definitions in s. 119(1) inserted (1.12.1997 in specified cases and for specified purposes and otherwise in accordance with art. 2(2)(3)(5) of S.I. 1997/2668) by 1997 c. 32, ss. 43, 47(3), **Sch. 7 para. 53(1)(i)**; S.I. 1997/2668, art. 2, Sch. Pts. I(j)(l)(xiv), **II(w)(z)(xxxi)**
- F18** Definition in s. 119(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. 53(1)(j)**; S.I. 1997/2668, art. 2, Sch. Pts. I(j)(l)(xiv), **II(w)(z)(xxxi)**
- F19** Definition in s. 119(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. 53(1)(k)**; S.I. 1997/2668, art. 2, Sch. Pts. I(j)(l)(xiv), **II(w)(z)(xxxi)**
- F20** Definition of “non-EEA laws” in s. 119(1) repealed (1.12.2001) by S.I. 2001/2617, arts. 2(b), 13(2), **Sch. 4** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2**
- F21** Words in s. 119(1) substituted (20.3.2003) by The Building Societies Act 1986 (Electronic Communications) Order 2003 (S.I. 2003/404), arts. 1(1), **9(3)**
- F22** Words in the definition of “officially notified” in s. 119(1) substituted (17.8.2001 for certain purposes otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 8, 13(1), **Sch. 3 Pt. II para. 197(a)(vii)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2**
- F23** Definition in s. 119(1) inserted (1.12.1997 in specified cases and for specified purposes and otherwise in accordance with art. 2(2)(3)(5) of S.I. 1997/2668) by 1997 c. 32, ss. 43, 47(3), **Sch. 7 para. 53(1)(l)**; S.I. 1997/2668, art. 2, Sch. Pts. I(j)(l)(xiv), **II(w)(z)(xxxi)**
- F24** Words in S. 119(1) inserted (1.12.2001) by S.I. 2001/3649 art. 199(2)
- F25** Definition of “prescribed” in s. 119(1) repealed (1.12.2001) by S.I. 2001/2617, arts. 2(b), 13(2), **Sch. 4** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2**
- F26** Words in the definition of “the public file” in s. 119(1) substituted (17.8.2001 for certain purposes and otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 8, 13(1), **Sch. 3 Pt. II para. 197(a)(ix)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2**
- F27** Definition in s. 119(1) inserted (1.12.1997 in specified cases and for specified purposes and otherwise in accordance with art. 2(2)(3)(5) of S.I. 1997/2668) by 1997 c. 32, ss. 43, 47(3), **Sch. 7 para. 53(1)(m)**; S.I. 1997/2668, art. 2, Sch. Pts. I(j)(l)(xiv), **II(w)(z)(xxxi)**
- F28** Definition in s. 119(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. 53(1)(n)**; S.I. 1997/2668, art. 2, Sch. Pts. I(j)(l)(xiv), **II(w)(z)(xxxi)**
- F29** Definitions in s. 119(1) inserted (1.12.1997 in specified cases and for specified purposes and otherwise in accordance with art. 2(2)(3)(5) of S.I. 1997/2668) by 1997 c. 32, ss. 43, 47(3), **Sch. 7 para. 53(1)(o)**; S.I. 1997/2668, art. 2, Sch. Pts. I(j)(l)(xiv), **II(w)(z)(xxxi)**
- F30** Words substituted by virtue of Companies Act 1989 (c. 40, SIF 27), s. 145(4), **Sch. 18 para. 45**
- F31** Definition in s. 119(1) added (1.1.1993) by S.I. 1991/1729, **art. 5**
- F32** S. 119(1A) inserted (17.8.2001 for certain purposes otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 8, 13(1), **Sch. 3 Pt. II para. 197(b)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2**
- F33** Word in s. 119(2) substituted (1.12.1997 in specified cases and for specified purposes and otherwise in accordance with art. 2(2)(3)(5) of S.I. 1997/2668) by 1997 c. 32, ss. 43, 47(3), **Sch. 7 para. 53(2)**; S.I. 1997/2668, art. 2, Sch. Pts. I(j)(l)(xiv), **II(w)(z)(xxxi)**
- F34** S. 119(2A)(2C) repealed (1.12.2001) by S.I. 2001/3649 art. 1999(4)
- F35** S. 119(2B)(2C) inserted (18.7.1996) by S.I. 1996/1669, reg. 23, **Sch. 5 para. 5**
- F36** S. 119(2A)(2C) repealed (1.12.2001) by S.I. 2001/3649 art. 1999(4)
- F37** Words in s. 119(3)(a) ceased to have effect (9.6.1997) by 1997 c. 32, s. 43, **Sch. 7 para. 53(3)(a)**; and repealed (1.12.1997) by 1997 c. 32, s. 46(2), **Sch. 9**; S.I. 1997/1427, **art. 2(k)(n)(xiii)**; S.I. 1997/2668, art. 2, **Sch. Pt. I(j)(k)(l)(xiv)(o)(vii)**
- F38** Words in s. 119(3)(b) 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. 53(3)(b)**; S.I. 1997/2668, art. 2, Sch. Pts. I(j)(l)(xiv), **II(w)(z)(xxxi)**

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- F39** S. 119(3A) inserted (1.12.1997 in specified cases and for specified purposes and otherwise in accordance with art. 2(2)(3)(5) of S.I. 1997/2668) by 1997 c. 32, ss. 43, 47(3), **Sch. 7 para. 53(4)**; S.I. 1997/2668, art. 2, Sch. Pts. I(j)(l)(xiv), **II(w)(z)(xxxi)**
- F40** S. 119(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. 53(5)**; S.I. 1997/2668, art. 2, Sch. Pts. I(j)(l)(xiv), **II(w)(z)(xxxi)**
- F41** Words in S. 119(4) substituted (17.8.2001 for certain purposes otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 8, 13(1), **Sch. 3 Pt. II para. 197(c)(i)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2**
- F42** Words in s. 119(4) substituted (17.8.2001 for certain purposes and otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 8, 13(1), **Sch. 3 Pt. II para. 197(c)(ii)** (with art. 13(3), Sch. 5); S.I. 2001/3538, **art. 2**

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

- C1** S. 119(1): Functions of the Building Societies Commission transferred (1.12.2001) to the Treasury by S.I. 2001/2617, arts. 2(b), 4(1), **Sch. 1 Pt. III**; S.I. 2001/3538, **art. 2**
- C2** Definition of "total commercial assets" modified by S.I. 1986/2168, **art. 4(2)(a)(ii)(3)**

#### **Marginal Citations**

- M1** 1986 c.6.  
**M2** 1962 c. 37.  
**M3** 1874 c. 42.  
**M4** 1967 c. 31 (N.I.).  
**M5** 1985 c. 6.

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