



# Building Societies Act 1986

## 1986 CHAPTER 53

### PART X

#### DISSOLUTION, WINDING UP, MERGERS AND TRANSFER OF BUSINESS

##### *Transfer of business to commercial company*

#### **98 Transfers of business: supplementary provisions.**

(1) Part I of Schedule 17 to this Act shall have effect for imposing on a building society proposing to transfer its business to a company an obligation to issue statements [<sup>F1</sup>or summaries] to its members relating to the proposed transfer.

[<sup>F2</sup>(1A) Part IA of that Schedule shall have effect for imposing requirements for notification by a building society, to its members and to the [<sup>F3</sup>FCA and, if the society is a PRA-  
authorised person, the PRA], of the receipt by the society of a proposal for the transfer of the whole of its business to a company.]

(2) Where application is made to the [<sup>F4</sup>appropriate authority] for confirmation of a transfer of business to a company it shall, except as provided in subsections (3) to (5) below, confirm the transfer; and Part II of that Schedule shall have effect with respect to the procedure on an application for such confirmation.

(3) Subject to subsection (4) below, the [<sup>F5</sup>appropriate authority] shall not confirm a transfer of business if it considers that—

(a) some information material to the members' decision about the transfer was not made available to all the members eligible to vote; or

(b) the vote on any resolution approving the transfer does not represent the views of the members eligible to vote; or

(c) there is a substantial risk that the successor will not [<sup>F6</sup>have—

(i) such permission under [<sup>F7</sup>Part 4A] of the Financial Services and Markets Act 2000, <sup>F8</sup>...

<sup>F8</sup>(ii) .....

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*Changes to legislation: Building Societies Act 1986, Section 98 is up to date with all changes known to be in force on or before 28 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*

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- as will enable it to carry on the business which it will have as a result of the transfer without being taken (by virtue of section 20 of that Act) to have contravened a requirement imposed on it by the [F<sup>5</sup>appropriate authority] under that Act; or]
- (d) some relevant requirement of this Act or the rules of the society was not fulfilled.
- (4) The [F<sup>9</sup>appropriate authority] shall not be precluded from confirming a transfer of business by virtue only of the non-fulfilment of some relevant requirement of this Act or the rules of the society if it appears to the [F<sup>9</sup>appropriate authority] that it could not have been material to the members' decision about the transfer and the [F<sup>9</sup>appropriate authority] gives a direction that the failure is to be disregarded for the purposes of this section.
- (5) Where the [F<sup>9</sup>appropriate authority] would be precluded from confirming a transfer of business by reason of any of the defects specified in paragraphs (a), (b), (c) and (d) of subsection (3) above, it may direct the society making the transfer—
- (a) to take such steps to remedy the defect or defects as it specifies in the direction; and
- (b) to furnish the [F<sup>9</sup>appropriate authority] with evidence satisfying it that it has been done so;
- and, if the [F<sup>9</sup>appropriate authority] is satisfied that the steps have been taken and the defect or defects has or have been substantially remedied, the [F<sup>9</sup>appropriate authority] shall confirm the transfer; but, if it is not so satisfied, it shall refuse its confirmation.
- (6) The steps that a society may be required under subsection (5)(a) above to include the calling of a further meeting, securing the variation of the transfer agreement or securing the alteration of the approved protective provisions of the articles of association of its successor.
- (7) A failure to comply with a relevant requirement of this Act or the rules of a building society shall not invalidate a transfer of the business of the society; but, if a society fails without reasonable excuse to comply with such a requirement, 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.
- (8) In this section “relevant requirement”, with reference to this Act or the rules of a society, means a requirement of the applicable provisions of this Act or of any rules prescribing the procedure to be followed by the society in approving the transfer and its terms.
- [F<sup>10</sup>(9) The PRA must consult the FCA before confirming a transfer or giving a direction under this section.
- (10) The PRA must—
- (a) notify the FCA if it confirms a transfer; and
- (b) send the FCA a copy of any direction it gives.]

#### Textual Amendments

- F1** Words in s. 98(1) inserted (1.12.1997) by 1997 c. 32, s. 30(1); S.I. 1997/2668, art. 2, Sch. Pt. I(e)
- F2** S. 98(1A) inserted (1.12.1997) by 1997 c. 32, s. 30(2); S.I. 1997/2668, art. 2, Sch. Pt. I(e)
- F3** Words in s. 98(1A) substituted (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), art. 1(1), Sch. 8 para. 42(2) (with Sch. 12)

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- F4** Words in s. 98(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. 42(3)** (with Sch. 12)
- F5** Words in s. 98(3) substituted (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), art. 1(1), **Sch. 8 para. 42(4)(a)** (with Sch. 12)
- F6** Words in s. 98(3)(c) substituted (1.12.2001) by S.I. 2001/3649, **arts. 1, 196(2)**
- F7** Words in s. 98(3) substituted (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), art. 1(1), **Sch. 8 para. 42(4)(b)** (with Sch. 12)
- F8** S. 98(3)(c)(ii) and word omitted (31.12.2020) by virtue of The EEA Passport Rights (Amendment, etc., and Transitional Provisions) (EU Exit) Regulations 2018 (S.I. 2018/1149), reg. 1(3), **Sch. para. 29(3)** (with reg. 4); 2020 c. 1, Sch. 5 para. 1(1)
- F9** Words in s. 98(4)(5) substituted (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), art. 1(1), **Sch. 8 para. 42(5)** (with Sch. 12)
- F10** S. 98(9)(10) inserted (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), art. 1(1), **Sch. 8 para. 42(6)** (with Sch. 12)

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

- C1** Ss. 97-102D: power to modify conferred (16.1.2009) by Building Societies (Funding) and Mutual Societies (Transfers) Act 2007 (c. 26), **ss. 3, 6(2)**; S.I. 2009/36, art. 2
- C2** Ss. 97-102D applied (with modifications) (5.3.2009) by The Mutual Societies (Transfers) Order 2009 (S.I. 2009/509), arts. 1(2), **3-18**
- C3** Ss. 97-102D excluded by 2009 c. 1, s. 84D(6) (as inserted (10.1.2015) by The Building Societies (Bail-in) Order 2014 (S.I. 2014/3344), arts. 1, **2(3)**)
- C4** S. 98(3) extended (1. 1. 1993) by S.I. 1992/3218, reg. 82(1), **Sch. 10 para.22(c)**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 5(11)-(14) inserted by [2007 c. 26 s. 1\(2\)](#)
- s. 5(13)(a) substituted by [S.I. 2013/496 Sch. 8 para. 4\(4\)](#)
- s. 7(6A)-(6C) inserted by [2007 c. 26 s. 1\(1\)\(a\)](#)
- s. 7(8A) inserted by [2007 c. 26 s. 1\(1\)\(c\)](#)
- s. 176ZB excluded by [S.I. 2017/400 reg. 14](#)
- s. 246ZA-246ZC excluded by [S.I. 2017/400 reg. 15](#)
- s. 246ZD excluded by [S.I. 2017/400 reg. 16](#)