
STATUTORY INSTRUMENTS

1992 No. 3218

**The Banking Coordination (Second
Council Directive) Regulations 1992**

PART VIII

AMENDMENTS OF BUILDING SOCIETIES ACT

Powers of control of Commission

Power to direct application to renew authorisation

69. In subsection (6) of section 41 of the Building Societies Act⁽¹⁾ (power to direct application to renew authorisation), the word “and” immediately following paragraph (d) shall be omitted and after that paragraph there shall be inserted the following paragraph—

“(dd) each of the persons who, either alone or with any associate or associates, has a qualifying holding in the society is a fit and proper person to have such a holding; and”.

Imposition of conditions on current authorisation

70. In subsection (5) of section 42 of the Building Societies Act (imposition of conditions on current authorisation), the word “and” immediately before paragraph (c) shall be omitted and after that paragraph there shall be inserted the words “and

(d) require any person who, either alone or with any associate or associates, has a qualifying holding in the society so to reduce that holding that it ceases to be such a holding.”

Revocation of authorisation

71.—(1) After subsection (1) of section 43 of the Building Societies Act (revocation of authorisation) there shall be inserted the following subsection—

“(1A) The Commission may, subject to subsection (4) below, revoke a building society’s authorisation if—

- (a) it appears to the Commission that the society’s principal place of business is or may be outside the United Kingdom;
- (b) it appears to the Commission that the society has carried on in the United Kingdom or elsewhere a listed activity (other than the acceptance of deposits or other repayable funds from the public) without having given prior notice to the Commission of its intention to do so;

(1) 1986 c. 53; section 41 was continued in force by S.I.1991/1518.

- (c) the Commission is informed by The Securities and Investments Board, or a connected UK authority having regulatory functions in relation to the provision of financial services, that the society—
 - (i) has contravened any provision of the Financial Services Act 1986 or any rules or regulations made under it;
 - (ii) in purported compliance with any such provision, has furnished that Board or authority with false, misleading or inaccurate information;
 - (iii) has contravened any prohibition or requirement imposed under that Act; or
 - (iv) has failed to comply with any statement of principle issued under that Act;
- (d) the Commission is informed by the Director General of Fair Trading that the society, or any of the society’s employees, agents or associates (whether past or present), has done any of the things specified in paragraphs (a) to (d) of section 25(2) of the Consumer Credit Act 1974;
- (e) it appears to the Commission that the society has failed to comply with any obligation imposed on it by the Banking Coordination (Second Council Directive) Regulations 1992; or
- (f) the Commission is informed by a supervisory authority in another member State that the society has failed to comply with any obligation imposed on it by or under any rule of law in force in that State for purposes connected with the implementation of the Second Council Directive.”

(2) In subsection (4) of that section, for the words “subsection (1)” there shall be substituted the words “subsection (1) or (1A)”.

(3) In subsection (5) of that section, for the words “subsection (1) or (3)” there shall be substituted the words “subsection (1), (1A) or (3)”.

(4) After subsection (9) of that section there shall be inserted the following subsection—

“(9A) The rules and prohibitions referred to in subsection (1A)(c) above include the rules of any recognised self-regulating organisation of which the society is a member and any prohibition imposed by virtue of those rules; and in subsection (1A)(d) above ‘associate’ has the same meaning as in section 25(2) of the Consumer Credit Act 1974.”

Reauthorisation

72.—(1) In subsection (4) of section 44 of the Building Societies Act (reauthorisation), the word “and” immediately following paragraph (d) shall be omitted and after that paragraph there shall be inserted the following paragraph—

“(dd) each of the persons who, either alone or with any associate or associates, has a qualifying holding in the society is a fit and proper person to have such a holding; and”.

(2) After subsection (9) of that section there shall be inserted the following subsection—

“(9A) Any expression used in this section to which a meaning is given by section 9(13) has that meaning in this section.”

Criteria for prudent management

73. In subsection (3) of section 45 of the Building Societies Act (criteria for prudent management), for the first criterion there shall be substituted the following criterion—

“**1.** Maintenance of—

- (a) adequate reserves and other designated capital resources; and

- (b) own funds which amount to not less than the sum which, for the purposes of section 9, is the prescribed minimum in relation to qualifying capital.”

Exercise of powers on information from supervisory authority

74. After section 45 of the Building Societies Act there shall be inserted the following section—

“Exercise of powers on information from supervisory authority.

45A.—(1) This section applies where, in the case of a building society for which an authorisation is in force, the Commission is informed by a supervisory authority in another member State that the society is failing to comply with an obligation imposed by or under any rule of law in force in that State for purposes connected with the implementation of the Second Council Directive.

(2) The Commission shall as soon as practicable send a copy of the information received by it to every other authority which it knows is a connected UK authority.

(3) The Commission shall also—

(a) consider whether to exercise its powers—

(i) under section 42, to impose conditions on the society’s authorisation, or

(ii) under section 43, to revoke the society’s authorisation; and

(b) notify its decision, and any action which it has taken or intends to take, to the supervisory authority and to every other authority which it knows is a connected UK authority.”