

SCHEDULE 3

ENACTMENTS AMENDED

PART II

BUILDING SOCIETIES

Amendments to the Building Societies Act 1986

131. The Building Societies Act 1986(1) is amended as follows.

132. For Part I(2), there is substituted—

“PART I

FUNCTIONS OF THE AUTHORITY

Functions of the Financial Services Authority in relation to building societies.

1.—(1) The Financial Services Authority (“the Authority”) has the following functions under this Act in relation to building societies—

- (a) to secure that the principal purpose of building societies remains that of making loans which are secured on residential property and are funded substantially by their members;
- (b) to administer the system of regulation of building societies provided for by or under this Act; and
- (c) to advise and make recommendations to the Treasury and other government departments on any matter relating to building societies.

(2) The Authority also has, in relation to such societies, the other functions conferred on it by or under this Act or any other enactment.”.

133. In section 5(3)—

- (a) in subsection (2) for the words “central office” there is substituted “Authority”, and
- (b) in subsection (4A)(a) for the word “Commission” there is substituted “Authority”.

134. In section 6(4)—

- (a) in subsection (5)(a) for the word “Commission” there is substituted “Authority”,
- (b) in subsection (7) for the words “Commission may, with the consent of the Treasury,” there is substituted “Treasury may”,
- (c) in subsection (8)(c) for the word “Commission” there is substituted “Treasury”, and
- (d) in subsection (15) for the word “Commission” there is substituted “Authority”.

135. In section 6A(5)—

(1) 1986 c. 53.

(2) Sections 1 and 4 were amended by the Building Societies Act 1997 (c. 32), Schedule 7 paragraphs 1 and 2 and Schedule 9.

(3) Section 5 was amended by the Building Societies Act 1997, sections 1 and 3.

(4) Section 6 was substituted by the Building Societies Act 1997, section 4.

(5) Section 6A was inserted by the Building Societies Act 1997, section 5.

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- (a) in subsection (2)(b) the words “Commission with the consent of the” are omitted,
- (b) in subsection (4)—
 - (i) for the words “Commission may, with the consent of the Treasury,” there is substituted “Treasury may”, and
 - (ii) for the words “the Commission”, the second time they appear, there is substituted “them”, and
- (c) in subsection (5) for the word “Commission” there is substituted “Treasury”.

136. In section 7(6)—

- (a) in subsection (5)(a) for the word “Commission” there is substituted “Authority”,
- (b) in subsection (7) for the words “Commission may, with the consent of the Treasury,” there is substituted “Treasury may”, and
- (c) in subsection (8) for the word “Commission” there is substituted “Treasury”.

137. In section 8(7)—

- (a) in subsection (3) for the word “Commission”, both times it appears, there is substituted “Authority”, and
- (b) in subsection (12)—
 - (i) for the words “Commission may, with the consent of the Treasury,” there is substituted “Treasury may”, and
 - (ii) for the word “Commission”, the second time it appears, there is substituted “Treasury”.

138. In section 9A(8)—

- (a) in subsection (12)—
 - (i) for the words from the beginning to “Treasury,” there is substituted “The Treasury may”, and
 - (ii) for the words “it thinks” there is substituted “they think”, and
- (b) in subsection (13)(b) the words “or, as the case may be, the Commission” are omitted.

139. Sections 24 to 31(9) cease to have effect.

140. In the title of Part VI for the word “Commission” there is substituted “Authority”.

141. In section 36(10)—

- (a) for the word “Commission”, wherever it appears, there is substituted “Authority”, and
- (b) subsection (14) is omitted.

142. In section 36A(11)—

- (a) in subsection (1) for the words “Commission may serve on the society a notice of the Commission’s intention to” there is substituted “Authority may”,
- (b) in subsection (4) for the word “Commission” there is substituted “Authority”,

(6) Section 7 was substituted by the Building Societies Act 1997, section 8.

(7) Section 8 was substituted by the Building Societies Act 1997, section 9.

(8) Section 9A was inserted by section 10 of the Building Societies Act 1997 and amended by S.I. 2001/1826.

(9) Sections 25A and 29A were inserted, and other amendments to sections 24 to 29 made, by S.I. 1995/1442. Section 27A was inserted, and other amendments to sections 24 to 31 made, by the Building Societies Act 1997, Schedule 7. Section 25 was further amended by the Banking Act 1987 (c. 22), Schedule 6, section 28 by S.I. 1989/2405, and section 31 by S.I. 1996/1669.

(10) Section 36 was substituted by the Building Societies Act 1997, section 13.

(11) Section 36A was inserted by the Building Societies Act 1997, section 14.

(c) for subsection (5) there is substituted—

“(5) If the Authority proposes to issue a prohibition order under this section it must give the society a warning notice.

(5A) If the Authority decides to issue a prohibition order under this section it must give the society a decision notice, and may issue the order at the same time as or after giving the decision notice.

(5B) A warning notice or decision notice about a prohibition order under this section must set out the terms of the order which the Authority proposes (or has decided) to make, including any saving or transitional provisions to be included in it.

(5C) Part XXVI of the Financial Services and Markets Act 2000 (notices) is to be treated as applying in respect of warning notices and decision notices given under this section as it applies in respect of warning notices and decision notices given under that Act, subject to subsection (5D) below.

(5D) In the application of Part XXVI of that Act in respect of warning notices and decision notices given under this section—

(a) section 388(1)(e) is to be omitted,

(b) section 388(2) (which makes provision for the type of action to which a decision notice may relate if it was preceded by a warning notice) is to be read as if, for the word “Part”, there were substituted the word “section”,

(c) section 390 (final notices) is to be omitted, and

(d) for the purposes of section 391 (publication) a decision notice given under this section is to be treated as if it were a final notice rather than a decision notice.”,

(d) for subsection (6) there is substituted—

“(6) If the Authority issues a prohibition order under this section it shall serve the order on the society, and shall keep a copy of the order in the public file of the society.”,

(e) in subsection (7) the words “made and” are omitted, and

(f) in subsections (10) to (12) for the word “Commission”, wherever it appears, there is substituted “Authority”.

143. In section 37(12)—

(a) for the word “Commission”, wherever it appears, there is substituted “Authority”, and

(b) in subsection (4) for the words “give a copy of it to the central office and the central office shall keep the copy” there is substituted “keep a copy of the order”.

144. Sections 41, 42 and 42A(13) cease to have effect.

145. In section 42B(14)—

(a) in subsection (1) for the words “for which an authorisation is in force, the Commission” there is substituted “which has a permission under Part IV of the Financial Services and Markets Act 2000 to accept deposits, the Authority”,

(b) for subsection (2) there is substituted—

“(2) If it appears to the Authority that a society has failed to comply with a direction under subsection (1), the Authority may exercise its power under section 45 of the

(12) Section 37 was substituted by the Building Societies Act 1997, section 15.

(13) Sections 41 and 42 were amended by the Building Societies Act 1997, Schedule 7 paragraphs 12 and 13 and Schedule 9 and by S.I. 1992/3218, 1996/1669. Section 42A was inserted by the Building Societies Act 1997, section 16.

(14) Section 42B was inserted by the Building Societies Act 1997, section 17.

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Financial Services and Markets Act 2000 in relation to the society (power to vary or cancel a Part IV permission on the Authority's own initiative).

(2A) Subsection (2) does not affect the Authority's ability to exercise that power, in relation to the society, on any other ground.”,

- (c) in subsections (3), (4) and (5), for the word “Commission”, wherever it appears, there is substituted “Authority”,
- (d) subsection (6) is omitted, and
- (e) in subsection (8) for the words “Commission, with the consent of the Treasury,” there is substituted “Treasury”.

146. In section 42C(15)—

- (a) for the side-note there is substituted “Variation and revocation of transfer directions”,
- (b) in subsection (1)—
 - (i) the words “shall be given by notice in writing and” are omitted, and
 - (ii) for the word “Commission”, there is substituted “Authority”, and
- (c) subsections (2) and (3) are omitted.

147. Sections 43 to 45A(16) cease to have effect.

148. For sections 46 to 49(17) and the cross-heading before section 46 there is substituted—

“Notices, hearings and appeals

46A Notices, hearings and appeals.

- (1) If the Authority proposes—
 - (a) to give a direction to a society under section 36(3), (5), (6), (7) or (10), or
 - (b) to give a direction to a society under section 42B(1), other than a direction varying a previous direction with the agreement of the society concerned,
 it must give the society a warning notice.
- (2) The warning notice must set out the terms of the direction which the Authority proposes to give.
- (3) If the Authority decides—
 - (a) to give a direction to a society under section 36(3), (5), (6), (7) or (10), or
 - (b) to give a direction to a society under section 42B(1), other than a direction varying a previous direction with the agreement of the society concerned,
 it must give the society a decision notice.
- (4) The decision notice must set out the terms of the direction which the Authority has decided to give.

(15) Section 42C was inserted by the Building Societies Act 1997, section 18.

(16) Sections 43 and 44 were amended by the Building Societies Act 1997, Schedule 7 paragraphs 14 and 15, and by S.I. 1992/3218, 1995/1442, 1995/3275, 1996/1669, and 2000/2952. Sections 43A and 43B were inserted, section 45 substituted, and section 45AA inserted, by the Building Societies Act 1997, sections 19 to 22. Section 45A was inserted by S.I. 1992/3218 and amended by S.I. 1995/3275 and 2000/2952.

(17) Section 46 was substituted by the Building Societies Act 1997, section 23. Section 47 was amended by the Courts and Legal Services Act 1990 (c. 41), Schedule 10 paragraph 68, the Judicial Pensions and Retirement Act 1993 (c. 8), Schedule 6 paragraph 64, the Building Societies Act 1997, section 24, and by S.I. 1999/678. The functions of the Secretary of State under section 47(2) are transferred, insofar as exercisable in or as regards Scotland, to the Scottish Ministers by S.I. 1999/1750. Section 48 was amended by the Tribunals and Inquiries Act 1992 (c. 53), Schedule 4 Part I.

(5) A society to whom a decision notice is given under this section may refer the matter to the Financial Services and Markets Tribunal.

(6) Part XXVI of the Financial Services and Markets Act 2000 (notices) is to be treated as applying in respect of warning notices and decision notices given under this section as it applies in respect of warning notices and decision notices given under that Act, subject to subsection (8) below.

(7) The provisions of Part IX of the Financial Services and Markets Act 2000 (hearings and appeals) are to be treated as applying in respect of references to the Financial Services and Markets Tribunal made under this section as they apply in respect of references made to that Tribunal under that Act.

(8) In the application of Part XXVI of that Act in respect of warning notices and decision notices given under this section—

- (a) section 388(1)(e)(i) (which requires a decision notice to indicate any right given under that Act to refer a decision to the Tribunal) is to be read as if, for the words “this Act”, there were substituted “the Building Societies Act 1986”;
- (b) section 388(2) (which makes provision for the type of action which may be proposed in a decision notice which was preceded by a warning notice) is to be read as if, for the word “Part”, there were substituted “section”;
- (c) section 390(4) (which provides for the content of a final notice about an order) is to be read as if—
 - (i) for the words “an order” there were substituted “a direction”, and
 - (ii) for the words “the order”, in both places where they appear, there were substituted “the direction”; and
- (d) section 392 (application of sections 393 (third party rights) and 394 (access to Authority material)) is to be read—
 - (i) as if paragraph (a) of that section contained a reference to a warning notice given under subsection (1) above, and
 - (ii) as if paragraph (b) of that section contained a reference to a decision notice given under subsection (3) above.”.

149. Section 50(18) ceases to have effect.

150. In section 52(19)—

- (a) in subsection (1) for the words from “Commission” to the end, there is substituted “Authority of any of its functions under Part I, sections 36, 36A, 37, 42B, 42C and 46A, Part X and section 107.”,
- (b) in subsection (5) for the word “Commission”, wherever it appears, there is substituted “Authority”,
- (c) in subsection (5A)—
 - (i) for the words from “the Commission”, the first time they appear, to “authority, to” there is substituted “any person authorised for the purpose by the Authority (“an authorised officer”) may, on producing evidence of his authority,” and
 - (ii) in paragraphs (a), (b) and (c), for the word “Commission” there is substituted “Authority”,
- (d) in subsection (6)—

(18) Section 50 was amended by the Broadcasting Act 1990 (c. 42), Schedule 20 paragraph 44.

(19) Section 52 was amended by the Building Societies Act 1997, Schedule 7 paragraph 17 and Schedule 9, and by S.I. 1992/3218.

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- (i) for the word “Commission”, the first time it appears, there is substituted “Authority”,
- (ii) for the word “person”, the first time it appears, there is substituted “officer”, and
- (iii) for the words “Commission or authorised person”, both times they appear, there is substituted “Authority or authorised officer”,
- (e) in subsection (9)—
 - (i) for the words “Commission or an authorised person” there is substituted “Authority or an authorised officer”, and
 - (ii) for the words “Commission or authorised person” there is substituted “Authority or authorised officer”, and
- (f) in subsection (13) for the word “Commission” there is substituted “Authority”.

151. For section 52A(20) there is substituted—

“52B Entry of premises under warrant under section 176 of the Financial Services and Markets Act 2000.

(1) A justice of the peace may issue a warrant under section 176 of the Financial Services and Markets Act 2000 if satisfied on information on oath given by or on behalf of the Authority, an authorised officer within the meaning of section 52(5A) above, or a person appointed as an investigator under section 55(1) below or as an inspector under section 56(1) below, that there are reasonable grounds for believing that the first or second set of conditions below is satisfied.

(2) The first set of conditions is that—

- (a) there are on the premises specified in the warrant information, documents or other material in relation to which a requirement has been imposed on any person under section 52(5), (5A) or (6) above or section 57(3) below, or which it is the duty of any person to produce under section 55(3) or 57(2) below, and
- (b) that person has failed (wholly or in part) to comply with the requirement or, having been requested to do so, has failed (wholly or in part) to comply with that duty.

(3) The second set of conditions is that—

- (a) there are on the premises specified in the warrant information, documents or other material in relation to which a requirement could be imposed on any person under section 52(5), (5A) or (6) above or section 57(3) below, or which any person could be requested to produce in compliance with the duty imposed on them by section 55(3) or 57(2) below, and
- (b) if such a requirement were imposed, or such a request made,—
 - (i) it would not be complied with, or
 - (ii) any information, documents or other material to which it related would be removed, tampered with or destroyed.”.

152. For section 53(21) there is substituted—

(20) Section 52A was inserted by the Building Societies Act 1997, Schedule 7 paragraph 18.

(21) Section 53 was amended by the Banking Act 1987 (c. 22), Schedule 6 paragraph 26, the Pensions Act 1995 (c. 26), Schedule 3 paragraph 16 and Schedule 7, Part I, the Building Societies Act 1997, Schedule 7 paragraph 19, the Bank of England Act 1998 (c. 11), Schedule 5 paragraph 64, and by S.I. 1990/1504, 1992/3218, 1996/1669, 2000/2952.

“53A Disclosure of information.

(1) For the purposes of sections 348 to 353 of the Financial Services and Markets Act 2000 (restrictions on disclosure of confidential information)—

- (a) information to which this section applies is to be treated as confidential information; and
- (b) in relation to such information, each of the following is a primary recipient—
 - (i) the Authority;
 - (ii) any person who is or has been employed by the Authority; and
 - (iii) any person appointed by the Authority to carry out functions under this Act.

(2) This section applies to information which—

- (a) relates to—
 - (i) the business or other affairs of a building society or other body, or its or their plans for future development; or
 - (ii) any person who is or has been, or has been appointed (or, in the case of a director, nominated or proposed as), an officer of a building society or other body;
- (b) was received by a primary recipient (within the meaning of subsection (1)(b)) for the purposes of, or in the discharge of, any functions of the Authority under any provision made by or under this Act; and
- (c) is not excluded information by virtue of subsection (4).

(3) It is immaterial for the purposes of subsection (2) whether or not the information was received—

- (a) by virtue of a requirement to provide it imposed by or under this Act;
- (b) for other purposes as well as purposes mentioned in that subsection.

(4) Information is excluded information if—

- (a) it has been made available to the public by virtue of being disclosed in any circumstances in which, or for any purposes for which, disclosure is not precluded by section 348 of the Financial Services and Markets Act 2000; or
- (b) it is in the form of a summary or collection of information so framed that it is not possible to ascertain from it information relating to any particular person.”.

153. In section 54(22)—

- (a) in the side-note and in subsections (1) and (2), for the word “Commission”, wherever it appears, there is substituted “Authority”, and
- (b) subsections (3) to (6) are omitted.

154. In sections 55 to 57(23), and in the side-note to section 55, for the word “Commission”, wherever it appears, there is substituted “Authority”.

155. In section 57—

- (a) in subsection (8)(b) the words “and on payment of the prescribed fee” are omitted, and
- (b) after subsection (8) there is inserted—

(22) Section 54 was amended by the Building Societies Act 1997 (c. 32), Schedule 7 paragraph 20, the Banking Act 1987 (c. 22), Schedule 6 paragraph 26(5) and Schedule 7 Part I, the Bank of England Act 1998 (c. 11), Schedule 5 paragraph 64, and by S.I. 1992/3218 and 1996/1669.

(23) Sections 55 to 57 were amended by the Building Societies Act 1997, Schedule 7 paragraphs 21 to 23.

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“(8A) The Authority may charge a reasonable fee for furnishing to any person a copy of a report under subsection (8)(b) above.”.

156. In section 59(6) for the words “central office”, both times they appear, there is substituted “Authority”.

157. In section 60(24)—

- (a) in subsection (4), after the word “subsections” there is inserted “(4A),”,
- (b) after subsection (4) there is inserted—
 - “(4A) A person in relation to whom there is in force a prohibition order made under section 56(2) of the Financial Services and Markets Act 2000 shall not be eligible to be elected as a director of a building society.”,
- (c) for the word “Commission” in subsections (9) and (16) there is substituted “Treasury”, and
- (d) for the words “it considers” in subsection (16) there is substituted “they consider”.

158. In section 61(25)—

- (a) in subsection (4)—
 - (i) for the word “Commission”, the first time it occurs, there is substituted “Treasury”,
 - (ii) for the words “it thinks” there is substituted “they think”, and
 - (iii) for the words “Commission may, with the consent of the Treasury,” there is substituted “Treasury may”,
- (b) in subsection (5) for the words “Commission considers”, there is substituted “Treasury consider”, and
- (c) for the words—
 - (i) “Commission”, in subsection (9), and
 - (ii) “central office”, both times they appear in subsection (13),
 there is substituted “Authority”.

159. In section 64(3)—

- (a) for the words “Commission may, by order made with the consent of the Treasury,” there is substituted “Treasury may by order”, and
- (b) for the words “it thinks” there is substituted “they think”.

160. In section 65(8), for the words from “Commission” to “Treasury” there is substituted “Treasury may by order made by statutory instrument”.

161. In section 68(26)—

- (a) in subsection (5) for the words—
 - (i) “Commission” and
 - (ii) “central office”
 there is substituted “Authority”, and
- (b) in subsection (9)—
 - (i) for the words “Commission may, by order made with the consent of the Treasury,” there is substituted “Treasury may by order”, and

(24) There are amendments to section 60 which are not relevant to this Order.

(25) Section 61 is amended by the Building Societies Act 1997, section 28, and S.I. [1999/3032](#).

(26) There are amendments to section 68 which are not relevant to this Order.

(ii) for the words “it thinks” there is substituted “they think”.

162. In section 69(27)—

(a) in subsection (5)—

(i) for the word “Commission” there is substituted “Treasury”, and

(ii) for the words “it considers” there is substituted “they consider”,

(b) in subsection (8) for the word “Commission” there is substituted “Authority”,

(c) in subsection (12) for the word “Commission” there is substituted “Treasury”,

(d) in subsection (14) for the words—

(i) “Commission” and

(ii) “central office”

there is substituted “Authority”, and

(e) in subsection (16)—

(i) the words from the beginning to “and” are omitted, and

(ii) for the words “such an order” there is substituted “an order made under subsection (5) or (12) above”.

163. In section 71(28) the following are omitted—

(a) in the side-note, and in the cross-heading before the section, the words “and systems of business control, etc.”,

(b) in subsection (1), paragraph (b) and the word “and” immediately preceding it,

(c) subsections (4) to (7),

(d) in subsection (10) the words from “and such” to “maintained”, and

(e) subsection (11).

164. In section 72(7) for the words “Commission may by regulations made with the consent of the Treasury” there is substituted “Treasury may by regulations”.

165. In section 73(7) for the words “Commission shall, by regulations made with the consent of the Treasury,” there is substituted “Treasury shall by regulations”.

166. In section 74(3) for the words “Commission prescribes by regulations made with the consent of the Treasury” there is substituted “Treasury prescribe by regulations”.

167. In section 75(1)(b)(29) the words “Commission with the consent of the” are omitted.

168. In section 76(30)—

(a) in subsection (3) for the words “Commission may, by regulations made with the consent of the Treasury,” there is substituted “Treasury may by regulations”,

(b) for subsection (8) there is substituted—

“(8) Not later than 21 days before the date of the annual general meeting at which the accounts and reports are to be considered, the society shall send one copy of the documents to which this subsection applies to every member of the society who is entitled to receive notice of the meeting, and two copies of the documents to which this subsection applies to the Authority.

(27) Section 69 is amended by the Building Societies Act 1997, Schedule 7 paragraph 27.

(28) Relevant amendments to section 71 are in the Building Societies Act 1997, Schedule 7 paragraph 29 and Schedule 9.

(29) Section 75(1) was amended by the Building Societies Act 1997, Schedule 7 paragraph 32.

(30) Section 76 was amended by the Building Societies Act 1997, Schedule 7 paragraph 33.

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(8A) The documents to which subsection (8) applies are—

- (a) the summary financial statement, and
- (b) where subsection (8) extends under section 78(6) to the auditors' report also, the auditors' report.”, and
- (c) in subsection (12) for the words “central office shall keep the copy” there is substituted “Authority shall keep one of the copies”.

169. In section 79(1), paragraph (b) is omitted.

170. In section 81—

- (a) in the side-note, for the words “members, Commission and central office” there is substituted “members and the Authority”,
- (b) in subsection (2)—
 - (i) for the words “a copy” there is substituted “two copies”, and
 - (ii) for the words “Commission and to the central office” there is substituted “Authority”,
- (c) in subsection (3) for the word “Commission” there is substituted “Authority”, and
- (d) in subsection (7) for the words “central office shall keep the copy” there is substituted “Authority shall keep one of the copies”.

171. Section 82(**31**) ceases to have effect.

172. In the heading to Part IX, the words “Complaints and” are omitted.

173. Sections 83, 83A and 84(**32**) cease to have effect.

174. In sections 87 to 89 and 91(**33**), for the words—

- (a) “Commission”, and
- (b) “central office”,

wherever they appear, there is substituted “Authority”.

175. In section 89—

- (a) in subsection (1)—
 - (i) in paragraph (d) for the words from “granted” to “enactment” there is substituted “given permission under Part IV of the Financial Services and Markets Act 2000 to accept deposits”, and
 - (ii) for paragraph (e) there is substituted—
 - “(e) the society’s permission under Part IV of the Financial Services and Markets Act 2000 to accept deposits has been cancelled (and no such permission has subsequently been given to it);”, and
- (b) in subsection (4), paragraph (a) is omitted.

176. In section 92A(**34**)—

- (a) in subsection (10)—

(31) Section 82 was amended by the Building Societies Act 1997, Schedule 7 paragraph 35 and Schedule 9, and by S.I. [1991/1729](#), [1996/1669](#).

(32) Section 83 was substituted, and section 83A inserted, by the Building Societies Act 1997, sections 34 and 35. Section 84 was amended by that Act, Schedule 7 paragraph 36 and Schedule 9.

(33) Sections 87 and 89 were amended by the Building Societies Act 1997, Schedule 7 paragraphs 38 and 39.

(34) Section 92A was inserted by the Building Societies Act 1997, section 29.

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- (i) for the words “Commission may, with the consent of the Treasury,” there is substituted “Treasury may”,
 - (ii) for the word “it” there is substituted “them”, and
 - (iii) for the word “Commission”, the second time it appears, there is substituted “Treasury”, and
- (b) in subsection (11)—
- (i) for the words “Commission may, with the consent of the Treasury,” there is substituted “Treasury may”, and
 - (ii) for the word “Commission”, the second time it appears, there is substituted “Treasury”.

177. In section 93~~(35)~~—

- (a) in subsection (2)(d)—
- (i) for the word “Commission” there is substituted “Authority”, and
 - (ii) for the words “central office four” there is substituted “Authority three”,
- (b) in subsection (3)—
- (i) for the word “Commission” there is substituted “Authority”,
 - (ii) for the words “the central office, if it” there is substituted “and”, and
 - (iii) before the word “shall” there is inserted “it”,
- (c) in subsection (4) for the word “Commission” there is substituted “Authority”,
- (d) for subsection (6) there is substituted—

“(6) If, on the specified date, each of the societies whose amalgamation was confirmed by the Authority has permission under Part IV of the Financial Services and Markets Act 2000 to accept deposits, the Authority shall, with effect from that date, give their successor such permission under that Part as it considers appropriate, and shall notify the successor of the permission by giving the successor a decision notice.

(6A) Part XXVI of the Financial Services and Markets Act 2000 applies to a decision notice given under this section as it applies to a decision notice given under subsection (9) of section 52 of that Act by virtue of paragraph (a) of that subsection, except that—

- (a) section 390 (final notices) does not apply, and
- (b) for the purposes of section 391 (publication) the decision notice is to be treated as if it were a final notice rather than a decision notice.

(6B) The giving of permission pursuant to subsection (6) above is to be treated for the purposes of section 55 of the Financial Services and Markets Act 2000 (right to refer matters to the Financial Services and Markets Tribunal) as if it were the determination of an application made by the successor under Part IV of that Act, and Part IX of that Act (hearings and appeals) applies accordingly (but subject to subsection (6C) below).

(6C) In the application of Part IX of that Act by virtue of subsection (6B) above, section 133(9) (which prevents the Authority from taking action specified in a decision notice until after any reference and appeal) is omitted.”, and

- (e) subsection (7) is omitted.

178. In section 94~~(36)~~—

(35) Section 93 was amended by the Building Societies Act 1997, Schedule 7 paragraph 41.

(36) Section 94 was amended by the Building Societies Act 1997, Schedule 7 paragraph 42.

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- (a) in subsections (5)(b) and (7)(a), for the word “Commission” there is substituted “Authority”,
 - (b) in subsection (8)—
 - (i) for the word “Commission” there is substituted “Authority”, and
 - (ii) for the words “the central office” there is substituted “it”, and
 - (c) in subsection (9) for the words “central office” there is substituted “Authority”.
- 179.** In section 95(37)—
- (a) in subsection (2) for the words “central office”, and
 - (b) in subsections (3) to (6) for the word “Commission”, wherever it appears,
- there is substituted “Authority”.
- 180.** In section 96(38)—
- (a) in subsections (2) and (5) for the words “Commission, with the consent of the Treasury,” there is substituted “Treasury”, and
 - (b) in subsection (6) for the word “Commission”, both times it appears, there is substituted “Authority”.
- 181.** In sections 97 and 98(39) for the words—
- (a) “central office” and
 - (b) “Commission”,
- wherever they appear, there is substituted “Authority”.
- 182.** In section 99(3) for the words “Commission, with the consent of the Treasury,” there is substituted “Treasury”.
- 183.** In section 100(7) for the word “Commission”, both times it appears, there is substituted “Authority”.
- 184.** In section 101(6)(40) the definition of “the Authority” is omitted.
- 185.** In section 102(41)—
- (a) in subsection (1) for the words “Commission, with the consent of the Treasury,” there is substituted “Treasury”, and
 - (b) in subsection (2) the words “and the Banking Act 1987” are omitted.
- 186.** In section 102D(11)(42) for the words “Commission may with the consent of the Treasury” there is substituted “Treasury may”.
- 187.** In section 103—
- (a) for the words “central office”, wherever they appear, there is substituted “Authority”, and

(37) Section 95 was amended by the Building Societies Act 1997, Schedule 7 paragraph 43 and Schedule 9.

(38) Section 96 was amended by the Building Societies Act 1997, Schedule 7 paragraph 44.

(39) Section 97 was amended by the Building Societies Act 1997, Schedule 7 paragraph 45 and Schedule 9 and by the Building Societies (Distributions) Act 1997 (c. 41), section 1. Section 98 was amended by the Banking Act 1987 (c. 22), Schedule 6 paragraph 26, and by the Building Societies Act 1997, section 30.

(40) Section 101 was substituted by the Building Societies Act 1997, section 41 and amended by the Bank of England Act 1998 (c. 11), Schedule 5 paragraph 38.

(41) Section 102 was amended by the Banking Act 1987, Schedule 6 paragraph 26, and by the Building Societies (Distributions) Act 1997, section 1(3).

(42) Section 102D was inserted by the Building Societies (Distributions) Act 1997, section 1(1).

- (b) in subsection (2)(a) for the words “is not an authorised society” there is substituted “does not have permission under Part IV of the Financial Services and Markets Act 2000 to accept deposits”.

188. In section 104A(1)(43) the words “and after consultation with the Commission” are omitted.

189. In section 106—

- (a) in subsection (1) for the words “central office” there is substituted “Authority”,
- (b) in subsections (1)(b) and (2) for the words “on payment of the prescribed fee” there is substituted “subject to subsection (3) below”, and
- (c) after subsection (2) there is inserted—

“(3) The Authority may charge a reasonable fee for making the public file available to any person for inspection under subsection (1)(b) above, or for furnishing any person with a copy of any documents or records under subsection (2) above.”.

190. In sections 107 and 111(44) for the word “Commission”, wherever it appears, there is substituted “Authority”.

191. In section 112(45), subsection (2) is omitted.

192. For section 113(1) there is substituted—

“(1) Any document bearing the seal or stamp of the Authority shall be received in evidence without further proof.

(1A) Any document purporting to have been signed by a person authorised to do so on behalf of the Authority shall, in the absence of any evidence to the contrary, be received in evidence without proof of the signature.

(1B) In subsections (1) and (1A), “document” means any document issued, received or created by the Authority for the purposes of or in connection with this Act.”.

193. In section 114(4)—

- (a) for the words “Commission may, by regulations made with the consent of the Treasury,” there is substituted “Treasury may by regulations”, and
- (b) for the words “it considers” there is substituted “they consider”.

194. In section 115(46)—

- (a) in subsection (1) for the words “Commission and the central office” there is substituted “Authority”, and
- (b) subsection (1A) is omitted.

195. For section 116 there is substituted—

“116 Form of documents.

(1) The Authority may, by directions under this section, make provision with respect to the form of, and the particulars to be included in, any document to be sent to it under this Act.

(2) The directions have effect subject to any other provision of or made under this Act.”.

196. Section 118A(47) ceases to have effect.

(43) Section 104A was inserted by the Building Societies Act 1997, section 42.

(44) There are amendments to sections 107 and 111 which are not relevant to this Order.

(45) Section 112(2) was amended by the Building Societies Act 1997, Schedule 7 paragraph 51.

(46) Section 115(1A) was inserted by S.I. [1992/3218](#).

(47) Section 118A was inserted by S.I. [1992/3218](#).

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197. In section 119(48)—

(a) in subsection (1)—

- (i) the definition of “authorisation” is omitted,
- (ii) before the definition of “borrowing members' resolution”, there is inserted—
““the Authority” means the Financial Services Authority;”,
- (iii) the definitions of “the central office”, “the Chief Registrar”, “the Commission”, and “the criteria of prudent management” are omitted,
- (iv) in the definition of “deferred shares”, for the words “Commission, with the consent of the Treasury,” there is substituted “Treasury”,
- (v) the definition of “Investor Protection Board” is omitted,
- (vi) the definition of “non-EEA laws” (including the words up to “construed accordingly;”) is omitted,
- (vii) in the definition of “officially notified”, for the words “central office” there is substituted “Authority”,
- (viii) the definition of “prescribed” is omitted, and
- (ix) in the definition of “the public file”, for the words “central office” there is substituted “Authority”,

(b) after that subsection there is inserted—

“(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).”, and

(c) in subsection (4)—

- (i) for the words “sections 9A(7) and 83A(7)” there is substituted “section 9A(7)”, and
- (ii) for the word “Commission” there is substituted “Authority”.

198. Section 123 ceases to have effect.

199. Schedule 1(49) ceases to have effect.

200. In Schedule 2(50)—

- (a) for the words “central office”, wherever they appear, there is substituted “Authority”,
- (b) in paragraph 1(1)(c) for the word “four” there is substituted “three”,
- (c) in paragraph 3(3) the words “the Commission or” are omitted,
- (d) in paragraph 10A(2), (3)(a), and (4)(b) for the word “Commission” there is substituted “Authority”,
- (e) in paragraphs 10A(3) and 10B(5) for the words “Commission may, with the consent of the Treasury,” there is substituted “Treasury may”,
- (f) in paragraph 10C(6) for the words “Commission thinks” there is substituted “Treasury think”,

(48) Relevant amendments to section 119 are made by the Building Societies Act 1997, Schedule 7 paragraphs 51 and 53 and S.I. 1996/1669.

(49) Schedule 1 was amended by the Parliamentary and Health Service Commissioners Act 1987 (c. 39), Schedule 2, and the Building Societies Act 1997, Schedule 7 paragraph 55. The functions of the Treasury under paragraphs 5 and 6 were transferred to the Minister for the Civil Service by S.I. 1995/269.

(50) Schedule 2 was amended by the Building Societies (Joint Account Holders) Act 1995 (c. 5), sections 1(2) and 2(2), the Building Societies Act 1997, sections 2, 3, 25, 26, 36 and 37, Schedule 1, Schedule 7 paragraphs 56 and 57 and Schedule 9, and by S.I. 1997/2714, 1997/2840, 1999/3031 and 1999/3033.

- (g) in paragraph 12(4) for the words “Commission prescribes” there is substituted “Treasury prescribe”,
 - (h) in paragraph 15—
 - (i) in sub-paragraph (1)(a) for the words “authorisation revoked under section 43” there is substituted “permission under Part IV of the Financial Services and Markets Act 2000 to accept deposits cancelled”,
 - (ii) in sub-paragraph (1)(b) for the words “been re-authorised under section 44” there is substituted “subsequently been given such permission”,
 - (iii) for the word “Commission”, wherever it appears in sub-paragraphs (2) to (4), there is substituted “Authority”,
 - (iv) sub-paragraph (2)(c) and the word “and” immediately preceding it are omitted,
 - (v) after sub-paragraph (2) there is inserted—

“(2A) The Authority may charge a reasonable fee for considering an application under sub-paragraph (2) above.”, and
 - (vi) sub-paragraphs (9) to (11) are omitted,
 - (i) in paragraph 20(3) and (5)(b) for the word “Commission” there is substituted “Authority”,
 - (j) in paragraph 20A(12) for the word “Commission” there is substituted “Authority”,
 - (k) in paragraph 20A(13)—
 - (i) for the words “Commission may, with the consent of the Treasury,” there is substituted “Treasury may”,
 - (ii) for the word “it” there is substituted “them”, and
 - (iii) for the word “Commission”, the second time it appears, there is substituted “Treasury”,
 - (l) in paragraph 30(4)—
 - (i) for the word “Commission”, the first time it appears, there is substituted “Authority”, and
 - (ii) for the words “the Commission”, the second time they appear, there is substituted “it”,
 - (m) in paragraph 30(6)—
 - (i) the words “, after consultation with the Commission,” are omitted, and
 - (ii) for the words “it thinks” there is substituted “they think”,
 - (n) in paragraph 31(7) for the word “Commission” there is substituted “Authority”,
 - (o) in paragraph 32(4) for the word “Commission” there is substituted “Treasury”, and
 - (p) in paragraph 36(1) for the words “Commission, with the consent of the Treasury, by order specifies” there is substituted “Treasury by order specify”.
- 201.** In Schedule 2A(**51**), in paragraph 3(1) for the words “Chief Registrar” there is substituted “Treasury”.
- 202.** Schedules 5 and 6(**52**) cease to have effect.
- 203.** Schedule 7A(**53**) ceases to have effect.

(51) Schedule 2A was inserted by the Building Societies Act 1997 (c. 32), section 7 and Schedule 2.

(52) Schedule 5 was amended by the Building Societies Act 1997, Schedule 7 paragraph 58 and by S.I. 1991/1997. Schedule 6 was amended by S.I. 1995/1442.

(53) Schedule 7A was inserted by the Building Societies Act 1997, section 13 and Schedule 3.

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204. In Schedule 8A(**54**)—

- (a) for the word “Commission”, wherever it appears, there is substituted “Authority”, and
- (b) in paragraphs 3(3)(a) and 9(3)(a) for the words “the notice of confirmation under section 42C(2)(b)” there is substituted “a final notice given by the Authority under section 390 of the Financial Services and Markets Act 2000”.

205. In Schedule 10(**55**), in paragraph 9(1) for the words “Commission, with the consent of the Treasury,” there is substituted “Treasury”.

206. In Schedule 11(**56**)—

- (a) for the word “Commission”, wherever it appears except in paragraph 5(1)(b), there is substituted “Authority”,
- (b) in paragraph 5(1)(b) the words “Commission made with the consent of the” are omitted, and
- (c) in paragraphs 6(2) and 7(3)(a) for the words “central office” there is substituted “Authority”.

207. Schedules 12 and 13(**57**) cease to have effect.

208. In Schedule 14(**58**)—

- (a) for the words—
 - (i) “Commission” in paragraphs 1(5) and 6(1) and (2), and
 - (ii) “central office” wherever it appears in paragraph 3 or the preceding-cross-heading, there is substituted “Authority”, and
- (b) paragraph 7 is omitted.

209. In Schedule 15(**59**)—

- (a) in paragraph 3(1)(b) for the words “central office” there is substituted “Financial Services Authority”,
- (b) in paragraph 3(2), before paragraph (a) there is inserted—
 - “(aa) every reference to a company registered in Scotland shall have effect as a reference to a building society whose registered office is situated in Scotland;”,
- (c) in paragraph 4(1), for the words “central office”, both times they appear, there is substituted “Authority”,
- (d) in paragraphs 12(2) and 40(2) the words from “(including” to “Act)” are omitted,
- (e) in paragraphs 21(3) and 48(3), for the words “central office”, both times they appear in each, there is substituted “Authority”, and
- (f) in paragraphs 29, 31(3), 32(1) and (2), 55A, 55C(3) and 55D(1) and (2), for the word “Commission”, there is substituted “Authority”.

210. In Schedule 15A(**60**)—

(54) Schedule 8A was inserted by the Building Societies Act 1997, section 17 and Schedule 4.

(55) There are amendments to Schedule 10 which are not relevant to this Order.

(56) Schedule 11 was amended by the Building Societies Act 1997, Schedule 7 paragraph 61, and by S.I. [1991/1997](#) and [1995/2723](#).

(57) Schedules 12 and 13 were amended by the Building Societies Act 1997, section 34, Schedule 7 paragraphs 62 and 63 and Schedule 9.

(58) Relevant amendments to Schedule 14 were made by the Building Societies Act 1997, Schedule 7 paragraph 64.

(59) Schedule 15 was amended by the Companies Act 1989 (c. 40), sections 211 and Schedule 24, the Building Societies Act 1997, Schedule 7 paragraph 65, and S.I. [1989/2405](#).

(60) Schedule 15A was inserted by the Building Societies Act 1997, section 39 and Schedule 6, and amended by the Insolvency Act 2000 (c. 39), Schedule 2 Part II.

- (a) in paragraph 2(1)(b) for the words “central office” there is substituted “Financial Services Authority”,
- (b) in paragraph 2(2), before paragraph (a) there is inserted—
 - “(aa) every reference to a company registered in Scotland shall have effect as a reference to a building society whose registered office is situated in Scotland;”,
- (c) in paragraph 3(1) for the words “central office”, both times they appear, there is substituted “Authority”,
- (d) after paragraph 5 there is inserted—
 - “**5A.** In this Schedule, “scheme manager” has the same meaning as in the Financial Services and Markets Act 2000.”,
- (e) in paragraphs 9A, 10(1), 11 and 15 for the word “Commission”, wherever it appears, there is substituted “Authority”,
- (f) in paragraph 16(2) the words “or paragraph (a) of the seventh criterion in section 45(3) of this Act” are omitted,
- (g) paragraph 16(4) is omitted,
- (h) in paragraph 21(1)(a)—
 - (i) for the words “central office” there is substituted “Authority”, and
 - (ii) for the words “Commission and the Investor Protection Board” there is substituted “scheme manager”,
- (i) in paragraph 23(1) for the words “Commission and to the Investor Protection Board” there is substituted “Authority and to the scheme manager”,
- (j) in paragraph 24(a) for the words “Commission or Investor Protection Board” there is substituted “Authority or the scheme manager”,
- (k) in paragraph 24(b) for the words “Commission or that Board” there is substituted “Authority or the scheme manager”,
- (l) in paragraph 25 for the word “Commission” there is substituted “Treasury”,
- (m) in paragraphs 32(1), 33 and 37 for the word “Commission”, wherever it appears, there is substituted “Authority”,
- (n) in paragraph 38(2) the words “or paragraph (a) of the seventh criterion in section 45(3) of this Act” are omitted,
- (o) paragraph 38(4) is omitted,
- (p) in paragraph 43(1)(a)—
 - (i) for the words “central office” there is substituted “Authority”, and
 - (ii) for the words “Commission and the Investor Protection Board” there is substituted “scheme manager”,
- (q) in paragraph 45(1)(a) for the words “Commission and to the Investor Protection Board” there is substituted “Authority and to the scheme manager”,
- (r) in paragraph 46(a) for the words “Commission or Investor Protection Board” there is substituted “Authority or the scheme manager”,
- (s) in paragraph 46(b) for the words “Commission or that Board” there is substituted “Authority or the scheme manager”, and
- (t) in paragraph 47 for the word “Commission” there is substituted “Treasury”.

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211. In Schedule 16(**61**)—

(a) for the words—

- (i) “Commission”, and
- (ii) “central office”,

wherever they appear (including in the cross-heading which appears before paragraph 5 of the Schedule and the heading to Part III of the Schedule), there is substituted “Authority”, and

(b) for the word “prescribe” in paragraph 7 there is substituted “direct”.

212. In Schedule 17(**62**)—

- (a) for the word “Commission”, wherever it appears (including in the title of Part II of the Schedule) except in paragraphs 5(1) and (2), there is substituted “Authority”,
- (b) in paragraphs 5(1) and (2) for the words “Commission, with the consent of the Treasury,” there is substituted “Treasury”,
- (c) in paragraph 5D and in the cross-heading before it, for the words “central office”, wherever they appear, there is substituted “Authority”, and
- (d) in paragraph 6 for the word “prescribe” there is substituted “direct”.

Amendments to the Building Societies Act 1997

213. In the Building Societies Act 1997(**63**) the following provisions cease to have effect—

- (a) section 16,
- (b) sections 19 to 24,
- (c) sections 32(**64**) to 35,
- (d) section 44,
- (e) Schedule 3,
- (f) in Schedule 7, paragraphs 1, 3 to 15, 18 to 20, 29(2), 35, 36, 51, 55, 58, 62, 63 and 64(5), and
- (g) in Schedule 8, paragraphs 1 to 3.

(61) Schedule 16 was amended by the Building Societies Act 1997, Schedule 7 paragraph 66 and Schedule 9.

(62) Schedule 17 was amended by the Building Societies Act 1997, section 30 and Schedule 5.

(63) 1997 c. 32.

(64) Section 32 was amended by the Bank of England Act 1998 (c. 11), Schedule 5 paragraph 43.