

SCHEDULE 5

Article 13(3)

TRANSITIONAL PROVISIONS AND SAVINGS

Provisions about proof of documents etc.

1. The repeal or amendment by this Order of any provision mentioned in paragraph 2 below (provisions concerning the proof or effect of documents sealed or stamped, or purporting to have been signed or certified, by bodies or the holders of offices which cease to exist by virtue of this Order) does not affect the operation of the provision in relation to documents sealed, stamped or purporting to have been signed or certified before commencement, by a person in relation to whose seal, stamp, signature or certificate (as the case may be) the provision applied.

2. The provisions are—

- (a) sections 84(2) and 110 of the Friendly Societies Act 1974⁽¹⁾,
- (b) sections 67(9), 91(4), 107(3), and 111(1) of the Friendly Societies Act 1992⁽²⁾,
- (c) sections 57(9), 111(3) and 113(1) of the Building Societies Act 1986⁽³⁾, and
- (d) section 72(2) of the Industrial and Provident Societies Act 1965⁽⁴⁾.

Friendly Societies Act 1974

3. The following transitional provisions and savings are to have effect in relation to provisions in the Friendly Societies Act 1974.

4. Sections 1 to 3⁽⁵⁾ (the Registry of Friendly Societies) are to be treated as if they continued to have effect, for the purposes of article 12 of this Order, until such time as the office of Chief Registrar, the office of assistant registrar for Scotland, and the offices of assistant registrar cease to exist by virtue of article 12(3).

5. Section 47(3) (amendment, for the purposes of the section, of rules of a society or branch existing on 25th April 1940) is to be treated as if it continued to have effect in relation to any rule registered in accordance with that subsection before commencement.

6. For the purposes of section 98(7) (time limit on bringing summary proceedings for an offence under the Act), where at any time before commencement information concerning an offence was known to the Chief Registrar, the assistant registrar for Scotland or any assistant registrar, that information is to be treated as having been known at that time to the Authority.

7. Section 111(3) (which provides a definition of “registrar”) is to be treated as if it continued to have effect, for the purposes of section 15(1) (which relates to acknowledgements of registration issued by the registrar), insofar as that provision continues to be relevant for the purposes of sections 15(2) or 17⁽⁶⁾.

(1) 1974 c. 46. Section 110(2) was amended by the Friendly Societies Act 1992 (c. 40), Schedule 16, paragraph 47.

(2) 1992 c. 40.

(3) 1986 c. 53.

(4) 1965 c. 12. Section 72(2) was repealed in part by the Friendly and Industrial and Provident Societies Act 1968 (c. 55), Schedule 2.

(5) Section 2 was amended by the Friendly Societies Act 1981 (c. 50), section 1, and the Courts and Legal Services Act 1990 (c. 41), Schedule 10 paragraph 35.

(6) The substitution of section 15A for section 15, and the repeal of section 17, by the Friendly Societies Act 1992 (c. 40), Schedule 16 paragraphs 1 and 6 and Schedule 22 Part I, did not affect the operation of those provisions in relation to an acknowledgement of registration issued by the registrar under section 15(1).

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Friendly Societies Act 1992

8. The following transitional provisions and savings are to have effect in relation to provisions in the Friendly Societies Act 1992.

9. Subsections (1) to (3), (6) and (9) of section 1 (the Friendly Societies Commission) are to be treated as if they continued to have effect, for the purposes of article 10 of this Order, until such time as the Friendly Societies Commission ceases to exist by virtue of article 10(4).

10. For the purposes of—

- (a) the application of section 62(7) (powers to obtain information and documents etc.) to any notice which was given or requirement which was imposed under that section at any time before commencement, and
- (b) the application of section 65(8) (investigations) to an investigation by a person who was appointed under that section at any time before commencement,

any question as to whether something is needed or desirable for the purposes of the Authority's supervisory functions is to be determined as if the Authority's supervisory functions included any functions which were exercised by the Friendly Societies Commission at that time under the Act as it then had effect.

11. Section 63A (as substituted by paragraph 78 of Schedule 3 to this Order) (disclosure of information) also applies to any information which—

- (a) is information to which that section would not otherwise apply;
- (b) immediately before commencement was restricted information within the meaning of section 63 of the Friendly Societies Act 1992 as it then had effect; and
- (c) is not excluded information within the meaning of section 63A(4);

and, for the purposes of paragraph (c) above, section 63A(4) is to be read as if, in relation to any time before commencement, the reference to section 348 of the Financial Services and Markets Act 2000 were a reference to section 63 of the Friendly Societies Act 1992.

12. For the purposes of section 63A as it applies by virtue of paragraph 11 above, a person who holds the information is to be treated as a primary recipient of the information if he was a primary recipient for the purposes of section 63, and any other person who holds the information is to be treated as having obtained it directly or indirectly from a primary recipient.

13. For the purposes of section 107(1) (time limit on bringing summary proceedings for an offence under the Act), where at any time before commencement information concerning an offence was known to the Commission, that information is to be treated as having been known at that time to the Authority; and a certificate may be given by the Authority under section 107(3) in relation to the date on which such information came to the knowledge of the Commission.

14. In section 119 (interpretation) the definition of “the Commission” is to be treated as if it continued to have effect, for the purposes of article 10 of this Order, until such time as the Friendly Societies Commission ceases to exist by virtue of article 10(4).

15. Section 122 (expenses to be paid out of money provided by Parliament) is to be treated as if it continued to have effect, for the purposes of paragraph (a) of that section, until such time as the Friendly Societies Commission ceases to exist by virtue of article 10(4), and any expenses incurred by the Commission which are attributable to the provisions of this Order are to be treated for the purposes of that section as if they were attributable to the provisions of the Friendly Societies Act 1992.

(7) Section 62 was amended by S.I.1994/1984.

(8) Section 65 was amended by S.I. 1994/1984.

16. Schedule 1(9) (the Friendly Societies Commission) is to be treated as if it continued to have effect, for the purposes of article 10 of this Order, until such time as the Friendly Societies Commission ceases to exist by virtue of article 10(4).

Building Societies Act 1986

17. The following transitional provisions and savings are to have effect in relation to provisions in the Building Societies Act 1986.

18. Subsections (1) to (3), (6), and (7) of section 1 (the Building Societies Commission) are to be treated as if they continued to have effect, for the purposes of article 9 of this Order, until such time as the Building Societies Commission ceases to exist by virtue of article 9(4).

19. In section 24 (Building Societies Investor Protection Board), in subsection (1) the words up to “Board”, and subsection (2), are to be treated as if they continued to have effect, for the purposes of article 11 of this Order, until such time as the Board ceases to exist by virtue of article 11(4).

20. For the purposes of—

- (a) the application of section 52(10) (powers to obtain information and documents etc.) to any notice which was given or requirement which was imposed under that section at any time before commencement, and
- (b) the application of section 55(11) (investigations) to an investigation by a person who was appointed under that section at any time before commencement,

any question as to whether something is needed or desirable for the purposes of the Authority’s supervisory functions is to be determined as if the Authority’s supervisory functions included functions which were exercised by the Building Societies Commission at that time under any provision which was then mentioned in paragraph (a) or (b) of section 52(1).

21. Section 53A (as substituted by paragraph 152 of Schedule 3 to this Order) (disclosure of information) also applies to any information which—

- (a) is information to which that section would not otherwise apply;
- (b) is information the disclosure of which, immediately before commencement, was prohibited by section 53 as it then had effect; and
- (c) is not excluded information within the meaning of section 53A(4);

and, for the purposes of paragraph (c) above, section 53A(4) is to be read as if, in relation to any time before commencement, the reference to section 348 of the Financial Services and Markets Act 2000 were a reference to section 53 of the Building Societies Act 1986.

22. For the purposes of section 53A as it applies by virtue of paragraph 21 above, a person who holds the information is to be treated as a primary recipient of the information if before commencement he was a person who was prohibited from disclosing the information by section 53 as it then had effect, and any other person who holds the information is to be treated as having obtained it directly or indirectly from a primary recipient.

23. For the purposes of section 89(1)(e) (winding up on grounds of revocation of authorisation), a building society is to be treated as meeting the condition set out in that paragraph, as it has effect after commencement, if before commencement its authorisation had been revoked under section 43

(9) The functions of the Treasury under paragraphs 4 and 5 of Schedule 1 were transferred to the Minister for the Civil Service by S.I. 1995/269.

(10) Section 52 was amended by the Building Societies Act 1997 (c. 32), Schedule 7 Paragraph 17 and Schedule 9, and by S.I. 1992/3218.

(11) Section 55 was amended by the Building Societies Act 1997, Schedule 7 paragraph 21.

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and it had not been reauthorised under section 44(12) (and for these purposes “authorisation” is to be construed as if the definition of that term in section 119(1) continued to have effect), provided that it has not since commencement been given permission under Part IV of the Financial Services and Markets Act 2000 to accept deposits.

24. For the purposes of section 111(1) (time limit on bringing summary proceedings for an offence under the Act), where at any time before commencement information concerning an offence was known to the Commission, that information is to be treated as having been known at that time to the Authority; and a certificate may be given by the Authority under section 111(3) in relation to the date on which such information came to the knowledge of the Commission.

25. In section 119(1) (interpretation)—

- (a) the definition of “the central office” is to be treated as if it continued to have effect for the purposes of section 5(4) (which relates to societies registered with the central office immediately before the commencement of that section) and paragraph 5 of Schedule 20 (registration before commencement of section 5), and
- (b) the definition of “the Commission” is to be treated as if it continued to have effect, for the purposes of article 9 of this Order, until such time as the Building Societies Commission ceases to exist by virtue of article 9(4).

26. Section 123 (expenses to be paid out of money provided by Parliament) is to be treated as if it continued to have effect, for the purposes of paragraph (a) of that section, until such time as the Building Societies Commission ceases to exist by virtue of article 9(4) of this Order, and any expenses incurred by the Commission which are attributable to the provisions of this Order are to be treated for the purposes of that section as if they were attributable to the provisions of the Building Societies Act 1986.

27. Schedule 1(13) (the Building Societies Commission) is to be treated as if it continued to have effect, for the purposes of article 9 of this Order, until such time as the Building Societies Commission ceases to exist by virtue of article 9(4).

28. For the purposes of paragraph 15(1) of Schedule 2 (rights of members to obtain particulars from the register), a building society is to be treated as meeting the conditions set out in subparagraphs (a) and (b) of that paragraph as they have effect after commencement, if before commencement its authorisation had been revoked under section 43 and it had not been reauthorised under section 44 (and for these purposes “authorisation” is to be construed as if the definition of that term in section 119(1) continued to have effect), provided that it has not since commencement been given permission under Part IV of the Financial Services and Markets Act 2000 to accept deposits.

29. Paragraphs 1 to 5A and paragraph 6(4) of Schedule 5(14) (the Building Societies Investor Protection Board) are to be treated as if they continued to have effect, for the purposes of article 11 of this Order, until such time as the Board ceases to exist by virtue of article 11(4).

(12) 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.

(13) 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.

(14) Paragraph 5A of Schedule 5 was added by the Building Societies Act 1997, Schedule 7 paragraph 58, and paragraph 6(4) was substituted by S.I. 1991/1997.