
STATUTORY INSTRUMENTS

2001 No. 3592

The Financial Services and Markets Act 2000 (Transitional Provisions) (Partly Completed Procedures) Order 2001

PART III

MUTUAL SOCIETIES

CHAPTER II

PROCEDURES TAKING EFFECT AFTER COMMENCEMENT AS PROCEDURES UNDER THE AMENDED BUILDING SOCIETIES ACT

Interpretation

35. In this Chapter—

- (a) references to “the original Building Societies Act” are references to that Act as it had effect immediately before commencement;
- (b) references to “the amended Building Societies Act” are references to that Act as it has effect immediately after commencement by virtue of Schedule 18 to the Act, the Mutual Societies Order and any other Order made under the Act.

Commencement Information

II Art. 35 in force at 1.12.2001, see [art. 1\(2\)](#)

Notice of proposed directions under section 36 of the Building Societies Act

36.—(1) This article applies to a notice served under paragraph 2(1) of Schedule 7A to the original Building Societies Act⁽¹⁾ or, where one or more notices has been served under paragraph 3(2) of that Schedule proposing to give a more onerous direction than proposed in the first notice, then to the latest notice.

(2) Where—

- (a) a notice falling within paragraph (1) has been served before commencement proposing to give a direction under section 36(3), (5), (6), (7) or (10) of the original Building Societies Act⁽²⁾;
- (b) no notice has been served (following that notice) of a decision under paragraph 2(3)(b) or 3(4)(b) of Schedule 7A to that Act;

(1) Schedule 7A was inserted by the Building Societies Act 1997, Schedule 3.

(2) Section 36 was substituted by the Building Societies Act 1997, section 13(1).

the notice has effect (subject to paragraph (3)) after commencement as if it were a warning notice given by the Authority under section 46A(1) of the amended Building Societies Act⁽³⁾ (by virtue of paragraph (a) of that subsection).

(3) Notwithstanding section 46A(8)(d)(i) of the amended Building Societies Act, section 394 does not apply to a notice having effect under paragraph (2).

(4) Where a copy of the notice falling within paragraph (2)(a) above was served on any person in accordance with paragraph 2(2) or 3(3) of Schedule 7A to the original Building Societies Act, that notice is treated after commencement as if it was a copy of the warning notice given to that person under section 393(1).

(5) A notice having effect under paragraph (2) has effect—

- (a) as if it gave notice that the Authority proposes to give a direction in the terms set out in the notice;
- (b) as if it informed the society and any relevant recipients that they may make representations to the Authority within 28 days or within the period (if longer than 28 days) specified in the notice for the purpose of paragraph 2(1)(d) or 3(2)(c) of Schedule 7A to the original Building Societies Act (as the case may be);
- (c) as if it stated that section 394 does not apply.

(6) Where a notice has effect under paragraph (2) the Authority must have regard when deciding whether to give a decision notice under section 46A(3) of the amended Building Societies Act to any representations made before commencement in relation to the notice given under Schedule 7A to the original Building Societies Act.

(7) For the purposes of this article, a “relevant recipient” is a person who was served with the notice pursuant to paragraph 2(2) or 3(3) of Schedule 7A to the original Building Societies Act.

Commencement Information

I2 Art. 36 in force at 1.12.2001, see [art. 1\(2\)](#)

Prohibition orders under section 36A of the Building Societies Act

37.—(1) Where, before commencement—

- (a) a notice has been served under section 36A(1) of the original Building Societies Act⁽⁴⁾ of intention to make a prohibition order directed to a society;
- (b) no prohibition order has been made under section 36A(6) of that Act and the society has not been notified of a decision not to issue such an order,

the notice has effect after commencement as if it were a warning notice given under section 36A(5) of the amended Building Societies Act⁽⁵⁾.

(2) A notice having effect under paragraph (1) has effect—

- (a) as if it stated that section 394 of the Act does not apply;
- (b) as if it informed the society that it may make representations to the Authority within a period of 28 days or within the period (if longer) specified for the purpose of section 36A(5)(c) of the original Building Societies Act.

⁽³⁾ Section 46A was inserted by paragraph 148 of Schedule 3 to the Mutual Societies Order.

⁽⁴⁾ Section 36A was inserted by the Building Societies Act 1997, section 14.

⁽⁵⁾ Section 36A(5) was substituted by paragraph 142(c) of Schedule 3 to the Mutual Societies Order.

Commencement Information

I3 Art. 37 in force at 1.12.2001, see [art. 1\(2\)](#)

Unconfirmed directions under section 42B of the Building Societies Act

38.—(1) Where, before commencement—

- (a) a direction has been given under section 42B(1)(a) or (b) of the original Building Societies Act(6), being a direction which requires confirmation pursuant to section 42C(2)(b) of that Act(7);
- (b) that direction has not ceased to have effect by virtue of section 42C(2)(b);
- (c) the direction has not been confirmed pursuant to section 42C(2)(b),

the direction has effect after commencement (subject to paragraph (2)) as if it were a warning notice given by the Authority under section 46A(1) (by virtue of paragraph (b) of that subsection) of the amended Building Societies Act(8).

(2) Notwithstanding section 46A(8)(d)(i) of the amended Building Societies Act, sections 393 and 394 do not apply to a notice having effect under paragraph (1).

(3) A notice having effect under paragraph (1) has effect—

- (a) as if it gave notice that the Authority proposes to give a direction under section 42B(1) of the amended Building Societies Act;
- (b) as if it informed the society that it may make representations to the Authority within 28 days;
- (c) as if it stated that section 394 does not apply.

(4) Where a notice has effect under paragraph (1) the Authority must have regard when deciding whether to give a decision notice under section 46A(3) of the amended Building Societies Act, to any representations made before commencement pursuant to section 42C(3) of the original Building Societies Act.

(5) Where, in respect of a direction having effect under paragraph (1)—

- (a) a person was entitled pursuant to section 46 of the original Building Societies Act to bring an appeal against the direction;
- (b) the period in which an appeal could be brought has not expired before commencement;
- (c) that person has not brought an appeal in relation to the direction,

the right of appeal lapses at commencement, without prejudice to any right that person may have to refer the matter to the Financial Services and Markets Tribunal if a decision notice is subsequently given under section 46A(3) of the amended Building Societies Act(9).

Commencement Information

I4 Art. 38 in force at 1.12.2001, see [art. 1\(2\)](#)

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

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

(8) Section 46A was inserted by paragraph 148 of the Schedule 3 to the Mutual Societies Order.

(9) Section 46A(3) was inserted by paragraph 148 of Schedule 3 to the Mutual Societies Order.

Changes to legislation:

There are currently no known outstanding effects for the The Financial Services and Markets Act 2000 (Transitional Provisions) (Partly Completed Procedures) Order 2001, CHAPTER II.