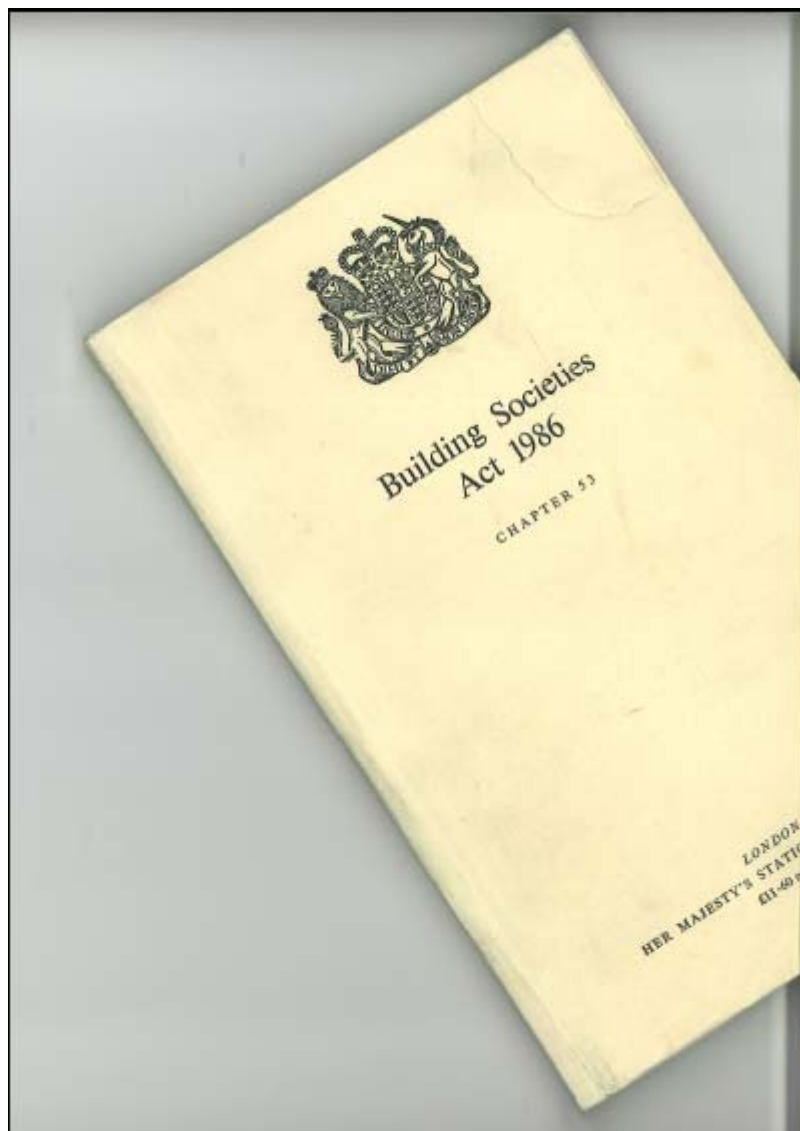


BUILDING SOCIETIES ACT 1986

(Edition 2: Amended text as at: 1 April 2013)



Wurtzburg & Mills: Building Society Law

Wurtzburg & Mills aims to provide the practitioner with a comprehensive treatment of the law relating to building societies. As well as dealing with the constitution and powers of building societies under the Building Societies Act 1986, the book contains a detailed discussion of the regulatory scheme currently in place under the Financial Services and Markets Act 2000 – a discussion which is being, and will continue to be, updated as details emerge of the changed regulatory framework to be put in place under the Financial Services Act 2012, which received Royal Assent in December.

Wurtzburg & Mills also contains a full treatment of other areas of law and regulation which affect building societies. These include –

- Mortgage law.
- Mortgage regulation under MCOB.
- The law governing building society shares and deposits.
- The various fairness regimes which apply to contracts between building societies and their customers, including the Unfair Terms in Consumer Contracts Regulations 1999, the unfair relationships provisions of the Consumer Credit Act 1974, the FSA's 'treating customers fairly' initiative and the jurisdiction of the Financial Ombudsman Service.
- Mergers.
- Regimes for dealing with failing and failed societies, including the special resolution regime.

Wurtzburg & Mills also contains the updated text of the Building Societies Act 1986 and the delegated legislation made under it. The book is published in a loose leaf format and is kept up to date by the publication of two releases per year. The three joint editors are practising barristers with specialist experience in the law relating to building societies and retail financial services. Further information –

www.sweetandmaxwell.co.uk/Catalogue/ProductDetails.aspx?productid=7711&recordid=582

INTRODUCTION

This document is a supplement to *the BSA Guide to Building Society Law, Regulation and Constitutions* www.bsa.org.uk/docs/policy/law_constitutions_and_regulation_guide.pdf, which, among other things, provides a detailed commentary on the Building Societies Act 1986. (Also visit www.bsa.org.uk/members/policy/buildsoclegislation/bs_act.htm).

The current text of the 1986 Act, as amended, is set out below. The Parts of the 1986 Act are as follows -

Part *	Description	Sections **
I	Functions of the FCA and PRA	1
II	Constitution of Building Societies	5- 9B
IV	Protection of Investors	32
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VII	Management of Building Societies	58 -70
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* some Parts and individual sections have been repealed, which is why the numbers are incomplete

** the 1986 Act also has a number of Schedules, which especially supplement the Parts of the Act relating to constitution of building societies; powers of control of the authorities; management of building societies; accounts and audit; and dissolution, winding-up, mergers and transfer of business.

The 1986 Act has been amended by many other pieces of legislation, most notably the Building Societies Act 1997 and the Financial Services Act 2012. Because of numerous amendments over the years, there are a lot of gaps in the sequence of section and Schedule numbers. For the avoidance of doubt, they are flagged up as follows, eg –

[sections 2 – 4 revoked]

Deletions, within sections etc, are indicated by three dashes: _ _ _.

A list of building society statutory instruments (most, but not all, made under the 1986 Act) is also included below, but it should be remembered that other legislation also amends, or affects, the 1986 Act from time-to-time (eg see the statutory instruments referred to on page 4).

There is also a feature called 'Collated Provisions', which collects together the sections of, Schedules to, and statutory instruments under, the 1986 Act, putting them into relevant topic categories, for ease of reference.

We update this document from time-to-time to incorporate further amendments to the 1986 Act.

If you have any queries or comments, please contact Chris Lawrenson, BSA Head of Legal Services, who has compiled and updated this document (Chris.Lawrenson@bsa.org.uk direct line - 020 7520 5915).

UPDATING SCHEDULE: No 2

The text below (**amended in red**) includes the latest amendments, **effective from 1 April 2013**, made to the 1986 Act since the last edition of this document was published in April 2011.

Version and Date	Changes	Amending Legislation
No 2: 1 April 2013	Amendments to section 9B of the 1986 Act (in respect of the creation of floating charges) and to section 42B and Schedule 8A (in respect of the power to direct transfer of a building society's business).	<p>The Financial Services Act 2012¹, sections 55 and 56 (in force from 1 April 2013).</p> <p>Amendments made by the 2012 Act are referred to in footnotes in red type in the text below.</p> <p>(Schedule 10 to the 2012 Act also amends certain secondary legislation).</p>
	Amendments to numerous provisions in the 1986 Act, relating to the transfer of powers from the FSA to the Prudential Regulatory Authority and the Financial Conduct Authority.	<p>The Financial Services Act 2012 (Mutual Societies) Order 2013 (SI No 496)² (in force from 1 April 2013).</p> <p>All amendments in the text below referred to in red type are made by this Order (unless made by the 2012 Act, as indicated – see above).</p>

1 - www.legislation.gov.uk/ukpga/2012/21/contents/enacted

2 - www.legislation.gov.uk/uksi/2013/496/contents/made.

Please note that new amendments are sometimes subject to transitional or savings provisions (for details see the relevant statutory provision). Also note –

- **The Dormant Bank and Building Society Accounts (Tax) Regulations 2011 (SI No 22)**, which did not amend the 1986 Act but made provision for tax on accounts with banks and building societies treated as “dormant accounts” under the Dormant Bank and Building Society Accounts Act 2008 www.legislation.gov.uk/uksi/2011/22/contents/made.
- **The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (SI No 1265)**, which did not amend the 1986 Act itself, but made changes to certain subordinate legislation (statutory instruments) under the 1986 Act www.legislation.gov.uk/ukdsi/2011/9780111507865/contents.
- **The Individual Savings Account (Amendment No. 2) Regulations 2011 (SI No 1780)**, which did not amend the 1986 Act or subordinate legislation under it, but affect building societies because they amend earlier Regulations to introduce junior ISAs www.legislation.gov.uk/uksi/2011/1780/contents/made.
- **The Building Societies (Core Capital Deferred Shares) Regulations 2013 (SI No 460)**, which do not amend the 1986 Act or subordinate legislation under it, but ‘dis-apply’ certain provisions www.legislation.gov.uk/uksi/2013/460/note/made.

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STATUTORY INSTRUMENTS

Statutory Instruments made under the 1986 Act (excluding commencement orders and orders that have been revoked), some of which have been amended by other legislation, are set out in the table below. A few other recent SIs, not made under the 1986 Act, but affecting building societies are included, but not comprehensively.

Many of the earlier statutory instruments under the 1986 Act were revoked as a result of the Building Societies Act 1997.

The statutory instruments listed below can be found at www.legislation.gov.uk/uksi.

Building Societies (Prescribed Bands for Disclosure) Order 1987 SI No 723
Building Societies (Mergers) Regulations 1987 SI No 2005
Building Societies (Limit on Non-Retail Funds and Deposits) Order 1987 No. 2131
Building Societies (Deferred Shares) Order 1991 SI No 701
Building Societies Act 1986 (Modifications) Order 1991 SI No 1729
Building Societies Act 1986 (Modifications) (No 2) Order 1991 SI No 2738
Building Societies (Mergers) (Amendment) Regulations 1995 SI No 1874
Building Societies (Prescribed Equitable Interests) Order 1997 SI No 2693
Building Societies (Transfer Resolutions) Order 1997 SI No 2714
Building Societies (Members' Resolutions) Order 1997 SI No 2840
Building Societies (Prescribed Form of Receipt) Rules 1997 SI No 2869
Building Societies (Transfer of Business) Regulations 1998 SI No 212
Building Societies (Accounts and Related Provisions) Regulations 1998 SI No 504
<p><u>NB</u> - as amended by various SIs, ie –</p> <ul style="list-style-type: none"> • 1999 No 248 • 2001 No 3649 • 2004 No 3199 • 2004 No 3200 • 2007 No 859 • 2008 No 1143 • 2008 No 1519 • 2009 No 36 • 2009 No 1391
Building Societies (Business Names) Regulations 1998 SI No 3186
Building Societies (Merger Notification Statement) Regulations 1999 SI No 1215
Building Societies (Members' Requisitions) Order 1999 SI No 3031

Building Societies (Nominations for Directors' Election) Order 1999 SI No 3032
Building Societies (Members' Resolutions) Order 1999 SI No 3033
Building Societies (Restricted Transactions) Order 2001 SI No 1826
Building Societies Act 1986 (Electronic Communications) Order 2003 SI No 404
Building Societies (Modification of the Lending Limit and Funding Limit Calculations) Order 2004 SI No 3200
Building Societies (International Accounting Standards and Other Accounting Amendments) Order 2004 SI No 3380
Building Societies Act 1986 (Substitution of Specified Amounts and Modification of the Funding Limit Calculation) Order 2007– SI No 860
Building Societies Act 1986 (Accounts, Audit and EEA States Amendments) Order 2008 – SI No 1519
There are numerous order relating to insolvency, special administration and financial assistance , including – <ul style="list-style-type: none"> • 2008 No 1427 • 2009 No 805 • 2009 No 806 • 2010 No 1188 • 2010 No 1189 • 2010 No 2580 • 2010 No 2581 • 2010 No 2584
Dormant Bank and Building Society Accounts (Tax) Regulations 2011 – SI No 22
Mutual Societies (Electronic Communications) Order 2011 - SI No 593
The Building Societies (Core Capital Deferred Shares) Regulations 2013 - SI No 460

COLLATED PROVISIONS

This section collates together the sections of, Schedules to, and statutory instruments under, the 1986 Act, putting them into ten topic categories, as follows –

- **Establishment and Powers**
- **Constitution and Meetings**
- **Lending**
- **Funding and Deposits**
- **The Regulatory Authorities**
- **Directors: constitutional provisions, election etc**
- **Dealings with Directors**
- **Accounts and Audit**
- **Mergers, Dissolutions and Transfers**
- **Miscellaneous Provisions
(including use and change of name).**

Users should remember that other statutory provisions, regulators' Handbook items etc might also be relevant to the individual topics. For more information on these broader provisions, visit www.bsa.org.uk/members/policy/index.htm.

BSA commentary on the provisions 1986 Act, under the above headings, can be found at -

www.bsa.org.uk/members/policy/buildsoclegislation/bs_act.htm

and (together with commentary on a range of other legal, regulatory and constitutional matters) at -

www.bsa.org.uk/docs/policy/law_constitutions_and_regulation_guide.pdf.

Guidance, information and commentary on a range of matters affecting BSA members' business can be found on the policy pages of the BSA website –

www.bsa.org.uk/members/policy/index.htm.

The BSA is in the process of amending a range of informational material in order to reflect the move to the new regulators (the Prudential Regulation Authority and the Financial Conduct Authority) from 1 April 2013.

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5(5)	Memorandum of powers
5(8)	Introduction of Schedule 2
9A	Restrictions on certain transactions
9B	Restriction on creation of floating charges
92A	Acquisition or establishment of a business
106	Public file of the society
113	Evidence

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Paragraph	
1	Requirements for establishment
2	The memorandum
4	Requirements for alteration of powers
11	Change of principal office
12	Copies of statutory documents
16 to 18	Capacity of society and powers of directors to bind it.

Statutory Instruments

- The Building Societies (Restricted Transactions) Order 2001 (SI 2001 No 1826)
- Various Financial Assistance orders – see above
- The Financial Services Act 2012 (Mutual Societies) Order 2013 (SI No 496)

Also note:

- The Financial Services Act 2012.

Constitution and Meetings

Section

5(8) and (9) Introduction to Schedule 2, and notices

Schedule

2 - Paragraph

3	The Rules
4	Requirements for alteration of rules
5	Membership
6	Liability of members
7	Joint shareholders
8	Joint borrowers
12	Copies of statutory documents
13	Register of members
14	Exceptions to duties to send documents
15	Right of members
20	Annual General Meeting
20A-20B	Special meeting on members' requisition
21	Length of notice for calling meetings
22	Persons entitled to notice of meetings
22A-22B	Notice of meeting : electronic address
23	Members' entitlement to vote on resolutions
24	Proxies
25	Right to demand a poll
26-27	Special resolutions
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28-29	Borrowing members' resolutions
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32	Members' resolutions: supplementary provisions
33	Postal ballots
33A	Electronic ballots
34	Declarations in proxy and ballot forms
35	Advertising requirements in lieu of notice of meetings
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- The Building Societies (Members' Resolutions) Order 1997 (SI 1997 No 2840)
- The Building Societies (Members' Requisitions) Order 1999 (SI 1999 No 3031)
- The Building Societies (Members' Resolutions) Order 1999 (SI 1999 No 3033)
- The Building Societies Act 1986 (Electronic Communications) Order 2003 (SI 2003 No 404).
- The Building Societies Act (Substitution of Specified Amounts and Modification of the Funding Limit Calculation) Order 2007 (SI 2007 No 860)
- The Mutual Societies (Electronic Communications) Order 2011 (SI No 593)
- Various Financial Assistance orders – see above
- The Financial Services Act 2012 (Mutual Societies) Order 2013 (SI No 496).

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Sections

5(10)	Residential Property
6	The lending limit
6A	Loans secured on land
6B	Loans fully secured on land
6C	Discharge of mortgages
119A	Meaning of 'associated undertaking'

Schedule

2A	Discharge of mortgages: supplementary provisions
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Statutory Instruments

- The Building Societies (Prescribed Equitable Interests) Order 1997 (SI 1997 No 2693)
- The Building Societies (Prescribed Form of Receipt) Rules (SI 1997 No 2869)
- Various accounts and related provisions orders – see above
- The Building Societies (Modification of the Lending and Funding Limit Calculations) Order 2004 (SI 2004 No 3200)
- Various Financial Assistance orders – see above
- The Financial Services Act 2012 (Mutual Societies) Order 2013 (SI No 496).

Funding and Deposits

Sections

- 7** The funding limit
- 8** Raising funds and borrowing

Schedules

None

Statutory Instruments

- The Building Societies (Modification of the Lending and Funding Limit Calculations) Order 2004 (SI 2004 No 3200).
- The Building Societies Act 1986 (Substitution of Specified Amounts and Modification of the Funding Limit Calculation) Order 2007 (SI 2007 No 860).
- Various Financial Assistance orders – see above

Also note:

- The Building Societies (Funding) and Mutual Societies (Transfers) Act 2007
- The Mutual Societies (Transfers) Order 2009 (SI 2009 No 509)
- The Building Societies (Core Capital Deferred Shares) Regulations 2013 (SI No 460)
- The Financial Services Act 2012 (Mutual Societies) Order 2013 (SI No 496).

The Regulatory Authorities

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1 Functions of the Authorities

Powers of Control of the Authorities -

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42B-42C	Powers in relation to authorisation
46A	Appeals
52-54	Information and entry to premises
55-57	Investigations and inspections
111	Time limit for commencement of proceedings
113	Evidence

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Statutory Instruments

- The Building Societies (Merger Notification Statements) Regulations 1999 (SI 1999 No 1215)
- The Building Societies (Financial Assistance) Order 2010 (SI 2010 No 1188)
- The Building Societies (Insolvency and Special Administration) Order 2009 – SI No 805
- The Financial Services Act 2012 (Mutual Societies) Order 2013 (SI No 496).

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- 59** Chief executive and secretary
- 60** Directors: election and retirements
- 61** Directors: supplementary provisions as to elections etc
- 110** Officers and auditors not to be exempted from liability
- 112** Offences: liability of officers and defence of due diligence

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33A Electronic ballots

Statutory Instruments

- The Building Societies Act 1986 (Modifications) (No 2) Order 1991 (SI 1991 No 2738)
- The Building Societies (Nominations for Directors' Election) Order 1999 (SI 1999 No 3032)
- The Building Societies Act 1986 (Substitution of Specified Amounts and Modification of the Funding Limit Calculation) Order 2007 (SI 2007 No 860)
- The Building Societies Act 1986 (Electronic Communications) Order 2003 (SI 2003 No 404)
- The Financial Services Act 2012 (Mutual Societies) Order 2013 (SI No 496).

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- 63** Directors to disclose interests in contracts and other transactions
- 64** Substantial property transactions involving directors and connected persons
- 65** Restrictions on loans, etc to directors and persons connected with them
- 66** Sanctions for breach of section 65
- 66A** Transactions with directors and persons connected with them
- 67** Directors, etc not to accept commissions in connection with loans
- 68** Records of loans, etc for directors falling within section 65
- 69** Disclosure and record of income of related businesses
- 70** Interpretation of this Part

Schedules

- 9** Directors: requisite particulars of restricted transactions
- 10** Requisite particulars of income of related businesses

Statutory Instruments

- The Building Societies (Prescribed Bands for Disclosure) Order 1987 (SI 1987 No 723)
- The Building Societies Act 1986 (Electronic Communications) Order 2003 (SI 2003 No 404)
- The Building Societies Act 1986 (Substitution of Specified Amounts and Modification of the Funding Limit Calculation) Order 2007 (SI 2007 No 860)
- The Financial Services Act 2012 (Mutual Societies) Order 2013 (SI No 496).

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72C	Form and content of Building Societies Act individual accounts
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72F	Building Societies Act group accounts
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72I	Consistency of accounts
72J	Disclosures relating to directors, other officers and employees
72K	Disclosures about related undertakings
72L	Disclosures relating to off-balance sheet arrangements
72M	Disclosure of auditor remuneration
74	Duty of directors to prepare annual business statement
75	Directors' report
75A	Business review
76	Summary financial statement for members and depositors
77	Auditors: appointment, tenure etc
78	Auditor's report
78A	Signature of auditor's report
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78C	Names to be stated in copies of auditor's report filed or published
78D	Circumstances in which names may be omitted
79	Auditor's duties and powers
80	Signing of balance sheet: documents to be annexed
81	Laying and furnishing of accounts etc to members and the authorities
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10A	Disclosures about directors, other officers and employees in notes to accounts
10B	Disclosures about related undertakings required in note to accounts
10C	Disclosure of auditor remuneration etc required in notes to accounts

Statutory Instruments

- Building Societies (Accounts and Related Provisions) Regulations 1998 SI No 504
(NB - as amended by various SIs, ie 1999 No 248; 2001 No 3649; 2004 No 3199; 2004 No 3200; 2007 No 859; 2008 No 1143; 2008 No 1519; 2009 No 36.)
- Building Societies (International Accounting Standards and Other Accounting Amendments) Order 2004 SI No 3380
- Building Societies Act 1986 (Accounts, Audit and EEA States Amendments) Order 2008 – SI No 1519
- The Financial Services Act 2012 (Mutual Societies) Order 2013 (SI No 496)
- The Dormant Bank and Building Society Accounts (Tax) Regulations 2011 (SI No 22)
The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (SI No 1265).

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- The Building Societies (Merger Notification Statements) Regulations 1999 (SI 1999 No 1215)
- The Building Societies Act 1986 (Electronic Communications) Order 2003 (SI 2003 No 404).
- The Building Societies (Financial Assistance) Order 2010 (SI 2010 No 1188)
- The Building Societies (Insolvency and Special Administration) Order 2010 (SI No 1189)
- The Building Society Special Administration (England and Wales) Rules 2010 (SI No 2580)

- The Building Society Insolvency (England and Wales) Rules 2010 (SI No 2581)
- The Companies Act 2006 (Consequential Amendments and Transitional Provisions) Order 2011 (SI No 1265)
- The Financial Services Act 2012 (Mutual Societies) Order 2013 (SI No 496)

Also note:

- The Building Societies (Funding) and Mutual Societies (Transfers) Act 2007
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- Building Societies (Business Names) Regulations 1998 (SI 1998 No 3186)
- The Building Societies Act 1986 (Electronic Communications) Order 2003 (SI 2003 No 404)
- The Financial Services Act 2012 (Mutual Societies) Order 2013 (SI No 496).

BUILDING SOCIETIES ACT 1986

Sections

BUILDING SOCIETIES ACT 1986

(Amended text as at April 2011)

Recent amendments are in red

PART I

FUNCTIONS OF THE FINANCIAL CONDUCT AUTHORITY AND THE PRUDENTIAL REGULATION AUTHORITY

Functions of the Financial Conduct Authority and Prudential Regulation Authority in relation to building societies

1. (1) The FCA has the following functions under this Act in relation to building societies -
- (a) - - -
 - (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.

(1A) The PRA 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 by or under this Act, but only in so far as sections 5, 6, 7, 9A and 9B confer functions on the PRA; and
 - (c) to advise and make recommendations to the Treasury and other government departments on any matter relating to building societies.
- (2) The FCA and the PRA also have, in relation to such societies, the other functions conferred on by them respectively by or under this Act or any other enactment.

[sections 2 – 4 revoked]

PART II

CONSTITUTION OF BUILDING SOCIETIES

ESTABLISHMENT

Establishment, constitution and powers

5. (1) A society may be established under this Act if (and only if) it complies with the following requirements, namely -
- (a) its purpose or principal purpose is that of making loans which are secured on residential property and are funded substantially by its members; and
 - (b) its principal office is in the United Kingdom.

- (2) A society is established under this Act on compliance by the persons establishing it with the scheduled requirements and is incorporated under this Act as from the date of registration by the FCA.
- (3) A society incorporated under this Act is referred to in this Act as a 'building society'.
- (4) A society incorporated under the repealed enactments whose principal office, as registered with the central office immediately before the commencement of this section, was in the United Kingdom, shall be deemed to be registered (and accordingly as incorporated) under this Act.
- (4A) If, after its establishment, a building society fails to comply with the requirements imposed by subsection (1)(a) or (b) above -
- (a) the powers conferred on the appropriate authority by section 36 or 37 shall become exercisable in relation to the society; but
- (b) the failure shall not affect the validity of any transaction or other act.
- (5) Subject to the provisions of this Act, a building society shall have the powers conferred on it by its memorandum.
- (6) ---
- (7) ---
- (8) Schedule 2 to this Act has effect as respects the constitution, powers, and regulation of building societies and in that Schedule-
- (a) Part I makes provision with respect to the constitution, memorandum, rules and certain incidents of membership;
- (b) Part II makes provision with respect to the capacity of a society and the powers of its directors to bind it; and
- (c) Part III makes provision with respect to meetings, postal ballots and resolutions;
- and in this section 'scheduled', with reference to requirements for establishment, means contained in that Schedule.
- (9) Any obligation imposed by this Act or the rules of a building society to give or send notices or other documents to members is subject to paragraph 14 of that Schedule.
- (10) In this Act 'residential property' means land at least 40 per cent of which -
- (a) is normally used as, or in connection with, one or more dwellings; or
- (b) has been, is being or is to be developed or adapted for such use;
- and for the purposes of this subsection, the area of any land which comprises a building or other structure containing two or more storeys shall be taken to be the aggregate of the floor areas of each of those storeys.
- (11) The Treasury may by order amend subsection (1)(a) so as to alter the extent to which the making of loans is required to be funded by a society's members.
- (12) An order under this section may make such consequential, saving, supplementary or transitional provision as the Treasury think necessary or expedient.
- (13) The consequential provision that may be made by virtue of subsection (12) includes, in particular, provision amending any the following so far as relating to funding by the members of a society -
- (a) section 1(1A)(a) (functions of the Prudential Regulation Authority in relation to building societies);
- (b) section 93(2)(a) (amalgamations);
- (c) paragraph 2 of Schedule 2 to this Act (memorandum).

- (14) The power to make an order under this section is exercisable by statutory instrument, but no such order may be made unless a draft of it has been laid before and approved by a resolution of each House of Parliament.

MAKING LOANS

The lending limit

6. (1) A building society shall secure that the difference between -
- (a) the value of X on any quarter day; and
 - (b) the value of Y on that day or the value of Y on the immediately preceding quarter day, whichever is the greater,
- does not exceed 25 per cent of that value of X.
- (2) For the purposes of subsection (1) above -
- X = the difference between the total assets of the society and any subsidiary undertakings of the society as shown in the society's accounts and the aggregate of -
- (a) the liquid assets of the society and any such undertakings as shown in those accounts _ _ _;
 - (b) the fixed assets of the society and any such undertakings as so shown; and
 - (c) where any such undertakings are effecting or carrying out contracts of insurance, such of their assets as shown in those accounts as represent long term insurance funds; and
- Y = the principal of, and interest accrued on, loans which are owed to the society or any subsidiary undertaking of the society and are fully secured on residential property;
- and for the purposes of this subsection the total assets of a society and any subsidiary undertakings of the society shall be taken to be increased by the amount of any provision made for bad or doubtful debts of the society or any such undertaking.
- (3) Any loans owed to the society or any subsidiary undertaking of the society shall be disregarded for the purposes of the definition of 'Y' in subsection (2) above to the extent that they are not included in the total assets of the society and any such undertakings as shown in the society's accounts.
- (4) Any reference in subsection (2) or (3) above to anything being shown in a society's accounts shall be construed -
- (a) in relation to a quarter day on which a financial year of the society ends, as a reference to its being shown in the accounts prepared by the society for that year;
 - (b) in relation to any other quarter day, as a reference to its being shown in the accounts which would have been prepared by the society for the year ending on that day if that year were a financial year of the society.
- (5) If a building society fails to comply with the requirement imposed by subsection (1) above -
- (a) the powers conferred on the **appropriate authority** by section 36 shall become exercisable in relation to the society; but
 - (b) the failure shall not affect the validity of any transaction or other act.
- (6) The Treasury may by order substitute for the percentage specified in subsection (1) above such greater percentage (not greater than 40 per cent) as appears to them to be appropriate; and an order under this subsection may make such supplementary, transitional and saving provision as appears to the Treasury to be necessary or expedient.
- (7) The Treasury may by order-
- (a) modify subsections (2) and (3) above in their application to assets of subsidiary undertakings;

- (b) apply those subsections to corresponding assets of associated undertakings; or
 - (c) modify those subsections in their application to such assets.
- (8) An order under subsection (7) above may make-
- (a) different provision for different circumstances;
 - (b) provision for particular assets of undertakings to be disregarded; and
 - (c) such supplementary, transitional and saving provision as appears to the **appropriate authority** to be necessary or expedient.
- (9) The power to make an order under subsection (6) or (7) above is exercisable by statutory instrument.
- (10) No order shall be made under subsection (6) above unless a draft of the order has been laid before and approved by a resolution of each House of Parliament.
- (11) A statutory instrument containing an order under subsection (7) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (12) In this section 'long term insurance funds', in relation to an undertaking effecting or carrying out contracts of insurance, means funds maintained by it -
- (a) **in respect of its business in effecting or carrying out contracts of long term insurance in accordance with rules made by—**
 - (i) **the FCA under section 137A of the Financial Services and Markets Act 2000, or**
 - (ii) **the PRA under section 137G of that Act,****which require an authorised person who has permission to effect or carry out contracts of insurance to identify assets which belong to that person and which are maintained in respect of a particular aspect of that person's business; or**
 - (b) where it is incorporated in a country or territory outside the United Kingdom, under the corresponding provisions of the law of that country or territory.
- (12A) The definition of X in subsection (2) and subsection (12) must be read with -
- (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act.
- (13) Where a loan is owed to a lending syndicate of which a building society or connected undertaking of a building society is a member, so much of the loan as is referable to the society's or undertaking's participation in the syndicate shall be treated for the purposes of this section and sections 6A and 6B as a loan owed to the society or undertaking.
- (14) In this section and section 7-
- 'accounts' -
- (a) in relation to a building society without subsidiary undertakings, means individual accounts _ _ _;
 - (b) in relation to such a society with such undertakings, means group accounts _ _ _;
- 'quarter day', in relation to a building society, means a day on which a financial year of the society ends, or a day which is three months, six months or nine months after such a day;
- and references to any value on a quarter day are references to that value at the close of business on that day.
- (15) If an agreement between the **appropriate authority** and a building society so provides, the definition of 'quarter day' in subsection (14) above shall have effect in relation to the society as

if for any reference to a number of months there were substituted a reference to a number of days specified in the agreement.

- (16) In this section, in the case of societies which produce IAS individual accounts or IAS group accounts;

'fixed assets' means -

- (a) land and buildings;
- (b) plant and machinery;
- (c) equipment, fixtures, fittings and vehicles;
- (d) payments on account and assets in the course of construction; and
- (e) intangible fixed assets.

'liquid assets' means -

- (a) cash and cash equivalents;
- (b) treasury bills and similar securities;
- (c) loans and advances to credit institutions; and
- (d) debt securities and other fixed income securities.

Loans secured on land

- 6A.** (1) For the purposes of this Act a loan is secured on land if it is secured by -

- (a) a mortgage of a legal estate in land in England and Wales or Northern Ireland;
- (b) a heritable security over land in Scotland; or
- (c) a qualifying security over land in an EEA country or territory other than the United Kingdom.

- (2) For the purposes of this Act a loan is also secured on land if -

- (a) it is secured by a mortgage of an equitable interest in land in England and Wales or Northern Ireland;
- (b) the equitable interest is an equitable interest in land of a description, and is created in circumstances, prescribed in an order made by the ___ Treasury; and
- (c) any conditions prescribed in the order are complied with;

and an order under this subsection may apply in relation to securities held by or on behalf of building societies or connected undertakings of a description specified in the order, or securities held by or on behalf of all such societies or undertakings other than those of a description so specified.

- (3) For the purposes of this Act-

- (a) a loan shall be treated as secured by a mortgage of a legal estate in registered land in England and Wales or Northern Ireland notwithstanding that the loan is made before the mortgagor is registered as proprietor of the estate; and
- (b) a loan shall be treated as secured by a heritable security over land in Scotland notwithstanding that the loan is made before title to that land has been transferred to the debtor in the heritable security.

- (4) The Treasury may by order provide for any provisions of this Act to have effect in relation to loans secured on land outside the European Economic Area with such modifications as appear to the Treasury to be appropriate.

- (5) An order under subsection (2) or (4) above may make such incidental, supplementary and transitional provision as appears to the Treasury to be necessary or expedient.

- (6) The power to make an order under subsection (2) or (4) above is exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) In this section and section 6B -
 'EEA country or territory' means a country or territory in the European Economic Area;
 'qualifying security', in relation to land in an EEA country or territory other than the United Kingdom and a loan, means a security over the land which -
- (a) acknowledges, and requires repayment of, the loan; and
 - (b) secures repayment of the loan on the land;
- and for the purposes of this section and that section, the Channel Islands, the Isle of Man and Gibraltar shall be treated as included in the European Economic Area.
- (8) In this Act 'land', in the expression 'loan secured on land', means -
- (a) land in an EEA country or territory; and
 - (b) in so far as land in any other country or territory is, under any provision of this Act, land on which loans may be secured, land in that other country or territory.

Loans fully secured on land

6B. (1) For the purposes of this Act a loan which is secured on land owed to a building society or a subsidiary undertaking of a building society and is secured on residential property or other land is fully secured on the land if -

- (a) the principal of, and interest accrued on, the loan does not exceed the value of the requisite security; and
 - (b) no, or no more than one, mortgage of the land which has priority over the society's or undertaking's mortgage is outstanding in favour of an outside person.
- (2) Where a mortgage of the residential property or other land which has priority over the society's or undertaking's mortgage is outstanding, the principal of the loan secured or, in the case of a loan by instalments, intended to be secured by that mortgage shall be deducted from the value of the requisite security for the purposes of subsection (1)(a) above.
- (3) Where the loan is secured on residential property or other land in the United Kingdom, any outstanding charge over the land which -
- (a) in the case of land in England and Wales, is registered in the appropriate local land charges register;
 - (b) in the case of land in Scotland, is recorded in the Register of Sasines, or registered in the Land Register, under section 108 of the Civic Government (Scotland) Act 1982 or Schedule 9 to the Housing (Scotland) Act 1987;
 - (c) in the case of land in Northern Ireland, is registered in the statutory charges register under section 87 of, and Schedule 11 to, the Land Registration Act (Northern Ireland) 1970,
- shall be disregarded for the purposes of subsections (1)(b) and (2) above.
- (4) Where, on the occasion on which a building society or a subsidiary undertaking of a building society makes or acquires a loan which is secured on land, the society or undertaking is satisfied that the loan is -
- (a) a loan which is fully secured on residential property;
 - (b) a loan which is not so secured but is fully secured on land; or
 - (c) a loan which is not fully secured on land,
- the loan shall be treated as such a loan for the purposes of this Act until such time (if any) as subsection (7) below applies.

- (5) Subsection (4) above shall have effect in relation to a loan which the society or undertaking makes by two or more payments on different dates as if -
- (a) the reference to the occasion on which the society or undertaking makes the loan were a reference to the occasion on which it makes the first of the payments;
 - (b) other references to the loan were references to it in its intended maximum amount; and
 - (c) the value of any security for the loan were its expected maximum value.
- (6) Where a building society or a subsidiary undertaking of a building society makes or acquires a loan which is secured on land, the society or undertaking shall be deemed to be satisfied as mentioned in paragraph (c) of subsection (4) above until such time (if any) as it is satisfied as mentioned in paragraph (a) or (b) of that subsection.
- (7) Where at any time, in the case of a loan treated as falling within paragraph (a), (b) or (c) of subsection (4) above, the society or undertaking -
- (a) is satisfied -
 - (i) on a revaluation that the value of the requisite security has changed;
 - (ii) on notice given to it by the borrower that there has been a change in the use of the land;
 - (iii) that so much of the mortgage debt as represents the principal of the loan has changed;
 - (iv) that the principal of the loan secured by a prior mortgage has changed or has been repaid; or
 - (v) that the relative priority of the mortgage of the land on which the loan is secured has changed;
 - (b) is also satisfied that the change or repayment is such that, if it were to make a loan equal to the mortgage debt at that time, the loan would instead be a loan falling within another of those paragraphs; and
 - (c) in a case falling within paragraph (a)(i) above, elects that this subsection shall apply, the loan shall be treated as such a loan for the purposes of this Act until such time (if any) as this subsection again applies.
- (8) In this section-
- 'outside person', in relation to a building society or a subsidiary undertaking of a building society, means any person other than the following, namely -
- (a) the society;
 - (b) a subsidiary undertaking of the society;
 - (c) a lending syndicate of which the society or such an undertaking is a member; and
 - (d) trustees of a trust under which the society or such an undertaking is a beneficiary;
- 'the requisite security', in relation to a loan secured on residential property or other land, means -
- (a) the security constituted by the legal estate in, or the heritable or qualifying security over, the land; or
 - (b) in a case where an equitable interest in land in England and Wales or Northern Ireland is or is also taken as security, that constituted by that security or, as the case may be, the combined securities;
- 'trust' includes arrangements -
- (a) which have effect under the law of a country or territory outside the United Kingdom; and

- (b) under which persons acting in a fiduciary capacity hold and administer property on behalf of other persons,

and 'beneficiary' and 'trustees', in relation to such arrangements, shall be construed accordingly.

- (9) In the application of subsections (1), (2) and (7) above to residential property or other land in Scotland or an EEA country or territory other than the United Kingdom, references to a mortgage of the land shall be construed as references to a heritable or, as the case may require, qualifying security over the land.

Discharge of mortgages

6C. Schedule 2A to this Act, which contains supplementary provisions as to the discharge of mortgages, shall have effect.

RAISING FUNDS AND BORROWING

The funding limit

- 7.** (1) A building society shall secure that the limit difference between -
- (a) the value of X on any quarter day; and
 - (b) the value of Y on that day or the value of Y on the immediately preceding quarter day, whichever is the greater,
- does not exceed 50 per cent of that value of X.
- (2) For the purposes of subsection (1) above -
- X = the aggregate of the following, namely -
- (a) the principal value of, and interest accrued on, shares in the society;
 - (b) the principal of, and interest accrued on, sums deposited with the society or any subsidiary undertaking of the society; and
 - (c) the principal value of, and interest accrued under, bills of exchange, instruments or agreements creating or acknowledging indebtedness and accepted, made, issued or entered into by the society or any such undertaking; and
- Y = the principal value of, and interest accrued on, shares in the society held by individuals otherwise than as bare trustees (or, in Scotland, simple trustees) for bodies corporate or for persons who include bodies corporate.
- (3) The following shall be disregarded for the purposes of subsection (2) above, namely -
- (a) any sums or amounts which are own funds; and
 - (b) to the extent that they are not included in the total liabilities of the society and any subsidiary undertakings of the society as shown in the society's accounts -
 - (i) any sums deposited with the society or any such undertaking; and
 - (ii) any indebtedness created or acknowledged by bills of exchange, instruments or agreements accepted, made, issued or entered into by the society or any such undertaking.
- (4) The reference in subsection (3) above to anything being shown in a society's accounts shall be construed -
- (a) in relation to a quarter day on which a financial year of the society ends, as a reference to its being shown in the accounts prepared by the society for that year;
 - (b) in relation to any other quarter day, as a reference to its being shown in the accounts which would have been prepared by the society for the year ending on that day if that year were a financial year of the society.

- (5) If a building society fails to comply with the requirement imposed by subsection (1) above -
 - (a) the powers conferred on the **appropriate authority** by section 36 shall become exercisable in relation to the society; but
 - (b) the failure shall not affect the validity of any transaction or other act.
- (6) Where an individual declares that he is acquiring any shares in a building society otherwise than as a bare trustee (or, in Scotland, a simple trustee) for a body corporate, or for persons who include a body corporate, he shall, unless the contrary is shown, be conclusively presumed for the purposes of this section to hold the shares otherwise than as such a trustee.
- (6A) The Treasury may, by order -
 - (a) provide for subsection (1) to have effect as if the reference to 50 per cent were a reference to such greater percentage (not exceeding 75) as they think appropriate;
 - (b) prohibit a society from applying the increased percentage unless a resolution of the society of such description as the Treasury think appropriate is passed in favour of applying the increased percentage.
- (6B) An order under subsection (6A) is of no effect at any time unless, at the same time, there is also in force an order under section 90B (power to alter priorities on dissolution and winding up).
- (6C) An order under subsection (6A)(a) -
 - (a) may not be amended so as to reduce the percentage specified in the order;
 - (b) may not be revoked, unless it is replaced by another such order specifying the same or a greater percentage.
- (7) The Treasury may by order -
 - (a) modify subsections (2) and (3) above in their application to liabilities of subsidiary undertakings;
 - (b) apply those subsections to corresponding liabilities of associated undertakings; or
 - (c) modify those subsections in their application to such liabilities.
- (8) An order under subsection (6A) or (7) above may make -
 - (a) different provision for different circumstances;
 - (b) provision for particular liabilities of undertakings to be disregarded; and
 - (c) such supplementary, transitional and saving provision as appears to the Treasury to be necessary or expedient.
- (8A) The power to make an order under subsection (6A) is exercisable by statutory instrument but no such order may be made unless a draft of it has been laid before and approved by a resolution of each House of Parliament.
- (9) The power to make an order under subsection (7) above is exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Raising funds and borrowing

- 8.** (1) Subject to subsection (2) below, a building and borrowing society shall not do any of the following things, namely -
 - (a) accept a deposit from an individual;
 - (b) raise funds from an individual otherwise than by the issue of shares; and
 - (c) raise funds from a body corporate, or from a bare trustee (or, in Scotland, a simple trustee) for a body corporate or for persons who include a body corporate, otherwise than by the issue of deferred shares.

- (2) Nothing in subsection (1)(a) above shall apply in relation to -
- (a) the maintenance on behalf of an individual of a current account, or a deposit account which contains in its title the word 'client' or the word 'trust' or 'trustee';
 - (b) the issue to an individual of a transferable instrument;
 - (c) the acceptance from an individual of a qualifying time deposit or an overseas deposit; or
 - (d) in the case of a building society which has announced publicly that it intends, in accordance with section 97 and the other applicable provisions of this Act, to transfer the whole of its business to a company, anything done by the society during the period of two years beginning with the date of the announcement.
- (3) The **appropriate authority** may, if it thinks fit, extend or further extend the period mentioned in subsection (2)(d) above if written application is made to it before the expiry of that period or that period as extended; and a direction under this subsection -
- (a) shall be in writing;
 - (b) may be given subject to such limitations or conditions as the **appropriate authority** may think fit.
- (4) A contravention of subsection (1) above shall not invalidate any transaction or other act.
- (5) The power of a building society to raise funds by the issue of shares is a power -
- (a) to issue shares of one or more denominations, whether in sterling or another currency; and
 - (b) to issue them either as shares paid up in full or as shares to be paid by periodical or other payments, and (in either case) with accumulating or other interest;
- and funds so raised may be repaid when they are no longer required for the purposes of the society.
- (6) In the case of deferred shares, the power of a building society to raise funds by the issue of shares includes the issue of shares at a premium.
- (7) If a building society issues deferred shares at a premium, whether for cash or otherwise, a sum equal to the aggregate amount or value of the premiums on those shares shall be transferred to the society's reserves.
- (8) For the purposes of this section the acceptance of deposits (including the issue of debt securities) shall not constitute the raising of funds.
- (9) In this section, in relation to a building society -
- 'overseas deposit' means a deposit which is accepted by a branch or agency of the society in a country or territory outside the United Kingdom and is repayable in such a country or territory;
- 'qualifying time deposit' has the meaning given by section 866(2) and (3) of the Income Tax Act 2007;
- 'raise funds' means, subject to subsection (8) above, raise funds by the issue of shares or other securities;
- 'transferable instrument' means an instrument which embodies a transferable right to receive an amount referable to a deposit with the society.
- (10) A right is transferable for the purposes of the definition of 'transferable instrument' in subsection (9) above if it is transferable by delivery of the instrument, or it is a right -
- (a) which may, under the terms of the instrument, be held by any person, or by any person other than a person of a description specified in the instrument;
 - (b) express provision for the transfer of which is included in the instrument; and

- (c) the transfer of which, under the terms of the instrument, does not require the consent of any person.
- (11) Where an individual declares that he is acquiring any shares in a building society otherwise than as a bare trustee (or, in Scotland, a simple trustee) for a body corporate, or for persons who include a body corporate, he shall, unless the contrary is shown, be conclusively presumed for the purposes of this section to hold the shares otherwise than as such a trustee.
- (12) The Treasury may by order vary subsections (2), (9) and (10) above by adding to or deleting from them any provision or by varying any provision contained in them; and an order under this subsection may make such supplementary, transitional and saving provision as appears to the Treasury to be necessary or expedient.
- (13) The power to make an order under subsection (12) above is exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

RESTRICTIONS ON POWERS

Restrictions on certain transactions

- 9A.** (1) Subject to subsections (2) to (4) below, a building society shall not do, and shall secure that each of its subsidiary undertakings does not do, any of the following things, namely-
- (a) act as a market maker in securities, commodities or currencies;
 - (b) trade in commodities or currencies; and
 - (c) enter into any transaction involving derivative investments;
- but a contravention of this subsection shall not invalidate any transaction or other act.
- (2) No transaction entered into by a building society, or a subsidiary undertaking of a building society, shall be taken into account for the purposes of subsection (1)(a) above if -
- (a) it relates only to securities or currencies or both and the amount or value of the consideration given by the society or undertaking does not exceed £100,000; or
 - (b) it is entered into in the society's or undertaking's capacity as the manager of a collective investment scheme.
- (3) No transaction so entered into shall be taken into account for the purposes of subsection (1)(b) above if -
- (a) it relates only to currencies and the amount or value of the consideration given by the society or undertaking does not exceed £100,000; or
 - (b) it is ancillary or incidental to another transaction entered into by the society or undertaking.
- (4) Nothing in subsection (1)(c) above shall apply in relation to any transaction entered into by a building society, or a subsidiary undertaking of a building society, if -
- (a) it is entered into in the society's or undertaking's capacity as the manager of a collective investment scheme;
 - (b) it is entered into for the purpose of limiting the extent to which the society, or a connected undertaking of the society, will be affected by changes in any of the following factors, namely -
 - (i) interest rates;
 - (ii) exchange rates;
 - (iii) any index of retail prices;
 - (iv) any index of residential property prices; _ _ _
 - (v) any index of the prices of securities; and

- (vi) the ability or willingness of one or more persons to pay or repay a sum or sums owing at law or in equity to the society or a connected undertaking of the society; or
 - (c) it involves a derivative investment falling within paragraph (d) of the definition in subsection (9) below and it is entered into for the purpose of limiting the extent to which any person will be affected by changes in any interest or exchange rate applicable to -
 - (i) a loan owed by him to;
 - (ii) shares held by him in; or
 - (iii) a deposit of his with,
 the society, or a connected undertaking of the society.
 - (5) Nothing in subsection (1)(c) above shall apply in relation to any transaction entered into by a subsidiary undertaking of a building society, if it is entered into in the undertaking's capacity -
 - (a) as a person who has permission under **Part 4A** of the Financial Services and Markets Act 2000 to effect or carry out contracts of long-term insurance, or
 - (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of long-term insurance.
-
- (6) A building society shall also do all that is reasonably practicable to secure that neither it nor any of its subsidiary undertakings (either alone or with any or any others of those undertakings)-
 - (a) holds at any time more than 5 per cent of the issued share capital; or
 - (b) is at any time entitled to exercise, or to control the exercise of, more than 5 per cent of the voting power at any general meeting,
 of an undertaking which is, at that time, doing any of the things which the society is prohibited from doing by subsection (1) above, or an undertaking whose subsidiary undertaking is, at that time, doing any of those things.
 - (7) The monetary limit in subsection (2) or (3) above refers to the time when the transaction is entered into; and where the amount or value of the consideration there referred to is not in sterling, it shall be converted at the rate of exchange prevailing at that time.
 - (8) For the purposes of subsection (2) or (3) above, two or more transactions which form part of a larger transaction or series of transactions shall be treated as a single transaction.
 - (9) In this section-
 - 'collective investment scheme' has the same meaning as in the Financial Services and Markets Act 2000;
 - 'commodity' means any produce of agriculture, forestry or fisheries, or any mineral, either in its natural state or having undergone only such processes as are necessary or customary to prepare the produce or mineral for the market;
 - 'derivative investment' means an investment of the following kinds -
 - (a) instruments giving entitlements to investments;
 - (b) options;
 - (c) futures;
 - (d) contracts for differences;

'market maker' means, subject to subsection (10) below, a person who holds himself out as willing at all normal times to buy or sell at a price specified by him securities, commodities or currencies of a particular description;

'securities' means shares, stock, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme and other securities of any description.

- (9A) Subsection (5) and the definition of 'derivative investment' in subsection (9) must be read with -
- (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act;
- (10) A building society, or subsidiary undertaking of a building society, shall not by reason of holding itself out as willing to issue its own securities be regarded for the purposes of this section as acting as a market maker in such securities.
- (11) The Treasury may by order vary subsections (1) to (10) above by adding to or deleting from them any provision or by varying any provision contained in them.
- (12) The Treasury may by order -
- (a) substitute for the amount specified in subsection (2) or (3) above, or for the percentage specified in subsection (6) above, such other amount or percentage as they think appropriate; or
 - (b) vary subsection (4)(b) above by adding to or deleting from it any reference to a factor or by varying any reference to a factor contained in it.
- (13) An order under subsection (11) or (12) above may make -
- (a) different provision for different cases or purposes; and
 - (b) such supplementary, transitional and saving provision as appears to the Treasury _ _ _ to be necessary or expedient;
- and the power to make such an order is exercisable by statutory instrument.
- (14) No order shall be made under subsection (11) above unless a draft of the order has been laid before and approved by a resolution of each House of Parliament.
- (15) A statutory instrument containing an order under subsection (12) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Restriction on creation of floating charges

9B. (1) A building society shall not create a floating creation of charge on the whole or part of its undertaking or floating charges property **unless it complies with the requirements of subsection (1A).**¹

(1A) The requirements are that the floating charge -

- (a) is created in favour of a participant in a system, and**
- (b) is created for the purpose of securing any rights and obligations that may arise in connection with participation in that system.**¹

(2) A floating charge created in contravention of this section shall be void.

(3) In this section "participant" and "system" have the meaning given by Article 2 of Directive 98/26/EC of the European Parliament and of the Council of 19th May 1998 on settlement finality in payment and securities settlement systems (as amended by Directives 2009/44/EC and 2010/78/EU).¹

[sections 10 – 31 revoked]

PART IV **PROTECTION OF INVESTORS**

Special provisions as regards investors

- 32.** The provisions of Schedule 7 to this Act relating to shareholders in and depositors with a building society shall have effect.

[sections 33 – 34 revoked]

1 Amended by section 55 of the Financial Services Act 2012

PART VI

POWERS OF CONTROL OF THE APPROPRIATE AUTHORITY

POWERS IN RELATION TO PRINCIPAL PURPOSE AND NATURE LIMITS

Power to direct restructuring of business etc

- 36.** (1) The provisions of this section have effect where, by reason of a building society's failure to business etc. comply with -
- (a) the requirement imposed by section 5(1)(a) or (b) (purpose or principal purpose and principal office);
 - (b) the requirement imposed by section 6(1) (the lending limit); or
 - (c) the requirement imposed by section 7(1) (the funding limit),
- the powers conferred by this section become exercisable by the Authority in relation to the society (the requirements referred to in paragraphs (a), (b) and (c) above being referred to in this section as 'the relevant statutory requirements').
- (2) The **appropriate authority** may give the society a direction under subsection (3), (5) or (6) below.
- (3) A direction by the **appropriate authority** under this subsection is a direction requiring the society, within a specified period, to submit for its approval a plan (in this section referred to as a 'restructuring plan') designed to secure the following purposes, that is to say -
- (a) that the society will, by the end of a specified period, comply with the relevant statutory requirements as applied at the last day of that period, and
 - (b) that it will not thereafter fail to comply with those requirements.
- (4) For the purpose of applying the relevant statutory requirements as directed by subsection (3)(a) above -
- (a) in the case of a requirement which operates by reference to a quarter day, the day as at which the requirements are to be applied shall be treated as such a day; and
 - (b) the assets and liabilities of the society shall be determined by reference to a balance sheet prepared by the directors by reference to that day and sent to the **appropriate authority** within the period of three months beginning with that day;
- and subsection (4) of section 81 shall apply in the event of a default in complying with this provision as it applies in the event of a default in complying with subsection (2) of that section.
- (5) A direction by the **appropriate authority** under this subsection is a direction requiring the society -
- (a) within a specified period, to submit to its members for their approval at a meeting the requisite transfer resolutions for a transfer of the business of the society to a company under section 97; and
 - (b) to notify the **appropriate authority** and, if the **appropriate authority** is the PRA, the FCA of the result of the meeting.

- (6) A direction by the **appropriate authority** under this subsection is a direction requiring the society, at its option, either -
- (a) within a specified period, to submit for approval a restructuring plan; or
 - (b) within a specified period, to submit to its members for their approval at a meeting the requisite transfer resolutions for a transfer of the business of the society to a company under section 97;
- and, within a specified period, to notify the **appropriate authority and, if the appropriate authority is the PRA, the FCA** of the option it has decided to pursue.
- (7) Where the **appropriate authority** gives a direction under subsection (3), (5) or (6) above, it may also give a direction under this subsection -
- (a) imposing limitations on the issue of shares, the acceptance of deposits or the making of loans;
 - (b) requiring the society within a specified period to take certain steps, or to refrain from adopting or pursuing a particular course of action, or to restrict the scope of its business in a particular way;
 - (c) requiring the society within a specified period to take steps with regard to the conduct of the business of any connected undertaking of the society;
 - (d) requiring within a specified period the removal of any director or other officer.
- (8) Where a restructuring plan is submitted by a society to the **appropriate authority** under subsection (3) or (6) above then -
- (a) if it appears to the **appropriate authority** that the plan is reasonably likely to secure its purposes, the **appropriate authority** shall approve it and direct the society to carry it out;
 - (b) if it appears to it that the plan is, with modifications, likely to secure its purposes and the **appropriate authority** and the society agree on appropriate modifications within the period of 21 days from the date on which the **appropriate authority** notifies the society of the modifications it proposes for the society's agreement, the **appropriate authority** shall approve the plan as modified and direct the society to carry it out;
- but otherwise it shall reject the plan.
- (9) Where a meeting is held, in pursuance of a direction under subsection (5) or (6) above, for the purpose of voting on the requisite transfer resolutions, then -
- (a) if the resolutions are agreed to and the confirmation of the transfer by the **appropriate authority** is obtained, the society shall proceed under section 97 to transfer its business to a successor company;
 - (b) if either resolution is disagreed to, the society shall notify the **appropriate authority** of that fact as soon as it is practicable to do so.
- (10) In the event of the **appropriate authority** receiving a notice from a society under subsection (9)(b) above, it may, if it thinks fit, serve on the society a direction requiring it, within a specified period, to submit to the **appropriate authority** for its approval a restructuring plan; and if the **appropriate authority** does so, subsection (8) above shall apply as if the plan had been submitted under subsection (3) above.
- (11) The **appropriate authority** may, if it thinks fit, extend or further extend any period during which a building society is to take any steps required of it under any of the foregoing provisions of this section and may do so whether or not application is made to it before the expiry of the period in question.
- (12) If a building society which has been directed under subsection (8) above to carry out a restructuring plan fails, within the period allowed to it under the foregoing provisions of this section, to secure the purpose of the plan specified in subsection (3)(a) above, the powers conferred on the **appropriate authority** by section 36A shall become exercisable in relation to the society.

- (13) If a building society fails, within the period allowed to it under the foregoing provisions of this section -
- (a) where it has been given a direction under subsection (3) or (10) above, to submit a restructuring plan;
 - (b) where it has been given a direction under subsection (5) above, to submit to members the requisite transfer resolutions;
 - (c) where it has been given a direction under subsection (6) above, to either submit a restructuring plan or submit to members the requisite transfer resolutions;
 - (d) where it has been given a direction under subsection (7) above, to comply with any requirement imposed by the direction;
 - (e) where it has been directed under subsection (8) above to carry out a restructuring plan, to secure the purpose of the plan specified in subsection (3)(a) above;
 - (f) to agree to the requisite transfer resolutions submitted to the members in pursuance of subsection (5) or (6) above; or
 - (g) where it has agreed to the requisite transfer resolutions, to proceed under section 97 to transfer its business to the successor company,

or if the **appropriate authority** rejects a restructuring plan under subsection (8) above, the powers conferred on the **appropriate authority** by section 37 shall become exercisable in relation to the society.

- (15) In this section-

'confirmation', 'the requisite transfer resolutions' and 'transfer' have the same meaning as in section 97;

'quarter day' has the same meaning as in sections 6 and 7.

- (16) Nothing in this section implies that it is improper for the **appropriate authority** to give to a building society or building societies generally an indication of the action it might or might not take in relation to any proposed activity of theirs.

(17) The PRA must consult the FCA before issuing a direction under this section.

Power to make prohibition orders

36A. (1) Where by virtue of section 36(12) the powers prohibition conferred by this section become exercisable in relation to a building society, the **appropriate authority** may issue a prohibition order directed to the society.

- (2) A prohibition order under this section is an order -
- (a) prohibiting, subject to the saving or transitional provisions of the order, the continuance or, as the case may be, the carrying on of the activity specified in the order after a date so specified, either absolutely or unless conditions so specified are complied with; and
 - (b) requiring, subject to the saving or transitional provisions of the order, the disposal within a period specified in the order of all assets acquired or otherwise in its possession by virtue of the activity.
- (3) A disposal of assets in pursuance of a prohibition order shall vest the assets in the transferee but without prejudice to any claim against the society by a person who had an interest in the assets.
- (4) The saving or transitional provisions which may be included in a prohibition order shall be such as appear to the **appropriate authority** to be just having regard to -
- (a) the interests of shareholders of and depositors with the society; and
 - (b) the interests of other persons who will be affected by the order.

- (5) If the **appropriate authority** proposes to issue a prohibition order under this section it must give the society a warning notice.
- (5A) If the **appropriate 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 **appropriate 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.
- (5E) The PRA must consult the FCA about the terms of the prohibition order in question before giving a warning notice or a decision notice under this section.**
- (6) If the **appropriate authority** issues a prohibition order under this section it shall serve the order on the society _ _ _.
- (7) A prohibition order so _ _ _ issued shall, subject to subsection (11) below, take effect on the date specified in the order.
- (8) A copy of any order issued under subsection (6) above shall also be served on each director and on the chief executive of the society.
- (9) The requirement of subsection (8) above, so far as it relates to directors, is satisfied by serving a copy on each director whose appointment has been officially notified and the non-receipt of a copy by a director or the chief executive does not affect the validity of the order.
- (9A) The PRA must give the FCA a copy of any order issued under this section.**
- (9B) The FCA must keep a copy of any order issued under this section in the public file of the society.**
- (10) Subject to subsection (11) below, a prohibition order shall remain in force until revoked by the **appropriate authority**.
- (11) The **appropriate authority** may suspend or revoke a prohibition order so far as it relates to an asset the disposal of which appears to it, on the application of the society, to be impracticable.
- (12) If a society contravenes a prohibition order issued against it under this section -
 - (a) the power conferred on the **appropriate authority** by section 37(1) shall become exercisable in relation to the society; and
 - (b) the **appropriate authority** may exercise that power or certify the contravention in writing to the High Court, or do both of those things;

but the contravention shall not invalidate any transaction or other act

- (13) On receiving such a certification, the High Court -
 - (a) may inquire into the case; and

- (b) after hearing any witnesses who may be produced against or on behalf of the society and after hearing any statement which may be offered in defence, may punish the society in like manner as if it had been guilty of contempt of the court.
- (14) Where a contravention of a prohibition order which is so certified is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any officer of the society he, as well as the society, may be punished in like manner as if he had been guilty of contempt of the court.
- (15) In the application of this section to a building society whose principal office is in Scotland, references to the High Court shall be read as references to the Court of Session.

Power to petition for winding up etc

37. (1) Where -

- (a) by virtue of section 36(13) the powers conferred by this section become exercisable in relation to a building society;
- (b) by virtue of section 36A(12) the power conferred by this subsection becomes so exercisable; or
- (c) the **appropriate authority** has reason to believe that a building society has ceased to comply with the requirement imposed by section 5(1)(a) (purpose or principal purpose),

the **appropriate authority** may present a petition to the High Court for the winding up of the society under the applicable winding up legislation; and the power conferred by this subsection is available to the **appropriate authority** whether or not it has previously presented a petition.

- (2) Where by virtue of section 36(13) the powers conferred by this section become exercisable in relation to a building society, the **appropriate authority** may make an application to the High Court for an order giving directions to the society under subsection (3) below; and the power conferred by this subsection is available to the **appropriate authority** whether or not it has previously made an application for such an order.
- (3) An order under this subsection is an order directing the society to comply with a direction under subsection (3), (5), (6), (7) or (10) of section 36 as directed in the order, or to carry out a restructuring plan as so directed.

(4) Where the High Court makes an order under subsection (3) -

- (a) if the **appropriate authority** is the PRA, it must give a copy of the order to the FCA; and
- (b) in any case, the FCA must keep a copy of the order in the public file of the society.

- (5) The High Court shall not make an order winding up the society on an application under subsection (1)(c) above unless it is satisfied that the society has ceased to comply with the requirement imposed by section 5(1)(a).
- (6) In the application of this section to a building society whose principal office is in Scotland, references to the High Court shall be read as references to the Court of Session.

[sections 38 – 42A revoked]

POWERS IN RELATION TO AUTHORISATION

Power to direct transfers of engagements or business

- 42B.** (1) If, with respect to a building society which has a permission under **Part 4A** of the Financial Services and Markets Act 2000 to accept deposits, the **appropriate authority**

engagements or considers it expedient to do so in order to protect the business, investments of shareholders or depositors, it may either -

(a) direct the society, within a specified period, to transfer all its engagements to one or more other building societies under section 94;

(aa) direct the society, within a specified period, to transfer its business under section 97 to an existing or specially formed company that is a subsidiary of another mutual society by a transfer to which provision made by order under section 3 of the 2007 Act (transfers to subsidiaries of other mutuals) applies; and ¹

(b) direct the society, within a specified period, to transfer its business under section 97 to an existing company that is not a subsidiary of another mutual society. ¹

(1A) In this section –

(a) “the 2007 Act” means the Building Societies (Funding) and Mutual Societies (Transfer) act 2007;

(b) “mutual society” has the same meaning as in section 3 of that Act. ¹

(2) If it appears to the appropriate authority that a society has failed to comply with a direction under subsection (1), the appropriate authority may exercise its power under section 55J (variation or cancellation on initiative of regulator), section 55L (imposition of requirements by FCA) or section 55M (imposition of requirements by PRA) of the Financial Services and Markets Act 2000 in relation to the society

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

¹ Amended by the Financial Services Act 2012

(3) Where the appropriate authority -

(a) gives a building society a direction under subsection (1)(a) above; or

(b) does not give a building society such a direction solely because the society is already seeking to transfer all its engagements to one or more other building societies under section 94,

the appropriate authority may, if it considers it expedient to do so in order to protect the investments of shareholders or depositors, direct that, instead of resolving to transfer its engagements by the two resolutions required by section 94(2) (with or without the additional resolution required by section 94(3)), the society may resolve to do so by a resolution of the board of directors.

(4) Where the appropriate authority -

(a) gives a building society a direction under subsection (1)(aa) or ¹ (b) above; or

(b) does not give a building society such a direction solely because the society is already seeking to transfer its business to an existing company, or to a specially formed company that is a subsidiary of another mutual society, ¹ under section 97,

the appropriate authority may, if it considers it expedient to do so in order to protect the investments of shareholders or depositors, direct that, instead of approving the transfer and the terms of the transfer by the two resolutions required by section 97(4)(c), the society may approve the transfer and those terms by a resolution of the board of directors.

(5) A direction under subsection (3) or (4) above -

(a) shall be in writing;

(b) may be given subject to such limitations or conditions as the appropriate authority may think fit; and

(c) unless renewed by a further direction, shall cease to have effect at the end of the period of 90 days beginning with the day on which it is given.

(5A) The PRA must consult the FCA before giving a direction under this section.

(6) ---

(7) In Schedule 8A to this Act -

(a) Part I (which contains provisions modifying sections 94 to 96 and Schedule 16 to this Act) shall apply where a direction is given under subsection (3) above; and

(b) Part II (which contains provisions modifying sections 97 to 100 and Schedule 17 to this Act) shall apply where a direction is given under subsection (4) above.

(8) The Treasury may make regulations for the purpose of specifying, as prescribed matters -

(a) the matters of which statements under paragraph 3 of Schedule 8A to this Act are to give particulars; and

(b) the matters of which statements under paragraph 9 of that Schedule are to give particulars.

(9) The power to make regulations under this section is exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Variation and revocation of transfer directions

42C. (1) A direction under section 42B(1) ___ may be varied by a further direction; and a direction may be revoked by the appropriate authority by a notice in writing to the building society concerned.

(1A) If the appropriate authority is the PRA, it must consult the FCA before varying or revoking a direction.

[Sections 43 – 45 revoked]

1 Amended by the Financial Services Act 2012

Notices, hearings and appeals

46A. (1) If the appropriate 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 appropriate authority proposes to give.

(3) If the appropriate 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 appropriate authority has decided to give.

(5) A society to whom a decision notice is given under this section may refer the matter to the Upper 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) ---

- (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 **appropriate 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.

[Sections 46B – 51 revoked]

INFORMATION

Power to obtain information and documents, etc

- 52.** (1) This section applies to information, documents or other material, or explanation of matters, which relate to the business of a building society or its plans for future development and, in relation to the obtaining under this section of information or explanations or the production under this section of documents or other material to which it applies 'the purposes of its supervisory functions' means the purposes of the discharge by the **FCA or the PRA of any of their respective functions** under Part I, sections 36, 36A, 37, 42B, 42C and 46A, Part X and section 107.
- (2) Where a building society has connected undertakings this section also applies to information, documents or other material, or explanations of matters, which relate to, or also relate to, the business, or the plans for future development, of every such connected undertaking.
- (3) ---
- (4) This section does not authorise any requirement in relation to information documents or other material to be imposed on a connected undertaking of a building society unless that undertaking carries on business in the United Kingdom; but a requirement may be imposed under this section on a building society in relation to information, documents or other material in the possession or control of a connected undertaking outside the United Kingdom.
- (5) Subject to subsection (4) above, the **FCA or the PRA** may by notice to a building society, or connected undertaking -
- (a) require the society or undertaking to which it is addressed to furnish to it, within a specified period or at a specified time or times, such specified information as **it** considers it needs for the purposes of its supervisory functions;
 - (b) require the society or undertaking to which it is addressed to produce to it, at a specified time and place, such specified documents or other material as **it** considers it needs for the purposes of its supervisory functions;

- (c) require the society or undertaking to which it is addressed to provide to it, within a specified period, such explanations of specified matters as it considers it needs for the purposes of its supervisory functions;
 - (d) require the society or undertaking to which it is addressed to furnish to it a report by an approved accountant or other person with relevant professional skill on, or on specified aspects of, information or documents or other material furnished or produced to it.
- (5A) Subject to subsection (4) above, any person authorised for the purpose by the FCA or the PRA ('an authorised officer') may, on producing evidence of his authority, require a building society or connected undertaking -
- (a) to furnish to him forthwith such specified information as the body which authorised the person considers it needs for the purposes of its supervisory functions;
 - (b) to produce to him forthwith such documents or other material as the body which authorised the person considers it needs for those purposes;
 - (c) to provide to him forthwith such explanations of specified matters as the body which authorised the person considers it needs for those purposes.
- (6) Where by virtue of subsection (5)(a) to (c) above the FCA or the PRA has power, or by virtue of subsection (5A) above an authorised officer has power, to require the furnishing of any information, the production of any document or material or the provision of any explanation, by a building society or connected undertaking, the FCA, the PRA or the authorised officer (as the case may be) shall have the like power as regards any person who -
- (a) is or has been an officer or employee or agent of the society or undertaking; or
 - (b) in the case of documents or material, appears to the FCA, the PRA or the authorised officer (as the case may be) to have the document or material in his possession or under his control.
- (7) Where any person from whom production of a document or material is required under subsection (6) above claims a lien on the document or material, the production of it shall be without prejudice to the lien.
- (8) Nothing in the foregoing provisions of this section shall compel the production by a relevant lawyer of a document or material containing a privileged communication made by him or to him in that capacity or the furnishing of information contained in a privileged communication so made.
- (9) Where, by virtue of subsection (5), (5A) or (6) above, the FCA, the PRA or the authorised officer requires the production by a building society or connected undertaking or any other person of documents or material, the FCA, the PRA or the authorised officer (as the case may be) may -
- (a) if the documents or material are produced, take copies of or extracts from them and require the person who produced them, or any other person who is a present or past director or officer of, or is or was at any time employed by, the building society or connected undertaking concerned, to provide an explanation of the documents or material; and
 - (b) if the documents or material are not produced, require the person who was required to produce the documents or material to state, to the best of his knowledge and belief, where the documents or material are.
- (10) Any person who, when required to do so under this section, fails without reasonable excuse to furnish any information or accountant's report, to produce any documents or material, or to provide any explanation or make any statement, shall be liable on summary conviction-
- (a) to a fine not exceeding level 5 on the standard scale; and
 - (b) in the case of a continuing offence, to an additional fine not exceeding £200 for every day during which the offence continues.

- (11) Any building society which furnishes any information, provides any explanation or makes any statement which is false or misleading in a material particular shall be liable, on conviction on indictment or on summary conviction, to a fine which, on summary conviction, shall not exceed the statutory maximum.
- (12) Any person who knowingly or recklessly furnishes any information, provides any explanation or makes any statement which is false or misleading in a material particular shall be liable-
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or both; and
 - (b) on summary conviction, to a fine not exceeding the statutory maximum.
- (13) In this section-
- 'agent', in relation to a building society or connected undertaking, includes its bankers, accountants, solicitors and auditors;
- 'approved', in relation to an accountant or other person with relevant professional skill, means approved by the **FCA or the PRA**;
- 'relevant lawyer' means a barrister, advocate, solicitor or other legal representative communications with whom may be the subject of a claim to professional privilege;
- 'specified' means specified in a notice or requirement under this section.

Entry of premises under warrant under section 176 of the Financial Services and Markets Act 2000

- 52B.** (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 **FCA or the PRA**, 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.

Disclosure of information

- 53A.** (1) For the purposes of Part XXIII 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 FCA;
 - (ia) the PRA;
 - (ii) any person who has been employed by the FCA or the PRA; and
 - (iii) any person appointed by the FCA or the PRA 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 FCA or the PRA 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.

Information disclosed to the FCA or PRA from other sources

- 54.** (1) If and in so far as it appears to the Secretary of State that the disclosure of any information will enable the FCA or the PRA better to discharge its functions under this Act (but not otherwise) -
- (a) information obtained by the Secretary of State under section 447 or 448 of the Companies Act 1985 (inspection of companies' books and papers) may be disclosed to the FCA or the PRA or further disclosed, notwithstanding the provision as to security of information contained in section 449 of that Act; and
 - (b) where the information is contained in a report made by inspectors appointed under section 431, 432 or 442 of the Companies Act 1985 (investigation of affairs or ownership of companies and certain other bodies corporate) the Secretary of State may furnish a copy of the report to the FCA or the PRA.
- (2) ---

INSPECTIONS, etc

Investigations on behalf of the FCA or PRA

- 55.** (1) If it appears to the FCA or the PRA desirable to do so for the purposes of its supervisory functions in relation to a building society, it may appoint one or more competent persons to investigate and report to it on the state and conduct of the business of the society concerned, or any particular aspect of that business.
- (2) If a person appointed under subsection (1) above thinks it necessary for the purposes of his investigation, he may also investigate the business of any body corporate which is or has at any relevant time been a connected undertaking of the building society under investigation.
- (3) It shall be the duty of every officer, employee and agent of a building society or other body which is under investigation -
- (a) to produce to the persons appointed under subsection (1) above all records, books and papers relating to the body concerned which are in his custody or power; and
 - (b) to attend before those persons when required to do so; and
 - (c) otherwise to give to those persons all assistance in connection with the investigation which he is reasonably able to give.
- (4) Any officer, employee or agent of a building society or other body who -
- (a) without reasonable excuse fails to produce any records, books or papers which it is his duty to produce under subsection (3) above, or
 - (b) without reasonable excuse fails to attend before the person appointed under subsection (1) above when required to do so, or
 - (c) without reasonable excuse fails to answer any question which is put to him by persons so appointed with respect to any building society or other body corporate which is under investigation.
- shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (5) Any officer, employee or agent of a building society or other, body who knowingly or recklessly furnishes to any person appointed under subsection (1) above any information which is false or misleading in a material particular, shall be liable -
- (a) on conviction on indictment to imprisonment for a term not exceeding two years or to a fine or both, and
 - (b) on summary conviction to a fine not exceeding the statutory maximum.
- (6) In this section -
- (a) 'agent', in relation to a building society or other body whose business is under investigation, includes its bankers, its accountants and solicitors and any persons, where they are not officers of the other body concerned, who are employed as its auditors;
 - (b) 'the purposes of its supervisory functions', in relation to the FCA or the PRA, has the same meaning as in section 52; and
 - (c) any reference to an officer employee or agent of a building society or other body includes a reference to a person who has been but no longer is an officer, employee or agent of that society or other body.

Inspections and special meetings: general

- 56.** (1) In the circumstances mentioned in subsection (2) below, the FCA or the PRA -
- (a) may appoint one or more competent inspectors to investigate and report on the affairs of a building society, or
 - (b) may call a special meeting of a building society to consider its affairs, or

- (c) may (either on the same or on different occasions) both appoint an inspector or inspectors and call a special meeting for those purposes;

and, in the circumstances mentioned in subsection (3) below, the investigation or consideration may extend to the affairs of any body corporate which is or at any relevant time has been a connected undertaking of the building society.

(1A) The FCA must consult the PRA before exercising the power in subsection (1).

(1B) The PRA must consult the FCA before exercising the power in subsection (1).

- (2) The powers conferred by subsection (1) above may be exercised either -
 - (a) on the application of the requisite number of members of the society, or
 - (b) where no such application is made but the **FCA, the PRA (as the case may be)** is of opinion that an investigation should be held into the affairs of the society, or that the affairs of the society call for consideration by a meeting of its members.
- (3) The powers conferred by subsection (1) above may be exercised in relation also to a connected undertaking of a building society either -
 - (a) where the application referred to in subsection (2)(a) above so requests, or
 - (b) where the application contains no such request but the **FCA, the PRA (as the case may be)** is of the opinion that it is necessary for the purposes of the investigation into or consideration of the affairs of the building society that the affairs of the connected undertaking should also be investigated or considered.
- (4) Where the inspectors are of the opinion mentioned in subsection (3)(b) above in relation to a connected undertaking of a building society they may, with the consent of the **body exercising its powers under subsection (1)**, extend their investigation to the affairs of the connected undertaking and make their report accordingly.
- (5) For the purposes of subsections (1) to (3) above the requisite number of members -
 - (a) in the case of a building society having more than 1,000 members, is 100, and
 - (b) in the case of any other building society, is one-tenth of the whole number of members of the society.
- (6) The following provisions shall have effect where an application is made as mentioned in subsection (2)(a) above, that is to say -
 - (a) the application shall be supported by such evidence as the **body to which the application was made** may require for the purpose of showing that the applicants have good reason, for requiring an investigation by inspectors or consideration by a special meeting, as the case may be, and that the applicants are not actuated by malicious, frivolous, vexatious or scandalous motives in their application;
 - (b) such notice of the application shall be given to the building society and, in a case where the investigation is to extend to its affairs, also to the society's connected undertaking, as the **body to which the application was made** may direct;
 - (c) the **body to which the application was made** shall require the applicants to give security for payment of the costs of the investigation or meeting before the inspector is appointed or the meeting is called subject, in the case of the costs of an investigation, to an amount not exceeding the corresponding Companies Act limit; and
 - (d) as regards the expenses of or incidental to the investigation or meeting -
 - (i) in the case of an investigation (in whichever way instituted), the expenses shall be defrayed in the first instance by the **body to which the application was made** but without prejudice to its rights to contribution under section 57(10);
 - (ii) in the case of a meeting, the expenses shall be defrayed by the applicants, or out of the funds of the society, or by the members or officers or former members

or officers of the society, in such proportions as the **body to which the application was made** may direct

- (7) Before **the FCA or the PRA exercises** its powers under subsection (1) above in a case falling within subsection (2)(b) above, **it** shall inform the building society of the action which it proposes to take and the grounds for that action, and the society shall, within 14 days of receiving the information, be entitled to give the **body exercising its powers under subsection (1)** an explanatory statement in writing by way of a reply.
- (8) Where the **FCA or the PRA** proposes to exercise its powers under subsection (1) above in a case falling within subsection (3)(b) above, subsection (7) above shall apply in relation to the connected undertaking as it applies in relation to the society.
- (9) Inspectors appointed under this section shall, in addition to having the powers which are necessary for or incidental to the discharge of their functions under this section, have the powers specified in section 57.
- (10) Where a special meeting is called under this section -
 - (a) the **body exercising its powers under subsection (1)** may direct at what time and place the meeting is to be held, and what matters are to be discussed and determined at the meeting, and may give such other directions as it thinks fit with respect to the calling, holding and conduct of the meeting;
 - (b) the **body exercising its powers under subsection (1)** may appoint a person to be chairman at the meeting or, in default of such an appointment, the meeting may appoint its own chairman;
 - (c) the meeting shall have all the powers of a meeting called according to the rules of the building society;and the provisions of this subsection and any direction given under it shall have effect notwithstanding anything in the rules of the building society.
- (11) In this section 'the corresponding Companies Act limit', in relation to security for the payment of the costs of an investigation, is £5,000 or such other sum as is specified for the time being in an order under section 431(4) of the Companies Act 1985 for the purposes of that section.

Inspections: supplementary provisions

57. (1) In this section -

'the body under investigation' means the building society whose affairs or, as the case may be, the building society whose affairs, and each connected undertaking of the building society whose affairs, are the subject of the investigation;

'the inspectors' means the persons appointed _ _ _ under section 56 to conduct the investigation;

'the investigation' means the investigation under section 56 which the inspectors have been appointed to hold;

and references to officers or to agents include past, as well as present, officers or agents (as the case may be) and 'agents', in relation to a building society or any connected undertaking of a building society, includes its bankers, its accountants and solicitors and its auditors.

- (2) When the inspectors have been appointed it is the duty of all officers and agents of the body under investigation -
 - (a) to produce to the inspectors all documents and material of or relating to the body under investigation which are in their custody or power;
 - (b) to attend before the inspectors when required to do so, and
 - (c) otherwise to give the inspectors all assistance in connection with the investigation which they are reasonably able to give.

- (3) If the inspectors consider that a person other than an officer or agent of the body under investigation is or may be in possession of information concerning its affairs, they may require that person to produce to them any documents or material in his custody or power relating to the body under investigation, to attend before them and otherwise to give them all assistance in connection with the investigation which he is reasonably able to give; and it is that person's duty to comply with the requirement.
- (4) The inspectors may examine on oath the officers and agents of the body under investigation, and any such person as is mentioned in subsection (3) above, in relation to the affairs of the body under investigation, and may administer an oath accordingly.
- (5) An answer given by a person to a question put to him under the foregoing provisions of this section may be used in evidence against him.
- (5A) However, in criminal proceedings in which that person is charged with an offence to which this subsection applies -
- (a) no evidence relating to the answer may be adduced, and
 - (b) no question relating to it may be asked,
- by or on behalf of the prosecution, unless evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of that person.
- (5B) Subsection (5A) above applies to any offence other than -
- (a) an offence under section 2 or 5 of the Perjury Act 1911 (false statements made on oath otherwise than in judicial proceedings or made otherwise than on oath);
 - (b) an offence under section 44(1) or (2) of the Criminal Law (Consolidation) (Scotland) Act 1995 (false statements made on oath or otherwise than on oath); or
 - (c) an offence under Article 7 or 10 of the Perjury (Northern Ireland) Order 1979 (false statements made on oath otherwise than in judicial proceedings or made otherwise than on oath).
- (6) If an officer or agent of the body under investigation or any such person as is mentioned in subsection (3) above -
- (a) refuses to produce any document or material which it is his duty under this section to produce, or
 - (b) refuses to attend before the inspectors when required to do so, or
 - (c) refuses to answer any question put to him by the inspectors with respect to the affairs of the body under investigation,
- the inspectors may certify the refusal in writing to the High Court; and the court may thereupon inquire into the case and, after hearing any witnesses who may be produced against or on behalf of the alleged offender and after hearing any statement which may be offered in defence, may punish the offender in like manner as if he had been guilty of contempt of the court.
- (7) The inspectors may, and if so directed by the **body which appointed the inspectors** shall, make interim reports to the **body which appointed the inspectors**, but they may at any time in the course of the investigation, without making an interim report, inform the **body which appointed the inspectors** of matters coming to their knowledge as a result of the investigation tending to show that an offence has been committed.
- (8) The **body which appointed the inspectors** may, if it thinks fit -
- (a) send a copy of any report made by the inspectors to the body whose affairs are or were the subject of the investigation;
 - (b) furnish a copy of any such report on request and on payment of the prescribed fee to -
 - (i) any member of the body whose affairs are or were the subject of the investigation;

- (ii) the auditors of that body;
 - (iii) any person whose conduct is referred to in the report;
 - (iv) any other person whose financial interests appear to the **body which appointed the inspectors** to be affected by matters dealt with in the report, whether as creditor or otherwise; and
- (c) cause the report to be printed and published.
- (8A) The **body which appointed the inspectors** may charge a reasonable fee for furnishing to any person a copy of a report under subsection (8)(b) above.
- (9) A copy of a report of inspectors appointed under section 56 to hold an investigation under that section, certified by the **body which appointed the inspectors** to be a true copy, is admissible in any legal proceedings as evidence of the opinion of the inspectors in relation to any matter contained in the report; and a document purporting to be such a certificate shall be received in evidence and be deemed to be such a certificate. unless the contrary is proved.
- (10) The **body which appointed the inspectors** shall be entitled to be repaid the expenses of the investigation defrayed by it under section 56(6)(d) as provided in the following paragraphs, that is to say -
- (a) by the applicants for the investigation to such extent (if any) as the **body which appointed the inspectors** may direct;
 - (b) by any body whose affairs were the subject of the investigation. to such extent (if any) as the **body which appointed the inspectors** may direct;
 - (c) by any person convicted of an offence in proceedings instituted as a result of the investigation, to such extent (if any) as the court by or before which he was convicted may order;
- and a person liable under anyone of paragraphs (a) to (c) above is entitled to contribution from any other person liable under the same paragraph, according to the amount of their respective liabilities under it.
- (11) In the application of this section to a building society whose principal office is in Scotland, any reference to the High Court shall be read as a reference to the Court of Session.

PART VII

MANAGEMENT OF BUILDING SOCIETIES

DIRECTORS AND OTHER OFFICERS

Directors: number

- 58.** (1) Every building society shall have at least two directors.
- (2) One of the directors shall be appointed to be chairman of the board of directors.

Chief executive and secretary

- 59.** (1) Every building society shall have a chief executive, that is to say, a person who is employed by the society and who either alone or jointly with one or more other persons, is or will be responsible under the immediate authority of the directors for the conduct of the business of the society.
- (2) Every building society shall have a secretary.
- (3) The offices of chief executive and secretary of a building society may be held by the same person.
- (4) The chief executive and the secretary of a building society shall be appointed by the directors of the society.

- (5) The directors of a building society shall, as regards the appointment of the secretary or the chief executive of the society, take all reasonable steps to secure that the person appointed is a person who has the requisite knowledge and experience to discharge the functions of his office.
- (6) Where a person becomes or ceases to be the chief executive of a building society, the society shall within one month give notice of that fact to the **FCA**, stating, the person's full name and address and the date on which he became, or ceased to be, chief executive; and the **FCA** shall record the person's name and the date on which he began to hold, or, as the case may be, ceased to hold office, in the public file of the society.
- (7) Anything required or authorised to be done by or to the secretary or chief executive of a building society may, if the office is vacant or there is for any other reason no secretary or chief executive capable of acting, be done by or to any assistant, or deputy secretary or assistant or deputy chief executive, as the case may be, or, if there is no assistant or deputy capable of acting, by or to any officer of the society authorised generally or specially for that purpose by the directors.

Directors: elections and retirements

- 60.** (1) Except in so far as they may be co-opted by virtue of subsection (13) below, the directors of a building society must be elected to office, either -
- (a) on a poll taken at the annual general meeting of the society, or
 - (b) by postal or electronic ballot of the members conducted during that part of the financial year of the society which precedes the date on which the annual general meeting is held.
- as the rules provide.
- (1A) Where directors of a building society are to be elected to office on a poll taken at the annual general meeting of the society, a form for the appointment of a proxy shall be sent to each person entitled to notice of the meeting.
 - (2) The persons entitled to vote in an election of directors of a building society are those members of the society who, on the voting date, are entitled to vote on an ordinary resolution of the society.
 - (3) Where, in the case of an election of directors of a building society, there are more candidates than vacancies to be filled by the election, a person entitled to vote in the election -
 - (a) shall have one vote in respect of every vacancy, but
 - (b) cannot be required to cast all or any of his votes.
 - (3A) Where, in the case of an election of directors of a building society, there are not more candidates than vacancies to be filled by the election -
 - (a) a person entitled to vote in the election shall have one vote in respect of every candidate, but cannot be required to cast all or any of his votes;
 - (b) each vote shall be capable of being cast either for or against the candidate concerned; and
 - (c) a candidate shall be elected if, and only if, more votes are cast for him than against him.
 - (4) Subject to subsections (4A), (6), (7) and (9) below and to paragraph 5(3) of Schedule 2 to this Act, any natural person is eligible to be elected a director of a building society.
 - (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.
 - (5) The rules of a building society may require its directors to retire at a prescribed age without eligibility for re-election or reappointment; and, if the age so prescribed is no greater than the

age which is the normal retirement age for the purposes of this section, subsection (7) below shall have no application to the directors of the society.

- (6) If the rules of a building society make the provision authorised by subsection (5) above, a person who has attained the age so prescribed shall not be eligible to be elected as a director of the society.
- (7) Except in a case where the operation of this subsection is excluded by subsection (5) above, if a person has attained the normal retirement age for directors, he shall not be eligible to be elected a director of a building society unless -
 - (a) he has been approved as eligible for election by resolution of the board of directors, and
 - (b) his age and the reasons for the board's approval of his eligibility have been notified to every person entitled to vote at the election.
- (7A) Where the information required to be notified by subsection (7)(b) is sent electronically, it must be sent to an electronic address notified by the person for the purpose.
- (7B) The requirement of subsection (7)(b) to notify information to a person is satisfied by the publication of that information on a web site only if -
 - (a) the society and that person have agreed to his accessing information on a web site;
 - (b) the published information is information to which the agreement applies;
 - (c) that person is notified before the voting date, in a manner agreed between him and the society, of -
 - (i) the publication of the information on a web site,
 - (ii) the address of that web site, and
 - (iii) the place on that web site where the information may be accessed, and how it may be accessed; and
 - (d) the information is published continuously on that web site throughout the period beginning with the giving of that notification and ending with the voting date.
- (7C) Where, in a case in which subsection (7B) is relied on for compliance with a requirement of subsection (7)(b) -
 - (a) information is published for a part, but not all, of the period mentioned in subsection (7B)(d), but
 - (b) the failure to publish it throughout that period is wholly attributable to circumstances which it would not be reasonable to have expected the society to prevent or avoid,the failure shall not invalidate the election of a director.
- (8) In this section 'the normal retirement age', in relation to the directors of a building society, means 70 years or such lesser age as the rules of the society prescribe as the normal retirement age for its directors; and 'the compulsory retirement age', for a society whose rules make the provision authorised by subsection (5) above means the age so prescribed in its rules.
- (9) The rules of a building society may impose, as a condition of a person's eligibility to be or to remain a director of the society, a requirement that he shall hold beneficially shares in the society not less in value than the amount prescribed by the rules. but the minimum holding to be required shall not exceed £ 1,000 or such other amount as may be substituted for it by order of the Treasury under this subsection.
- (10) The rules of a building society may impose, as conditions of the validity of a person's nomination for election as a director, requirements as to -
 - (a) the minimum number of members who must join in nominating him,

- (b) their qualifications as respects length of membership and the value of their shares or the amount of their mortgage debt;
 - (c) the depositing of money with the society in connection with his candidature,
- but no other requirements; and rules made by virtue of this subsection must comply with section 61.

(10A) A nomination of a candidate for election as a director of a building society -

- (a) may be made at any time; but
- (b) if made after the closing date for the nomination of candidates for the next election of directors, shall be carried forward (unless the candidate otherwise requires) as a nomination for the next election of directors after that;

and in this subsection and section 61 'the closing date for the nomination of candidates', in relation to an election of directors, means the last day of the last financial year to end before the voting date.

(11) A director of a building society shall retire from office -

- (a) in any case not provided for by paragraph (b) below, subsection (12) below or rules under section 61(10), at the third annual general meeting of the society following the date of his election, and
- (b) in a case where he had attained the normal retirement age at his election, at the next annual general meeting following that date;

subject (in either case) to any provision for his earlier retirement on the grounds of ceasing to hold the requisite shares in the society contained in the rules of the society.

(12) A director of a building society attaining the normal retirement age or, as the case may be, the compulsory retirement age shall, subject to any provision of the rules for earlier retirement, retire from office at the next annual general meeting of the society.

(13) If the rules of a building society so provide, the directors for the time being may appoint as additional directors or to fill any vacancy on the board of directors any person who -

- (a) has not attained-
 - (i) the normal retirement age, or
 - (ii) the compulsory retirement age (where that age is less than the normal retirement age), and
- (b) appears to them to be fit and proper to be a director,

not being a person who, having been nominated for election as a director at any election held within the preceding twelve months, was not elected as a director.

(14) A person who is co-opted under subsection (13) above shall cease to hold office at the end of the permitted period unless he is elected as a director of the society in accordance with this section within that period.

(15) A person who holds office as, or is to his knowledge nominated for election or proposed for appointment under subsection (13) above as, a director of a building society shall, not later than 28 days before he attains the normal retirement age or, as the case may be, the compulsory retirement age for directors of the society, give the society notice of the date on which he will attain that age; and if he fails to do so he shall be liable on summary conviction -

- (a) to a fine not exceeding level 3 on the standard scale; and
- (b) in the case of a continuing offence, to an additional fine not exceeding £40 for every week during which the offence continues.

(16) The power of the Treasury to make an order under subsection (9) above -

- (a) includes power to make such transitional provision as they consider necessary or expedient, and

- (b) shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(17) In this section -

‘permitted period’, in relation to a co-opted director, has the meaning given by section 61(12); and

‘the voting date’ means -

- (a) in the case of an election at a meeting, the date of the meeting, except where paragraph (c) below applies;
- (b) in the case of an election conducted by postal ballot or by electronic ballot in the case of which not all the voting is electronic (within the meaning of paragraph 33A of Schedule 2), the date which the society specifies as the final date for the receipt of completed ballot papers;
- (bb) in the case of an election conducted by electronic ballot in which all the voting is electronic voting (within the meaning of that paragraph), the date which the society specifies as the final date for registering votes;
- (c) in a case where a member appoints a proxy to vote at the meeting for him, the date which the society specifies as the final date for receipt of appointments of proxies to vote at the election;

and, for the purposes of this Act, the date of a person's election to office as a director of a building society, in a case where the rules provide for election by postal or electronic ballot, is the date of the meeting at which the declaration of the result of the ballot is made.

Directors: supplementary provisions as to elections, etc

61. (1) Rules made under section 60(10)(a), in order to comply with this section, must not require -

- (a) in the case of a society whose total commercial assets do not exceed £100 million, more than 50 members;
- (b) in the case of a society whose total commercial assets exceed £100 million but do not exceed £250 million, more than 100 members;
- (c) in the case of a society whose total commercial assets exceed £250 million but do not exceed £1,000 million, more than 150 members;
- (d) in the case of a society whose total commercial assets exceed £1,000 million but do not exceed £5,000 million, more than 200 members; and
- (e) in the case of a society whose total commercial assets exceed £5,000 million, more than 250 members, to join in nominating a person for election as a director.

(2) Rules under section 60(10)(b), in order to comply with this section, must not require a nominating member -

- (a) to have been a member for more than two years before the date of the nomination; or
- (b) if he claims eligibility as a shareholding member, to hold, or to have held at any time during that period, shares in the society to a value greater than £200; or
- (c) if he claims eligibility as a borrowing member, to owe to the society, or to have owed to the society at any time during that period, a mortgage debt of an amount greater than £200.

(3) Rules made under section 60(10)(c), in order to comply with this section -

- (a) must not require more than £500 to be deposited with the society;
- (b) must not require the money to be deposited before the date which, under the rules, is the closing date for the nomination of candidates for the election; and

- (c) must provide for the return of the deposit to the candidate in the event of his securing -
 - (i) not less than 5 per cent of the total number of votes cast for all the candidates in the election; or
 - (ii) not less than 20 per cent, of the number of votes cast for the candidate who is elected with the smallest number of votes.
- (3A) In subsection (1) above 'total commercial assets', in relation to a building society, means the difference between the total assets of the society as shown in the relevant accounts and the aggregate of -
- (a) the liquid assets of the society as shown in those accounts in pursuance of regulations under section 72C or 72G, or in accordance with international accounting standards, as appropriate; and
 - (b) the fixed assets of the society as so shown;
- and in this subsection 'the relevant accounts' means the accounts which, immediately before the closing date for the nomination of candidates, were the accounts last prepared by the society under section 72A or 72E and 'liquid assets' and 'fixed assets', in the case of societies which produce IAS individual accounts or IAS group accounts, have the same meaning as given in section 6(16).
- (4) The Treasury may, by order, substitute -
- (a) for any amount or number specified in subsection (1) above;
 - (b) for any amount specified in subsection (2) above; or
 - (c) for any amount or percentage specified in subsection (3) above,
- such other amount, number or percentage as they think appropriate; and the Treasury may by order vary subsection (3A) above by adding to or deleting from it any provision or by varying any provision contained in it.
- (5) The power to make orders under subsection (4) above -
- (a) includes power to make such transitional provision as the Treasury consider necessary or expedient, and
 - (b) is exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) If a building society, in a case where the board of directors has approved as eligible for election a person who has attained the normal retirement age, fails to notify every person entitled to vote at the election as required by section 60(7) 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; but no such failure shall invalidate the election.
- (7) If, before the closing date for the nomination of candidates, a duly nominated candidate for election as a director of a building society furnishes the society with an election address, or a revised election address, of not more than 500 words, then, subject to subsection (8) below -
- (a) it shall be the duty of the society to send a copy of the address or, as the case may require, the revised address to each member of the society who is entitled to vote in the election;
 - (b) each member's copy shall be sent in the same manner and, so far as practicable, at the same time as the notice of the meeting at which the election is to be conducted or the notice of the postal or electronic ballot is sent out, as the case may be, or as soon as is practicable thereafter; and
 - (c) if the building society fails to comply with the requirements of this subsection 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 liable for the offence;

but no such failure shall invalidate the election.

- (7A) Subsection (7B) applies where, in a case in which -
- (a) a society gives notice in accordance with paragraph 22A or 22B of Schedule 2 of the meeting at which the election is to be conducted;
 - (b) a society gives notice of a postal ballot by which the election is to be conducted by sending it electronically to an electronic address; or
 - (c) a society gives notice of an electronic ballot by which the election is to be conducted, the copy of the election address or revised election address that is required to be sent to a member under subsection (7)(b) is not transmitted or published at the same time as the notice.
- (7B) The requirement of subsection (7)(b) to send a member his copy of the election address or revised election address in the same manner as the notice is satisfied if -
- (a) a copy of the address or revised address is made available to the member in the same way as the notice; or
 - (b) such a copy (without being made available to the member in that way) is sent to the member in a manner set out by the society for the purpose in the notice.
- (7C) Where a copy of an election address or revised election address is sent to a member electronically under subsection (7B), it must be sent to an electronic address notified by the member for the purpose.
- (7D) The requirements of subsection (7)(b) or (7B)(a) are satisfied by the publication of a copy of the election address or revised election address on a web site only if -
- (a) the notice of the election meeting or of the electronic ballot is a notice given to that member by being published on a web site;
 - (b) an agreement between the society and the member to his accessing information on a web site applies to copies of election addresses or revised election addresses for the meeting or ballot in question;
 - (c) the member is notified, in a manner agreed between him and the society, of -
 - (i) the publication of a copy of the address or revised address on a web site,
 - (ii) the address of that web site, and
 - (iii) the place on that web site where the copy may be accessed, and how it may be accessed;
 - (d) the notification for the purposes of paragraph (c) above is given no later than the day after the date on which the copy of the election address or revised election address is first capable of being accessed on the notified web site; and
 - (e) that date was the same as the date on which the notice of the election meeting or of the electronic ballot was first capable of being accessed on a web site or (in a case to which subsection (7B) applies) was as soon as practicable after that date;
 - (f) a copy of the election address or revised election address is continuously published on the notified web site throughout the period beginning with the day on which it was first accessible on that site and ending with the voting date (within the meaning of section 60(17)).
- (7E) Where, in a case in which subsection (7D) is relied on for compliance with a requirement under subsection (7)(b) or (7B)(a) above _ _ _ -
- (a) a copy is published for a part, but not all, of the period mentioned in subsection (7D)(f), but
 - (b) the failure to publish it throughout that period is wholly attributable to circumstances which it would not be reasonable to have expected the society to prevent or avoid,
- the failure shall not invalidate the election of a director.

- (8) Subsection (1) above does not require a building society to send copies of an address or a revised address to members of the society in any case where -
- (a) publicity for the address or revised address would be likely to diminish substantially the confidence in the society of investing members of the public, or
 - (b) the rights conferred by that subsection are being abused to seek needless publicity for defamatory matter or for frivolous or vexatious purposes;
- and that subsection shall not be taken to confer any rights on members, or to impose any duties on a building society, in respect of an address or a revised address which does not relate directly to the affairs of the society.
- (9) The **FCA** shall hear and determine any dispute arising under subsection (8)(a) above, whether on the application of the society or of any other person who claims to be aggrieved.
- (10) The rules of a building society, if they provide for the retirement by rotation of its directors, may provide that a person elected to fill a vacant seat on the board must retire at the annual general meeting at which, in accordance with the rules for retirement by rotation, the seat is to fall vacant.
- (11) Subsection (10) above applies to any vacancy arising when an elected director ceases to hold office for any reason before the annual general meeting at which (disregarding his age) the seat is due to fall vacant under section 60(11)(a).
- (12) For the purposes of section 60(17) 'the permitted period', with reference to the tenure of office of co-opted directors, is the period beginning with the date of the co-opted director's appointment and ending with whichever of the following first occurs, that is to say -
- (i) in the case of a building society which elects its directors at its annual general meeting, the conclusion of the next such meeting following his appointment;
 - (ii) in the case of a building society which elects its directors by postal or electronic ballot, the declaration at its annual general meeting of the result of the next such ballot conducted after his appointment;
 - (iii) the expiration of the period of sixteen months beginning with the date of his appointment;
- but a general meeting or postal or electronic ballot shall be disregarded for the purposes of this paragraph if the closing date for the nomination of candidates falls before the date of the co-opted director's appointment.
- (13) Where a person becomes or ceases to be a director of a building society, the society shall within one month give notice of that fact to the **FCA**, stating the person's full name and address and the date on which he became, or ceased to be, a director; and the **FCA** shall record the person's name and the date on which he began to hold, or, as the case may be, ceased to hold office, in the public file of the society.
- (14) If a building society fails to comply with subsection (13) above 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.

DEALINGS WITH DIRECTORS

Prohibition of tax-free payments to directors

- 62.** (1) A building society shall not pay a director remuneration (whether as director or otherwise) free of income tax, or otherwise calculated by reference to or varying with the amount of his income tax, or to or with any rate of income tax.
- (2) Any rule of a building society and any provision of any contract, or in any resolution of a building society, for payment to a director of remuneration falling within subsection (1) above has effect as if it provided for payment, as a gross sum subject to income tax, of the net sum for which the rule, contract or resolution actually provides.

Directors to disclose interests in contracts and other transactions

- 63.** (1) It is the duty of a director of a building society who is in any way, whether directly or indirectly, interested in a contract or proposed contract with the society to declare the nature of his interest to the board of directors of the society in accordance with this section.
- (2) In the case of a proposed contract, the declaration shall be made -
- (a) at the meeting of the directors at which the question of entering into the contract is first taken into consideration; or
 - (b) if the director was not at the date of that meeting interested in the proposed contract, at the next meeting of the directors held after he became so interested.
- (3) Where the director becomes interested in a contract after it is made, the declaration shall be made at the first meeting of the directors held after he becomes interested in the contract.
- (4) For the purposes of this section, a general notice given to the directors of a building society by a director to the effect that -
- (a) he is a member of a specified company or firm and is to be regarded as interested in any contract which may, after the date of the notice, be made with that company or firm, or
 - (b) he is to be regarded as interested in any contract which may, after the date of the notice, be made with a specified person who is connected with him.
- is a sufficient declaration of interest in relation to any contract made after that date with that company, firm or person.
- (5) A director need not make a declaration or give a notice under this section by attending in person at a meeting of the directors if he takes reasonable steps to secure that the declaration or notice is brought up and read at the meeting.
- (6) The foregoing provisions of this section apply in relation to any transaction or arrangement as they apply in relation to a contract and, for the purposes of this section, a transaction or arrangement of a kind described in section 65 made by a society for a director of the society or a person connected with a director of the society is to be treated (if it would not otherwise be so treated, and whether or not it is prohibited by that section) as a transaction or arrangement in which that director is interested.
- (7) A director who fails to comply with this section shall be guilty of an offence and liable -
- (a) on conviction on indictment, to a fine; or
 - (b) on summary conviction, to a fine not exceeding the statutory maximum.

Substantial property transactions involving directors and connected persons

- 64.** (1) A building society shall not enter into an arrangement -
- (a) whereby a director of the society, or a person connected with a director of the society, acquires or is to acquire one or more non-cash assets of the requisite value from the society; or
 - (b) whereby the society acquires or is to acquire one or more non-cash assets of the requisite value from a director of the society or a person connected with a director of the society.
- unless the arrangement is first approved by a resolution of the society passed at a general meeting.
- (2) For this purpose a non-cash asset is of the requisite value if at the time the arrangement in question is entered into its value is -
- (a) except in a case falling within paragraph (b) below, not less than £200,000; and

- (b) where the last balance sheet of the society showed reserves amounting to less than £1,000,000, not less than the higher of £2,000 or the amount which represents 10 per cent of the reserves so shown.
- (3) The Treasury may by order amend subsection (2) above so as to substitute for any of the amounts for the time being specified in paragraphs (a) and (b) of that subsection such other amount as they think appropriate.
- (4) The power to make an order under subsection (3) above is exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament
- (5) In this section 'non-cash asset' means any property or interest in property other than cash and a reference to the acquisition of a non-cash asset includes the creation or extinction of an estate or interest in, or a right over, any property and also the discharge of any person's liability, other than a liability for a liquidated sum.
- (6) An arrangement entered into by a building society in contravention of this section, and any transaction entered into in pursuance of the arrangement (whether by the society or any other person) is voidable at the instance of the society unless -
 - (a) restitution of any money or other asset which is the subject matter of the arrangement or transaction is no longer possible or the society has been indemnified in pursuance of subsection (7) (b) below for the loss or damage suffered by it, or
 - (b) any rights acquired in good faith, for value and without actual notice of the contravention by any person who is not a party to the arrangement or transaction would be affected by its avoidance, or
 - (c) the arrangement is affirmed by the society at a general meeting held not later than the next annual general meeting after the entry into the arrangement.
- (7) Where an arrangement or transaction is entered into with a building society by a director of the society or a person connected with him in contravention of this section then, without prejudice to any other liability but subject to subsections (8) and (9) below, that director and the person so connected, and any other director of the society who authorised the arrangement or any transaction entered into in pursuance of such an arrangement, is liable -
 - (a) to account to the society for any gain which he has made directly or indirectly by the arrangement or transaction, and
 - (b) (jointly and severally with any other person liable under this subsection) to indemnify the society for any loss or damage resulting from the arrangement or transaction.
- (8) Where an arrangement or transaction is entered into by a building society and a person connected with a director of the society in contravention of this section, that director is not liable under subsection (7) above if he shows that he took all reasonable steps to secure the society's compliance with this section.
- (9) In any case, a person so connected and any such other director as is mentioned in subsection (7) above is not so liable if he shows that, at the time the arrangement was entered into, he did not know the circumstances constituting the contravention.

Restrictions on loans etc to directors and persons connected with them

- 65.** (1) Subject to the following provisions of this section, a building society shall not -
- (a) make a loan to a director or a person connected with a director of the society; or
 - (b) dispose of property by way of lease or hire to a director or a person connected with a director of the society; or
 - (c) make a payment on behalf of a director or a person connected with a director of the society in connection with the provision of any service of a kind which is provided by building societies for individuals in the ordinary course of business; or

- (d) enter into a guarantee or provide any security which is incidental to or connected with any such loan, disposal of property or payment; or
 - (e) take part in any arrangement whereby -
 - (i) another person enters into a transaction which, if it had been entered into by the society, would have contravened any of paragraphs (a) to (d) above; and
 - (ii) that other person, in pursuance of the arrangement, has obtained or is to obtain any benefit from the society or a subsidiary of the society.
- (2) Subsection (1)(a) above does not apply to -
- (a) any loan of an amount which, when aggregated with any other relevant loans, does not exceed £10,000;
 - (b) any loan made in the ordinary course of the society's business and of an amount not greater and made on other terms not more favourable than it is reasonable to expect the society to have offered to a person of the same financial standing but unconnected with the society; or
 - (c) any loan, the amount of which, when aggregated with any other relevant loans, does not exceed £200,000, made for or towards the purchase or improvement of a dwelling-house used or to be used as the director's only or main residence if he is an executive director and loans of that description and on similar terms are ordinarily made by the society to its employees.
- (3) Subsection (1) (b) above does not apply to -
- (a) any lease or hiring of property the value of which, when aggregated with the value of any other relevant leases or hirings, does not exceed £20,000; or
 - (b) any lease or hiring made in the ordinary course of the society's business and on terms not more favourable than it is reasonable to expect the society to have offered to a person unconnected with the society.
- (4) Subsection (1) (c) above does not apply to -
- (a) any payment amounting, when aggregated with any other relevant payment, to no more than £10,000 in respect of which the person on whose behalf it is made is, under an obligation to reimburse the society within a period not exceeding two months beginning with the date of the payment; or
 - (b) any payment of an amount not greater and on other terms not more favourable than it is reasonable to expect the society to have offered to a person of the same financial standing but unconnected with the society.
- (5) Subject to compliance with the requirements of subsection (6) below, subsection (1) above does not preclude a building society from doing anything to provide a director with funds to meet expenditure incurred or to be incurred by him for the purposes of the society or for the purpose of enabling him properly to perform his duties as a director of the society nor does it preclude the society from doing anything to enable a director to avoid incurring such expenditure.
- (6) The following are the requirements referred to in subsection (5) above -
- (a) the things must either be done with the prior approval of the society given at a general meeting at which the requisite matters are disclosed or be done on condition that, if the approval of the society is not so given at the next annual general meeting, the loan is to be repaid, or any other liability arising under the transaction is to be discharged, within six months from the conclusion of that meeting; and
 - (b) the amount provided, when aggregated with any other relevant provision of funds, does not exceed £40,000.
- (7) The following are the requisite matters which must be disclosed for the purposes of subsection (6) above -

- (a) the purpose of the expenditure incurred or to be incurred, or which would otherwise be incurred, by the director;
 - (b) the amount of the funds to be provided by the society; and
 - (c) the extent of the society's liability under any transaction which is or is connected with the thing in question.
- (8) The Treasury may by order made by statutory instrument substitute for any sum specified in this section a larger sum specified in the order.
- (9) An order under subsection (8) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (10) In this section -
- ‘authorising provision’ and ‘authorised’, in relation to a transaction of a description falling within paragraph (a), (b) or (c) of subsection (1) above, mean respectively any provision of subsection (2), (3) or (4) or constituted by subsection (5) above and any transaction or thing done to which that paragraph does not apply or which is not precluded from being done by virtue of that provision;
- ‘outstanding’, in relation to loans, means outstanding in respect of principal and interest and in relation to the provision of funds subject to a condition for repayment or discharge of any other liability, means unpaid or undischarged to any extent;
- ‘provision of funds’ includes anything else which, by virtue of subsection (5) above, a society is not precluded from doing by subsection (1) above; _ _ _
- ‘relevant’, in relation to a transaction of a description falling within paragraph (a), (b) or (c) of subsection (1) above, means an outstanding or, in the case of a lease or hiring, current transaction of that description (whether entered into by, or by arrangement with, the society) not being one authorised by any other authorising provision.
- ‘subsidiary’ has the meaning given by section 1159 of the Companies Act 2006.
- (11) Section 70 has effect for the interpretation, in the subsequent provisions of this Part, of references to transactions or arrangements contravening this section and to such transactions or arrangements being made ‘for’ a person.

Sanctions for breach of section 65

- 66.** (1) If a building society enters into a transaction or arrangement contravening section 65, the transaction or arrangement is voidable at the instance of the society unless -
- (a) restitution of any money or any other assets which is the subject matter of the arrangement or transaction is no longer possible, or the society has been indemnified in pursuance of subsection (2)(b) below for the loss or damage suffered by it, or
 - (b) any rights acquired in good faith, for value and without actual notice of the contravention by a person other than the person for whom the transaction or arrangement was made would be affected by its avoidance.
- (2) Where a transaction or arrangement contravening section 65 is made by a building society for a director of the society or a person connected with a director of the society then, without prejudice to any other liability but subject to subsections (3) and (4) below, that director and the person so connected and any other director of the society who authorised the transaction or arrangement (whether or not it has been avoided in pursuance of subsection (1) above) is liable -
- (a) to account to the society for any gain which he has made directly or indirectly by the transaction or arrangement; and
 - (b) (jointly and severally with any other person liable under this subsection) to indemnify the society for any loss or damage resulting from the transaction or arrangement.

- (3) Where a transaction or arrangement contravening section 65 is entered into by a building society and a person connected with a director of the society, that director is not liable under subsection (2) above if he shows that he took all reasonable steps to secure the society's compliance with that section.
- (4) In any case, a person so connected and any such other director as is mentioned in subsection (2) above is not so liable if he shows that, at the time the transaction or arrangement was entered into, he did not know the circumstances constituting the contravention.
- (5) A director of a building society who authorises or permits the society to enter into a transaction or arrangement knowing or having reasonable cause to believe that the society was thereby contravening section 65 is guilty of an offence.
- (6) A building society which enters into a transaction or arrangement contravening section 65 for one of its directors is guilty of an offence unless it shows that, at the time the transaction or arrangement was entered into, it did not know the circumstances constituting the contravention.
- (7) A person who procures a building society to enter into a transaction or arrangement knowing or having reasonable cause to believe that the society was thereby contravening section 65 is guilty of an offence.
- (8) A person other than a building society who commits an offence under this section shall be liable -
 - (a) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or both; or
 - (b) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or both.
- (9) A building society which commits an offence under this section shall be liable on conviction on indictment or on summary conviction to a fine which, on summary conviction, shall not exceed the statutory maximum.

Transactions with directors and persons connected with them

- 66A.** (1) This section applies where a building society enters into a transaction the parties to which include -
- (a) a director of the society; or
 - (b) a person connected with such a director,
- and the board of directors, in connection with the transaction, exceed any limitation on their powers by reason of anything included in the society's constitution, that is to say, its memorandum and rules.
- (2) The transaction is voidable at the instance of the society.
 - (3) Whether or not it is avoided, any such party to the transaction as is mentioned in subsection (1)(a) or (b) above, and any director of the society who authorised the transaction, is liable -
 - (a) to account to the society for any gain which he has made directly or indirectly by the transaction, and
 - (b) to indemnify the society for any loss or damage resulting from the transaction.
 - (4) Nothing in the above provisions shall be construed as excluding the operation of any other enactment or rule of law by virtue of which the transaction may be called in question or any liability to the society may arise.
 - (5) The transaction ceases to be voidable if -
 - (a) restitution of any money or other asset which was the subject-matter of the transaction is no longer possible, or
 - (b) the society is indemnified for any loss or damage resulting from the transaction, or

- (c) rights acquired bona fide for value and without actual notice of the directors' exceeding their powers by a person who is not party to the transaction would be affected by the avoidance, or
 - (d) the transaction is ratified by the society in general meeting, by ordinary or special resolution or otherwise as the case may require.
- (6) A person other than a director of the society is not liable under subsection (3) above if he shows that at the time the transaction was entered into he did not know that the directors were exceeding their powers.
- (7) This section does not affect the operation of subparagraph (1) of paragraph 17 of Schedule 2 in relation to any party to the transaction not within subsection (1)(a) or (b) above.
- But where a transaction is voidable by virtue of this section and valid by virtue of that subparagraph in favour of such a person, the court may, on the application of that person or of the society, make such order affirming, severing or setting aside the transaction, on such terms, as appear to the court to be just.
- (8) In this section 'transaction' includes any act; and the reference in subsection (1) above to limitations under the society's constitution includes limitations deriving -
- (a) from a resolution of the society passed at a general or special meeting or on a postal ballot or electronic; or
 - (b) from any agreement between the members of the society.

Directors etc not to accept commissions in connection with loans

- 67.** (1) This section applies to any person who holds office in or is employed by a building society as director, secretary, chief executive, manager, solicitor, surveyor or valuer or in connection with the assessment of the adequacy of securities for loans secured on land.
- (2) No person to whom this section applies shall (in addition to the remuneration prescribed or authorised by the rules or any resolution of the society) accept from any other person any commission for or in connection with any loan made by the society.
- (3) If a person to whom this section applies accepts a commission in contravention of subsection (2) above -
- (a) both he and, subject to subsection (4) below, the person who paid it shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale; and
 - (b) if, having been convicted of an offence under paragraph (a) above, the person accepting the commission fails to pay over to the society the amount or value of the commission, as and when directed to do so by the court which convicted him, he shall be guilty of an offence under this paragraph and liable on summary conviction to imprisonment for a term not exceeding six months.
- (4) No offence under paragraph (a) of subsection (3) above is committed by the person who paid the commission unless he did so knowing the circumstances that constituted the offence under that paragraph on the part of the person who accepted it from him.
- (5) Where -
- (a) a charge upon a policy of life assurance is given as additional security for a loan made by a building society, or
 - (b) a building society makes an additional loan to enable payment to be made of a premium on a policy of insurance, or
 - (c) any policy of insurance is taken out so as to comply with the terms on which a loan is made by a building society, whether by way of insuring the property given as security for the loan or otherwise.

and the policy is effected through the building society, or the society nominates or selects a person by whom the policy is to be issued, it shall be unlawful for any person to whom this

section applies, in connection with the effecting of the policy, to receive any commission from a person by or through whom the policy is issued.

- (6) A person who pays, and a person who accepts, any commission which subsection (5) above makes it unlawful to receive shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (7) In this section -
- ‘charge upon a policy of life assurance’, in relation to a loan secured on land in Scotland, means an assignation in security in respect of such a policy;
- ‘commission’ includes any gift, bonus or benefit:
- ‘solicitor’, in relation to England and Wales, includes any person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes a reserved instrument activity (within the meaning of that Act).

Records of loans etc for directors falling within section 65

- 68.** (1) A building society shall maintain a register containing a copy of every subsisting transaction or arrangement (other than an excepted transaction or arrangement) falling within section 65(1) made for a director or a person connected with a director of the society during the current year or any of the preceding ten financial years.
- (2) In the case of a transaction or arrangement which is not in writing, there shall be kept in the register a written memorandum setting out its terms.
- (3) A building society shall make available for inspection by members -
- (a) at its principal office during the period of 15 days expiring with the date of its annual general meeting, and
- (b) at the annual general meeting a statement containing the requisite particulars of the transactions and arrangements falling within section 65(1) which were included in the register under subsection (1) above at any time during the last complete financial year preceding the meeting.
- (4) The requisite particulars are those specified in Schedule 9 to this Act.
- (5) The society must send two copies of the statement required to be made available under subsection (3) to the FCA and, if the society is a PRA-authorized person, one copy to the PRA, on the date on which the statement is required to be first made available to members.
- (5A) The FCA must keep a copy of the statement in the public file of the society
- (6) A copy of the statement required to be so made available shall also be sent, on demand and on payment of such fee (not exceeding £5) as the society may from time to time determine, to any member of the society.
- (6A) Where a copy of a statement is required to be sent to a member under subsection (6) -
- (a) it may be sent to him electronically only if it is sent to an electronic address notified by the member for the purpose; but
- (b) the requirement to send it shall also be treated as satisfied if the conditions set out in subsection (6B) are satisfied.
- (6B) The conditions of this subsection are satisfied in the case of a copy of a statement if -
- (a) the society and the member have agreed that information that is required to be sent to him may instead be accessed by him on a web site;
- (b) the agreement applies to the statement in question;
- (c) the member is notified, in a manner agreed between him and the society, of -
- (i) the publication of the statement on a web site,

- (ii) the address of that web site, and
 - (iii) the place on that web site where the statement may be accessed, and how it may be accessed; and
 - (d) a copy of the statement continues to be published on that web site throughout the period of 21 days beginning with the day on which the society notifies the member in accordance with paragraph (c).
- (7) There are excepted from the obligations imposed by this section on a building society with respect to a financial year all transactions or arrangements made or subsisting during that year for a person who was at any time during that year a director of the society or was connected with a director of the society if the aggregate of the values of each transaction or arrangement made for that person, less the amount (if any) by which the value of those transactions or arrangements has been reduced, did not exceed £2,000 at any time during that year.
- (8) There are also excepted from the obligations imposed by this section on a building society with respect to a financial year all transactions or arrangements falling within paragraphs (b), (d) or (e) of section 65(1) made during that year for a person who was at any time during that year a director of the society or was connected with a director of the society if the aggregate of the values of each such transaction or arrangement so made for that director or any person connected with him, less the amount at any) by which the value of those transactions or arrangement has been reduced, did not exceed £10,000 at any time during that year.
- (9) The Treasury may by order amend subsection (7) or (8) above so as to substitute for the amount for the time being specified in that subsection such other amount as they think appropriate.
- (10) The power to make an order under subsection (9) above is exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (11) If a building society fails to comply with any provision of this section (or Schedule 9) the society shall be liable on conviction on indictment or on summary conviction to a fine not exceeding, on summary conviction, the statutory maximum, and so shall any officer who is also guilty of the offence.
- (11A) Where, in a case in which subsection (6A)(b) is relied on for compliance with a requirement of subsection (6) -
- (a) a statement is published for a part, but not all, of the period mentioned in subsection (6B)(d), but
 - (b) the failure to publish it throughout that period is wholly attributable to circumstances which it would not be reasonable to have expected the society to prevent or avoid,
- no offence is committed under subsection (11) by reason of that failure.

DISCLOSURE AND RECORD OF RELATED BUSINESSES

Disclosure and record of income of related businesses

69. (1) Where, at any time during a financial year of a building society, a person both is a director or other officer of a building society and is, or is a director of or partner in, a business associate of the society, this section shall apply, as respects that year, to that person in relation to the business of the business associate.

- (2) A person is a 'business associate' of a building society in any financial year of the society if that person -
- (a) carries on a business which consists of or includes the provision of relevant services,
 - (b) provides relevant services during that year to, or to other persons in connection with loans secured on land made by, the society, and
 - (c) is not a connected undertaking of the society;

and 'associated', has a corresponding meaning.

- (3) The following are relevant services -
- (a) conveyancing services provided by a solicitor;
 - (b) surveying and valuing land or other property ;
 - (c) accountancy services;
 - (d) arranging for the provision, of insurance against loss of or damage to property or on human life;
 - (e) any other services designated as relevant services.
- (4) Where a business associate of a, building society provides the society with services which are relevant services by virtue of subsection (3) above, any administrative services provided to the society by the business associate are also relevant services.
- (5) The Treasury may by order in a statutory instrument -
- (a) designate as relevant services of any description specified in the order which are normally provided to building societies; and
 - (b) make such incidental, supplementary or transitional provision as they consider necessary or expedient;
- and in subsection (3)(e) above 'designated' means designated by an order under this subsection.
- (6) Where this section applies, as respects a financial year of a building society, to a person as a director or other officer of the society in relation to the business of a business associate, that person shall furnish the society with the requisite particulars of that business.
- (7) The requisite particulars of the business of a business associate of a building society are -
- (a) except where an election under paragraph (b) below is in force, those specified in Part I of Schedule 10 to this Act;
 - (b) if a building society elects to adopt Part II of that Schedule for its directors and other officers as respects a financial year, those specified in Part II of that Schedule; and
 - (c) as regards relevant services designated by an order under subsection (5) above, such particulars as are specified in the order:
- and Part III of the Schedule has effect to supplement Parts I and II and includes a definition of 'the volume of the business' for the purposes of this section.
- (8) An election by a building society to adopt Part II of Schedule 10 as regards the requisite particulars to be furnished by its directors and other officers must be made in writing to the **FCA** before the beginning of the financial year as respects which it is made and the requisite particulars must be furnished in writing within the period of six weeks beginning with the end of the financial year for which they are required.
- (9) For the purpose of enabling him to furnish the requisite particulars of the business of a business associate of a building society the person who is under the obligation to furnish them to the society may require any person who is a member of or partner in, or holds any office or employment with, the business associate to furnish him with such information relating to its business as he may reasonably require for that purpose.
- (10) Any person who without reasonable excuse -
- (a) fails to furnish the particulars required by subsection (6) above or furnishes particulars which are false or misleading in a material particular or, in the case of particulars under Part II to Schedule 10, are not a justified estimate, or
 - (b) fails to furnish any information lawfully required of him under subsection (9) above or furnishes information which is false or misleading in a material particular.

shall be liable on conviction on indictment or on summary conviction to a fine not exceeding, on summary conviction, the statutory maximum.

- (11) Subject to subsection (12) below, a building society shall maintain at its principal office a register containing the particulars furnished to it under subsection (6) above as respects the last financial year and each of the ten financial years preceding that year.
- (12) No particulars of the business of a business associate of a building society need be kept in the register provided for by subsection (11) above as respects any financial year of the society in which the volume of the business of which the requisite particulars are required did not exceed £10,000 or such other sum as may be substituted for it by order of the Treasury in a statutory instrument under this subsection.
- (13) A building society shall make available for inspection by members -
- (a) at its principal office during the period of 15 days expiring with the date of its annual general meeting, and
 - (b) at the annual general meeting,
- a statement containing the particulars required to be kept in the register under subsection (11) above as respects the last financial year.
- (14) The society must send two copies of the statement required to be made available under subsection (13) to the FCA and, if the society is a PRA-authorized person, one copy to the PRA, on the date on which the statement is required to be first made available to members.
- (14A) The FCA must keep a copy of the statement in the public file of the society
- (15) A copy of the statement required to be so made available shall also be sent, on demand and on payment of such fee (not exceeding £5) as the society may from time to time determine, to any member of the society.
- (15A) Where a copy of a statement is required to be sent to a member under subsection (15) -
- (a) it may be sent to him electronically only if it is sent to an electronic address notified by the member for the purpose; but
 - (b) the requirement to send it shall also be treated as satisfied if the conditions set out in subsection (15B) are satisfied.
- (15B) The conditions of this subsection are satisfied in the case of a statement if -
- (a) the society and the member have agreed that information that is required to be sent to him may instead be accessed by him on a web site;
 - (b) the agreement applies to the statement in question;
 - (c) the member is notified, in a manner agreed between him and the society, of -
 - (i) the publication of the statement on a web site,
 - (ii) the address of that web site, and
 - (iii) the place on that web site where the statement may be accessed, and how it may be accessed; and
 - (d) a copy of the statement continues to be published on that web site throughout the period of 21 days beginning with the day on which the society notifies the member in accordance with paragraph (c).
- (16) ___ Any statutory instrument containing an order made under subsection (5) or (12) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (17) In this section -
- ‘administrative services’ means services necessary or incidental to the conduct of the society's business;

'conveyancing services' in relation to -

- (a) land in England and Wales means the preparation of transfers, conveyances, contracts and other documents in connection with, and other services ancillary to, the disposition or acquisition of estates or interests in land; and for the purposes of this paragraph-
 - (i) 'disposition' -
 - (a) does not include a testamentary disposition or any disposition in the case of such a lease as is referred to in section 54(2) of the Law of Property Act 1925 (short leases); but
 - (b) subject to that, includes in the case of leases both their grant and their assignment; and
 - (ii) 'acquisition' has a corresponding meaning,
- (aa) land in Northern Ireland has the same meaning as in paragraph (a) above with the modification that 'disposition' does not include any disposition in the case of such a lease as is excepted, by section 4 of the Landlord and Tenant Law Amendment Act (Ireland) 1860, from the requirements of that section, and
- (b) heritable property in Scotland, includes drafting all writs relating to such property and negotiating and concluding missives for its purchase, sale, transfer, lease and sublease; and

'solicitor', in relation to, England and Wales, includes any person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes a reserved instrument activity (within the meaning of that Act).

INTERPRETATION

Interpretation of this Part

70. (1) The following provisions apply for the interpretation of this Part.

- (2) A person is 'connected with' a director of a building society if, but only if, he (not being himself a director of it) is -
 - (a) that director's spouse or civil partner, child or step-child; or
 - (b) a body corporate with which the director is associated; or
 - (c) a person acting in his capacity as trustee of any trust the beneficiaries of which include
 - (i) the director, his spouse or civil partner or any children or step-children of his or
 - (ii) a body corporate with which he is associated, or of a trust whose terms confer a power on the trustees that may be exercised for the benefit of the director, his spouse or civil partner, or any children or step-children of his or any such body corporate; or
 - (d) a person acting in his capacity as partner of that director or of any person who, by virtue of paragraph (a), (b) or (c) of this subsection, is connected with that director;
 - (e) a Scottish firm in which -
 - (i) that director is a partner,
 - (ii) a partner is a person who, by virtue of paragraph (a), (b) or (c) above, is connected with that director, or
 - (iii) a partner is a Scottish firm in which that director is a partner or in which there is a partner who, by virtue of paragraph (a), (b) or (c) above, is connected with that director.
- (3) In subsection (2) -

- (a) a reference to a child or step-child of any person includes an illegitimate child of his but does not include any person who has attained the age of 18, and
 - (b) paragraph (e) does not apply to a person acting in his capacity as trustee under an employees' share scheme or a pension scheme.
- (4) A director is 'associated' with a body corporate if he, his spouse or civil partner, his child or step-child or a person acting in his capacity as trustee of any trust the beneficiaries of which include the director, his spouse or civil partner, child or step-child between them, either -
- (a) own at least one-fifth of that body's equity share capital (within the meaning of the Companies Acts (see section 548 of the Companies Act 2006)), or
 - (b) are entitled to exercise or control the exercise of more than one-fifth of the voting power of that body at any general meeting.
- (5) As regards transactions or arrangements falling within section 65, a 'transaction contravening section 65' means a transaction to which subsection (1)(a), (b), (e) or (4) of that section applies and an 'arrangement contravening section 65' means an arrangement to which subsection (1)(e) of that section applies and such a transaction or arrangement is made 'for' a person if -
- (a) in the case of a loan, disposal or payment within paragraph (a), (b) or (c), it is made, in the case of paragraph (a) or (b), to him or, in the case of paragraph (c) on his behalf;
 - (b) in the case of a guarantee or security within paragraph (d), it is made, as an incident of or in connection with a loan or disposal to him or a payment on his behalf; and
 - (e) in the case of an arrangement within paragraph (e), the transaction to which the arrangement relates was made for him.

PART VIII

ACCOUNTS AND AUDIT

ACCOUNTING RECORDS AND SYSTEMS OF BUSINESS CONTROL, etc

Accounting records and systems of business control etc

71. (1) Every building society shall-

- (a) cause accounting records to be kept, _ _ _
- (b) _ _ _

in accordance with this section.

(2) The accounting records of a society must be such as to-

- (a) explain its transactions;
- (b) disclose, with reasonable accuracy and promptness, the state of the business of the society at any time;
- (c) enable the directors properly to discharge the duties imposed on them by or under this Act (and, where applicable Article 4 of the IAS Regulation) and their functions of direction of the affairs of the society: and

(d) enable the society properly to discharge the duties imposed on it by or under this Act (and, where applicable Article 4 of the IAS Regulation):

and must be kept in an orderly manner.

(3) The accounting records shall in particular contain-

- (a) entries from day to day of all sums received and paid by the society and the matters in respect of which they are received or paid;

- (b) entries from day to day of every transaction entered into by the society which will or there is reasonable ground for expecting may give rise to liabilities or assets of the society other than insignificant assets or liabilities in respect of the management of the society; and
 - (c) a record of the assets and liabilities of the society and in particular of assets and liabilities of any class specifically regulated by or under section 6 or 7.
- (4) ---
 - (5) ---
 - (6) ---
 - (7) ---
 - (8) The accounting records shall be kept at the society's principal office or at such other place or places as the directors think fit, and shall at all times be open to inspection by the directors.
 - (9) Accounting records shall be preserved for six years from the date on which they were made.
 - (10) Where a building society has connected undertakings, the society shall also secure that such accounting records are kept ___ by the society and the connected undertakings as will enable the society to comply with the requirements of this section in relation to the business of the society and those connected undertakings.
 - (10A) ---
 - (11) ---

ACCOUNTS

Duty to prepare individual accounts

72A. (1) The directors of every building society shall prepare accounts for the society for each of its financial years.

Those accounts are referred to in this Part as the society's 'individual accounts'.

- (2) A society's individual accounts may be prepared -
 - (a) in accordance with section 72B ('Building Societies Act individual accounts'), or
 - (b) in accordance with international accounting standards ('IAS individual accounts').

This subsection is subject to the following provisions of this section and section 72I (consistency of accounts).

- (3) After the first financial year in which the directors of a building society prepare IAS individual accounts ('the first IAS year'), all subsequent individual accounts of the society must be prepared in accordance with international accounting standards unless there is a relevant change of circumstance.
- (4) There is a relevant change of circumstance if, at any time during or after the first IAS year, the society ceases to have any securities admitted to trading on a regulated market.
- (5) If, having changed to preparing Building Societies Act individual accounts following a relevant change of circumstance, the directors again prepare IAS individual accounts for the society, subsections (3) and (4) apply again as if the first financial year for which such accounts are again prepared were the first IAS year.

Building Societies Act individual accounts

72B. (1) Building Societies Act individual accounts must comprise -

- (a) a balance sheet as at the last day of the financial year, and
- (b) an income and expenditure account.

- (2) The balance sheet must give a true and fair view of the state of affairs of the society as at the end of the financial year; and the income and expenditure account must give a true and fair view of the income and expenditure of the society for the financial year.
- (3) Building Societies Act individual accounts must comply with the requirements of regulations made under section 72C as to the form and content of the balance sheet and income and expenditure account and additional information to be provided by way of notes to the accounts or otherwise.
- (4) Where compliance with the provisions of those regulations, and the other provisions of this Act as to the matters to be included in a society's individual accounts or in notes to those accounts, would not be sufficient to give a true and fair view, the necessary additional information must be given in the accounts or in a note to them.
- (5) If in special circumstances compliance with any of those provisions is inconsistent with the requirement to give a true and fair view, the directors must depart from that provision to the extent necessary to give a true and fair view.
- (6) Particulars of any such departure, the reasons for it and its effect must be given in a note to the accounts.
- (7) The Treasury may by regulations -
 - (a) add to the classes of documents to be comprised in a society's Building Societies Act individual accounts under subsection (1);
 - (b) make provision as to the matters to be included in any document so added;
 - (c) modify the requirements of this Part as to the matters to be stated in any document comprised in the society's Building Societies Act individual accounts;
 - (d) reduce the classes of documents to be comprised in a society's Building Societies Act individual accounts.
- (8) Regulations under subsection (7) -
 - (a) may make different provision for different descriptions of society, and
 - (b) may include incidental and supplementary provisions.
- (9) The power to make regulations under subsection (7) is exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Form and contents of Building Societies Act individual accounts

- 72C.** (1) The Treasury shall by regulations make provision with respect to the form and contents of Building Societies Act individual accounts.
- (2) The Treasury may by regulations make provision with respect to additional information to be contained in Building Societies Act individual accounts, whether in the form of notes or otherwise.
 - (3) Without prejudice to the generality of subsections (1) and (2), the regulations may -
 - (a) prescribe accounting principles and rules;
 - (b) require corresponding information for a preceding financial year;
 - (c) make different provision for different descriptions of society;
 - (4) The power to make regulations under this section is exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

IAS individual accounts

72D. Where the directors of a building society prepare IAS individual accounts, they must state in the notes to those accounts that the accounts have been prepared in accordance with international accounting standards.

Duty to prepare group accounts

72E.(1) If at the end of a financial year a building society has subsidiary undertakings, the directors, as well as preparing individual accounts for the year, shall prepare accounts for the year for the society and those undertakings taken as a whole.

Those accounts are referred to in this Part as the society's 'group accounts'.

- (2) The group accounts of certain societies are required by Article 4 of the IAS Regulation to be prepared in accordance with international accounting standards ('IAS group accounts').
- (3) The group accounts of other societies may be prepared -
 - (a) in accordance with section 72F ('Building Societies Act group accounts'), or
 - (b) in accordance with international accounting standards ('IAS group accounts').

This subsection is subject to the following provisions of this section.

- (4) After the first financial year in which the directors of a building society prepare IAS group accounts ('the first IAS year'), all subsequent group accounts of the society must be prepared in accordance with international accounting standards unless there is a relevant change of circumstance.
- (5) There is a relevant change of circumstance if, at any time during or after the first IAS year, the society ceases to have any securities admitted to trading on a regulated market.
- (6) If, having changed to preparing Building Societies Act group accounts following a relevant change of circumstance, the directors again prepare IAS group accounts for the society, subsection (4) and (5) apply again as if the first financial year for which such accounts are again prepared were the first IAS year.

Building Societies Act group accounts

- 72F.** (1) Building Societies Act group accounts must comprise -
- (a) a balance sheet dealing with the state of affairs of the building society and its subsidiary undertakings, and
 - (b) an income and expenditure account showing the income and expenditure for the society and its subsidiary undertakings.
- (2) Building Societies Act group accounts must give a true and fair view of the state of affairs as at the end of the financial year, and the income and expenditure for the financial year of the society and the subsidiary undertakings included in the group accounts as a whole, so far as concerns members of the society.
 - (3) Building Societies Act group accounts must comply with the requirements of regulations made under section 72G as to the form and content of the group accounts and additional information to be provided by way of notes to the accounts or otherwise.
 - (4) Where compliance with the provisions of those regulations, and the other provisions of this Act as to the matters to be included in a society's group accounts or in notes to those accounts, would not be sufficient to give a true and fair view, the necessary additional information must be given in the accounts or in a note to them.
 - (5) If in special circumstances compliance with any of those provisions is inconsistent with the requirement to give a true and fair view, the directors must depart from that provision to the extent necessary to give a true and fair view.

- (6) Particulars of any such departure, the reasons for it and its effect must be given in a note to the accounts.
- (7) The Treasury may by regulations -
 - (a) add to the classes of documents to be comprised in a society's Building Societies Act group accounts under subsection (1);
 - (b) make provision as to the matters to be included in any document so added;
 - (c) modify the requirements of this Part as to the matters to be stated in any document comprised in the society's Building Societies Act group accounts; and
 - (d) reduce the classes of documents to be comprised in a society's Building Societies Act group accounts.
- (8) Regulations under subsection (7) -
 - (a) may make different provision for different descriptions of society, and
 - (b) may include incidental and supplementary provisions.
- (9) The power to make regulations under subsection (7) is exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

Form and contents of Building Societies Act group accounts

- 72G.** (1) The Treasury shall by regulations make provision with respect to the form and contents of Building Societies Act group accounts.
- (2) The Treasury may by regulations make provision with respect to additional information to be contained in Building Societies Act group accounts, whether in the form of notes or otherwise.
 - (3) Without prejudice to the generality of subsections (1) and (2), the regulations may -
 - (a) prescribe accounting principles and rules;
 - (b) require corresponding information for a preceding financial year;
 - (c) make different provision for different descriptions of society;
 - (d) permit group accounts to be prepared in other than consolidated form.
 - (4) The power to make regulations under this section is exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

IAS group accounts

- 72H.** Where the directors of a building society prepare IAS group accounts, they must state in the notes to those accounts that the accounts have been prepared in accordance with international accounting standards.

Consistency of accounts

- 72I.** (1) The directors of a building society that prepares group accounts must secure that the individual accounts of -
- (a) the building society, and
 - (b) each of its subsidiary undertakings,
- are all prepared using the same financial reporting framework, except to the extent that in their opinion there are good reasons for not doing so.
- (2) Subsection (1) only applies to accounts of subsidiary undertakings which are required to be prepared under Part 15 of the Companies Act 2006.
 - (3) Subsection (1) does not require accounts of undertakings that are charities to be prepared using the same financial reporting framework as accounts of undertakings which are not charities.

- (4) Subsection (1)(a) does not apply where the directors of a building society prepare IAS group accounts and IAS individual accounts.
- (5) The directors of a society which has subsidiary undertakings must secure that, except where in their opinion there are good reasons against it, the financial year of each of its subsidiary undertakings coincides with the society's own financial year.

Disclosures relating to directors, other officers and employees of society in notes to accounts

- 72J.** (1) The information specified in Schedule 10A must be given in notes to a building society's annual accounts.
- (2) In that Schedule -
Part 1 relates to emoluments and other benefits of directors and others, and to loans and other dealings in favour of directors and connected persons, and
Part 2 relates to information about the employees of a society.
 - (3) It is the duty of any director of a society, and any person who is or has at any time in the preceding five years been an officer of the society, to give notice to the society of such matters relating to himself as may be necessary for the purposes of Part 1 of Schedule 10A.
 - (4) A person who makes default in complying with subsection (3) commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
 - (5) The Treasury may, by order, modify the provisions of Schedule 10A.
 - (6) An order under this section may -
 - (a) make consequential amendments of or repeals in other provisions of this Act;
 - (b) make such transitional or saving provisions as appear to the Treasury to be necessary or expedient;
 - (c) make different provision for different cases.
 - (7) The power to make an order under this section is exercisable by statutory instrument but no such order shall be made unless a draft of it has been laid before and approved by a resolution of each House of Parliament.
 - (8) In this section 'modify' includes amend, add to or repeal.

Disclosures about related undertakings required in notes to accounts

- 72K.** (1) The information specified in Schedule 10B must be given in notes to a building society's annual accounts.
- (2) In the case of a building society whose directors are not required to prepare consolidated group accounts, the information specified in Part 1 of that Schedule must be given.
 - (3) In the case of a building society whose directors are required to prepare consolidated group accounts, the information specified in Part 2 of that Schedule must be given.
 - (4) The Treasury may, by order, modify the provisions of Schedule 10B.
 - (5) An order under this section may -
 - (a) make consequential amendments of or repeals in other provisions of this Act;
 - (b) make such transitional or saving provisions as appear to the Treasury to be necessary or expedient;
 - (c) make different provision for different cases.
 - (6) The power to make an order under this section is exercisable by statutory instrument but no such order shall be made unless a draft of it has been laid before and approved by a resolution of each House of Parliament.

- (7) In this section 'modify' includes amend, add to or repeal.

Disclosures relating to off-balance-sheet arrangements required in notes to accounts

- 72L.** (1) If in any financial year -
- (a) a building society is or has been party to arrangements that are not reflected in its balance sheet, and
 - (b) at the balance sheet date the risks or benefits arising from those arrangements are material,
- the information required by this section must be given in notes to the society's annual accounts.
- (2) The information required is -
- (a) the nature and business purpose of the arrangements, and
 - (b) the financial impact of the arrangements on the society.
- (3) The information need only be given to the extent necessary for enabling the financial position of the society to be assessed.
- (4) Where a building society is required to prepare consolidated group accounts, this section applies in relation to those accounts as if the undertakings included in the consolidation were a single building society.

Disclosure of auditor remuneration in notes to accounts

- 72M.** (1) The information specified in Schedule 10C must be given in notes to a building society's annual accounts.
- (2) The Treasury may, by order, modify the provisions of Schedule 10C.
- (3) An order under this section may -
- (a) make consequential amendments of or repeals in other provisions of this Act;
 - (b) make such transitional or saving provisions as appear to the Treasury to be necessary or expedient;
 - (c) make different provision for different cases.
- (4) The power to make an order under this section is exercisable by statutory instrument but no such order shall be made unless a draft of it has been laid before and approved by a resolution of each House of Parliament.
- (5) In this section 'modify' includes amend, add to or repeal.

[section 73 revoked]

Duty of directors to prepare annual business statement

- 74.** (1) The directors of every building society shall, by reference to the annual accounts and other records and information at their disposal, prepare with respect to each financial year of the society a statement (referred to in this Act as 'the annual business statement') relating to prescribed aspects of the business of the society during the year.
- (2) Where the society has connected undertakings the annual business statement shall deal also with prescribed aspects of the business of the connected undertakings during the year to which it relates.
- (3) The annual business statement shall contain such information relating to such aspects of the business of the society and shall be in such form as the Treasury prescribe by regulations; and in this section 'prescribed' means prescribed by regulations under this subsection.
- (4) Without prejudice to the generality of subsections (1) to (3) above the regulations may require the annual business statements of building societies to include prescribed information about

directors and past directors and persons connected with them and other officers and past officers and persons connected with them and their financial interests.

- (5) The information comprising the annual business statement shall give a true representation of the matters in respect of which it is given.
- (6) To such extent as may be prescribed matters contained in the society's annual business statement shall not be the subject of report by the auditor under section 78.
- (7) The power to make regulations under subsection (3) above is exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (8) It is the duty of every director or other officer of a building society to give notice to the society of such matters relating to himself or his financial interests as may be necessary for the purposes of compliance with the preceding provisions of this section.
- (9) Any person who fails to comply with subsection (8) above shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (10) Any director who fails to comply with subsection (1) above shall be liable on conviction on indictment or on summary conviction to a fine not exceeding, on summary conviction, the statutory maximum.

Directors' report

75. (1) The directors of a building society shall prepare for submission to the annual general meeting a report on the business of the society containing -

- (a) a fair review of the business of the society and its connected undertakings (if any), complying with section 75A,
- (aa) a description of the principal risks and uncertainties facing the society and its connected undertakings (if any),
- (b) such information relating to such aspects of the business of the society or of the society and any connected undertakings as may be prescribed by regulations made by the ___ Treasury, and
- (c) a statement as to the matters mentioned in subsection (1A) below.

(1A) The said matters are -

- (a) whether the society has acquired or established, or allowed a subsidiary undertaking to acquire or establish, a business to which subsection (3) and subsection (4) or, as the case may be, subsection (5) of section 92A applied;
- (b) if the society has acquired or established, or allowed such an undertaking to acquire or establish, such a business, what the business is and whether the society complied with the requirements of subsection (1) of that section; and
- (c) if the society did not comply with those requirements, why the society nevertheless proceeded, or allowed the undertaking to proceed, with the acquisition or establishment.

(1B) If the building society has subsidiary undertakings, the report may, where appropriate, give greater emphasis to those matters which are significant to the society and its subsidiary undertakings taken as a whole.

(2) ---

(3) The power to make regulations under subsection (1) above is exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(4) If a directors' report does not contain the review, information and statement required by subsection (1) above and, where applicable, the review required by subsection (2) above,

each director shall be liable on conviction on indictment or on summary conviction to a fine not exceeding, on summary conviction, the statutory maximum.

Business review

75A. (1) The review required for the purposes of section 75(1) is a balanced and comprehensive analysis of -

- (a) the development and performance of the business of the building society and its connected undertakings (if any) during the financial year, and
- (b) the position of the building society and its connected undertakings (if any) at the end of that year,

consistent with the size and complexity of the business.

(2) The review must, to the extent necessary for an understanding of the development, performance or position of the business of the society and its connected undertakings (if any), include -

- (a) analysis using financial key performance indicators, and
- (b) where appropriate, analysis using other key performance indicators, including information relating to environmental matters and employee matters.

(3) The review must, where appropriate, include references to and additional explanations of amounts included in the annual accounts of the society.

(4) In this section 'key performance indicators' means factors by reference to which the development, performance or position of the business of the society and any connected undertakings it has can be measured most effectively.

Summary financial statement for members and depositors

76. (1) The directors of a building society shall, with respect to each financial year, prepare for members and depositors a summary financial statement for that year, that is to say, a statement derived from the annual accounts, annual business statement and directors' report, giving a summary account of the society's financial development during and financial position at the end of the year.

(2) Where the society has connected undertakings the statement shall (so far as they are dealt with in the group accounts) give an account of the financial development and position of the society and its connected undertakings.

(3) The Treasury may by regulations make provision with respect to -

- (a) the form of the summary financial statement, and
- (b) the information which must be included in it.

(4) Every summary financial statement shall also include in the prescribed form statements to the effect that -

- (a) it is only a summary of information in the accounts, business statement and directors' report;
- (b) in so far as it summarises the information in the accounts, those accounts have been audited;
- (c) the accounts, business statement and directors' report will be available to members and depositors free of charge on demand at every office of the society after a specified date.

(5) Every summary financial statement shall include a statement of the auditor's opinion as to its consistency with the accounts, business statement and directors' report and its conformity with the requirements of this section and regulations made under it.

- (6) The power to make regulations under subsection (3) above is exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) The summary financial statement shall be signed by two directors on behalf of the board of directors and by the chief executive of the society.
- (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 FCA and, if the society is a PRA-authorized person, one copy to the PRA.
- (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 auditor's report also, the auditor's report.
- (8B) Where a copy of the summary financial statement or of the auditor's report is required to be sent to a member under subsection (8) -
- (a) it may be sent to him electronically only if it is sent to an electronic address notified to the society by the member for the purpose; but
 - (b) the requirement to send it shall also be treated as satisfied if the conditions set out in subsection (8C) are satisfied.
- (8C) The conditions of this subsection are satisfied in the case of a copy of a summary financial statement or auditor's report if -
- (a) the society and the member have agreed that information that is required to be sent to him may instead be accessed by him on a web site;
 - (b) the agreement applies to the summary financial statement or auditor's report in question;
 - (c) the member is notified, in a manner agreed between him and the society, of -
 - (i) the publication of the summary financial statement and (where applicable) the auditor's report on a web site,
 - (ii) the address of that web site, and
 - (iii) the place on that web site where the statement and (where applicable) the report may be accessed, and how it may be accessed;
 - (d) the notification given for the purposes of paragraph (c) is given not less than 21 days before the date of the annual general meeting at which the accounts and reports are to be considered; and
 - (e) a copy of the statement and (where applicable) the report is published on the web site throughout a period beginning at least 21 days before the date of meeting.
- (8D) Where, in a case in which subsection (8C) is relied on for compliance with a requirement of subsection (8) -
- (a) a copy of a summary financial statement or auditor's report is published for a part, but not all, of the period mentioned in subsection (8C)(e), and
 - (b) the failure to publish it throughout that period is wholly attributable to circumstances which it would not be reasonable to have expected the society or the officer to prevent or avoid,

the failure shall not invalidate the proceedings of the meeting at which the accounts and reports are considered, and no offence is committed under subsection (10) by reason of that failure.

- (9) A copy of the summary financial statement and, where this subsection extends under section 78(6) to the auditor's report also, of the auditor's report shall be given or sent by the society free of charge, at any time during the period ending with the publication of the next summary financial statement, to -
- (a) any individual who for the first time subscribes for shares in the society, on his first subscribing for the shares, and
 - (b) any member of the society who was not sent a copy under subsection (8) above within seven days of his making a demand for a copy.
- (9A) Where a copy of the summary financial statement or of the auditor's report is required under subsection (9)(a) to be sent to an individual who for the first time subscribes for shares in the society ('new subscriber') -
- (a) it may be sent to him electronically only if it is sent to an electronic address notified to the society by that new subscriber for the purpose before or at the time when he subscribes for the shares; but
 - (b) the requirement to send it shall also be treated as satisfied if the conditions set out in subsection (9B) are satisfied.
- (9B) The conditions of this subsection are satisfied in the case of a copy of a summary financial statement or of an auditor's report if -
- (a) before or at the time when he subscribes for the shares, the society and the new subscriber have agreed that information that is required to be sent to him may instead be accessed by him on a web site;
 - (b) the agreement applies to the summary financial statement or to the auditor's report in question;
 - (c) before or at the time when he subscribes for the shares, the new subscriber is notified, in a manner agreed between him and the society, of -
 - (i) the publication of the summary financial statement or auditor's report on a web site,
 - (ii) the address of that web site, and
 - (iii) the place on that web site where that statement or that report may be accessed, and how it may be accessed; and
 - (d) a copy of the summary financial statement or of the auditor's report is published on that web site throughout a period beginning on the date on which the new subscriber is notified in accordance with paragraph (c) and ending no later than the date of the publication of the next summary financial statement.
- (9C) Where a copy of the summary financial statement or of the auditor's report is required to be sent to a member under subsection (9)(b) -
- (a) it may be sent to him electronically only if it is sent to an electronic address notified to the society by that member for the purpose; but
 - (b) the requirement to send it shall also be treated as satisfied if the conditions set out in subsection (9D) are satisfied.
- (9D) The requirements of this subsection are satisfied in the case of a copy of a summary financial statement or of an auditor's report if -
- (a) the society and that member have agreed that information that is required to be sent to him may instead be accessed by him on a web site;
 - (b) the agreement applies to the summary financial statement or auditor's report in question;
 - (c) within the seven days specified in subsection (9)(b), the member is notified, in a manner agreed between him and the society, of -

- (i) the publication of the summary financial statement or auditor's report on a web site,
 - (ii) the address of that web site, and
 - (iii) the place on that web site where the statement or report may be accessed, and how it may be accessed; and
- (d) a copy of the summary financial statement or of the auditor's report is published on that web site throughout a period beginning on the date on which the member is notified in accordance with paragraph (c) and ending no earlier than the date of the publication of the next summary financial statement.
- (9E) Where, in a case in which subsection (9A)(b) or (9C)(b) is relied on for compliance with a requirement under subsection (9),
- (a) a copy of a summary financial statement or auditor's report is published for a part, but not all, of the period mentioned in paragraph (d) of subsection (9B) or (9D) (as the case may be), but
 - (b) the failure to publish that copy of a statement or report throughout that period is wholly attributable to circumstances which it would not be reasonable to have expected the society or the officer to prevent or avoid,
- the failure shall not prevent the requirements of subsection (9) from being treated as fulfilled in relation to that copy of a statement or report, and no offence is committed under subsection (11) by reason of that failure.
- (10) If default is made by a building society in complying with subsection (8) above, the society shall be liable on summary conviction -
- (a) to a fine not exceeding level 5 on the standard scale; and
 - (b) in the case of a continuing offence, to an additional fine not exceeding £200 for every day during which the offence continues,
- and so shall any officer who is also guilty of the offence.
- (11) If default is made by a building society in complying with subsection (9) above, the society shall be liable on summary conviction -
- (a) to a fine not exceeding level 3 on the standard scale; and
 - (b) in the case of a continuing offence, to an additional fine not exceeding £40 for every day during which the offence continues,
- and so shall any officer who is also guilty of the offence.
- (12) The FCA shall keep one of the copies of the summary financial statement received by it under subsection (8) above in the public file of the society.

AUDITORS AND AUDIT OF ACCOUNTS

Auditors: appointment, tenure etc

- 77.** (1) Every building society shall at each annual general meeting appoint an auditor or auditors to hold office from the conclusion of that meeting until the conclusion of the next annual general meeting.
- (2) Schedule 11 to this Act has effect as regards the appointment, resignation and removal of auditors.
- (3) Appointment as auditor of a building society is an appointment as a statutory auditor to which the provisions of Part 42 of the Companies Act 2006 apply.

Auditors' report

- 78.** (1) The auditor of a building society shall make a report to the members on the annual accounts which are to be laid before the society at the annual general meeting during his tenure of office.
- (2) The auditor's report shall ___ be open to inspection by any member at the annual general meeting of the building society.
- (3) The auditor shall, in his report under subsection (1) above, also make a report to the members on -
- (a) the annual business statement, and
 - (b) the directors' report,
- in so far as subsection (7) below requires him to do so.
- (3A) The auditor's report must include -
- (a) an introduction identifying the annual accounts that are the subject of the audit and the financial reporting framework that has been applied in their preparation;
 - (b) a description of the scope of the audit identifying the auditing standards in accordance with which the audit was conducted.
- (3B) The report must state clearly whether in the auditor's opinion the annual accounts have been properly prepared in accordance with the requirements of this Act (and, where applicable, Article 4 of the IAS Regulation).
- (4) The report must state in particular whether the annual accounts give a true and fair view in accordance with the relevant financial reporting framework -
- (a) in the case of an individual balance sheet, of the state of affairs of the society as at the end of the financial year,
 - (b) in the case of an individual income and expenditure account, of the income and expenditure of the society for the financial year,
 - (c) in the case of group accounts, of the state of affairs as at the end of the financial year and the income and expenditure for the financial year of the society and the subsidiary undertakings dealt with in the group accounts, so far as concerns members of the society.
- (4A) The auditor's report -
- (a) must be either unqualified or qualified, and
 - (b) must include a reference to any matters to which the statutory auditor wishes to draw attention by way of emphasis without qualifying the report.
- (6) If the auditor's report includes a qualification of his opinion that the annual accounts give a true and fair view of the matters specified in subsection (4) above, subsections (8) and (9) of section 76 extend also to the auditor's report.
- (7) The auditor's report, in so far as it deals with the documents specified in subsection (3) above, shall state whether he has been prepared so as to conform to the requirements of sections 74 and 75 respectively and the regulations there under and whether, in the opinion of the auditor -
- (a) the information given in the annual business statement gives a true representation of the matters in respect of which it is given, and
 - (b) the information given in the directors' report is consistent with the accounting records and the annual accounts for the year.
- (8) The auditor's report on the annual business statement shall not deal with any matters which, by virtue of section 74(6), are not to be the subject of report under this section.

- (9) The auditor of a building society shall, as regards the statement of particulars of transactions falling within section 65 which the society is to make available for inspection by members under section 68(3), examine the statement before it is made available to members and make a report to the members on it; and the report shall be annexed to the statement before it is so made available.
- (10) The auditor's report under subsection (9) above shall state whether in his opinion the statement contains the particulars required by section 68; and where his opinion is that it does not, he shall include in his report, so far as he is reasonably able to do so, a statement giving the requisite particulars.

Signature of auditor's report

78A.(1) The auditor's report must state the name of the auditor and be signed and dated.

- (2) Where the auditor is an individual, the report must be signed by him.
- (3) Where the auditor is a firm, the report must be signed by the senior statutory auditor in his own name, for and on behalf of the auditor.

Senior statutory auditor

78B. (1) The senior statutory auditor means the individual identified by the firm as senior statutory auditor in relation to the audit in accordance with the standards or guidance mentioned in section 504(1) of the Companies Act 2006.

- (2) The person identified as senior statutory auditor must be eligible for appointment as auditor of the building society in question (see Chapter 2 of Part 42 of the Companies Act 2006).
- (3) The senior statutory auditor is not, by reason of being named or identified as senior statutory auditor or by reason of his having signed the auditor's report, subject to any civil liability to which he would not otherwise be subject.

Names to be stated in copies of auditor's report filed or published

78C. (1) The copy of the auditor's report sent ___ under section 81, and every copy of the auditor's report that is published by or on behalf of the society, must -

- (a) state the name of the auditor and (where the auditor is a firm) the name of the person who signed it as senior statutory auditor, or
 - (b) if the conditions in section 78D (circumstances in which names may be omitted) are met, state that a resolution has been passed and notified ___ in accordance with that section.
- (2) For the purposes of this section a building society is regarded as publishing the report if it publishes, issues or circulates it or otherwise makes it available for public inspection in a manner calculated to invite members of the public generally, or any class of members of the public, to read it.
 - (3) If a copy of the auditor's report is sent to the **FCA** or published without the statement required by this section, an offence is committed by
 - (a) the society, and
 - (b) every officer of the society who is in default.
 - (4) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Circumstances in which names may be omitted

78D.(1) The auditor's name and, where the auditor is a firm, the name of the person who signed the report as senior statutory auditor, may be omitted from-

- (a) the copy of the report sent ___ under section 81, and

- (b) published copies of the report,
if the following conditions are met.
- (2) The conditions are that the building society-
 - (a) considering on reasonable grounds that statement of the name would create or be likely to create a serious risk that the auditor or the senior statutory auditor, or any other person, would be subject to violence or intimidation, has resolved by an ordinary resolution that the name should not be stated, and
 - (b) has given notice of the resolution to **the FCA and, if the society is a PRA-authorized person, one copy to the PRA**, stating-
 - (i) the name of the society,
 - (ii) the financial year of the society to which the report relates, and
 - (iii) the name of the auditor and (where the auditor is a firm) the name of the person who signed the report as senior statutory auditor.

Auditor's duties and powers

- 79.** (1) It is the duty of the auditor of a building society in preparing his report to the members under section 78, to carry out such investigations as will enable him to form an opinion as to the following matters -
- (a) whether proper accounting records have been kept under section 71,
 - (b) ---
 - (c) whether the annual accounts are in agreement with the accounting records.
- (2) If the auditor is of the opinion that the annual accounts are not in agreement with the accounting records he shall state that fact in his report.
- (3) Every auditor of a building society has -
- (a) a right of access at all times to the accounting and other records of the society and all other documents relating to its business, and
 - (b) a right to require from the officers of the society such information and explanations as he thinks necessary for the performance of the duties of the auditors.
- (4) Where a building society has a connected undertaking, then -
- (a) if the connected undertaking is a body corporate incorporated in any part of the United Kingdom, it is the duty of the connected undertaking and its auditor to give to the society's auditor such information and explanation, and such access to documents, as that auditor may reasonably require for the purposes of his duties as auditor of the society;
 - (b) in any other case, it is the duty of the society, if required by its auditor to do so, to take all such steps as are reasonably open to it to obtain from the connected undertaking such information and explanation and such access as are mentioned above.
- (5) ---
- (6) If the auditor fails to obtain all the information and explanations and the access to documents which, to the best of his knowledge and belief, are necessary for the purposes of his audit, he shall state that fact in his report.
- (7) The auditor of a building society has the right -
- (a) to attend any general meeting of the society, and to receive all notices of and other communications relating to any general meeting which any member of the society is entitled to receive, and
 - (b) to be heard at any meeting which he attends on any part of the business of the meeting which concerns him as auditor.

- (8) If a building society or other body corporate fails to comply with subsection (4) above, the society or other body shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale and so shall any officer of the society or, as the case may be, of the other body who is also guilty of the offence; and if an auditor fails without reasonable excuse to comply with paragraph (a) of that subsection he shall be liable, on summary conviction, to such a fine.
- (9) If a person who is an officer of a building society or of a body which is a connected undertaking of the society knowingly or recklessly makes to the auditor of that or another society or body a statement which -
 - (a) conveys or purports to convey any information or explanation which the auditor requires, or is entitled to require, as auditor of the society or other body, as the case may be, and
 - (b) is false or misleading in a material particular,
 that person shall be liable -
 - (i) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or both; and
 - (ii) on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or both.

PROCEDURE ON COMPLETION OF ACCOUNTS

Signing of balance sheet: documents to be annexed

- 80.** (1) Every balance sheet of a building society shall be signed by two directors on behalf of the board of directors and by the chief executive of the society.
- (2) The income and expenditure account _ _ _ and the annual business statement shall be annexed to the balance sheet, and so shall any group accounts; and the auditor's report shall be attached to it.
 - (3) The income and expenditure account _ _ _ and the annual business statement shall be approved by the board of directors before the balance sheet is signed on their behalf, and so shall any group accounts; and the date of their approval of those documents shall be endorsed on the balance sheet.
 - (4) The directors' report shall be attached to the balance sheet.
 - (5) If a balance sheet has not been signed as required by subsection (1) above, and a copy of it is issued, circulated or published, the building society shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale and so shall any officer who is also guilty of the offence.
 - (6) If any copy of a balance sheet is issued, circulated or published -
 - (a) without having annexed to it a copy of the income and expenditure account, or
 - (b) _ _ _
 - (c) without having annexed to it a copy of the annual business statement, or
 - (d) without having attached to it a copy of the auditor's report, or
 - (e) without having attached to it a copy of the directors' report,
 the building society shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale and so shall any officer who is also guilty of the offence.

Laying and furnishing accounts etc to members and the FCA and the PRA

- 81.** (1) The directors of every building society shall lay before the society at the annual general meeting the annual accounts for the last financial year

- (2) The directors of every building society shall send two copies of the annual accounts for the last financial year to the FCA and, if the society is a PRA-authorized person, one copy to the PRA, not later than 14 days before the annual general meeting at which the accounts are to be considered.
- (3) Every building society shall, as from the date by which at the latest its directors are required to send them to the FCA and, if the society is a PRA-authorized person, one copy to the PRA, make copies of the annual accounts available free of charge to members of and depositors with the society at every office of the society and, free of charge, shall send copies of those documents to any member or depositor who demands it.
- (3A) Where a copy of the annual accounts is required to be sent to a member or depositor under subsection (3) -
- (a) they may be sent to him electronically only if they are sent to an electronic address notified to the society by that member or depositor for the purpose; but
 - (b) the requirement to send them shall also be treated as satisfied if the conditions set out in subsection (3B) are satisfied.
- (3B) The conditions of this subsection are satisfied in the case of a copy of the annual accounts if -
- (a) the society and the member or depositor have agreed that information that is required to be sent to him may instead be accessed by him on a web site;
 - (b) the agreement applies to the annual accounts in question;
 - (c) within seven days of his demand, the member or depositor is notified, in a manner agreed for the purpose between him and the society, of-
 - (i) the publication of the accounts on a web site,
 - (ii) the address of that web site, and
 - (iii) the place on that web site where the accounts may be accessed, and how they may be accessed; and
 - (d) the accounts are published on that web site throughout the period beginning on the date on which the member or depositor is notified in accordance with paragraph (c) and ending with the conclusion of the annual general meeting at which the accounts are to be considered.
- (4) If default is made in complying with subsection (1) or (2) above, every person who was a director at any time during the relevant period shall be liable on summary conviction -
- (a) to a fine not exceeding level 5 on the standard scale; and
 - (b) in the case of a continuing offence, to an additional fine not exceeding £200 for every day during which the offence continues.
- (5) If, on demand made of it under subsection (3) above, a building society falls, in accordance with that subsection, to make available or, as the case may be, within seven days of the demand, to send, to a person a copy of the annual accounts the society shall be liable on summary conviction -
- (a) to a fine not exceeding level 3 on the standard scale; and
 - (b) in the case of a continuing offence, to an additional fine not exceeding £40 for every day during which the offence continues,
- and so shall any officer who is also guilty of the offence.
- (5A) Where, in a case in which subsection (3A)(b) is relied on for compliance with a requirement under subsection (3) -
- (a) a copy of the annual accounts is published for a part, but not all, of the period mentioned in subsection (3B)(d), but

- (b) the failure to publish it throughout that period is wholly attributable to circumstances which it would not be reasonable to have expected the society or the officer to prevent or avoid,

no offence is committed under subsection (5) by reason of that failure.

- (6) In subsection (4) above 'the relevant period' means the period beginning at the end of the last financial year and ending with the date which falls 14 days before the annual general meeting following the end of that year.
- (7) The FCA shall keep one of the copies of the annual accounts of a building society received by it under subsection (2) above in the public file of the society.
- (8) In this section any reference to the annual accounts includes a reference to the documents annexed or attached to them under section 80.

Requirements in connection with publication of accounts

81A. (1) If a building society publishes any of its statutory accounts, they must be accompanied by the relevant auditor's report under section 78.

- (2) A building society that is required to prepare group accounts for a financial year must not publish its statutory individual accounts for that year without also publishing with them its statutory group accounts.
- (3) If a building society publishes non-statutory accounts, it must publish with them a statement indicating -
 - (a) that they are not the society's statutory accounts,
 - (b) whether statutory accounts dealing with any financial year with which the non-statutory accounts purport to deal have been prepared,
 - (c) whether the society's auditor has made a report under section 78 on the statutory accounts for any financial year, and
 - (d) whether any such auditor's report -
 - (i) was qualified or unqualified, or included a reference to any matters to which the auditor drew attention by way of emphasis without qualifying the report, or
 - (ii) contained a statement under section 79(6) (failure to obtain necessary information and explanations);

and it must not publish with any non-statutory accounts any auditor's report made under section 78.

- (4) For the purposes of this section a building society is regarded as publishing a document if it publishes, issues or circulates it or otherwise makes it available for public inspection in a manner calculated to invite members of the public generally, or any class of members of the public, to read it.
- (5) References in this section to a building society's statutory accounts are to its annual accounts as required to be laid before the society under section 81; and references to the publication by a society of 'non-statutory accounts' are to the publication of -
 - (a) any balance sheet or income and expenditure account relating to, or purporting to deal with, a financial year or part of a financial year of the society, or
 - (b) an account in any form purporting to be a balance sheet or income and expenditure account for the group consisting of the society and its subsidiary undertakings relating to, or purporting to deal with, a financial year or part of a financial year of the society,

otherwise than as part of the society's statutory accounts or summary financial statement prepared under section 76.

- (6) A building society which contravenes any provision of this section, and any officer of it who is in default, is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

81B. (1) In this Part-

'annual accounts', in relation to a building society, means -

- (a) the individual accounts required by section 72A, and
- (b) any group accounts required by section 72E, together with the notes to those accounts;

'IAS Regulation' means EC Regulation No. 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards;

'income and expenditure account', in relation to a society which prepares IAS accounts, includes an income statement or other equivalent financial statement required to be prepared by international accounting standards;

'international accounting standards' means the international accounting standards, within the meaning of the IAS Regulation, adopted from time to time by the European Commission in accordance with the IAS Regulation;

'regulated market' has the meaning given in Article 4.1.14 of Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments.

- (2) References in this Part to accounts giving a 'true and fair view' are references -

- (a) in the case of Building Societies Act individual accounts, to the requirement under section 72B that such accounts give a true and fair view;
- (b) in the case of Building Societies Act group accounts, to the requirement under section 72F that such accounts give a true and fair view; and
- (c) in the case of IAS accounts, to the requirement under international accounting standards that such accounts achieve a fair presentation.

[sections 82 – 84 revoked]

Settlement of disputes

- 85.** (1) Schedule 14 to this Act shall have effect for the settlement of certain disputes between a building society and a member, or a representative of a member, of the society or, as provided by Part II of the Schedule, between a building society and one or more members of the society or a complainant.

- (2) Nothing in that Schedule affects the jurisdiction of any court to hear and determine disputes arising out of any mortgage or any contract other than the rules of a society.

PART X

DISSOLUTION, WINDING UP, MERGERS AND TRANSFER OF BUSINESS

Modes of dissolution and winding up

- 86.** (1) A building society -

- (a) may be dissolved by consent of the members, or
- (b) may be wound up voluntarily or by the court,

in accordance with this Part; and a building society may not, except where it is dissolved by virtue of section 93(5), 94(10) or 97(9), or following building society insolvency or building society special administration, be dissolved or wound up in any other manner.

- (2) A building society which is in the course of dissolution by consent, or is being wound up voluntarily, may be wound up by the court.

Dissolution by consent

- 87.** (1) A building society may be dissolved by instrument of dissolution, with the consent (testified by their signature of that instrument) of three quarters of the members of the society, holding not less than two-thirds of the number of shares in the society.
- (2) An instrument of dissolution under this section shall set out -
- (a) the liabilities and assets of the society in detail;
 - (b) the number of members, and the amount standing to their credit in the accounting records of the society;
 - (c) the claims of depositors and other creditors, and the provision to be made for their payment;
 - (d) the intended appropriation or division of the funds and property of the society;
 - (e) the names of one or more persons to be appointed as trustees for the purposes of the dissolution, and their remuneration.
- (3) An instrument of dissolution made with consent given and testified as mentioned in subsection (1) above may be altered with the like consent, testified in the like manner.
- (4) The provisions of this Act shall continue to apply in relation to a building society as if the trustees appointed under the instrument of dissolution were the board of directors of the society.
- (5) The trustees, within 15 days of the necessary consent being given and testified (in accordance with subsection (1) above) to -
- (a) an instrument of dissolution, or
 - (b) any alteration to such an instrument,
- shall give notice to the **FCA and, if the society is a PRA-authorized person, the PRA** of the fact and, except in the case of an alteration to an instrument, of the date of commencement of the dissolution, enclosing a copy of the instrument or altered instrument, as the case may be; and if the trustees fail to comply with this subsection they shall each be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (6) An instrument of dissolution under this section, or an alteration to such an instrument, shall be binding on all members of the society as from the date on which the copy of the instrument or altered instrument, as the case may be, is placed in the public file of the society under subsection (10) below.
- (7) The trustees shall, within 28 days from the termination of the dissolution, give notice to the **FCA and, if the society is a PRA-authorized person, the PRA** of the fact and the date of the termination, enclosing an account and balance sheet signed and certified by them as correct, and showing the assets and liabilities of the society at the commencement, of the dissolution, and the way in which those assets and liabilities have been applied and discharged; and, if they fail to do so they shall each be liable on summary conviction -
- (a) to a fine not exceeding level 2 on the standard scale, and
 - (b) in the case of a continuing offence, to an additional fine not exceeding £10 for every day during which the offence continues.
- (8) Except with the consent of the **appropriate authority**, no instrument of dissolution, or alteration of such an instrument, shall be of any effect if the purpose of the proposed dissolution or alteration is to effect or facilitate the transfer of the society's engagements to any other society or the transfer of its business to a company.
- (9) Any provision in a resolution or document that members of a building society proposed to be dissolved shall accept investments in a company or another society (whether in shares,

deposits or any other from) in or towards satisfaction of their rights in the dissolution shall be conclusive evidence of such a purpose as is mentioned in subsection (8) above.

- (10) The FCA shall keep in the public file of the society any notice or other document received by it under subsection (5) or (7) above and shall record in that file the date on which the notice or document is placed in it.

Voluntary winding up

88. (1) A building society may be wound up voluntarily under the applicable winding up legislation if it resolves by special resolution that it be wound up voluntarily, but a resolution may not be passed if -

- (a) the conditions in section 90D are not satisfied, or
- (b) the society is in building society insolvency or building society special administration.

(1A) A resolution under subsection (1) shall have no effect without the prior approval of the court.

(2) A copy of any special resolution passed for the voluntary winding up of a building society shall be sent by the society to the FCA and, if the society is a PRA-authorized person, the PRA within 15 days after it is passed; and the FCA must keep a copy in the public file of the society.

(3) A copy of any such resolution shall be annexed to every copy of the memorandum or of the rules issued after the passing of the resolution.

(4) If a building society fails to comply with subsection (2) or (3) above the society shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale and so shall any officer who is also guilty of the offence.

(5) For the purposes of this section, a liquidator of the society shall be treated as an officer of it.

Winding up by the court: grounds and petitioners

89. (1) A building society may be wound up under the applicable winding up legislation by the court on any of the following grounds in addition to the grounds referred to or specified in section 37(1), that is to say, if -

- (a) the society has by special resolution resolved that it be wound up by the court;
- (b) the number of members is reduced below ten;
- (c) the number of directors is reduced below two;
- (d) being a society registered as a building society under this Act or the repealed enactments, the society has not been given permission under Part 4A of the Financial Services and Markets Act 2000 to accept deposits and more than three years has expired since it was so registered;
- (e) the society's permission under Part 4A of the Financial Services and Markets Act 2000 to accept deposits has been cancelled (and no such permission has subsequently been given to it);
- (f) the society exists for an illegal purpose;
- (g) the society is unable to pay its debts; or
- (h) the court is of the opinion that it is just and equitable that the society should be wound up.

(2) Except as provided by subsection (3) below, section 37 or the applicable winding up legislation, a petition for the winding up of a building society may be presented by -

- (a) the FCA, after consulting the PRA if the society is a PRA-authorized person,
 - (aa) if the society is a PRA-authorized person, the PRA, after consulting the FCA,
 - (b) the building society or its directors,
 - (c) any creditor or creditors (including any contingent or any prospective creditor), or
 - (d) any contributory or contributories, or by all or any of those parties, together or separately.
- (3) A contributory may not present a petition unless either -
- (a) the number of members is reduced below ten, or
 - (b) the share in respect of which he is a contributory has been held by him, or has devolved to him on the death of a former holder and between them been held, for at least six months before the commencement of the winding up.
- (4) For the purposes of this section, in relation to a building society -
- (a) — — —
 - (b) the reference to its existing for an illegal purpose includes a reference to its existing after it has ceased to comply with the requirement imposed by section 5(1)(a) (purpose or principal purpose).
- (5) In this section, 'contributory' has the same meaning as in paragraph 9(2) or, as the case may be, paragraph 37(2) of Schedule 15 to this Act.

Building society insolvency as alternative order

- 89A.**(1) On a petition for a winding up order or an application for an administration order in respect of a building society the court may, instead, make a building society insolvency order (under section 94 of the Banking Act 2009 as applied by section 90C below).
- (2) A building society insolvency order may be made under subsection (1) only -
- (a) on the application of the appropriate authority made with the consent of the Bank of England, or
 - (b) on the application of the Bank of England.

Application of winding up legislation to building societies

- 90.** (1) In this section 'the companies winding up legislation' means the enactments applicable in relation to England and Wales, Scotland or Northern Ireland which are specified in paragraph 1 of Schedule 15 to this Act (including any enactment which creates an offence by any person arising out of acts or omissions occurring before the commencement of the winding up).
- (2) In its application to the winding up of a building society, by virtue of section 88(1) or 89(1), the companies winding up legislation shall have effect with the modifications effected by Parts I to III of Schedule 15 to this Act; and the supplementary provisions of Part IV of that Schedule shall also have effect in relation to such a winding up.
- (3) In sections 37, 88, 89 and 103, 'the applicable winding up legislation' means the companies winding up legislation as so modified.

Application of other companies insolvency legislation to building societies

- 90A.** For the purpose of -
- (a) enabling voluntary arrangements to be approved in relation to building societies,

- (b) enabling administration orders to be made in relation to building societies, and
- (c) making provision with respect to persons appointed in England and Wales, Scotland or Northern Ireland as receivers and managers, receivers or administrative of building societies' property,

the enactments specified in paragraph 1(2) of Schedule 15A to this Act shall apply in relation to building societies with the modifications specified in that Schedule.

Power to alter priorities on dissolution and winding up

90B. (1) The Treasury may by order make provision for the purpose of ensuring that, on the winding up, or dissolution by consent, of a building society, any assets available for satisfying the society's liabilities to creditors or to shareholders are applied in satisfying those liabilities *pari passu*.

- (2) Liabilities to creditors do not include -
 - (a) liabilities in respect of subordinated deposits;
 - (b) liabilities in respect of preferential debts;
 - (c) any other category of liability which the Treasury specifies in the order for the purposes of this paragraph.
- (3) Liabilities to shareholders do not include liabilities in respect of deferred shares.
- (4) A preferential debt is a debt which constitutes a preferential debt for the purposes of any of the enactments specified in paragraph 1 of Schedule 15 to this Act (or which would constitute such a debt if the society were being wound up).
- (5) An order under this section may -
 - (a) make amendments of this Act;
 - (b) make different provision for different purposes;
 - (c) make such consequential, supplementary, transitional and saving provision as appears to the Treasury to be necessary or expedient.
- (6) The power to make an order under this section is exercisable by statutory instrument but no such order may be made unless a draft of it has been laid before and approved by a resolution of each House of Parliament.

Application of bank insolvency and administration legislation to building societies

90C. (1) Parts 2 (Bank Insolvency) and 3 (Bank Administration) of the Banking Act 2009 shall apply in relation to building societies with any modifications specified in an order made under section 130 or 158 of that Act and with the modifications specified in subsection (2) below.

- (2) In the application of Parts 2 and 3 of that Act to building societies -
 - (a) references to 'bank' (except in the term 'bridge bank' and the terms specified in paragraphs (b) and (c)) have effect as references to 'building society';
 - (b) references to 'bank insolvency', 'bank insolvency order', 'bank liquidation' and 'bank liquidator' have effect as references to 'building society insolvency', 'building society insolvency order', 'building society liquidation' and 'building society liquidator';
 - (c) references to 'bank administration', 'bank administration order' and 'bank administrator' have effect as references to 'building society special administration', 'building society special administration order' and 'building society special administrator'.

Notice to the FCA and the PRA of preliminary steps

90D.(1) An application for an administration order in respect of a building society may not be determined unless the conditions below are satisfied.

- (2) A petition for a winding up order in respect of a building society may not be determined unless the conditions below are satisfied.
- (3) A resolution for voluntary winding up of a building society may not be passed unless the conditions below are satisfied.
- (4) An administrator of a building society may not be appointed unless the conditions below are satisfied.
- (5) Condition 1 is that the **FCA and, if the society is a PRA-authorized person, the PRA have** been notified -
 - (a) by the applicant for an administration order, that the application has been made,
 - (b) by the petitioner for a winding up order, that the petition has been presented,
 - (c) by the building society, that a resolution for voluntary winding up may be passed, or
 - (d) by the person proposing to appoint an administrator, of the proposed appointment.
- (6) Condition 2 is that a copy of the notice complying with Condition 1 has been filed with the court (and made available for public inspection by the court).
- (7) Condition 3 is that -
 - (a) the period of 2 weeks, beginning with the day on which the notice is received, has ended, or
 - (b) both -
 - (i) the **PRA** has informed the person who gave the notice that it does not intend to apply for a building society insolvency order (under section 95 of the Banking Act 2009 as applied by section 90C above), and
 - (ii) the Bank of England has informed the person who gave the notice that it does not intend to apply for a building society insolvency order or to exercise a stabilisation power under Part 1 of the Banking Act 2009.
- (8) Condition 4 is that no application for a building society insolvency order is pending.
- (9) Arranging for the giving of notice in order to satisfy Condition 1 can be a step with a view to minimising the potential loss to a building society's creditors for the purpose of section 214 of the Insolvency Act 1986 (wrongful trading) or Article 178 (wrongful trading) of the Insolvency (Northern Ireland) Order 1989 as applied in relation to building societies by section 90 of, and Schedule 15 to, this Act.
- (10) Where the **society is a PRA-authorized person and** receives notice under Condition 1 -
 - (a) the **PRA** shall inform the Bank of England,
 - (b) the **PRA** shall inform the person who gave the notice, within the period in Condition 3(a), whether it intends to apply for a building society insolvency order, and
 - (c) if the Bank of England decides to apply for a building society insolvency order or to exercise a stabilisation power under Part 1 of the Banking Act 2009, the Bank shall inform the person who gave the notice, within the period in Condition 3(a).
- (11) **Where the society is not a PRA-authorized person and the FCA receives notice under Condition 1 –**
 - (a) **the FCA shall inform the Bank of England, and**
 - (b) **if the Bank of England decides to apply for a building society insolvency order or to exercise a stabilisation power under Part 1 of the Banking Act 2009, the Bank shall inform the person who gave the notice, within the period in Condition 3(a).**

Disqualification of directors

- 90E.** (1) In this section ‘the Disqualification Act’ means the Company Directors Disqualification Act 1986.
- (2) In the Disqualification Act -
- (a) a reference to liquidation includes a reference to building society insolvency and a reference to building society special administration,
 - (b) a reference to winding up includes a reference to making or being subject to a building society insolvency order and a reference to making or being subject to a building society special administration order,
 - (c) a reference to becoming insolvent includes a reference to becoming subject to a building society insolvency order and a reference to becoming subject to a building society special administration order, and
 - (d) a reference to a liquidator includes a reference to a building society liquidator and a reference to a building society special administrator.
- (3) For the purposes of the application of section 7(3) of the Disqualification Act (disqualification order or undertaking) to a building society which is subject to a building society insolvency order, the responsible office-holder is the building society liquidator.
- (4) For the purposes of the application of that section to a building society which is subject to a building society special administration order, the responsible office-holder is the building society special administrator.
- (5) In the application of this section to Northern Ireland, references to the Disqualification Act are to the Company Directors Disqualification (Northern Ireland) Order 2002 and the reference in subsection (3) to section 7(3) of the Disqualification Act is a reference to Article 10(4) of that Order (disqualification order or undertaking; and reporting provisions).

Power of court to declare dissolution of building society void

- 91.** (1) Where a building society has been dissolved under section 87 or following a winding up, building society insolvency or building society special administration, the High Court or, in relation to a society whose principal office was in Scotland, the Court of Session, may, at any time within 12 years after the date on which the society was dissolved, make an order under this section declaring the dissolution to have been void.
- (2) An order under this section may be made, on such terms as the court thinks fit, on an application by the trustees under section 87 or the liquidator, building society liquidator or building society special administrator, as the case may be, or by any other person appearing to the Court to be interested.
- (3) When an order under this section is made, such proceedings may be taken as might have been taken if the society had not been dissolved.
- (4) The person on whose application the order is made shall, within seven days of its being so made, or such further time as the Court may allow, furnish the **FCA and, if the society is a PRA-authorized person, the PRA** with a copy of the order; and the **FCA must keep a copy** in the public file of the society.
- (5) If a person fails to comply with subsection (4) above, he shall be liable on summary conviction -
- (a) to a fine not exceeding level 3 on the standard scale, and
 - (b) in the case of a continuing offence, to an additional fine not exceeding £40 for every day during which the offence continues.

Supplementary

- 92.** Where at any time a building society is being wound up or dissolved by consent, or is in building society insolvency or building society special administration, a borrowing member shall not be liable to pay any amount other than one which, at that time, is payable under the

mortgage or other security by which his indebtedness to the society in respect of the loan is secured.

Acquisition or establishment of a business

- 92A.** (1) A building society -
- (a) in order to acquire, or allow a subsidiary undertaking to acquire, a business to which subsections (3) and (4) below apply; or
 - (b) in order to establish, or allow such an undertaking to establish, a business to which subsections (3) and (5) below apply,
- must resolve so to do by an ordinary resolution; but a failure to comply with this subsection shall not invalidate any transaction or other act.
- (2) In order to be effective for the purposes of subsection (1) above, an ordinary resolution of a building society must be passed by a majority of the members of the society entitled to vote on such a resolution and voting either -
- (a) in person or by proxy on a poll on the resolution at a meeting of the society; or
 - (b) in a postal or electronic ballot on the resolution;
- and in a case falling within paragraph (a) above, a form for the appointment of a proxy shall be sent to each person entitled to notice of the meeting.
- (3) This subsection applies to a business which is proposed to be acquired or established if, in the opinion of the board of directors of the society -
- (a) the greater part of the income of the business is or will be derived from activities having no connection with loans secured on residential property;
 - (b) the greater part of the resources of the business are or will be devoted to such activities; or
 - (c) the greater part of the business consists or will consist of such activities.
- (4) This subsection applies to a business which is proposed to be acquired if X is not less than 15 per cent of Y where -
- X = the amount or value of the consideration to be given for the shares, voting rights or assets proposed to be acquired;
- Y = the amount the society's own funds as at the relevant date.
- (5) This subsection applies to a business which is proposed to be established if X is not less than 15 per cent of Y where-
- X = the aggregate of the following as estimated by the society, namely -
- (a) the cost of acquiring, developing, adapting or repairing any premises required for the purposes of the business;
 - (b) the initial cost of acquiring any plant or equipment, or any intellectual property, so required;
 - (c) the initial cost of employing or training staff so required;
 - (d) the cost of obtaining any professional advice required in connection with the establishment of the business;
 - (e) any other non-recurring items of expenditure to be incurred in that connection; and
 - (f) in the case of a business proposed to be established by a subsidiary undertaking, the amount of any capital to be provided by the society which will not be used for defraying items of expenditure falling within the foregoing paragraphs;

Y = the amount of the society's own funds as at the relevant date.

- (6) Where a business is proposed to be acquired or established by a syndicate whose members include a building society or subsidiary undertaking -
- (a) subsection (1) above shall have effect as if the business were proposed to be acquired or (as the case may be) established by the society; and
 - (b) whichever of subsections (4) and (5) above is applicable shall have effect as if X were only so much of X as is referable to participation in the syndicate by the society or undertaking.
- (7) For the purposes of subsections (1)(a) and (4) above, two or more proposed acquisitions by a building society or subsidiary undertaking which will form part of a larger acquisition or series of acquisitions shall be treated as a single acquisition.
- (8) Nothing in this section shall apply in relation to a building society in so far as it undertakes, in accordance with section 94 and Schedule 16 to this Act, to fulfil engagements transferred to it in accordance with that section and that Schedule.
- (9) In this section -
- 'initial', in relation to any cost, means incurred, or likely in the directors' opinion to be incurred, not later than 12 months after the establishment of the business;
- 'intellectual property' includes -
- (a) any patent, know-how, trade mark, service mark, registered design, copyright or design right; and
 - (b) any licence under or in respect of any such right;
- 'the relevant date', in relation to a building society, means -
- (a) the date of the end of its last financial year or, failing that, the date of its establishment; or
 - (b) where it has been involved in a transfer of engagements, the date of that transfer, whichever is the later.
- (10) The Treasury may by order substitute for the percentage specified in subsection (4) or (5) above such other percentage as appears to them to be appropriate; and an order under this subsection may make such supplementary, transitional and saving provision as appears to the Treasury to be necessary or expedient.
- (11) The Treasury may by order vary subsections (5) and (9) above by adding to or deleting from them any provision or by varying any provision contained in them; and an order under this subsection may make -
- (a) different provisions for different cases or purposes; and
 - (b) such supplementary, transitional and saving provision as appears to the Treasury to be necessary or expedient.
- (12) The power to make an order under subsection (10) or (11) above is exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

MERGERS

Amalgamations

- 93.** (1) Any two or more building societies desiring to amalgamate may do so by establishing a building society as their successor in accordance with this section and Schedule 16 to this Act.
- (2) In order to establish a building society as their successor the societies desiring to amalgamate must -

- (a) agree the purpose or principal purpose of their successor to be that of making loans which are secured on residential property and are funded substantially by its members, and agree upon the extent of its powers, in a memorandum which complies with the requirements of Schedule 2 to this Act;
 - (b) agree upon the rules for the regulation of their successor which comply with the requirements of that Schedule;
 - (c) each approve the terms of the amalgamation by two resolutions which also approve the memorandum and the rules of their successor and of which -
 - (i) one is passed as a shareholding members' resolution, and
 - (ii) the other is passed as a borrowing members' resolution,
 in accordance with the applicable provisions of that Schedule;
 - (d) make a joint application to the **appropriate authority** for confirmation of the amalgamation and send to the **FCA and, if the society is a PRA-authorised person, the PRA** three copies of the rules and of the memorandum, each copy signed by the secretary of each of the societies.
- (3) If the **appropriate authority** confirms the amalgamation under section 95, and **the FCA** is satisfied, as regards the proposed successor, of the matters relating to its rules, its purpose and powers and its name as to which it must, under paragraph 1 of Schedule 2 to this Act, be satisfied before it registers a society, **the FCA must** -
- (a) register the successor society,
 - (b) issue to it a certificate of incorporation, specifying a date ('the specified date') as from which the incorporation takes effect,
 - (c) retain and register one copy of the memorandum and of the rules,
 - (d) return another copy to the secretary of the successor, together with a certificate of registration, and
 - (e) keep another copy, together with a copy of the certificate of incorporation and of the certificate of registration of the memorandum and the rules, in the public file of the successor society.
- (4) On the specified date all the property, rights and liabilities of each of the societies whose amalgamation was confirmed by the **appropriate authority** (whether or not capable of being transferred or assigned) shall by virtue of this subsection be transferred to and vested in the society so incorporated as their successor.
- (5) On the specified, date each of the societies to which the successor succeeds shall be dissolved by virtue of this subsection; but the transfer effected by subsection (4) above shall be deemed to have been effected immediately before the dissolution.
- (6) If, on the specified date, each of the societies whose amalgamation was confirmed by the **appropriate authority** has permission under **Part 4A** of the Financial Services and Markets Act 2000 to accept deposits, the **appropriate 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 (5) of section 55V of that Act by virtue of paragraph (a) or (b) 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 **55Z3** of the Financial Services and Markets Act 2000 (right to refer matters to the Upper Tribunal) as if it were the determination of an application made by the successor under

Part 4A 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 133A(4) (which prevents ___ action specified in a decision notice from being taken until after any reference and appeal) is omitted.

(7) ---

Transfer of engagements

- 94.** (1) A building society may, in accordance with this section and Schedule 16 to this Act, transfer its engagements to any extent to another building society which, in accordance with this section and that Schedule, undertakes to fulfil the engagements.
- (2) A building society, in order to transfer its engagements, must resolve to do so by two resolutions, of which one is passed as a shareholding members' resolution and the other as a borrowing members' resolution in accordance with the applicable provisions of Schedule 2.
- (3) A building society, in order to transfer some but not all of its engagements to its members in respect of shares held by them (with or without other engagements) must, in addition to resolving to transfer the engagements by the two resolutions required by subsection (2) above, resolve to do so by an affected shareholders' resolution.
- (4) For the purposes of this section in its application to a transfer by a society of engagements in respect of some shares in the society, an 'affected shareholders' resolution' is a resolution passed by a majority of the holders of those shares who, under the rules of the society, would be entitled to vote on a shareholding members' resolution, disregarding for this purpose any shares of theirs in respect of which the society's engagements are not to be transferred.
- (5) A building society, in order to undertake to fulfil the engagements of another society, must resolve to do so -
- (a) by two resolutions, of which one is passed as a shareholding members' resolution and the other as a borrowing members' resolution in accordance with the applicable provisions of Schedule 2; or
- (b) by a resolution of the board of directors, if the appropriate authority consents to that mode of proceeding.
- (6) The extent of the transfer, as so resolved by the society making and the society taking the transfer, shall be recorded in an instrument of transfer of engagements.
- (7) A transfer of engagements between building societies shall be of no effect unless -
- (a) the transfer is confirmed by the appropriate authority under section 95; and
- (b) a registration certificate is issued in respect of the transfer under subsection (8) below.
- (8) Where the appropriate authority confirms a transfer of engagements between building societies, the FCA must -
- (a) register a copy of the instrument of transfer of engagements; and
- (b) issue a registration certificate to the building society taking the transfer;
- and, on such date as is specified in the certificate, the property, rights and liabilities of the society transferring its engagements (whether or not capable of being transferred or assigned) shall, by virtue of this subsection, be transferred to and vested in the society taking the transfer to the extent provided in the instrument of transfer of engagements.
- (9) The FCA shall keep a copy of the instrument and of the registration certificate issued under subsection (8) above in the public file of the building society taking the transfer.
- (10) Where all its engagements have been transferred, the society shall, by virtue of this subsection, be dissolved on the date specified in the registration certificate; but the transfer effected by subsection (8) above shall be deemed to have been effected immediately before the dissolution.

Mergers: provisions supplementing sections 93 and 94

- 95.** (1) Part I of Schedule 16 to this Act shall have effect for imposing on building societies proposing to amalgamate or to transfer or undertake engagements requirements to issue statements to their members relating to the proposed amalgamation or transfer.
- (2) Part II of Schedule 16 to this Act shall have effect for imposing requirements for notification by a building society, to its members and to the **appropriate authority**, of the receipt by the society of proposals for a transfer of engagements or an amalgamation.
- (3) Where application is made to the **appropriate authority** for confirmation of an amalgamation or transfer of engagements it shall, except as provided in subsections (4) to (6) below, confirm the amalgamation or transfer; and Part III of Schedule 16 to this Act shall have effect with respect to the procedure on an application for such confirmation.
- (4) Subject to subsection (5) below, the **appropriate authority** shall not confirm an amalgamation or transfer of engagements if it considers that-
- (a) some information material to the members' decision about the amalgamation or transfer was not made available to all the members eligible to vote; or
 - (b) the vote on any resolution approving the amalgamation or transfer does not represent the views of the members eligible to vote; or
 - (c) some relevant requirement of this Act or the rules of any of the societies participating in the amalgamation or transfer was not fulfilled or not fulfilled as regards that society.
- (5) The **appropriate authority** shall not be precluded from confirming an amalgamation or transfer of engagements by virtue only of the non-fulfilment of some relevant requirement of this Act or the rules of a society if it appears to the **appropriate authority** that it could not have been material to the members' decision about the amalgamation or transfer and the **appropriate authority** gives a direction that the failure is to be disregarded for the purposes of this section.
- (6) Where the **appropriate authority** would be precluded from confirming an amalgamation or transfer of engagements by reason of any of the defects specified in paragraphs (6), (b) and (c) of subsection (4) above, it may direct any building society concerned -
- (a) to take such steps to remedy the defect or defects, including the calling of a further meeting, as it specifies in the direction; and
 - (b) to furnish the **appropriate authority** with evidence satisfying it that it has done so;
- and, if the **appropriate authority** is satisfied that the steps have been taken and the defect or defects has or have been substantially remedied. The **appropriate authority** shall confirm the amalgamation or transfer; but, if it is not so satisfied, it shall refuse its confirmation.
- (6A) The PRA must consult the FCA before confirming an amalgamation or transfer, or giving a direction, under this section.**
- (6B) The PRA must-**
- (a) notify the FCA it if confirms an amalgamation or transfer; and**
 - (b) send the FCA a copy of any direction it gives.**
- (7) ---
- (8) ---
- (9) ---
- (10) A failure to comply with a relevant requirement of this Act or any rules of a society shall not invalidate an amalgamation or transfer of engagements; 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.

- (11) In this section 'relevant requirement', with reference to this Act or the rules of a society, means a requirement of section 93 or 94 or this section or of Schedule 16 to this Act or of any rules prescribing the procedure to be followed by the society in approving or effecting an amalgamation or transfer of engagements.

Mergers: compensation for loss of office and bonuses to members

- 96.** (1) The terms of an amalgamation of or transfer of engagements between building societies may include provision for compensation to be paid by a society to or in respect of any director or other officer of that or any other society for loss of office or diminution of emoluments attributable to the amalgamation or transfer, but the provision must be authorised as follows, that is to say -
- (a) except in so far as paragraph (b) below applies, the provision for such compensation to be paid by a society must be approved by the society by a resolution passed as a special resolution not being one of the two resolutions required by section 93(2)(c) or 94(2) for the approval of the other terms of the amalgamation or transfer;
 - (b) if regulations are made under subsection (2) below authorising payments of such compensation within prescribed limits and the provision for such compensation includes only payments of amounts not exceeding the prescribed limits, the passing of the two resolutions approving the terms of the amalgamation or transfer is sufficient authority for their payment.
- (2) The Treasury may by regulations authorise payments by building societies of compensation to directors or other officers for loss of office or diminution of emoluments attributable to amalgamations of or transfers of engagements between, societies subject to limits specified in or determinable under the regulations and the regulations may make different provision for different classes of person.
- (3) Nothing in subsection (1) or (2) above prevents a director or other officer from receiving payments from societies which, in the aggregate, exceed any limit applicable to him under subsection (2) above if the excess payment is included in provision approved as required by subsection (1)(a) above : but if any payment is received which has not been authorised under paragraph (a) or (b) of that subsection it shall be repaid.
- (4) The terms of an amalgamation of or transfer of engagements between, building societies may include provision for part of the funds of one or more of the participating societies to be distributed in consideration of the amalgamation or transfer among any of the members of the participating societies, but the provision must be authorised as follows that is to say -
- (a) subject to paragraph (b) below, the provision for such a distribution by a society shall not exceed the limits prescribed by regulations under subsection (5) below and the distribution must be approved by each of the two resolutions giving the approval of the society to the terms of the amalgamation or transfer;
 - (b) if the provision for such a distribution by a society exceeds the prescribed limits, it must be approved by each of the two resolutions of that society and each of the other societies participating in the amalgamation or transfer by which each approved the terms of the amalgamation or transfer.
- (5) The Treasury shall by regulations authorise distributions of funds to members by building societies participating in amalgamations or transfers of engagements subject to limits specified in or determinable under the regulations and the regulations may make different provision for different circumstances.
- (6) Where the terms of a transfer of engagements include provision for a distribution of the funds of the society transferring or the society undertaking the engagements and the society undertaking the engagements applies to the **appropriate authority** for its consent to the society's approving the transfer by a resolution of the board of directors instead of the two resolutions required by section 94(5)(a), the **appropriate authority** shall not give its consent unless it is satisfied that the distribution proposed to be made by each society will not exceed the prescribed limits.

- (7) The power to make regulations under subsection (2) or (5) above is exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (8) In this section -
 - 'compensation' includes the provision of benefits in kind;
 - 'distribution of funds' It with reference to bonuses paid to members, includes distribution by means of a special rate of interest available to members for a limited period;
 - 'loss of office' includes, in relation to a director or other officer of a building society holding office in any other body by virtue of his position in that society, the loss of that office;
 - 'prescribed' with reference to limits on compensation or on distributions of assets, means prescribed by regulations under subsection (2) or (5) above, as the case may be.

Transfer of business to a commercial company

- 97.** (1) A building society may, in accordance with this section and the other applicable provisions of this Act, transfer the whole of its business to a company (its 'successor').
- (2) The applicable provisions of this Act other than this section are section 98, section 99, section 99A, section 100, section 101, section 102, sections 102B, 102C and 102D, paragraph 30 of Schedule 2 and Schedule 17.
 - (3) The successor may be a company formed by the society wholly or partly for the purpose of assuming and conducting the society's business in its place or an existing company which is to assume and conduct the society's business in its place _ _ _.
 - (4) In order to transfer its business to its successor a building society must -
 - (a) in the case of a specially formed company, secure that it is formed having articles of association with the requisite protective provisions;
 - (b) agree conditionally with its successor in a transfer agreement on the terms of the transfer which, in so far as they are regulated terms, comply with section 99, section 100 and transfer regulations;
 - (c) approve the transfer and the terms of the transfer by the requisite transfer resolutions, that is to say, resolutions passed by the members of the society in accordance with paragraph 30 of Schedule 2 to this Act;
 and
 - (d) obtain the confirmation of the **appropriate authority** of the transfer and its terms.
 - (5) In so far as the transfer agreement made between the society and its successor provides for rights to be conferred on members or officers of the society, whether or not in pursuance of regulated terms, the members or officers shall, in relation to those provisions, be treated as if they had been parties to the agreement and the rights shall be enforceable accordingly.
 - (6) If the **appropriate authority** confirms the transfer under section 98 then, on the vesting date, all the property, rights and liabilities of the society making the transfer (whether or not capable of being transferred or assigned), except any shares in its successor, shall by virtue of this subsection and in accordance with transfer regulations be transferred to and vested in the successor.
 - (7) Where a building society continues to hold shares in its successor after the vesting date, the consideration (if any) for the disposal of the shares together with any other property, rights or liabilities of the society acquired or incurred after that date shall, by virtue of this subsection, be transferred to and vested in its successor on the date specified for its dissolution under subsection (10) below.
 - (8) A building society which has obtained confirmation of the transfer of its business shall send to **each of the FCA and, if the society is a PRA-authorized person, the PRA** notice of the date which is to be the vesting date and shall do so not later than seven days before that date; and

the **FCA must** record the date and, if a later date is notified under subsection (10) below, that date, in the public file of the society.

- (9) Except where notice is given under subsection (10) below, a building society which, under this section, transfers its business to its successor shall, by virtue of this subsection, be dissolved on the vesting date; but the transfer effected by subsection (6) above shall be deemed to have been effected immediately before the dissolution.
- (10) A building society may, for the purpose of facilitating the disposal of shares in its successor, include in the notice of the vesting date under subsection (8) above notice of a later date for the dissolution of the society; and if it does so, the society shall by virtue of this subsection be dissolved on that date instead of the vesting date, but the transfer effected by subsection (7) above shall be deemed to have been effected immediately before the dissolution.
- (11) As from the vesting date, a society which has given notice under subsection (10) above shall cease to transact any business except such as is necessary for the purpose of securing the disposal of the society's holding of shares in its successor.

- (12) In this section, and the other applicable provisions of this Act -

'company' means a company as defined in section 1(1) of the Companies Act 2006 which is a public company limited by shares; and a company is a 'specially formed' company if it is formed by a building society (and by no others than its nominees) for the purpose of assuming and conducting its business in its place and is an 'existing' company if it is a company carrying on business as a going concern on the date of the transfer agreement;

'confirmation', in relation to a transfer, means the confirmation of the **appropriate authority** required by subsection (4) (d) above;

'regulated terms' means any terms of a transfer agreement which are regulated terms under section 99, section 100 or section 102;

'the requisite protective provisions' means the provisions required to be made by section 101(2);

'the requisite shareholders' resolution' has the meaning given by paragraph 30(1) of Schedule 2;

'the requisite transfer resolutions' has the meaning given by subsection (4)(c) above;

'successor', in relation to a building society, has the meaning given by subsection (1) above;

'transfer agreement' means the agreement required by subsection (4)(b) above and, in relation to it, 'conditionally' means conditional on the approval of the transfer by the requisite transfer resolutions and on confirmation of the transfer;

'transfer of business' means the transfer of the business of a building society to its successor under this section and 'transfer' has a corresponding meaning;

'transfer regulations' means regulations under section 102; and

'the vesting date' means the date specified in or determined under the transfer agreement as the vesting date for the purposes of subsection (6) above.

- (13) References in this section, and the other applicable provisions of this Act, to a company include references to a body corporate which -

(a) is incorporated in an EEA State other than the United Kingdom; and

(b) has power under its constitution to offer its shares or debentures to the public;

and in this subsection 'EEA State' has the meaning given by Schedule 1 to the Interpretation Act 1978 (c. 30).

Transfers of business: supplementary provisions

- 98.** (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 or summaries to its members relating to the proposed transfer.
- (1A) Part IA of that Schedule shall have effect for imposing requirements for notification by a building society, to its members and to the **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 **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 **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 have -
 - (i) such permission under **Part 4A** of the Financial Services and Markets Act 2000, or
 - (ii) such permission under paragraph 15 of Schedule 3 to that Act (as a result of qualifying for authorisation under paragraph 12 of that Schedule),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 **appropriate authority** under that Act; or
 - (d) some relevant requirement of this Act or the rules of the society was not fulfilled.
- (4) The **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 **appropriate authority** that it could not have been material to the members' decision about the transfer and the **appropriate authority** gives a direction that the failure is to be disregarded for the purposes of this section.
- (5) Where the **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 **appropriate authority** with evidence satisfying it that it has done so;
- and, if the **appropriate authority** is satisfied that the steps have been taken and the defect or defects has or have been substantially remedied, the **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 take 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.
- (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 it if confirms a transfer; and
 - (b) send the FCA a copy of any direction it gives.

Regulated terms: compensation for loss of office etc

- 99.** (1) Subject to subsections (2) and (3) below, the terms of a transfer of business by a building society to the company which is to be its successor may include provision for compensation to be paid by the society or the company to or in respect of any director or other officer of the society for loss of office or diminution of emoluments attributable to the transfer.
- (2) Any such provision must be authorised so far as the society is concerned as follows, that is to say -
- (a) except in so far as paragraph (b) below applies, the provision must be approved by a resolution passed as a special resolution, not being one of the requisite transfer resolutions;
 - (b) if regulations are made under subsection (3) below authorising payments of such compensation within prescribed limits and the provision for such compensation includes only payments of amounts not exceeding the prescribed limits, the passing of the requisite transfer resolutions is sufficient authority for their payment.
- (3) The Treasury may by regulations authorise payments of compensation to directors or other officers attributable to transfers of business under section 97 subject to limits specified in or determinable under the regulations and the regulations may make different provision for different classes of person.
- (4) Nothing in subsection (2) -or (3) above prevents a director or other officer from receiving payments which, in the aggregate, exceed any limit applicable to him. under either of those subsections if the excess payment is included in provision approved as required by subsection (2)(a) above; but if any payment is received which has not been authorised under paragraph (a) or (b) of that subsection it shall be repaid.
- (5) The power to make regulations under subsection (3) above is exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) In this section -
- 'compensation' includes the provision of benefits in kind;
 - 'loss of office' includes, in relation to a director or other officer of a building society holding office in any other body by virtue of his position in that society, the loss of that office; and
 - 'prescribed', with reference to limits on compensation, means prescribed by regulations under subsection (3) above;
- and any terms of a transfer of business to which subsection (2) or regulations under subsection (3) above apply are regulated terms for the purposes of section 97.

Transfers of business: increased remuneration etc

- 99A.** (1) Subject to subsection (2) below, the terms of a transfer of business by a building society to the company which is to be its successor may include provision for any director or other

officer of the society to receive increased emoluments in consequence of the transfer, whether by way of increased remuneration or the grant of share options or otherwise.

- (2) An ordinary resolution approving any such provision must be put before a meeting of the society.

Regulated terms etc: distributions and share rights

100. (1) Subject to subsections (2) to (10) below, the terms of terms of a transfer of business by a building society, to the company which is to be its successor may include provision for part of the funds of the society or its successor to be distributed among, or other rights in relation to shares in the successor conferred on, members of the society, in consideration of the transfer.

- (2) The terms of a transfer of a society's business must -
- (a) require its successor to assume as from the vesting date a liability to every qualifying member of the society as in respect of a deposit made with the successor corresponding in amount to the value of the qualifying shares held by him in the society; and
 - (b) confer a right, subject to subsection (7) below, to a distribution of funds, whether of the society or its successor, by way of bonus on every qualifying member of the society equal to the relevant proportion of the value of the qualifying shares held by him in the society; _ _ _
 - (c) _ _ _
- (3) For the purposes of the liabilities assumed under subsection (2) (a) above by the society's successor, a member is a qualifying member if he held shares in the society on the day immediately preceding the vesting date and his qualifying shares are those held by him on that day.
- (4) For the purposes of the rights conferred under subsection (2)(b) above on members of the society, a member is a qualifying member if he held shares in the society on the qualifying day and was not eligible to vote on the requisite shareholders' resolution, his qualifying shares are those held by him on that day and the relevant proportion is the proportion which (as shown in the latest balance sheet of the society) the society's reserves bear to its total liability to its members in respect of shares.
- (5) _ _ _
- (6) _ _ _
- (7) The **appropriate authority** may, where it confirms a transfer of a society's business to an existing company, as it thinks fit having regard to what is equitable between the members of the society, direct that no bonus distribution of funds in pursuance of subsection (2)(b) above shall be made or that the amount distributed shall be such lesser amount as it provides for in the direction; and where the **appropriate authority** gives a direction under this subsection no liability to make such a distribution shall arise or, as the case may be, that liability shall be discharged by payment of the lesser amount.
- (8) Where, in connection with any transfer, rights are to be conferred on members of the society to acquire shares in priority to other subscribers, the right shall be restricted to those of its members who held shares in the society throughout the period of two years which expired with the qualifying day; and it is unlawful for any right in relation to shares to be conferred in contravention of this subsection.
- (9) Where the successor is an existing company, any distribution of funds to members of the society, except for the distribution required by subsection (2)(b) above, shall only be made to those members who held shares in the society throughout the period of two years which expired with the qualifying day; and it is unlawful for any distribution to be made in contravention of the provisions of this subsection.
- (10) The following restrictions apply to any distribution of funds, or any conferring of rights in relation to shares, in connection with the transfer of its business from the society to its successor where the successor is a company specially formed by the society, that is to say -

- (a) no distribution shall be made except that required by subsection (2)(b) above; and
- (b) where negotiable instruments acknowledging rights to shares are issued by the successor within the period of two years beginning, with the vesting date, no such instruments shall be issued to former members of the society unless they are also issued, and, on the same terms, to all other members of the company;

and it is unlawful for any distribution of funds to be made in contravention of the provisions of this subsection.

- (11) Where the successor is a specially formed company, the terms of the transfer must include provision to secure that the society ceases to hold any shares in the successor by the date on which the society is to dissolve.
- (12) Any terms of a transfer of business to which subsection (2), (8), (9), (10) or (11) above apply are regulated terms for the purposes of section 97.
- (13) In subsections (4), (5), (8) and (9) above, 'qualifying day' means the day specified in the transfer agreement as the qualifying day for the purposes of this subsection.

Protective provisions for specially formed successors

101. (1) No company specially formed by a building society to be its successor shall, at any time during the protective period -

- (a) offer for sale or invite subscription for any shares in the company or allot or agree to allot any such shares with a view to their being offered for sale, or
- (b) allot or agree to allot any share in the company, or
- (c) register a transfer of shares in the company,

if the effect of the offer, the invitation, the allotment or the registration of the transfer would be that more shares than the permitted proportion would be held by any one person (other than the society), or by any two or more persons who are parties to a concert party agreement which relates to shares in the company.

- (2) The articles of association of the company shall include provision such as will secure that the company does not offer, invite subscription for, allot or register transfers of, shares in contravention of subsection (1) above and no alteration in those provisions may be made by the company during the protective period.
- (3) Any provision (including any altered provision) of the company's articles of association which is to any extent inconsistent with subsection (1) above shall, to that extent, be void; and any allotment or registration of a transfer of shares in contravention of that subsection shall be void.
- (4) This section shall cease to apply to a company if-
 - (a) a person who is an authorised person within the meaning of section 31 of the Financial Services and Markets Act 2000 becomes a subsidiary undertaking of the company, or the company or such an undertaking acquires the whole, or substantially the whole, of the business of such a person;
 - (b) a special resolution to that effect is passed by the requisite majority of the members of the company; or
 - (c) the **appropriate authority** by notice to the company gives a direction to that effect;

and the **appropriate authority** shall not give such a direction unless it considers it desirable to do so in the interests of the depositors and potential depositors of the company.

(4A) The PRA must consult the FCA before giving a direction under this section.

- (5) If this section ceases to apply to a company, any provision included by virtue of subsection (2) above in its articles of association shall cease to have effect.
- (6) In this section-

'concert party agreement' means an agreement to which section 824 of the Companies Act 2006 applies;

'EEA country or territory' has the same meaning as in sections 6A and 6B;

'the permitted proportion', in relation to shares in the company, is 15 per cent. of the company's issued share capital;

'the protective period' is the period beginning with the date of the company's incorporation and ending five years after the vesting date or, if this section ceases to apply to the company, ending on the date on which it so ceases;

'the requisite majority' means a majority of the members having the right to attend and vote at a general meeting of the company, being a majority together holding not less than 75 per cent in nominal value of the shares giving that right;

'transfer', in relation to shares, does not include a transfer to a person to whom the right to any shares has been transmitted by operation of law;

and any expression used in this section and in the Companies Acts (as defined in section 2 of the Companies Act 2006) has the same meaning in this section as in those Acts.

(7) For the purposes of this section-

- (a) shares held by a person in a fiduciary capacity shall be treated as not held by him;
- (b) shares held by a person as nominee for another shall be treated as held by the other; and
- (c) shares shall be regarded as held as nominee for another if any voting rights attaching to them are exercisable only on his instructions or with his consent or concurrence.

(8) Any reference in this section to shares includes a reference-

- (a) to any warrant or other instrument entitling the holder to subscribe for shares; and
- (b) to any certificate or other instrument issued by or on behalf of the company and conferring a right to acquire shares otherwise than by subscription;

and for the purposes of subsection (1) above any shares to which any such instrument relates shall be deemed to be held by the holder of the instrument.

Transfer regulations

102. (1) The Treasury may, by transfer regulations under this section, make provision regulating transfers of business under section 97.

(2) Transfer regulations may, in particular -

- (a) make provision for and in connection with the transition from regulation by and under this Act to regulation by and under the Companies Acts _ _ _;
- (b) make provision for the treatment, in the hands of companies taking such transfers, of the property, rights and liabilities transferred and for the modification of any enactment in its application to property, rights and liabilities so transferred;
- (c) make provision for the purposes of and incidental to section 100 and sections 101, 102B, 102C and 102D.

(3) The power to make transfer regulations is exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(4) Any terms of a transfer of business to which transfer regulations apply are regulated terms for the purposes of section 97.

Rights of second-named joint shareholders

- 102A.** (1) This section applies where the terms of a transfer of business by a building society to the company which is to be its successor include such provision as is mentioned in section 100(1).
- (2) If -
- (a) a person ('A') held shares in the society throughout the requisite period;
 - (b) any shares in the society held by A were jointly held for any period ('the joint ownership period') constituting the whole or part of the requisite period;
 - (c) A was the second-named holder of the jointly held shares for the whole or part of the joint ownership period; and
 - (d) no person who has priority over A for the purposes of this section held shares in the society throughout the requisite period,
- the jointly held shares shall be treated for the purposes of subsections (8) and (9) of section 100 as having been held by A alone.
- (3) The following persons shall have priority over A for the purposes of this section, namely -
- (a) where A was not the first-named holder of the jointly held shares for any part of the joint ownership period -
 - (i) any person who was the first-named holder of those shares for the whole or part of that period; and
 - (ii) where A was the second-named holder of those shares for part only of that period, any person who was the second-named holder of those shares for a later part of that period; and
 - (b) where A was the first-named holder of the jointly held shares for part of the joint ownership period, any person who was the first-named holder of those shares for a later part of that period.
- (4) If a person dies during the requisite period at a time when he is named in the records of the society as a joint holder of any shares jointly held, this section shall have effect in relation to any later time as if he had never been so named.
- (5) In this section -
- 'the first-named holder', in relation to any shares jointly held, means that one of the joint holders who is named first in the records of the society, that is to say, the person by whom alone, apart from this section, those shares would, by virtue of paragraph 7(5) of Schedule 2, be treated as held for the purposes of section 100;
- 'qualifying day' has the same meaning as in subsections (8) and (9) of section 100;
- 'the requisite period' means the period beginning two years before the end of the qualifying day and ending immediately before the vesting date;
- 'the second-named holder', in relation to any shares jointly held, means that one of the joint holders who is named second in the records of the society;
- 'the vesting date' has the same meaning as in section 100.

Protection of interests of beneficiaries in the case of trustee account holders

- 102B.** (1) This section shall have effect (notwithstanding anything to the contrary in the rules of the society) where the terms of the transfer of the business of a building society to its successor include provision for a distribution to be made to its members, and where more than one distribution is provided for, shall have effect in relation to each of them.
- (2) In this section 'distribution' in relation to a society means -

- (a) a distribution among members of the society of part of the funds of the society or its successor, other than a distribution within section 100(2)(b), or
- (b) the conferring of rights in relation to shares in the successor on members of the society,

in consideration of the transfer.

(3) Subject to the following provisions of this section and section 102C, a trustee account holder shall be treated by the society and its successor as not being disentitled from sharing in the distribution -

- (a) as such trustee account holder, and
- (b) also in relation to another account which he may hold as a trustee account holder or in relation to another account which he may hold otherwise than as a trustee account holder,

by reason only of his holding more than one account; and the terms of the transfer of business in question shall comply with this subsection.

(4) A trustee account holder shall not be entitled to share in a distribution as such trustee account holder by virtue of any provision of this section if -

- (a) the society has notified that account holder that he must make, in relation to any account as respects which he is a trustee account holder, a statutory declaration under the 1835 c. 62. Statutory Declarations Act 1835 complying with subsection (5); but
- (b) the trustee account holder does not give the society that declaration before such date as may be specified in the society's notice to him.

(5) A statutory declaration complies with this subsection if the person making it declares in it -

- (a) that he is a trustee account holder in respect of an account identified in the declaration,
- (b) the name and address of each beneficiary for whom he holds the account,
- (c) the reason why it is not reasonably practicable for any beneficiary to act in relation to that account himself, and
- (d) in a case where section 102D(8) applies, the names and addresses of all the trustee account holders of the account during the period referred to in that subsection.

(6) In any case, where in response to a notice under subsection (4) (and within the time specified in that notice), a person gives a society a statutory declaration complying or purporting to comply with subsection (5) that he is a trustee account holder as respects any account he holds with that society then, subject to section 102C, the society and its successor -

- (a) shall treat him as such an account holder in respect of that account, and
- (b) shall not be liable to any other person in respect of any distribution to him (whether or not the society makes any enquiry into his eligibility before making the distribution).

Consequences of false declaration

102C. (1) Where it is shown, in relation to a person who has made a statutory declaration to a society purporting to comply with section 102B(5), that, at the time the declaration is made, he is not a trustee account holder in relation to the account in question, then -

- (a) a distribution shall not be made to him in pursuance of section 102B if it is so shown before the distribution is made;
- (b) if a distribution is made to him, he shall be liable -
 - (i) to repay to the society's successor any funds, and to surrender to it any shares or rights to any shares, which he may have received as the holder of that account,

- (ii) if any shares or rights to any shares are not surrendered, to pay the successor an amount equal to the relevant value of those shares or rights.
- (2) Where subsection (1)(b) applies in relation to a person, he shall also be liable to pay to the successor interest (at the rate applicable to judgment debts or, as respects Scotland, to decrees of the Court of Session) -
- (a) on any funds which he is liable to repay to the successor under sub-paragraph (i) of subsection (1)(b),
 - (b) on the relevant value of any shares or rights which are surrendered under that sub-paragraph, and
 - (c) on any amount payable under subsection (1)(b)(ii),
- as from the day on which he received the funds, shares or rights until subsection (1)(b) is complied with in relation thereto.
- (3) In subsections (1) and (2) 'relevant value', in relation to any shares or rights to any shares, means the market value of those shares on the first day on which they are quoted on the Stock Exchange Daily Official List, and section 272 of the 1992 c. 12. Taxation of Chargeable Gains Act 1992 shall apply for the purposes of this subsection.
- (4) Where the successor receives any payment in circumstances where subsection (1)(b) applies, the amount of the payment shall be treated as settlement of a debt due to the successor and accordingly not as an amount due to members of the society.
- (5) ---
- (6) ---

102D. (1) This section has effect for the purposes of sections 102B and 102C.

- (2) 'Trustee account holder', in relation to any society, is a person who is the holder of an account as respects which all the conditions in subsection (4) are satisfied and which he holds in trust for another person, but subject to subsection (5).
- (3) Any reference in this section or in sections 102B and 102C to the holder of an account (however expressed) includes a reference to a person to whom the society has advanced a loan secured on land.
- (4) The conditions referred to in subsection (2) are -
 - (a) that he is a member of the society by virtue of holding that account;
 - (b) that the account holder -
 - (i) is the sole account holder or the representative joint holder (within the meaning of paragraph 7 of Schedule 2 to this Act), or
 - (ii) in the case of a borrowing member, is not a joint borrower or is the representative joint borrower (within the meaning of paragraph 8 of that Schedule);
 - (c) that it is not reasonably practicable for any one or more of the persons for whom he holds the account, by reason of ill-health or old age or any physical or mental incapacity or disability, to act in relation to the account himself.
- (5) Where a person holds more than one account in trust for any other person or persons and the beneficiary or any of the beneficiaries in respect of two or more of those accounts ('the duplicate accounts') are the same, then -
 - (a) the account holder shall not be a trustee account holder in respect of any of those duplicate accounts except the one which was first opened, and
 - (b) accordingly, section 102B(3) and (4) shall apply only in relation to that first opened duplicate account.

- (6) 'Beneficiary', in relation to any account or any trustee account holder, is the person or any of the persons for whose benefit the account is held or for whose benefit the trustee account holder holds the account (as the case may be).
- (7) Any beneficiary of any account who is a child shall be disregarded for the purposes of subsection (4) above unless he suffers ill-health or any physical or mental incapacity or disability which if suffered by an adult would prevent it being reasonably practicable for such an adult to act in relation to the account himself.
- (8) In any case where -
- (a) the identity of the trustee account holder changes during any period which is relevant to the distribution in question, and
 - (b) the account is not closed but continues to be held for the benefit of the same beneficiaries (disregarding any who have died),
- the trustee account holders during that period shall be treated for the purpose of section 102B and the distribution as one person.
- (9) Any reference to a person holding an account in trust for any other person includes a reference -
- (a) to any person holding an account for another person in pursuance of any order, direction or authority made or given under the Mental Capacity Act 2005 or under Part VIII of the Mental Health (Northern Ireland) Order 1986;
 - (b) to an attorney holding an account for another person under -
 - (i) an enduring power of attorney or lasting power of attorney registered under the Mental Capacity Act 2005, or
 - (ii) an enduring power registered under the Enduring Powers of Attorney (Northern Ireland) Order 1987;
 - (c) in relation to Scotland -
 - (i) to a curator bonis and a judicial factor holding an account for another person; and
 - (ii) to a person holding an account for another person under a factory and commission or power of attorney which continues to have effect by virtue of section 71 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990;
- and references to a beneficiary shall be construed accordingly.
- (10) Where rights to acquire shares are to be conferred on one or more members of the society by reference to more than one account, in accordance with the provisions of section 102B, those rights shall not, without more, be taken, for the purposes of section 100(8), to confer rights to acquire the shares in priority to other subscribers.
- (11) The Treasury may make regulations prescribing -
- (a) the time within which the notice required by section 102B(4)(a) must be given, and
 - (b) the minimum time which may be specified in the notice for the purposes of section 102B(4)(b),
- but, if such regulations are not made, any such notice must be given in such time, and must specify such time, as will give the trustee account holder a reasonable opportunity to make the declaration and give it to the society in compliance with the notice.
- (12) Regulations under subsection (11) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

CANCELLATION OF REGISTRATION

- 103.** (1) Where, **having consulted the PRA, the FCA** is satisfied, with respect to a building society -

- (a) that the society has been dissolved by virtue of section 93(5), 94(10), 97(9) or 97(10), or
- (b) that the society has been wound up under the applicable winding up legislation and dissolved, or
- (c) that the society has been dissolved following building society insolvency or building society special administration.

the FCA shall cancel the registration of the society.

- (2) Where, having consulted the PRA, the FCA is satisfied with respect to a building society -
 - (a) that a certificate of incorporation has been obtained for the society by fraud or mistake and that the society does not have permission under Part 4A of the Financial Services and Markets Act 2000 to accept deposits, or
 - (b) that the society has ceased to exist,
 the FCA may cancel the registration of the society.
- (3) Without prejudice to subsection (2) above, the FCA may, if it thinks fit after consulting the PRA, cancel the registration of a building society at the request of the society, evidenced in such manner as the Authority may direct.
- (4) Before cancelling the registration of a building society under subsection (2) above, the FCA shall give to the society not less than two months' previous notice, specifying briefly the grounds of the proposed cancellation.
- (5) Where the registration of a building society is cancelled under subsection (2) above, the society may appeal to -
 - (a) the High Court, where the principal office of the society is situated in England and Wales or in Northern Ireland, or
 - (b) the Court of Session, where that office is situated in Scotland,
 and on any such appeal the High Court or the Court of Session as the case may be, if it thinks it just to do so, may set aside the cancellation.
- (6) Where the registration of a building society is cancelled under subsection (2) or (3) above then subject to the right of appeal conferred by subsection (5) above, the society, so far as it continues to exist, shall cease to be a society incorporated under this Act (and accordingly shall cease to be a building society within the meaning of this Act).
- (7) Subsection (6) above shall have effect in relation to a building society without prejudice to any liability actually incurred by the society: and any such liability may be enforced against the society as if the cancellation had not taken place.
- (8) Any cancellation of the registration of a building society under this section shall be effected in writing signed by the FCA.
- (9) As soon as practicable after the cancellation of the registration of a society under this section the FCA shall cause notice thereof to be published in the London Gazette, The Edinburgh Gazette or the Belfast Gazette according to the situation of the society's principal office, and if it thinks fit, in one or more newspapers.

PART XI **MISCELLANEOUS AND SUPPLEMENTARY AND CONVEYANCING** **SERVICES**

MISCELLANEOUS AND SUPPLEMENTARY

Power to amend etc, to assimilate company law

- 104.** (1) If, on any modification of the statutory provisions in force in Great Britain or Northern Ireland relating to companies, it appears to the Treasury to be expedient to modify the relevant

provisions of this Act for the purpose of assimilating the law relating to companies and the law relating to building societies, the Treasury may, by order, make such modifications of the relevant provisions of this Act as they think appropriate for that purpose.

- (2) The 'relevant provisions of this Act' are the following provisions as for the time being in force, that is to say -
 - (a) so much of Part VI as relates to investigations or inspections;
 - (b) the provisions of Part VII (management);
 - (c) the provisions of Part VIII (accounts and audit); _ _ _
 - (d) so much of Part X as relates to winding up or insolvency ; and
 - (e) section 110 (provisions exempting officers and auditors from liability).
- (3) The power conferred by subsection (1) above includes power to modify the relevant provisions of this Act so as to -
 - (a) confer power to make orders, regulations, rules or other subordinate legislation:
 - (b) create criminal offences; or
 - (c) provide for the charging of fees but not any charge in the nature of taxation.
- (4) An order under this section may -
 - (a) make consequential amendments of or repeals in other provisions of this Act; or
 - (b) make such transitional or saving provisions as appear to the Treasury to be necessary or expedient.
- (5) The power to make an order under this section is exercisable by statutory instrument but no such order shall be made unless a draft of it has been laid before and approved by a resolution of each House of Parliament.
- (6) In this section -

'modification' includes any additions and, as regards modifications of the statutory provisions relating to companies, any modification whether effected by any future Act or by an instrument made after the passing of this Act under an Act whenever passed; and

'statutory provisions'" includes the provisions of any instrument made under an Act.

Registration of charges: application of company law

- 104A.** (1) For the purpose of securing the registration of charges created by building societies, the Secretary of State may, by order made with the concurrence of the Treasury, provide that such of the provisions of Part 25 of the Companies Act 2006 (company charges) as may be specified in the order shall apply in relation to building societies, and charges created by building societies, with such modifications as may be so specified.
- (2) An order under this section may make different provision for different cases or different areas and may contain such incidental, supplemental and transitional provisions as may appear to the Secretary of State to be necessary or expedient.
 - (3) The power to make an order under this section is exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

[section 105 revoked]

Public file of the society

- 106.** (1) The **FCA** shall prepare and maintain a file relating to each building society (to be known as the public file) and the file shall -
- (a) contain the documents or, as the case may be, the copies of the documents and the records of the matters directed by or under any provision of this Act to be kept in the public file of the society; and

- (b) be available for inspection on reasonable notice by members of the public on payment of a reasonable fee determined by the FCA .
- (2) Any member of the public shall be entitled, on payment of a reasonable fee determined by the FCA, to be furnished with a copy of all or any of the documents or records kept in the public file of a building society.

Restriction of use of certain names and descriptions

- 107.** (1) Subject to subsections (2) to (9) below, no person carrying on in the United Kingdom a business of any description shall, unless that person is a building society, use any name or in any other way so describe himself or hold himself out so as to indicate, or reasonably be understood to indicate -
- (a) that he is a building society,
 - (b) that he, or his business, is connected with one or more building societies, or
 - (c) that he, or his business, is connected with building societies generally.
- (2) Subsection (1) does not prohibit the use by an institution carrying on the business of taking deposits and making loans secured on land which has its principal place of business in a country or territory outside the United Kingdom, of the name under which the institution carries on business in that country or territory if -
- (a) the name is used in immediate conjunction with a description distinguishing the institution from a building society, being a description which has been approved for the purposes of this subsection by the FCA and the approval has not been revoked under subsection (7) below, and
 - (b) where the name appears in writing, that description is sufficiently prominent to secure that a person who reads the name will also read the description.
- (3) For a description to distinguish an institution from a building society for the purposes of subsection (2) above it must distinguish it by reference to all or any of the following matters -
- (a) the situation of its principal place of business,
 - (b) its legal status or constitution, and
 - (c) the law (if any) which authorises it to take deposits in the United Kingdom,
- as the FCA determines in its case, but need not indicate any other distinction.
- (4) Subsection (1) above does not prohibit a person from carrying on a business under a name which indicates a connection between -
- (a) that person, or his business, and one or more building societies, or
 - (b) that person, or his business, and building societies generally, if the name has been approved for the purposes of this subsection by the FCA and the approval has not been revoked under subsection (7) below.
- (5) No name shall be approved for the purposes of subsection (4) above unless the FCA, having regard to -
- (a) the true connection (if any) in fact existing between the person using, or proposing to use, the name and the particular society or societies in question or with building societies generally, as the case may be, and
 - (b) in the cases referred to in subsection (4)(a) above, the respective natures of the business of that person and the society or societies in question,
- is satisfied that the connection indicated by the name is not misleading; and, in so far as the name indicates investment or other financial support on the part of a building society the FCA shall not approve the use of the name unless it is satisfied that the name indicates no more investment or support than is the case and than is, in the opinion of the FCA, within the financial capacity of the building society to provide.

- (6) An application for approval under subsection (2) or (4) above shall be made to the FCA in such form as it directs and accompanied by such information or evidence as it requires generally or in the particular case.
- (7) The FCA may revoke any approval under subsection (2) or (4) above of a distinguishing description or a name, as the case may be, if it is of the opinion -
- (a) in the case of a distinguishing description, that, by reason of any change in the matters by reference to which the distinction is made, the description does not or does not any longer distinguish the institution as required by subsection (2) above, or
 - (b) in the case of a name
 - (i) that the name has proved to be misleading to the public,
 - (ii) that the approval has been obtained by fraud or mistake, or
 - (iii) that there has been a change in the facts to which the FCA had regard in giving its approval,

but it shall not do so without first giving the person to whom the approval was given an opportunity of making representations with respect to the proposed revocation of that approval.

- (8) Subsection (1) above does not prohibit a person from using a description (other than his name) which, or from holding himself out in a way that, indicates a connection between himself or his business and one or more building societies if and to the extent he has been authorised to do so in writing by the society or societies in question.
- (9) Subsection (1) above does not prohibit a person from using a description (other than his name) which, or from holding himself out in a way that, indicates a connection between himself or his business and building societies generally where the connection indicated is not misleading.
- (10) Where on an application for -
- (a) the first registration of a company, or the registration of a company by a new name, by the registrar of companies under the Companies Act 2006, or
 - (b) approval by the Secretary of State of words or expressions for inclusion in a business name under section 1194 of the Companies Act 2006,

it appears to the registrar or the Secretary of State, as the case may be, that the use of the name or the words or expressions by the person seeking to register with it would contravene subsection (1) above, the registration shall not be made or the approval given.

- (11) A person who contravenes subsection (1) above shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale; and where the contravention involves a public display or exhibition of the offending name, description or other matter, there shall be a fresh contravention of the subsection on each day during which that person causes or permits the display or exhibition to continue for which that person shall be liable on summary conviction to a fine not exceeding £200.
- (12) In this section -
- ‘deposit’ must be read with -
- (a) section 22 of the Financial Services and Markets Act 2000;
 - (b) any relevant order under that section; and
 - (c) Schedule 2 to that Act;
- ‘institution’ means -
- (a) a body corporate wherever incorporated;
 - (b) a partnership formed under the law of any part of the United Kingdom;

- (c) a partnership or other unincorporated association of two or more persons formed under the law of a member State other than the United Kingdom.

[section 108 revoked]

Exemption from stamp duty

109.

- (1) The following instruments shall be exempted from all such stamp duties (if any) as apart from this section would be chargeable on them, that is to say -
 - (a) any copy of the rules of a building society;
 - (b) any transfer of a share in a building society;
 - (c) any bond or other security to be given to, or on account of, a building society or by an officer of a building society;
 - (d) any instrument appointing an agent of a building society or revoking such an appointment; and
 - (e) any other instrument whatsoever which is required or authorised to be given, issued, signed, made or produced in pursuance of this Act or of the rules of a building society.
- (2) No transfer effected by subsection (6) or (7) of section 97 shall give rise to any liability to stamp duty.

Exemptions from stamp duty land tax

109A.

- (1) A land transaction effected by or in consequence of -
 - (a) an amalgamation of two or more building societies under section 93; or
 - (b) a transfer of engagements between building societies under section 94,is exempt from charge for the purposes of stamp duty land tax.
- (2) Relief under this section must be claimed in a land transaction return or an amendment of such a return.
- (3) In this section -
 - 'land transaction' has the meaning given by section 43(1) of the Finance Act 2003;
 - 'land transaction return' has the meaning given by section 76(1) of that Act.

Officers and auditors not to be exempted from liability

110.

- (1) Subject to subsection (3) below, any provision to which this section applies, whether contained in the rules of a building society or in any contract with a building society or otherwise shall be void.
- (2) This section applies to any provision for -
 - (a) exempting any director, other officer or person employed as auditor of a building society from any liability which, by virtue of any rule of law, would otherwise attach to him in respect of the negligence, default, breach of duty, or breach, of trust of which he may be guilty in relation to the society, or
 - (b) indemnifying any such person against any such liability.
- (3) Subsection (1) above shall not prevent a building society from
 - (a) purchasing and maintaining for a person insurance against any such liability, or
 - (b) indemnifying a person against any liability incurred by him in defending any proceedings (whether civil or criminal) in which judgment is given in his favour or he is acquitted.

- (4) Section 1157 of the Companies Act 2006 (power of court to grant relief in certain cases of negligence, default, breach of duty or breach of trust) shall apply in relation to officers and auditors of a building society as it applies in relation to officers and auditors of a company.

Time limit for commencing proceedings

111. (1) Notwithstanding any limitation on the time for the taking of proceeding contained in any Act, summary proceedings for any offence under this Act **other than an offence in relation to which provision is made in subsection (1A)** may, subject to subsection (2) below, be commenced by the FCA at any time, within the period of one year beginning with the date on which evidence sufficient in its opinion to justify a prosecution for the offence, comes to its knowledge.

(1A) Notwithstanding any limitation on the time for taking proceedings contained in any Act, summary proceedings for the offences under the provisions listed in subsection (1B), in the circumstances specified in that subsection in relation to those provisions, may be commenced by the PRA, after notifying the FCA, or by the FCA, after notifying the PRA, at any time within the period mentioned in subsection (1C).

(1B) The provisions and the circumstances are –

(a) section 52 (powers to obtain information and documents etc.), if-

(i) the failure referred to in subsection (10) of that section is a failure to furnish any information or accountant's report, to produce any documents or material, or to provide any explanation or make any statement to the PRA, or

(ii) the information, explanation or statement referred to in subsection (11) or (12) of that section is furnished, provided or made to the PRA;

(b) section 55 (investigations), if the person appointed under subsection (1) of that section was appointed by the PRA;

(c) section 81 (laying and furnishing accounts), if the default referred to in subsection (4) of that section relates to a failure to send a copy of the accounts to the PRA in accordance with subsection (2) of that section;

(d) section 87 (dissolution by consent), if the failure referred to in subsection (5) or (7) of that section relates to a failure to give notice to the PRA;

(e) section 88 (voluntary winding up), if the failure referred to in subsection (4) of that section relates to a failure to send a copy of the resolution to the PRA in accordance with subsection (2) of that section;

(f) section 91 (power of court to declare dissolution of building society void), if the failure referred to in subsection (5) of that section relates to a failure to send a copy of an order to the PRA in accordance with subsection (4) of that section;

(g) section 95 (mergers: provisions supplementing sections 93 and 94), if the application referred to subsection (3) of that section was made, or should have been made, to the PRA;

(h) section 98 (transfers of business: supplementary provisions), if the application referred to subsection (2) of that section was made, or should have been made, to the PRA;

(i) Schedule 8A, paragraph 3(5) (directions under section 42B(3)), if the PRA has given a direction under section 42B(3);

(j) Schedule 8A, paragraph 9(5) (directions under section 42B(4)), if the PRA has given a direction under section 42B(4);

(k) Schedule 11, paragraph 3 (auditors: appointment), if the failure referred to in subparagraph (2) of that paragraph relates to a failure to give notice to the PRA in accordance with sub-paragraph (1) of that paragraph;

(l) Schedule 11, paragraph 6 (auditors: removal), if the failure referred to in subparagraph (3) of that paragraph relates to a failure to give notice to the PRA in accordance with sub-paragraph (2) of that paragraph;

(m) Schedule 11, paragraph 7 (auditors: resignation), if the default referred to in subparagraph (8) of that paragraph relates to a failure to send any notice or statement to the PRA in accordance with sub-paragraph (3) or (7) of that paragraph;

(n) Schedule 15, paragraph 21 (application of companies winding up legislation to building societies: winding up by the court), if the failure referred to in subparagraph (4) of that paragraph relates to a failure to give notice to the PRA in accordance with sub-paragraph (3) of that paragraph;

(o) Schedule 15, paragraph 48 (modified application of Insolvency (Northern Ireland) Order 1989: winding up by the High Court), if the failure referred to in subparagraph (4) of that paragraph relates to a failure to give notice to the PRA in accordance with sub-paragraph (3) of that paragraph; and

(p) Schedule 16, paragraph 6 (mergers: penalty), if the default referred to in subparagraph (1) of that paragraph relates to a failure to send a copy of a statement or notification to the PRA in accordance with paragraph 5(1) of that Schedule.

(1C) The period is one year beginning with the date on which evidence comes to the knowledge of one or both of the FCA and the PRA, being evidence sufficient in the opinion of the FCA or the PRA (as the case may be) to justify a prosecution.

(2) Nothing in subsection (1) or (1A) above shall authorise the commencement of proceedings for any offence at a time more than three years after the date on which the offence was committed.

(3) For the purposes of subsection (1) and subsection (1C) of this section a certificate, purporting to be signed by or on behalf of the FCA or the PRA, as to the date on which such evidence as is mentioned in the relevant subsection came to its knowledge, shall be conclusive evidence of that date.

(4) In the application of this section to Scotland -

(a) for subsection (1), substitute -

“(1) Notwithstanding any limitation on the time for the taking of proceedings contained in any Act, summary proceedings for any offence under this Act may, subject to subsection (2), be commenced by the Lord Advocate at any time within the period of one year beginning with the date on which evidence sufficient in the opinion of the Lord Advocate to justify a prosecution for the offence, comes to the knowledge of the Lord Advocate”;

(b) omit subsections (1A), (1B) and (1C); and

(c) for subsection (3), substitute -

“(3) For the purposes of subsection (1) of this section a certificate, purporting to be signed by or on behalf of the Lord Advocate, as to the date on which such evidence as is mentioned in that subsection came to the knowledge of the Lord Advocate, shall be conclusive evidence of that date”.

(5) In the application of this section to Scotland, section 136(3) of the Criminal Procedure (Scotland) Act 1995 shall apply for the purposes of this section as it applies for the purposes of that section.

Offences: liability of officers and defence of due diligence

- 112.** (1) Where an offence under any provision of this Act committed by a building society is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any officer of the society he, as well as the society, shall be guilty of that offence and liable to be proceeded against and punished in accordance with that provision.
- (2) — — —
- (3) Where an offence under any provision of this Act committed by a body corporate other than a building society is proved to have been committed with the consent or connivance, or to be attributable to any neglect on the part of, any officer of the body corporate he, as well as the body corporate, shall be guilty of that offence and liable to be proceeded against and punished accordingly.
- (4) In any proceedings for an offence under this Act, it shall be a defence for a person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence by himself or any person under his control.

Evidence

- 113.** (1) Any document bearing the seal or stamp of the **FCA** 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 **FCA or the PRA** 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 **FCA or the PRA** for the purposes of or in connection with this Act.
- (2) Any printed document purporting to be a copy of the rules or memorandum of a building society, and certified by the secretary or other officer of the society to be a true copy of its rules or memorandum as registered, shall be received in evidence and shall, in the absence of any evidence to the contrary, be deemed to be a true copy of its rules or memorandum.

Records

- 114.** (1) Subject to any other provision of this Act or regulations under it, any record to be kept by a building society may be kept in any manner.
- (2) Where any such record is not kept by making entries in a bound book, but by some other means, adequate precautions shall be taken for guarding against falsification and facilitating its discovery.
- (3) The power in subsection (1) above includes power to keep the record by recording matters otherwise than in legible form so long as the recording is capable of being reproduced in a legible form; and any duty imposed by or under this Act to allow inspection of, or to furnish a copy of, the record or any part of it is to be treated as a duty to allow inspection of, or to furnish, a reproduction of the recording or of the relevant part of it in a legible form.
- (4) The Treasury may by regulations make such provision in addition to subsection (3) above as they consider appropriate in connection with such records as are kept otherwise than in legible form; and the regulations may make modifications of this Act so far as it relates to the records of building societies.
- (5) It default is made in complying with this section the building society shall be liable on summary conviction -
- (a) to a fine not exceeding level 4 on the standard scale, and
- (b) in the case of a continuing offence, to an additional fine not exceeding £100 for every day during which the offence continues,
- and so shall any officer who is also guilty of the offence.

Service of notices

115. (1) This section has effect in relation to any notice, directions or other document required or authorised by or under any provision of this Act or by the rules of a building society to be served on any person other than the **FCA or the PRA** but subject, in the case of notices or other documents to be given or sent to members of a building society, to any, provision of its rules.

(1A) — — —

(2) Any such document may be served on the person in question -

- (a) by delivering it to him;
- (b) by leaving it at his proper address; or
- (c) by sending it by post to him at that address.

(2A) The reference in subsection (2)(a) to delivering a document to a person includes a reference to sending it electronically to an electronic address which that person has notified for the purpose in accordance with express provision made by this Act.

(3) Any such document may -

- (a) in the case of a building society, be served on the secretary of the society;
- (b) in the case of a body corporate (other than a building society), be served on the secretary or clerk of that body;
- (c) in the case of a partnership, be served on any partner;
- (d) in the case of an unincorporated association other than a partnership, be served on any member of its governing body.

(4) For the purposes of this section and section 7 of the Interpretation Act 1978 (service of documents) in its application to this section, the proper address of any person is -

- (a) in the case of a building society or its secretary, the address of its principal office;
- (b) in the case of a member of a building society, his registered address;
- (c) in the case of a director or the chief executive of a building society, his officially notified address;
- (d) in the case of a body corporate (other than a building society) its secretary or clerk, the address of its registered or principal office in the United Kingdom;
- (e) in the case of an unincorporated association (other than a partnership) or a member of its governing body, its principal office in the United Kingdom;

and, in any other case, his last-known address (whether of his residence or of a place where he carries on business or is employed).

Form of documents

116.-(1) The **FCA and the PRA may each**, 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.

(1A) The PRA and the FCA must each consult the other before issuing a direction under this section if the document in question is required to be sent to both of them.

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

Financial year of building societies

117. (1) Subject to the provisions of this section and Schedule 20, the financial year of building societies shall be the period of twelve months ending with 31st December.

- (2) The initial financial year of a building society shall be such period as expires with the end of the calendar year in which it is established and the final financial year of a building society shall be such shorter period than twelve months as expires with the date as at which the society makes up its final accounts.
- (3) A building society whose financial year does not, by virtue of the saving provisions of Schedule 20, end with 31st December may alter its financial year by making up its accounts for one period of more than 6 months, and not more than, 18 months ending with 31st December; and in relation to a building society exercising the power conferred by this subsection, references in this Act to a financial year of the society include references to that period.

[section 118 revoked]

Interpretation

119. (1) In this Act, except where the context otherwise requires-

'annual accounts' has the meaning given in section 81B(1)

'the annual business statement' has the meaning given by section 74(1);

'the applicable winding up legislation' and 'the companies winding up legislation' have the meanings given by section 90;

'the appropriate authority' means –

- (a) in relation to a building society which is a PRA-authorized person, the PRA; and
- (b) in relation to a building society which is not a PRA-authorized person, the FCA;

'associated undertaking' has the meaning given by section 119A;

'ballot' means an electronic ballot or a postal ballot, as the case may be;

'borrowing members' resolution' has the meaning given by paragraph 29(1) of Schedule 2 to this Act and, subject to paragraph 29(2), 'borrowing member' has the meaning given by paragraph 5 of that Schedule;

'Building Societies Act accounts' means Building Societies Act individual accounts and, where required, any Building Societies Act group accounts;

'Building Societies Act group accounts' has the meaning given by section 72E(3)(a)

'Building Societies Act individual accounts' has the meaning given by section 72A(2)(a)

'building society' means a building society incorporated (or deemed to be incorporated) under this Act;

'building society insolvency', 'building society insolvency order' and 'building society liquidator' shall be construed in accordance with Part 2 of the Banking Act 2009 as applied with modifications by section 90C above;

'building society special administration', 'building society special administration order' and 'building society special administrator' shall be construed in accordance with Part 3 of the Banking Act 2009 as applied with modifications by section 90C above;

'the Companies Acts' has the meaning given by section 2(1) of the Companies Act 2006;

'connected undertaking' means a subsidiary undertaking or an associated undertaking;

'the court', in relation to a building society, means the court which has jurisdiction under the applicable winding up legislation to wind up the society;

and, in relation to the winding up of a building society, means the court which has jurisdiction under the applicable winding up legislation to wind up the society;

'deferred shares' means shares of a class defined by order of the Treasury in a statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament;

'deposit' includes -

- (a) a loan; and
- (b) a subordinated deposit, that is to say, a deposit which, on a winding up, would fall to be repaid only after repayment in full had been made to the holders of shares in the society other than deferred shares,

and cognate expressions shall be construed accordingly;

'dispose', in relation to any property, includes the granting of any interest in or right over it;

'electronic address' includes any number or address used for the purposes of receiving electronic communications which are sent electronically;

'electronic ballot', in relation to an election or resolution of a building society, means the electronic ballot taking place, in accordance with paragraph 33A of Schedule 2 to this Act, in the case of the election or resolution;

'electronic communication' means an electronic communication within the meaning of the Electronic Communications Act 2000 the processing of which on receipt is intended to produce writing;

'executive', in relation to a director, means a person who holds office as a director and also as chief executive, secretary or manager;

'the FCA' means the Financial Conduct Authority;

'financial year' is to be construed in accordance with section 117;

'group accounts' has the meaning given by section 72E(1);

'heritable security' means a security capable of being constituted over any land by disposition or assignation of that interest in security of any debt and of being recorded in the Register of Sasines or, as the case may be, in the Land Register of Scotland and includes a security constituted by a standard security and any other charge enforceable in the same manner as a standard security;

'IAS accounts' means IAS individual accounts or IAS group accounts;

'IAS group accounts' has the meaning given by section 72E(3)(b);

'IAS individual accounts' has the meaning given by section 72A(2)(b);

'individual accounts' has the meaning given by section 72A(1);

'interest', in relation to shares, includes dividends;

'land', in the expression 'loan secured on land', has the meaning given by section 6A(8);

'loan secured on land' and 'loan fully secured on land' shall be construed in accordance with sections 6A and 6B respectively;

'manager', in relation to a building society, means a person (other than the chief executive) employed by the society who, under the immediate authority of a director or the chief executive of the society exercises managerial functions or is responsible for maintaining accounts or other records of the society;

'member' shall be construed in accordance with paragraph 5 of Schedule 2 to this Act;

'memorandum' has the meaning given by paragraph 1 of Schedule 2 to the Act;

'mortgage' includes charge;

'mortgage debt', in relation to a loan secured on land and any time, means the total amount outstanding at that time in respect of-

- (a) the principal of the loan;
- (b) interest on the loan; and
- (c) any other sum which the borrower is obliged to pay the society under the terms of the loan;

'notice' means written notice but includes a notice in an electronic communication to the extent only that this Act provides for the manner in which the notice may be given electronically, and 'notice to' and 'notify' shall be construed accordingly;

'officer', in relation to a building society, means any director, chief executive, secretary or manager of the society; and, in relation to any offence, 'officer' also includes any person who purports to act as an officer of the society; and in relation to any other body corporate means the corresponding officers of that body;

'officially notified', in relation to the appointment or address of a director or the chief executive of a building society, means respectively notified to, and the last address notified to, the **FCA** under section 61(13) or 59(6), as the case maybe;

'ordinary resolution' means a resolution which will be effective without being passed as a special resolution, shareholding members' resolution or borrowing members' resolution;

'own funds' means own funds as defined in Section 1 of Chapter 2 of Title V of the Banking Consolidation Directive;

'postal ballot', in relation to an election or resolution of a building society, means any postal ballot taking place by virtue of any rules of the society made in accordance with paragraph 33 of Schedule 2 to this Act, in the case of the election or resolution;

'PRA-authorized person' has the meaning in section 2B of the Financial Services and Markets Act 2000;

'the PRA' means the Prudential Regulation Authority;

'the public file', in relation to a building society, means the file relating to the society which the **FCA** is required to maintain under section 106;

'registered address', in relation to a member of a building society, has the meaning given by paragraph 13 of Schedule 2 to this Act;

'the repealed enactments' means the Building Societies Act 1962 or the Building Societies Act 1874 or, in relation to Northern Ireland, the Building Societies Act (Northern Ireland) 1967;

'residential property' has the meaning given by section 5(10);

'share', in relation to a building society, shall be construed in accordance with section 8;

'shareholder and depositor' includes a potential shareholder or depositor;

'shareholding member' has the meaning given by paragraph 5 of Schedule 2 to this Act;

'shareholding members' resolution' has the meaning given by paragraph 27A of that Schedule;

'special resolution' has the meaning given by paragraph 27 of Schedule 2 to this Act ;

'summary financial statement' has the meaning given by section 76(1);

'undertaking' and 'subsidiary undertaking' have the same meaning as in the Companies Acts (see sections 1161(1) and 1162 of, and Schedule 7 to, the Companies Act 2006);

- (1A) Any reference in this Act to the seal of the **FCA** 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 **FCA's** common seal).
- (2) In relation to loans secured on land in Scotland, 'mortgage' means a heritable security, 'mortgagor' and 'mortgagee' mean respectively the debtor and creditor in a heritable security and connected expressions shall be construed accordingly.
- (2A) ---
- (2B) In this Act 'the Banking Consolidation Directive' means Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions.
- (2C) ---
- (3) For the purposes of any provision of this Act referring to the value of a person's shareholding in a building society -
- (a) the value of a person's shares shall be taken as the amount standing to his credit in respect of payments made ___ on the shares and interest credited ___ by way of capitalisation; and
 - (b) shares held by a person to whom, as the holder of the share, the society has made a loan, shall be disregarded.
- (3A) Any reference in this Act (however expressed) to loans being owed to a building society or a subsidiary undertaking of a building society is a reference to their being so owed either at law or in equity.
- (4) Subject to section 9A(7), the value in sterling of -
- (a) any transaction effected by or with a building society or connected undertaking in another currency, or
 - (b) any assets or liabilities of a building society or connected undertaking denominated in another currency,
- shall be determined for any purpose of this Act in accordance with directions given by the **appropriate authority** under this subsection.
- (5) ---

Meaning of 'associated undertaking'

- 119A.** (1) In this Act 'associated undertaking', in relation to a building society, means an undertaking (other than a subsidiary undertaking of the society) -
- (a) in which the society (or the group of which the society is a member) holds a participating interest, and
 - (b) over whose operating and financial policy the society (or group) exercises a significant influence.
- (2) A 'participating interest' means an interest in the shares of the undertaking held on a long term basis for the purpose of securing a contribution to the activities of the society (or group) by the exercise of control or influence arising from or related to that interest.
- (3) For this purpose -
- (a) a holding of 20% or more of the shares of an undertaking is presumed to be a participating interest unless the contrary is shown;
 - (b) an 'interest in shares' includes-
 - (i) an interest that is convertible into an interest in shares, and
 - (ii) an option to acquire shares or any such interest,and an interest or option falls within sub-paragraph (i) or (ii) notwithstanding that the shares to which it relates are, until the conversion or the exercise of the option, unissued;
 - (c) an interest held on behalf of an undertaking is treated as held by it.
- (4) A holding of 20% or more of the voting rights in an undertaking is presumed to result in the exercise of such influence as is mentioned in subsection (1)(b), unless the contrary is shown.
- (5) For this purpose -
- (a) the voting rights in an undertaking means the rights conferred on shareholders in respect of their shares or, in the case of an undertaking not having a share capital, on members, to vote on all, or substantially all, matters affecting the undertaking; and
 - (b) the provisions of paragraphs 5 to 11 of Schedule 7 to the Companies Act 2006 (rights to be taken into account and attribution of rights) apply in determining whether the society (or the group) holds 20% or more of the voting rights in an undertaking.
- (6) References in this section to the group of which the society is a member at any time are to the undertakings that would fall to be included in the consolidation if consolidated group accounts were to be drawn up by the society at that time.
- (7) An undertaking is not an 'associated undertaking' of a building society for the purposes of this Act if, in such accounts, it would fall to be dealt with as a joint venture (that is, an undertaking managed jointly with one or more undertakings not included in the consolidation).

Amendments, repeals, revocations, and transitional and saving provisions

- 120.** (1) The enactments specified in Schedule 18 to this Act shall have effect with the amendments made by that Schedule.
- (2) Subject to the saving provisions of Schedule 20, and of any order under section 121, the enactments specified in Schedule 19 to this Act are hereby repealed or revoked to the extent specified in the third column of that Schedule.
- (3) Where any enactment amended or repealed or revoked by subsection (1) or (2) above extends to any part of the United Kingdom, the amendment or repeal or revocation extends to that part.
- (4) The transitional and saving provisions of Schedule 20 to this Act shall have effect.

Power to make transitional and savings provisions

- 121.** (1) The Treasury may, by order made by statutory instrument, make such provision as appears to them to be necessary or expedient for the purposes of the transition to the provisions of this Act from the existing enactments applicable in England and Wales, Scotland or Northern Ireland to building societies.
- (2) An order under this section may -
- (a) modify any of the existing enactments or provisions of this Act, in particular in their application to proceedings pending before the Chief Registrar or the Commission;
 - (b) create criminal offences or otherwise provide for the enforcement of obligations imposed by or under the order;
 - (c) provide for the charging of fees but not of any charge in the nature of taxation.
- (3) An order under this section which contains any provision authorised by subsection (2)(b) or (c) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) In this section 'the existing enactments' means the enactments in force at the passing of this Act, including any enactment amended by Schedule 18 to this Act.

Northern Ireland

- 122.** (1) ___ Subject to section 120(3), this Act extends to Northern Ireland.
- (2) ___

[sections 123 – 124 revoked]

Short title

- 125.** This Act may be cited as the Building Societies Act 1986.

Commencement

- 126.** (1) This Act shall come into operation as follows.
- (2) Part I (and Schedule 1) shall come into operation at the end of the period of two months beginning with the day on which this Act is passed.
- (3) The remaining provisions of this Act, except sections 121, ___ 125, this section, in Schedule 20, paragraph 7 (and section 120(4) so far as it relates to that paragraph) ___, shall come into operation on such day as the Treasury may appoint by order made by statutory instrument and different days may be appointed for different provisions or different purposes.
- (4) ___
- (5) Any reference to the commencement of or the commencement date for a provision of this Act is a reference to the date appointed under this section for that provision to come into operation.

BUILDING SOCIETIES ACT 1986

Schedules

Recent amendments are in red

[Schedule 1 revoked]

SCHEDULE 2:

Establishment, incorporation and constitution of building societies

Part I: General

Requirements for establishment

1. (1) Any ten more persons may establish a society under this Act by taking the following steps -
 - (a) agreeing upon the purpose or principal purpose of the society and upon the extent of its powers in a memorandum the provision of which comply with the requirements of this Part of this Schedule;
 - (b) agreeing upon rules for the regulation of the society which comply with the requirements of this Part of this Schedule;
 - (c) sending to the **FCA** three copies of the memorandum and the rules, each copy signed by at least ten of those persons (or, if there are only ten, by all of them) and by the intended secretary.
- (2) Where copies of the memorandum and rules are sent to the **FCA** in accordance with sub-paragraph (1)(c) above, the **FCA**, if satisfied that -
 - (a) the provision of the memorandum are in conformity with this Act and any instruments under it,
 - (b) the rules are in conformity with this Act,
 - (c) the intended name of the society is not, in its opinion, undesirable,shall register the society and issue it with a certificate of incorporation.
- (3) On registering a building society under sub-paragraph (2) above, the **FCA** shall -
 - (a) retain and register one copy of the memorandum and of the rules,
 - (b) return another copy to the secretary of the society, together with a certificate of registration, and
 - (c) keep another copy, together with a copy of the certificate of incorporation, and of the certificate of registration of the memorandum and the rules, in the public file of the society.
- (4) In this Act 'memorandum', in relation to a building society, means the memorandum of the purpose and the extent of the powers of the society including the record of any alteration under paragraph 4 below.

The memorandum

2. (1) The memorandum of a building society shall state the purpose or principal purpose of the society to be that of making loans which are secured on residential property and are funded substantially by its members.
- (2) The memorandum of a building society shall specify -
 - (a) the name of the society and the address of its principal office;
 - (b) any purposes of the society other than that mentioned in sub-paragraph (1) above; and
 - (c) the powers of the society.
- (4) The provision of the memorandum of a building society, as read with the provisions of this Act as in force for the time being, are binding upon -
 - (a) each of the members and officers of the society; and
 - (b) all persons claiming on account of a member or under the rules;

and all such members, officers and persons so claiming and all persons dealing with the society shall be taken to have notice of those provisions.

(5) _ _ _

The rules

3. (1) The rules of a building a society shall provide for the matters specified in the Table in sub-paragraph (4) below.
- (2) The rules of a building society are binding upon each of the members and officers of the society and on all persons claiming on account of a member or under the rules; and all such members, officers and persons (but no others) shall be taken to have notice of the rules.
- (3) Nothing in this paragraph shall be taken to authorise any provision to be made which is inconsistent with this Act or an instrument made under it by _ _ _ the Treasury or to affect the operation of any provision of this Act making rules void to any specified extent.
- (4) The Table referred to in sub-paragraph (1) above is follows -

TABLE OF MATTERS TO BE COVERED BY THE RULES

1. The name of the society and the address of its principal office.
2. The manner in which the funds of the society are to be raised.
3. The manner in which the terms are to be determined on which shares are to be issued and the manner in which shareholders are to be informed of changes in the terms on which their shares are held.

4. Whether any preferential or deferred shares are to be issued and, if so, within what limits.
5. The manner in which loans are to be made and repaid, and the conditions on which a borrower may redeem the amount due from him before the end of the period for which the loan was made.
6. The manner in which losses are to be ascertained and provided for.
7. The manner in which membership is to cease.
8. The manner of remunerating the auditors.
9. As respects directors -
 - (a) the manner of electing them and whether they may be co-opted;
 - (b) any conditions which must be satisfied with respect to the holding of shares in the society if a person is to become, or is to remain, a director;
 - (c) the manner of remunerating and, where it is not to be fixed by resolution at the annual general meeting, the maximum amount of the remuneration to be paid to, directors; and
 - (d) the circumstances in which pensions may be awarded to persons by virtue of their office as director and the method of determining the terms of such pensions.
10. The powers and duties of the board of directors.
11. The custody of the mortgage deeds and other securities belonging to the society.
12. The form, custody and use of the society's common seal.
13. The calling and holding of meetings and, in particular -
 - (a) the right of members to requisition meetings;
 - (b) the right of members to move resolutions at meetings;
 - (c) the manner in which notice of any resolutions to be moved at meetings is to be given to members;
 - (d) the procedure to be observed at meetings;
 - (e) the form of notice for the convening of a meeting and the manner of its service;
 - (f) the voting rights of members, the right to demand a poll and the manner in which a poll is to be taken.
14. The entitlement of members to participate in the distribution of any surplus assets after payments to creditors, on the winding up, or dissolution by consent, of the society.

- (5) Nothing in the rules of a society shall prevent the service of a notice or other document by the society -
- (a) by sending it electronically to an electronic address notified for the purpose in accordance with express provision made by this Act; or
 - (b) by its publication on a web site in accordance with any such provision.

Requirements for alteration of purpose, powers and rules

4. (1) A building society may by special resolution alter its purposes, alter its powers or alter its rules.
- (2) Where a building society alters its purpose or powers or its rules under this paragraph, it shall send to the FCA -
- (a) three copies of a record of the alteration signed by the secretary; and
 - (b) a statutory declaration by the secretary that the alteration was effected by a resolution passed as a special resolution and that the record is a true record of the resolution.
- (3) On altering its purpose or powers or its rules under this paragraph the building society shall determine the date on which it intends the alteration to take effect; and the record of the alteration shall specify that date (in this paragraph referred to as ‘the specified date’).
- (4) Where copies of a record of an alteration of a building society's purpose, powers or rules are sent to the FCA under sub-paragraph (2) above and the FCA is satisfied that the alteration is in conformity with this Act and (where applicable) any instruments under it, the FCA shall _ _ _ -
- (a) retain and register one of the copies,
 - (b) return another to the secretary of the society together with a certificate of registration of the alteration, and
 - (c) keep another copy, together with a copy of the certificate of registration of the alteration, in the public file of the society.
- (5) An alteration of the purpose or powers or of the rules of a building society under this paragraph shall take effect on the specified date or, if registration of the alteration is not effected under sub-paragraph (4) above until a later date, that later date.
- (6) Any provision in the rules of a building society that the memorandum or rules may be altered without passing a special resolution shall be void.
- (7) If a building society arranges for the publication in consolidated form of its rules or memorandum as altered for the time being, it shall send a copy to the FCA and the FCA -
- (a) shall keep the copy in the public file of the society, but
 - (b) shall not register the copy.
- (8) If a building society fails to comply with sub-paragraph (2) above, 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.

Membership

5. (1) The rules of a building society shall provide that no person shall be a member of the society unless he is a shareholding member or a borrowing member or both.
- (2) In this Act, in relation to a building society -
- 'borrowing member' means, subject to sub-paragraphs (2A) and (2B) and paragraph 29(2) below, an individual who is indebted to the society -
- (a) in respect of a loan which is fully secured on land; or
- (b) if the rules of the society so provide, in respect of a loan which is (within the meaning of the rules) substantially secured on land;
- 'shareholding member' means a person who holds a share in the society.
- (2A) If the rules of a building society so provide, an individual shall cease to be a borrowing member at any time if at that time the society -
- (a) takes possession of, or exercises its power of sale in relation to, the whole or any part of the land on which the loan is secured; or
- (b) obtains an order for foreclosure absolute or, in Scotland, foreclosure in respect of the whole or any part of that land.
- (2B) Unless the rules of a building society so provide, an individual shall not be a borrowing member at any time if at that time the loan is owed to the society in equity rather than at law.
- (3) A person who is a minor -
- (a) may, if the rules do not otherwise provide, be admitted as a member of a building society and give all necessary receipts; but
- (b) may not propose a resolution, vote or hold any office in the society; and
- (c) may not join in requisitioning a special meeting or nominate, or join in nominating, a person for election as a director of the society.

Liability of members

6. (1) The liability at any time of a shareholding member of a building society shall be limited to the amount which, at that time, has been actually paid, or is in arrear, on his shares in the society.
- (2) The liability at any time of a borrowing member of a building society shall be limited to the amount which, at that time, is payable under the mortgage or other security by which his indebtedness to the society in respect of the loan is secured.

Joint shareholders

7. (1) Two or more persons may jointly hold shares in a building society and the following provisions of this paragraph shall apply to any shares so held.
- (2) In this paragraph, in relation to any shares jointly held 'representative joint holder' means that one of the Joint holders who is named first in the records of the society.
- (3) Except where the rules of the society otherwise provide, any notice or other document may be given or sent by the society to the joint holders by being given or sent to the representative joint holder; but this sub-paragraph shall not prevent any of the joint holders from exercising the rights under this Act of a member of a building society to obtain from the society on demand a copy of the summary financial statement, the annual accounts and the annual business statement.
- (4) For the purpose of determining -
- (a) who is entitled to vote in an election of directors of the society;
- (b) who is qualified to vote on a resolution of the society, and
- (c) where it is relevant, the number of votes a person may then give, the shares shall be treated as held by the representative joint holder alone; and accordingly a person who is a member of the society by reason only of being a joint holder of those shares (other than the representative joint holder) shall not be entitled to vote in any such election or qualified to vote on any such resolution.
- (5) For the purposes of sections 87 and 93 to 102 the shares shall be treated as held by the representative joint holder alone; and accordingly a person who is a member of the 'Society by reason only of being a joint holder of those shares (other than the representative joint holder) shall not be regarded as a member of the society for the purposes of those sections.
- (5A) In its application to section 100, sub-paragraph (5) above shall have effect subject to the provisions of section 102A.
- (6) The representative joint holder (but none of the other joint holders) shall have the right to join in making an application under section 56 and any reference in that section to the total membership of a building society shall be construed accordingly.
- (7) In the register to be maintained under paragraph 13 below the entry of that one of the joint holders who is the representative joint holder, shall indicate that fact.
- (8) The joint holders shall be entitled to choose the order in which they are named in the records of the society.

Joint borrowers

8. (1) Where a loan secured on land is made by a building society to two or more persons jointly the following provisions of this paragraph shall apply to their rights as borrowing members of the society.
- (2) In this paragraph, in relation to any rights of theirs as borrowing members, 'representative joint borrower' means that one of the joint borrowers who is named first in the records of the society.
- (3) Except where the rules of the society otherwise provide, any notice or other document may be given or sent by the society to the joint borrowers by being given or sent to the representative joint borrower; but this sub-paragraph shall not prevent any of the joint

borrowers from exercising the rights under this Act of a borrowing member of a building society to obtain from the society on demand a copy of the summary financial statement, the annual accounts and the annual business statement.

- (4) For the purpose of determining -
 - (a) who is entitled to vote in any election of directors of the society, and
 - (b) who is qualified to vote on a resolution of the society,

the rights of the joint borrowers as borrowing members of the society shall be treated as the rights of the representative joint borrower alone; and accordingly a person who is a member of the society by reason only of being a joint borrower (other than the representative joint borrower) shall not be entitled to vote in any such election or qualified to vote on any such resolution.
- (5) For the purposes of sections 87 and 93 to 102 the rights of the joint borrowers as borrowing members of the society shall be treated as the rights of the representative joint borrower alone; and accordingly a person who is a member of the society by reason only of being a joint borrower (other than the representative joint borrower) shall not be regarded as a borrowing member of the society for the purposes of those sections.
- (6) The representative joint borrower (but none of the other joint borrowers) shall have the right to join in making an application under section 56 and any reference in that section to the total membership of a building society shall be construed accordingly.
- (7) In the register to be maintained under paragraph 13 below the entry of that one of the joint borrowers who is the representative joint borrower shall indicate that fact.
- (8) The joint borrowers shall be entitled to choose the order in which they are named in the records of the society.

Use and change of name

9. (1) The common seal of a building society shall bear the registered name of the society.
- (2) Every building society shall paint or affix, and keep painted or affixed, its registered name on the outside of every office or place in which its business is carried on, in a conspicuous position and in letters easily legible.
- (2A) Every building society shall state its registered name in legible characters in all of the following documents, in every electronic communication containing any of the following documents and on every web site on which any of the following documents is published, namely -
 - (a) its business letters;
 - (b) its account statements, including those relating to deposit, share, loan or mortgage accounts;
 - (c) its passbooks;
 - (d) its notices and publications, including all documents sent to members;
 - (e) its invoices and receipts;

- (f) its letters of credit and any instruments creating or acknowledging its indebtedness;
 - (g) its contracts, agreements, mortgages and deeds; and
 - (h) its bills of exchange, promissory notes, endorsements, cheques and orders for money or goods.
- (3) A building society may change its name by special resolution.
 - (4) Where a society changes its name in accordance with this paragraph notice of the change of name shall be sent to the FCA and, unless the FCA is of the opinion that the changed name is undesirable, the FCA shall register the notice of the change of name and give the society a certificate of registration.
 - (5) A change of name shall take effect on the date on which the certificate of registration under sub-paragraph (4) above is issued or on such later date as may be specified in the certificate.
 - (6) The FCA shall keep a copy of the certificate of registration issued under sub-paragraph (4) above in the public file of the society.
 - (7) A change of name shall not affect the rights and obligations of the society or of any of its members or of any other person concerned.
 - (8) For the purposes of this paragraph and paragraphs 10 to 10C below 'registered name', in relation to a building society, means the name of the society which is for the time being registered with the FCA.

Offences relating to society's name

- 10. (1) If a building society does not -
 - (a) paint or affix its registered name; or
 - (b) keep its registered name painted or affixed,
 as required by paragraph 9(2) above, the society shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (2) A building society which, without reasonable excuse, does not comply with paragraph 9(2A) above shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (3) If an officer of a building society or a person on its behalf issues or authorises the issue of any document mentioned in paragraph 9(2A)(a) to (g) above, in which the society's registered name is not stated as required by that paragraph, he shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (4) If an officer of a building society or a person on its behalf signs or authorises to be signed on behalf of the building society any document mentioned in paragraph 9(2A)(h) above in which the society's registered name is not stated as required by that paragraph -
 - (a) he shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale; and

- (b) he shall be further personally liable to the holder of the bill of exchange, promissory note, cheque or order for money or goods for the amount of it (unless it is duly paid by the building society).
- (5) If a building society fails to send to the **FCA** a notice which it is required to send to it under paragraph 9(4) above, the society shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale and so shall any officer who is also guilty of the offence.

Restrictions on business names

- 10A. (1) This paragraph and paragraph 10B below apply where a building society carries on business under a name other than the following, namely -
- (a) its registered name;
 - (b) its registered name with the omission of the words 'Building Society'; and
 - (c) its registered name with an addition which merely indicates that the business is carried on in succession to a former building society with which it has merged.
- (2) The society shall not, without the written approval of the **FCA**, carry on business under a name which -
- (a) would be likely to give the impression that the business is connected with Her Majesty's Government or with any local authority, or
 - (b) includes any word or expression for the time being specified in regulations made under sub-paragraph (3) below.
- (3) The Treasury may by regulations -
- (a) specify words or expressions for the use of which as or as part of a business name the approval of the **FCA** is required by sub-paragraph (2) above, and
 - (b) in relation to any such word or expression, specify a Government department or other body for the purposes of sub-paragraph (4) below.
- (4) Where the society proposes to carry on business under a name which is or includes any such word or expression, and a government department or other body is specified under sub-paragraph (3)(b) above in relation to that word or expression, the society shall -
- (a) request (in writing) the relevant body to indicate whether (and if so why) it has any objections to the proposal, and
 - (b) submit to the **FCA** a statement that such a request has been made and a copy of any response received from the relevant body.
- (5) For the purposes of this paragraph 'local authority' means -
- (a) any local authority within the meaning of the Local Government Act 1972, the Common Council of the City of London or the Council of the Isles of Scilly;
 - (b) any local authority within the meaning of the Local Government etc. (Scotland) Act 1994;

- (c) any district council within the meaning of the Local Government Act (Northern Ireland) 1972.

Use of business names: required disclosure

- 10B. (1) Paragraph 9(2A) above shall have effect as if after the words 'in legible characters' there were inserted the words 'which are reasonably prominent'.
- (2) The society shall in all documents mentioned in paragraph 9(2A) above state in legible characters an address in the United Kingdom at which service of any document relating in any way to the business will be effective.
- (3) The society shall also in any premises where the business is carried on and to which the members of the society, the customers of the business or suppliers of any goods or services to the business have access, display in a prominent position so that it may easily be read by such persons a notice containing the society's registered name and the address mentioned in sub-paragraph (2) above.
- (4) The society shall secure that the registered name and the address mentioned in sub-paragraph (2) above is immediately given, by written notice, to any person with whom anything is done or discussed in the course of the business and who asks for the registered name or the address.
- (5) The Treasury may by regulations require a notice under sub-paragraph (3) or (4) above to be displayed or given in a specified form.

Use of business names: supplementary

- 10C. (1) A building society which contravenes paragraph 10A(2) above shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (2) A building society which, without reasonable excuse, does not comply with paragraph 9(2A) or 10B(2), (3) or (4) above, or any regulations made under paragraph 10B(5) above, shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (3) Where paragraph 10A above applies any legal proceedings brought by the society to enforce a right arising out of a contract made in the course of the business in respect of which the society was, at the time the contract was made, in breach of paragraph 9(2A) or 10B(2), (3) or (4) above shall be dismissed if the defendant (or, in Scotland, the defender) to the proceedings shows -
- (a) that he has a claim against the plaintiff (pursuer) arising out of that contract which he has been unable to pursue by reason of the plaintiff's (pursuer's) breach of paragraph 9(2A) or 10B(2), (3) or (4) above, or
- (b) that he has suffered some financial loss in connection with the contract by reason of the latter's breach of paragraph 9(2A) or 10B(2), (3) or (4) above,
- unless the court before which the proceedings are brought is satisfied that it is just and equitable to let the proceedings continue.
- (4) Sub-paragraph (3) above is without prejudice to the right of any person to enforce such rights as he may have against another person in any proceedings brought by that person.
- (5) Regulations made under paragraph 10A(3) or 10B(5) above shall be made by statutory instrument subject to annulment by resolution of either House of Parliament.

- (6) Such regulations may contain such transitional provisions and savings as the Treasury think fit, and may make different provision for different cases or classes of case.

Change of principal office

11. (1) A building society may change its principal office -
- (a) in such manner as its rules direct, or
 - (b) if there is no such direction in the rules, by an ordinary resolution.
- (2) Notice of any such change and of the date of it shall, within seven days after the change, be sent to the FCA and the FCA shall keep the notice in the public file of the society.
- (3) It is not necessary to alter the memorandum or rules of a building society by reason only that its principal office is changed.
- (4) If a building society fails to send to the FCA a notice which it is required to send to it under sub-paragraph (2) above, 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.

Societies to supply copies of rules etc

12. (1) A building society shall, on demand, give a copy of its statutory documents -
- (a) free of charge, to any member of the society to whom a copy of those documents has not previously been given, and
 - (b) to any other person, upon payment of such fee as the society may require, not exceeding the prescribed amount.
- (2) The reference in sub-paragraph (1) above to a copy of a building society's statutory documents is a reference to -
- (a) a printed copy of the society's rules for the time being, with a copy of the certificate of incorporation of the society annexed to it, and
 - (b) a printed copy of the memorandum of the society for the time being.
- (3) If a building society fails to comply with the requirements of sub-paragraph (1) above, 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.
- (4) In sub-paragraph (1) above the 'prescribed amount' means £1 or such other amount as the Treasury prescribe by order made by statutory instrument.

Register of members

13. (1) Every building society shall maintain a register of members showing -
- (a) the name and postal address of each member; and
 - (b) whether each member is a shareholding member or a borrowing member or both.

- (1A) Where a member has notified to the building society an electronic address for the purpose of receiving notices or documents required to be sent by the society under this Act, the register shall show -
- (a) the electronic address in addition to the postal address of the member; and
 - (b) the purposes for which the electronic address has been notified.
- (2) The register shall be kept at the principal office or at such other place or places as the directors think fit.
- (3) If a building society contravenes sub-paragraph (1) above, 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.
- (4) For the purposes of this Act 'registered address' in relation to a member of a building society, means -
- (a) the postal address shown in the register maintained under this paragraph, except in a case where paragraph (b) below applies;
 - (b) where the member has requested that communications from the society be sent to some other postal address, that other address.

Exception to duties to send documents

14. (1) A building society is not obliged by any provision of this Act or its rules to send a notice or other document to a member in whose case the society has reason to believe that communications sent to him at his registered address are unlikely to be received by him.
- (2) Where the requirement relates to notice of a meeting or postal ballot of the society, the society must, instead, comply with the advertising requirements of paragraph 35 below.

Right of members to obtain particulars from the register

15. (1) At any time when a building society -
- (a) has had its permission under **Part 4A** of the Financial Services and Markets Act 2000 to accept deposits cancelled; and
 - (b) has not subsequently been given such permission,
- a member of the society shall, subject to sub-paragraph (1A) below, have the right to obtain, from the register kept under paragraph 13 above, the names and addresses of members of the society, for the purpose of communicating with them on a subject relating to the affairs of the society.
- (1A) Sub-paragraph (1) above shall not apply unless the member in question -
- (a) is qualified under the rules of the society to join in a members' requisition for a special meeting, or to join in nominating a person for election as a director; or
 - (b) would be so qualified if any requirements as to length of time a person must have been a shareholding or borrowing member were omitted.

- (2) If, at any time not falling within sub-paragraph (1) above, a member of a building society who is qualified under the rules of the society to join in a members' requisition for a special meeting, or to join in nominating a person for election as a director, makes a written application to the FCA for the right to obtain names and addresses from the register, the FCA -
- (a) if satisfied that the applicant -
 - (i) requires that right for the purpose of communicating with members of the society on a subject relating to its affairs; and
 - (ii) has not, since making the application, voluntarily ceased to be a member of the society; and
 - (b) having regard to the interests of the members as a whole and to all the other circumstances;
 - (c) ---
- may direct that the applicant shall have the right to obtain from the register the names and addresses of the members for the purpose of communicating with them on that subject.
- (2A) The FCA may charge a reasonable fee for considering an application under subparagraph (2) above.
- (3) Any direction under sub-paragraph (2) above may be given subject to such limitations or conditions as the FCA may think fit.
- (3A) The FCA must consult the PRA before giving a direction under sub-paragraph (2).**
- (4) Before giving a direction under sub-paragraph (2) above, the FCA shall give particulars of the application to the building society and shall afford the society an opportunity of making representations with respect to the application; and the FCA shall, if the applicant or the society so requests, afford to the applicant and to the society an opportunity of being heard by it.
- (5) A member entitled under this paragraph to obtain the names of members of a building society may apply in writing to the society, describing in the application the subject on which he proposes to communicate with other members of the society; and the society shall give him all necessary information as to the place or places where the register, or part of it, is kept, and reasonable facilities for inspecting the register and taking a copy of any names and addresses in the register.
- (6) A building society shall not be obliged to disclose to a member making an application under this paragraph any particulars contained in the register other than the names of the members and their addresses, and may construct the register in such a way that it is possible to disclose the names and addresses to inspection without disclosing any such other particulars.
- (7) No information obtained under sub-paragraph (1) or (2) above or this sub-paragraph and relating to a member of the society may be disclosed except -
- (a) with the consent of that member; or
 - (b) in the case of information obtained under sub-paragraph (1) or (2) above, for purposes connected with the purpose mentioned in that paragraph.

- (8) Any person who discloses information in contravention of sub-paragraph (7) above shall be liable -
 - (a) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or both; and
 - (b) on summary conviction, to a fine not exceeding the statutory maximum.
- (9) ---
- (10) ---
- (11) ---

Part II: Capacity of Society and Power of Directors to Bind it

Capacity of society not limited by its memorandum

- 16. (1) The validity of an act done by a building society shall not be called into question on the ground of lack of capacity by reason of anything included in the society's memorandum.
- (2) A member of a building society may bring proceedings to restrain the doing of an act which but for sub-paragraph (1) above would be beyond the society's capacity; but no such proceedings shall lie in respect of an act to be done in fulfilment of a legal obligation arising from a previous act of the society.
- (3) It remains the duty of the directors of a building society to observe any limitations on their powers flowing from the society's memorandum; and action by the directors which but for sub-paragraph (1) above would be beyond the society's capacity may only be ratified by the society by special resolution.
- (4) A resolution ratifying such action shall not affect any liability incurred by the directors or any other person; relief from any such liability must be agreed to separately by special resolution.

Power of directors to bind society

- 17. (1) In favour of a person dealing with a building society in good faith, the power of the board of directors to bind the society, or authorise others to do so, shall not be limited by reason of anything included in the society's constitution, that is to say, its memorandum and rules.
- (2) For this purpose -
 - (a) a person deals with a building society if he is a party to any transaction or other act to which the society is a party;
 - (b) a person shall not be regarded as acting in bad faith by reason only of his knowing that an act is beyond the powers of the directors under the society's constitution; and
 - (c) a person shall be presumed to have acted in good faith unless the contrary is proved.

- (3) The references above to limitations on the directors' powers under the society's constitution include limitations deriving from a resolution of the society passed at a general meeting or special meeting or on a postal or electronic ballot, or from any agreement between the members of the society.
- (4) Notwithstanding anything in paragraph 3(2) above, sub-paragraph (1) above applies in relation to members of the society, and to persons claiming on account of members or under the rules of the society, as it applies in relation to other persons.
- (5) Sub-paragraph (1) above does not affect any right of a member of the society to bring proceedings to restrain the doing of an act which is beyond the powers of the directors; but no such proceedings shall lie in respect of an act to be done in fulfilment of a legal obligation arising from a previous act of the society.
- (6) Nor does that sub-paragraph affect any liability incurred by the directors, or any other person, by reason of the directors' exceeding their powers.

No duty to enquire as to capacity of society etc.

- 18. (1) A party to a transaction with a building society is not bound to enquire as to whether it is permitted by the society's constitution or as to any limitation on the powers of the board of directors to bind the society or authorise others to do so.
- (2) Notwithstanding anything in paragraph 3(2) above, sub-paragraph (1) above applies in relation to members of the society as it applies in relation to other persons.
- 19. ---

Part III: Meetings, Resolutions and Postal Ballots

Annual general meeting

- 20. (1) Subject to sub-paragraph (2) below, every building society shall hold a meeting in the first four months of each financial year as its annual general meeting (in addition to any other meetings in that year) and shall specify the meeting as such in the notices calling it.
- (2) Sub-paragraph (1) above does not require a building society to hold an annual general meeting in the calendar year in which it is incorporated.
- (3) If default is made in holding a meeting in accordance with sub-paragraph (1) above, the FCA may -
 - (a) call, or direct the calling of, an annual general meeting in that financial year, and
 - (b) give such ancillary or consequential directions as it thinks expedient, including directions modifying or supplementing the operation of the rules of the society in relation to the calling, holding and conducting of the meeting.
- (4) Notwithstanding anything in the rules of a building society, the business which may be dealt with at the annual general meeting shall include any resolution whether special or not
- (5) In any case where default is made -

- (a) in holding an annual general meeting in accordance with sub-paragraph (1) above, or
- (b) in complying with any directions of the FCA given under sub-paragraph (3) above,

the building 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.

Special meeting on members' requisition

20A. (1) On a members' requisition, a building society shall -

- (a) duly call a special meeting, and specify the meeting as such in the notice calling it; and
- (b) if so required by the requisition, send to each member entitled to receive notice of the meeting a copy of a statement of not more than 500 words with respect to the matters to be dealt with at the meeting;

and where a meeting is so called no business shall be conducted at the meeting other than that stated in the notice calling it or (where applicable) that mentioned in sub-paragraph (8)(b) below.

(1A) Where a copy of a statement is required to be sent to a member under subparagraph (1)(b) -

- (a) it may be sent to him electronically only if it is sent to an electronic address notified by the member for the purpose; but
- (b) the requirement to send it shall also be treated as satisfied if the conditions set out in sub-paragraph (1B) are satisfied.

(1B) The requirements of this sub-paragraph are satisfied in the case of a statement if -

- (a) the society and that member have agreed that information which is required to be sent to him may instead be accessed by him on a website;
- (b) the agreement applies to the statement in question;
- (c) no later than one working day after the statement is first capable of being accessed on a web site that person is notified, in a manner agreed between him and the society, of—
 - (i) the publication of the statement on a web site,
 - (ii) the address of that web site,
 - (iii) the place on that web site where the statement may be accessed, and how it may be accessed; and
- (d) a copy of the statement is published continuously on that web site throughout the period beginning (so far as practicable) at the same time as copies of the statement are sent to members in accordance with sub-paragraph (1)(b), and ending with the conclusion of the meeting.

- (2) A members' requisition is a requisition of not less than the requisite number of members of the society; and that number is 500 or such lesser number as may be specified in the rules of the society.
- (3) The requisition -
- (a) must state the objects of the meeting, be signed by the requisitionists and be deposited at the society's principal office; and
 - (b) may consist of several documents in like form each signed by one or more requisitionists and each after the first deposited within three months of the date on which the first was deposited.
- (4) Where the requisition consists of several documents, the date of its deposit shall be taken to be the date on which the document signed by the requisitionist making up the requisite number is deposited at the society's principal office.
- (5) The rules of the society may require a requisitionist -
- (a) to state his full name and address;
 - (b) to fulfil one or other of the following conditions, namely -
 - (i) to have been a shareholding member for a specified period and to hold, or to have held at any time during that period, shares in the society to such value (not greater than the prescribed amount) as is specified in the rules; and
 - (ii) to have been a borrowing member for a specified period and to owe to the society, or to have owed to the society at any time during that period, a mortgage debt of such amount (not greater than the prescribed amount) as is so specified; and
 - (c) to identify a share or mortgage account with the society which will evidence the fact that he fulfils one or other of those conditions;
- and in this sub-paragraph 'specified period' means such period (not more than two years) before the date of the requisition as is specified in the rules.
- (6) No objection may be made by virtue of such rules to the requisition or, where the requisition consists of several documents, to any of those documents unless it is made within 14 days of the requisition or document being deposited at the society's principal office.
- (7) The rules of the society may also require a sum of money, not exceeding £50 per requisitionist, to be deposited with the requisition; and, where any money is so deposited, it shall be forfeited to the society, or returned to the persons who deposited it, as provided by the rules.
- (8) The rules shall not provide for any deposited money to be forfeited to the society except-
- (a) where a quorum is not present within half an hour after the time appointed for the meeting; or
 - (b) where and to the extent that those eligible to vote at the meeting decide by ordinary resolution that the money should be applied to defray the whole or any part of the expenses of holding the meeting.

- (9) If the rules of a building society so provide, sub-paragraph (1) above does not require the society -
- (a) to call a special meeting if the only or main object of the meeting is to move a resolution in substantially the same terms as any resolution which has been defeated at a meeting or on a postal or electronic ballot during the period beginning with the third annual general meeting before the date on which the requisition is deposited at the society's principal office; or
 - (b) to call a special meeting to be held during the period of four months beginning one month after the end of its financial year.
- (10) Sub-paragraph (1)(b) above does not require the society to send copies of a statement to members entitled to receive notice of a meeting in any case where -
- (a) publicity for the statement would be likely to diminish substantially the confidence in the society of investing members of the public; or
 - (b) the rights conferred by sub-paragraph (1)(b) above are being abused to seek needless publicity for defamatory matter or for frivolous or vexatious purposes;
- and that provision shall not be taken to confer any rights on members, or to impose any duties on a building society, in respect of a statement which does not relate directly to the affairs of the society.
- (11) Where sub-paragraph (1)(b) above requires copies of a statement to be sent to members entitled to receive notice of a meeting, the proceedings at the meeting are not invalidated by -
- (a) the accidental omission to send a copy of the statement to a member entitled to receive one, or
 - (b) the non-receipt of such a copy by such a member.
- (11A) Where, in a case in which sub-paragraph (1A)(b) is relied on for compliance with a requirement of sub-paragraph (1)(b) -
- (a) a statement is published for a part, but not all, of the period mentioned in subparagraph (1B)(d), but
 - (b) the failure to publish it throughout that period is wholly attributable to circumstances which it would not be reasonable to have expected the society to prevent or avoid,
- the failure shall not invalidate the proceedings at the meeting.
- (12) The **appropriate authority** shall hear and determine any dispute arising under sub-paragraph (10)(a) above, whether on the application of the society or of any other person who claims to be aggrieved.
- (13) The Treasury may by order substitute -
- (a) for the number specified in sub-paragraph (2) above; or
 - (b) for the sum specified in sub-paragraph (7) above,

such other number or sum as appears to them to be appropriate; and an order under this subsection may make such supplementary, transitional and saving provision as appears to the Treasury to be necessary or expedient.

- (14) The power to make an order under sub-paragraph (13) above is exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Failure to comply with members' requisition

- 20B. (1) This paragraph applies where a members' requisition is deposited at a building society's principal office and the society is not relieved of the obligation to call a special meeting by paragraph 20A(9)(a) above.
- (2) Subject to sub-paragraph (5) below, if the society does not within 28 days from the date of the deposit of the requisition duly call a meeting to be held within 63 days from that date -
- (a) the requisitionists, or any proportion of them exceeding one half, may themselves call a meeting to be held within five months from that date; and
- (b) no business shall be conducted at a meeting so called other than that stated in the notice calling it or (where applicable) that mentioned in paragraph 20A(8)(b) above.
- (3) A meeting called under sub-paragraph (2) above by requisitionists shall be called in the same manner, as nearly as may be, as that in which meetings are to be called by the society.
- (4) If -
- (a) paragraph 20A(1)(b) above requires the society to send to each member entitled to receive notice of the meeting a copy of a statement of not more than 500 words with respect to the matters to be dealt with at the meeting; and
- (b) subject to sub-paragraph (5) below, that requirement is not complied with within 28 days from the date of the deposit of the requisition,
- the requisitionists, or any proportion of them exceeding one half, may themselves send a copy of the statement to each such member.
- (5) If the rules of the society make such provision as is mentioned in paragraph 20A(9)(b) above, any days falling within the period there mentioned shall be disregarded in determining any period for the purposes of sub-paragraph (2) or (4)(b) above.
- (6) Any reasonable expenses incurred by the requisitionists by reason of the failure of the society to call a meeting, or to comply with such a requirement as is mentioned in sub-paragraph (4) above, shall be repaid to the requisitionists by the society.
- (7) Any sum so repaid shall be recoverable by the society from such of the directors of the society as were responsible for the failure (whether by the retention of fees or other remuneration in respect of services or otherwise).

Length of notice for calling meetings

21. (1) Any provision contained in the rules of a building society shall be void to the extent that it provides for the calling of a meeting of the society (other than an

adjourned meeting) by less than 21 days' notice expiring with the date of the meeting or, if earlier the date specified by the society, under its rules, as the final date for the receipt of appointments of proxies to vote at the meeting.

- (2) A meeting of a building society may be called by 21 days' notice, unless the rules provide for longer notice of the meeting to be given.
- (3) Where notice of a meeting is given in accordance with subparagraph (2) above, the notice shall be taken for the purposes of this Act or any other enactment to have been duly given according to the rules of the building society.

Persons entitled to notice of meetings

22. (1) Subject to the provisions of this Part of this Schedule, notice of a meeting of a building society shall be given to every member of the society who would be eligible to vote at the meeting if the meeting were held on the date of the notice.
- (2) Notice of the meeting shall, subject to those provisions, be given also to every person -
 - (a) who becomes a shareholding or borrowing member of the society after the date of the notice under sub-paragraph (1) above and before the specified date; or
 - (b) who, being such a member at the date of that notice, attains the age of 18 after that date and on or before the date of the meeting,and who would (in either case) be eligible to vote at the meeting if he remained such a member until the date of the meeting.
- (2A) In sub-paragraph (2) above 'the specified date' means the date specified by the society as the final date for the receipt of appointments of proxies to vote at the meeting.
- (3) Accidental omission to give notice of a meeting to, or non-receipt of notice of a meeting by, any person entitled to receive notice of the meeting does not invalidate the proceedings at that meeting.

Transmission of notice of meeting to an electronic address

- 22A. (1) Where a notice of a meeting of a society is required to be sent to a person under any provision of this Act, the notice may be sent to him electronically only if it is sent to an electronic address notified by him to the society for the purpose.
- (2) In a case in which this paragraph is relied on for compliance with a requirement to send a notice, a notice given in accordance with this paragraph is to be treated as given to a person on the day that the notice is transmitted.

Publication of notice of meeting on a web site

- 22B. (1) A requirement under any provision of this Act to send a notice of a meeting of the society to a person shall also be treated as satisfied if the conditions set out in subparagraph (2) are satisfied.
- (2) The conditions of this sub-paragraph are satisfied in the case of a notice of a meeting of a society if -
 - (a) the society and the person have agreed that notices which are required to be sent to him may instead be accessed by him on a web site;

- (b) the agreement applies to the notice in question
 - (c) that person is notified, in a manner agreed between him and the society for that purpose, of -
 - (i) the publication of the notice on a web site,
 - (ii) the address of that web site, and
 - (iii) the place on that web site where the notice may be accessed, and how it may be accessed; and
 - (d) the notice is published continuously on that web site throughout the period beginning with the giving of that notification and ending with the conclusion of the meeting.
- (3) A notification given for the purposes of sub-paragraph (2)(c) must -
- (a) state that it concerns a notice of a meeting of the society served in accordance with this Act;
 - (b) specify the place, date and time of the meeting; and
 - (c) state whether the meeting is to be an annual or special general meeting.
- (4) In a case in which this paragraph is relied on for compliance with a requirement to send a notice, a notice given in accordance with this paragraph is to be treated as given to a person on the day that person is notified in compliance with sub-paragraphs (2)(c) and (3).
- (5) Where, in a case in which this paragraph is relied on for compliance with a requirement to send a notice of a meeting -
- (a) a notice is published for a part, but not all, of the period mentioned in subparagraph (2)(d), but
 - (b) the failure to publish it throughout that period is wholly attributable to circumstances which it would not be reasonable to have expected the society to prevent or avoid,
- the failure shall not invalidate the proceedings of the meeting.

Members' entitlement to vote on resolutions

23. (1) A member of a building society is entitled to vote -
- (a) on an ordinary resolution or a special resolution if he was, at the end of the last financial year before the voting date, and is, on that date, a shareholding or borrowing member of the society;
 - (b) on a shareholding members' resolution, if he was, at the end of that year, and is, on that date, a shareholding member of the society; and
 - (c) on a borrowing members' resolution if he was, at the end of that year, and is, on that date, a borrowing member of the society,

but subject, in either case, to paragraphs 5(3), 7(4) and 8(4) above and, in the case of paragraphs (a) and (b), to sub-paragraph (3) below.

- (2) Subject to the following provisions of this paragraph, any provision in the rules of a building society is void to the extent that it would have the effect of restricting the rights conferred on members by sub-paragraph (1) above.
- (3) If the rules of the society so provide, a shareholding member is not entitled to vote on an ordinary resolution or a special resolution as such a member, or to vote on a shareholding members' resolution -
 - (a) if he did not have a qualifying shareholding at the qualifying shareholding date; or
 - (b) if he ceased to hold shares at some time between that date and the voting date.
- (4) Where a building society's rules make such provision as is mentioned in sub-paragraph (3)(a) above, a shareholding member shall be taken to have had a qualifying shareholding at the qualifying shareholding date if he had such a holding -
 - (a) at the end of the last financial year before the voting date, except where paragraph (b) below applies; or
 - (b) in a case where the voting date falls during that part of a financial year which follows the conclusion of the annual general meeting commenced in that year, at the beginning of the period of 56 days immediately preceding the voting date for members voting in person at a meeting or, as the case may be, on a postal or electronic ballot.
- (5) For the purposes of this paragraph a member of a building society has a 'qualifying shareholding' at any time if at that time he holds shares in the society to a value not less than the prescribed amount or such lesser amount as may be specified in the rules.
- (6) In this paragraph 'voting date' with reference to any resolution, means -
 - (a) the date of the meeting at which the resolution is intended to be moved, except where paragraph (b) or (c) below applies;
 - (b) where voting on the resolution is to be conducted by postal ballot or by electronic ballot in the case of which not all the voting is electronic (within the meaning of paragraph 33A of Schedule 2), the date which the society specifies as the final date for the receipt of completed ballot papers;
 - (bb) in the case of an election conducted by electronic ballot in which all the voting is electronic voting (within the meaning of that paragraph), the date which the society ___ specifies as the final date for registering votes;
 - (c) in the case of a member appointing a proxy to vote instead of him at a meeting, the date which the society specifies as the final date for the receipt of appointments of proxies to vote on that resolution.

Proxies

24. (1) A member of a building society who is entitled to attend and vote at a meeting of the society -

- (a) may appoint another person (whether a member of the society or not) as his proxy, to attend and, subject to sub-paragraph (3) below, to vote at the meeting instead of him, and
- (b) may direct the proxy how to vote at the meeting.

(1A) A form for the appointment of a proxy –

- (a) may be sent electronically to a member if it is sent to an electronic address notified by that member to the society for the purpose;
- (b) is to be treated as having been sent electronically to a member, where the conditions in sub-paragraph (1B) below are satisfied.

(1B) The conditions are that –

- (a) the society and the member have agreed that a form may instead be accessed by the member on a website;
- (b) in a manner agreed between the society and that member, the member is notified of -
 - (i) the publication of the form on a website;
 - (ii) the address of that website; and
 - (iii) the place on that website where the form may be accessed, and how it may be accessed; and
- (c) the form is published on the website throughout the period beginning with the day on which the member is notified in accordance with paragraph (b) above and ending with the last day specified for the return of appointments of proxies.

(1C) If the form is absent from the website for part of the period referred to in sub-paragraph (1B)(c), the absence is to be disregarded if it is wholly attributable to circumstances that it would not be reasonable to have expected the society to prevent or avoid.

(1D) Where a form for the appointment of a proxy is made available by a society on a website in accordance with subsection (1A)(b), the society may also make available on the website a facility for completing the form and returning the appointment in an electronic communication (but see paragraph 34).

- (2) Where the society, under its rules, specifies a final date for the receipt of appointments of proxies to vote at a meeting a person appointed a proxy by a member who at that date is entitled to attend and vote at the meeting may act as his proxy at the meeting whether or not the member ceases to be so entitled after that date.

- (3) A proxy is entitled to vote on a poll but, subject to any provision in the rules of the building society, not otherwise.
- (4) In every notice calling a meeting of a building society there shall appear with reasonable prominence a statement -
- (a) that a member entitled to attend and vote may appoint a proxy (or, where it is allowed, one or more proxies) to attend and vote at the meeting instead of him;
 - (b) that the proxy need not be a member of the society; and
 - (c) that the member may direct the proxy how to vote at the meeting.
- (4A) Every form for the appointment of a proxy sent by a building society to persons entitled to notice of a meeting of the society must contain provision enabling that person to direct the proxy how to vote at the meeting.
- (5) If default is made in complying with sub-paragraph (4) above in respect of a meeting of a building society, or in complying with sub-paragraph (4A) above in respect of a form of appointment of a proxy, 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.
- (6) Any provision contained in the rules of a building society shall be void in so far as it would have the effect of requiring the appointment of a proxy, or any document necessary to show the validity of, or otherwise relating to, the appointment of a proxy, to be received by the society or any other person more than seven days before a meeting or adjourned meeting in order that the appointment may be effective at the meeting or adjourned meeting.

Right to demand a poll

25. (1) Any provision contained in the rules of a building society shall be void in so far as it would have the effect either -
- (a) of excluding the right to demand a poll at a meeting of the society on any question other than the election of a chairman of the meeting or the adjournment of the meeting, or
 - (b) of making ineffective a demand for a poll on any such question which is made by not less than ten members having the right to vote at the meeting.
- (2) Any appointment of a proxy to vote at a meeting of a building society shall be taken also to confer authority to demand or join in demanding a poll; and for the purposes of sub-paragraph (1) above a demand by a person as proxy of a member shall be the same as a demand by the member.

Special resolutions

26. No resolution of a building society shall be passed as a special resolution, or as a shareholding members' resolution, unless it is required to be so passed by or under any provision of this Act or by the rules of the society.
27. (1) A resolution of a building society shall be a special resolution when it has been passed by not less than three-quarters of the number of the members of the society qualified to vote on a special resolution and voting either -

- (a) in person or by proxy on a poll on the resolution at a meeting of the society of which notice specifying the intention to move the resolution as a special resolution has been duly given; or
 - (b) in a postal or electronic ballot on the resolution of which notice specifying that the resolution will not be effective unless it is passed as a special resolution has been duly given.
- (2) In any rules made by a building society on or after 1st October 1960, whether before or after the commencement of this Act, 'special resolution', unless the context otherwise requires, means a special resolution as defined in this paragraph.
- 27A. A resolution of a building society shall be a shareholding members' resolution when it has been passed by not less than three-quarters of the number of the shareholding members of the society -
- (a) qualified to vote on a shareholding members' resolution; and
 - (b) voting in person or by proxy on a poll on the resolution at a meeting of the society of which notice specifying the intention to move the resolution as a shareholding members' resolution has been duly given.

Borrowing members' resolutions

28. No resolution of a building society shall be passed as a borrowing members' resolution unless it is required to be so passed by or under any provision of this Act or by the rules of the society.
29. (1) A resolution of a building society shall be a borrowing members' resolution when it has been passed by a majority of the borrowing members of the society voting in person or by proxy on a poll on the resolution at a meeting of the society of which notice specifying the intention to move the resolution as a borrowing members' resolution has been duly given.
- (2) For the purposes of this Part of this Schedule, an individual who is indebted to a building society in respect of a loan fully secured on land is not a borrowing member of the society at any time if at that time the amount of his mortgage debt is less than the prescribed amount.
- (3) Where a borrowing member's resolution approving a transfer of engagements by a building society is moved, only those borrowing members whose mortgages are to be transferred shall be entitled to vote on the resolution.
- (4) In any rules made by a building society after the commencement of this paragraph, 'borrowing members' resolution', unless the context otherwise requires, means a borrowing members' resolution as defined in this paragraph.

Transfer resolutions

30. (1) The transfer resolutions required for the purposes of section 97 for the approval by members of a building society of a transfer of its business are two resolutions, of which -
- (a) one is passed as a borrowing members' resolution, and
 - (b) the other ('the requisite shareholders' resolution') is passed in accordance with sub-paragraphs (2) to (5) below.

- (2) In a case where the successor is to be a specially formed company, the requisite shareholders' resolution -
- (a) must be passed as a shareholding members' resolution, and
 - (b) must be passed on a poll on which not less than 50 per cent, of the members of the society qualified to vote on a shareholding members' resolution voted;
- and the notice of tile resolution required by paragraph 27A above must specify that the resolution will not be effective unless both of the requirements specified in this sub-paragraph are fulfilled.
- (3) Subject to any direction under sub-paragraph (5) below, in a case where the successor is to be an existing company, the requisite shareholders' resolution must be passed as a shareholding members' resolution and either -
- (a) must be passed by not less than 50 per cent of the members qualified to vote on a shareholding members' resolution, or
 - (b) must be passed by the holders, being members qualified to vote on a shareholding members' resolution, of shares in the society to a value, on the voting date, representing not less than 90 per cent of the total value of the shares held on that date by the members so qualified to vote;
- and, in either case, the resolution must be a resolution in relation to which the notice required by paragraph 27A above includes a statement specifying that the resolution will not be effective unless either of the above requirements is fulfilled _ _ _ .
- (4) If the **appropriate authority** considers it expedient, in relation to a transfer of the business of a building society to an existing company, to do so for the purpose of protecting the investments of the shareholders of or depositors with the society, it may give a direction under sub-paragraph (5) below.
- (4A) If the appropriate authority is the PRA, it must consult the FCA before giving a direction under sub-paragraph (5).**
- (5) A direction under this sub-paragraph is a direction that, for the purposes of the transfer of business specified in the direction, the requisite shareholders' resolution is to be effective if it is passed as a shareholding members' resolution.
- (6) The Treasury_ _ _ may by order amend sub-paragraph (2) (b), (3) (a) or (3) (b) above so as to substitute for the percentage for the time being specified in the sub-paragraph such other percentage as they think appropriate.
- (7) The power to make orders under sub-paragraph (6) above is exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (8) In this paragraph 'voting date', with reference to a requisite shareholders' resolution, has the same meaning as in paragraph 23(6) above.

Members' right to propose and circulate resolutions

31. (1) If at least the requisite number of qualified members of a building society give notice to the society of their intention to have moved on their behalf a resolution, other than a shareholding members' resolution or a borrowing members'

resolution, specified in the notice at an annual general meeting of the society, it shall be the duty of the society, subject to sub-paragraphs (4), (5) and (6) below -

- (a) to include in the notice of the annual general meeting a notice specifying the intention to have the resolution moved on their behalf at the meeting and, where applicable, the intention to move it as a special resolution ;
 - (b) at the request of the members intending to have the resolution moved on their behalf, to send to each member entitled to receive notice of the meeting a copy of any statement of not more than 500 words with respect to the matter referred to in the resolution.
- (2) For the purposes of sub-paragraph (1) above -
- (a) 'the requisite number' -
 - (i) in the case of a society in relation to which the difference between the total assets of the society as shown in the accounts last prepared by it under section 72A or 72E immediately before the date on which the members gave notice to the society under sub-paragraph (1) above and the aggregate of -
 - (aa) the liquid assets of the society as shown in those accounts in pursuance of regulations under section 72C or 72G or in accordance with international accounting standards, as appropriate; and
 - (bb) the fixed assets of the society as so shown,exceeds £100 million, is five hundred or such lesser number as is specified for the purpose in the rules of the society, and
 - (ii) in the case of any other society is one hundred or such lesser number as is specified for the purpose in the rules of the society;
 - (b) every member of a building society is a 'qualified member' unless the rules make other provision for the purpose which is not rendered void under sub-paragraph (3) below.
- (3) Any provision contained in the rules of a building society shall be void to the extent that it would have the effect of requiring a qualified member, for the purposes of sub-paragraph (1) above -
- (a) to have been a member for more than two years ending with the qualifying date; or
 - (b) if he claims eligibility as a shareholding member, to hold, or to have held at any time, shares in the society to a value greater than the prescribed amount in force on the qualifying date; or
 - (c) if he claims eligibility as a borrowing member, to owe to the society, or to have owed to the society at any time, a mortgage debt of an amount greater than the prescribed amount in force on the qualifying date;

and for the purposes of this sub-paragraph the qualifying date is the date on which the notice is given to the society under sub-paragraph (1) above.

- (4) Sub-paragraph (1) above does not require a building society to send notices of a resolution or copies of a statement to members of the society in any case where -
- (a) publicity for the resolution or, as the case may be, the statement would be likely to diminish substantially the confidence in the society of investing members of the public; or
 - (b) the rights conferred by sub-paragraph (1) are being abused to seek needless publicity for defamatory matter or for frivolous or vexatious purposes;

and that sub-paragraph shall not be taken to confer any rights on members, or to impose any duties on a building society, in respect of a resolution or statement which does not relate directly to the affairs of the society.

- (5) If the rules of a building society so provide, sub-paragraph (1) above does not require notice of a resolution to be given to members of the society if the resolution is in substantially the same terms as any resolution which has been defeated at a meeting or on a postal or electronic ballot during the period beginning with the third annual general meeting before the date on which notice of the resolution is given to the society.
- (6) No copies of a statement with respect to a resolution shall be sent to members of a building society if, on any of the grounds in sub-paragraph (4) or (5) above, the society does not give the notice of the resolution to them required by sub-paragraph (1)(a) above.
- (7) The PRA shall hear and determine any dispute arising under sub-paragraph (4) (a) above, whether on the application of the building society or of any other person who claims to be aggrieved.
- (8) If a building society fails to comply with the requirements of sub-paragraph (1) above where notice is duly given under that subparagraph, 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.
- (9) For the purposes of this paragraph 'liquid assets' and 'fixed assets', in the case of societies which produce IAS individual accounts or IAS group accounts, have the same meaning as given in section 6(16).

Members' resolutions: supplementary provisions

32. (1) Notice of a resolution given under paragraph 31(1) above must be given to the building society not later than the last day of the financial year preceding the financial year in which is held the annual general meeting at which it is intended to move the resolution; and any statement to be sent to members under paragraph 31(1)(b) above must also be notified to the society not later than that day.
- (2) The notices of a resolution and the copies of a statement required to be sent to members by paragraph 31(1)(a) or (b) above shall be sent to them in the same manner and (so far as practicable) at the same time as the notice of the annual general meeting at which the resolution is intended to be moved; and, where it is not practicable for them to be sent at the same time as the notice, they shall be sent as soon as practicable thereafter.
- (2A) Sub-paragraph (2B) applies where, in a case in which a society gives notice in accordance with paragraph 22A or 22B of this Schedule of the annual general meeting at which a resolution is intended to be moved, the notice of the resolution and the copy of a

statement in respect of the resolution that are required to be sent to a member under paragraph 31 (1)(a) or (b) are not transmitted or published at the same time as the notice.

- (2B) The requirement of sub-paragraph (2) to send a member his notice of the resolution and his copy of a statement in the same manner as the notice of the annual general meeting is satisfied if -
- (a) a notice of the resolution and a copy of the statement are made available to the member in the same way as the notice; or
 - (b) such a notice and such a copy (without being made available to the member in that way) are sent to the member in a manner set out by the society for the purpose in the notice.
- (2C) Where a notice of a resolution and copy of a statement are sent to a member electronically under sub-paragraph (2B), they must be sent to an electronic address notified by the member for the purpose.
- (2D) The requirements of sub-paragraph (2) or (2B)(a) are satisfied by the publication of a notice of the resolution and a copy of the statement on a web site only if -
- (a) the notice of the annual general meeting at which the resolution is intended to be moved is a notice given to that member by being published on a web site;
 - (b) an agreement between the society and the member to his accessing information on a web site applies to the notice of a resolution and copy of a statement for the meeting in question;
 - (c) the member is notified, in a manner agreed between the society and the member, of -
 - (i) the publication of the notice of a resolution and copy of a statement on a web site,
 - (ii) the address of that web site,
 - (iii) the place on that web site where the notice and copy may be accessed, and how they may be accessed;
 - (d) the notification for the purposes of paragraph (c) is given no later than the day after the date on which the notice of a resolution and the copy of a statement are first capable of being accessed on the notified web site;
 - (e) that date was the same as the date on which the notice of the annual general meeting was first capable of being accessed on a web site or (in a case to which sub-paragraph (2B)(a) applies) was as soon as practicable after that date;
 - (f) the notice of a resolution and copy of a statement are continuously published on the notified web site for a period beginning (so far as practicable) at the same time as the notices and statements are sent to members in accordance with sub-paragraph (2), and ending with the conclusion of the annual general meeting at which the resolution is moved.
- (3) Where notices of a resolution, or copies of a statement in respect of a resolution, intended to be moved at a meeting of a building society are required to be sent to any persons, the proceedings at the meeting are not invalidated by -

- (a) the accidental omission to send a notice or copy to a person entitled to receive one, or
 - (b) the non-receipt of a notice or copy by such a person.
- (3A) Where, in a case in which sub-paragraph (2D) is relied on for compliance with a requirement of sub-paragraph (2) or (2B)(a) -
- (a) a notice or copy ___ published for a part, but not all, of the period mentioned in subparagraph (2D)(f), but
 - (b) the failure to publish it throughout that period is wholly attributable to circumstances which it would not be reasonable to have expected the society to prevent or avoid,
- the failure shall not invalidate the proceedings at the meeting.
- (4) The Treasury may by order vary -
- (a) the definition of ‘requisite number’ or ‘qualified member’ in sub-paragraph (2) of paragraph 31 above, or
 - (b) the descriptions of provisions which are rendered void by sub-paragraph (3) of that paragraph.
- whether by the addition of any description or other provision or by the substitution or deletion of any definition, description or other provision for the time being specified or contained in that paragraph.
- (5) An order under sub-paragraph (4) above shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) An order under sub-paragraph (4) above may contain transitional, consequential or supplementary provision.

Postal ballot

33. (1) The rules of a building society may provide for the voting in an election of directors or on any resolution of the society (other than a shareholding members’ resolution or a borrowing members’ resolution) to be conducted in all, or in any particular, circumstances by postal ballot ___ .
- (1A) Rules made pursuant to sub-paragraph (1) may also make provision in relation to the use of electronic communications in the conduct of a postal ballot.
 - (2) Where, under the rules of a society, a postal ballot is to take place, the following provisions of this paragraph have effect.
 - (3) Notice of a postal ballot shall be given not less than 21 nor more than 56 days before the date which the society specifies as the final date for the receipt of completed ballot papers (referred to in this paragraph as ‘the voting day’).
 - (4) Subject to the provisions of this Part of this Schedule, notice of a postal ballot shall be given to every member of the society who would be entitled to vote in the election or on the resolution if the voting date for the election or the resolution fell on the date of the notice.

- (5) Notice of the postal ballot shall, subject to those provisions, be given also to every person -
- (a) who becomes a shareholding or borrowing member of the society after the date of the notice under sub-paragraph (4) above and before the voting day; or
 - (b) who, being such a member at the date of that notice, attains the age of 18 after that date and on or before the voting day, and who would (in either case) be eligible to vote in the election or on the resolution if he remained such a member until that day.
- (5A) Where a notice of a postal ballot is required to be given to a person by subparagraph (4) or (5), the notice may be sent to him electronically only if it is sent to an electronic address notified by the person to the society for the purpose.
- (5B) In a case in which notice of a postal ballot is sent electronically to an electronic address in accordance with sub-paragraph (5A), the notice is to be treated as given to a person on the day on which it is transmitted.
- (5C) A requirement of sub-paragraph (4) or (5) to send a notice of a postal ballot shall also be treated as satisfied if -
- (a) the society and the person have agreed that notices which are required to be sent to him may instead be accessed by him on a web site;
 - (b) the agreement applies to the notice in question
 - (c) that person is notified, in a manner agreed between him and the society for that purpose, of—
 - (i) the publication of the notice on a web site,
 - (ii) the address of that web site, and
 - (iii) the place on that web site where the notice may be accessed, and how it may be accessed; and
 - (d) the notice is published continuously on that web site throughout the period beginning with the giving of that notification and ending with the voting date (within the meaning of section 60(17)).
- (5D) In a case in which sub-paragraph (5B) is relied on for compliance with a requirement of sub-paragraph (4) or (5), a notice of a postal ballot is to be treated as sent to a person on the day when notification is given in accordance with sub-paragraph (5C)(d).
- (5E) Where, in a case in which sub-paragraph (5C) is relied on for compliance with a requirement of sub-paragraph (4) or (5) -
- (a) a notice of a postal ballot is published for a part, but not all, of the period mentioned in sub-paragraph (5C)(d), but
 - (b) the failure to publish it throughout that period is wholly attributable to circumstances which it would not be reasonable to have expected the society to prevent or avoid,

the failure shall not invalidate the postal ballot.

- (6) Notice of a postal ballot -
- (a) shall contain such other notices relating to the election or resolution ('related notices'), and
 - (b) shall be accompanied by such other documents ('accompanying documents'),
- as would be required to be given or sent to a member in connection with notice of a meeting, had it been intended to hold the election or vote on the resolution at a meeting instead of by postal ballot with the exception, however, of any notice relating to voting by proxy at a meeting.
- (6A) Where the notice of a postal ballot is required by sub-paragraph (6) to contain a related notice or to be accompanied by an accompanying document -
- (a) in a case where the notice of that ballot is given to a person electronically in accordance with sub-paragraph (5A), the related notice or accompanying document may be sent to him electronically only if it is sent to the same electronic address, and at the same time as the notice of the postal ballot;
 - (b) in a case where notice of that ballot is given on a web site in accordance with subparagraph (5C), the requirement to send the related notice or accompanying document to that person shall also be treated as satisfied if the conditions set out in sub-paragraph (6B) are satisfied.
- (6B) The conditions of this sub-paragraph are satisfied in the case of a related notice or accompanying document if -
- (a) the society and that member have agreed that information which is required to be sent to him may instead be accessed by him on a web site;
 - (b) the agreement applies to the related notice or accompanying document in question;
 - (c) at the same time and in the same manner as the society notifies that person of the publication of the notice of the postal ballot, it notifies him of -
 - (i) the publication of the related notice or accompanying document on a web site,
 - (ii) the address of that web site,
 - (iii) the place on that web site where that statement or notification may be accessed, and how it may be accessed; and
 - (d) the related notice or accompanying document is published continuously on that web site throughout the period beginning with the giving of that notification in accordance with paragraph (c) and ending with the voting date (within the meaning of section 60(17)).
- (6C) Where notice of a postal ballot and any related notice or accompanying document is sent to a person electronically, that person may return the completed voting paper to the society either -
- (a) by post; or

- (b) electronically by sending it to an electronic address notified by the society to that person for the purpose,

unless the rules of the society make provision to the contrary.

(7) Accidental omission -

- (a) to give notice of a postal ballot, or
- (b) to send any document required by sub-paragraph (6) above to accompany such a notice,

to any person entitled to receive it, or non-receipt of such a notice or document by such a person, does not invalidate the postal ballot.

(7A) Where, in a case in which sub-paragraph (6A)(b) is relied on for compliance with a requirement of sub-paragraph (6) -

- (a) a related notice or accompanying document is published for a part, but not all, of the period mentioned in sub-paragraph (6B)(d), but
- (b) the failure to publish it throughout that period is wholly attributable to circumstances which it would not be reasonable to have expected the society to prevent or avoid,

the failure shall not invalidate the postal ballot.

Electronic ballots

33A. (1) Where -

- (a) the rules of a building society provide for a postal ballot to be conducted in any circumstances in the case of an election or resolution, and
- (b) those rules do not expressly prohibit the conduct of an electronic ballot in those circumstances,

the ballot in the case of that election or resolution may, in those circumstances, be an electronic ballot instead of a postal ballot.

(2) A ballot in the case of an election or resolution is an electronic ballot if it is conducted -

- (a) in accordance with the following provisions of this paragraph as to electronic voting; and
- (b) in so far as it is not conducted with those provisions, as if it were a postal ballot.

(3) But voting in the case of an election or resolution may not be conducted by an electronic ballot in which all the voting is electronic voting in accordance with subparagraphs (8) to (10) unless the rules of the society expressly permit it.

(4) The rules of a building society may provide for voting in the case of -

- (a) an election of directors, or

- (b) a resolution of the society other than a share holding members' resolution or a borrowing members' resolution,

to be conducted by an electronic ballot in which all the voting is electronic voting in accordance with sub-paragraphs (8) to (10).

- (5) Where voting may be conducted by electronic ballot by virtue of sub-paragraph (1) the rules of the society may contain provision supplementing rules relating to postal ballots in so far as it is necessary to provide for the conduct of electronic voting in accordance with subparagraphs (8) to (10).
- (6) Where voting may be conducted by electronic ballot by virtue of sub-paragraph (1) or (3) the rules of the society may make provision as to the consequences of any irregularities occurring in the course of a ballot, including (but not restricted to) provision as to the validity of multiple votes cast by a member in the same election or on the same resolution.
- (7) In the case of an electronic ballot, the society is not required to send notice of the ballot to any person if -
 - (a) that person has agreed, in accordance with sub-paragraph (9)(a) below, that notices of electronic ballots and a voting facility may be accessed by him on a web site; and
 - (b) the society notifies that person in accordance with sub-paragraph (9)(c) below.
- (8) The voting of a person in an electronic ballot is electronic if -
 - (a) a person has access on a web site to the notice of the electronic ballot, any document which is required to accompany the notice and a facility for registering his vote;
 - (b) that person registers his vote by means of that facility; and
 - (c) the conditions set out in sub-paragraph (9) are satisfied.
- (9) The conditions of this sub-paragraph are satisfied if -
 - (a) the society and the person have agreed that notices of electronic ballots, any document which is required to accompany the notice, and a voting facility may be accessed by him on a web site;
 - (b) that agreement applies to the electronic ballot and accompanying documents in question;
 - (c) that person is notified, in a manner agreed for the purpose between him and the society of -
 - (i) the publication of the notice and documents and the availability of the voting facility on a web site,
 - (ii) the address of that web site, and
 - (iii) the place on that web site where the notice, any such documents, and the facility may be accessed, and how they may be accessed; and

- (d) the notice and each such document continues to be published and the facility continues to be available on that web site throughout the period beginning with the giving of that notification and ending with the date which the society specifies as the final date for the registration of votes.
- (10) A notice given for the purposes of sub-paragraph (9)(c) must -
- (a) state that it concerns a notice of an electronic ballot given in accordance with this Act; and
 - (b) state whether the voting to be conducted by the electronic ballot is in an election or on a resolution or both.
- (11) Nothing in sub-paragraph (9) shall invalidate an electronic ballot where -
- (a) any notice or document that is required to be published, and any facility which is required to be made available, for the period mentioned in sub-paragraph (6)(d) is published or made available for a part, but not all, of that period, but
 - (b) the failure to publish that notice or document, or make that facility available, throughout that period is wholly attributable to circumstances which it would not be reasonable to have expected the society to prevent or avoid.
- (12) Sub-paragraphs (3) to (7) of paragraph 33 apply, with the modification specified in subparagraph (13) below, in relation to notices of an electronic ballot as they apply in relation to notices of a postal ballot.
- (13) Sub-paragraph (3) of paragraph 33 has effect as if the reference to the receipt of completed ballot papers included a reference to the registration of votes by means of a voting facility on a web site.
- (14) For the purposes of sub-paragraph (3) of paragraph 33 (as applied to electronic ballots by sub-paragraph (13) above), in a case in which a person is notified for the purposes of subparagraph (9)(c), a notice of an electronic ballot is treated as given to a person on the day when notification is given in accordance with that sub-paragraph.

Declarations to be made in proxy and ballot forms

34. (1) If a member of a building society who purports to exercise his right -
- (a) to appoint a proxy to vote instead of him at a meeting of the society, or
 - (b) to vote in a postal or electronic ballot, or
 - (c) to vote on a poll at a meeting of the society,
- fails to make a declaration in accordance with sub-paragraph (2) below in the _ _ _ appointment or, as the case may be, on the voting paper, the appointment made or, as the case may be, the vote cast by him is invalid.
- (2) A person making a declaration in pursuance of sub-paragraph (1) above shall -
- (a) declare that he has attained the age of 18 years or will have attained that age on or before the voting date or, where he is voting by proxy, on or before the date of the meeting;

- (b) where the vote is to be cast on a shareholding members' resolution, declare-
 - (i) that on the voting date he is or, so far as he can reasonably foresee, will be a shareholder of the society; and
 - (ii) where the person is not entitled to vote unless he had a qualifying shareholding on the qualifying shareholding date, that he had or, so far as he can reasonably foresee, will have such a shareholding on that date;
 - (c) where the vote is to be cast on a borrowing members' resolution, declare that on the voting date he is or, so far as he can reasonably foresee, will be a borrowing member of the society; and
 - (d) where the vote is to be cast on an ordinary or special resolution, declare either as mentioned in paragraph (b) above, or as mentioned in paragraph (c) above, or both.
- (2A) Where an appointment of a proxy is returned in an electronic communication in accordance with paragraph 24(1D), the requirements of sub-paragraph (2) above are satisfied only if -
- (a) the appointment incorporates the terms of the declaration required by that subparagraph; and
 - (b) the authenticity and integrity of the appointment is established (whether by an electronic signature or otherwise) in such manner as may have been agreed between the member and the society.
- (2B) Where a member voting in a postal ballot returns a completed voting paper electronically as mentioned in sub-paragraph (6E)(b) of paragraph 33 above, the requirements of sub-paragraph (2) above are satisfied only if -
- (a) the voting paper incorporates the terms of the declaration required by that subparagraph; and
 - (b) the authenticity and integrity of the completed paper is established (whether by electronic signature or otherwise) in such manner as may have been agreed between the member and the society.
- (2C) Where a member registers a vote on a web site in accordance with sub-paragraph (8)(b) of paragraph 33A above, the requirements of sub-paragraph (2) above are satisfied only if -
- (a) at the place on the web site where the voting facility is accessed, the member has confirmed the terms of the declaration specified by that sub-paragraph; and
 - (b) the authenticity and integrity of the member's vote is established (whether by electronic signature or otherwise) in such a manner as may have been agreed between the member and the society.
- (3) A building society shall secure that every document issued by it for use as a voting paper and every appointment of a proxy incorporates a form of declaration under this paragraph for completion by the member using it.

- (3A) A building society shall ensure that -
- (a) every voting paper sent by it to a member by means of an electronic communication incorporates a declaration in accordance with sub-paragraph (2) above, and
 - (b) every voting facility provided by it on a web site is accompanied by such a declaration,
- for completion or confirmation by the member purporting to exercise his right to vote.
- (4) If a building society fails to comply with the requirements of sub-paragraph (3) above, 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.
- (5) In this paragraph -
- ‘authenticity’ and ‘integrity’, with reference to an electronic communication, must be construed in accordance with section 15(2) of the Electronic Communications Act 2000;
- ‘electronic signature’ has the same meaning as in section 7(2) of that Act;
- ‘qualifying shareholding’ shall be construed in accordance with paragraph 23(5) above;
- ‘qualifying shareholding date’ has the same meaning as it has for the purposes of paragraph 23 above; and
- ‘voting date’ has the meaning given by paragraph 23(6) above.

Advertising requirements in lieu of notice of meetings, etc

35. (1) The advertising requirements referred to in paragraph 14 above, in relation to notices of meetings or postal or electronic ballots of building societies, are as follows -
- (2) Notice of the holding of the meeting or of the postal ballot must be given either -
- (a) by displaying a notice in a prominent position in every branch office, or
 - (b) by advertisement in one or more newspapers circulating in the areas in which the members of the society reside,
- according as the rules of the society provide.
- (3) The notice must be so given not later than 21 days before the date of the proposed meeting or, as the case may be, the final date for the receipt of completed ballot papers or for the registration of votes in an electronic ballot (as the case may be).
- (4) The notice shall state where members may obtain copies of the resolutions and any statements with respect to the matter referred to in a resolution, forms relating to voting by proxy and, in the case of a postal ballot, the ballot papers, or, in the case of an electronic ballot, how members may access electronic voting facilities.

The prescribed amount

36. (1) For the purposes of this Part of this Schedule, the 'prescribed amount' is £100 or such other amount as the Treasury by order specify for the time being.
- (2) The power to make an order under sub-paragraph (1) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) An order under sub-paragraph (1) above may contain transitional, consequential or supplementary provision.

SCHEDULE 2A:

Discharge of mortgages: supplementary provisions

Main provisions

1. (1) When all money intended to be secured by a mortgage given to a building society has been fully paid or discharged, the society may endorse on or annex to the mortgage one or other of the following -
- (a) a receipt in the prescribed form signed by any person acting under the authority of the board of directors;
- (b) a reconveyance of the mortgaged property to the mortgagor;
- (c) a reconveyance of the mortgaged property to such person of full age, and on such trusts (if any), as the mortgagor may direct.
- (2) Where in pursuance of sub-paragraph (1) above a receipt is endorsed on or annexed to a mortgage, not being a registered charge (within the meaning of the Land Registration Act 2002), the receipt shall operate in accordance with section 115(1), (3), (6) and (8) of the Law of Property Act 1925 (discharge of mortgages by receipt) in the like manner as a receipt which fulfils all the requirements of subsection (1) of that section.
- (3) Section 115(9) of the Law of Property Act 1925 shall not apply to a receipt in the prescribed form endorsed or annexed by a building society in pursuance of sub-paragraph (1) above; and in the application of that subsection to a receipt so endorsed or annexed which is not in that form, the receipt shall be taken to be executed in the manner required by the statute relating to the society if it is signed as mentioned in sub-paragraph (1)(a) above.
- (4) ---
- (5) In this paragraph -
- 'mortgage' includes a further charge;
- 'the mortgagor', in relation to a mortgage, means the person for the time being entitled to the equity of redemption;
-
- (6) This paragraph does not extend to Scotland.

Application of paragraph 1 to Northern Ireland

2. (1) In its application to Northern Ireland, paragraph 1 above shall have effect with the following modifications.
- (2) In sub-paragraph (1) after the words 'on such trusts' there shall be inserted the words 'or uses'.
- (3) In sub-paragraph (2) -
 - (a) for the words from 'charge' to 'Property Act 1925' there shall be substituted the words 'charge on registered land, the receipt shall operate in accordance with Article 3(1), (7) and (9) of the Property (Discharge of Mortgage by Receipt) (Northern Ireland) Order 1983'; and
 - (b) for the words 'subsection (1) of that section' there shall be substituted the words 'paragraph (1) of that Article'.
- (4) For sub-paragraphs (3) and (4) there shall be substituted the following sub-paragraphs -
 - '(3) If the mortgage is registered in accordance with the Registration of Deeds Act (Northern Ireland) 1970, the registrar under that Act shall-
 - (a) on production of the receipt mentioned in sub-paragraph (1) above make a note in the Abstract Book against the entry relating to the mortgage that the mortgage is satisfied; and
 - (b) grant a certificate, either on the mortgage or separately, that the mortgage is satisfied.
 - (4) The certificate granted under sub-paragraph (3)(b) above shall-
 - (a) be received in all courts and proceedings without further proof; and
 - (b) have the effect of clearing the register of the mortgage.'
- (5) In sub-paragraph (5) for the definition of 'registered land' there shall be substituted the following definition -

'registered land' means land the title to which is registered under Part III of the Land Registration Act (Northern Ireland) 1970

Power to prescribe form of documents

3. (1) The Treasury may make rules for prescribing anything authorised or required by paragraph 1 above to be prescribed; and in this Schedule 'prescribed' means prescribed by rules made under this paragraph.
- (2) The power to make rules under this paragraph shall be exercisable by statutory instrument.

[Schedules 3 – 6 revoked]

SCHEDULE 7:

Investors: special provisions

Members or depositors dying

1. (1) The provisions of this paragraph have effect where a member of, or depositor with, a building society dies, testate or intestate, domiciled in any part of the United Kingdom leaving a sum of money in the funds of the society not exceeding £5000.
- (2) If a person claiming to be beneficially entitled to the sum of money under the will or the applicable law of intestacy furnished to the society -
 - (a) satisfactory evidence of the death, and
 - (b) a statutory declaration that the member or depositor has died and that the person claiming the amount is beneficially entitled under the will or the applicable law of intestacy to receive it,

the society may, without probate of the will or the grant of letters of administration or confirmation, as the case may be, pay the sum of money to that person.
- (3) Where a building society has paid a sum of money to any person in reliance on evidence of death and a statutory declaration furnished as mentioned in sub-paragraph (2) above, the payment shall be valid and effectual with respect to any demand against the funds of the society from any other person claiming to be entitled to it but without prejudice to that other person's pursuing his remedy for the amount against the person who received it.
- (4) The Treasury may from time to time by order direct that this paragraph shall have effect as if for the reference in sub-paragraph (1) above to £5,000 there were substituted a reference to such higher amount as may be specified in the order.
- (5) An order under sub-paragraph (4) above shall apply in relation to deaths occurring after the expiration of a period of one month beginning with the date on which the order comes into force.
- (6) The power to make an order under sub-paragraph (4) above is exercisable by statutory instrument but no such order shall be made unless a draft of it has been laid before and approved by a resolution of each House of Parliament.

Receipts by depositors under age

2. Any receipt or acknowledgment given to a building society by a person who is a minor in respect of the payment to him of any sum due in respect of a deposit made by him with the society, shall not be invalid on the ground of his minority.

SCHEDULE 8A:

Transfer directions: modifications of Part X

Part I: directions under section 42B(3)

Preliminary

1. This Part of this Schedule applies where a direction is given under section 42B(3) ('the direction').

Compensation for loss of office

2. (1) The consent of the **appropriate authority** shall be sufficient authority for the provision for any such compensation as is mentioned in section 96(1)(a).
(2) A resolution of the board of directors passed in pursuance of the direction shall be sufficient authority for any such payments as are mentioned in section 96(1)(b).

Statements to members

3. (1) The following provisions of this paragraph shall apply in place of paragraph 1 of Schedule 16.
(2) The society shall send to every member entitled to notice of a meeting of the society, a statement containing -
 - (a) the particulars required, in relation to prescribed matters, by regulations under section 42B(8); and
 - (b) particulars of any other matters required by the **appropriate authority** in the case of the particular transfer of engagements, with or without other particulars regarding that transfer.

(2ZA) The PRA must consult with the FCA before requiring any particulars under sub-paragraph (2)(b).

- (2A) Where a statement is required to be sent to a member under sub-paragraph (2) -

- (a) it may be sent to him electronically only if it is sent to an electronic address notified to the society by that member for the purpose;
- (b) the requirement to send it shall also be treated as satisfied if the conditions set out in sub-paragraph (2B) are satisfied.

- (2B) The conditions of this sub-paragraph are satisfied in the case of a statement if -

- (a) the society and that person have agreed that statements that are required to be sent to him may instead be accessed by him on a web site;
- (b) the agreement applies to the statement in question;
- (c) in a manner agreed between the society and that person, the society notifies him within the period specified in sub-paragraph (3) of -

- (i) the publication of the notice and any statement on a web site,
 - (ii) the address of that web site,
 - (iii) the place on that web site where the documents may be accessed, and how they may be accessed; and
- (d) that statement is published continuously on that web site throughout the period beginning with the giving of that notification and ending with the decision of the **appropriate authority** whether to confirm the transfer pursuant to section 98.
- (2C) In a case in which sub-paragraph (2A)(b) is relied on for compliance with a requirement of sub-paragraph (2) -
- (a) a statement is published for a part, but not all, of the period mentioned in subparagraph (2B)(d), but
 - (b) the failure to publish it throughout that period is wholly attributable to circumstances which it would not be reasonable to have expected the society to prevent or avoid,
- the failure shall not invalidate the proceedings of the meeting.
- (3) The statement shall be sent -
- (a) where the Authority has given the society a direction under section 42B(1)(a), within the period (not being less than 28 days) specified in a final notice given by the Authority under section 390 of the Financial Services and Markets Act 2000;
 - (b) where the Authority has not given the society such a direction, within 14 days of the board of directors passing a resolution in pursuance of the direction.
- (3A) For the purposes of sub-paragraph (3) above, in a case in which sub-paragraph (2A)(b) is relied on for compliance with a requirement under sub-paragraph (2), a statement published on a web site in accordance with sub-paragraph (2B) is to be treated as sent to a person on the day that the notification is given in accordance with subparagraph (2B)(c).
- (4) No statement shall be sent unless its contents, so far as they concern the prescribed matters or any matter of which particulars are required to be given under sub-paragraph (2)(b) above, have been approved by the Authority.
- (5) A failure to comply with a requirement of this paragraph shall not invalidate the transfer of engagements; but, if the 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.

Application for confirmation

4. No application for confirmation by the Authority of the transfer of engagements may be made under Part III of Schedule 16 until after the society has complied with the requirements of paragraph 3 above.

Grounds for not confirming transfer

5. Section 95 shall apply as if -

- (a) for paragraphs (a) and (b) of subsection (4) there were substituted the following paragraph -
 - '(a) the members or a proportion of them would be unreasonably prejudiced by the transfer;'; and
- (b) in subsection (6), for the words 'paragraphs (a), (b) and (c)' there were substituted the words 'paragraphs (a) and (c)' and, in paragraph (a), the words 'including the calling of a further meeting,' were omitted.

Part II: Directions under section 42B(4)

Preliminary

6. This Part of this Schedule applies where a direction is given under section 42B(4) ('the direction').

Compensation for loss of office

7. (1) The consent of the **appropriate authority** shall be sufficient authority for the provision for any such compensation as is mentioned in section 99(2)(a).
- (2) A resolution of the board of directors passed in pursuance of the direction shall be sufficient authority for any such payments as are mentioned in section 99(2)(b).

Increased remuneration

8. If the **appropriate authority** consents to the inclusion of any such provision as is mentioned in section 99A(1), it shall not be necessary for an ordinary resolution approving the provision to be put before a meeting of the society.

Statements to members

9. (1) The following provisions of this paragraph shall apply in place of Part I of Schedule 17.
- (2) The society shall send to every member entitled to notice of a meeting of the society, a statement containing -
- (a) the particulars required, in relation to prescribed matters, by regulations under section 42B(8); and
 - (b) particulars of any other matters required by the **appropriate authority** in the case of the particular transfer of business,
- with or without other particulars regarding that transfer.

(2ZA) The PRA must consult with the FCA before requiring any particulars under sub-paragraph (2)(b).

- (2A) Where a statement is required to be sent to a member under sub-paragraph (2) -
- (a) it may be sent to him electronically only if it is sent to an electronic address notified to the society by that member for the purpose;
 - (b) the requirement to send it shall also be treated as satisfied if the conditions set out in sub-paragraph (2B) are satisfied.

- (2B) The conditions of this sub-paragraph are satisfied in the case of a statement if -
- (a) the society and that person have agreed that statements that are required to be sent to him may instead be accessed by him on a web site;
 - (b) the agreement applies to the statement in question;
 - (c) in a manner agreed between the society and that person, the society notifies him within the period specified in sub-paragraph (3) of-
 - (i) the publication of the notice and any statement on a web site,
 - (ii) the address of that web site,
 - (iii) the place on that web site where the documents may be accessed, and how they may be accessed; and
 - (d) that statement is published continuously on that web site throughout the period beginning with the giving of that notification and ending with the decision of the **appropriate authority** whether to confirm the transfer pursuant to section 98.
- (2C) Where, in a case in which sub-paragraph (2A)(b) is relied on for compliance with a requirement of sub-paragraph (2) -
- (a) a statement is published for a part, but not all, of the period mentioned in subparagraph (2B)(d), but
 - (b) the failure to publish it throughout that period is wholly attributable to circumstances which it would not be reasonable to have expected the society to prevent or avoid,
- the failure shall not invalidate the proceedings of the meeting.
- (3) The statement shall be sent -
- (a) where the **appropriate authority** has given the society a direction under section 42B(1) (aa) or ¹ (b), within the period (not being less than 28 days) specified in a final notice given by the **appropriate authority** under section 390 of the Financial Services and Markets Act 2000;
 - (b) where the **appropriate authority** has not given the society such a direction, within 14 days of the board of directors passing a resolution in pursuance of the direction.
- (3A) For the purposes of sub-paragraph (3) above, in a case in which sub-paragraph (2A)(b) is relied on for compliance with a requirement under sub-paragraph (2), a statement published on a web site in accordance with sub-paragraph (2B) is to be treated as sent to a person on the day that the notification is given in accordance with subparagraph (2B)(c).
- (4) No statement shall be sent unless its contents, so far as they concern the prescribed matters or any matter of which particulars are required to be given under sub-paragraph (2)(b) above, have been approved by the Authority.

¹ Amended by the Financial Services Act 2012

- (5) A failure to comply with a requirement of this paragraph shall not invalidate the transfer of business; but, if the 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.

Application for confirmation

10. No application for confirmation by the **appropriate authority** of the transfer of business may be made under Part II of Schedule 17 until after the society has complied with the requirements of paragraph 9 above.

Grounds for not confirming transfer

11. Section 98 shall apply as if -
- (a) for paragraphs (a) and (b) of subsection (3) there were substituted the following paragraph-
 - '(a) the members or a proportion of them would be unreasonably prejudiced by the transfer;'
 - (b) in subsection (5), for the words 'paragraphs (a), (b), (c) and (d)' there were substituted the words 'paragraphs (a), (c) and (d)'; and
 - (c) in subsection (6), the words 'the calling of a further meeting,' were omitted.

SCHEDULE 9:

Directors: requisite particulars of restricted transactions

Preliminary

1. In this Schedule -
- 'the financial year' means the financial year to which the statement under section 68(3) relates;
- 'restricted transaction or arrangement' means any transaction or arrangement falling within section 65(1) particulars of which are required to be included in that statement;
- and other expressions have the same meaning as in those sections.

The requisite particulars

2. (1) The particulars of a restricted transaction or arrangement required by section 68(3) are particulars of the principal terms of the transaction or arrangement
- (2) Without prejudice to the generality of sub-paragraph (1) above, the following particulars of a restricted transaction or arrangement are required -
- (a) a statement of the fact either that the transaction or arrangement was made or that it subsisted during the financial year;

- (b) the name of the person for whom it was made and, where that person is or was connected with a director of the building society, the name of that director;
- (c) in the case of a loan or any related guarantee -
 - (i) the amount of the mortgage debt or corresponding liability both as the beginning and at the end of the financial year ;
 - (ii) the maximum amount of that debt or liability during that year ;
 - (iii) the amount of any interest which, having fallen due, has not been paid; and
 - (iv) the amount of any provision made in the account in respect of any failure or anticipated failure by the borrower to repay the whole or part of the loan or to pay the whole or part of any interest on it;
- (d) in the case of a disposal of property by way of lease or hire -
 - (i) the value of the property;
 - (ii) the amount of any rental which, having fallen due, has not been paid; and
 - (iii) the amount of any provision made in the accounts in respect of any failure or anticipated failure by the lessee or hirer to pay the whole or part of the rent;
- (e) in the case of any payment made on behalf of the director or person connected with him, the amount of the payment; and
- (f) in the case of a guarantee or security -
 - (i) the amount for which the building society was liable under the guarantee or security both at the beginning and at the end of the financial year ;
 - (ii) the maximum amount for which the society may become liable; and
 - (iii) any amount paid and any liability incurred by the society for the purpose of fulfilling the guarantee or security (including any loss incurred by reason of its enforcement).

SCHEDULE 10:

Requisite particulars of income of related businesses

Part I: Requisite particulars where no adoption of Part II

Conveyancers

1. Where the business associate of the building society provides conveyancing services the requisite particulars of its business in any financial year are the following -
 - (a) the number of cases in which it has provided conveyancing services in respect of a loan secured on land and the purchase of the land both to the society and to the borrower:

- (b) the number of cases in which it has provided the society (but not the borrower) with conveyancing services in respect of a loan secured on land;
- (c) the aggregate amount of the fees paid to it by the society or by or on behalf of the borrower for the provision of conveyancing services falling within sub-paragraphs (a) and (b) above;
- (d) the aggregate of the amount paid to it by the society by way of commission for its having introduced investment business to the society;
- (e) the aggregate amount of any fees paid to it by the society in consideration of the provision of conveyancing services in respect of any land held by the society _ _ _ ;
- (f) the aggregate amount of any fees paid to it by the society in consideration of the provision of administrative services to the society.

Valuers and surveyors

2. Where the business associate of the building society provides the services of surveying and valuing property the requisite particulars of its business in any financial year are the following -
- (a) the number of cases in which it has, in respect of any land which is to secure a loan, surveyed the land or provided a valuation of it on behalf of the society or the borrower or both;
 - (b) the number of cases in which it has, on behalf of the society (but not the borrower), surveyed any land which is to secure a loan or provided the society with a valuation of it;
 - (c) the aggregate amount of the fees paid to it by the society or by or on behalf of the borrower for the provision of the services falling within sub-paragraphs (a) and (b) above;
 - (d) the aggregate of the amounts paid to it by the society by way of commission for its having introduced investment business to the society;
 - (e) the aggregate amount of any fees paid to it by the society in consideration of the provision of surveying or valuing services in respect of any property held by the society _ _ _ ;
 - (f) the aggregate amount of any fees paid to it by the society in consideration of the provision of administrative services to the society.

Accountants

3. Where the business associate of the building society provides accountancy services the requisite particulars of its business in any financial year are the following-
- (a) the aggregate amount of the fees paid to it by the society for the provision of accountancy services and
 - (b) the aggregate amount of any fees paid to it by the society in consideration of the provision of administrative services to the society.

Insurance agents, etc

4. Where the business associate of the building society arranges for the provision of relevant insurance the requisite particulars of its business in any financial year are the following -

- (a) the aggregate of the amounts paid to it by the society or by way of commission by insurers in respect of relevant insurance effected by the society or by borrowers in compliance with the terms on which loans secured on land are made by the society; and
- (b) the aggregate amount of any fees paid to it by the society in consideration of the provision of administrative services to the society.

Part II: Requisite particulars on adoption of this Part

Conveyancers

5. Where the business associate of the building society provides conveyancing services the requisite particulars of its business in any financial year are the following -
- (a) the prescribed band within which falls the estimated number of cases in which it has provided conveyancing services in respect of a loan secured on land and the purchase of the land both to the society and to the borrower;
 - (b) the prescribed band within which falls the estimated number of cases in which it has provided the society (but not the borrower) with conveyancing services in respect of a loan secured on land;
 - (c) the prescribed band within which falls the estimated aggregate amount of the fees paid to it by the society or by or on behalf of the borrower for the provision of conveyancing services falling within sub-paragraphs (a) and (b) above;
 - (d) the prescribed band within which falls the estimated aggregate of the amounts paid to it by the society by way of commission for its having introduced investment business to the society;
 - (e) the prescribed band within which falls the estimated aggregate amount of any fees paid to it by the society in consideration of the provision of conveyancing services in respect of any land held by the society _ _ _;
 - (f) the prescribed band within which falls the estimated aggregate of any fees paid to it by the society in consideration of the provision of administrative services to the society.

Valuers and surveyors

6. Where the business associate of the building society provides the services of surveying and valuing property the requisite particulars of its business in any financial year are the following -
- (a) the prescribed band within which falls the estimated number of cases in which it has, in respect of any land which is to secure a loan, surveyed the land or provided a valuation of it on behalf of the society or the borrower or both ;
 - (b) the prescribed band within which falls the estimated number of cases in which it has, on behalf of the society (but not the borrower), surveyed any land which is to secure a loan or provided the society with a valuation of it;
 - (c) the prescribed band within which falls the estimated aggregate amount of the fees paid to it by the society or by or on behalf of the borrower for the provision of the services falling within sub-paragraphs (a) and (b) above;

- (d) the prescribed band within which falls the estimated aggregate of the amounts paid to it by the society by way of commission for its having introduced investment business to the society;
- (e) the prescribed band within which falls the estimated aggregate of any fees paid to it by the society in consideration of the provision of surveying or valuing services in respect of any property held by the society _ _ _;
- (f) the prescribed band within which falls the estimated aggregate amounts of any fees paid to it by the society in consideration of the provision of administrative services to the society.

Accountants

7. Where the business associate of the building society provides accountancy services the requisite particulars of its business in any financial year are the following -
- (a) the prescribed band within which falls the estimated aggregate amount of the fees paid to it by the society for the provision of accountancy services; and
 - (b) the prescribed band within which falls the estimated aggregate amount of any fees paid to it by the society in consideration of the provision of administrative services to the society.

Insurance agents, etc

8. Where the business associate of the building society arranges for the provision of relevant insurance the requisite particulars of its business in any financial year are the following -
- (a) the prescribed band within which falls the estimated aggregate of the amounts paid to it by the society or by way of commission by insurers in respect of relevant insurance effected by the society or by borrowers in compliance with the terms on which loans secured on land are made by the society; and
 - (b) the prescribed band within which falls the estimated aggregate amount of any fees paid to it by the society in consideration of the provision of administrative services to the society.

Part III: Supplementary

Power to prescribe bands for Part II particulars

9. (1) The Treasury may by order prescribe, for the purposes of the provisions of Part II of this Schedule -
- (a) series of numbers by reference to limits specified in the order, or
 - (b) series of monetary amounts by reference to limits so specified;
- and, in any provision of Part II, 'prescribed band' means, in relation to cases, any series of numbers so prescribed for the purposes of that provision and, in relation to monetary amounts, any series of monetary amounts so prescribed for the purposes of that provision.
- (2) The power conferred by this paragraph includes power to prescribe different series of numbers or of monetary amounts for the purposes of different provisions.

- (3) The power to make an order under this paragraph is exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Interpretation

10. (1) In this Schedule -

'administrative services' means services falling within section 69(4)

'business associate' and 'associated', in relation to a building society, have the same meaning as in section 69;

'financial year' means a financial year of the society with which the business associate is associated;

'prescribed band' has the meaning given by paragraph 9(1) above; and

'relevant insurance' means insurance falling within section 69(3)(d).

- (2) In section 69, 'the volume of the business', in relation to any business constituted by the provision of any services referred to in any provision of Part I or Part II of this Schedule means -

- (a) in the case of a paragraph of Part I, the aggregate of all the fees and commissions which are the subject of the requisite particulars under that paragraph; and
- (b) in the case of a paragraph of Part II, the aggregate of the amounts which are specified in orders under paragraph 9 above as the upper limits of the prescribed bands within which fall the estimated aggregates of the fees or commissions or other amounts received which are the subject of the requisite particulars under the provisions of that paragraph.

SCHEDULE 10A:

Disclosures about directors, other officers and employees in notes to accounts

Part 1: Emoluments of and dealings with directors and other officers

Aggregate amount of director's remuneration etc

1. (1) The following must be shown -
- (a) the aggregate amount of salary and fees and sums paid by way of expenses allowance (so far as they are chargeable to United Kingdom tax) paid to or receivable by directors in respect of qualifying services;
- (b) the aggregate amount of bonuses paid to or receivable by directors in respect of qualifying services;
- (c) the aggregate amount of the estimated money value of any other benefits paid to or receivable by directors in respect of qualifying services otherwise than in cash;

- (d) the aggregate of the amount of gains made by directors on the exercise of share options;
 - (e) the aggregate of the following -
 - (i) the amount of money paid to or receivable by directors under long-term incentive schemes in respect of qualifying services; and
 - (ii) the net value of assets (other than money and share options) received or receivable by directors under such schemes in respect of such services;
 - (f) the aggregate value of any society contributions paid, or treated as paid, to a pension scheme in respect of directors' qualifying services, being contributions by reference to which the rate or amount of any money purchase benefits that may become payable will be calculated;
 - (g) the aggregate amount of the increase during the financial year in the value of any accrued pension or accrued lump sum comprising defined benefits payable in respect of any qualifying services performed by directors during the financial year; and
 - (h) the total aggregate amounts in paragraphs (a) to (g).
- (2) In this paragraph -

'accrued pension' and 'accrued lump sum', in relation to any pension scheme and any director, mean respectively the amount of the annual pension, and the amount of the lump sum, which would be payable under the scheme on his attaining normal pension age if -

- (a) he had left the society's service at the end of the financial year;
- (b) there were no increase in the general level of prices in the United Kingdom during the period beginning with the end of that year and ending with his attaining that age;
- (c) no question arose of any commutation of the pension or inverse commutation of the lump sum; and
- (d) any amounts attributable to voluntary contributions paid by the director to the scheme, and any money purchase benefits which would be payable under the scheme, were disregarded;

'amount', in relation to a gain made on the exercise of a share option means the difference between-

- (a) the market price of the shares on the day on which the option was exercised, and
- (b) the price actually paid for the shares;

'defined benefits' means retirement benefits payable under a pension scheme which are not money purchase benefits;

'defined benefit scheme', in relation to a director, means a pension scheme which is not a money purchase scheme;

'long-term incentive scheme' means any agreement or arrangement under which money or other assets may become receivable by a director and which includes one or more qualifying conditions with respect to service or performance which cannot be fulfilled within a single financial year; and for this purpose the following are disregarded-

- (a) bonuses the amount of which falls to be determined by reference to service or performance within a single financial year;
- (b) compensation for loss of office, payments for breach of contract and other termination payments; and
- (c) retirement benefits;

'money purchase benefits', in relation to a director, means retirement benefits payable under a pension scheme the rate or amount of which is calculated by reference to payments made, or treated as made, by the director or by any other person in respect of the director and which are not average salary benefits;

'money purchase scheme', in relation to a director, means a pension scheme under which all of the benefits that may become payable to or in respect of the director are money purchase benefits;

'normal pension age', in relation to any pension scheme and any director, means the age at which the director will first become entitled to receive a full pension on retirement of any amount determined without reduction to take account of its payment before a later age (but disregarding any entitlement to pension upon retirement in the event of illness, incapacity or redundancy);

'net value', in relation to any assets received or receivable by a director, means value after deducting any money paid or other value given by the director in respect of those assets;

'qualifying services', in relation to any person, means his services as a director of the society, and his services while director of the society -

- (a) as director of any of its connected undertakings; or
- (b) otherwise in connection with the management of the affairs of the society or any of its connected undertakings;

'shares' means shares (whether allotted or not) in any connected undertaking of the society, and includes a share warrant as defined by section 779(1) of the Companies Act 2006;

'share option' means a right to acquire shares;

'society contributions', in relation to a pension scheme and a director, means any payments (including insurance premiums) made, or treated as made, to the scheme in respect of the director by a person other than the director;

'value', in relation to shares received or receivable by a director on any day, means the market price of the shares on that day.

- (3) For the purposes of this paragraph amounts paid or receivable or share options granted in respect of a person's accepting office as a director are treated as

amounts paid or receivable or share options granted in respect of his services as a director.

- (4) Where a pension scheme provides for any benefits that may become payable to or in respect of any director to be whichever are the greater of -
 - (a) money purchase benefits as determined by or under the scheme; and
 - (b) defined benefits as so determined,

the society may assume for the purposes of this paragraph that those benefits will be money purchase benefits, or defined benefits, according to whichever appears more likely at the end of the financial year.
- (5) For the purpose of determining whether a pension scheme is a money purchase or defined benefit scheme, any death in service benefits provided for by the scheme are disregarded.

Details of individual directors' remuneration etc

2. (1) There must be shown in respect of each director by name, so much of each of the relevant aggregates as is attributable to that director.
- (2) In this paragraph 'relevant aggregates' means the aggregates shown under paragraph 1(1)(a) to (h).
- (3) Sub-paragraphs (2) to (5) of paragraph 1 apply for the purposes of this paragraph as they apply for the purposes of that paragraph.

Excess retirement benefits of directors and past directors

3. (1) Subject to sub-paragraph (2), there must be shown the aggregate amount of -
 - (a) so much of retirement benefits paid to or receivable by directors under pension schemes; and
 - (b) so much of retirement benefits paid to or receivable by past directors under such schemes,

as (in each case) is in excess of the retirement benefits to which they were respectively entitled on the relevant date.
- (2) For the purposes of sub-paragraph (1) the relevant date is whichever is the later of -
 - (a) the date on which the benefits first became payable;
 - (b) 27 March 1998; or
 - (c) the date on which the provisions of the Building Societies Act 1997 specified in Part 2 of the Schedule to the Building Societies Act 1997 (Commencement) (No.3) Order 1997, have come into force in accordance with Article 2 of that Order in relation to the society.
- (3) Amounts paid or receivable under a pension scheme need not be included in the aggregate amount if -

- (a) the funding of the scheme was such that the amounts were or, as the case may be, could have been paid without recourse to additional contributions; and
- (b) amounts were paid to or receivable by all pensioner members of the scheme on the same basis,

and in this sub-paragraph 'pensioner member', in relation to a pension scheme, means any person who is entitled to the present payment of retirement benefits under the scheme.

(4) In this paragraph -

- (a) references to retirement benefits include benefits otherwise than in cash; and
- (b) in relation to so much of retirement benefits as consists of a benefit otherwise than in cash, references to their amount are to the estimated money value of the benefit,

and the nature of any such benefit must also be disclosed.

Compensation to directors for loss of office

4. (1) There must be shown the amount of any compensation in respect of loss of office paid to or receivable by each director or past director by name, together with the aggregate amount of any such compensation.
- (2) There must be shown the aggregate amount of any compensation referred to in subparagraph (1) in respect of the preceding financial year.
- (3) The amounts referred to in sub-paragraph (1) include compensation received or receivable by a director or past director for -
 - (a) loss of office as director of the society, or
 - (b) loss, while director of the society or on or in connection with his ceasing to be a director of it, of-
 - (i) any other office in connection with the management of the society's affairs, or
 - (ii) any office as director or otherwise in connection with the management of the affairs of any connected undertaking of the society.
- (4) References in this paragraph -
 - (a) to compensation include benefits paid or receivable other than in cash; and
 - (b) to the amount of compensation are to the estimated money value of the benefit;
- (5) The nature of any such compensation must be disclosed.
- (6) In this paragraph, references to compensation for loss of office include the following-
 - (a) compensation in consideration for, or in connection with, a person's retirement from office; and

- (b) where such a retirement is occasioned by a breach of the person's contract with the society or with a subsidiary undertaking of the society -
 - (i) payments made by way of damages for the breach; or
 - (ii) payments made by way of settlement or compromise of any claim in respect of the breach.

Sums paid to third parties in respect of directors' services

- 5. (1) There must be shown the aggregate amount of any consideration paid to or receivable by third parties for making available the services of any person -
 - (a) as a director of the society, or
 - (b) while director of the society -
 - (i) as director of any of its connected undertakings, or
 - (ii) otherwise in connection with the management of the affairs of the society or any of its connected undertakings.
- (2) The reference in sub-paragraph (1) to consideration includes benefits paid or receivable other than in cash; and -
 - (a) the nature of any such consideration must be disclosed, and
 - (b) in relation to such consideration the reference to its amount is to the estimated money value of the benefit.
- (3) The reference in sub-paragraph (1) to third parties is to persons other than -
 - (a) the director himself or a person connected with him or a body corporate associated with him, and
 - (b) the society or any of its connected undertakings.

Supplementary provisions regarding directors' remuneration

- 6. (1) The following applies with respect to the amounts to be shown under paragraphs 1 to 5.
- (2) The amount in each case includes all relevant sums paid by or receivable from -
 - (a) the society;
 - (b) the society's connected undertakings; and
 - (c) any other person,except sums to be accounted for to the society or any of its connected undertakings.
- (3) References to amounts paid to or receivable by a person include amounts paid to or receivable by a person connected with him or a body corporate associated with him (but not so as to require an amount to be counted twice).

7. (1) The amounts to be shown for any financial year under paragraphs 1 to 5 are the sums receivable in respect of that year (whenever paid) or, in the case of sums not receivable in respect of a period, the sums paid during that year.
- (2) But where -
- (a) any sums are not shown in a note to the accounts for the relevant financial year on the ground that the person receiving them is liable to account for them as mentioned in paragraph 6(2), but the liability is thereafter wholly or partly released or is not enforced within a period of 2 years; or
- (b) any sums paid by way of expenses allowance are charged to United Kingdom income tax after the end of the relevant financial year,
- those sums must, to the extent to which the liability is released or not enforced or they are charged as mentioned (as the case may be), be shown in a note to the first accounts in which it is practicable to show them and must be distinguished from the amounts to be shown apart from this provision.
8. (1) Where the chief executive of the society is not also a director of the society, he is deemed, for the purposes of paragraphs 1 to 7, to be a director of the society.
- (2) In such circumstances there must be a note in the accounts specifying that the chief executive has been so deemed to be a director.

Interpretation of provisions regarding directors' remuneration

9. (1) Sub-paragraphs (2) and (3) apply for the interpretation of paragraphs 1 to 8.
- (2) For the purposes of paragraphs 1 and 2 a reference to a connected undertaking of the society is to any undertaking which is a connected undertaking at the time the services were rendered, and for the purposes of paragraph 4 is a reference to a connected undertaking immediately before the loss of office as a director.
- (3) The following definitions apply -
- (a) 'pension scheme' has the meaning assigned to 'retirement benefits scheme' by section 611 of the Income and Corporation Taxes Act 1988;
- (b) 'retirement benefits' has the meaning assigned to 'relevant benefits' by section 612(1) and (2) of that Act.
- (4) In paragraphs 5 and 6, references to a person being 'connected' with a director, and to a director being 'associated with' a body corporate, shall be construed in accordance with section 70 of this Act.

Directors' loans and transactions

10. (1) This paragraph applies, subject to sub-paragraph (4), in relation to -
- (a) loans from and other transactions and arrangements with the society described in section 65 (which restricts loans to and other transactions and arrangements with directors and persons connected to them), other than those to which section 65(5) and (6) applies, and

- (b) in the case of a society the directors of which are required to prepare consolidated group accounts, loans from and other transactions and arrangements with a subsidiary undertaking of the society to which paragraph (a) would apply were the society rather than the subsidiary undertaking a party to them.
- (2) The notes to the annual accounts must contain a statement, in relation to such loans, transactions and arrangements, showing -
 - (a) the aggregate amounts outstanding under them at the end of the financial year; and
 - (b) the numbers of persons for whom such loans, transactions and arrangements were made.
 - (3) The notes to the annual accounts must, in relation to any loan, or other transaction or arrangement subsisting during or at the end of the financial year, make the following disclosures -
 - (a) where a copy of it or a memorandum of its terms is included in the register maintained under section 68, the existence of the register and the availability of requisite particulars from it for inspection must be disclosed;
 - (b) where it comes within paragraph (1)(b), its particulars must be disclosed unless it was one which would, had the subsidiary undertakings of the society formed part of the society, have been exempted from the obligations imposed by section 68.
 - (4) This paragraph applies in relation to loans to, and other transactions and arrangements with, a person connected with a director of the society where the society (or in the case of a subsidiary undertaking incorporated in the United Kingdom, the subsidiary undertaking) has notice of the connection between that director and that person.

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Part 2: Information about employees

- 13. (1) The following information with respect to the employees of a building society must be given in notes to the society's individual accounts -
 - (a) the average number of persons employed by the society in the financial year, and
 - (b) the average number of persons so employed within each category of persons employed by the society.
- (2) The average number required by paragraph (1)(a) or (b) is determined by dividing the relevant annual number by the number of complete calendar months in the financial year.
- (3) The relevant annual number is determined by ascertaining for each complete calendar month in the financial year -
 - (a) for the purposes of paragraph (1)(a), the number of persons employed under contracts of service by the society in that month (whether throughout the month or not);

- (b) for the purposes of paragraph (1)(b), the number of persons in the category in question of persons so employed;

and, in either case, adding together all the monthly numbers.

- (4) In respect of all persons employed by the society during the financial year who are taken into account in determining the relevant annual number for the purposes of paragraph (1)(a) there must also be stated the aggregate amounts respectively of -
 - (a) wages and salaries paid or payable in respect of that year to those persons;
 - (b) social security costs incurred by the society on their behalf; and
 - (c) other pension costs so incurred.

This does not apply in so far as those amounts, or any of them, are stated elsewhere in the society's accounts.

- (5) For the purposes of paragraph (1)(b) the categories of person employed by the society are such as the directors may select, having regard to the manner in which the society's activities are organised.
- (6) This paragraph applies in relation to group accounts as if the undertakings included in those accounts were a single society.
- (7) In this paragraph -
 - (a) 'social security costs' means any contribution by the society to any state social security or pension scheme, fund or arrangement;
 - (b) 'pension costs' includes any costs incurred by the society in respect of any pension scheme established for the purpose of providing pensions for persons currently or formerly employed by the society, any sums set aside for future payment of pensions directly by the society to current or former employees and any pensions paid directly to such persons without having been first set aside.

SCHEDULE 10B:

Disclosures about related undertakings required in notes to the accounts

Part 1: Societies not required to prepare consolidated group accounts

Subsidiary undertakings

- 1. (1) The following information must be given where at the end of the financial year the society has subsidiary undertakings but is not required to prepare consolidated group accounts.
 - (2) The name of each subsidiary undertaking shall be stated.
 - (3) There must be stated with respect to each subsidiary undertaking -
 - (a) if it is incorporated outside the United Kingdom, the country in which it is incorporated;

- (b) if it is unincorporated, the address of its principal place of business.
- (4) The specific reason why each subsidiary undertaking is not required to be included in consolidated group accounts must be stated.

Holdings in subsidiary undertakings

- 2. (1) There must be stated in relation to shares of each class held by the society in a subsidiary undertaking -
 - (a) the identity of the class; and
 - (b) the proportion of the nominal value of the shares of that class represented by those shares.
- (2) The shares held by or on behalf of the society itself must be distinguished from those attributed to the society which are held by or on behalf of a subsidiary undertaking.

Financial information about subsidiary undertakings

- 3. (1) There must be disclosed with respect to each subsidiary undertaking -
 - (a) the aggregate amount of its capital and reserves as at the end of its relevant financial year; and
 - (b) its profit or loss for that year.
- (2) The information referred to in sub-paragraph (1) need not be given if the society's investment in the subsidiary undertaking is included in the society's accounts by way of the equity method of valuation or if -
 - (a) the subsidiary undertaking is not required by any provision of the Companies Act 2006 to deliver a copy of its balance sheet for its relevant financial year and does not otherwise publish that balance sheet in the United Kingdom or elsewhere, and
 - (b) the society's holding is less than 50 per cent of the nominal value of the shares in the undertaking.
- (3) Information otherwise required by this paragraph need not be given if it is not material -
 - (a) in the case of Building Societies Act accounts, for the purpose of giving a true and fair view for the society of the matters set out in section 72B(2) or, where appropriate section 72F(2), or
 - (b) in the case of IAS accounts, to the requirement under international accounting standards that such accounts achieve a fair presentation.
- (4) For the purposes of this paragraph the 'relevant financial year' of a subsidiary undertaking is -
 - (a) if its financial year ends with that of the society, that year, and
 - (b) if not, its financial year ending last before the end of the society's financial year.

Financial years of subsidiary undertakings

4. Where -

- (a) disclosure is made under paragraph 3(1) with respect to a subsidiary undertaking; and
- (b) that undertaking's financial year does not end with that of the society,

there must be stated in relation to that undertaking the date on which its last financial year before the end of the society's financial year ended.

Significant holdings in undertakings other than subsidiary undertakings

5. (1) The information required by paragraphs 6 and 7 must be given where at the end of the financial year the society has a significant holding in an undertaking which is not a subsidiary undertaking of the society.

(2) A holding is significant for this purpose if -

- (a) it amounts to 20 per cent or more of the nominal value of the shares in the undertaking; or
- (b) the amount of the holding (as stated or included in the society's accounts) exceeds one-fifth of the amount (as so stated) of the society's assets.

6. (1) The name of the undertaking must be stated.

(2) There must be stated -

- (a) if the undertaking is incorporated outside the United Kingdom, the country in which it is incorporated; and
- (b) if it is unincorporated, the address of its principal place of business.

(3) There must also be stated -

- (a) the identity of each class of shares in the undertaking held by the society; and
- (b) the proportion of the nominal value of the shares of that class represented by those shares.

(4) Information otherwise required by this paragraph need not be given if it is not material -

- (a) in the case of Building Societies Act accounts, for the purpose of giving a true and fair view for the society of the matters set out in section 72B(2) or, where appropriate, section 72F(2), or
- (b) in the case of IAS accounts, to the requirement under international accounting standards that such accounts achieve a fair presentation.

7. (1) There must also be stated -

- (a) the aggregate amount of the capital and reserves of the undertaking as at the end of its relevant financial year, and

- (b) its profit or loss for that year.
- (2) That information need not be given if the investment of the society in all undertakings in which it has a significant holding is shown, in aggregate, in the notes to the accounts by way of the equity method of valuation.
- (3) That information need not be given in respect of an undertaking if -
 - (a) the undertaking is not required by any provision of the Companies Act 2006 to deliver a copy of its balance sheet for its relevant financial year and does not otherwise publish that balance sheet in the United Kingdom or elsewhere, and
 - (b) the society's holding is less than 50 per cent of the nominal value of the shares in the undertaking.
- (4) Information otherwise required by this paragraph need not be given if it is not material -
 - (a) in the case of Building Societies Act accounts, for the purpose of giving a true and fair view for the society of the matters set out in section 72B(2) or, where appropriate, section 72F(2), or
 - (b) in the case of IAS accounts, to the requirement under international accounting standards that such accounts achieve a fair presentation.
- (5) For the purposes of this paragraph the 'relevant financial year' of an undertaking is -
 - (a) if its financial year ends with that of the society, that year, and
 - (b) if not, its financial year ending last before the end of the society's financial year.

Construction of references to shares held by society

- 8. (1) References in this Part of this Schedule to shares held by a society shall be construed as follows.
- (2) For the purposes of paragraphs 2 and 3 -
 - (a) shares held by a subsidiary undertaking, or by a person acting on behalf of the society or a subsidiary undertaking are treated as if they were held by the society; but
 - (b) shares held on behalf of a person other than the society or a subsidiary undertaking are not treated as if they were held by the society.
- (3) For the purposes of paragraphs 5 to 7 -
 - (a) shares held on behalf of a society by any person are treated as if they were held by the society; but
 - (b) shares held on behalf of a person other than the society are not treated as if they were held by the society.
- (4) For the purposes of paragraphs 2 to 7, shares held by way of security shall be treated as if they were held by the person providing the security -

- (a) where apart from the right to exercise them for the purposes of preserving the value of the security, or of realising it, the rights attached to the shares are exercisable only in accordance with his instructions, and
- (b) where the shares are held in connection with the granting of loans as part of normal business activities and apart from the right to exercise them for the purpose of preserving the value of the security, or of realising it, the rights attached to the shares are exercisable only in his interests.

Part 2: Societies required to prepare consolidated group accounts

Subsidiary undertakings

9. (1) The following information must be given with respect to the undertakings that are subsidiary undertakings of the society at the end of the financial year.
- (2) The name of each undertaking must be stated.
- (3) There must be stated -
- (a) if it is incorporated outside the United Kingdom, the country in which it is incorporated;
 - (b) if it is unincorporated, the address of its principal place of business.
- (4) It must be stated whether the subsidiary undertaking is included in the consolidation and, if it is not, the reason for excluding it from the consolidation must be given.
- (5) It must be stated with respect to each subsidiary undertaking of the society by virtue of which of the conditions specified in section 1162 of the Companies Act 2006 it is a subsidiary undertaking of the society.
- (6) That information need not be given in relation to a subsidiary undertaking if -
- (a) the relevant condition is that specified in subsection (2)(a) of that section, and
 - (b) the society that is its immediate parent undertaking (within the meaning of section 1162 of the Companies Act 2006) holds the same proportion of the shares in the undertaking as it holds voting rights.

Holdings in subsidiary undertakings

10. (1) The following information must be given with respect to the shares of a subsidiary undertaking held -
- (a) by the society, and
 - (b) by the group,
- and the information required under paragraphs (a) and (b) must (if different) be shown separately.
- (2) There must be stated -
- (a) the identity of each class of shares held, and

- (b) the proportion of the nominal value of the shares of that class represented by those shares.

Financial information about subsidiary undertakings not included in the consolidation

- 11. (1) There must be shown with respect to each subsidiary undertaking not included in the consolidation -
 - (a) the aggregate amount of its capital and reserves as at the end of its relevant financial year, and
 - (b) its profit or loss for that year.
- (2) The information referred to in sub-paragraph (1) need not be given if the group's investment in the subsidiary undertaking is included in the accounts by way of the equity method of valuation or if -
 - (a) the subsidiary undertaking is not required by any provision of the Companies Act 2006 to deliver a copy of its balance sheet for its relevant financial year and does not otherwise publish that balance sheet in the United Kingdom or elsewhere, and
 - (b) the holding of the group is less than 50 per cent of the nominal value of the shares in the subsidiary undertaking.
- (3) Information otherwise required by this paragraph need not be given if it is not material -
 - (a) in the case of Building Societies Act accounts, for the purpose of giving a true and fair view for the society and its subsidiary undertakings as a whole, of the matters set out in section 72F(2);
 - (b) in the case of IAS accounts, to the requirement under international accounting standards that such accounts achieve a fair presentation.
- (4) For the purposes of this paragraph the 'relevant financial year' of a subsidiary undertaking is -
 - (a) if its financial year ends with that of the society, that year, and
 - (b) if not, its financial year ending last before the end of the society's financial year.

Associated undertakings

- 12. (1) The following information must be given where an undertaking included in the consolidation has an interest in an associated undertaking.
- (2) The name of the associated undertaking must be stated.
- (3) There must be stated -
 - (a) if the associated undertaking is incorporated outside the United Kingdom, the country in which it is incorporated, and
 - (b) if it is unincorporated, the address of its principal place of business.

- (4) The following information must be given with respect to the shares of the associated undertaking held -
- (a) by the society; and
 - (b) by the group,
- and the information required under paragraphs (a) and (b) must (if different) be given separately.
- (5) There must be stated -
- (a) the identity of each class of shares in the associated undertaking held; and
 - (b) the proportion of the nominal value of the shares of that class represented by those shares.

Other significant holdings of society or group

13. (1) The information required by paragraphs 14 and 15 must be given where at the end of the financial year the society has a significant holding in an undertaking which is not one of its subsidiary undertakings and does not fall within paragraph 12 (associated undertakings).
- (2) A holding is significant for this purpose if -
- (a) it amounts to 20 per cent or more of the nominal value of the shares in the undertaking; or
 - (b) the amount of the holding (as stated or included in the society's individual accounts) exceeds one-fifth of the amount of the society's assets (as so stated).
14. (1) The name of the undertaking must be stated.
- (2) There must be stated -
- (a) if the undertaking is incorporated outside the United Kingdom, the country in which it is incorporated; and
 - (b) if it is unincorporated, the address of its principal place of business.
- (3) There must also be stated -
- (a) the identity of each class of shares in the undertaking held by the society; and
 - (b) the proportion of the nominal value of the shares of that class represented by those shares.
- (4) The information otherwise required by this paragraph need not be given if it is not material -
- (a) in the case of Building Societies Act accounts, for the purpose of giving a true and fair view for the society and its subsidiary undertakings as a whole, of the matters set out in section 72F(2);
 - (b) in the case of IAS accounts, to the requirement under international accounting standards that such accounts achieve a fair presentation.

15. (1) There must also be stated -
 - (a) the aggregate amount of the capital and reserves of the undertaking as at the end of its relevant financial year; and
 - (b) its profits or loss for that year.
- (2) That information need not be given in respect of an undertaking if -
 - (a) the undertaking is not required by any provision of the Companies Act 1985 or the Companies (Northern Ireland) Order 1986 the Companies Act 2006 to deliver a copy of its balance sheet for its relevant financial year and does not otherwise publish that balance sheet in the United Kingdom or elsewhere, and
 - (b) the society's holding is less than 50 per cent of the nominal value of the shares in the undertaking.
- (3) Information otherwise required by this paragraph need not be given if it is not material -
 - (a) for the purpose of giving a true and fair view for the society and its subsidiary undertakings as a whole, of the matters set out in section 72F(2);
 - (b) in the case of IAS accounts, to the requirement under international accounting standards that such accounts achieve a fair presentation.
- (4) For the purposes of this paragraph the 'relevant financial year' of an undertaking is -
 - (a) if its financial year ends with that of the society, that year, and
 - (b) if not, its financial year ending last before the end of the society's financial year.
16. (1) The information required by paragraphs 17 and 18 must be given where at the end of the financial year the group has a significant holding in an undertaking which is not a subsidiary undertaking of the society and does not fall within paragraph 12 (associated undertakings).
- (2) A holding is significant for this purpose if -
 - (a) it amounts to 20 per cent or more of the nominal value of the shares in the undertaking; or
 - (b) the amount of the holding (as stated or included in the group accounts) exceeds one-fifth of the amount of the group's assets (as so stated).
17. (1) The name of the undertaking must be stated.
- (2) There must be stated -
 - (a) if the undertaking is incorporated outside the United Kingdom, the country in which it is incorporated; and
 - (b) if it is unincorporated, the address of its principal place of business.
- (3) There must also be stated -
 - (a) the identity of each class of shares in the undertaking held by the group; and

- (b) the proportion of the nominal value of the shares of that class represented by those shares.
- (4) Information otherwise required by this paragraph need not be given if it is not material -
- (a) for the purpose of giving a true and fair view for the society and its subsidiary undertakings as a whole, of the matters set out in section 72F(2);
 - (b) in the case of IAS accounts, to the requirement under international accounting standards that such accounts achieve a fair presentation.
18. (1) There must also be stated -
- (a) the aggregate amount of the capital and reserves of the undertaking as at the end of its relevant financial year; and
 - (b) its profit or loss for that year.
- (2) That information need not be given if -
- (a) the undertaking is not required by any provision of the Companies Act 2006 to deliver a copy of its balance sheet for its relevant financial year and does not otherwise publish that balance sheet in the United Kingdom or elsewhere; and
 - (b) the holding of the group is less than 50 per cent of the nominal value of the shares in the undertaking.
- (3) Information otherwise required by this paragraph need not be given if it is not material -
- (a) for the purpose of giving a true and fair view for the society and its subsidiary undertakings as a whole, of the matters set out in section 72F(2);
 - (b) in the case of IAS accounts, to the requirement under international accounting standards that such accounts achieve a fair presentation.
- (4) For the purposes of this paragraph the 'relevant financial year' of an undertaking is -
- (a) if its financial year ends with that of the society, that year, and
 - (b) if not, its financial year ending last before the end of the society's financial year.

Construction of references to shares held by society or group

19. (1) References in this Part of this Schedule to shares held by the society or the group shall be construed as follows.
- (2) For the purposes of paragraphs 10, 12(4) and (5) and 13 to 15 -
- (a) shares held on behalf of a society by any person are treated as if they were held by the society; but
 - (b) shares held on behalf of a person other than the society are not treated as if they were held by the society.
- (3) References to shares held by the group are to any shares held by or on behalf of the society or any of its subsidiary undertakings; but shares held on behalf of a person other

than the society or any of its subsidiary undertakings are not treated as if they were held by the group.

- (4) Shares held by way of security are treated as if they were held by the person providing the security in the following cases -
- (a) where apart from the right to exercise them for the purpose of preserving the value of the security, or of realising it, the rights attached to the shares are exercisable only in accordance with his instructions;
 - (b) where the shares are held in connection with the granting of loans as part of normal business activities and apart from the right to exercise them for the purpose of preserving the value of security, or of realising it, the rights attached to the shares are exercisable only in his interests.

Interpretation: general

20. In this Schedule, 'group' means a building society and its subsidiary undertakings.

SCHEDULE 10C:

Disclosure of auditor remuneration etc required in notes to accounts

Disclosure required

1. (1) The following must be shown -
- (a) the amount of any remuneration receivable by the society's auditor for the auditing of the annual accounts, and
 - (b) the amount of any remuneration receivable in respect of the financial year by-
 - (i) the society's auditor, or
 - (ii) any person who was, at any time during that financial year, an associate of the society's auditor,
- for the supply of other services to the society or any associate of the society.
- (2) Where the remuneration includes benefits in kind, the nature and estimated money-value of those benefits must also be shown.
- (3) Separate disclosure is required in respect of the auditing of the accounts in question and of each type of service specified in paragraph 2, but not in respect of each service falling within a type of service.
- (4) Separate disclosure is required in respect of services supplied to the society and its subsidiaries on the one hand and to associated pension schemes on the other.
- (5) Where more than one person has been appointed as a society's auditor in respect of the financial year, separate disclosure is required in respect of the remuneration of each such person and his associates.
- (6) Where a building society is required to prepare consolidated group accounts -

- (a) those accounts must comply with sub-paragraph (1)(b) as if the undertakings included in the consolidation were a single building society, and
- (b) notes to the society's individual accounts do not have to disclose the information required by that provision if the notes state that the group accounts are so required.

Types of service

2. The types of service in respect of which disclosure is required are -
- (a) the auditing of accounts of associates of the society pursuant to legislation (including that of countries and territories outside the United Kingdom);
 - (b) other services supplied pursuant to such legislation;
 - (c) other services relating to taxation;
 - (d) services relating to information technology;
 - (e) internal audit services;
 - (f) valuation and actuarial services;
 - (g) services relating to litigation;
 - (h) services relating to recruitment and remuneration;
 - (i) services relating to corporate finance transactions entered into or proposed to be entered into on behalf of the society or any of its associates;
 - (j) all other services.

Disclosure not required of remuneration for certain services provided by distant associate

3. (1) Disclosure is not required of remuneration receivable for the supply of services falling within paragraph 2(j) supplied by a distant associate of the society's auditor where the total remuneration receivable for all of those services supplied by that associate does not exceed-
- (a) £10,000, or
 - (b) 1% of the total audit remuneration received by the society's auditor in the most recent financial year of the auditor which ended no later than the end of the financial year of the society to which the accounts relate.
- (2) In sub-paragraph (1)(b) -
- (a) 'financial year of the auditor' means -
 - (i) the period of not more than 18 months in respect of which the auditor's profit and loss account is required to be made up (whether by law or by or in accordance with the auditor's constitution (if any)), or

- (ii) failing any such requirement, the period of 12 months beginning with 1st April;
- (b) 'total audit remuneration received' means the total remuneration received for the auditing pursuant to legislation (including that of countries and territories outside the United Kingdom) of any accounts of any person.

Duty of auditor to supply information

- 4. The auditor of a building society must supply the directors of the society with such information as is necessary to enable the disclosure required by paragraph 1 to be made.

Meaning of 'associate' and 'distant associate' of auditor

- 5. (1) This paragraph defines what is meant in this Schedule by an 'associate' or a 'distant associate' of a building society's auditor.
- (2) The following are associates of a society's auditor -
 - (a) any person controlled by the society's auditor or by any associate of the society's auditor (whether alone or through two or more persons acting together to secure or exercise control), but only if that control does not arise solely by virtue of the society's auditor or any associate of the society's auditor acting -
 - (i) as an insolvency practitioner in relation to any person,
 - (ii) in the capacity of a receiver, or a receiver or manager, of the property of a society or other body corporate, or
 - (iii) as a judicial factor on the estate of any person;
 - (b) any person who, or group of persons acting together which, has control of the society's auditor;
 - (c) any person using a trading name which is the same as or similar to a trading name used by the society's auditor, but only if the society's auditor uses that trading name with the intention of creating the impression of a connection between the auditor and that other person;
 - (d) any person who is party to an arrangement with the society's auditor, with or without any other person, under which costs, profits, quality control, business strategy or significant professional resources are shared.
- (3) Where the society's auditor is a partnership, the following are also associates of the auditor -
 - (a) any partner in the society's auditor;
 - (b) any body corporate which is in the same group as a body corporate which is a partner in the society's auditor;
 - (c) any body corporate of which a partner in the society's auditor is a director;
 - (d) any partnership which has a partner in common with the society's auditor;

- (e) any body corporate which is in the same group as a body corporate which is a partner in a partnership which has a partner in common with the society's auditor.
- (4) Where a society's auditor is a body corporate (other than one which is also a partnership as defined in sub-paragraph (6)(d)), the following are also associates of the auditor -
- (a) any director of the society's auditor;
 - (b) any body corporate which is in the same group as a body corporate which is a director of the society's auditor;
 - (c) any body corporate which is in the same group as the society's auditor;
 - (d) any partnership in which any such body corporate which is in the same group as the society's auditor is a partner;
 - (e) any partnership in which a director of the society's auditor is a partner;
 - (f) any body corporate which has a director in common with the society's auditor;
 - (g) any body corporate which is in the same group as a body corporate which has a director in common with the society's auditor.
- (5) A distant associate of a society's auditor is a person who is an associate of that auditor by reason only that that person is an associate within one or more of-
- (a) sub-paragraph (2)(a) where the person in question is controlled by a distant associate of the society's auditor and not by the auditor or by an associate who is not a distant associate;
 - (b) sub-paragraph (3)(c), (d) or (e);
 - (c) sub-paragraph (4)(e), (f) or (g).
- (6) For the purposes of this paragraph -
- (a) 'acting as an insolvency practitioner' shall be construed in accordance with section 388 of the Insolvency Act 1986 or Article 3 of the Insolvency (Northern Ireland) Order 1989;
 - (b) 'director' includes any person occupying the position of director, by whatever name called;
 - (c) 'partner' includes a member of a limited liability partnership;
 - (d) 'partnership' includes a limited liability partnership and a partnership constituted under the law of a country or a territory outside the United Kingdom;
 - (e) a reference to 'a receiver, or a receiver or manager, of the property of a society or other body corporate' includes a receiver, or (as the case may be) a receiver or manager, of part only of that property;
 - (f) a person able, directly or indirectly to control or materially to influence the operating and financial policy of another person shall be treated as having control of that other person; and

- (g) a body corporate is in the same group as another body corporate if one is a subsidiary of the other.

Interpretation

6. In this Schedule -

‘associate of the society’ means-

- (a) any subsidiary of the society, other than a subsidiary in respect of which severe long-term restrictions substantially hinder the exercise of rights of the society over the assets or management of that subsidiary, or
- (b) any associated pension scheme;

‘associated pension scheme’, in relation to a building society, means a scheme for the provision of benefits for or in respect of directors or employees (or former directors or employees) of the society or any subsidiary of the society where -

- (a) the benefits consist of or include any pension, lump sum, gratuity or other like benefit given or to be given on retirement or on death or in anticipation of retirement or, in connection with past service, after retirement or death, and
- (b) either -
 - (i) a majority of the trustees are appointed by, or by a person acting on behalf of the society or a subsidiary of the society, or
 - (ii) the society, or a subsidiary of the society, exercises a dominant influence over the appointment of the auditor (if any) of the scheme;

‘remuneration’ includes payments in respect of expenses and benefits in kind;

‘subsidiary’ means a subsidiary undertaking that is a body corporate.

SCHEDULE 11:

Auditors: appointment, tenure _ _ _

Appointment

1. (1) The first auditor of a building society may be appointed by the directors at any time before the first general meeting of the building society following the end of the society' first financial year and an auditor so appointed shall hold office until the conclusion of that meeting.
(2) If the directors fail to exercise their powers under sub-paragraph (1) above those powers may be exercised by the building society in general meeting.
2. The directors, or the building society in general meeting, may fill any casual vacancy in the office of auditor; but while any such vacancy continues, the surviving or continuing auditor or auditors (if any) may act.
3. (1) If at any annual general meeting of a building society no auditor is appointed or re-appointed, the **appropriate authority** may appoint a person to fill the vacancy; and the society

shall, within one week of the power of the **appropriate authority** becoming exercisable, **give notice to the FCA and, if the society is a PRA-authorized person, to the PRA** of that fact.

- (2) If a building society fails to give the notice required by sub-paragraph (1) above the society shall be liable on summary conviction -
- (a) to a fine not exceeding level 3 on the standard scale, and
 - (b) in the case of a continuing offence, to an additional fine not exceeding £40 for every day during which the offence continues:

and so shall any officer who is also guilty of the offence.

4. (1) A resolution at a general meeting of a building society -
- (a) appointing as auditor a person other than a retiring auditor; or
 - (b) filling a casual vacancy in the office of auditor; or
 - (c) reappointing as auditor a retiring auditor who was appointed by the directors to fill a casual vacancy; or
 - (d) removing an auditor before the expiration of his term of office,
- shall not be effective unless notice of the intention to move it has been given to the society not less than twenty-eight days before the meeting at which it is moved.
- (2) A building society shall give to its members notice of any such resolution at the same time and in the same manner as it gives notice of the meeting, or, if that is not practicable, shall give them notice of the resolution, not less than twenty-one days before the meeting, either by advertisement in a newspaper having an appropriate circulation or in any other way allowed by the rules of the society.
- (3) On receipt of notice of such an intended resolution as is mentioned above the society shall forthwith send a copy of it -
- (a) to the person proposed to be appointed or removed, as the case may be;
 - (b) in a case within sub-paragraph (1)(a), to the retiring auditor; and
 - (c) where, in a case within sub-paragraph (1)(b) or (c), the casual vacancy was caused by the resignation of an auditor, to the auditor who resigned.
- (4) Where notice is given of such a resolution as is mentioned in sub-paragraphs (1)(a) or (d) and the retiring auditor, or (as the case may be) the auditor proposed to be removed, makes with respect to the intended resolution representations in writing to the society (not exceeding a reasonable length) and requests their notification to the members, the society shall (unless the representations are received by it too late to do so) -
- (a) in any notice of the resolution given to members state the fact of the representations having been made, and
 - (b) send a copy of the representations to every member to whom notice of the meeting is or has been sent.

- (5) If a copy of such representations is not sent out as required by sub-paragraph (4) above because it was received too late or because of the society's default, the auditor may (without prejudice to his right to be heard orally) require that the representations shall be read out at the meeting.
- (6) The building society or any person claiming to be aggrieved may, within fourteen days of the receipt by the society of any representations made to it under sub-paragraph (4) above, apply in accordance with sub-paragraph (7) or (8) below to -
- (a) the High Court, or
- (b) **appropriate authority**
- for an order that copies of the representations need not or, as the case may be, shall not be sent out nor the representations read out at the meeting.
- (7) An application under this sub-paragraph is an application to the High Court on the ground that the auditor is abusing the rights conferred by sub-paragraph (4) above to secure needless publicity for defamatory matter, and if the court is satisfied that the auditor is so abusing those rights it may by order direct that copies of the representations need not be sent out nor the representations read out at the meeting; and the court may further order the society's costs on the application to be paid in whole or in part by the auditor notwithstanding that he is not a party to the application.
- (8) An application under this sub-paragraph is an application to the **appropriate authority** on the ground that the sending out of copies of or the reading out at the meeting of the representations would be likely to diminish substantially the confidence in the society of investing members of the public and if the **appropriate authority** is satisfied that the sending out of copies of the representations or the reading of them would have that effect it shall by order direct that copies of the representations shall not be sent out nor the representations read at the meeting.
- (9) The building society shall -
- (a) if the High Court makes an order under sub-paragraph (7) above or the **appropriate authority** makes an order under sub-paragraph (8) above, send within fourteen days of the decision a statement setting out the effect of the order to the persons mentioned in sub-paragraph (4)(b) above; and
- (b) if not, either send a copy of the written representations made under sub-paragraph (4) above to those persons or cause the representations to be read out at the meeting.
- (9A) Sub-paragraphs (9B) and (9C) apply where -
- (a) a copy of representations is required to be sent under sub-paragraph (4)(b) or (9)(b); or
- (b) a statement is required to be sent under sub-paragraph (9)(a).
- (9B) Where a copy of representations or a statement is required to be sent to a member -
- (a) it may be sent to him electronically only if it is sent to an electronic address notified by the member for the purpose; but
- (b) the requirement to send it shall also be treated as satisfied if the conditions set out in sub-paragraph (9C) are satisfied.

- (9C) The conditions of this sub-paragraph are satisfied in the case of a copy of representations or a statement if -
- (a) the society and the member have agreed that information that is required to be sent to him may instead be accessed by him on a web site;
 - (b) the agreement applies to the representations or statement in question;
 - (c) the member is notified, in a manner agreed between him and the society, of -
 - (i) the publication of the copy of the representations or the statement on a web site,
 - (ii) the address of that web site,
 - (iii) the place on that web site where the representations or statement may be accessed, and how it may be accessed,

and where the notification concerns the publication of a statement required to be sent by sub-paragraph (9)(a), the member is notified within the period specified in that paragraph; and
 - (d) the copy of the representations or the statement is published continuously on that web site throughout the period beginning with the date on which notification is given in accordance with paragraph (c) and ending with the conclusion of the meeting.

- (10) If default is made in complying with sub-paragraph (4) or (9) above the building society shall be liable -
- (a) on conviction on indictment to a fine; or
 - (b) on summary conviction to a fine not exceeding the statutory maximum and, in the case of a continuing offence, to a fine not exceeding one tenth of the statutory maximum for every day during which the offence continues;

and so shall any officer who is also guilty of the offence.

- (10A) Where, in a case in which sub-paragraph (9A)(b) is relied on for compliance with a requirement of sub-paragraph (4) or (9) -
- (a) a copy of representations or a statement is published on a web site for a part, but not all, of the period mentioned in sub-paragraph (9C)(d), but
 - (b) the failure to publish it throughout that period is wholly attributable to circumstances which it would not be reasonable to have expected the society to prevent or avoid,

no offence is committed under sub-paragraph (10) by reason of that failure.

5.

Removal of auditors

6. (1) A building society may by resolution in general meeting remove an auditor before the expiration of his term of office, notwithstanding anything in any agreement between it and him.
- (2) Where a resolution removing an auditor is passed at a general meeting of a building society, the society shall within 14 days give notice of that fact to the FCA and, if the society is a PRA-authorised person, the PRA.
- (3) If a building society fails to give the notice required by sub-paragraph (2) above the society shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale and, in the case of a continuing offence to an additional fine not exceeding £40 for every day during which the offence continues and so shall every officer who is also guilty of the offence.
- (4) Nothing in this paragraph is to be taken as depriving a person removed under it of compensation or damages that may be payable to him in respect of the termination of his appointment as auditor.

Removal of auditor on improper grounds

- 6A. (1) Where an auditor of a building society is removed from office an application may be made to the High Court under this paragraph.
- (2) The persons who may make such an application are -
 - (a) any member of the society who was also a member at the time of the removal;
 - (b) the FCA; and
 - (c) if the society is a PRA-authorised person, the PRA
- (3) If the court is satisfied that the removal was -
 - (a) on grounds of divergence of opinion on accounting treatments or audit procedures, or
 - (b) on any other improper grounds,it may make such order as it thinks fit for giving relief in respect of the removal.
- (4) The court may, in particular -
 - (a) declare that any resolution of the society removing an auditor, or appointing a new auditor in his place, is void;
 - (b) require the directors of the society to re-appoint the auditor until the next general meeting of the society;
 - (c) give directions as to the conduct of the society's affairs in the future.

Resignation of auditors

7. (1) An auditor of a building society may resign his office by depositing a notice to that effect at the principal office of the society; and any such notice operates to bring his term of office to an end on the date on which the notice is deposited, or on such later date as may be specified in it.
- (2) An auditor's notice of resignation shall not be effective unless it contains either-
- (a) a statement to the effect that there are no circumstances connected with his resignation which he considers should be brought to the notice of the members of, or depositors with, the society, or
- (b) a statement of any such circumstances as are mentioned above.
- (3) Where a notice under this paragraph is deposited at the principal office of a building society it shall within fourteen days send a copy of that notice -
- (a) to the **FCA and, if the society is a PRA-authorised person, the PRA**, and
- (b) if the notice contains a statement under sub-paragraph (2)(b) above, to every person who under section 76(8) is entitled to receive a copy of the summary financial statement.
- (4) The building society or any person claiming to be aggrieved may, within fourteen days of the receipt by the society of a notice containing a statement under sub-paragraph (2)(b), apply in accordance with sub-paragraph (5) or (6) below to -
- (a) the High Court; or
- (b) the **appropriate authority**.
- for an order that copies of the notice need not or, as the case may be, shall not be sent out.
- (5) An application under this sub-paragraph is an application to the High Court on the ground that the auditor is using the notice to secure needless publicity for defamatory matter, and if the court is satisfied that the auditor is using the notice for that purpose it may by order direct that copies of it need not be sent out; and the court may further order the society's costs on the application to be paid in whole or in part by the auditor, notwithstanding that he is not a party to the application.
- (6) An application under this sub-paragraph is an application to the **appropriate authority** on the ground that the sending out of the notice would be likely to diminish substantially the confidence in the society of investing members of the public; and if the **appropriate authority** is satisfied that the sending out of the notice would be likely to have that effect it shall by order direct that copies of it shall not be sent out.
- (7) The building society shall, within fourteen days of the decision of the High Court or of the **appropriate authority**, send to the persons mentioned in sub-paragraph (3) -
- (a) if the court makes an order under sub-paragraph (5) above or the **appropriate authority** makes an order under sub-paragraph (6), a statement setting out the effect of the order; and
- (b) if not, a copy of the notice containing the statement under sub-paragraph (2)(b).

- (7A) Sub-paragraphs (7B) and (7C) apply where -
- (a) the reference to a notice containing a statement under sub-paragraph (2)(b) is required to be sent to a person under sub-paragraph (3)(b) or sub-paragraph (7)(b); or
 - (b) a statement is required to be sent under sub-paragraph (7)(a).
- (7B) Where a notice or a statement is required to be sent to a person, the notice or statement may be sent to him electronically only if -
- (a) in a case where a person mentioned in sub-paragraph (3)(b) has notified the society of an electronic address for the purpose of this paragraph, it is sent to that address; or
 - (b) in a case where no electronic address has been notified for the purpose of this paragraph, it is sent to an electronic address notified by him for the purpose of subsection (8B) of section 76 (electronic address for the reception of summary financial statement for members and depositors).
- (7C) The requirement to send a notice or a statement shall also be treated as satisfied if -
- (a) the society and a person mentioned in sub-paragraph (3)(b) have agreed that information that is required to be sent to him may instead be accessed by him on a web site;
 - (b) the agreement applies to the notice or statement in question;
 - (c) in a manner agreed between the society and that person, he is notified of -
 - (i) the publication of the notice or statement on a web site,
 - (ii) the address of that web site, and
 - (iii) the place on that web site where the notice or statement may be accessed, and how it may be accessed; and
 - (d) the notice or statement is published on the web site throughout a period of at least 14 days, beginning with the day on which the person is notified in accordance with paragraph (c).
- (8) If default is made in complying with sub-paragraph (3) or sub-paragraph (7) the building society shall be liable -
- (a) on conviction on indictment to a fine; or
 - (b) on summary conviction to a fine not exceeding the statutory maximum and, in the case of a continuing offence to a fine not exceeding one tenth of the statutory maximum for every day during which the offence continues;
- and so shall any officer who is also guilty of the offence.
- (8A) Where, in a case in which sub-paragraph (7C) is relied on for compliance with a requirement under sub-paragraph (3) or (7) -

- (a) a notice or a statement is published for a part, but not all, of the period mentioned in sub-paragraph (7C)(d), but
- (b) the failure to publish it throughout that period is wholly attributable to circumstances which it would not be reasonable to have expected the society to prevent or avoid,

no offence is committed under sub-paragraph (8) by reason of that failure.

8. (1) Where an auditor's notice of resignation contains a statement under paragraph 7(2)(b) above he may also deposit at the principal office of the society a requisition signed by him calling on the directors of the society forthwith duly to convene a special general meeting of the society for the purpose of receiving and considering such explanation of the circumstances connected with his resignation as he may wish to place before the meeting.

(2) Where an auditor's notice of resignation contains such a statement the auditor may request the society to send to its members -

- (a) before the general meeting at which his term of office would otherwise expire or expires, as the case may be; or
- (b) before any general meeting at which it is proposed to fill the vacancy caused by his resignation.

a statement in writing (not exceeding a reasonable length) of the circumstances connected with his resignation.

(3) The society shall in that case (unless the statement is received by it too late for it to comply) -

- (a) in any notice of the meeting given to members state the fact of the statement having been made, and
- (b) send a copy of the statement to every member to whom notice of the meeting is or has been sent.

(3A) Where a copy of a statement is required to be sent to a member under subparagraph (3)(b) -

- (a) it may be sent to him electronically only if it is sent to an electronic address notified by the member for the purpose; but
- (b) the requirement to send it shall also be treated as satisfied if the conditions set out in sub-paragraph (3B) are satisfied.

(3B) The conditions of this sub-paragraph are satisfied in the case of a copy of a statement if -

- (a) the society and the member have agreed that information which is required to be sent to him may instead be accessed by him on a web site;
- (b) the agreement applies to the statement in question;
- (c) that member is notified, in a manner agreed between him and the society for the purpose, of -
 - (i) the publication of the statement on a web site,

- (ii) the address of that web site, and
 - (iii) the place on that web site where the notice may be accessed, and how it may be accessed; and
 - (d) the statement is published continuously on that web site throughout the period beginning with the giving of that notification and ending with the conclusion of the meeting.
- (3C) Where, in a case in which sub-paragraph (3A)(b) is relied on for compliance with a requirement under sub-paragraph (3)(b) -
- (a) a statement is published for a part, but not all, of the period mentioned in subparagraph (3B)(d), but
 - (b) the failure to publish it throughout that period is wholly attributable to circumstances which it would not be reasonable to have expected the society to prevent or avoid,
- that failure shall not invalidate the proceedings of the meeting.
- (4) If the directors of the society do not within 21 days from the date of the deposit of a requisition under this paragraph proceed duly to convene a meeting for a day not more than 28 days after the date on which the notice convening the meeting is given, every director who failed to take all reasonable steps to secure that a meeting was so convened shall be liable-
- (a) on conviction on indictment to a fine; or
 - (b) on summary conviction to a fine not exceeding the statutory maximum.
- (5) If a copy of the statement mentioned in sub-paragraph (2) is not sent out as required by sub-paragraph (3) because it was received too late or because of the society's default, the auditor may (without prejudice to his right to be heard orally) require that the statement be read out at the meeting.
- (6) Copies of a statement need not be sent out and the statement need not be read out at the meeting if -
- (a) on an application made to the High Court by the society or a person aggrieved, the court is satisfied that the rights conferred by this paragraph are being abused to secure needless publicity for defamatory matter; or
 - (b) on an application to the PRA by the society or a person aggrieved, the PRA is satisfied that the circulating or reading out of the statement would be likely to diminish substantially the confidence in the society of investing members of the public.
- (7) If the High Court makes an order under sub-paragraph (6)(a) above it may also order the society's costs of the application to be paid by the auditor notwithstanding that he is not a party to the application.
- (8) An auditor who has resigned his office is entitled to attend any such meeting as is mentioned in sub-paragraph (2)(a) or (b) and to receive all notices of, and other communications relating to, any such meeting which any member of the society is entitled to receive, and to be heard at any such meeting which he attends on any part of the business of the meeting which concerns him as former auditor of the society.

Duty of auditor to notify appropriate audit authority

- 8A. (1) Where an auditor of a building society ceases for any reason to hold office, he must notify the appropriate audit authority.
- (2) The notice must -
- (a) inform the appropriate audit authority that he has ceased to hold office, and
 - (b) if the auditor resigns, be accompanied by a copy of the auditor's notice of resignation.
- (3) The notice required by this paragraph must also be accompanied by a statement of the reasons for his ceasing to hold office unless -
- (a) the auditor resigns, and
 - (b) the notice of resignation contains a statement under paragraph 7(2)(b).
- (4) The auditor must comply with this paragraph -
- (a) if the auditor resigns, at the same time as he deposits his notice of resignation at the principal office of the building society;
 - (b) in any other case, not later than the end of the period of fourteen days beginning with the date on which he ceases to hold office.
- (5) A person ceasing to hold office as auditor who fails to comply with this paragraph commits an offence.
- (6) If that person is a firm an offence is committed by -
- (a) the firm, and
 - (b) every officer of the firm who is in default.
- (7) A person guilty of an offence under this paragraph is liable -
- (a) on conviction on indictment, to a fine;
 - (b) on summary conviction, to a fine not exceeding the statutory maximum.

Duty of building society to notify appropriate audit authority

- 8B (1) Where an auditor ceases to hold office before the end of his term of office, the building society must notify the appropriate audit authority.
- (2) The notice must -
- (a) inform the appropriate audit authority that the auditor has ceased to hold office, and
 - (b) be accompanied by -
 - (i) a statement by the society of the reasons for his ceasing to hold office, or

- (ii) if the auditor resigns, and his notice of resignation contains a statement under paragraph 7(2)(b), a copy of that statement.
- (3) The society must give notice under this paragraph -
 - (a) if the auditor resigns, not later than the end of the period of fourteen days beginning with the date on which the auditor's notice of resignation is deposited at the society's principal office;
 - (b) in any other case, not later than the end of the period of fourteen days beginning with the date on which the auditor ceases to hold office.
- (4) If a building society fails to comply with this paragraph, an offence is committed by -
 - (a) the society, and
 - (b) every officer of the society who is in default.
- (5) A person guilty of an offence under this paragraph is liable -
 - (a) on conviction on indictment, to a fine, and
 - (b) on summary conviction, to a fine not exceeding the statutory maximum.

Meaning of 'appropriate audit authority'

- 8C. In paragraphs 8A and 8B above 'appropriate audit authority' means -
 - (a) the Secretary of State, or
 - (b) if the Secretary of State has delegated functions under section 1252 of the Companies Act 2006 to a body whose functions include receiving the equivalent notice under section 522 or 523 of that Act, that body.
- 9. In the application of this Schedule to Scotland, references to the High Court shall be read as references to the Court of Session.

[Schedules 12 – 13 revoked]

SCHEDULE 14:

Settlement of disputes

Part I: Proceedings in court

Jurisdiction of the court

- 1. (1) No court other than the High Court or, in the case of a building society whose principal office is in Scotland the Court of Session, shall have jurisdiction to hear and determine disputes to which this paragraph applies; and, in this Part of this Schedule "the court" means the High Court or, as the case may be, the Court of Session.
- (2) This paragraph applies to any dispute -

- (a) between a building society and a member of the society in his capacity as a member. or
- (b) between a building society and a representative of such a member in that capacity,

in respect of any rights or obligations arising from the rules of the society or any provision of this Act or any statutory instrument under it.

- (3) Except in the cases referred to in sub-paragraph (5) below, no disputes to which this paragraph applies may be referred to arbitration.
 - (4) The court shall not hear and determine any dispute arising out of section 61(8)(a) or paragraph 20A(10)(a) or 31(4)(a) of Schedule 2 to this Act.
 - (5) The court shall not hear and determine any dispute which is required to be referred to arbitration under paragraph 4 below or which is referred to the FCA under paragraph 6 or to an adjudicator under paragraph 7 below except as provided in paragraph 2 below.
2. The court may hear and determine a dispute falling within paragraph 1(5) above in any case where, on the application of any person concerned, it appears to the court -
- (a) that application has been made by either party to the dispute to the other party for the purpose of having the dispute settled by arbitration, and
 - (b) that either arbitrators have not been appointed within 40 days of that application or the arbitrators have refused, or have neglected for a period of 21 days, to proceed with the reference or make an award.

Right of FCA and PRA to be heard

3. (1) Any person who institutes proceedings in the court in relation to a dispute to which paragraph 1 above applies shall give notice of the fact and of the matter in dispute to the FCA and, if the society is a PRA-authorized person, the PRA.
- (2) The court shall not proceed to hear a dispute to which paragraph 1 applies until the court is satisfied that the notice required by sub-paragraph (1) above has been given.
- (3) The FCA and, if the society is a PRA-authorized person, the PRA shall be entitled, with the leave of the court, to attend and to be heard at any hearing of a dispute to which paragraph 1 applies.

Part II: Arbitration

Circulation of election addresses, resolutions and statements

4. (1) If the rules of the society so provide, any dispute in respect of a refusal by a building society to send to its members -
- (a) copies of an election address or a revised election address, in accordance with section 61(7), or
 - (b) any document required to be sent under paragraph 20A(1)(b) or 31(1) of Schedule 2 to this Act.

shall, unless the refusal is on one of the grounds specified in subparagraph (2) below, be referred to arbitration.

- (2) Those grounds are -
- (a) that publicity for the document in question would be likely to diminish substantially the confidence in the society of investing members of the public, or
 - (b) that the rights conferred by section 61(7) or paragraph 20A(1)(b) or 31(1) are being abused to seek needless publicity for defamatory matter.

Calling of special meeting

- 4A. If the rules of the society so provide, any dispute in respect of a refusal by a building society to call a special meeting required to be called under paragraph 20A(1)(a) of Schedule 2 to this Act shall be referred to arbitration.

Procedure on a reference to arbitration

5. (1) This paragraph has effect in relation to an arbitration under paragraph 4(1) above.
- (2) One or more arbitrators shall be appointed in the manner provided for by the rules of the building society; and so shall another arbitrator if an appointed arbitrator dies or refuses to act.
- (3) No arbitrator acting on a reference shall be beneficially interested (whether directly or indirectly) in the funds of the society.
- (4) The rules of the society may provide for the procedure to be followed on a reference to arbitration.
- (5) An award made by arbitrators, or the majority of them, shall be final and binding.
- (6) For the purposes of Part I of the Arbitration Act 1996 the rules of the society shall be treated as an arbitration agreement.
- (7) In relation to Scotland, sub-paragraph (6) above shall be omitted.

Access to register of members

6. (1) Any dispute as to the rights of a member of a building society under paragraph 15 of Schedule 2 to this Act shall be referred to the **FCA**.
- (2) The reference of a dispute to the **FCA** under this paragraph shall be treated as a reference to arbitration; and its award shall have the same effect as that of an arbitrator acting in a reference under paragraph 4(1) above.
- (3) **The FCA must consult the PRA before making any such award.**

7. _ _ _

General

8. In this Part of this Schedule, in relation to an arbitration in Scotland, references to an arbitrator shall be read as references to an arbiter.

SCHEDULE 15:

Application of companies winding-up legislation to building societies

Part I: General mode of application

1. The enactments which comprise the companies winding up legislation (referred to in this Schedule as 'the enactments ') are the provisions of -
 - (a) Parts IV, VI, VII, XII and XIII of the Insolvency Act 1986, or
 - (b) Articles 5 to 8 of Part I and Parts V, VII and XI of the Insolvency (Northern Ireland) Order 1989; orand, in so far as they relate to offences under any such enactment, sections 430 and 432 of, and Schedule 10 to, the Insolvency Act 1986 or Articles 2(6) and 373 of, and Schedule 7 to, the Insolvency (Northern Ireland) Order 1989.
2. Subject to the following provisions of this Schedule, the enactments apply to the winding up of building societies as they apply to the winding up of companies limited by shares and registered under the Companies Act 2006 in England and Wales or Scotland or (as the case may be) in Northern Ireland
3. (1) The enactments shall, in their application to building societies, have effect with the substitution -
 - (a) for 'company' of 'building society' ;
 - (b) for 'the registrar of companies' or 'the registrar' of 'the Financial Conduct Authority';
 - (c) for 'the articles' of 'the rules' ; and
 - (d) for 'registered office' of 'principal office'.(2) In the application of the enactments to building societies -
 - (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;
 - (a) every reference to the officers, or to a particular officer, of a company shall have effect as a reference to the officers, or to the corresponding officer, of the building society and as including a person holding himself out as such an ; and
 - (b) every reference to an administrative receiver shall be omitted.
4. (1) Where any of the enactments as applied to building societies requires a notice or other document to be sent to the FCA, it shall have effect as if it required the FCA to keep the notice or document in the public file of the society concerned and to record in that file the date on which the notice or document is placed in it.
 - (2) Where any of the enactments, as so applied, refers to the registration, or to the date of registration, of such a notice or document, that enactment shall have effect as if it

referred to the placing of the notice or document in the public file or (as the case may be) to the date on which it was placed there.

5. Any enactment which specifies a money sum altered by order under section 416 of the Insolvency Act 1986, or, as the case may be, Article 362 of the Insolvency (Northern Ireland) Order 1989, (powers to alter monetary limits) applies with the effect of the alteration.

Part II: Modified application of Insolvency Act 1986 Parts IV and XII

Preliminary

6. In this Part of this Schedule, Part IV of the Insolvency Act 1986 is referred to as 'Part IV'; and that Act is referred to as 'the Act'.

Members of a building society as contributories in winding up

7.
 - (1) Section 74 (liability of members) of the Act is modified as follows.
 - (2) In subsection (1), the reference to any past member shall be omitted.
 - (3) Paragraphs (a) to (d) of subsection (2) shall be omitted; and so shall subsection (3).
 - (4) The extent of the liability of a member of a building society in a winding up shall not exceed the extent of his liability under paragraph 6 of Schedule 2 to this Act.
8. Sections 75 to 78 and 83 in Chapter I of Part IV (miscellaneous provisions not relevant to building societies) do not apply.
9.
 - (1) Section 79 (meaning of 'contributory') of the Act does not apply.
 - (2) In the enactments as applied to a building society, contributory' -
 - (a) means every person liable to contribute to the assets of the society in the event of its being wound up, and
 - (b) for the purposes of all proceedings for determining, and all proceedings prior to the determination of, the persons who are to be deemed contributories, includes any person alleged to be a contributory, and
 - (c) includes persons who are liable to pay or contribute to the payment of-
 - (i) any debt or liability of the building society being wound up, or
 - (ii) any sum for the adjustment of rights of members among themselves, or
 - (iii) the expenses of the Winding up;

but does not include persons liable to contribute by virtue of a declaration by the court under section 213 (imputed responsibility for fraudulent trading) or section 214 (wrongful trading) of the Act.

Voluntary winding up

10.
 - (1) Section 84 of the Act does not apply.

- (2) In the enactments as applied to a building society, the expression 'resolution for voluntary winding up' means a resolution passed under section 88(1) of this Act.
11. In subsection (1) of section 101 (appointment of liquidation committee) of the Act, the reference to functions conferred on a liquidation committee by or, under that Act shall have effect as a reference to its functions by or under that Act as applied to building societies.
12. (1) Section 107 (distribution of property) of the Act does not apply; and the following applies in its place.
- (2) Subject to the provisions of Part IV relating to preferential payments, a building society's property in a voluntary winding up shall be applied in satisfaction of the society's liabilities to creditors _ _ _ *pari passu* and, subject to that application, in accordance with the rules of the society.
13. Sections 110 and 111 (liquidator accepting shares, etc. as consideration for sale of company property) of the Act do not apply.
14. Section 116 (saving for certain rights) of the Act shall also apply in relation to the dissolution by consent of a building society as it applies in relation to its voluntary winding up.

Winding up by the court

15. In sections 117 (High Court and county court jurisdiction) and 120 (Court of Session and sheriff court jurisdiction) of the Act, each reference to a company's share capital paid up or credited as paid up shall have effect as a reference to the amount standing to the credit of shares in a building society as shown by the latest balance sheet.
16. Section 122 (circumstances in which company may be wound up by the court) of the Act does not apply.
17. Section 124 (application for winding up) of the Act does not apply.
18. (1) In section 125 (powers of court on hearing of petition) of the Act, subsection (1) applies with the omission of the words from 'but the court' to the end of the subsection.
- (2) The conditions which the court may impose under section 125 of the Act include conditions for securing -
- (a) that the building society be dissolved by consent of its members under section 87, or
- (b) that the society amalgamates with, or transfers its engagements to, another building society under section 93 or 94, or
- (c) that the society transfers its business to a company under section 97,
- and may also include conditions for securing that any default which occasioned the petition be made good and that the costs, or in Scotland the expenses, of the proceedings on that petition be defrayed by the person or persons responsible for the default.
19. Section 126 (power of court, between petition and winding up order, to stay or restrain proceedings against company) of the Act has effect with the omission of subsection (2).

20. If, before the presentation of a petition for the winding up by the court of a building society, an instrument of dissolution under section 87 is placed in the society's public file, section 129(1) (commencement of winding up by the court) of the Act shall also apply in relation to the date on which the instrument is so placed and to any proceedings in the course of the dissolution as it applies to the commencement date for, and proceedings in, a voluntary winding up.
21. (1) Section 130 of the Act (consequences of winding-up order) shall have effect with the following modifications.
- (2) Subsections (1) and (3) shall be omitted.
- (3) A building society shall, within 15 days of a winding-up order being made in respect of it, give notice of the order **to the FCA and, if the society is a PRA-authorised person, the PRA**; and the **FCA must** keep the notice in the public file of the society.
- (4) If a building society fails to comply with sub-paragraph (3) above, it shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale; and so shall any officer who is also guilty of the offence.
22. Section 140 (appointment of liquidator by court in certain circumstances) of the Act does not apply.
23. In the application of sections 141(1) and 142(1) (liquidation committees), of the Act to building societies, the references to functions conferred on a liquidation committee by or under that Act shall have effect as references to its functions by or under that Act as so applied.
24. The conditions which the court may impose under section 147 (power to stay or sist winding up) of the Act shall include those specified in paragraph 18(2) above.
25. Section 154 (adjustment of rights of contributories) of the Act shall have effect with the modification that any surplus is to be distributed in accordance with the rules of the society.
26. ---
27. Section 187 (power to make over assets to employees) of the Act does not apply.
28. (1) In section 201 (dissolution: voluntary winding up) of the Act, subsection (2) applies without the words from 'and on the expiration' to the end of the subsection and, in subsection (3), the word 'However' shall be omitted.
- (2) Sections 202 to 204 (early dissolution) of the Act do not apply.
29. In section 205 (dissolution: winding up by the court) of the Act, subsection (2) applies with the omission of the words from 'and, subject' to the end of the subsection; and in subsections (3) and (4) references to the Secretary of State shall have effect as references to the **appropriate authority**.

Penal provisions

30. Sections 216 and 217 of the Act (restriction on re-use of name) do not apply.
31. (1) Sections 218 and 219 (prosecution of delinquent officers) of the Act do not apply in relation to offences committed by members of a building society acting in that capacity.
- (2) Sections 218(5) of the Act and subsections (1) and (2) of section 219 of the Act do not apply.

- (3) The references in subsections (3) and (4) of section 219 of the Act to the Secretary of State shall have effect as references to the **FCA**; and the reference in subsection (3) to section 218 of the Act shall have effect as a reference to that section as supplemented by paragraph 32 below.
32. (1) Where a report is made to the prosecuting authority (within the meaning of section 218) under section 218(4) of the Act, in relation to an officer of a building society, he may, if he thinks fit, refer the matter to the Authority for further enquiry.
- (2) On such a reference to it the Authority shall exercise its power under section 55(1) of this Act to appoint one or more investigators to investigate and report on the matter.
- (3) An answer given by a person to a question put to him in exercise of the powers conferred by section 55 on a person so appointed may be used in evidence against the person giving it.

Preferential debts

33. Section 387 (meaning in Schedule 6 of 'the relevant date ') of the Act applies with the omission of subsections (2) and (4) to (6).

Part III: Modified application of Insolvency (Northern Ireland) Order 1989 Parts V and XI

Preliminary

34. 'In this Part of this Schedule, Part V of the Insolvency (Northern Ireland) Order 1989 is referred to as 'Part V', that Order is referred to as 'the Order' and references to 'Articles' are references to Articles of that Order.

Members of a building society as contributories in winding up

35. (1) Article 61 (liability of members) is modified as follows.
- (2) In paragraph (1), the reference to any past member shall be omitted.
- (3) Sub-paragraphs (a) to (d) of paragraph (2) shall be omitted; and so shall paragraph (3).
- (4) The extent of the liability of a member of a building society in a winding up shall not exceed the extent of his liability under paragraph 6 of Schedule 2 to this Act.
36. Articles 62 to 65 and 69 in Chapter I of Part V (miscellaneous provisions not relevant to building societies) do not apply.
37. In the enactments as applied to a building society, 'contributory' -
- (a) means every person liable to contribute to the assets of the society in the event of its being wound up, and
- (b) for the purposes of all proceedings for determining, and all proceedings prior to the determination of, the persons who are to be deemed contributories, includes any person alleged to be a contributory, and
- (c) includes persons who are liable to pay or contribute to the payment of -
- (i) any debt or liability of the building society being wound up, or

- (ii) any sum for the adjustment of rights of members among themselves, or
- (iii) the expenses of the winding up;

but does not include persons liable to contribute by virtue of a declaration by the Court under Article 177 (imputed responsibility for fraudulent trading) or Article 178 (wrongful trading).

Voluntary winding-up

38. (1) Article 70 does not apply.
- (2) In the enactments as applied to a building society, the expression 'resolution for voluntary winding up' means a resolution passed under section 88(1) of this Act.
39. In paragraph (1) of Article 87 (appointment of liquidation committee), the reference to functions conferred on a liquidation committee by or under the Order shall have effect as a reference to its functions by or under the Order as applied to building societies.
40. (1) Article 93 (distribution of property) does not apply; and the following applies in its place.
- (2) Subject to the provisions of Part V relating to preferential payments, a building society's property in a voluntary winding up shall be applied in satisfaction of the society's liabilities to creditors ___ *pari passu* and, subject to that application, in accordance with the rules of the society.
41. Articles 96 and 97 (liquidator accepting shares, etc., as consideration for sale of company property) do not apply.
42. Article 101 (saving for certain rights) shall also apply in relation to the dissolution by consent of a building society as it applies in relation to its voluntary winding up.

Winding-up by the High Court

43. Article 102 (circumstances in which company may be wound up by the High Court) does not apply.
44. Article 104 (application for winding up) does not apply.
45. (1) In Article 105 (powers of High Court on hearing of petition), paragraph (1) applies with the omission of the words from 'but the Court' to the end of the paragraph.
- (2) The conditions which the High Court may impose under Article 105 include conditions for securing -
- (a) that the building society be dissolved by consent of its members under section 87, or
 - (b) that the society amalgamates with, or transfers its engagements to, another building society under section 93 or 94, or
 - (c) that the society transfers its business to a company under section 97,

and may also include conditions for securing that any default which occasioned the petition be made good and that the costs of the proceedings on that petition be defrayed by the person or persons responsible for the default.

46. Article 106 (power of High Court, between petition and winding-up order, to stay or restrain proceedings against company) has effect with the omission of paragraph (2).
47. If, before the presentation of a petition for the winding up by the High Court of a building society, an instrument of dissolution under section 87 is placed in the society's public file, Article 109(1) (commencement of winding up by the High Court) shall also apply in relation to the date on which the instrument is so placed and to any proceedings in the course of the dissolution as it applies to the commencement date for, and proceedings in, a voluntary winding up.
48. (1) Article 110 (consequences of winding-up order) shall have effect with the following modifications.
- (2) Paragraphs (1) and (3) shall be omitted.
- (3) A building society shall, within 15 days of a winding-up order being made in respect of it, give notice of the order **to the FCA and, if the society is a PRA-authorised person, the PRA**; and the **FCA must** keep the notice in the public file of the society.
- (4) If a building society fails to comply with sub-paragraph (3) above, it shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale; and so shall any officer who is also guilty of the offence.
49. Article 119 (appointment of liquidator by High Court in certain circumstances) does not apply.
50. In the application of Article 120(1) (liquidation committee) to building societies, the references to functions conferred on a liquidation committee by or under the Order shall have effect as references to its functions by or under the Order as so applied.
51. The conditions which the High Court may impose under Article 125 (power to stay winding up) shall include those specified in paragraph 45(2) above.
52. Article 132 (adjustment of rights of contributories) shall have effect with the modification that any surplus is to be distributed in accordance with the rules of the society.
53. _ _ _

Winding-up: general

54. Article 158 (power to make over assets to employees) does not apply.
55. (1) In Article 166 (dissolution: voluntary winding up), paragraph (2) applies without the words from 'and on the expiration' to the end of the paragraph and, in paragraph (3), the word 'However' shall be omitted.
- (2) Articles 167 and 168 (early dissolution) do not apply.
- 55A. In Article 169 (dissolution: winding up by the High Court) paragraph (1) applies with the omission of the words from 'and, subject' to the end of the paragraph; and in paragraphs (2) and (3) references to the Department shall have effect as references to the **appropriate authority**.

Penal provisions

- 55B. Articles 180 and 181 (restriction on re-use of name) do not apply.
- 55C. (1) Articles 182 and 183 (prosecution of delinquent officers) do not apply in relation to offences committed by members of a building society acting in that capacity.

- (2) Article 182(4) and paragraphs (1) and (2) of Article 183 do not apply.
 - (3) The references in paragraphs (3) and (5) of Article 183 to the Department shall have effect as references to the FCA; and the reference in paragraph (3) to Article 182 shall have effect as a reference to that Article as supplemented by paragraph 55D below.
- 55D.
- (1) Where a report is made to the prosecuting authority (within the meaning of Article 182) under Article 182(3), in relation to an officer of a building society, he may, if he thinks fit, refer the matter to the FCA for further enquiry.
 - (2) On such a reference to it the FCA shall exercise its power under section 55(1) of this Act to appoint one or more investigators to investigate and report on the matter.
 - (3) An answer given by a person to a question put to him in exercise of the powers conferred by section 55 on a person so appointed may be used in evidence against the person giving it.

Preferential debts

- 55E. Article 347 (meaning in Schedule 4 of 'the relevant date') applies with the omission of paragraphs (2) and (4) to (6).

Part IV: Dissolution of building society wound up (England and Wales, Scotland and Northern Ireland)

56. (1) Where a building society has been wound up voluntarily, it is dissolved as from 3 months from the date of the placing in the public file of the society of the return of the final meetings of the society and its creditors made by the liquidator under -
- (a) section 94 or (as the case maybe) 106 of the Insolvency Act 1986 (as applied to building societies), or on such 15 other date as is determined in accordance with section 201 of that Act, or
 - (b) Article 80 or (as the case may be) 92 of the Insolvency (Northern Ireland) Order 1989 (as so applied), or on such other date as is determined in accordance with that Article.
- as the case may be.
- (2) Where a building society has been wound up by the court, it is dissolved as from 3 months from the date of the placing in the public file of the society of -
- (a) the liquidator's notice under section 172(8) of the Insolvency Act 1986 (as applied to building societies) or, as the case may be, Article 146(7) of the Insolvency (Northern Ireland) Order 1989 (as applied to building societies), or .
 - (b) the notice of the completion of the winding up from the official receiver or the official receiver for Northern Ireland.
- or on such other date as is determined in accordance with section 205 of that Act or Article 169 of that Order, as the case may be.
57. (1) Sections 1012 to 1023 and 1034 of the Companies Act 2006 (property of dissolved company) apply in relation to the property of a dissolved building society (whether dissolved under section 87 or following its winding up) as they apply in relation to the property of a dissolved company.

- (2) Paragraph 3(1) above shall apply to those sections for the purpose of their application to building societies.
- (3) Any reference in those sections to restoration to the register shall be read as a reference to the effect of an order under section 91 of this Act.

Insolvency rules and fees: England and Wales and Scotland

- 58. (1) Rules may be made under section 411 of the Insolvency Act for the purpose of giving effect, in relation to building societies, to the provisions of the applicable winding up legislation.
- (2) An order made by the competent authority under section 414 of the Insolvency Act 1986 may make provision for fees to be payable under that section in respect of proceedings under the applicable winding up legislation and the performance by the official receiver or the Secretary of State of functions under it.

Insolvency rules and fees: Northern Ireland

- 59. (1) Rules may be made under Article 359 of the Insolvency (Northern Ireland) Order 1989 for the purpose of giving effect in relation to building societies, to the provisions of the applicable winding up legislation.
- (2) An order made by the Department of Economic Development under Article 361 of the Insolvency (Northern Ireland) Order 1989 may make provision for fees to be payable under that Article in respect of proceedings under the applicable winding-up legislation and the performance by the official receiver for Northern Ireland or that Department of functions under it.

SCHEDULE 15A

Application of other companies insolvency legislation to building societies

Part I: General mode of application

- 1. (1) Subject to the provisions of this Schedule, the enactments specified in sub-paragraph (2) below (referred to in this Schedule as 'the enactments') apply in relation to building societies as they apply in relation to companies limited by shares and registered under the Companies Act 2006 in England and Wales or Scotland or (as the case may be) in Northern Ireland.
- (2) The enactments referred to in sub-paragraph (1) above are -
 - (a) Parts I (except section 1A) and II, Chapter I of Part III, Parts VI, VII, XII and XIII, section 434 and Part XVIII of the Insolvency Act 1986, or
 - (b) Part I, Part II (except Article 14A), Parts III, to IV, VII, XI and XII and Article 378 of the Insolvency (Northern Ireland) Order 1989,

and, in so far as they relate to offences under any such enactment, sections 430 and 432 of, and Schedule 10 to, the Insolvency Act 1986 or Article 2(6) and 373 of, and Schedule 7 to, the Insolvency (Northern Ireland) Order 1989.
- 2. (1) The enactments shall, in their application to building societies, have effect with the substitution -
 - (a) for 'company' of 'building society';

- (b) for 'the registrar of companies' or 'the registrar' of 'the Financial Conduct Authority';
 - (c) for 'the articles' of 'the rules'; and
 - (d) for 'registered office' of 'principal office'.
- (2) In the application of the enactments to building societies -
- (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;
 - (a) every reference to the officers, or to a particular officer, of a company shall have effect as a reference to the officers, or to the corresponding officer, of the building society and as including a person holding himself out as such an officer; and
 - (b) every reference to an administrative receiver shall be omitted.
3. (1) Where any of the enactments as applied to building societies requires a notice or other document to be sent to the FCA, it shall have effect as if it required the FCA to keep the notice or document in the public file of the society concerned and to record in that file the date on which the notice or document is placed in it.
- (2) Where any of the enactments, as so applied, refers to the registration, or to the date of registration, of such a notice or document, that enactment shall have effect as if it referred to the placing of the notice or document in the public file or (as the case may be) to the date on which it was placed there.
4. (1) Rules may be made under section 411 of the Insolvency Act 1986 or, as the case may be, Article 359 of the Insolvency (Northern Ireland) Order 1989 for the purpose of giving effect, in relation to building societies, to the provisions of the enactments.
- (2) An order made by the competent authority under section 414 of the Insolvency Act 1986 may make provision for fees to be payable under that section in respect of proceedings under the enactments and the performance by the official receiver or the Secretary of State of functions under them.
- (3) An order made by the Department of Economic Development under Article 361 of the Insolvency (Northern Ireland) Order 1989 may make provision for fees to be payable under that Article in respect of proceedings under the enactments and the performance by the official receiver or that Department of functions under them.
5. Any enactment which specifies a money sum altered by order under section 416 of the Insolvency Act 1986, or, as the case may be, Article 362 of the Insolvency (Northern Ireland) Order 1989, (powers to alter monetary limits) applies with the effect of the alteration.
- 5A. In this Schedule, 'scheme manager' has the same meaning as in the Financial Services and Markets Act 2000.

Part II: Modified application of Parts I and II and Chapter I and Part III of Insolvency Act 1986

Preliminary

6. In this Part of this Schedule, the Insolvency Act 1986 is referred to as 'the Act'.

Voluntary arrangements

7. Section 1 of the Act for voluntary arrangements) has effect as if -
- (a) it required any proposal under Part I of the Act to be so framed as to enable a building society to comply with the requirements of this Act; and
 - (b) any reference to debts included a reference to liabilities owed to the holders of shares in a building society.
8. In section 2 where nominee is not liquidator or administrator) and section 3 (summoning of meetings) of the Act as applied to a building society, any reference to a meeting of the society is a reference to -
- (a) a meeting of both shareholding and borrowing members of the society; and
 - (b) a meeting of shareholding members alone
- and subsection (1) of section 2 shall have effect with the omission of the words from 'and the directors.
- 8A. In subsection (2) of section 4A of the Act (approval of arrangement) as applied to a building society, paragraph (b) and the word 'or' immediately preceding that paragraph are omitted.
9. In section 6 of the Act (challenge of decisions) as applied to a building society, 'contributory' -
- (a) means every person liable to contribute to the assets of the society in the event of its being wound up, and
 - (b) for the purposes of all proceedings for determining, and all proceedings prior to the determination of, the persons who are to be deemed contributories, includes any person alleged to be a contributory, and
 - (c) includes persons who are liable to pay or contribute to the payment of-
 - (i) any debt or liability of the building society being wound up, or
 - (ii) any sum for the adjustment of rights of members among themselves, or
 - (iii) the expenses of the winding up;but does not include persons liable to contribute by virtue of a declaration by the court under section 213 (imputed responsibility for fraudulent trading) or section 214 (wrongful trading) of the Act.
- 9A. In section 7A of the Act (prosecution of delinquent officers) as applied to a building society -
- (a) in subsection (2), for paragraphs (i) and (ii) there is substituted 'the FCA ',
 - (b) subsections (3) to (7) are omitted,
 - (c) in subsection (8), for 'Secretary of State' there is substituted 'FCA'.

Administration orders

10. (1) Section 8 of the Act (power of court to make administration order) has effect as if it included provision that, where -
 - (a) an application for an administration order to be made in relation to a building society is made by the **FCA or the PRA** (with or without other parties); and
 - (b) the society has defaulted in an obligation to pay any sum due and payable in respect of any deposit or share, the society shall be deemed for the purposes of subsection (1) to be unable to pay its debts.
- (2) In subsection (3) of that section, paragraph (c) and, in subsection (4) of that section, the words from 'nor where' to the end are omitted.
11. (1) Subsection (1) of section 9 of the Act (application for administration order) as applied to a building society has effect as if -
 - (a) it enabled an application to the court for an administration order to be by petition presented, with or without other parties, by the **FCA or the PRA** or by a shareholding member entitled under section 89(3) of this Act to petition for the winding up of the society; and
 - (b) the words from 'or by the clerk' to 'on companies' were omitted.
- (2) In subsection (2)(a) of that section as so applied, the reference to any person who has appointed, or is or may be entitled to appoint, an administrative receiver of the society is a reference to the **FCA or the PRA** (unless it is a petitioner).
- (3) Subsection (3) of that section, and in subsection (4) of that section, the words 'Subject to subsection (3),' are omitted.
12. In section 10 of the Act (effect of application for administration order), the following are omitted, namely -
 - (a) in subsection (2), paragraphs (b) and (c); and
 - (b) subsection (3).
13. In section 11 of the Act (effect of administration order), the following are omitted, namely -
 - (a) in subsection (1), paragraph (b) and the word 'and' immediately preceding that paragraph;
 - (b) in subsection (3), paragraph (b);
 - (c) in subsection (4), the words 'an administrative receiver of the company has vacated office under subsection (1)(b), or'; and
 - (d) subsection (5).
14. In subsection (1) of section 12 of the Act (notification of administration order), the reference to every invoice, order for goods or business letter is a reference to every statement of account, order for goods or services, business letter or advertisement.

15. Subsection (3) of section 13 of the Act (appointment of administrator) has effect as if it enabled an application for an order under subsection (2) of that section to be made by the **FCA or PRA**.
16. (1) Subject to sub-paragraph (2) below, section 14 of the Act (general powers of administrator) has effect as if it required the administrator of a building society, in exercising his powers under that section-
- (a) to ensure compliance with the provisions of this Act; and
- (b) not to appoint to be a director any person who is not a fit and proper person to hold that position.
- (2) Sub-paragraph (1)(a) above does not apply in relation to section 5, 6 or 7 of this Act _ _ _
- (3) In subsection (4) of that section as applied to a building society, the reference to any power conferred by the Act or the Companies Acts or by the company's articles is a reference to any power conferred by this Act or by the society's memorandum or rules.
- (4) _ _ _
17. (1) Subject to sub-paragraph (3) below, paragraph 16 of Schedule 1 to the Act (powers of administrators) as applied to a building society has effect as if it conferred power to transfer liabilities in respect of deposits with or shares in the society.
- (2) No transfer under that paragraph shall be a transfer of engagements for the purposes of Part X of this Act.
- (3) No transfer under that paragraph which, apart from sub-paragraph (2) above, would be a transfer of engagements for the purposes of that Part shall be made unless it is approved by the court, or by meetings summoned under section 23(1) or 25(2) of the Act (as modified by paragraph 21 or 23 below).
18. In section 15 of the Act (power to deal with charged property etc.) -
- (a) subsection (1) is omitted; and
- (b) for subsections (3) and (4) there is substituted the following subsection-
- '(3) Subsection (2) applies to any security other than one which, as created, was a floating charge.'
19. (1) Section 17 of the Act (general duties of administrator) has effect as if, instead of the requirement imposed by subsection (3), it required the administrator of a building society to summon a meeting of the society's creditors if -
- (a) he is requested, in accordance with the rules, to do so by 500 of the society's creditors, or by one-tenth, in number or value, of those creditors, or
- (b) he is directed to do so by the court.
- (2) That section also has effect as if it required the administrator of a building society to summon a meeting of the society's shareholding members if -
- (a) he is requested, in accordance with the rules, to do so by 500 of the society's shareholding members, or by one-tenth, in number, of those members, or

- (b) he is directed to do so by the court.
20. In subsection (4) of section 19 of the Act (vacation of office) as applied to a building society, the words 'in priority to any security to which section 15(1) then applies' are omitted.
21. (1) Subsection (1) of section 23 of the Act (statement of proposals) as applied to a building society has effect as if -
- (a) the reference to the 'Financial Conduct Authority' included a reference to the scheme manager;
 - (b) the reference to all creditors included a reference to all holders of shares in the society; and
 - (c) the reference to a meeting of the society's creditors included a reference to a meeting of holders of shares in the society.
- (2) In subsection (2) of that section as so applied, references to members of the society do not include references to holders of shares in the society.
22. Section 24 of the Act (consideration of proposals by creditors' meeting) as applied to a building society has effect as if any reference to a meeting of creditors included a reference to a meeting of holders of shares in the society.
23. (1) Section 25 of the Act (approval of substantial revisions) as applied to a building society has effect as if -
- (a) subsection (2) required the administrator to send a statement in the prescribed form of his proposed revisions to the FCA, to the PRA and to the scheme manager; and
 - (b) the reference in that subsection to a meeting of creditors included a reference to a meeting of holders of shares in the society.
- (2) In subsection (3) of that section as so applied, references to members of the society do not include references to holders of shares in the society.
24. Subsection (1) of section 27 of the Act (protection of interests of creditors and members) has effect -
- (a) as if it enabled the FCA, the PRA or the scheme manager to apply to the court by petition for an order under that section; and
 - (b) in relation to an application by the FCA, the PRA or the scheme manager, as if the words '(including at least himself)' were omitted.

Receivers and managers

25. In section 38 of the Act (receivership accounts), 'prescribed' means prescribed by regulations made by statutory instrument by the Treasury.
26. In subsection (1) of section 39 of the Act (notification that receiver or manager appointed), the reference to every invoice, order for goods or business letter is a reference to every statement of account, order for goods or services, business letter or advertisement.

27. Section 40 (payment of debts out of assets subject to floating charge) and sections 42 to 49 (administrative receivers) of the Act are omitted.

Part III: Modified application of Parts II, III and IV of Insolvency (Northern Ireland) Order 1989

Preliminary

28. In this Part of this Schedule, the Insolvency (Northern Ireland) Order 1989 is referred to as 'the Order'.

Voluntary arrangements

29. Article 14 of the Order (proposals for voluntary arrangements) has effect as if -
- (a) it required any proposal under Part II of the Order to be so framed as to enable a building society to comply with the requirements of this Act; and
 - (b) any reference to debts included a reference to liabilities owed to the holders of shares in a building society.
30. In Article 15 (procedure where nominee is not liquidator or administrator) and Article 16 (summoning of meetings) of the Order as applied to a building society, any reference to meetings of the society is a reference to -
- (a) a meeting of both shareholding and borrowing members of the society; and
 - (b) a meeting of shareholding members alone;
- and paragraph (1) of Article 15 shall have effect with the omission of the words from 'and the directors' to the end.
- 30A. In paragraph (2) of Article 17A of the Order (approval of arrangement) as applied to a building society, sub-paragraph (b) and the word 'or' immediately preceding that sub-paragraph are omitted.
31. In Article 19 of the Order (challenge of decisions) as applied to a building society, 'contributory' -
- (a) means every person liable to contribute to the assets of the society in the event of its being wound up, and
 - (b) for the purposes of all proceedings for determining, and all proceedings prior to the determination of, the persons who are to be deemed contributories, includes any person alleged to be a contributory, and
 - (c) includes persons who are liable to pay or contribute to the payment of -
 - (i) any debt or liability of the building society being wound up, or
 - (ii) any sum for the adjustment of rights of members among themselves, or
 - (iii) the expenses of the winding up;

but does not include persons liable to contribute by virtue of a declaration by the High Court under Article 177 (imputed responsibility for fraudulent trading) or Article 178 (wrongful trading) of the Order.

- 31A. In Article 20A of the Order (prosecution of delinquent officers) as applied to a building society -
- (a) in paragraph (2) for the words ‘the Department’, in each place where they occur, there are substituted the words ‘each of the Financial Conduct Authority and the Prudential Regulation Authority’,
 - (b) paragraphs (3) to (7) are omitted,
 - (c) in paragraph (8) -
 - (i) after the words ‘Northern Ireland’ there are inserted the words ‘or the Financial Conduct Authority or the Prudential Regulation Authority’, and
 - (ii) after the words ‘Northern Ireland’ and the words ‘the Director’, in the second place where they occur, there are inserted the words ‘or the Financial Conduct Authority or the Prudential Regulation Authority’,
 - (d) in paragraph (9) after the words ‘for Northern Ireland’ there are inserted the words ‘or the Financial Services Authority.’

Administration orders

32. (1) Article 21 of the Order (power of High Court to make administration order) has effect as if it included provision that, where -
- (a) an application for an administration order to be made in relation to a building society is made by the FCA or the PRA (with or without other parties); and
 - (b) the society has defaulted in an obligation to pay any sum due and payable in respect of any deposit or share, the society shall be deemed for the purposes of paragraph (1) to be unable to pay its debts.
- (2) In paragraph (3) of that Article, sub-paragraph (c) and, in paragraph (4) of that Article, the words from ‘nor where’ to the end are omitted.
33. (1) Paragraph (1) of Article 22 of the Order (application for administration order) as applied to a building society has effect as if -
- (a) it enabled an application to the High Court for an administration order to be by petition presented, with or without other parties, by the FCA, the PRA or by a shareholding member entitled under section 89(3) of this Act to petition for the winding up of the society; and
 - (b) the words from ‘or by the chief clerk’ to ‘on companies’, in the second place where they occur, were omitted.
- (2) In paragraph (2)(a) of that Article as so applied, the reference to any person who has appointed, or is or may be entitled to appoint, an administrative receiver of the society is a reference to the FCA or, as the case may be, the PRA (unless it is a petitioner).
- (3) Paragraph (3) of that Article, and in paragraph (4) of that Article, the words ‘Subject to paragraph (3),’ are omitted.

34. In Article 23 of the Order (effect of application for administration order), the following are omitted, namely-
- (a) in paragraph (2), sub-paragraphs (b) and (c); and
 - (b) paragraph (3).
35. In Article 24 of the Order (effect of administration order), the following are omitted, namely -
- (a) in paragraph (1), sub-paragraph (b) and the word 'and' immediately preceding that sub-paragraph;
 - (b) in paragraph (3), sub-paragraph (b);
 - (c) in paragraph (4), the words 'an administrative receiver of the company has vacated office under paragraph (1)(b), or'; and
 - (d) paragraph (5).
36. In paragraph (1) of Article 25 of the Order (notification of administration order), the reference to every invoice, order for goods or business letter is a reference to every statement of account, order for goods or services, business letter or advertisement.
37. Paragraph (3) of Article 26 of the Order (appointment of administrator) has effect as if it enabled an application for an order under paragraph (2) of that Article to be made by the **FCA and the PRA**.
38. (1) Subject to sub-paragraph (2) below, Article 27 of the Order (general powers of administrator) has effect as if it required the administrator of a building society, in exercising his powers under that Article -
- (a) to ensure compliance with the provisions of this Act; and
 - (b) not to appoint to be a director any person who is not a fit and proper person to hold that position.
- (2) Sub-paragraph (i)(a) above does not apply in relation to section 5, 6 or 7 of this Act _ _ _
- (3) In paragraph (4) of that Article as applied to a building society, the reference to any power conferred by the Order or the Companies Acts or by the company's articles is a reference to any power conferred by this Act or by the society's memorandum or rules.
- (4) _ _ _
39. (1) Subject to sub-paragraph (3) below, paragraph 17 of Schedule 1 to the Order (powers of administrators) as applied to a building society has effect as if it conferred power to transfer liabilities in respect of deposits with or shares in the society.
- (2) No transfer under that paragraph shall be a transfer of engagements for the purposes of Part X of this Act.
 - (3) No transfer under that paragraph which, apart from sub-paragraph (2) above, would be a transfer of engagements for the purposes of that Part shall be made unless it is approved by the High Court, or by meetings summoned under Article 35(1) or 37(2) of the Order (as modified by paragraph 43 or 45 below).

40. In Article 28 of the Order (power to deal with charged property etc.) -
- (a) paragraph (1) is omitted; and
 - (b) for paragraphs (3) and (4) there is substituted the following paragraph -
- '(3) Paragraph (2) applies to any security other than one which, as created, was a floating charge.'
41. (1) Article 29 of the Order (general duties of administrator) has effect as if, instead of the requirement imposed by paragraph (3), it required the administrator of a building society to summon a meeting of the society's creditors if-
- (a) he is requested, in accordance with the rules, to do so by 500 of the society's creditors, or by one-tenth, in number or value, of those creditors, or
 - (b) he is directed to do so by the High Court.
- (2) That Article also has effect as if it required the administrator of a building society to summon a meeting of the society's shareholding members if -
- (a) he is requested, in accordance with the rules, to do so by 500 of the society's shareholding members, or by one-tenth, in number, of those members, or
 - (b) he is directed to do so by the High Court.
42. In paragraph (4) of Article 31 of the Order (vacation of office) as applied to a building society, the words 'in priority to any security to which Article 28(1) then applies' are omitted.
43. (1) Paragraph (1) of Article 35 of the Order (statement of proposals) as applied to a building society has effect as if-
- (a) the reference to the **Financial Conduct Authority** included a reference to the scheme manager;
 - (b) the reference to all creditors included a reference to all holders of shares in the society; and
 - (c) the reference to a meeting of the society's creditors included a reference to a meeting of holders of shares in the society.
- (2) In paragraph (2) of that Article as so applied, references to members of the society do not include references to holders of shares in the society.
44. Article 36 of the Order (consideration of proposals by creditors' meeting) as applied to a building society has effect as if any reference to a meeting of creditors included a reference to a meeting of holders of shares in the society.
45. (1) Article 37 of the Order (approval of substantial revisions) as applied to a building society has effect as if -
- (a) paragraph (2) required the administrator to send a statement in the prescribed form of his proposed revisions to the **FCA, to the PRA** and to the scheme manager; and

- (b) the reference in that paragraph to a meeting of creditors included a reference to a meeting of holders of shares in the society.
 - (2) In paragraph (3) of that Article as so applied, references to members of the society do not include references to holders of shares in the society.
46. Paragraph (1) of Article 39 of the Order (protection of interests of creditors and members) has effect -
- (a) as if it enabled the FCA, the PRA or the scheme manager to apply to the High Court by petition for an order under that section; and
 - (b) in relation to an application by the FCA, the PRA or the scheme manager, as if the words '(including at least himself)' were omitted.

Receivers and managers

47. In Article 48 of the Order (receivership accounts), 'prescribed' means prescribed by regulations made by statutory instrument by the Treasury.
48. In paragraph (1) of Article 49 of the Order (notification that receiver or manager appointed), the reference to every invoice, order for goods or business letter is a reference to every statement of account, order for goods or services, business letter or advertisement.
49. Article 50 (payment of debts out of assets subject to floating charge) and Articles 52 to 59 (administrative receivers) of the Order are omitted.

SCHEDULE 16:

Mergers: supplementary provisions

Part I: Issue of Statements to members

1. (1) A building society which desires -
- (a) to amalgamate with one or more other building societies, or
 - (b) to transfer its engagements to another building society, or
 - (c) to undertake to fulfil the engagements of another building society,
- shall, unless the appropriate authority, in the case of a society desirous of undertaking to fulfil another's engagements, has consented under section 94(5) to its proceeding by resolution of the board of directors, send to every member entitled to notice of a meeting of the society a statement concerning the matters specified in sub-paragraph (4) below.
- (2) A building society shall include the statement referred to in sub-paragraph (1) above in or with the notice to be sent to its members of the meeting of the society at which the resolutions required for the approval of the amalgamation or, as the case may be, the transfer are to be moved.
- (2A) Where a statement is required to be sent to a member in or with the notice of the meeting under sub-paragraph (2) -

- (a) in a case where notice of the meeting is given to that member electronically in accordance with paragraph 22A of Schedule 2, the statement may be sent to him electronically only if it is sent to the same electronic address, and at the same time, as the notice;
 - (b) in a case where notice of the meeting is given on a web site in accordance with paragraph 22B of Schedule 2, the requirement to send it shall also be treated as satisfied if the conditions set out in sub-paragraph (2B) are satisfied.
- (2B) The conditions of this sub-paragraph are satisfied in the case of a statement if -
- (a) the society and that member have agreed that information that is required to be sent to him may instead be accessed by him on a web site;
 - (b) the agreement applies to the statement in question;
 - (c) at the same time and in the same manner as the society notifies that person of the publication of the notice of the meeting, it notifies him of -
 - (i) the publication of the statement on a web site,
 - (ii) the address of that web site,
 - (iii) the place on that web site where the statement may be accessed, and how it may be accessed; and
 - (d) the statement is published continuously on that web site throughout the period beginning with the giving of that notification and ending with the decision of the **appropriate authority** whether to confirm the amalgamation or transfer of engagements pursuant to section 95.
- (2C) Where, in a case in which sub-paragraph (2A)(b) above is relied on for compliance with a requirement under sub-paragraph (2) -
- (a) a statement is published for a part, but not all, of the period mentioned in subparagraph (2B)(d), but
 - (b) the failure to publish it throughout that period is wholly attributable to circumstances which it would not be reasonable to have expected the society to prevent or avoid,
- that failure shall not invalidate the proceedings of a meeting or prevent the requirements of sub-paragraph (2B) from being treated as fulfilled in relation to section 95(4)(c).
- (3) No statement shall be sent unless its contents, so far as they concern the matters specified in sub-paragraph (4) below, have been approved by the **appropriate authority**.
- (4) Those matters are the following, namely -
- (a) the financial position of the building society and that of the other building society or societies participating in the amalgamation or transfer;
 - (b) the interest of the directors of the building society in the amalgamation or transfer of engagements;

- (c) the compensation or other consideration (if any) proposed to be paid to or in respect of the directors or other officers of the building society and of the other building society or societies participating in the amalgamation or transfer;
- (d) the payments (if any) to be made to members of the building society and of the other building society or societies participating in the amalgamation or transfer by way of a distribution of funds in consideration of the amalgamation or transfer;
- (e) the changes (if any) to be made, in connection with the amalgamation or transfer of engagements, in the terms governing outstanding loans made by the building society which are secured on land;
- (f) any other matter which the **appropriate authority** requires in the case of the particular amalgamation or transfer of engagements.

(4A) The PRA must consult the FCA before approving a statement under sub-paragraph (3).

(5) ---

(6) Any expression used in this paragraph and in section 96 has the same meaning in this paragraph as in that section.

Part II: Notification of proposals for merger

Preliminary

2. In this Part of this Schedule -

‘merger’ means an amalgamation of building societies under section 93 or a transfer of all the engagements of one building society to another under section 94; and ‘merge’ has a corresponding meaning;

‘merger proposal’, in relation to a building society, means a proposal in writing, by another building society desiring to merge with it, for the societies to merge, with or without terms for the merger: and ‘proposer’ has a corresponding meaning;

‘merger resolutions’, in relation to a building society, means the resolutions required for the approval of a merger of the society with another building society under section 93(2) or 94(2);

‘merger statement’ means a statement containing the requisite particulars of a merger proposal; and

‘requisite particulars’, in relation to a merger proposal, means the particulars required by paragraph 3(2) below to be given in a merger statement.

Duty to notify members

3. (1) Subject to sub-paragraph (3) below, it shall be the duty of a building society receiving a merger proposal to send, in accordance with this Part of this Schedule, a merger statement in respect of the proposal to every member entitled to notice of a meeting of the society.

(2) A merger statement must contain the following particulars -

- (a) the fact that a merger proposal has been made, and
- (b) the identity of the proposer:

with or without other particulars regarding the proposal.

- (3) Sub-paragraph (1) above does not require a merger statement to be sent to members if the proposer has requested in writing that the requisite particulars are to be treated as confidential; and, where such a request is made and is at a later date withdrawn in writing, the society receiving the proposal shall, for the purposes of this Part of this Schedule, treat the proposal as having been received on that date instead of any earlier date.
- 4 (1) A building society shall include in or with every notice of its annual general meeting a merger statement with respect to any merger proposal, other than a proposal of which notice has already been given under this paragraph.-
- (a) received by it during the period of 12 months ending with the ninth month of the last financial year of the society before that meeting; or
- (b) treated by paragraph 3(3) above as having been received by it during the last three months of that financial year;
- and the society may also include, under this sub-paragraph, a merger statement with respect to any proposal received, or treated as received, by it after the end of either period.
- (2) In any case where merger resolutions are to be moved at any meeting of a building society, every notice of the meeting shall have included in or with it -
- (a) a merger statement with respect to any merger proposal, other than a proposal of which notice has already been given under this paragraph, received by it more than 42 days before the date of the meeting; and
- (b) a transfer proposal notification with respect to any transfer proposal so received by it.
- (2A) Where a merger statement or a transfer proposal notification is required to be sent to a person in or with the notice of a meeting of the society under sub-paragraph (1) or (2) -
- (a) in a case where notice of a meeting is given electronically to a person in accordance with paragraph 22A of Schedule 2, the merger statement or transfer proposal notification may be sent to him electronically only if it is sent to the same electronic address and at the same time as the notice;
- (b) in a case where notice of a meeting is given on a web site in accordance with paragraph 22B of Schedule 2, the requirement to send the statement or notification shall also be treated as satisfied if the conditions set out in subparagraph (2B) are satisfied.
- (2B) The conditions of this sub-paragraph are satisfied in the case of a merger statement or transfer proposal notification if -
- (a) the society and that person have agreed that information that is required to be sent to him may instead be accessed by him on a web site;
- (b) the agreement applies to the merger statement or transfer proposal notification in question;
- (c) at the same time and in the same manner as the society notifies that person of the publication of the notice of the meeting, it notifies him of -

- (i) the publication of the merger statement or transfer proposal notification on a web site,
 - (ii) the address of that web site,
 - (iii) the place on that web site where that statement or notification may be accessed, and how it may be accessed; and
 - (d) the statement or notification is published continuously on that web site throughout the period beginning when the person is notified in accordance with paragraph (c) and ending with the conclusion of the meeting.
- (2C) Where, in a case in which sub-paragraph (2A)(b) is relied on for compliance with a requirement under sub-paragraph (1) or (2)-
- (a) a statement or notification is published for a part, but not all, of the period mentioned in sub-paragraph (2B)(d), but
 - (b) the failure to publish it throughout that period is wholly attributable to circumstances which it would not be reasonable to have expected the society to prevent or avoid,
- that failure shall not invalidate the proceedings of a meeting or prevent the requirements of sub-paragraph (2B) from being treated as fulfilled in relation to section 95(4)(c).
- (3) In this paragraph and paragraph 5 below-
- 'transfer proposal' has the same meaning as in Part IA of Schedule 17;
- 'transfer proposal notification' means a transfer proposal notification (within the meaning of that Part) required to be sent to members by paragraph 5B(1) of that Schedule.

Duty to notify Authority

5. (1) Where a building society sends a merger statement or transfer proposal notification to its members under paragraph 4 above in connection with a meeting of the society, it shall send a copy of the statement or notification to the **FCA and, if the society is a PRA-authorised person, the PRA** at least 14 days before the date of the meeting.
- (2) The **FCA must** keep the copy of a merger statement or transfer proposal notification received by it from a building society in the public file of that society.

Penalty

6. 1 If default is made by a building society in complying with paragraph 4(1), 4(2) or 5 above, 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.
- (2) Where, in a case in which paragraph 4(2A)(b) is relied on for compliance with a requirement under paragraph (a) or (b) of paragraph 4(2)-
- (a) a merger statement or transfer proposal notification is published for a part, but not all, of the period mentioned in sub-paragraph (2B)(d), but

- (b) the failure to publish it throughout that period is wholly attributable to circumstances which it would not be reasonable to have expected the society to prevent or avoid,

no offence is committed under this paragraph by reason of that failure.

Part III: Confirmation by Appropriate Authority: Procedure

- 7. An application for confirmation by the **appropriate authority** of an amalgamation or transfer of engagements shall be made in such manner as the **appropriate authority** may direct.
- 8. (1) Where a building society applies to the **appropriate authority** for confirmation of an amalgamation or transfer of engagements, the society shall publish notice of the application in any one or more of the London Gazette, the Edinburgh Gazette or the Belfast Gazette, as the **appropriate authority** directs and, if it so directs, in one or more newspapers.
 - (2) A notice published in pursuance of sub-paragraph (1) above shall -
 - (a) state that any interested party has the right to make representations to the **appropriate authority** with respect to the application; and
 - (b) specify a date determined by the **appropriate authority** before which any written representations or notice of a person's intention to make oral representations must be received by the **appropriate authority**; and
 - (c) specify a date determined by the **appropriate authority** as the day on which it intends to hear any oral representations.
- 9. (1) After the date specified in pursuance of paragraph 8(2)(b) above, the **appropriate authority** shall -
 - (a) determine the time and place at which oral representation may be made;
 - (b) give notice of that determination to the building societies participating in the amalgamation or transfer and any persons who have given notice of their intention to make oral representation: and
 - (c) send copies of the written representations received by the **appropriate authority** to the building societies participating in the amalgamation or transfer.
 - (2) The **appropriate authority** shall allow any building society participating in the amalgamation or transfer an opportunity to comment on the written representations, whether at a hearing or in writing before the expiration of such period as the **appropriate authority** specifies in a notice to the society.

SCHEDULE 17:

Transfers of business: supplementary provisions

Part I: Issue of statement or summary to members

Preliminary

- 1. In this Part of this Schedule -

'prescribed matters' in relation to any transfer of the business of a building society to its successor, means the matters relating to the transfer, the society, its officers, members or depositors, or the successor, which are prescribed in regulations made under paragraph 5(1) below;

'transfer statement', in relation to a transfer of business by a building society, means the statement with respect to the transfer which may be sent or handed to members of the society under paragraph 2 below;

'transfer summary', in relation to a transfer of business by a building society, means the summary of the transfer statement which may be sent to members of the society under that paragraph.

Duty to send transfer statements or summaries to members

2. A building society which desires to transfer its business shall, in accordance with this Part of this Schedule, send a transfer statement, or a transfer summary, to every member entitled to notice of a meeting of the society.

3. (1) A transfer statement, in relation to a transfer of business by a building society, shall contain-

- (a) the particulars required, in relation to the prescribed matters, by the regulations made under paragraph 5(1) below, and
- (b) particulars of any other matters required by the **appropriate authority** in the case of the particular transfer,

with or without other particulars regarding the transfer.

(2) A transfer summary, in relation to a transfer of business by a building society, shall contain-

- (a) the information required by the regulations made under paragraph 5(2) below, and
- (b) any other information required by the **appropriate authority** in the case of the particular transfer,

with or without other particulars regarding the transfer.

4. (1) Subject to sub-paragraph (3) below, a building society shall, in relation to a transfer of business, include a transfer statement, or a transfer summary, in or with the notice to be sent to its members of the meeting of the society at which the requisite transfer resolutions are to be moved.

(1A) Where a transfer statement or transfer summary is required under subparagraph (1) to be sent to a member in or with the notice of the meeting of the society at which the requisite transfer resolutions are to be moved -

(a) in a case where notice of that meeting is given to that member electronically in accordance with paragraph 22A of Schedule 2, the transfer statement or transfer summary may be sent to him electronically only if it is sent to the same electronic address, and at the same time as the notice;

(b) in a case where notice of that meeting is given on a web site in accordance with paragraph 22B of Schedule 2, the requirement to send the statement or

summary to that member shall also be treated as satisfied if the conditions set out in subparagraph (1B) are satisfied.

- (1B) The conditions of this sub-paragraph are satisfied in the case of a transfer statement or transfer summary if -
- (a) the society and that member have agreed that information which is required to be sent to him may instead be accessed by him on a web site;
 - (b) the agreement applies to the statement or summary in question;
 - (c) at the same time and in the same manner as the society notifies that member of the publication of the notice of the meeting, it notifies him of -
 - (i) the publication of the statement or summary on a web site,
 - (ii) the address of that web site,
 - (iii) the place on that web site where that statement or summary may be accessed, and how it may be accessed; and
 - (d) the statement or summary is published continuously on that web site throughout the period beginning when the member is notified in accordance with paragraph (a) and ending with the decision of the **appropriate authority** whether to confirm the transfer pursuant to section 98.
- (1C) Where, in a case in which sub-paragraph (1A)(b) is relied on for compliance with a requirement under sub-paragraph (1) -
- (a) a statement is published for a part, but not all, of the period mentioned in subparagraph (1B)(d), but
 - (b) the failure to publish it throughout that period is wholly attributable to circumstances which it would not be reasonable to have expected the society to prevent or avoid,
- the failure shall not invalidate the proceedings of a meeting or prevent the requirements of sub-paragraph (1B) from being treated as fulfilled in relation to section 98.
- (2) Subject to sub-paragraph (3) below, where a building society sends a transfer summary, a transfer statement-
- (a) shall be handed forthwith and free of charge to any member to whom the summary was sent who asks for such a statement at an office or branch of the society; and
 - (b) shall be sent forthwith and free of charge to any such member who asks for such a statement otherwise than at such an office or branch.
- (2A) Where a transfer statement is required to be sent to a member under subparagraph (2)(b) -
- (a) it may be sent to him electronically only if it is sent to an electronic address notified by him to the society for the purpose;

- (b) the requirement to send it shall also be treated as satisfied if the conditions set out in sub-paragraph (2B) are satisfied.
- (2B) The conditions of this sub-paragraph are satisfied in the case of a transfer statement if -
- (a) the society and that member have agreed information which is required to be sent to him may instead be accessed by him on a web site;
 - (b) the agreement applies to the transfer statement in question;
 - (c) the society notifies the member forthwith, on receiving a request from him for such a statement, of-
 - (i) the publication of the statement on a web site,
 - (ii) the address of that web site,
 - (iii) the place on that web site where the statement may be accessed and how it may be accessed; and
 - (d) that statement is published continuously on that web site for the period beginning with the giving of that notification and ending with the decision of the **appropriate authority** whether to confirm the transfer pursuant to section 98.
- (2C) Where, in a case in which sub-paragraph (2A)(b) is relied on for compliance with a requirement under sub-paragraph (2)(b) -
- (a) a statement is published for a part, but not all, of the period mentioned in subparagraph (2B)(d), but
 - (b) the failure to publish it throughout that period is wholly attributable to circumstances which it would not be reasonable to have expected the society to prevent or avoid,
- the failure shall not invalidate the proceedings of a meeting or prevent the requirements of sub-paragraph (2B) from being treated as fulfilled in relation to section 98.
- (3) No transfer statement shall be sent or handed to a member unless its contents, so far as they concern the prescribed matters or any matter of which particulars are required to be given under paragraph 3(1)(b) above, have been approved by the **appropriate authority**.
- (4) The PRA must consult the FCA before approving a statement under sub-paragraph (3).**
- 5.
- (1) The Treasury, with the consent of the Treasury, may make regulations for the purpose of specifying, as prescribed matters, the matters of which transfer statements are to give particulars; and the regulations may also require particulars to be given of any alternatives to the particular transfer which were available to the society making the transfer.
 - (2) The Treasury, with the consent of the Treasury, may make regulations for the purpose of specifying the information which transfer summaries are to give.
 - (3) Any power to make regulations under this paragraph is exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Part 1A: Notification of proposals for transfer of business

Preliminary

5A. In this Part of this Schedule -

'requisite particulars', in relation to a transfer proposal, means the particulars required by paragraph 5B(2) below to be given in a transfer proposal notification;

'transfer', in relation to a building society, means a transfer of the whole of its business to a company under section 97;

'transfer proposal', in relation to a building society, means a proposal in writing by a company for a transfer by the society to the company, with or without terms for the transfer; and 'proposer' has a corresponding meaning;

'transfer proposal notification' means a notification containing the requisite particulars of a transfer proposal;

'transfer resolutions', in relation to a building society, means the resolutions required for the approval of a transfer by the society under section 97.

Duty to notify members

5B. (1) Subject to sub-paragraph (3) below, it shall be the duty of a building society receiving a transfer proposal to send, in accordance with this Part of this Schedule, a transfer proposal notification in respect of the proposal to every member entitled to notice of a meeting of the society.

(2) A transfer proposal notification must contain the following particulars -

- (a) the fact that a transfer proposal has been made, and
- (b) the identity of the proposer;

with or without other particulars regarding the proposal.

(3) Sub-paragraph (1) above does not require a transfer proposal notification to be sent to members if the proposer has requested in writing that the requisite particulars are to be treated as confidential; and, where such a request is made and is at a later date withdrawn in writing, the society receiving the proposal shall, for the purposes of this Part of this Schedule, treat the proposal as having been received on that date instead of any earlier date.

5C. (1) A building society shall include in or with every notice of its annual general meeting a transfer proposal notification with respect to any transfer proposal, other than a proposal of which notice has already been given under this paragraph -

- (a) received by it during the period of 12 months ending with the ninth month of the last financial year of the society before that meeting; or
- (b) treated by paragraph 5B(3) above as having been received by it during the last three months of that financial year;

and the society may also include, under this paragraph, a transfer proposal notification with respect to any proposal received, or treated as received, by it after the end of either period.

- (2) Where a transfer proposal notification is required under sub-paragraph (1) to be sent to a member in or with the notice of an annual general meeting of the society -
- (a) in a case where notice of that meeting is given to that member electronically in accordance with paragraph 22A of Schedule 2, the transfer proposal notification may be sent to him electronically only if it is sent to the same electronic address, and at the same time as the notice.
 - (b) in a case where notice of that meeting is given on a website in accordance with paragraph 22B of Schedule 2, the requirement to send it shall also be treated as satisfied if the conditions set out in sub-paragraph (3) are satisfied.
- (3) The conditions of this sub-paragraph are satisfied in the case of a transfer proposal notification if -
- (a) the society and the member have agreed that information that is required to be sent to him may instead be accessed by him on a web site;
 - (b) the agreement applies to the transfer proposal notification in question;
 - (c) at the same time and in the same manner as the society notifies that person of the publication of the notice of the meeting, it notifies him of -
 - (i) the publication of the transfer proposal notification on a web site,
 - (ii) the address of that web site,
 - (iii) the place on that web site where that notification may be accessed, and how it may be accessed; and
 - (d) the notification is published continuously on that web site throughout the period beginning when the person is notified in accordance with paragraph (c) and ending with the conclusion of the meeting.
- (4) Where, in a case in which sub-paragraph (2)(b) is relied on for compliance with a requirement under sub-paragraph (1) -
- (a) a statement is published for a part, but not all, of the period mentioned in subparagraph (3)(d), but
 - (b) the failure to publish it throughout that period is wholly attributable to circumstances which it would not be reasonable to have expected the society to prevent or avoid,

the failure shall not invalidate the proceedings of a meeting.

Duty to notify Appropriate Authority

- 5D. (1) Where a building society sends a transfer proposal notification to its members under paragraph 5C above in connection with a meeting of the society, it shall send a copy of the notification to the **FCA and, if the society is a PRA-authorized person, the PRA** at least 14 days before the date of the meeting.

- (2) The **FCA must** keep the copy of a transfer proposal notification received by it from a building society in the public file of that society.

Penalty

- 5E. (1) If default is made by a building society in complying with paragraph 5C or 5D above, 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.
- (2) But no offence is committed under this paragraph, in a case in which paragraph 5C(2)(b) is relied on for compliance with a requirement under paragraph 5C(1), where -
 - (a) a transfer proposal notification is published for a part, but not all, of the period mentioned in paragraph 5C(3)(d); and
 - (b) the failure to publish that notification throughout that period is wholly attributable to circumstances which it would not be reasonable to have expected the society to prevent or avoid.

Part II: Confirmation by Appropriate Authority: procedure

6. An application by a building society for confirmation by the Authority of a transfer of its business to a company shall be made in such manner as the **appropriate authority** may direct.
7. (1) Where a building society applies for confirmation of a transfer of its business, the society shall publish a notice of the application in any one or more of the London Gazette, the Edinburgh Gazette or the Belfast Gazette, as the **appropriate authority** directs and, if it so directs, in one or more newspapers.
- (2) A notice published in pursuance of sub-paragraph (1) above shall -
 - (a) state that any interested party has the right to make representations to the **appropriate authority** with respect to the application;
 - (b) specify a date determined by the **appropriate authority** before which any written representations or notice of a person's intention to make oral representations must be received by the **appropriate authority**; and
 - (c) specify a date determined by the **appropriate authority** as the day on which it intends to hear any oral representations.
8. (1) After the date specified in the notice in pursuance of paragraph 7(2)(b) above, the **appropriate authority** shall -
 - (a) determine the time and place at which oral representations may be made;
 - (b) give notice of that determination to the building society making the transfer and any persons who have given notice of their intention to make oral representations; and
 - (c) send copies of the written representations received by the **appropriate authority** to the building society making the transfer.
- (2) The **appropriate authority** shall allow the building society making the transfer an opportunity to comment on the written representations, whether at a hearing or in writing,

before the expiration of such period as the **appropriate authority** specifies in a notice to the society.

SCHEDULE 18:

Amendment of enactments

Part I: United Kingdom

Bankers' Books Evidence Act 1879 (c.11)

1. In section 9(1) Of the Bankers' Books Evidence Act 1879 (meaning of 'bank' and 'banker' for purposes of that Act), after paragraph (a) there shall be inserted the following -

'(aa) a building society (within the meaning of the Building Societies Act 1986); '

Land Registration Act 1925 (c.21)

2. In section 25(1) (proprietor's power to create charges) of the Land Registration Act 1925. in paragraph (b), for the words from

'under' to 'with" there shall be substituted '(within the meaning of the Building Societies Act 1986), in accordance with. "

Payment of Wages Act 1960 (c.37)

3. _ _ _

Trustee Investments Act 1961 (c.62)

4. (1) This paragraph amends the Trustee Investments Act 1961 as follows.
(2) In Part II of Schedule 1 (Narrower range investments requiring advice), for paragraph 12 there shall be substituted-

'12. In deposits with a building society within the meaning of the Building Societies Act 1986 '.

- (3) In Part III of Schedule 1(Wider range investments), for paragraph 2 there shall be substituted-

'2. In shares in a building society within the meaning of the Building Societies Act 1986 '.

Stock Transfer Act 1963 (c.18)

5. In section 1(4) of the Stock Transfer Act 1963 (simplified transfer of certain securities, not to apply to building society securities), for '1962' there shall be substituted '1986'.

Industrial and Provident Societies Act 1965 (c.12)

6. In section 31(b) of the Industrial and Provident Societies Act 1965 (authorised investments), for 'society registered under the Building Societies Acts' there shall be substituted 'building society within the meaning of the Building Societies Act 1986'.

7. _ _ _

Banking and Financial Dealings Act 1971 (c.80)

8. (1) This paragraph amends the Banking and Financial Dealings Act 1971 as follows.
- (2) In section 2(1) (power to suspend financial dealings on bank holidays) after paragraph (g) there shall be inserted -
- ‘; and
- (h) a direction that, subject as aforesaid, no building society shall, on that day, except with permission so granted effect in the course of its business any transaction or, according as may be specified in the order, a transaction of such kind as may be so specified.’
- (3) In section 2(6) after the definition of ‘authorised dealer in gold’ there shall be inserted -
- ‘building society’ means a building society within the meaning of the Building Societies Act 1986 ‘.

Local Government Act 1972 (c.70)

9. In Schedule 12A (access to information: exempt information) to the Local Government Act 1972 -
- (a) in Part II, in paragraph 2(d) for ‘1962’ there shall be substituted ‘1986’; and
- (b) in Part III, in paragraph 1(1), after the definition of ‘protected informant’ there shall be inserted the following definition -
- ‘ ‘registered’, in relation to information required to be registered under the Building Societies Act 1986, means recorded in the public file of any building society (within the meaning of that Act);’.

Consumer Credit Act 1974 (c.39)

10. (1) This paragraph amends the Consumer Credit Act 1974 as follows.
- (2) In section 16(1) (consumer credit agreement with certain bodies exempt from regulation) the words ‘or building society’ shall be omitted and, after paragraph (f), there shall be inserted the words ‘, or
- (g) a building society ‘.
- (3) In section 16(3) (Secretary of State’s duty to consult before making orders), after paragraph (d) there shall be inserted the words -
- ‘or
- (e) under subsection (1)(g) without consulting the Building Societies Commission and the Treasury ‘.
- (4) In section 189(1) (definitions), for the definition of ‘building society’ there shall be substituted the following definition -
- ‘building society’ means a building society within the meaning of the Building Societies Act 1986;’.

Solicitors Act 1974 (c.47)

- 11. (1) This paragraph amends the Solicitors Act 1974 as follows.
 - (2) ----
 - (3) ----
 - (4) In section 85 (bank accounts) -
 - (a) after ‘account with a bank’ there shall be inserted ‘or a building society’. and
 - (b) in paragraphs (a) and (b) after ‘bank’ there shall be inserted ‘or society’.
 - (5) In section 87(1) (interpretation), after the definition of ‘bank’ there shall be inserted-

‘building society’ means a building society within the meaning of the Building Societies Act 1986; and a reference to an account with a building society is a reference to a deposit account ‘.

12. ----

13. ----

Charging Orders Act 1979 (c. 53)

- 14. In section 6(1) (interpretation) of the Charging Orders Act 1979, in the definition of ‘building society’, for ‘1962’ there shall be substituted ‘1986’.

15. ----

16. ----

17. ----

Housing Act 1985 (c.68)

- 18. (1) This paragraph amends the Housing Act 1985 as follows.
 - (2) ----

(3) In section 447 (recognised lending institutions) and in section 448 (recognised savings institutions) for 'designated building societies' there shall be substituted 'building societies'.

(4) ---

(5) In section 622 (minor definitions) for the definition of 'building society' there shall be substituted-

' 'building society"' means a building society within the meaning of the Building Societies Act 1986'.

Housing Associations Act 1985 (c. 69)

19. (1) This paragraph amends the Housing Associations Act 1985 as follows.

(2) ---

(3) In section 84(5) and 86(4) (consultation by Secretary of State regarding building society indemnities) for 'Chief Registrar of Friendly Societies' there shall be substituted 'Building Societies Commission '.

(4) In section 101 (minor definitions), for the definition of 'building society' there shall be substituted-

'building society"' means a building society within the meaning of the Building Societies Act 1986; '.

Part II: Northern Ireland

Industrial and Provident Societies Act (Northern Ireland) 1969 (c.24 N.I.)

20. In section 31 (b) of the Industrial and Provident Societies Act (Northern Ireland) 1969 (authorised investments) for 'society registered under the Building Societies Acts' there shall be substituted 'building society within the meaning of the Building Societies Act 1986 '.

21. ---

Private Streets (Northern Ireland) Order 1980 (S.I. 1980/1086 (N.I.12))

22. In Article 33 (security not to be deemed prior mortgage under Building Societies Acts) of the Private Streets (Northern Ireland) Order 1980 for the words from 'section 32' where they first occur onwards there shall be substituted' section 11(2) (d) or (4)(d) of the Building Societies Act 1986'.

Housing (Northern Ireland) Order 1981 (S.I. 1981/156 (N.I.3))

23. (1) This paragraph amends the Housing (Northern Ireland) Order 1981 as follows.

(2) In Article 2(2) (interpretation) after the definition of 'building regulations"' there shall be inserted -

‘ ‘building society’’ means a building society within the meaning of the Building Societies Act 1986’.

- (3) ---
- (4) In Article 155A (exclusion of Restrictive Trade Practices Act 1976), after ‘ Scottish Provisions’’ there shall be inserted’ (namely, sections 445 to 447 of the Housing Act 1985 or the Home Purchase Assistance and Housing Corporation Guarantee Act 1978)‘.
- (5) In Article 156(5) (b) (consultations by the Department regarding forms of indemnity agreements) for ‘Registrar of Friendly Societies for Northern Ireland’ there shall be substituted ‘Building Societies Commission’.
- (6) For paragraph 1 of Schedule 10 there shall be substituted- ‘1. Building Societies ‘.

Property (Discharge of Mortgage by Receipt) (Northern Ireland) Order 1983 (S.I. 1983/766 (N.I.15))

- 24. In Article 3(10) of the Property (Discharge of Mortgage by Receipt) (Northern Ireland) Order 1983, after ‘applies’’ in the definition of ‘mortgage’ there shall be inserted ‘and, subject to paragraph 2(7) of Schedule 4 to the Building Societies Act 1986, does not include a mortgage to which that paragraph 2 applies ‘.

Housing (Northern Ireland) Order 1983 (S.I.1983/1118 (N.I. 15))

- 25. In Article 3(4) of the Housing (Northern Ireland) Order 1983, in the definition of ‘building society’ for the words from ‘1962’ onwards there shall be substituted ‘1986’.

Companies (Northern Ireland) Order 1986

- 26. (1) This paragraph amends the Companies (Northern Ireland) Order 1986 as follows.
- (2) In Article 303(3) (disqualification orders against directors of companies; meaning of ‘company’’), after ‘Part XXI’’ there shall be inserted ‘and a building society (within the meaning of the Building Societies Act 1986) ‘.
- (3) In Article 310(3) (provision against undischarged bankrupt acting as director, etc.; meaning of ‘company’’), after ‘unregistered company’’ there shall be inserted’, a building society (within the meaning of the Building Societies Act 1986)‘.
- (2) Any person who contravenes sub-paragraph (1) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

SCHEDULE 19:

Repeals and revocations

Part I Repeals: General

Chapter	Short title	Extent of repeal
37 & 38 Vict. c.42.	The Building Societies Act 1874.	Section 1. Section 4. Section 32.
57 & 58 Vict. c. 47.	The Building Societies Act 1894.	Section 8 (1). Section 29.
8 & 9 Eliz. 2 c.64.	The Building Societies Act 1960.	Section 72. Section 73 (1). Section 77. In Schedule 5, the entry relating to paragraph 4 of section 32 of the Building Societies Act 1874.
9 & 10 Eliz. 2 c.62.	The Trustee Investments Act 1961.	In Part IV of Schedule 1, paragraph 3A and 7
10 & 11 Eliz. 2 c.37.	The Building Societies Act 1962.	The whole Act.
1965 c. 32.	The Administration of Estates (Small Payments) Act 1965.	In Schedule 1 and 3, the entries relating to the Building Societies Act 1962
1969 c. 46.	The Family Law Reform Act 1969	In Schedule 1, the entry relating to the Building Societies Act 1962
1970 c. 10.	The Income and Corporation Taxes Act 1970	In section 343 (5), the words 'union or'.
1974 c. 39.	The Consumer Credit Act 1974	In section 16, in subsection (1) the words 'or building society, ' and, in subsections (1) (e) and (3) (c), the word 'or'.
1974 c. 46.	The Friendly Societies Act 1974	In Schedule 10, Paragraph 9.
1974 c. 47.	The Solicitors Act 1974.	In section (1) and (2), the word 'banks' '.
1974 c. 49	The Insurance Companies Act 1974.	In Schedule 1, the entries relating to the Building Societies Act 1962
1978 c. 27.	The Home Purchase Assistance and Housing Corporation Guarantee Act 1978.	In section 3, subsection (2) to (4).
1979 c. 37.	The Banking Act 1979	In paragraph 6 of schedule 1, the words from 'within' to the end. In Schedule 6, 7, 16, and 17.
1982 c. 50.	The Insurance Companies Act 1982	In Schedule 5, paragraph 3 and 5.

1984 c. 28	The County Courts Act 1984	In Schedule 2, paragraph 26
1985 c. 9.	The Companies Consolidation (Consequential Provisions) Act 1985	In Schedule 2, the entries relating to the Building Societies Act 1962.
1985 c. 58	The Trustee Savings banks Act 1985	In Schedule 1, paragraph 11 (2) (a) and so much of that subparagraph as relates to the section 59 specified therein.
1985 c. 61.	The Administration of Justice Act 1985	Section 66.
1985 c. 68.	The Housing Act 1985.	In section 458, the definition of 'designated building society'. In section 459, the entry relating to 'designated building society'.
1985 c. 69.	The Housing Associations Act 1985.	Section 63 to 66. In section 72, the definitions of 'building society', 'Chief Registrar' and 'officer'. In section 73, the entries relating to 'building society' 'Chief Registrar' and 'officer'.
1985 c. 71.	The Housing (Consequential Provisions) Act 1985.	In Schedule 2, paragraph 5 and 6.

Part II: Revocation extending to Great Britain

Number	Title	Extent of revocation
S.I. 1981/1488.	The Building Societies (Authorisation) Regulations 1981.	The whole Regulations.

Part III: Repeals and revocations extending only to Northern Ireland

Chapter or number	Shot title	Extent of repeal or revocation
1967 c. 5 (N.I.).	The Administration of Estate (Small Payments Act (Northern Ireland) 1967.	In Schedule 1, the entry relating to the Building Societies Act 1874.
1967 c. 31 (N.I.).	The Building Societies Act (Northern Ireland) 1967.	The whole Act.
1969 c. 24 (N.I.).	The Industrial and Provident Societies Act (Northern Ireland) 1969.	In section 101 (1), the definition of 'Building Societies Acts'.
1969 c. 28 (N.I.).	The Age of Majority Act (Northern Ireland) 1969.	In Schedule 1, the entry relating to the Building Societies Act (Northern Ireland) 1967.
1969 c. 31 (N.I.).	The Age of Majority Act (Northern Ireland) 1969.	In Part I of Schedule 1, the entry relating to the Building Societies Act (Northern Ireland) 1967.
1970 c. 19 (N.I.)	The Land Registration act (Northern Ireland) 1970.	In Schedule 12 the entry relating to the Building Societies Act (Northern Ireland) 1967.
1978 c. 23	The Judicature (Northern	In Schedule 5, in Part II the entry

	Ireland) Act 1978.	relating to the Building Societies Act (Northern Ireland) 1967.
S.I. 1979/1573 (N.I. 12).	The Statutory Rules (Northern Ireland) Order 1979.	In Schedule 4 the entry relating to the Building Societies Act (Northern Ireland) 1967.
1980 c. 25	The Insurance Companies Act 1980.	In Schedule 3, paragraph 3.
S.I. 1981/156 (N.I.3).	The Housing (Northern Ireland) Order 1981.	Article 156(6) In Part II of Schedule 2, the entry relating to the Building Societies Act (Northern Ireland) 1967.
S.R. 1982/155 (N.I.).	The Building Societies (Authorisation) Regulations (Northern Ireland) 1982.	The whole Regulations.
S.I. 1983/776	The Property (Discharge of Mortgage by Receipt) (Northern Ireland) Order 1983.	In Article 3 (10), in the definition of 'mortgage' the words 'section 37 of the Building Societies Act (Northern Ireland) 1967'.
S.I. 1983/1118 (N.I. 15).	The Housing (Northern Ireland) Order 1983.	In Schedule 10, the entry relating to the Building Societies Act (Northern Ireland) 1967.
1985 c. 71	The Housing (Consequential Provision) Act 1985.	In Schedule 2, paragraph 13, 51 (2) and 51 (5) (a).
S.I. 1986/1035 (N.I.9).	The Companies Consolidation (Consequential Provision) (Northern Ireland) Order 1986	In Part I of Schedule 1, the entry relating to the Building Societies Act (Northern Ireland) 1967.

SCHEDULE 20:

Preliminary

1. In this Schedule -

'the commencement date for' any provision of this Act means the date on which that provision comes into operation'

2. ---

3. ---

4. ---

Registration with existing authorities

5. A building society which, at the commencement date for section 5, was registered under the Building Societies Act (Northern Ireland) 1967 or registered or deemed to be registered in Northern Ireland under the enactments repealed by that Act shall be treated, for the purposes of this Act, as registered with the central office immediately before the commencement of that section.

Authorisation under existing enactments

6. (1) A building society which, at the commencement date for section 9 is authorised to raise money and accept deposits under -
- (a) the Building Societies (Authorisation) Regulations 1981, or
 - (b) the Building Societies (Authorisation) Regulations (Northern Ireland) 1982,
- shall be treated, whether or not the requirements of subsection (4) of section 9 would be fulfilled in its case, at the commencement of that section as authorised for the purposes of this Act (in particular Part VI).
- (2) The central office shall record in the public file of each building society to which sub-paragraph (1) above applies the fact that, by virtue of that sub-paragraph, the society is to be treated as authorised for the purposes of this Act

7. – 15. ---

Existing financial years

16. In the case of a building society established before 25th August 1894 -
- (a) if -
 - (i) before 1st October 1962 the society had altered its financial year in exercise of the power conferred by section 70(2) of the Building Societies Act 1960, or
 - (ii) after that date and before the commencement date for section 117, the society has exercised the corresponding power conferred by section 128(2) of the Building Societies Act 1962,
- ‘financial year’ shall, after the date on which the society exercised the power, have the meaning given in section 117 and shall (so far as may be relevant for the purposes of this Act) include the period for which the society made up its accounts in the exercise of the power, and
- (b) subject to the preceding provisions of this paragraph ‘financial year’ means a period of 12 months ending with the time up to which, at the commencement date for section 117, the accounts of the society were annually made up.

17. – 18. ---

[Schedule 21 revoked]

