

**Changes to legislation:** Building Societies Act 1986, SCHEDULE 14 is up to date with all changes known to be in force on or before 28 May 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

## SCHEDULES

### SCHEDULE 14

Section 85.

#### SETTLEMENT OF DISPUTES

##### Modifications etc. (not altering text)

**C1** Sch. 14 excluded (*temp.*) by S.I. 1986/2168, art. 3(1)(4)

#### 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 [F<sup>1</sup>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 [F<sup>2</sup>FCA] under paragraph 6 or to an adjudicator under paragraph 7 below except as provided in paragraph 2 below.

##### Textual Amendments

**F1** Words in Sch. 14 para. 1(4) substituted (1.12.1997 in specified cases and for specified purposes and otherwise in accordance with art. 2(2)(3)(5) of S.I. 1997/2668) by 1997 c. 32, ss. 43, 47(3), Sch. 7 para. 64(1); S.I. 1997/2668, art. 2, Sch. Pt. II(w)(z)(xxxvii)

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**F2** Word in Sch. 14 para. 1(5) substituted (1.4.2013) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2013 \(S.I. 2013/496\)](#), art. 1(1), **Sch. 8 para. 56(2)** (with Sch. 12)

- 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 <sup>F3</sup>FCA and PRA] to be heard*

**Textual Amendments**

**F3** Words in Sch. 14 para. 3 heading substituted (1.4.2013) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2013 \(S.I. 2013/496\)](#), art. 1(1), **Sch. 8 para. 56(3)** (with Sch. 12)

- 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 <sup>F4</sup>FCA and, if the society is a PRA-authorised 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 <sup>F4</sup>FCA and, if the society is a PRA-authorised 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.

**Textual Amendments**

**F4** Words in Sch. 14 para. 3 substituted (1.4.2013) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2013 \(S.I. 2013/496\)](#), art. 1(1), **Sch. 8 para. 56(4)** (with Sch. 12)

## 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 <sup>F5</sup>or a revised election address], in accordance with section 61(7), or
    - (b) any document required to be sent under <sup>F6</sup>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 sub-paragraph (2) below, be referred to arbitration.

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- (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 [<sup>F7</sup>paragraph 20A(1)(b) or 31(1)] are being abused to seek needless publicity for defamatory matter.

#### Textual Amendments

- F5** Words in Sch. 14 para. 4(1) inserted (1.12.1997 in specified cases and for specified purposes and otherwise in accordance with art. 2(2)(3)(5) of S.I. 1997/2668) by 1997 c. 32, ss. 43, 47(3), **Sch. 7 para. 64(2)(a)**; S.I. 1997/2668, art. 2, **Sch. Pt. II(w)(z)(xxxvii)**
- F6** Words in Sch. 14 para. 4(1) substituted (1.12.1997 in specified cases and for specified purposes and otherwise in accordance with art. 2(2)(3)(5) of S.I. 1997/2668) by 1997 c. 32, ss. 43, 47(3), **Sch. 7 para. 64(2)(b)**; S.I. 1997/2668, art. 2, **Sch. Pt. II(w)(z)(xxxvii)**
- F7** Words in Sch. 14 para. 4(2) substituted (1.12.1997 in specified cases and for specified purposes and otherwise in accordance with art. 2(2)(3)(5) of S.I. 1997/2668) by 1997 c. 32, ss. 43, 47(3), **Sch. 7 para. 64(3)**; S.I. 1997/2668, art. 2, **Sch. Pt. II(w)(z)(xxxvii)**

#### <sup>F8</sup>[Calling of special meeting]

#### Textual Amendments

- F8** Sch. 14 para. 4A and cross-heading preceding it inserted (1.12.1997 in specified cases and for specified purposes and otherwise in accordance with art. 2(2)(3)(5) of S.I. 1997/2668) by 1997 c. 32, ss. 43, 47(3), **Sch. 7 para. 64(4)**; S.I. 1997/2668, art. 2, **Sch. Pt. II(w)(z)(xxxvii)**

- [<sup>F9</sup>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.]

#### Textual Amendments

- F9** Sch. 14 para. 4A and cross-heading preceding it inserted (1.12.1997 in specified cases and for specified purposes and otherwise in accordance with art. 2(2)(3)(5) of S.I. 1997/2668) by 1997 c. 32, ss. 43, 47(3), **Sch. 7 para. 64(4)**; S.I. 1997/2668, art. 2, **Sch. Pt. II(w)(z)(xxxvii)**

#### *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.

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- (5) An award made by arbitrators, or the majority of them, shall be final and binding.
- (6) For the purposes of [<sup>F10</sup>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.

**Textual Amendments**

- F10** Words in Sch. 14 Pt. II para. 5(6) substituted (31.1.1997) by 1996 c. 23, s. 107(1), **Sch. 3 para. 47** (with s. 81(2)); S.I. 1996/3146, **art. 3** (with transitional provisions in **art. 4, Sch. 2**)

*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 [<sup>F11</sup>FCA] .
- (2) The reference of a dispute to the [<sup>F11</sup>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.
- [<sup>F12</sup>(3) The FCA must consult the PRA before making any such award.]

**Textual Amendments**

- F11** Word in Sch. 14 para. 6 substituted (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), **art. 1(1), Sch. 8 para. 56(5)(a)** (with Sch. 12)
- F12** Sch. 14 para. 6(3) inserted (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), **art. 1(1), Sch. 8 para. 56(5)(b)** (with Sch. 12)

*Disputes cognizable under a scheme*

<sup>F13</sup>7 .....

**Textual Amendments**

- F13** Sch. 14 para. 7 repealed (1.12.2001) by S.I. 2001/2617 arts. 2(b), 13(2), Sch. 4 (with art. 13(3), Sch. 5); S.I. 2001/3538 art. 2

*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.

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 5(11)-(14) inserted by [2007 c. 26 s. 1\(2\)](#)
- s. 5(13)(a) substituted by [S.I. 2013/496 Sch. 8 para. 4\(4\)](#)
- s. 7(6A)-(6C) inserted by [2007 c. 26 s. 1\(1\)\(a\)](#)
- s. 7(8A) inserted by [2007 c. 26 s. 1\(1\)\(c\)](#)
- s. 176ZB excluded by [S.I. 2017/400 reg. 14](#)
- s. 246ZA-246ZC excluded by [S.I. 2017/400 reg. 15](#)
- s. 246ZD excluded by [S.I. 2017/400 reg. 16](#)