

## SCHEDULES

### SCHEDULE 2

#### ESTABLISHMENT, INCORPORATION AND CONSTITUTION OF BUILDING SOCIETIES

#### 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 Commission 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 Commission 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.

##### *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 instruments appointing proxies to vote at the meeting.

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- (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 sub-paragraph (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) If the notice of the meeting includes notice of the intention to move a resolution as a borrowing members' resolution, notice of the meeting shall, subject to those provisions, be given also to every person who becomes a borrowing member of the society before the date which the society specifies as the final date for the receipt of instruments appointing proxies to vote on that resolution.
  - (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.

*Members' entitlement to vote on resolutions*

- 23
- (1) A member of a building society is entitled to vote—
    - (a) on a resolution, other than a borrowing members' resolution, if he was also a member at the end of the last financial year before the voting date; and
    - (b) on a borrowing members' resolution if he was, at the end of that year, and is, on the voting 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 paragraph (a), 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 member is not entitled to vote on a resolution (other than a borrowing members' resolution) if—
    - (a) he did not have a qualifying shareholding at the qualifying shareholding date ; or
    - (b) he does not have any shares on the voting date; or
    - (c) although he was a member at the qualifying shareholding date and is a member on the voting date, he ceased to be a member at some time during the intervening period.
  - (4) Where a building society's rules provide that a member is not entitled to vote on a resolution (other than a borrowing members' resolution) unless he has a qualifying shareholding on the qualifying shareholding date, he shall be taken to satisfy that requirement 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 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, the date which the society specifies as the final date for the receipt of completed ballot papers;
  - (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 instruments appointing 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.
- (2) Where the society, under its rules, specifies a final date for the receipt of instruments appointing 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.
- (5) If default is made in complying with sub-paragraph (4) above in respect of a meeting of a building society, 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 instrument appointing a proxy, or any other document necessary to show the validity of, or otherwise relating to, the appointment

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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) The instrument appointing 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 die same as a demand by the member.

*Special resolutions*

- 26 No resolution of a building society shall be passed as a special 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 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.

*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 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 borrowing members' resolution has been duly given ; or

- (b) in a postal ballot on the resolution of which notice specifying that the resolution will not be effective unless it is passed as a borrowing members' resolution has been duly given.
- (2) For the purposes of this Part of this Schedule a person is a borrowing member of a building society at any time if at that time his indebtedness to the society is in respect of an advance fully secured on land and the amount of his mortgage debt is not 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 special resolution, and
  - (b) must be passed on a poll on which not less than 20 per cent. of the members of the society qualified to vote on a special resolution voted ;
- and the notice of the resolution required by sub-paragraph (a) or sub-paragraph (b) of paragraph 27(1) above, as the case may be, 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 special resolution and either—
- (a) must be passed by not less than 50 per cent, of the members qualified to vote on a special resolution, or
  - (b) must be passed by the holders, being members qualified to vote on a special 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 27 above includes a statement specifying that the resolution will not be effective unless either of the above requirements is fulfilled has been duly given.
- (4) If the Commission 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

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investments of the shareholders of or depositors with the society, the Commission may give a direction under sub-paragraph (5) below.

- (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 special resolution.
- (6) The Treasury, after consultation with the Commission, 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 it thinks 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 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 100 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 with a qualifying asset holding, is fifty 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 ten 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 hold or have at any time held shares in the society to a value greater than the prescribed amount in force on the qualifying date, or
  - (b) to have held shares in the society at any time before the commencement of the period of two years ending with 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 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 Commission 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 sub-paragraph, 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.

*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.
- (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

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- (b) the non-receipt of a notice or copy by such a person.
- (4) The Commission 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 ballots*

- 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 to be conducted in all, or in any particular, circumstances by postal ballot; and in this Act " ballot" or " postal ballot", in relation to an election or a resolution of the society, means the postal ballot, if any, taking place by virtue of those rules in the case of the election or the resolution in question.
  - (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) If voting on the postal ballot is to be in respect of a resolution of which notice has been given of the intention to move it as a borrowing members' resolution, notice of the postal ballot shall, subject to those provisions, be given also to every person who becomes a borrowing member of the society before the voting day.
  - (6) Notice of a postal ballot—
    - (a) shall contain such other notices relating to the election or resolution, and
    - (b) shall be accompanied by such other 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.
  - (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.

*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 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 instrument of 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) The declaration to be made by a person in pursuance of sub-paragraph (1) above is as follows—
- (a) 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 otherwise than on a borrowing members' resolution, that on the voting date he is or, so far as he can reasonably foresee, will be a shareholder of the society;
  - (c) where the vote is to be cast on a borrowing members' resolution, 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 member is not entitled to vote unless he had a qualifying shareholding at the qualifying shareholding date, that he had or, so far as he can reasonably foresee, will have such a shareholding on that date.
- (3) A building society shall secure that every document issued by it for use as a voting paper or as an instrument for the appointment of a proxy incorporates a form of declaration under this paragraph for completion by the member using it.
- (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—
- " 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 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,

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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.
- (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.

*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 Commission, with the consent of the Treasury, by order specifies 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.