

SCHEDULES

SCHEDULE 3

Sections 9 and 41 to 44.

AUTHORISATION : SUPPLEMENTARY PROVISIONS

PART I

PRELIMINARY

1 In this Schedule—

"authorisation" means authorisation under section 9 or on renewal under section 41 or reauthorisation under section 44;

"conditions" means conditions to be complied with by a building society and imposed on the grant of authorisation under section 9, on the renewal of authorisation under section 41, on reauthorisation under section 44 or under section 42;

"revocation", with reference to authorisation, means revocation under section 43.

PART II

AUTHORISATION

Procedure for authorization

2 (1) An application for authorisation—

(a) shall be made in such manner as the Commission may specify, either generally or in any particular case ; and

(b) shall be accompanied by such information as the Commission may reasonably require, either generally or in any particular case, in order to decide whether or not to grant authorisation and whether with or without conditions.

(2) If required to do so by notice from the Commission given at any time after an application for authorisation has been made and before a decision has been reached on the application, the applicant shall furnish to the Commission such additional information as it may reasonably require in order to reach a decision on the application.

(3) If on an application for authorisation the Commission proposes to impose conditions the provisions of Part III of this Schedule shall apply.

(4) If the Commission proposes to refuse to grant authorisation it shall serve a notice on the applicant stating—

(a) that it proposes to refuse to grant authorisation ;

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- (b) the grounds for the proposed refusal; and
 - (c) that the applicant may make representations with respect to the proposed refusal within such period of not less than 28 days as may be specified in the notice and that, if the applicant so requests, the Commission will afford to it an opportunity of being heard by the Commission within that period.
- (5) If the grounds for the proposed refusal include the ground that any officer of the society is not a fit and proper person to hold office in the society the Commission shall also serve the notice specified in sub-paragraph (4) above on the officer concerned giving him the like right to make representations and to be heard with respect to his fitness and propriety for office.
- (6) The Commission shall, before reaching a decision on the application, consider any representations made to it in accordance with sub-paragraph (4) or (5) above.
- (7) If, on an application for authorisation, the Commission refuses to grant authorisation it shall serve on the society and, subject to paragraph 10 below, on every director of and the chief executive of the society, and every other person on whom a notice was served under sub-paragraph (5) above, a notice stating the Commission's decision and the grounds for it and, subject to sub-paragraph (8) below, shall do so before the expiry of the period of 6 months beginning with the date on which the application was received.
- (8) In any case where, under sub-paragraph (2) above, the Commission requires additional information with respect to an application, the latest time for the giving of a notice under sub-paragraph (7) above with respect to the application shall be the expiry of whichever of the following periods first expires, namely—
- (a) the period of 6 months beginning with the date on which the additional information is furnished to the Commission; and
 - (b) the period of 12 months beginning with the date on which the application was received by the Commission.
- (9) In the application of this paragraph to an application for the renewal of authorisation under section 41—
- (a) sub-paragraph (7) shall have effect with the substitution of 3 for 6 months ; and
 - (b) sub-paragraph (8) shall have effect with the substitution of 3 for 6 months and of 6 for 12 months respectively.

Offences in connection with application

- 3 (1) Any building society which furnishes any information or makes any statement which is false or misleading in a material particular in connection with an application for authorisation shall be liable, on conviction on indictment or on summary conviction, to a fine which, on summary conviction, shall not exceed the statutory maximum.
- (2) Any person who knowingly or recklessly furnishes any information or makes any statement which is false or misleading in a material particular in connection with an application for authorisation 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 a fine not exceeding the statutory maximum.

PART III

IMPOSITION OF CONDITIONS

- 4 (1) If the Commission proposes to impose conditions it shall serve on the society and, subject to paragraph 10 below, on every director of the society and its chief executive a notice stating—
- (a) that the Commission proposes to impose conditions;
 - (b) what the conditions will be ;
 - (c) the grounds for their imposition ; and
 - (d) that the society may make representations with respect to the proposed imposition of the conditions within such period of not less than 14 days as may be specified in the notice and that, if the society so requests, the Commission will afford to it an opportunity of being heard by the Commission within that period.
- (2) If any condition proposed to be imposed on the society includes a requirement for the removal from office of any officer of the society the Commission shall also serve the notice specified in sub-paragraph (1) above on the officer whose removal is proposed giving him the like right to make representations and to be heard with respect to his proposed removal from office.
- (3) The Commission shall, before reaching a decision on whether to impose conditions and, if so, what conditions, consider any representations made in accordance with sub-paragraph (1) or (2) above and, except where paragraph 5 below applies, the Commission shall serve on the society and, subject to paragraph 10 below, on every director of and the chief executive of the society and every other person on whom a notice was served under sub-paragraph (2) above, a notice stating its decision.
- (4) If the Commission decides to impose conditions the notice under sub-paragraph (3) above shall—
- (a) specify the conditions, and
 - (b) state the grounds for its decision to impose them.
- (5) The Commission may not impose conditions on grounds other than those stated, or grounds included in those stated, in the notice served by it under sub-paragraph (1) above.
- 5 (1) This paragraph applies where the Commission has decided to impose conditions but proposes to impose conditions different from and more onerous than those stated in the notice served by the Commission under paragraph 4(1) above.
- (2) The Commission shall serve on the society and, subject to paragraph 10 below, on every director of the society and its chief executive, a notice stating—
- (a) what conditions the Commission proposes to impose ;
 - (b) the grounds for the imposition of those conditions instead of the conditions stated in the notice under paragraph 4(1) above; and
 - (c) that the society may make representations with respect to the conditions the Commission proposes to impose within such period of not less than seven days as may be specified in the notice and that, if the society so requests, the Commission will afford to it an opportunity of being heard by the Commission within that period.

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- (3) If any condition proposed to be imposed on the society includes a requirement for the removal from office of any officer of the society the Commission shall also serve the notice specified in sub-paragraph (2) above on the officer whose removal is proposed giving him the like right to make representations and to be heard with respect to his proposed removal from office.
- (4) The Commission shall, before reaching a decision on whether to impose conditions different from those stated in the notice served under paragraph 4(1) above and, if so, what conditions, consider any representations made in accordance with sub-paragraph (2) or (3) above and shall serve on the society and subject to paragraph 10 below, on every director of and the chief executive of the society and every other person on whom a notice was served under sub-paragraph (3) above, a notice stating its decision.
- (5) If the Commission decides to impose conditions the notice under sub-paragraph (4) above shall—
 - (a) specify the conditions, and
 - (b) state the grounds for their imposition.
- (6) The Commission may not impose conditions on grounds other than those stated, or grounds included in those stated, in the notice served by it under sub-paragraph (2) above.

PART IV

REVOCATION OF AUTHORISATION

Procedure for revocation

- 6 (1) If the Commission proposes to revoke a society's authorisation it shall serve on the society and, subject to paragraph 10 below, on every director and its chief executive a notice stating—
 - (a) that the Commission proposes to revoke the authorisation,
 - (b) the grounds for the proposed revocation ; and
 - (c) that the society may make representations with respect to the proposed revocation within such period of not less than 14 days as may be specified in the notice and that, if the society so requests, it will be afforded an opportunity of being heard by the Commission within that period.
- (2) If the grounds for the proposed revocation include the ground that any officer of the society is not a fit and proper person to hold office in the society the Commission shall also serve the notice specified in sub-paragraph (1) above on the officer concerned giving him the like right to make representations and to be heard with respect to his fitness and propriety for office.
- (3) The Commission shall, before reaching a decision on whether to revoke the authorisation, consider any representations made to it in accordance with sub-paragraph (1) or (2) above and, except where paragraph 7 below applies, the Commission shall serve on the society and, subject to paragraph 10 below, on every director of and the chief executive of the society and every other person on whom a notice was served under sub-paragraph (2) above, a notice stating its decision.

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- (4) If the Commission decides to revoke a society's authorisation, the notice under sub-paragraph (3) above shall state the grounds for the decision.
 - (5) The Commission may not revoke a society's authorisation on grounds other than those stated, or grounds included in those stated, in the notice served under sub-paragraph (1) above.
- 7
- (1) This paragraph applies where the Commission proposes, instead of revoking a society's authorisation, to impose conditions.
 - (2) The Commission shall serve on the society and, subject to paragraph 10 below, on every director of the society and its chief executive a notice stating—
 - (a) that it proposes to impose conditions instead of revoking the society's authorisation ;
 - (b) what conditions it proposes to impose;
 - (c) the grounds for the imposition of conditions instead of revoking the society's authorisation ; and
 - (d) that the society may make representations with respect to the conditions the Commission proposes to impose within such period of not less than seven days as may be specified in the notice and that, if the society so requests, it will be afforded an opportunity of being heard by the Commission within that period.
 - (3) If any condition proposed to be imposed on the society includes a requirement for the removal from office of any officer of the society, the Commission shall also serve the notice specified in sub-paragraph (2) above on the officer whose removal is proposed giving him a like right to make representations and to be heard with respect to his proposed removal from office.
 - (4) The Commission shall, before reaching a decision on whether to impose conditions and, if so, what conditions, consider any representations made in accordance with sub-paragraph (2) or (3) above and, except where paragraph 8 below applies, the Commission shall serve on the society and, subject to paragraph 10 below, on every director of and the chief executive of the society and every other person on whom a notice was served under sub-paragraph (3) above, a notice stating its decision.
 - (5) If the Commission decides to impose conditions the notice under sub-paragraph (4) above shall—
 - (a) specify the conditions, and
 - (b) state the grounds for their imposition.
 - (6) The Commission may not impose conditions on grounds other than those stated, or grounds included in those stated, in the notice served by the Commission under sub-paragraph (2) above.
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- (1) This paragraph applies where the Commission has decided, instead of revoking a society's authorisation, to impose conditions but proposes to impose conditions different from and more onerous than those stated in the notice served by the Commission under paragraph 7(2) above.
 - (2) The Commission shall serve on the society and, subject to paragraph 10 below, on every director of the society and its chief executive, a notice stating—
 - (a) what conditions it proposes to impose ;

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- (b) the grounds for the imposition of those conditions instead of the conditions stated in the notice under paragraph 7(2) above; and
 - (c) that the society may make representations with respect to the conditions the Commission proposes to impose within such period of not less than seven days as may be specified in the notice and that, if the society so requests, the Commission will afford to it an opportunity of being heard by the Commission within that period.
- (3) If any condition proposed to be imposed on the society includes a requirement for the removal from office of any officer of the society the Commission shall also serve the notice specified in sub-paragraph (2) above on the officer whose removal is proposed giving him the like right to make representations and to be heard with respect to his proposed removal from office.
- (4) The Commission shall, before reaching a decision on whether to impose conditions different from those stated in the notice served under paragraph 7(2) above and, if so, what conditions, consider any representations made in accordance with sub-paragraph (2) or (3) above and shall serve on the society and, subject to paragraph 10 below, on every director of and the chief executive of the society and every other person on whom a notice was served under sub-paragraph (3) above, a notice stating its decision.
- (5) If the Commission decides to impose conditions the notice under sub-paragraph (4) above shall—
- (a) specify the conditions, and
 - (b) state the grounds for their imposition.
- (6) The Commission may not impose conditions on grounds other than those stated, or grounds included in those stated, in the notice served by it under sub-paragraph (2) above.

PART V

SUPPLEMENTARY

Imposition of conditions on appeal

- 9 (1) The modifications of the provisions of Part III of this Schedule in their application to the imposition of conditions by the Commission in pursuance of a direction of an appeal tribunal under section 47(6) or (7) are as follows.
- (2) The notice under paragraph 4(1) shall be served on the society and the other persons there specified within the period of 14 days beginning with the date on which the Commission received notice of the tribunal's decision under subsection (10) of that section; and a copy shall also be sent within that period to the tribunal.
- (3) The notice under paragraph 4(1) may specify, as the period within which representations may be made, a period of not less than 7 days.
- (4) If the Commission serves a notice under paragraph 5(2) on the society and the other persons there specified it shall send a copy of the notice to the tribunal.

Notice to directors and chief executives

- 10 Where any provision of this Schedule requires notice of any matter to be served on every director of a building society that requirement is satisfied by serving notice on each director whose appointment has been officially notified and the non-receipt of a notice of a matter by a director or the chief executive does not affect the validity of any action on the part of the Commission.