

## Building Societies Act 1986, (as amended)

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*Disclaimer: This copy of the Building Societies Act 1986 has been updated for the convenience of users of this website to include amendments made by the Fiduciary Services Act 2005. The Commission accepts no liability for the accuracy of the updating. The updated version of the Act is intended for guidance only and the original Acts should be consulted for legal purposes.*

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## **BUILDING SOCIETIES ACT 1986, (as amended)**

### **ARRANGEMENT OF SECTIONS**

#### **SECTION**

1. Substitution of s.7 of 1892 Act.
2. Restrictions on building societies' borrowing and acceptance of subscriptions for shares.
3. Power to obtain information and confidentiality of information.
4. Penalties.
- 4A. Application of ss 2 to 4 to non-Manx Societies.
- 4B. Review of Commission decisions.
- 4C. Civil penalties.
- 5 & 6. Amendments and repeal.
7. Interpretation.
8. Short title and commencement.

Whilst this document has been prepared by the Financial Supervision Commission for the general guidance of the public, the document has no legal standing and should not be relied on in respect of points of law.

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*Isle of  
Man  
to Wit*

Signed in Tynwald: 21st January 1986  
Received Royal Assent: 28th February 1986  
Announced to Tynwald: 18th March 1986  
Passed: 18th March 1986

**AN ACT**

To amend the Industrial and Building Societies  
Acts 1892 to 1979 and to make new provision  
relating to building societies.

We, your Majesty's most dutiful and loyal subjects, the Lieutenant Governor, Council and Keys of the said Isle, do humbly beseech your Majesty that it may be enacted by, and with the advice and consent of the Lieutenant Governor, Council and Keys in Tynwald assembled, and by the authority of the same, as follows (that is to say):-

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Substitution of  
s.7 of 1892 Act.  
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1. For section 7 of the Industrial and Building Societies Act 1892 (in this Act referred to as "the 1892 Act") there shall be substituted the following section -
  - "7. (1) Subject to subsection (5) below, a building society is a society for the purpose of raising by the subscriptions of the members a stock or fund for -
    - (a) making advances to members out of the funds of the society upon security by way of mortgage of land situate inside or outside the Isle of Man, or
    - (b) making loans to, or depositing money with, building societies established under this Act or established in the United Kingdom under any enactment of Parliament relating to building societies.
  - (2) A building society shall, so far as is necessary for the purposes specified in subsection (1), have power to hold land.
  - (3) A building society may from time to time raise funds by the issue of shares of one or more denominations either paid up in full, or to be paid by periodical or other subscriptions, and with or without accumulating interest, and may, subject to the terms of issue of such shares, repay such funds when no longer required for the purposes of the society.
  - (4) Any land to which a building society may become absolutely entitled by surrender or other extinguishment of the right of redemption, or by purchase in the course of realising any security, shall as soon afterwards as may be conveniently practicable, be sold or converted into money.
  - (5) A building society shall not -
    - (a) make advances to a member upon security by way of mortgage of land situate outside the Island; or
    - (b) make loans to, or deposit money with, a building society established in the United Kingdom under any enactment of Parliament relating to building societies,unless authorised to do so by the Commission.
  - (6) Where a building society which is authorised under subsection (5) above, makes a loan to, or deposits money with a building society established in the United Kingdom, such loan or deposit may be made without security unless the Commission otherwise requires in conditions made under subsection (7) below.

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- (7) An authorisation granted pursuant to subsection (5) above, may be made subject to such conditions as the Commission thinks fit and may be revoked by it at any time.
- (8) If it appears to the Commission that a society has contravened subsection (5) above, it may, after giving notice to the society and affording it an opportunity of making representations, present a petition for the winding up of the society and the court may on such petition order the society to be wound up in accordance with section 24(4) of this Act.
- (9) Any person who, without reasonable cause, contravenes any condition subject to which an authorisation has been granted under this section, shall be guilty of an offence and liable on conviction on information to a fine or on summary conviction to a fine not exceeding £5,000.
- (10) In this section, the word "land" has the meaning assigned to it by section 3 of the Interpretation Act 1976."

Restriction on building societies' borrowing and acceptance of subscriptions for shares

2. (1) Subject to regulations made under subsection (3), a building society shall not -
- (a) accept the deposit of, or otherwise borrow, any money, or
- (b) accept any payment representing the whole or any part of the amount due by way of subscription for a share in the society,
- unless it is authorised to do so by the Commission.
- (2) An authorisation granted pursuant to subsection (1), may be made subject to such conditions as the Commission thinks fit and may be revoked by it at any time.
- (3) The Treasury may by regulations specify exceptions to the restrictions in subsection (1) and may prescribe an annual fee to be paid by a building society for the grant of, and continuation of, authorisation under this section.
- (4) The fact that funds are accepted in contravention of subsection (1) shall not affect any civil liability arising in respect of the acceptance or of the funds accepted.
- (5) Subject to subsection (6), any obligation to make a payment to a building society which, by virtue of subsection (1), the society is prohibited from accepting, shall be wholly rescinded.
- (6) If -
- (a) on the date on which this Act comes into operation; or

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- (b) at the time when the authorisation granted pursuant to subsection (1) is revoked,

a member is under an obligation to make payments to a society which represent instalments of the amount due by way of subscription for a share in the society and which by virtue of subsection (1) the society is prohibited from accepting, the obligation shall (subject to anything in the rules of the society or any agreement between the society and the member) be suspended in respect of each instalment for the period when the society is not authorised; and accordingly, if the society is subsequently granted authorisation, the sum due shall again become payable by instalments.

- (7) Where the authorisation granted to a society pursuant to subsection (1) has been revoked, it shall be the duty of the society to make reasonable arrangements for using the funds of the society to meet applications by depositors or holders of shares in the society (being applications duly made in accordance with the rules of the society) for repayment of the money deposited or subscribed by them.
- (8) If it appears to the Commission that, when the authorisation granted to a society pursuant to subsection (1) has been revoked, the society has been applying an undue proportion of the funds of the society in making advances, in preference to meeting such applications as are mentioned in subsection(7), it may, after giving notice to the society and affording it an opportunity of making representations, present a petition for the winding up of the society, and the court may on such petition order the society to be wound up in accordance with section 24(4) of the 1892 Act.

Power to obtain information and confidentiality or information.

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3. (1) If the Commission decides that, for the purpose of considering whether to grant or revoke the authorisation granted to a society under section 2(1) of this Act or section 7(5) of the 1892 Act, or of monitoring its continued entitlement to be authorised under those provisions, it requires information, on a periodic basis or otherwise, which any person is likely to be able to furnish, the Commission may require that person -
- (a) to furnish such information as is required;
- (b) to produce such documents or other material as are specified at a time and place so specified and to permit a person nominated by the Commission for the purpose to take copies of the documents or other material at that time and place;

provided that the Commission may not require any person to produce a privileged communication, nor to furnish information contained in such a communication, made by or to an advocate in that capacity.

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- (2) Where any person claims a lien on any documents or other material which he is required to produce under subsection (1), the production shall be without prejudice to the lien.
- (3) No information obtained by virtue of this section shall be disclosed except -
- (a) for the purpose of any criminal proceedings or any investigation with a view to such proceedings; or
  - (b) for the purpose of facilitating the performance by the Commission of any of its functions; or
  - (c) for the purpose of enabling the Commission to decide whether to grant or revoke the authorisation of a building society; or
  - (d) with the consent of the person to whom the information relates; or
  - (e) to the extent that it is information which is at the time of disclosure, or has previously been, available to the public from other sources.
- Penalties 4. (1) If a building society contravenes any of the restrictions imposed by section 2, then the society shall be guilty of an offence and liable on conviction on information to a fine or on summary conviction to a fine not exceeding £5,000.
- (2) Any person who -
- (a) in connection with an application for authorisation under section 2(1) of this Act or section 7(5) of the 1892 Act; or
  - (b) in purporting to furnish information required by a notice served on him under section 3,  
furnishes any information which he knows to be false or misleading in a material particular or recklessly furnishes information which is false or misleading in a material particular, shall be guilty of an offence and shall be liable -
    - (aa) on summary conviction to a fine not exceeding £5,000; or
    - (bb) on conviction on information to imprisonment for a term not exceeding two years or to a fine or both.

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- (3) Any person who, without reasonable excuse, contravenes any condition subject to which an authorisation has been granted under section 2 shall be guilty of an offence and liable on conviction on information to a fine or on summary conviction to a fine not exceeding £5,000.
- (4) Any person who, without reasonable excuse, fails to comply with any requirement under section 3(1) shall be liable on summary conviction to a fine not exceeding £2,500.
- 4A (1) Sections 2 to 4 shall apply to a United Kingdom building society carrying on business in the Island, whether by itself or through an agent, as they apply to a building society established under the Industrial and Building Societies Act 1892 subject to the following modifications -
- (a) in section 2(8), for the words "in accordance with section 24(4) of the 1892 Act" substitute "under the provisions of the Companies Acts 1931 to 1986 in like manner, as nearly as may be, as if the society were a company under such Acts;"
- (b) In section 3(1), omit the words "or section 7(5) of the 1892 Act";
- (c) in section 3(3), add -
- "(f) or the purpose of enabling or assisting an authority in a country or territory outside the Island exercising functions corresponding to those of the Commission under this Act.";
- (d) in section 4(2)(a), omit the words "or section 7(5) of the 1892 Act".
- (2) In the section, "United Kingdom building society" means a building society which is established in any part of the United Kingdom under any enactment of Parliament relating to building societies."

"Review of  
Commission  
decisions

- 4B. (1) Any person who is aggrieved by a decision of the Commission to -
- (a) refuse authorisation under section 7(5) of the Industrial and Buildings Societies Act 1892 ("the 1892 Act");
- (b) revoke authorisation under section 7(7) of the 1892 Act;
- (c) make an authorisation subject to conditions under section 7(7) of the 1892 Act;
- (d) refuse authorisation under section 2(1) (including that section as applied by section 4A);

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- (e) revoke authorisation under section 2(2) (including that section as applied by section 4A);
- (f) make an authorisation subject to conditions under section 2(2) (including that section as applied by section 4A);
- (g) require a building society to pay a penalty in respect of a contravention under section 4C,

may apply for a review of the decision.

(2) In the first instance the application shall be addressed to the Chief Secretary who shall report the application to the Council of Ministers.

(3) An application for a review shall be in such form, made within such time, and be subject to such conditions, as may be prescribed by regulations made by the Council of Ministers.

(4) On the notification of an application for review, the Council of Ministers shall appoint 3 persons from a panel appointed in accordance with the Tribunals Act 2005 to form a committee (in this section referred to as the "Review Committee") to review the decision in question.

(5) The members of the committee must be persons –

- (a) who have appropriate experience; and
- (b) who are independent of both the Commission and the applicant.

(6) The Review Committee shall conduct reviews under this section.

(7) On the determination of a review under this section the Review Committee shall confirm, vary or revoke the decision in question.

(8) Any variation or revocation of a decision shall not affect the previous operation of that decision or anything duly done or suffered under it.

(9) Without prejudice to any right of recourse to the High Court, any decision of the Review Committee on a review under this section shall be binding on the Commission and the applicant.

(10) The Council of Ministers may make regulations to provide for the practice and procedure of the Review Committee and for proceedings before the Committee.

(11) Regulations under this section shall be laid before Tynwald as soon as practicable after they are made and if Tynwald at the sitting at which they are laid, or at the next following sitting, fails to approve them, they shall cease to have effect.

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- "Civil penalties  
[VI p.405]
- 4C. (1) If the Commission is satisfied that a society that is authorised under section 7(5) of the Industrial and Building Societies Act 1892 or section 2 of this Act (including that section as applied by section 4(A) -
- (a) has contravened any provision of this Act;
  - (b) has contravened any prohibition, requirement or condition imposed under this Act; or
  - (c) in purported compliance with any such requirement or condition, has furnished the Commission with false, inaccurate or misleading information.
- it may require the society to pay a penalty in respect of the contravention.
- (2) The Commission shall give written notice to the society concerned of any decision under subsection (1) together with a statement of the reasons for the decision.
- (3) The Commission may not in respect of any such contravention –
- (a) both require the society to pay a penalty under this section and revoke its authorisation under section 7(5) of the Industrial and Building Societies Act 1892 or section 2 (as the case may be); or
  - (b) require a society to pay a penalty under this section if criminal proceedings have been commenced in respect of the contravention.
- (4) When setting the amount of financial penalty, the Commission shall have regard to any regulations under this section.
- (5) The Commission shall make such regulations as are necessary to give effect to this section and with respect to –
- (a) the imposition of financial penalties under this section; and
  - (b) the amount of financial penalties under this section.
- (6) Regulations under this section shall not come into operation unless they are approved by Tynwald.
- (7) Before making regulations under this section, the Commission shall consult such persons as it thinks appropriate.
- (8) Any amount received as a penalty under this section shall be paid into and form part of the General Revenue of the Island.
- (9) Criminal proceedings in respect of any contravention of this Act may not be commenced or continued if the Commission has required a society to pay a penalty under this section in respect of such contravention.

[Sections 4B & 4C inserted by the Fiduciary Services Act 2005]

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[Subsection 4B(4) amended by the Fiduciary Services Act 2005]

- Amendment of 1892 Act  
[VI p.405]
5. The 1892 Act shall have effect subject to the following amendments -
- (a) in section 2, after the definition of "Court of Summary Jurisdiction" there shall be inserted the following new definition -
- ""The Commission" means the Financial Supervision Commission:";
- (b) in section 16(1)(a), after the words "registered office" there shall be inserted "in the Isle of Man";
- (c) in section 22(1), after the words "by petition", there shall be inserted the words "of the Commission or";
- (d) in section 24(4), after the words "the petition" there shall be inserted the words "of the Commission or".
- Amendment and repeal  
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110(2)(a)  
[XVIII P.614]
6. (1) After section 4(1) of the Industrial and Building Societies (Amendment) Act 1955 there shall be inserted the following new subsections -
- "(1A) Notwithstanding subsection (1) above, if the work of making the register is done in another office of the society or in the office of an agent of the society, it may, subject to subsection (1B) below, be kept at that office.
- (1B) A society shall be treated as complying with section 16(1)(e) of the principal Act and subsection (4) of this section if, following a request to inspect the register or duplicate register, as the case may be, such register or duplicate register is produced in a written or printed form for inspection at the registered office within 14 days of such request.
- (1C) Any register or part of a register which is required to be kept under this section may be kept on a computer.".
7. In this Act -
- "the Commission" means the Financial Supervision Commission;
- "the 1892 Act" has the meaning assigned by section 1.
8. (1) This Act may be cited as the Building Societies Act 1986 and this Act and the Industrial and Building Societies Acts 1892 to 1979 may be cited together as the Industrial and Building Societies Acts 1892 to 1986.
- (2) This Act shall come into operation on such day as the Treasury may by order appoint and different days may be appointed for different provisions.

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- (3) An order made under subsection (2) may contain such transitional and consequential provisions as the Treasury thinks fit.