

**BANKING (EXTENSION TO BUILDING SOCIETIES)  
ACT**

**Principal Act**

<b>Act. No. 1998-04</b>	<i>Commencement</i>	15.1.1998
	<i>Assent</i>	5.1.1998

Amending enactments	Relevant current provisions	Commencement date
Act. 2007-17	Sch, para. 2(a) & (b)	14.6.2007

English sources

None

**1998-04**

**Banking (Extension to Building Societies)**

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**ARRANGEMENT OF SECTIONS.**

Section

1. Title, commencement and interpretation.
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3. Provisions for existing registered societies proposing to be wound up.
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7. *Omitted.*

**SCHEDULE.**

Transitional provisions applicable to certain existing registered societies.

**1998-04**

**Banking (Extension to Building Societies)**

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AN ACT TO REPEAL THE BUILDING SOCIETIES ACT; TO BRING BUILDING SOCIETIES WITHIN THE SCOPE OF THE FINANCIAL SERVICES (BANKING) ACT 1992; AND TO MAKE TRANSITIONAL PROVISIONS FOR REGISTERED BUILDING SOCIETIES PROPOSING TO BE WOUND UP.

## **Title, commencement and interpretation.**

1. (1) This Act may be cited as the Banking (Extension to Building Societies) Act 1997.

(2) This Act shall come into force on a day to be appointed by the Governor by notice in the Gazette and different days may be so appointed for different purposes.

(3) In this Act the commencement date means the day fixed for the coming into operation of section 3;

“the Commissioner” has the same meaning as in the Financial Services (Banking) Act 1992;

“existing registered society” means a building society which, immediately before the passing of this Act, is registered under the Building Societies Act;

“the winding-up period” shall be construed in accordance with section 3(3).

## **Building societies brought under the Financial Services (Banking) Act 1992.**

*Paragraph 2(1)(a) repeals the Building Societies Act.*

*Paragraph 2(1)(b) repeals paragraph 10(1)(b) in the Financial Services (Banking) Act 1992.*

(2) Subsection (1) has effect subject to section 3.

## **Provisions for existing registered societies proposing to be wound up.**

3. (1) If the directors of an existing registered society so resolve, not later than one month after the commencement date the society shall give notice to the Commissioner that the directors intend to propose the winding up of the society under section 23(1)(d) of the Building Societies Act.

(2) A notice under subsection (1) shall be of no effect for the purposes of this Act unless accompanied by a fee of such amount as may be

determined by the Commissioner but, after the giving of such a notice and the payment of the fee, the society shall cease to be liable for any fees under the Building Societies Act.

(3) Where a notice is given to the Commissioner under subsection (1) with respect to an existing registered society, the transitional provisions in the Schedule shall have effect in relation to that society for the period (in this Act referred to as the winding-up period) which begins on the commencement date and ends on the first anniversary of that date or on such later date as, in the case of that society, the Commissioner—

- (a) may consider appropriate to allow for the orderly winding up of the society; and
- (b) may notify in the Gazette;

and any such extension of the winding-up period by the Commissioner shall be on such terms, as to fees and other matters, as he may determine.

(4) If, at the end of the winding-up period applicable to an existing registered society, the society has not been wound up, nothing in this section shall affect the application of the provisions of the Financial Services (Banking) Act 1992 in relation to it as from the end of that period.

**Conversion of existing registered societies into companies.**

4. (1) This section applies in relation to an existing registered society if –

- (a) the society does not give notice under subsection (1) of section 3 before the expiry of the period of one month specified in that subsection; or
- (b) the society does give such a notice but, at the end of the winding-up period applicable to it, the society has not been wound up;

and, in relation to such a society, any reference in this section to the relevant time is a reference to the end of the period of one month referred to in paragraph (a) or, where paragraph (b) above applies, the end of the winding-up period.

(2) At the relevant time the society shall, by virtue of, and in accordance with, this section, become a company limited by shares, within the meaning of the Companies Act, having -

- (a) as its name, its former name with the addition of the word “limited” and, as its share capital, the shares which were in issue before the relevant time under the Building Societies Act;

- (b) as its directors, the persons who were the directors of the society immediately before the relevant time; and
- (c) the same assets and liabilities as immediately before the relevant time.

(3) Not later than one month after the relevant time, the directors of the society shall prepare and subscribe to a memorandum of association which complies with such conditions as may be required by the Commissioner and is in accordance with the form set out in Table B in Schedule 1 to the Companies Act or as near thereto as circumstances admit.

(4) A memorandum prepared under subsection (3) shall be delivered to the Registrar of Companies who shall retain and register it and thereupon, except as to the date of incorporation, the provisions of the Companies Act shall apply to the society (as a company) as if the memorandum had been delivered under section 14 of that Act.

(5) No duty shall be charged under Part III of the Stamp Duties Act on the capital of a company which comes into being by virtue of this section.

*Subsection 4(6) inserts words in paragraph 79(p) of the Financial Services (Banking) Act 1992.*

## **Recognised building societies to be European institutions.**

5. (1) Any institution which, immediately before the commencement date, was recognised under section 41A of the Building Societies Act (bodies authorised as, or providing services similar to, building societies in member States of the European Economic Area) shall, on and after that date, be treated for the purposes of the Financial Services (Banking) Act 1992 as a European institution and, accordingly, as a European authorised institution or a European subsidiary institution, as the case may require.

(2) Without prejudice to the generality of paragraph (1), for the purposes of the definitions of European authorised institution and European subsidiary institution in the Financial Services (Banking) Act 1992, a statement produced to the Registrar pursuant to section 41A(1)(a)(i) of the Building Societies Act shall be regarded, in relation to the body to which it relates, as the notice to the Commissioner from the relevant supervisory authorities.

## **Minimum capital.**

*Subsection 6(1) inserts in the Financial Services (Banking) Act 1992 a new subsection 35(1A).*

*Subsection 6(2) amends in the Financial Services (Banking) Act 1992 subsection 35(2).*

*Subsection 6(3) inserts in the Financial Services (Banking) Act 1992 a new subsection 35(3).*

**Restrictions on use of title “building society”.**

*Subsection 7(1) inserts in the Financial Services (Banking) Act 1992 a new section 75A.*

*Subsection 7(2) repeals paragraph 17(1)(g) of the Companies Act and the word “or” that precedes that paragraph.*



**SCHEDULE.**

Section 3(3)

**TRANSITIONAL PROVISIONS APPLICABLE TO CERTAIN  
EXISTING REGISTERED SOCIETIES**

1. In this Schedule “society” means an existing registered society in respect of which a notice has been given to the Commissioner under section 3(1).
2. Throughout the winding-up period, the Building Societies Act shall continue to apply to a society subject to the following modifications –
  - (a) for any reference to the Minister responsible for finance there shall be substituted a reference to the Commissioner and any requirement for the Minister responsible for finance to consult the Registrar shall be omitted;
  - (b) in section 37A (inspections etc. by Minister responsible for finance) subsection (1) shall be omitted;
  - (c) in section 39A (cancellation and suspension of registration) after subsection (1) there shall be inserted the following subsection–

“(1A) Where the Commissioner of Banking acts under subsection (1), he may give the society concerned such directions in writing as he thinks fit to protect the interests of depositors; and subsections (3) and (4) of section 66 of the Financial Services (Banking) Act 1992 shall apply to any direction so given as they apply to a direction given under that section.”.
3. (1) Throughout the winding-up period, the Financial Services (Banking) Act 1992 shall have effect in relation to a society –
  - (a) as if section 10(1)(b) continued in force;
  - (b) as if section 75A were omitted; and
  - (c) as if the society were a licensed institution for the purposes of the provisions of that Act set out in sub-paragraph (2).

(2) The provisions of the Financial Services (Banking) Act 1992<sup>1</sup> referred to in sub-paragraph (1)(c) are:–

- (a) section 43 (disclosure of inability to meet obligations);
- (b) section 47 (communications by auditors to the Banking Supervisor);
- (c) Part VII (supervision of deposit-taking businesses); and
- (d) section 82 (offences).

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<sup>1</sup> 1992-11