Draft Order laid before Parliament under section 104(5) of the Building Societies Act 1986, for approval by resolution of each House of Parliament.

D R A F T S T A T U T O R Y I N S T R U M E N T S

2024 No.

BUILDING SOCIETIES

The Building Societies Act 1986 (Modifications) Order 2024

Made - - - -	***
Coming into force - -	***

It appears to the Treasury, on modification of the statutory provisions in force in Great Britain and Northern Ireland relating to companies(**a**), to be expedient to modify the relevant provisions of the Building Societies Act 1986(**b**) ("the 1986 Act") for the purpose of assimilating the law relating to companies and the law relating to building societies, and accordingly the Treasury make this Order in exercise of the power conferred by section 104(1) of the 1986 Act(**c**).

In accordance with section 104(5) of the 1986 Act a draft of this Order has been laid before and approved by a resolution of each House of Parliament.

Citation, commencement and extent

1.—(1) This Order may be cited as the Building Societies Act 1986 (Modifications) Order 2024.

(2) This Order comes into force 21 days after the day on which it is made.

(3) This Order extends to England and Wales, Scotland and Northern Ireland.

Modifications of the Building Societies Act 1986

2.—(1) The Building Societies Act 1986 is amended as follows.

(2) In section 60 (directors: elections and retirements)(**d**)—

(**a**) The relevant modifications of such statutory provisions are those made by: (i) the repeal of sections 293 (age limit for directors) and 294 (duty of director to disclose his age) of the Companies Act 1985 (c. 6) by section 1295 of and Schedule 16 to the Companies Act 2006 (c .46); (ii) the repeal of section 233 (approval and signing of accounts) of the Companies Act 1985 as inserted by section 7 of the Companies Act 1989 (c.68) (which in turn replaced section 238 of the Companies Act 1985 (signing of balance sheet: documents to be annexed)) by section 1295 of and Schedule 16 to the Companies Act 2006 and the replacement of section 233 of the Companies Act 1985 by section 414 (approval and signing of accounts) of the Companies Act 2006; and (iii) the repeal of the Companies (Northern Ireland) Order 1986 (S.I. 1986/1032) (N.I.6)) which contained in articles 301 (age limits for directors), 302 (duty of director to disclose his age) and 241 (approval and signing of accounts) corresponding provisions to those in the Companies Act 1985 by section 1295 of and Schedule 16 to the Companies Act 2006 (which by section 1299 extends to the whole of the United Kingdom).

(**b**) 1986 c. 53. For the purposes of this Order it is material that the provisions of Parts 7 and 8 of the 1986 Act (in which sections 60, 61 and 80 are respectively to be found) are specified in section 104(2)(b) and (c) of that Act as "relevant provisions".

(**c**) 1986 c. 53. Section 104 was amended by Schedule 7 to the Building Societies Act 1997 (c. 32) and section 211(1) of the Companies Act 1989 (c. 40).

(**d**) Section 60 has been repeatedly amended. Relevant amendments were made to section 60(4) by S.I. 2001/2617 and section 27(2) of the Building Societies Act 1997 and section 60(7A), (7B) and (7C) were inserted by S.I. 2003/404.

(a) in subsection (4) omit ", (6), (7)";

(b) omit subsections (5), (6), (7), (7A), (7B), (7C) and (8);

(c) in subsection (11)—

(i) in paragraph (a) omit "paragraph (b) below, subsection (12) below or";

(ii) at the end of paragraph (a) omit "and";

(iii) omit paragraph (b); and

(iv) in the closing words, omit "(in either case)";

(d) omit subsection (12);

(e) in subsection (13) omit paragraph (a) (including "and" at the end of that paragraph); and

(f) omit subsection (15).

(3) In section 61 (directors: supplementary provisions as to elections, etc.)(**a**)—

(a) omit subsection (6); and

(b) in subsection (11) omit "(disregarding his age)".

(4) In section 80(1) (signing of balance sheet: documents to be annexed)(**b**)—

(a) for "two directors" substitute "one director"; and

(b) omit "and by the chief executive of the society".

Name
Name
Date Two of the Lords Commissioners of His Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends Parts 7 and 8 of the Building Societies Act 1986 (c. 53) ("the 1986 Act") to assimilate the law relating to building societies and to companies concerning directors' retirement and balance sheet signature following modification of the statutory provisions in force in Great Britain and Northern Ireland in relation to companies.

Article 2(2) of the Order repeals section 60(7) and (12) of the 1986 Act and associated provisions mandating a normal retirement age of 70 for the directors of building societies (or a lower age prescribed by the society's rules) subject to eligibility for election following board approval and notification to members entitled to vote. It also repeals section 60(5) and (6) permitting the imposition of a compulsory retirement age for the directors of building societies under societies' rules above which there is no eligibility for election. It repeals section 60(8) which contains relevant definitions. Article 2(2) and (3) repeal sections 60(15) and 61(6) of the 1986 Act creating criminal liability for breach of the retirement age restrictions and imposing penalties on building societies and their directors.

These amendments align the position of building society directors with that of company directors who are no longer subject to any age-related restrictions either in Great Britain or Northern Ireland following the repeal by the Companies Act 2006 (c. 46) ("the 2006 Act") of the Companies Act 1985 (c. 6) ("the 1985 Act") and of the Companies (Northern Ireland) Order 1986 (S.I. 1986/1032 (N.I.6)) ("the 1986 Order") which imposed such restrictions on the directors of public companies.

(**a**) There are no relevant amendments to section 61.
(**b**) There are no relevant amendments to section 80.

Article 2(4) of the Order aligns the requirements in section 80(1) of the 1986 Act for signature of a building society's balance sheet (being part of its annual accounts) with those in section 414 of the 2006 Act requiring signature of a company's annual accounts by one director (which replaced similar provisions in the 1985 Act and the 1986 Order). Consequently, a building society's balance sheet must only be signed by one director on behalf of the board instead of by two directors and the chief executive of the society.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary, or public sector is foreseen. A de minimis impact assessment is available from HM Treasury, 1 Horse Guards Road, London SW1A 2HQ and is published with the Explanatory Memorandum alongside this instrument on www.legislation.gov.uk.

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£5.78

http://www.legislation.gov.uk/id/ukdsi/2024/9780348264289

ISBN 978-0-34-826428-9

