

THE BUILDING SOCIETIES (AMENDMENT) ACT, 1985

No. 16 of 1985

*Date of Assent: 23rd December, 1985**Date of Commencement: 1st January, 1986*

An Act of Parliament to amend the Building Societies Act to require building societies to obtain annual licences and consent for branch offices; to make minor amendments, and for connected purposes

ENACTED by the Parliament of Kenya, as follows:—

Short title
and
commencement.

1. This Act may be cited as the Building Societies (Amendment) Act, 1985 and shall come into operation on the 1st January, 1986.

Interpretation.

2. In this Act, unless the context otherwise requires, a reference to a particular Part, section or Schedule is a reference to that Part, section or Schedule in the Building Societies Act (in this Act referred to as "the principal Act").

Cap. 489.

Amendment of
section 2.

3. Section 2 is amended by inserting the following definition in its proper alphabetical sequence—

"annual licence" means an annual licence issued in accordance with section 12B;

Amendment
of section
10 (n).

4. Section 10 (n) is amended by inserting after the word "member" the words "[which shall include sending prior notice to every member.]"

New Part IIA.

5. The principal Act is amended by inserting after Part II the following Part—

PART IIA—ANNUAL LICENCES

Annual
licences
to be held.

12A. (1) Notwithstanding any other provision of this Act, no building society shall carry on business in Kenya as a building society unless it holds an annual licence to do so in accordance with section 12B.

(2) A building society which contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding fifty thousand shillings and in addition shall be liable to pay any annual licence fee which should have been paid.

(3) Where a building society contravenes subsection (1), every person who at the time of the contravention was a director or officer or was concerned in the management of the building society, or was acting, or purporting to act, in such a capacity, shall also be guilty of an offence unless he proves—

(a) that, through no act or omission on his part, he did not know that the contravention was intended or about to take place or was taking place; or

(b) that he took all reasonable steps to prevent the contravention taking place.

(4) A person who is guilty of an offence under subsection (3) shall be liable to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding one year or to both.

Issue of
annual
licences.

12B. (1) Where a building society is registered under this Act an application by the building society for an annual licence to carry on business as a building society must be made to the Registrar on such form as may be prescribed and with payment of the annual licence fee specified in Schedule 1.

(2) When he receives an application in accordance with subsection (1) the Registrar shall issue the building society with an annual licence in such form as may be prescribed.

(3) An annual licence issued under subsection (2) shall remain in force until 31st December in the year in which it is issued but may be renewed from year to year on payment of further annual licence fees.

Display of
annual
licence.

12C. An annual licence shall be prominently displayed by the building society at its head office in Kenya and a copy shall be prominently displayed at every branch office in Kenya.

Change of
name and
amalgamation.

12D. (1) If a building society changes its name in accordance with section 46, when the Registrar

registers one copy of the resolution under section 46 (3) he shall endorse any annual licence in force with the new name of the society.

(2) Where two or more building societies amalgamate under Part VIII, none of those societies are entitled to any refund of annual licence fees in respect of any unexpired periods of their annual licences, but the Registrar shall issue to the new society an annual licence for the longest of those unexpired periods.

Revocation or
cancellation
of annual
licence.

12E. (1) If—

(a) registration of a building society is suspended or cancelled under section 63; or

(b) a building society is dissolved in terms of section 64 or 70,

any annual licence in force shall be deemed to be revoked for the period of suspension or, in the case of a cancellation or dissolution, permanently.

(2) Where an annual licence is—

(a) deemed to be revoked under subsection (1);
or

(b) wholly or partly cancelled at the request of the building society,

the building society is not entitled to any refund of the annual licence fee in respect of any unexpired period of the licence.

Transitional
provisions.

12F. The transitional provisions set out in Schedule 3 shall apply.

Amendment of
section 29A.

6. Section 29A is amended by inserting after the word “Minister” the words “for the time being responsible for finance”.

Amendment
of section
33 (4).

7. Section 33 (4) is amended by repealing the words “shall be entitled to receive on demand” and substituting the words “shall be sent.”

New section
47A.

8. The principal Act is amended by inserting after section 47 the following section—

1985

Building Societies (Amendment)

No. 16

Consent
required for
branch office.

47A. A building society shall not open or operate a branch office or an office other than its registered office without the written consent of the Registrar.

9. Section 50 is amended by inserting after the words "section 47," the words "section 47A,".

Amendment of
section 50.

10. Section 71 is amended—

Amendment of
section 71.

(a) in subsections (1) and (2), by inserting after the word "registered" in both places where it occurs the words "and licensed";

(b) in subsection (4), by repealing the words "ten thousand shillings" and substituting the words "one hundred thousand shillings";

(c) by inserting at the end the following subsections—

(5) Where a society, association, partnership or company contravenes subsection (1) or subsection (2), every person who at the time of the contravention was an officer, partner or director or was concerned in the management of the society, association, partnership or company, or was acting, or purporting to act, in such a capacity, shall also be guilty of an offence unless he proves—

(a) that through no act or omission on his part, he did not know that the contravention was intended or about to take place or was taking place; or

(b) that he took all reasonable steps to prevent the contravention taking place.

(6) A person who is guilty of an offence under subsection (5) shall be liable to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding one year or to both.

11. Section 74 is amended by repealing the words "two thousand shillings" and substituting the words "five thousand shillings".

Amendment of
section 74.

Amendment of
section 75 (7).

12. Section 75 (7) is amended by inserting after the word "registered" the words "and licensed".

Amendment of
section 76 (1).

13. Section 76 (1) is amended by inserting after the words "this Act" the words "(including Part IIA and Schedules I and 3)".

New Schedules
1 and 3.

14. The principal Act is amended—

(a) by inserting before the existing Schedule the following Schedule—

SCHEDULE 1 (s. 12B (1))

Annual licence fees

	<i>KSh.</i>
For every building society	50,000
Additionally,	
(i) for every branch office of a building society in Nairobi Area or in the Municipalities of Mombasa, Kisumu or Nakuru	20,000
(ii) for branch offices in other places	No fee

(b) by numbering the existing Schedule as "Schedule 2";
and

(c) by inserting after the existing Schedule the following Schedule—

SCHEDULE 3 (s. 12F)

Transitional provisions for Part IIA

1. It shall not be an offence for a building society to carry on business without an annual licence at any time in the month of January, 1986 provided it obtains an annual licence before the end of that month.

2. Notwithstanding section 12B (3), all annual licences issued during January, 1986 shall expire on 31st December, 1986.