



Building Societies Act 1997

1997 CHAPTER 32

PART I

CONSTITUTION AND POWERS

9 Raising funds and borrowing.

For section 8 of the 1986 Act there shall be substituted the following section—

“8 Raising funds and borrowing.

- (1) Subject to subsection (2) below, a building society shall not do any of the following things, namely—
- (a) accept a deposit from an individual;
 - (b) raise funds from an individual otherwise than by the issue of shares; and
 - (c) raise funds from a body corporate, or from a bare trustee (or, in Scotland, a simple trustee) for a body corporate or for persons who include a body corporate, otherwise than by the issue of deferred shares.
- (2) Nothing in subsection (1)(a) above shall apply in relation to—
- (a) the maintenance on behalf of an individual of a current account, or a deposit account which contains in its title the word “client” or the word “trust” or “trustee”;
 - (b) the issue to an individual of a transferable instrument;
 - (c) the acceptance from an individual of a qualifying time deposit or an overseas deposit; or
 - (d) in the case of a building society which has announced publicly that it intends, in accordance with section 97 and the other applicable provisions of this Act, to transfer the whole of its business to a company, anything done by the society during the period of two years beginning with the date of the announcement.

Changes to legislation: There are currently no known outstanding effects for the Building Societies Act 1997, Section 9. (See end of Document for details)

- (3) The Commission may, if it thinks fit, extend or further extend the period mentioned in subsection (2)(d) above if written application is made to it before the expiry of that period or that period as extended; and a direction under this subsection—
- (a) shall be in writing;
 - (b) may be given subject to such limitations or conditions as the Commission may think fit.
- (4) A contravention of subsection (1) above shall not invalidate any transaction or other act.
- (5) The power of a building society to raise funds by the issue of shares is a power—
- (a) to issue shares of one or more denominations, whether in sterling or another currency; and
 - (b) to issue them either as shares paid up in full or as shares to be paid by periodical or other payments, and (in either case) with accumulating or other interest;
- and funds so raised may be repaid when they are no longer required for the purposes of the society.
- (6) In the case of deferred shares, the power of a building society to raise funds by the issue of shares includes the issue of shares at a premium.
- (7) If a building society issues deferred shares at a premium, whether for cash or otherwise, a sum equal to the aggregate amount or value of the premiums on those shares shall be transferred to the society's reserves.
- (8) For the purposes of this section the acceptance of deposits (including the issue of debt securities) shall not constitute the raising of funds.
- (9) In this section, in relation to a building society—
- “overseas deposit” means a deposit which is accepted by a branch or agency of the society in a country or territory outside the United Kingdom and is repayable in such a country or territory;
- “qualifying time deposit” has the meaning given by section 482(6) of the ^{M1}Income and Corporation Taxes Act 1988;
- “raise funds” means, subject to subsection (8) above, raise funds by the issue of shares or other securities;
- “transferable instrument” means an instrument which embodies a transferable right to receive an amount referable to a deposit with the society.
- (10) A right is transferable for the purposes of the definition of “transferable instrument” in subsection (9) above if it is transferable by delivery of the instrument, or it is a right—
- (a) which may, under the terms of the instrument, be held by any person, or by any person other than a person of a description specified in the instrument;
 - (b) express provision for the transfer of which is included in the instrument; and
 - (c) the transfer of which, under the terms of the instrument, does not require the consent of any person.

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- (11) Where an individual declares that he is acquiring any shares in a building society otherwise than as a bare trustee (or, in Scotland, a simple trustee) for a body corporate, or for persons who include a body corporate, he shall, unless the contrary is shown, be conclusively presumed for the purposes of this section to hold the shares otherwise than as such a trustee.
- (12) The Commission may, with the consent of the Treasury, by order vary subsections (2), (9) and (10) above by adding to or deleting from them any provision or by varying any provision contained in them; and an order under this subsection may make such supplementary, transitional and saving provision as appears to the Commission to be necessary or expedient.
- (13) The power to make an order under subsection (12) above is exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

Commencement Information

II S. 9 in force at 1.12.1997 by S.I. 1997/2668, art. 2, **Sch. Pt. II** (subject as mentioned in art. 2(2)-(5) of that S.I.)

Marginal Citations

M1 1988 c.1.

Changes to legislation:

There are currently no known outstanding effects for the Building Societies Act 1997, Section 9.