



Building Societies (Funding) and Mutual Societies (Transfers) Act 2007

2007 CHAPTER 26

3 Transfers to subsidiaries of other mutuals

- (1) The Treasury may, by order, make such modifications of the transfer provisions as it thinks appropriate to facilitate, or in consequence of, the transfer of the whole of the business of a mutual society (the transferor) to a subsidiary of a mutual society (whether or not of the same type) (the transferee).
- (2) An order under this section may make provision as to the rights (including rights of and pertaining to membership) in relation to the mutual society of which the transferee is a subsidiary—
 - (a) of the members of the transferor;
 - (b) of persons who, after the transfer, become customers of the transferee.
- (3) An order under this section may confer such functions on the Financial Services Authority as the Treasury think appropriate.
- (4) An order under this section—
 - (a) may make such consequential, saving, supplementary or transitional provision as the Treasury think appropriate;
 - (b) may make different provision for different purposes.
- (5) The power to make an order under this section is exercisable by statutory instrument.
- (6) An order which—
 - (a) makes modifications of a provision mentioned in paragraph (a), (b) or (c) of subsection (11), or
 - (b) amends paragraph (a) or (b) of subsection (13),(whether or not it contains any other provision) must not be made unless a draft of it has been laid before and approved by resolution of each House of Parliament.
- (7) Otherwise, an order is subject to annulment in pursuance of a resolution of either House of Parliament.

- (8) If a draft of an order mentioned in subsection (6) would, apart from this subsection, be treated for the purposes of the Standing Orders of either House of Parliament as a hybrid instrument it must proceed in that House as if it were not such an instrument.
- (9) Modifications include omissions, additions and alterations.
- (10) A mutual society is—
- (a) a building society incorporated or deemed to be incorporated under the Building Societies Act 1986 (c. 53);
 - (b) a friendly society within the meaning of the Friendly Societies Act 1992 (c. 40);
 - (c) an industrial and provident society registered or deemed to be registered under the Industrial and Provident Societies Act 1965 (c. 12);
 - (d) an EEA mutual society.
- (11) The transfer provisions are—
- (a) sections 97 to 102D of the Building Societies Act 1986, paragraph 30 of Schedule 2 to that Act and Schedule 17 to that Act;
 - (b) sections 86 and 88 of and Schedule 15 to the Friendly Societies Act 1992;
 - (c) section 52 of the Industrial and Provident Societies Act 1965;
 - (d) provision contained in subordinate legislation (within the meaning of the Interpretation Act 1978) made under any provision mentioned in paragraph (a), (b) or (c).
- (12) An EEA mutual society is—
- (a) a body which is a European Cooperative Society for the purposes of Council Regulation (EC) No 1435/2003 (statute for a European Cooperative Society);
 - (b) a body which is established as a cooperative under the law of an EEA state as mentioned in that Regulation;
 - (c) a body which is a cooperative or mutual undertaking of such description as the Treasury specify by order and which is established or operates in accordance with the laws of an EEA state or any of the Channel Islands or the Isle of Man.
- (13) A subsidiary of a mutual society is a relevant company—
- (a) in which the society holds a majority of the voting rights or of which the society is a member and alone controls, pursuant to an agreement with other shareholders or members, a majority of the voting rights, and
 - (b) in relation to which the society has the right to appoint or remove a majority of the company's board of directors,
- but the Treasury may, by order, amend paragraphs (a) and (b) to make the degree of control required more or less onerous.
- (14) A relevant company is—
- (a) a company within the meaning of the Companies Act 2006 (c. 46) (or, before the commencement of Part 1 of that Act, the Companies Act 1985 (c. 6));
 - (b) a company within the meaning of the Companies (Northern Ireland) Order 1986 (S.I. 1986/1032 (N.I. 6));
 - (c) a body corporate which is incorporated in an EEA state other than the United Kingdom.
- (15) For the purposes of paragraph 17 of Schedule 1 to the Financial Services and Markets Act 2000 (c. 8) (power to charge fees) a function conferred on the Financial Services

Authority by an order under this section is to be treated as a function conferred under or as a result of that Act.