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STATUTORY INSTRUMENTS

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**1991 No. 701**

**BUILDING SOCIETIES**

**The Building Societies (Deferred Shares) Order 1991**

<i>Made</i>	- - - -	<i>18th March 1991</i>
<i>Laid before Parliament</i>		<i>19th March 1991</i>
<i>Coming into force</i>	- -	<i>1st June 1991</i>

The Building Societies Commission, with the consent of the Treasury and in exercise of the powers conferred on it by section 119(1) of the Building Societies Act 1986<sup>(1)</sup> hereby makes the following Order:—

**Citation and commencement**

1. This Order may be cited as the Building Societies (Deferred Shares) Order 1991 and shall come into force on 1st June 1991.

**Interpretation**

2. In this Order unless the context otherwise requires—

“the Act” means the Building Societies Act 1986;

“creditors”, in relation to a society extends to members holding shares in the society, other than deferred shares, as regards the principal of those shares and all interest due thereon in accordance with their terms;

“issue terms” in relation to an issue of deferred shares means the provisions of a document which sets out, or of a connected series of documents which set out, the rights and obligations of the society and shareholders in respect of those shares;

“relevant consent” means consent applied for by the society otherwise than in consequence of a provision among the issue terms requiring the society so to apply or granting the society any benefit for so applying or imposing a sanction against failure so to apply;

“the Schedule” means the Schedule to this Order; and

“society” in relation to deferred shares means a society which proposes to issue or, as the case may be, has issued, such shares.

### Deferred Shares

3.—(1) Shares which are issued by a society upon terms which have the effect of the key term set out in the Schedule to this Order and in respect of which the condition set out in paragraph (2) of this article is satisfied, shall be shares of a class defined as deferred shares for the purposes of section 119 of the Act.

(2) The condition mentioned in paragraph (1) of this article is that the document containing the issue terms, or where the issue terms are contained in a series of documents, one of those documents, being in either case a document which is furnished to every applicant for the shares and every document evidencing title to the shares shall contain a prominent statement to the effect that the shares are deferred shares for the purposes of section 119 of the Act and are not protected investments for the purposes of payments out of the Building Societies Investor Protection Fund.

### Revocation

4. The Building Societies (Deferred Shares) Order 1989(2) shall cease to have effect, but any shares issued by a society prior to the date on which this order comes into force and in respect of which the terms are in compliance with article 3 of that Order shall continue to be shares of a class defined as deferred shares for the purpose of section 119 of the Act.

In witness whereof the common seal of the Building Societies Commission is hereunto fixed, and is authenticated by me, a person authorised under paragraph 14 of Schedule 1 to the Building Societies Act 1986, on 14th March 1991.

*Norman Digance*  
Secretary to the Commission

We consent to this Order.

*Thomas Sackville*  
*Irvine Patnick*  
Two of the Lords Commissioners of Her  
Majesty's Treasury

18th March 1991

## SCHEDULE

Article 3

### THE KEY TERM FOR DEFERRED SHARES

The key term is a term which has effect so as to prohibit the repayment of any principal to the shareholders in respect of the shares save in either or each of the following events that is to say—

- (a) the winding up or dissolution of the society in circumstances where all sums due from the society to creditors claiming in the winding up or dissolution are paid in full;
- (b) the granting of relevant consent by the Commission.

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### EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order is made under section 119(1) of the Building Societies Act 1986 which provides that “deferred shares” means shares of a class defined as such by order. Definition of such a class has two primary effects. Before a society is authorised under section 9 of the Act to raise money from members or accept deposits it may nevertheless accept payments by way of subscription for deferred shares up to limits specified in section 9. By virtue of section 27(8) of the Act deferred shares are not to count as protected investments for the purposes of the Investor Protection Fund set up under Part IV of the Act.

The Order defines a class of shares to be deferred shares within the meaning of section 119(1) if they are issued fully paid upon terms to the effect of the key term set out in the Schedule to the Order, and if the fact that the shares are deferred shares and so not protected by the Investor Protection Scheme is prominently stated in a document furnished to every applicant for such shares and in every document evidencing title to such shares (article 3(2)).

The key term prohibits the repayment of the principal of the shares except on a dissolution of the society after all creditors and shareholders (other than holders of deferred shares) have been paid in full, or with the consent of the Commission.

The Building Societies (Deferred Shares) Order 1989, is revoked, with a saving for shares already issued which complied with that Order the provisions of which are more complex.