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STATUTORY INSTRUMENTS

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**1987 No. 378**

**BUILDING SOCIETIES**

**The Building Societies (Non-Retail  
Funds and Deposits) Order 1987**

<i>Made</i>	- - - -	<i>9th March 1987</i>
<i>Laid before Parliament</i>		<i>11th March 1987</i>
<i>Coming into force</i>	- -	<i>1st April 1987</i>

The Building Societies Commission, with the consent of the Treasury, in exercise of the powers conferred on it by section 7(9) 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 (Non-Retail Funds and Deposits) Order 1987 and shall come into force on 1st April 1987.

**Amendment of section 7 of the Building Societies Act 1986**

**2.—(1)** This article amends section 7 of the Building Societies Act 1986 (which empowers building societies to raise funds and borrow money) as follows.

(2) In subsection (4)—

(a) in paragraph (a) after “transferable” the word “bearer” shall be inserted;

(b) after paragraph (a) there shall be inserted the following paragraph:

“(aa) transferable non-bearer instruments,”;

(c) after paragraph (b) there shall be inserted the following paragraph:

“(bb) sums deposited otherwise than in excepting circumstances with the society by, or by a trustee for, an institution which is—

(i) a recognised bank,

(ii) a licensed institution, or

(iii) an overseas institution,

for the purposes of the Banking Act 1979<sup>(2)</sup>,”;

(d) in paragraph (c)—

- (i) for “within (a) or (b) above” there shall be substituted “within (a), (aa), (b) or (bb) above”; and
- (ii) in sub-paragraph (i) after “any body corporate” there shall be inserted “, otherwise than in excepting circumstances”; and

(e) in paragraph (d)—

- (i) for “within (a), (b) or (c) above” there shall be substituted “within (a), (aa), (b), (bb) or (c) above”;
- (ii) after sub-paragraph (i) the word “or” shall be deleted; and
- (iii) after sub-paragraph (ii) there shall be inserted the following sub-paragraphs:
  - “(iii) the manager or trustee of an appropriate personal pension scheme, or
  - (iv) the plan manager of a personal equity plan.”.

(3) In subsection (19)—

(a) before the definition of “qualifying time deposit” there shall be inserted the following definitions:

““appropriate personal pension scheme” means a personal pension scheme within the meaning of the Social Security Act 1986<sup>(3)</sup> in respect of which an appropriate scheme certificate under section 2 thereof (appropriate schemes) is for the time being in force;

q25 “excepting circumstances” means circumstances in which shares or rights of a depositor—

- (i) are held by the holder as nominee on behalf only of an individual, a Scottish partnership, or a combination of individuals, of such partnerships, or of both;
- (ii) are subject to a relevant trust in the income of which no person who is neither an individual nor a Scottish partnership has any interest; or
- (iii) were held by an individual as beneficial owner at the time of his death (or represent investments so held or dividends or interest thereon) and the holder is acting as personal representative of that individual;

q25 “personal equity plan” means a plan the operation of which is subject to conditions set out in regulations for the time being in force under Schedule 8 to the Finance Act 1986<sup>(4)</sup> (personal equity plans);”;

(b) after the definition of “qualifying time deposit” there shall be inserted the following definition:

““relevant trust” means a trust which is neither a trust established for charitable purposes only nor a trust of shares held by or sums deposited by—

- (i) the administrator of an approved retirement benefits scheme,
- (ii) the manager or trustee of an appropriate personal pension scheme, or
- (iii) the plan manager of a personal equity plan;”;

(c) at the end of the definition of “retirement benefits scheme” the word “and” shall be deleted;

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(2) 1979 c. 37.

(3) 1986 c. 50.

(4) 1986 c. 41.

- (d) in the definition of “transferable instrument” after “transferable” the word “bearer” shall be inserted;
- (e) at the end of the definition of “transferable instrument” the word “; and” shall be inserted; and
- (f) after the definition of “transferable instrument” there shall be inserted the following definition:
  - ““transferable non-bearer instrument” means an instrument which embodies a right—
    - (i) 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,
    - (ii) express provision for the transfer of which is included in the instrument, and
    - (iii) the transfer of which, under the terms of the instrument, does not require the consent of any person,to receive an amount referable to a deposit with the society.”.

### **Effect of provisions as amended**

3. Subsections (4) and (19) of section 7 of the Building Societies Act 1986, as amended by this Order, shall respectively have effect as set out in Parts I and II of the Schedule to this Order.

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 9th March 1987.

L.S.

*D. B. Severn*  
Secretary to the Commission

We consent to this Order.

9th March 1987

*Tim Sainsbury*  
*Michael Neubert*  
Two of the Lords Commissioners of Her  
Majesty’s Treasury

## SCHEDULE

## Article 3

## PART I

section 7(4) of the building societies act 1986, as amended by this order

(4) For the purposes of subsection (3) above, a building society's liabilities in respect of its non-retail funds and deposits are, subject to subsections (5) and (9) below, its liabilities in respect of the principal of and interest payable on or under—

- (a) transferable bearer instruments,
- (aa) transferable non-bearer instruments,
- (b) qualifying time deposits,
- (bb) sums deposited otherwise than in excepting circumstances with the society by, or by a trustee for, an institution which is—
  - (i) a recognised bank,
  - (ii) a licensed institution, or
  - (iii) an overseas institution,

for the purposes of the Banking Act 1979(5);

- (c) shares in the society held by, or by a trustee for, and (to the extent the liabilities do not fall within (a), (aa), (b) or (bb) above) sums deposited with the society by, or by a trustee for—
  - (i) any body corporate, otherwise than in excepting circumstances,
  - (ii) a friendly society registered under the Friendly Societies Act 1974(6) or the Friendly Societies Act (Northern Ireland) 1970(7),
  - (iii) a trade union (within the meaning of the Trade Union and Labour Relations Act 1974(8)),
- (d) shares in the society (to the extent the liabilities do not fall within (c) above) held by, and (to the extent the liabilities do not fall within (a), (aa), (b), (bb) or (c) above) sums deposited with the society by—
  - (i) a body of persons or trust established for charitable purposes only,
  - (ii) the administrator of an approved retirement benefits scheme,
  - (iii) the manager or trustee of an appropriate personal pension scheme, or
  - (iv) the plan manager of a personal equity plan.

## PART II

section 7(19) of the building societies act 1986, as amended by this order

(19) In this section—

“appropriate personal pension scheme” means a personal pension scheme within the meaning of the Social Security Act 1986(9) in respect of which an appropriate scheme certificate under section 2 thereof (appropriate schemes) is for the time being in force;

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(5) 1979 c. 37.  
 (6) 1974 c. 46.  
 (7) 1970 c. 31 (N.I.).  
 (8) 1974 c. 52.  
 (9) 1986 c. 50.

“excepting circumstances” means circumstances in which shares or rights of a depositor—

- (i) are held by the holder as nominee on behalf only of an individual, a Scottish partnership, or a combination of individuals, of such partnerships, or of both;
- (ii) are subject to a relevant trust in the income of which no person who is neither an individual nor a Scottish partnership has any interest; or
- (iii) were held by an individual as beneficial owner at the time of his death (or represent investments so held or dividends or interest thereon) and the holder is acting as personal representative of that individual;

“personal equity plan” means a plan the operation of which is subject to conditions set out in regulations for the time being in force under Schedule 8 to the Finance Act 1986<sup>(10)</sup> (personal equity plans);

“qualifying time deposit” means a deposit in sterling made with the society as to which the following conditions are satisfied, that is to say—

- (i) the amount of the deposit is or exceeds £50,000;
- (ii) the deposit is repayable at the end of a specified period which expires before the end of the period of 12 months beginning on the date on which the deposit is made; and
- (iii) the right to repayment is not assignable;

“relevant trust” means a trust which is neither a trust established for charitable purposes only nor a trust of shares held or sums deposited by—

- (i) the administrator of an approved retirement benefits scheme,
- (ii) the manager or trustee of an appropriate personal pension scheme, or
- (iii) the plan manager of a personal equity plan;

“retirement benefits scheme” means a retirement benefits scheme within the meaning of Chapter II of Part II of the Finance Act 1970<sup>(11)</sup> (occupational pension schemes) and “approved” means approved for the time being by the Commissioners of Inland Revenue for the purposes of that Chapter;

“transferable bearer instrument” means an instrument which embodies a right, transferable by delivery of the instrument, to receive an amount referable to a deposit with the society; and

“transferable non-bearer instrument” means an instrument which embodies a right—

- (i) 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,
- (ii) express provision for the transfer of which is included in the instrument, and
- (iii) the transfer of which, under the terms of the instrument, does not require the consent of any person,

to receive an amount referable to a deposit with the society.

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<sup>(10)</sup> 1986 c. 41.

<sup>(11)</sup> 1970 c. 24.

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

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

This Order amends section 7 of the Building Societies Act 1986 which empowers a building society to raise funds and borrow money and places a limit on non-retail funds and borrowing. This Order changes the coverage of that limited category in three respects:

- (a) it specifies the circumstances in which shares held or sums deposited by a body corporate in which individuals hold the beneficial interest are excluded from the category;
- (b) subject to (a), it includes all sums deposited by banking institutions within the category, notwithstanding any election by a society generally to treat balances of £50,000 or less as outside it; and
- (c) it widens the range of transferable instruments within the category, by including instruments which are freely transferable by means other than delivery.