

---

STATUTORY INSTRUMENTS

---

**2001 No. 3649**

The Financial Services and Markets Act 2000  
(Consequential Amendments and Repeals) Order 2001

PART 6

ENACTMENTS RELATING TO MUTUAL SOCIETIES

CHAPTER I

primary legislation

*Building Societies Act 1986 (c. 53)*

**Lending limit for building societies**

**194.**—(1) Section 6(1) of the Building Societies Act 1986 (the lending limit) is amended as follows.

(2) In paragraph (c) of the definition of X in subsection (2), for the words “insurance companies within the meaning of the Insurance Companies Act 1982” substitute “effecting or carrying out contracts of insurance”.

(3) For subsection (12), substitute—

“(12) In this section “long term insurance funds”, in relation to an undertaking effecting or carrying out contracts of insurance, means funds maintained by it—

- (a) in accordance with asset identification rules (within the meaning of section 142(2) of the Financial Services and Markets Act 2000) in respect of its business in effecting or carrying out contracts of long term insurance; or
- (b) where it is incorporated in a country or territory outside the United Kingdom, under the corresponding provisions of the law of that country or territory.”.

(4) After subsection 12, insert—

“(12A) The definition of X in subsection (2) and subsection (12) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”.

**Restrictions on powers of building societies**

**195.**—(1) Section 9A of the Building Societies Act 1986(2) (restrictions on certain transactions) is amended as follows.

---

(1) Section 6 was substituted by the Building Societies Act 1997 (c. 32), section 4 and amended by S.I. 2001/2617 Schedule 3 paragraph 134.  
(2) Section 9A was inserted by the Building Societies Act 1997, section 10 and amended by S.I. 2001/1826 and S.I. 2001/2617.

- (2) In subsection (5)—
- (a) for paragraphs (a) and (b) substitute—
    - “(a) as a person who has permission under Part IV of the Financial Services and Markets Act 2000 to effect or carry out contracts of long-term insurance, or
    - (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of long-term insurance.”;
  - (b) the words after paragraph (b) to the end are repealed.
- (3) In subsection (9)—
- (a) in the definition of “collective investment scheme” for the words “Financial Services Act 1986” substitute “Financial Services and Markets Act 2000”;
  - (b) for the definition of “derivative investment” substitute—
    - ““derivative investment” means an investment of the following kinds—
    - (a) instruments giving entitlements to investments;
    - (b) options;
    - (c) futures;
    - (d) contracts for differences;”.
- (4) After subsection (9) insert—
- “(9A) Subsection (5) and the definition of “derivative investment” in subsection (9) must be read with—
- (a) section 22 of the Financial Services and Markets Act 2000;
  - (b) any relevant order under that section; and
  - (c) Schedule 2 to that Act;”.

### **Transfers of business by building society to company**

**196.**—(1) Section 98(3) of the Building Societies Act 1986 (transfers of business; supplementary provisions) is amended as follows.

- (2) In section 98(3)(c), for the words “become or,” to the end substitute—
- “have—
- (i) such permission under Part IV of the Financial Services and Markets Act 2000, or
  - (ii) such permission under paragraph 15 of Schedule 3 to that Act (as a result of qualifying for authorisation under paragraph 12 of that Schedule),

as will enable it to carry on the business which it will have as a result of the transfer without being taken (by virtue of section 20 of that Act) to have contravened a requirement imposed on it by the Authority under that Act; or”.

### **Financial institution becoming subsidiary of building society**

**197.**—(1) Section 101 of the Building Societies Act 1986(4) (protective provisions for specially formed successors) is amended as follows.

---

(3) Section 98(3) was amended by the Banking Act 1987 (c. 22) Schedule 6 paragraph 26, by the Building Societies Act 1997, section 30 and by S.I. 2001/2617, Schedule 3 paragraph 181(b).

(4) Section 101 was substituted by the Building Societies Act 1997 (c. 32) section 41.

- (2) In subsection (4)(a)—
  - (a) for the words “financial institution” substitute “person who is an authorised person within the meaning of section 31 of the Financial Services and Markets Act 2000”;
  - (b) for the words “an institution” substitute “a person”.
- (3) In subsection (6), the definition of “financial institution” is repealed.

### **Definition of “institution” and “deposit”**

**198.**—(1) Section 107 of the Building Societies Act 1986<sup>(5)</sup> (restriction of use of certain names and descriptions) is amended as follows.

- (2) For subsection (12)<sup>(6)</sup> substitute—

“(12) In this section—

“deposit” must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act;

“institution” means—

- (a) a body corporate wherever incorporated;
- (b) a partnership formed under the law of any part of the United Kingdom;
- (c) a partnership or other unincorporated association of two or more persons formed under the law of a member State other than the United Kingdom.”.

### **Repeal of unnecessary provisions etc.**

**199.**—(1) Section 119 of the Building Societies Act 1986 is amended as follows.

- (2) In subsection (1) after the definition of “ordinary resolution” insert—

““own funds” means own funds as defined in Section 1 of Chapter 2 of Title V of the Banking Consolidation Directive;”.

- (3) In subsection (1) the definition of “currency” is repealed<sup>(7)</sup>.
- (4) Subsections (2A) and (2C) are repealed<sup>(8)</sup>.

### **Application of companies insolvency legislation to building societies**

**200.**—(1) In Schedule 15 to the Building Societies Act 1986, in paragraph 3(2), before paragraph (a) insert—

“(aa) every reference to a company registered in Scotland shall have effect as a reference to a building society whose principal office is situated in Scotland;”.

(2) In Schedule 15A<sup>(9)</sup> to the Building Societies Act 1986, in paragraph 2(2) before paragraph (a) insert—

“(aa) every reference to a company registered in Scotland shall have effect as a reference to a building society whose principal office is situated in Scotland;”.

---

<sup>(5)</sup> Section 107 was amended by [S.I. 2001/2617](#).

<sup>(6)</sup> Subsection (12) was amended by the Banking Act 1987 (c. 22), Schedule 6 paragraph 26.

<sup>(7)</sup> The definition of “currency” was inserted by the Building Societies Act 1997 (c. 32) Schedule 7 paragraph 53(1)(f).

<sup>(8)</sup> Subsections (2A) and (2C) were inserted by [S.I. 1996/1669](#), Schedule 5 paragraph 5 and amended by [S.I. 2000/2952](#).

<sup>(9)</sup> Schedule 15A was inserted by the Building Societies Act 1997 (c. 32) section 39 and Schedule 6 and amended by the Insolvency Act 2000 (c. 39) Schedule 2 Part II.

---

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

---

(3) Paragraphs 209(b) and 210(b) of Schedule 3 to the Financial Services and Markets Act 2000 (Mutual Societies) Order 2001 are revoked.