

*Status: Point in time view as at 01/12/1997.*

*Changes to legislation: Building Societies Act 1986, SCHEDULE 6 is up to date with all changes known to be in force on or before 05 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 6

Section 27 (12).

#### INSOLVENCY PAYMENTS: TRUSTS AND JOINT OR CLIENT ACCOUNT HOLDINGS

##### **Modifications etc. (not altering text)**

**C1** Sch. 6: power to repeal conferred (9.6.1997) by 1997 c. 32, s. 32(5)(b)(ii); S.I. 1997/1427, art. 2(g)

- 1 (1) The following provisions of this Schedule have effect for the purposes of section 27.
- (2) In this Schedule “investment”, in relation to a building society, means the rights of a person arising from a deposit made by him, or a predecessor in title of his, with the society or the interest of a person constituted by a share of his in the society; and that person is referred to as holding, or as the holder of, the investment.
- 2 (1) Where any persons hold an investment in a building society as trustees then, unless the investment is held on trust for a person absolutely entitled to it as against the trustees, the trustees shall be treated as a single and continuing body of persons, distinct from the persons who may from time to time be the trustees and if the same persons hold different investments as trustees under different trusts, they shall be treated as a separate and distinct body with respect to each of those trusts.
- (2) For the purpose of this Schedule an investment is held on trust for a person absolutely entitled to it as against the trustees where that person has the exclusive right, subject only to satisfying any outstanding charge, lien or other right of the trustees to resort to the investment for payment of duty, taxes, costs or other outgoings, to direct how the investment shall be dealt with.
- (3) Any reference in sub-paragraph (1) or (2) above to a person absolutely entitled to an investment as against the trustees includes a reference to two or more persons who are so entitled jointly; and in the application of sub-paragraph (2) to Scotland the words from “subject” to “outgoings” are omitted.
- 3 Where an investment is held on trust for any person absolutely entitled to it, or as the case may be, for two or more persons so entitled jointly, that person or, as the case may be, those persons jointly shall be treated as entitled to the investment without the intervention of any trust.
- 4 (1) Except in the case of a partnership, where two or more persons are jointly entitled to an investment and paragraph 2(1) above does not apply, each of them shall be treated as having a separate investment of an amount produced by dividing the amount of

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the investment to which they are jointly entitled by the number of persons who are so entitled.

- (2) Where two or more persons hold, or are absolutely entitled to, an investment as partners, the partnership shall be treated as holding, or as being absolutely entitled to, the investment as a single person distinct from the persons of whom the partnership is composed.
- 5 Where an investment is made by a person whose business is the provision of professional services or the carrying on of investment business (within the meaning of the Financial Services Act 1986) with money held to the account of clients of his, each of them shall be treated as having a separate investment of an amount equal to so much of the amount of the investment as represents money held to his account as a client.
- 6 The Board may decline to make any payment under section 27 in respect of an investment until the person claiming to be entitled to it informs the Board of the capacity in which he is entitled to the investment; and if it appears to the Board—
- (a) that the persons entitled to an investment are so entitled as trustees, or
  - (b) that paragraph 3 above applies to an investment, or
  - (c) that two or more persons are jointly entitled to an investment other than as trustees, or
  - (d) that paragraph 5 above applies to an investment,
- the Board may decline to make any payment in respect of the investment until sufficient information has been disclosed to it to enable it to determine what payment (if any) should be made under that section and to whom.
- 7 In this Schedule “jointly entitled” means—
- (a) in England and Wales and Northern Ireland, beneficially entitled as joint tenants, tenants in common or as coparceners, and
  - (b) in Scotland, beneficially entitled as joint owners or owners in common.
- [<sup>F18</sup> In the application of this Schedule in relation to investments in an office of a building society in another EEA State, references to persons entitled in any of the following capacities, namely—
- (a) as trustees;
  - (b) as partners; or
  - (c) as persons jointly entitled other than as trustees,
- shall be construed as references to persons entitled under the law of that State in a capacity appearing to the Board to correspond as nearly as may be to that capacity.]

#### Textual Amendments

- F1** Sch. 6 para. 8 inserted (1.7.1995) by S.I. 1995/1442, reg. 44 (with transitional and transitory provisions in regs. 53(2), 54)

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