

SCHEDULES

SCHEDULE 7

OTHER AMENDMENTS OF 1986 ACT

Interpretation

- 53 (1) In subsection (1) of section 119 of the 1986 Act (interpretation)—
- (a) the definitions of “adopt”, “adopted”, “adoptable powers”, “advance secured on land”, “advance fully secured on land”, “advance secured on third party land”, “mobile home loan”, “qualifying asset holding”, “subsidiary” and “total commercial assets” shall cease to have effect;
 - (b) for the definitions of “associated body”, “associated” and “linked by resolution” there shall be substituted the following definition—
 - ““associated undertaking” shall be construed in accordance with paragraph 20 of Schedule 4A to the Companies Act 1985 read—
 - (a) in conjunction with sections 259 and 260 of, and paragraphs 5 to 11 of Schedule 10A to, that Act; and
 - (b) as if the reference to an undertaking included in the consolidation were a reference to an undertaking which would be so included if consolidated accounts were being prepared at the material time;”;
 - (c) for the definitions of “borrowing members' resolution” and “borrowing member” there shall be substituted the following definitions—
 - ““borrowing members’ resolution’ has the meaning given by paragraph 29(1) of Schedule 2 to this Act and, subject to paragraph 29(2), “borrowing member” has the meaning given by paragraph 5 of that Schedule;”;
 - (d) after the definition of “the Commission” there shall be inserted the following definition—
 - ““connected undertaking” means a subsidiary undertaking or an associated undertaking;”;
 - (e) for the definition of “the court” there shall be substituted the following definition—
 - ““the court”, in relation to a building society, means the court which has jurisdiction under the applicable winding up legislation to wind up the society;”;
 - (f) after the definition of “the criteria of prudent management” there shall be inserted the following definition—
 - ““currency” includes ecus;”;
 - (g) for the definition of “deposit” there shall be substituted the following definition—

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- ““deposit” includes—
- (a) a loan; and
 - (b) a subordinated deposit, that is to say, a deposit which, on a winding up, would fall to be repaid only after repayment in full had been made to the holders of shares in the society other than deferred shares,
- and cognate expressions shall be construed accordingly;”;
- (h) after the definition of “heritable security” there shall be inserted the following definition—
- ““interest”, in relation to shares, includes dividends;”;
- (i) after the definition of “Investor Protection Board” there shall be inserted the following definitions—
- ““land”, in the expression “loan secured on land”, has the meaning given by section 6A(8);
- “loan secured on land” and “loan fully secured on land” shall be construed in accordance with sections 6A and 6B respectively;”;
- (j) for the definition of “member” there shall be substituted the following definition—
- ““member” shall be construed in accordance with paragraph 5 of Schedule 2 to this Act;”;
- (k) for the definition of “mortgage debt” there shall be substituted the following definition—
- ““mortgage debt”, in relation to a loan secured on land and any time, means the total amount outstanding at that time in respect of—
- (a) the principal of the loan;
 - (b) interest on the loan; and
 - (c) any other sum which the borrower is obliged to pay the society under the terms of the loan;”;
- (l) after the definition of “officially notified” there shall be inserted the following definition—
- ““ordinary resolution” means a resolution which will be effective without being passed as a special resolution, shareholding members' resolution or borrowing members' resolution;”
- (m) after the definition of “the repealed enactments” there shall be inserted the following definition—
- ““residential property” has the meaning given by section 5(10);”;
- (n) for the definition of “share” there shall be substituted the following definition—
- ““share”, in relation to a building society, shall be construed in accordance with section 8;”;
- and
- (o) after the definition of “shareholder and depositor” there shall be inserted the following definitions—
- ““shareholding member” has the meaning given by paragraph 5 of Schedule 2 to this Act;

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“shareholding members” resolution’ has the meaning given by paragraph 27A of that Schedule;”.

- (2) In subsection (2) of that section, for the word “advances” there shall be substituted the word “loans”.
- (3) In subsection (3) of that section—
 - (a) in paragraph (a), the words “by him” and “to him” shall cease to have effect; and
 - (b) in paragraph (b), for the words “an advance” there shall be substituted the words “a loan”.
- (4) After subsection (3) of that section there shall be inserted the following subsection—

“(3A) Any reference in this Act (however expressed) to loans being owed to a building society or a subsidiary undertaking of a building society is a reference to their being so owed either at law or in equity.”
- (5) For subsection (4) of that section there shall be substituted the following subsection—

“(4) Subject to sections 9A(7) and 83A(7), the value in sterling of—
 - (a) any transaction effected by or with a building society or connected undertaking in another currency, or
 - (b) any assets or liabilities of a building society or connected undertaking denominated in another currency,shall be determined for any purpose of this Act in accordance with directions given by the Commission under this subsection.”