
EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends Schedule 8 to the Building Societies Act 1986, as varied by S.I. [1988/1141](#).

The power of a society to provide banking services does not of itself confer any power to permit overdrafts, but this does not prevent a building society recovering sums due on unauthorised overdrafts. This is clarified by an amendment to Schedule 8, Part II, paragraph 4 (article 3(a)). Power to provide overdraft facilities to individuals is provided for in section 16 of the Act, and to persons other than individuals in the course of providing money transmission services in the Building Societies (Money Transmission Services) Order 1989 (S.I. [1989/730](#)).

The Order amends Schedule 8, Part II to remove doubt about the power of a building society, when exercising the power to provide the service of trusteeship or executorship, to make loans or acquire land in the capacity of trustee or personal representative (article 3(b)). The restrictions in Schedule 8, Part III on the power of a society to provide the service of trusteeship are revised. In place of the previous restriction which specified that a society may act as trustee only of express trusts where the majority of the beneficiaries were individuals or of charitable trusts, there is now a prohibition on a society accepting trusteeship of any trust under which the majority in number of the beneficiaries are non-charitable corporate bodies (article 3(d) and (g)).

The Order also removes those restrictions on the provision of banking services by building societies which limited societies, in both the arranging of unsecured loans and the arranging of leases of personal property, to making arrangements for individuals only (article 3(c), (e) and (f)).