
EXPLANATORY NOTE

(This note is not part of the Order)

This Order modifies the application of the Building Societies Act 1986 (c. 53) (“the 1986 Act”), in specified circumstances, to facilitate the provision of financial assistance by a qualifying institution to building societies. It is made under sections 251 and 259 of the Banking Act 2009 (c.1). Section 257 of the Banking Act 2009 states that financial assistance “includes giving guarantees or indemnities and any other kind of financial assistance (actual or contingent)”.

Article 2 defines terms used in the Order. It also provides that references to a qualifying institution include any person acting for or on behalf of the institution or providing financial assistance to a building society on the basis of financial assistance from the institution. This could include another institution which provides financial assistance to a building society on the basis of, for example, an indemnity or guarantee from the qualifying institution, provided the conditions in article 2(2)(b) are met.

Articles 3 to 11 set out modifications to the 1986 Act which apply in relation to a building society which receives, or may receive, financial assistance from the Treasury, the Bank of England, another central bank of a state in the European Economic Area, or the European Central Bank (a “qualifying institution”).

Article 3 modifies the application of section 5 of the 1986 Act so that no building society shall be regarded, by virtue of any financial assistance it receives from a qualifying institution, as failing to comply with the requirement that its purpose or principal purpose is that of making loans which are secured on residential property and funded substantially by its members.

Article 4 disapplies section 6 of the 1986 Act where, as a consequence of any financial assistance received from a qualifying institution, a building society has transferred, assigned or otherwise disposed of any of its assets, and the society would otherwise be in breach of the lending limit in section 6.

Article 5 modifies the application of section 7 of the 1986 Act, so that any financial assistance a society receives from a qualifying institution is disregarded for the purposes of the funding limit in that section.

Article 6 disapplies section 8(1)(c) of the 1986 Act, so that the restriction in that section on raising funds from a body corporate does not apply in relation to financial assistance from a qualifying institution.

Article 7 disapplies section 9B of the 1986 Act, so that a building society may create a floating charge in favour of a qualifying institution in connection with financial assistance received from it.

Article 8 makes various modifications to the application of Schedule 2 to the 1986 Act, to remove any restrictions on the receipt of financial assistance arising from the memorandum or rules of a building society.

Articles 9, 10 and 11 make various modifications to the application of section 90A of, and Schedules 15 and 15A to, the 1986 Act. These ensure that the relevant law on administrative receivers applies, with the appropriate modifications, in relation to any administrative receiver appointed by a qualifying institution under the terms of a loan secured by a floating charge. Schedule 15A already provides that references in the applicable insolvency legislation to “company” and “the registrar of companies” have effect as references to “building society” and “the Financial Services Authority” respectively: see paragraph 2(1) of Schedule 15A.

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

Article 12 revokes the Building Societies (Financial Assistance) Order 2008 (S.I. 2008/1427), which was made under the [Banking \(Special Provisions\) Act 2008 \(c.2\)](#).

An impact assessment has not been prepared for this instrument as no impact on the costs of business is foreseen.