STATUTORY INSTRUMENTS

1989 No. 208

BUILDING SOCIETIES

The Building Societies (Designated Capital Resources) (Deferred Shares) Order 1989

Made - - - -	*14th February 1989*
Laid before Parliament	*20th February 1989*
Coming into force -	*1st April 1989*

The Building Societies Commission, with the consent of the Treasury, in exercise of the powers conferred upon it by section 45(5) of the Building Societies Act 1986(a), hereby makes the following Order:–

Citation and commencement

1. This Order may be cited as the Building Societies (Designated Capital Resources) (Deferred Shares) Order 1989 and shall come into operation on 1st April 1989.

Interpretation

2. In this Order–

"the Act" means the Building Societies Act 1986;

"old deferred shares" means shares issued by a building society on or before 31st December 1986 on the terms set out in paragraph 2 of Schedule 1 to the previous regulations;

"new deferred shares" means shares of the class defined for the purposes of section 119(1) of the Act by the Building Societies (Deferred Shares) Order 1989(b);

"the previous regulations" means the Building Societies (Authorisation) Regulations 1981(c) or the Building Societies (Authorisation) Regulations (Northern Ireland) 1982(d).

Capital resources which may be aggregated with reserves

3. When a building society has issued old deferred shares those shares may for the purpose of the first criterion of section 45(3) of the Act be aggregated with reserves, but only in so far as the nominal value of shares so aggregated does not exceed £75,000.

4.—(1) Where a building society issues new deferred shares those shares may subject to paragraph (2) below for the purposes of the first criterion of section 45(3) of the Act be aggregated with reserves, but only in so far as the nominal value of the shares so aggregated does not together with the nominal value of any old deferred shares for the time being aggregated with reserves for those purposes, exceed £250,000.

(a) 1986 c.53.
(b) S.I. 1989/207.
(c) S.I. 1981/1488, revoked by the Building Societies Act 1986.
(d) S.R. (NI) 1982 No. 155, revoked by the Building Societies Act 1986.

(2) Any new deferred shares issued upon terms which are subject to a provision having the effect of the permitted exception set out in paragraph 2 of the Schedule to the Building Societies (Deferred Shares) Order 1989 shall cease to be aggregated for the foregoing purposes with reserves when the Commission has signified to the society its approval of any resolution for the purposes of that provision and shall not thereafter be so aggregated notwithstanding that that resolution is not passed or is revoked.

Revocation

5. The Building Societies (Designated Capital Resources) Order 1986**(a)** is hereby revoked.

In witness whereof the common seal of the Building Societies Commission is hereunto fixed and is authenticated by me, a person authorised under paragraph 14 of Schedule 1 to the Building Societies Act 1986, on 10th February 1989.

L.S.

P. H. Gevers
Secretary to the Commission

We consent to this Order.

David Lightbown
Stephen Dorrell
14th February 1989. Two of the Lords Commissioners of Her Majesty's Treasury

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EXPLANATORY NOTE

(This note is not part of the Order)

This Order specifies that where a building society has issued shares ("old deferred shares") in accordance with the terms of regulations made under the Building Societies Act 1962 or shares ("new deferred shares") in accordance with the terms prescribed for deferred shares by the Building Societies (Deferred Shares) Order 1989 (S.I. 1989/207), they may be treated as capital resources which may be aggregated to the limits mentioned below with reserves for the purposes of the first criterion of prudent management (maintenance of adequate reserves and other designated capital resources) under section 45(3) of the Building Societies Act 1986. The prescribed terms restrict payment of interest and repayment of capital until all other shareholders have been paid. The limits to which such aggregation is permitted are, in the case of old deferred shares, £75,000, and, in the case of new deferred shares, £250,000 less the amount of any old deferred shares for the time being so aggregated.

The terms of deferred shares may permit the society issuing them to pay a special dividend or to repay principal with the approval of the Building Societies Commission if the Society has other capital sufficient for its present and foreseeable capital needs. If such approval is given, the deferred shares thereupon cease to be aggregable with reserves for the purposes mentioned above.

Other resources may also be aggregated with reserves for the purposes of the same

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(a) S.I. 1986/1878.

criterion by virtue of the Building Societies (Supplementary Capital) Order 1988 (S.I. 1988/777) (which relates to specified forms of subordinated debt).

The Building Societies (Designated Capital Resources) Order 1986 (which permitted aggregation of old deferred shares) with reserves for the purposes of the first criterion of section 45(3) of the Act is revoked.