Draft Order laid before Parliament under section 75(7)(b) of the Banking Act 2009, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2009 No. ***

BUILDING SOCIETIES

The Amendments to Law (Resolution of Dunfermline Building Society) (No. 2) Order 2009

Made - - - - ***

Coming into force in accordance with article 1(2)

This Order is made in exercise of the powers conferred by section 75 (as applied by section 84) and section 259(1) of the Banking Act 2009.(**1**)

This Order is made for the purpose of enabling the powers of Part 1 of that Act to be used effectively, by amending provisions of the Dunfermline Building Society Property Transfer Instrument 2009(**2**) ("the Property Transfer Instrument") made by the Bank of England in connection with the resolution of Dunfermline Building Society.

In accordance with section 75(1) of that Act, the Treasury have had regard to the special resolution objectives.(**3**)

In accordance with section 75(3) of that Act, the Treasury consider it necessary and desirable to make this Order with retrospective effect such that the amendments have effect from the time the Property Transfer Instrument came into force, and in so doing the Treasury have had regard to the fact that it is in the public interest to avoid retrospective legislation.

Accordingly, the Treasury make the following Order:

Citation, commencement, retrospective effect and interpretation

1.—(1) This Order may be cited as the Amendments to Law (Resolution of Dunfermline Building Society) (No. 2) Order 2009.

(2) This Order comes into force immediately on it being made, but the amendments made by article 2 (including the Schedule introduced by article 2(5)) have effect from 8 a.m. on 30th March 2009 (being the time at which the Property Transfer Instrument came into force(**4**)).

(**1**) 2009 c. 1.
(**2**) Section 75(4)(c) provides that an order under section 75 may, amongst other things, amend instruments made in exercise of stabilisation powers, such as property transfer instruments.
(**3**) Provided in section 4 of the Banking Act 2009.
(**4**) The commencement provision of the Property Transfer Instrument is paragraph 1(2), and "transfer time" is defined in paragraph 2.

(3) In this Order, "the Property Transfer Instrument" means the Dunfermline Building Society Property Transfer Instrument 2009.(**5**)

Amendments to Property Transfer Instrument

2.—(1) The Property Transfer Instrument is amended as follows.

(2) In paragraph 2(**6**) (interpretation: general) for the definition of "commercial loan" substitute—

""commercial loan" means—

(a) a loan, including a mortgage loan, made or agreed to be made by or on behalf of Dunfermline and which at the transfer time is designated in Dunfermline's books and records with one of the reference numbers set out in the Schedule;

(b) the loans acquired by Dunfermline on 15th April 2004 from DB UK Bank Limited (company registered number 00315841) and Morgan Grenfell (Local Authority Finance) Limited (company registered number 01672903) and identified in Dunfermline's books and records as "Dortmund" loans;".

(3) In paragraph 2 omit the definition of "commercial mortgage loan".

(4) In paragraph 3(3)(e) omit "or commercial mortgage loans" and omit "and commercial mortgage loans" (in both places where it occurs).

(5) At the end insert the Schedule set out in the Schedule to this Order.

Name
Name
Two of the Lords Commissioners of Her Majesty's Treasury

*Date

(**5**) Which was made by the Bank of England (in accordance with sections 11(2)(b) and 12(2) of the Banking Act 2009 as applied by section 84) and which is published on the Bank of England's internet website (www.bankofengland.co.uk) and which was laid before Parliament by the Treasury (in accordance with section 41 of that Act as applied by section 84).

(**6**) The Property Transfer Instrument refers to its first divisions as paragraphs (i.e. what would be articles in an order).