Draft Regulations laid before Parliament under section 207(9) of the Companies Act 1989, for approval by resolution of each House of Parliament

DRAFT STATUTORY INSTRUMENTS

2003 No.

COMPANIES

The Uncertificated Securities (Amendment) (Eligible Debt Securities) Regulations 2003

Made - - - -	*2003*
	in accordance with
Coming into force - -	*regulation 1*

Whereas a draft of these Regulations has been approved by a resolution of each House of Parliament;

Now, therefore, the Treasury, in exercise of the powers conferred by section 207 of the Companies Act 1989(**1**) and now vested in them(**2**), hereby make the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Uncertificated Securities (Amendment) (Eligible Debt Securities) Regulations 2003, and come into force on the day after the day on which they are made.

(2) In these Regulations "the principal regulations" means the Uncertificated Securities Regulations 2001(**3**).

Amendment of the principal regulations

2. The principal regulations are amended as set out in regulations 3 to 13 of these Regulations.

Eligible debt securities–interpretation

3. In regulation 3(1)–

(a) before the definition of "the 1985 Act", insert–

""the 1877 Act" means the Treasury Bills Act 1877(**4**);

(**1**) 1989 c. 40. Section 207 was amended by the Bank of England Act 1998 (c. 11), section 35 and by S.I. 2001/3649, article 90.
(**2**) By the Transfer of Functions (Financial Services) Order 1992 (S.I. 1992/1315), article 2(1)(c). (There is a partial revocation of article 2 not relevant to these Regulations.)
(**3**) S.I. 2001/3755.
(**4**) 1877 c. 2.

"the 1950 Act" means the Exchequer and Financial Provisions Act (Northern Ireland) 1950(**5**);";

(b) after the definition of "the 1986 Act", insert–

""the 1989 Act" means the Local Government and Housing Act 1989(**6**);";

(c) after the definition of "the 1965 Regulations", insert–

""the 1968 Regulations" means the Treasury Bills Regulations 1968(**7**);";

(d) in the definition of "the 1974 Regulations", omit the words from "and" (where second occurring) to the end;

(e) after the definition of "the 1974 Regulations", insert–

""the 1990 Regulations" means the Local Authorities (Borrowing) Regulations 1990(**8**);";

(f) after the definition of "the 1995 Regulations", insert–

""the 2003 Regulations" means the Uncertificated Securities (Amendment) (Eligible Debt Securities) Regulations 2003;";

(g) after the definition of "dematerialised instruction", insert–

""dematerialised loan instrument" means a security constituted by a loan instrument issued by a local authority in accordance with Part IV of the 1989 Act and the 1990 Regulations as modified by Part 3 of Schedule 1 to the 2003 Regulations;";

(h) after the definition of "designated agency", insert–

""eligible debt security" means–

(a) a security that satisfies the following conditions–

(i) the security is constituted by an order, promise, engagement or acknowledgement to pay on demand, or at a determinable future time, a sum in money to, or to the order of, the holder of one or more units of the security; and

(ii) the current terms of issue of the security provide that its units may only be held in uncertificated form and title to them may only be transferred by means of a relevant system;

(b) an eligible Northern Ireland Treasury Bill; or

(c) an eligible Treasury bill;

"eligible Northern Ireland Treasury Bill" means a security–

(a) constituted by a Northern Ireland Treasury Bill issued in accordance with the 1950 Act as modified by Part 2 of Schedule 1 to the 2003 Regulations; and

(b) whose current terms of issue provide that its units may only be held in uncertificated form and title to them may only be transferred by means of a relevant system;

"eligible Treasury bill" means a security–

(**5**) 1950 c. 3 (N.I.).
(**6**) 1989 c. 42.
(**7**) S.I. 1968/414, amended by S.I. 1988/1603, S.I. 1991/1667, S.I. 1998/1450 and S.I. 1999/2907.
(**8**) S.I. 1990/767, amended by the Audit Commission Act 1998 (c. 18), section 54 and by S.I. 1991/551, S.I. 1991/1091, S.I. 1991/2000 and S.I. 2001/3469; references to the Official List of the Stock Exchange in regulations 6 and 7 modified by S.I. 2000/968.

(a) constituted by a Treasury bill issued in accordance with the 1877 Act and the 1968 Regulations as modified by Part 1 of Schedule 1 to the 2003 Regulations; and

(b) whose current terms of issue provide that its units may only be held in uncertificated form and title to them may only be transferred by means of a relevant system;";

(i) after the definition of "enactment", insert–

""general local authority security" means a local authority security that is not an eligible debt security;

"general public sector security" means a public sector security that is not an eligible debt security;

"general UK Government security" means a UK Government security that is not an eligible debt security;";

(j) for paragraph (b) of the definition of "issuer register of securities", substitute–

"(b) in relation to units of securities other than–

(i) shares,

(ii) securities in respect of which regulation 22(3) applies, or

(iii) wholly dematerialised securities,

means a register of persons holding the units, maintained by or on behalf of the issuer or, in the case of general public sector securities, by or on behalf of the person specified in regulation 21(3);";

(k) after the definition of "issuer register of securities", insert–

""local authority"–

(a) in relation to a security referred to in paragraph (a)(i) of the definition of "local authority security", has the same meaning as in the 1974 Regulations;

(b) in relation to a security referred to in paragraph (a)(ii) or (b) of the definition of "local authority security" or a dematerialised loan instrument, has the same meaning as in the 1989 Act;";

(l) for the definition of "local authority security", substitute–

""local authority security" means a security which is either–

(a) a security other than an eligible debt security which, when held in certificated form is–

(i) transferable in accordance with regulation 7(1) of the 1974 Regulations and title to which must be registered in accordance with regulation 5 of those Regulations; or

(ii) a loan instrument within the meaning of section 43(4) of the 1989 Act, which is transferable in accordance with regulation 5(1) of the 1990 Regulations; or

(b) an eligible debt security issued by a local authority;";

(m) after the definition of "Operator register of corporate securities", insert–

""Operator register of eligible debt securities" has the meaning given by regulation 22(3A)(a);

"Operator register of general public sector securities" has the meaning given by regulation 21(1)(a);";

(n) omit the definition of "Operator register of public sector securities";

(o) in paragraph (b) of the definition of "Operator register of securities", for the words from "public" to the end, substitute "general public sector securities, an Operator register of eligible debt securities or, as the case may be, a register maintained by an Operator in accordance with regulation 22(3)(a);";

(p) for the definition of "record of uncertificated public sector securities", substitute–

> ""record of uncertificated general public sector securities" has the meaning given by regulation 21(2)(a);";

(q) in the definition of "record of securities", for "public sector securities", substitute "general public sector securities".

4.—(1) In regulation 3(3)–

(a) before "public" (wherever occurring), insert "general";

(b) after "appointed" (where second occurring), insert–

> "; or
>
> (iii) if the security falls within paragraph (a)(ii) of the definition of "local authority security" in paragraph (1) and the local authority has appointed as a registrar a person who is neither an officer nor any other employee of the authority for all of the purposes of the register required to be maintained under section 46(1) of the 1989 Act, to the person so appointed".

(2) After regulation 3(3), add–

"(4) In respect of a security which is an eligible debt security, references in these regulations to the issuer or the participating issuer of that security (or units of that security) shall be taken to be references to–

(a) a person ("P") who undertakes as principal to perform the payment obligation constituted by the security in accordance with its current terms of issue; and

(b) any other person who undertakes as principal to perform that obligation in accordance with those terms in the event that P fails to do so.

(5) For the purposes of paragraph (4)(b), a person who undertakes to perform an obligation under a contract of guarantee or other contract of suretyship is not to be regarded as undertaking to perform it as principal.

(6) For the purposes of paragraph (a) of the definition of "eligible debt security" in paragraph (1), a sum of money–

(a) is to be regarded as payable at a determinable future time if it is payable–

(i) at a future time fixed by or in accordance with the current terms of issue of the security; or

(ii) at the expiry of a fixed period after the occurrence of a specified event which is certain to happen, though the time of happening may be uncertain; and

(b) is not to be regarded as payable at a determinable future time if it is payable on a contingency.".

Participation in respect of securities other than shares

5. In regulation 19(2), for "the issuer", substitute "an issuer of that security".

Entries on registers and records in respect of general public sector securities

6.—(1) In the cross-heading before regulation 21, before "public", insert "general".

(2) In regulation 21(1) to (3), before "public" (wherever occurring), insert "general".

(3) In regulation 22(1), for "or public sector securities", substitute, ", general public sector securities or eligible debt securities".

(4) In regulation 24(5), before "public", insert "general".

(5) In Schedule 4–

(a) in the cross-heading before paragraph 12, before "public" insert "general";

(b) in paragraph 12(1), before "public", insert "general";

(c) in the cross-heading before paragraph 13, before "public" insert "general";

(d) in paragraph 13, before "public" (wherever occurring), insert "general".

Entries on registers and records in respect of general UK Government securities

7. In paragraphs 12(2) and 13(2) of Schedule 4, before "UK", insert "general".

Entries on registers and records in respect of general local authority securities

8.—(1) In regulation 21(3)–

(a) before "local" (where first occurring), insert "general";

(b) after "appointed" (where second occurring), insert–

"; or

(c) if the security falls within paragraph (a)(ii) of the definition of "local authority security" in regulation 3(1) and the local authority has appointed as a registrar a person who is neither an officer nor any other employee of the authority for all of the purposes of the register required to be maintained under section 46(1) of the 1989 Act, the person so appointed".

(2) In regulation 21(5), after "security", insert "falling within paragraph (a)(i) of the definition of "local authority security" in regulation 3(1)".

(3) After regulation 21(5), add–

"(6) Such sanctions as apply to a person appointed as registrar under section 46(1) of the 1989 Act in the event of a default in complying with his obligations under that section with respect to the keeping of a register shall apply to a participating issuer and his officers in the event of a default in complying with paragraph (2)(a) in respect of a local authority security falling within paragraph (a)(ii) of the definition of "local authority security" in regulation 3(1).".

(4) In Schedule 4–

(a) in paragraph 12(3), before "local", insert "general";

(b) in paragraph 19(2), after "security", insert "falling within paragraph (a)(i) of the definition of "local authority security" in regulation 3(1)";

(c) after paragraph 19(2), insert–

"(2A) Such sanctions as apply to a person appointed as registrar under section 46(1) of the 1989 Act in the event of a default in complying with his obligations under that section with respect to the keeping of a register shall apply to a participating issuer and his officers in the event of a default in complying with paragraph 13 in respect of a local