



Building Societies Act 1986

1986 CHAPTER 53

PART III

ADVANCES, LOANS AND OTHER ASSETS

Other commercial assets

15 Loans for mobile homes

- (1) Subject to the provisions of this section, a building society may make mobile home loans to individuals, whether or not they are members of the society.
- (2) A mobile home loan is a loan made for the purchase of a mobile home and secured by such security as the Commission may, with the consent of the Treasury, prescribe by order in a statutory instrument.
- (3) No such loan shall be made unless the building society, when it makes the loan, is satisfied that—
 - (a) the borrower or a dependant of his of a prescribed description is or will be entitled under an agreement to which the Mobile Homes Act 1983 applies to station the mobile home on land forming part of a protected site ;
 - (b) the mobile home is for the residential use of the borrower or a dependent of his of a prescribed description ;
 - (c) the amount lent will not exceed the amount likely to be realised on a sale of the mobile home on the open market; and
 - (d) subject to subsection (4) below, no other security prescribed under subsection (2) above which is to secure the loan is outstanding in favour of a person other than the society.
- (4) The requirement in subsection (3)(d) above shall be treated as satisfied if the loan is made on terms that the other loan is redeemed or postponed to it.
- (5) A building society shall not make a mobile home loan to an individual if the principal exceeds—

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- (a) the limit for the time being imposed by or under subsection (7) below; or
- (b) the balance remaining after deducting from that limit the aggregate of any other sums outstanding in respect of loans made under this section or section 16 by the society to that individual;

and if two or more loans under this section or this section and section 16 are made simultaneously by the society to the same individual they shall be treated for the purposes of this subsection as a single loan of an amount equal to the aggregate of the principal of each of those loans.

- (6) Joint borrowers under this section shall be treated, for the purpose of the limit on loans under this section, as a single individual and any sums outstanding in respect of loans made under this section or section 16 by the society to any one of the joint borrowers is to be taken into account in determining the balance available for any further loan to him or to him and any joint borrower with him.
- (7) The limit on loans to any one individual under this section is £10,000 or such other sum as the Commission may, with the consent of the Treasury, specify by order in a statutory instrument.
- (8) Loans under this section constitute class 3 assets for the purposes of the requirements of this Part for the structure of commercial assets and accordingly the aggregate of the amounts outstanding in respect of—
 - (a) the principal of loans under this section,
 - (b) the interest on those loans, and
 - (c) any other sums which borrowers are obliged to pay the society under the terms of those loans,
 counts in accordance with section 20 towards the limits applicable to class 3 assets under that section.
- (9) The power conferred by this section is not available to a building society which does not for the time being have a qualifying asset holding, but the cessation of its availability does not require the disposal of any property or rights.
- (10) The power conferred by this section on a building society, if available to it, must in order to be exercisable, be adopted by the society.
- (11) An instrument containing an order under subsection (2) or (7) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (12) In this section—
 - " mobile home " has the same meaning as " caravan " in Part I of the Caravan Sites and Control of Development Act 1960;
 - " prescribed ", in relation to descriptions of dependants of borrowers, means such as are for the time being prescribed in an order under section 12(1) as respects class 1 advances ; and
 - " protected site " has the same meaning as in the Mobile Homes Act 1983.

16 Power to lend to individuals otherwise than by class 1 or class 2 advances etc.

- (1) Subject to the provisions of this section, a building society may, with or without security and whether or not at interest, lend money to individuals, whether or not they are members of the society.

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- (2) Advances fully secured on land do not constitute loans under this section except that an advance for a deposit for the purchase of land shall, if the purchase is not completed within the period of six months beginning with the date of the advance, be treated after the end of that period as a loan under this section and shall accordingly cease to be a class 1 or class 2 advance.
- (3) Mobile home loans do not constitute loans under this section.
- (4) The power to lend money under this section includes power, as regards members of and depositors with the society, to lend on overdraft on such terms as the society thinks fit.
- (5) Subject to subsection (9) below a building society shall not make a loan to an individual under this section if the principal exceeds—
 - (a) the limit for the time being imposed by or under subsection (8) below; or
 - (b) the balance remaining after deducting from that limit the aggregate of any other sums outstanding in respect of loans made under this section by the society to that individual;and if two or more loans under this section or this section and section 15 are made simultaneously by the society to the same individual they shall be treated for the purposes of this subsection as, in the case of loans under this section, a single loan of an amount equal to the aggregate of the principal of each of those loans and, in the case of loans under this section and section 15, as made on different occasions such that loans under this section precede those made under that section.
- (6) Subsection (5) above shall have effect (subject to subsection (9) below) in a case where a building society has made a loan under section 15 as if it precluded a building society from making a loan to an individual under this section if the principal exceeds—
 - (a) the limit referred to in paragraph (a) of it; or
 - (b) the balance referred to in paragraph (b) of it; or
 - (c) the balance remaining after deducting from the limit imposed by or under subsection (7) of that section the aggregate of any sums outstanding in respect of loans made under that section and under this section by the society to that individual.
- (7) Joint borrowers under this section shall be treated, for the purpose of the limit on loans under this section, as a single individual and any sums outstanding in respect of loans made under this section or section 15 by the society to any one of the joint borrowers is to be taken into account in determining the balance available for any further loan to him or to him and any joint borrower with him.
- (8) The limit on loans to any one individual under this section is £5,000 or such other sum as the Commission may, with the consent of the Treasury, specify by order in a statutory instrument.
- (9) The limit on loans to any one individual under this section does not apply to an advance for a deposit for the purchase of land which has come to be treated as a loan under this section and accordingly no account shall be taken of it for the purposes of subsection (5) above.
- (10) An order under subsection (8) above may specify different sums as the limit in relation to individuals in different circumstances.

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- (11) Loans under this section constitute class 3 assets for the purposes of the requirements of this Part for the structure of commercial assets and accordingly the aggregate of the amounts outstanding in respect of—
- (a) the principal of loans under this section,
 - (b) the interest on those loans, and
 - (c) any other sums which borrowers are obliged to pay the society under the terms of those loans,
- counts in accordance with section 20 towards the limits applicable to class 3 assets under that section.
- (12) The power conferred by this section is not available to a building society which does not for the time being have a qualifying asset holding, but the cessation of its availability does not require the disposal of any property or rights.
- (13) The powers conferred by this section on a building society, if available to it, must, in order to be exercisable, be adopted by the society.
- (14) An instrument containing an order under subsection (8) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (15) If at any time when a loan under this section which is secured by a mortgage of any land is outstanding, the building society is satisfied—
- (a) on a revaluation, that the value of the security has changed,
 - (b) on notice given to it by the borrower that there has been a change in the use of the land, or
 - (c) on such notice, that there has been a change in the relative priority of the mortgage,
- and that the change is such that, if it were to make a loan equal to the mortgage debt at that time and on that security, the loan would be a class 1 advance or, as the case may be, a class 2 advance, then the outstanding loan shall be reclassified as from that time.
- (16) Nothing in subsection (15) above requires a building society to revalue its securities from time to time.

17 Power to hold and develop land as commercial asset

- (1) Subject to subsections (2), (9) and (11) below, a building society may acquire, hold and dispose of land in the United Kingdom for purposes other than those for which it may acquire, hold or dispose of land under section 6 or 10.
- (2) Land may not be acquired or held or disposed of by way of lease under this section except where the land is or is to be used—
- (a) primarily for residential purposes, or
 - (b) for purposes incidental to the use of adjoining land held or to be held by the society which is or is to be used primarily for residential purposes.
- (3) A building society may develop or participate in developing for use for residential purposes or purposes connected with the residential use of land any land it holds under this section.
- (4) If land acquired under this section ceases to be used for the purposes authorised by subsection (2) above the society shall sell its estate or interest in the land as soon as it is conveniently practicable without undue loss to the society.

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- (5) Land held under this section constitutes a class 3 asset for the purposes of the requirements of this Part for the structure of commercial assets and accordingly the aggregate value of all land so held counts in accordance with section 20 towards the limits applicable to class 3 assets under that section.
- (6) Premises held under section 6, by virtue of subsection (5) of that section, shall, in prescribed circumstances, be treated in their entirety (and regardless of their use) as land held under this section for the purposes of the requirements of this Part for the structure of commercial assets and subsection (5) above applies accordingly.
- (7) The Commission, with the consent of the Treasury, may by order made by statutory instrument make such provision for the purposes of subsection (6) above as it thinks fit and in that subsection "prescribed" means prescribed in an order under this subsection.
- (8) An instrument containing an order under subsection (7) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (9) Except as provided in subsection (10) below, the powers conferred by this section are not available to a building society which does not for the time being have a qualifying asset holding, but the cessation of their availability does not require the disposal of any property or rights.
- (10) A building society which does not for the time being have a qualifying asset holding may acquire, hold and dispose of land which is or is to be used for residential purposes if the purpose of the acquisition and holding of the land is to enable the society to make advances on the security of equitable interests in the land in the circumstances authorised by an order under section 10(6).
- (11) The powers conferred by this section on a building society, if available to it, must in order to be exercisable, be adopted by the society.

18 Power to invest in subsidiaries and other associated bodies

- (1) Subject to the following provisions of this section, a building society may—
 - (a) acquire and hold shares or corresponding membership rights in bodies corporate and form or take part in forming bodies corporate, and
 - (b) provide bodies corporate in which it holds shares or such rights or to which it is, for the purpose of any power under this section, linked by resolution with any of the following supporting services—
 - (i) loans of money, with or without security and whether or not at interest,
 - (ii) grants of money, whether or not repayable,
 - (iii) guarantees of the discharge of their liabilities, and
 - (iv) the use of services or property, whether or not for payment;and in this section "invest" means the exercise of any of the powers conferred by paragraph (a) and "support" means the exercise of any of the powers conferred by paragraph (b) above.
- (2) A building society may invest in or support the following bodies corporate (referred to as "qualifying bodies") but no others, that is to say—
 - (a) companies or industrial and provident societies ;
 - (b) bodies formed in another member State for the purpose of carrying on in another member State businesses which consist wholly or mainly in lending

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money on the security of land and do not (where that is not the whole business) include lending on land in the United Kingdom (referred to as "corresponding European bodies"), and

- (c) bodies corporate (whether or not falling within paragraph (a) or (b) above) designated as suitable for investment and support or for support for the purposes of this section by an order (referred to as "a designation order") made by the Commission with the consent of the Treasury.

(3) A designation order may—

- (a) designate a particular body or designate descriptions of bodies corporate,
- (b) make different provision for different descriptions of building society,
- (c) determine, or provide for the determination under the order of, the extent to which, the purposes for which, and the conditions subject to which, investment or support is permitted, and
- (d) make such transitional and consequential provision as the Commission considers necessary or expedient.

(4) Subject to subsection (5) below, a building society shall not invest in or support a qualifying body so as to enable that body on its own account, in the United Kingdom, to—

- (a) lend money to members of the public on the security of land by loans corresponding to advances secured on land,
- (b) accept deposits of money otherwise than in such circumstances that their acceptance would not constitute its business a deposit-taking business or in the course of or for the purposes of providing a service for the time being specified in Part I of Schedule 8 to this Act;

but, subject to that, it may invest in or support a qualifying body so as to enable that body to carry on any activity which it is within the powers of the society to carry on, but, subject to subsection (5) below, no others.

(5) In the case of a qualifying body designated, or included in a description of bodies designated, by a designation order a building society may also invest in or support it for such purposes as are permitted by or under the designation order.

(6) Subject to subsection (7) and (8) below, a building society shall not invest in or support a qualifying body whose objects enable it—

- (a) to carry on activities which are outside the powers of the society,
- (b) to invest in other bodies corporate, or
- (c) to support other bodies corporate;

but this does not imply that it is unlawful for the society to complete the performance of any contractual obligations lawfully incurred in providing a supporting service.

(7) Subsection (6) above shall not operate so as to restrict a building society's powers under this section in relation to a corresponding European body.

(8) Subsection (6) above shall not prevent a building society from investing in or supporting a qualifying body—

- (a) if that body is, in relation to the society, a designated body and the investment or support is made in accordance with the designation order,
- (b) if, not being a body whose objects enable it to carry on activities outside the powers of the society, the investment or support is made or given with

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- the consent of the Commission and subject to any conditions specified in the instrument giving the consent, or
- (c) for a period of three months, pending the alteration of the objects of that body.
- (9) For the purposes of any power conferred by this section a body corporate is " linked by resolution " to a building society if the board of directors of the society has passed a resolution making that power exercisable in relation to that body and the resolution is in force.
- (10) No power to invest in or support a corresponding European body is available to a building society which does not for the time being have a qualifying asset holding, but the cessation of its availability by virtue of this subsection does not require the disposal of any property or rights.
- (11) The powers conferred by this section on a building society, if available to it, must, in order to be exercisable, be adopted by the society and must be adopted in their entirety without any restriction except a restriction with reference to the description of body corporate in relation to which the powers to invest in or support are to be exercisable.
- (12) A building society whose board of directors has passed a resolution in pursuance of subsection (9) above shall send three copies of a record of the resolution signed by the secretary of the society to the central office and paragraph 4(3), (4) and (5) of Schedule 2 to this Act shall apply as it applies to a record of the alteration of a building society's powers.
- (13) Where the board of directors of a building society passes a resolution rescinding a resolution passed in pursuance of subsection (9) above the society shall send three copies of a record of the rescinding resolution signed by the secretary of the society to the central office and paragraph 4(3), (4) and (5) of Schedule 2 to this Act shall apply as it applies to a record of the alteration of a building society's powers, but subject to subsection (14) below.
- (14) No rescinding resolution shall be registered without the consent of the Commission.
- (15) Where, by virtue of this section, property is held by a building society the property shall constitute class 3 assets for the purposes of the requirements of this Part for the structure of commercial assets and accordingly the aggregate value of the property shall count in accordance with section 20 towards the limits applicable to class 3 assets under that section.
- (16) The power to make an order under subsection (2)(c) above is exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (17) In this section—
- " company " means a company within the meaning of the Companies Act 1985 or the Companies (Northern Ireland) Order 1986;
 - " corresponding membership rights ", in relation to a body corporate, means such rights (other than rights arising from the holding of shares) as are attributable to membership of the body;
 - " deposit " and " deposit-taking business " have the same meaning as in the Banking Act 1979 ;
 - " industrial and provident society " means a society registered under the Industrial and Provident Societies Act 1965 or, in Northern Ireland, the Industrial and Provident Societies Act (Northern Ireland) 1969 ;

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" property " includes rights of any description;
 and in this Act " associated body ", in relation to a building society, means a body as respects which any of the following conditions is satisfied, that is to say—

- (i) the body is one in which the society holds shares or corresponding membership rights, or
- (ii) the body is one to which the society is linked by resolution, or
- (iii) the body is one in which, by virtue of subsection (8)(b) above, shares or corresponding membership rights are held by a body which falls within or above ; and " associated " shall be construed accordingly.

19 Power for Treasury to add powers to hold other descriptions of class 3 assets

- (1) The Treasury may, with a view to extending or altering, or extending to other descriptions of building societies, the forms of property which are to constitute class 3 assets in the hands of building societies or building societies of particular descriptions, by order—
 - (a) specify forms of property which a building society is to have power to acquire, hold and dispose of as assets of that class, subject to any specified conditions or restrictions ;
 - (b) without prejudice to paragraph (a) above, specify descriptions of bodies corporate shares or other interests or rights in which a building society is to have power to acquire, hold and dispose of as assets of that class, subject to any specified conditions or restrictions ;
 - (c) make any amendments of or repeals in this Act which are consequential on the exercise of its powers under paragraph (a) or (b) above ;
 - (d) make such incidental, supplemental or transitional provision as it considers necessary or expedient.
- (2) The powers conferred by subsection (1) above may be exercised so as to apply in relation to property situated or bodies incorporated within the United Kingdom or any other member State or other country or territory and so as to be exercisable for purposes other than the purposes of building societies under the powers conferred on them for the time being by or under this Act.
- (3) Any powers conferred on building societies under this section may be conferred on building societies of a specified description or all building societies other than those of a specified description.
- (4) Any power conferred on a building society under this section, if available to it, must, in order to be exercisable, be adopted by the society.
- (5) Where, by virtue of an order under subsection (1)(a) or (b) above, property is held by a building society the property shall constitute class 3 assets for the purposes of the requirements of this Part for the structure of commercial assets and accordingly the aggregate value of the property, as determined in accordance with the order, shall count in accordance with section 20 towards the limits applicable to class 3 assets under that section.
- (6) Subsection (5) above is subject to any provision contained in the order.

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- (7) The power to make an order under subsection (1) above is exercisable by statutory instrument but no such order shall be made unless a draft of the order has been laid before and approved by a resolution of each House of Parliament.
- (8) In this section—
- " property " includes rights of any description ; and
 - " specified " means specified in an order under subsection (1) above.