



# Building Societies Act 1986

## 1986 CHAPTER 53

### <sup>F1</sup>[PART III

#### ADVANCES, LOANS AND OTHER ASSETS]

##### *Other commercial assets*

#### <sup>F1</sup>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.
- (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 <sup>F2</sup>and neither do bridging loans made under Part IV of Schedule 1 to the Building Societies (Commercial Assets and Services) Order 1988].
- (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 <sup>F3</sup>and any facility limits agreed for the time being between the society and that individual]<sup>F4</sup>and also the cost of leasable chattels bailed under any current leasing agreement between the society and that individual];

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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 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 [<sup>F5</sup>and any facility limits agreed for the time being between the society and that individual]<sup>F6</sup> and also the cost of leasable chattels bailed under any current leasing agreement between the society and 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 [<sup>F7</sup>and also the cost of leasable chattels bailed under any current leasing agreement between the society and any one of the joint borrowers are] 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 [<sup>F8</sup>, and so is any facility limit which is agreed for the time being between the society and any one of the joint borrowers].
- (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.
- (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.

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- (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) [<sup>F9</sup>where the mortgage is granted by the borrower,] on notice given to it by the borrower that there has been a change in the use of the land,
  - <sup>F10</sup>[ where the mortgage is granted otherwise than by the borrower and the loan
  - (c) has been used to purchase land—
    - (i) on notice given to it by the borrower that there has been a change in the use of the land purchased, or
    - (ii) on notice given to it by the mortgagor that there has been a change in the use of the mortgaged land, or
  - (d) on notice given to it—
    - (i) where the mortgage is granted by the borrower, by him, and
    - (ii) where the mortgage is granted otherwise than by the borrower, by the mortgagor,]

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.

- [ In this section—
- <sup>F11</sup>(17) “facility limit” has the meaning which it bears in the Building Societies (Limited Credit Facilities) Order 1987; and
- “leasable chattels”, “bailed” and “leasing agreement” have the meanings which they respectively bear in Part III of Schedule 1 to the Building Societies (Commercial Assets and Services) Order 1988 and “cost”, in respect of any leasable chattel bailed by a building society, means the price at which it was acquired by the society.]]

#### Textual Amendments

- F1** Pt. III (ss. 10-23) repealed (1.12.1997 in specified cases and for specified purposes and otherwise in accordance with art. 2(2)(3)(5) of S.I. 1997/2668) by 1997 c. 32, ss. 12(1)(a), 46(2), 47(3), **Sch. 9**; S.I. 1997/2668, art. 2, Sch. Pts. I(b), **II(j)**
- F2** Words inserted by S.I. 1988/1141, art. 4(2), **Sch. 3 para. 1**
- F3** Words inserted by S.I. 1987/1975, art. 8(2), **Sch. 2 para. 1**
- F4** Words inserted by S.I. 1988/1141, art. 4(2), **Sch. 3 para. 2**
- F5** Words inserted by S.I. 1987/1975, art. 8(2), **Sch. 2 para. 2**
- F6** Words inserted by S.I. 1988/1141, art. 4(2), **Sch. 3 para. 3**
- F7** Words substituted by S.I. 1988/1141, art. 4(2), **Sch. 3 para. 4**
- F8** Words inserted by S.I. 1987/1975, art. 8(2), **Sch. 2 para. 3**
- F9** Words in s. 16(15)(b) inserted (3.1.1995) by 1994 c. 40, **ss. 16(8)(a), 82(2)(a)**

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- F10** S. 16(15)(c)(d) substituted for words in s. 16(15) (3.1.1995) by 1994 c. 40, **ss. 16(8)(b), 82(2)(a)**
- F11** S. 16(17) added by S.I. 1987/1975, art. 8(2), **Sch. 2 para. 4** and substituted by S.I. 1988/1141, art. 4(2), **Sch. 3 para. 5**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 5(11)-(14) inserted by [2007 c. 26 s. 1\(2\)](#)
- s. 5(13)(a) substituted by [S.I. 2013/496 Sch. 8 para. 4\(4\)](#)
- s. 7(6A)-(6C) inserted by [2007 c. 26 s. 1\(1\)\(a\)](#)
- s. 7(8A) inserted by [2007 c. 26 s. 1\(1\)\(c\)](#)
- s. 176ZB excluded by [S.I. 2017/400 reg. 14](#)
- s. 246ZA-246ZC excluded by [S.I. 2017/400 reg. 15](#)
- s. 246ZD excluded by [S.I. 2017/400 reg. 16](#)