



Building Societies Act 1997

1997 CHAPTER 32

PART I

CONSTITUTION AND POWERS

6 Loans fully secured on land.

After section 6A of the 1986 Act there shall be inserted the following section—

“6B Loans fully secured on land.

- (1) For the purposes of this Act a loan which is owed to a building society or a subsidiary undertaking of a building society and is secured on residential property or other land is fully secured on the land if—
 - (a) the principal of, and interest accrued on, the loan does not exceed the value of the requisite security; and
 - (b) no, or no more than one, mortgage of the land which has priority over the society’s or undertaking’s mortgage is outstanding in favour of an outside person.
- (2) Where a mortgage of the residential property or other land which has priority over the society’s or undertaking’s mortgage is outstanding, the principal of the loan secured or, in the case of a loan by instalments, intended to be secured by that mortgage shall be deducted from the value of the requisite security for the purposes of subsection (1)(a) above.
- (3) Where the loan is secured on residential property or other land in the United Kingdom, any outstanding charge over the land which—
 - (a) in the case of land in England and Wales, is registered in the appropriate local land charges register;
 - (b) in the case of land in Scotland, is recorded in the Register of Sasines, or registered in the Land Register, under section 108 of the ^{M1}Civic Government (Scotland) Act 1982 or Schedule 9 to the ^{M2}Housing (Scotland) Act 1987;

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- (c) in the case of land in Northern Ireland, is registered in the statutory charges register under section 87 of, and Schedule 11 to, the ^{M3}Land Registration Act (Northern Ireland) 1970,
shall be disregarded for the purposes of subsections (1)(b) and (2) above.
- (4) Where, on the occasion on which a building society or a subsidiary undertaking of a building society makes or acquires a loan which is secured on land, the society or undertaking is satisfied that the loan is—
- (a) a loan which is fully secured on residential property;
 - (b) a loan which is not so secured but is fully secured on land; or
 - (c) a loan which is not fully secured on land,
- the loan shall be treated as such a loan for the purposes of this Act until such time (if any) as subsection (7) below applies.
- (5) Subsection (4) above shall have effect in relation to a loan which the society or undertaking makes by two or more payments on different dates as if—
- (a) the reference to the occasion on which the society or undertaking makes the loan were a reference to the occasion on which it makes the first of the payments;
 - (b) other references to the loan were references to it in its intended maximum amount; and
 - (c) the value of any security for the loan were its expected maximum value.
- (6) Where a building society or a subsidiary undertaking of a building society makes or acquires a loan which is secured on land, the society or undertaking shall be deemed to be satisfied as mentioned in paragraph (c) of subsection (4) above until such time (if any) as it is satisfied as mentioned in paragraph (a) or (b) of that subsection.
- (7) Where at any time, in the case of a loan treated as falling within paragraph (a), (b) or (c) of subsection (4) above, the society or undertaking—
- (a) is satisfied—
 - (i) on a revaluation that the value of the requisite security has changed;
 - (ii) on notice given to it by the borrower that there has been a change in the use of the land;
 - (iii) that so much of the mortgage debt as represents the principal of the loan has changed;
 - (iv) that the principal of the loan secured by a prior mortgage has changed or has been repaid; or
 - (v) that the relative priority of the mortgage of the land on which the loan is secured has changed;
 - (b) is also satisfied that the change or repayment is such that, if it were to make a loan equal to the mortgage debt at that time, the loan would instead be a loan falling within another of those paragraphs; and
 - (c) in a case falling within paragraph (a)(i) above, elects that this subsection shall apply,
- the loan shall be treated as such a loan for the purposes of this Act until such time (if any) as this subsection again applies.
- (8) In this section—

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“outside person”, in relation to a building society or a subsidiary undertaking of a building society, means any person other than the following, namely—

- (a) the society;
- (b) a subsidiary undertaking of the society;
- (c) a lending syndicate of which the society or such an undertaking is a member; and
- (d) trustees of a trust under which the society or such an undertaking is a beneficiary;

“the requisite security”, in relation to a loan secured on residential property or other land, means—

- (a) the security constituted by the legal estate in, or the heritable or qualifying security over, the land; or
- (b) in a case where an equitable interest in land in England and Wales or Northern Ireland is or is also taken as security, that constituted by that security or, as the case may be, the combined securities;

“trust” includes arrangements—

- (a) which have effect under the law of a country or territory outside the United Kingdom; and
- (b) under which persons acting in a fiduciary capacity hold and administer property on behalf of other persons,

and “beneficiary” and “trustees”, in relation to such arrangements, shall be construed accordingly.

- (9) In the application of subsections (1), (2) and (7) above to residential property or other land in Scotland or an EEA country or territory other than the United Kingdom, references to a mortgage of the land shall be construed as references to a heritable or, as the case may require, qualifying security over the land.”

Commencement Information

- II** S. 6 in force at 1.12.1997 by S.I. 1997/2668, art. 2, Sch. Pt. II (subject as mentioned in art. 2(2)-(5) of that S.I.)
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Marginal Citations

- M1** 1982 c.45.
M2 1987 c.26.
M3 1970 c.18 (N.I.).

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