

1990 No. 352

BUILDING SOCIETIES

**The Building Societies (Designation of Qualifying
Bodies) (Amendment) (No 2) Order 1990**

<i>Made - - - -</i>	<i>26th February 1990</i>
<i>Laid before Parliament</i>	<i>27th February 1990</i>
<i>Coming into force</i>	<i>1st April 1990</i>

The Building Societies Commission, with the consent of the Treasury, in exercise of the powers conferred on it by section 18(2)(c) of the Building Societies Act 1986(a), and of all other powers enabling it in that behalf, hereby makes the following Order:

Title and commencement

1. This Order may be cited as the Building Societies (Designation of Qualifying Bodies) (Amendment) (No. 2) Order 1990 and shall come into force on 1st April 1990.

Amendment of previous order

2. The Building Societies (Designation of Qualifying Bodies) Order 1988(b), shall have effect subject to the amendments set out in the Schedule to this Order.

In witness whereof the common seal of the Building Societies Commission is hereto fixed, and is authenticated by me, a person authorised under paragraph 14 of Schedule 1 to the Building Societies Act 1986, on 23rd February 1990.



P. H. Gevers
Secretary to the Commission

We consent to this Order.

Stephen Dorrell

David Lightbown
Two of the Lords Commissioners of
Her Majesty's Treasury.

26th February 1990.

**AMENDMENTS TO THE BUILDING SOCIETIES (DESIGNATION
OF QUALIFYING BODIES) ORDER 1988**

1. To Part I of the Schedule (bodies corporate, and description of bodies corporate, designated) there shall be added after the item numbered 19 an item numbered "20" comprising the following entries in the columns of that Part –
- (a) in column 1 (specified name or description),
"Appropriate territorial corporation".
 - (b) in column 2 (specified registration number or definition),
"A body corporate (not being one excluded by the particular restrictions for appropriate territorial corporations) incorporated in the specified territory which is a one tier organisation formed for the purpose of, or the objects of which include, the carrying on of one or more of the following activities –
 - (i) lending money on the security of land in the specified territory,
 - (ii) acquiring, holding and disposing of debts which are secured on such land,
 - (iii) carrying on in the specified territory or elsewhere (but not in the United Kingdom) a business which if it were carried on in the United Kingdom would constitute a deposit taking business for the purposes of the Banking Act 1987(a) and do not (where the foregoing activities are not the whole business) include lending on land, or acquiring or holding debts secured on land, elsewhere than in the specified territory, or carrying on in the United Kingdom a business which is a deposit taking business for the purposes of the Banking Act 1987."
 - (c) in column 3 (specified relevant power),
"Investment and support.",
 - (d) in column 4 (specified purposes) (if any)),
"Enabling the corporation to carry on the activities referred to in (and not excluded by) column 2 of this item (notwithstanding that the lending of money to members of the public on the security of land by loans corresponding to advances secured on land may be carried on in connection with those activities).", and
 - (e) in column 5 (specified limits and conditions (if any)),
 - (1) The standard asset provision.
 - (2) The mortgage business certification condition for appropriate mortgage companies modified so as to
 - (a) omit the requirements in sub-paragraph (2) (c) (i) of that condition;
 - (b) have effect as if an appropriate territorial corporation were an appropriate mortgage company and as if, where a society holds corresponding membership rights as defined by section 18 of the Act in an appropriate territorial corporation, it held shares therein;
 - (c) have effect as if any loan on the security of land were a mortgage.
2. In Part II of the Schedule (interpretation), in paragraph 7 (specification of particular restrictions) –
- (a) for subparagraph (1) there shall be substituted the following subparagraph –
 "(1) In this Schedule "the particular restrictions for financial service vehicles" means the provisions set out in subparagraph (2) below, "the particular restrictions for life insurance vehicles" means the provisions set out in subparagraph (3) below, "the particular restrictions for general insurance companies" means the provisions set out in subparagraph (4) below, "the particular restrictions for estate agency vehicles" means the provisions set out in subparagraph (5) below, "the particular restrictions for appropriate mortgage companies" means the provisions set out in subparagraph (6) below, and "the particular restrictions for appropriate territorial corporations" means the provisions set out in sub-paragraph (7) below.", and
 - (b) after subparagraph (6) there shall be inserted the following subparagraph –
 "(7) A body corporate is not an appropriate territorial corporation for a society where –
 - (a) it is a market maker,
 - (b) its business includes the carrying on of estate agency work,
 - (c) its business includes activities in the range from which the society is restricted,
 - (d) any of its employees performs any service for a subsidiary or other associated body of the society being a subsidiary or other associated body which carries on estate agency work, or

- (e) its business includes lending money secured upon land in the specified territory other than by
 - (i) a form of security which is specified as the form of security which may be taken for advances under section 14 of the Act (power to make advances secured on land overseas) by an Order designating the specified territory for the purposes of that section, or
 - (ii) otherwise than in the circumstances specified by that Order.”

3. In Part II of the Schedule, in paragraph 8 (meaning of activities in the range from which a society is restricted), in subparagraph (b)(i), after the word “vehicle” for the words “or an appropriate mortgage company”, there shall be substituted the words “an appropriate mortgage company, or an appropriate territorial corporation,”.

4. In Part II of the Schedule in paragraph 10 (other definitions) there shall be inserted, after the definition of “relevant investment business”, the following definition –

“the specified territory” means in relation to an appropriate territorial corporation that one of the British overseas territories, designated by the Building Societies (Isle of Man) Order 1987(a) the Building Societies (Jersey) Order 1987(b) or the Building Societies (Guernsey and Alderney) Order 1988(c) in which it is incorporated.”

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Building Societies (Designation of Qualifying Bodies) Order 1988 (“the principal order”) so as to add “appropriate territorial corporation” as a further type of designated body suitable for investment or support by building societies under Section 18 of the Building Societies Act 1986. This power in relation to such corporations is only available to a building society with commercial assets of not less than £100m (the standard asset provision).

An appropriate territorial corporation is a body corporate formed in a specified territory, that is to say respectively the Isle of Man, Jersey, and Guernsey and Alderney (Article 2 and Schedule, para 4). An appropriate territorial corporation is one which is formed for, or whose objects include, carrying on one or more of the activities of:

- (a) lending money on mortgage on land in the territory in which it is incorporated;
- (b) acquiring, holding and disposing of existing mortgage debts, similarly secured;
- (c) taking deposits anywhere other than in the United Kingdom.

and which does not engage in activities such as market making and estate agency work (article 2 and Schedule, paragraphs 1(b), 3 and 4).

It does not have the capacity to have subordinate organisations and is designated as suitable for investment and support by a building society, but not for support in the absence of investment (article 2 and Schedule, paragraph 1(b) and (c)).

In relation to secured loans which it makes, there is a requirement that the corporation maintains systems similar to those required of building societies for the safe custody of documents and for assessing the adequacy of security. Secured loans by the corporation must, pursuant to the Schedule, paragraph 2(b), be loans which the society itself would have had power to make had the society itself carried on business in the specified territory, pursuant to the power conferred by Section 14 of the Act (power to make advances secured on land overseas) as applied to the specified territory by the relevant order referred to in the Schedule, paragraph 4.