



Building Societies Act 1986

1986 CHAPTER 53

^{F1}[PART III

ADVANCES, LOANS AND OTHER ASSETS]

Class 1 advances and class 2 advances secured on land

^{F12} **Class 1 and class 2 advances: supplementary provisions.**

- (1) The Commission, by order in a statutory instrument, may as respects class 1 advances—
- specify the circumstances in which land is for a person's residential use,
 - specify who are to be a person's dependants, and
 - make such other incidental and supplementary and such transitional provision as the Commission considers necessary or expedient,
- for the purposes of section 11(2); and in that subsection "prescribed" means prescribed in an order under this subsection.
- (2) Without prejudice to the generality of subsection (1)(c) above, an order may prescribe evidence on which a building society is to be entitled to be satisfied (in the absence of evidence to the contrary) that the requirements of section 11(2) are fulfilled as respects an advance secured on land.
- (3) The Commission, by order in a statutory instrument, may as respects class 2 advances—
- specify descriptions of security falling within this subsection which, for the purposes of paragraph (c) of section 11(4), may be taken for class 2 advances in addition to the basic security; and
 - make such other incidental or supplementary and such transitional provision as it considers necessary or expedient for the purposes of paragraph (c) or (d) of that subsection;

and in that subsection "prescribed" means prescribed in an order under this subsection.

Changes to legislation: Building Societies Act 1986, Section 12 is up to date with all changes known to be in force on or before 24 May 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (4) The descriptions of additional security which fall within subsection (3)(a) above are guarantees, indemnities or other contractual promises made by virtue of, or by a public body established by or under, any enactment for the time being in force.
- (5) The Commission, by order in a statutory instrument, may, as respects advances to be secured on land which is to any extent to be used for the residential use of borrowers or persons who are dependants of theirs for the purposes of section 11(2)—
 - (a) require so much of the amount to be advanced as is determined by or under the order to be treated as a class 1 advance;
 - (b) specify the circumstances in which and the conditions subject to which advances are to be so treated; and
 - (c) make such incidental, supplementary and transitional provision as the Commission considers necessary or expedient.

^{F2}[Subsection (5) above shall also apply as respects advances secured on third party land (5A) which is to any extent used for the residential use of mortgagors or persons who are dependants of theirs for the purposes of section 11(2).]

- (6) The Commission shall not make an order under this section, except with the consent of the Treasury.
- (7) An instrument containing an order under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (8) For the purpose of facilitating the repayment to a building society of a class 1 advance or a class 2 advance, the society may make to the borrower, by way of addition to the advance, a further advance of or towards the cost of a single premium payable in respect of an appropriate policy of life assurance; and a sum added to an advance under this subsection shall be treated as not forming part of the advance for the purpose of determining whether the requirements of section 11(2) or (4) are satisfied with respect to the advance.
- (9) Where an advance secured on land in England and Wales or Northern Ireland is made, then, for the purpose of determining whether the land is subject to a prior mortgage for the purposes of section 11(2)(d) or (4)(d) above, any outstanding charge over the land which is registered—
 - (a) in the case of land in England and Wales, in the appropriate local land charges register, and
 - (b) in the case of land in Northern Ireland, in the statutory charges register under section 87 of, and Schedule 11 to, the ^{M1}Land Registration Act (Northern Ireland) 1970,

shall be disregarded.

- (10) If at any time when a class 1 advance or a class 2 advance secured on land is outstanding the building society—
 - (a) is satisfied on a revaluation that the value of the basic security has changed,
 - (b) is satisfied that so much of the mortgage debt as represents the principal of the advance has changed,
 - (c) [^{F3} in the case of an advance which is not an advance secured on third party land]is satisfied on notice given to it by the borrower that there has been a change in the use of the land,^{F4}[in the case of an advance which is an advance secured on third party land—

Changes to legislation: Building Societies Act 1986, Section 12 is up to date with all changes known to be in force on or before 24 May 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (ca) (i) is satisfied on notice given to it by the borrower that there has been a change in the use of the land acquired with the advance, or
- (ii) is satisfied on notice given to it by the mortgagor that there has been a change in the use of the land on which the advance is secured, or]
- (d) agrees to a change in the relative priority of the mortgage on which the advance is secured,

and is satisfied that the change is such that, if it were to make an advance equal to the mortgage debt at that time, the advance would instead be a class 2 advance or a class 1 advance, as the case may be, the advance shall be reclassified as from that time.

- (11) Nothing in subsection (10) above requires a building society to revalue its securities from time to time.
- (12) Every building society shall establish and maintain a system to ensure the safe custody of all documents relating to property mortgaged to the society.
- (13) In this section “appropriate policy of life assurance”, with reference to an advance, means a policy of insurance which satisfies the following requirements, that is to say—
 - (a) the life assured is that of the person to whom the advance is made or his spouse, his son or his daughter, and
 - (b) it provides, in the event of the death, before the advance has been repaid, of the person on whose life the policy is effected, for payment of a sum not exceeding the amount sufficient to defray the sums which are, at and after the time of the death, payable to the society in respect of the advance and any addition made in respect of the premium.]

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** S. 12(5A) inserted (3.1.1995) by 1994 c. 40, **ss. 16(6)**, 82(2)(a)
- F3** Words in s. 12(10)(c) inserted (3.1.1995) by 1994 c. 40, **ss. 16(7)(a)**, 82(2)(a)
- F4** S. 12(1)(ca) substituted for word in s. 12(1)(c) (3.1.1995) by 1994 c. 40, **ss. 16(7)(b)**, 82(2)(a)

Modifications etc. (not altering text)

- C1** S. 12(1)–(11)(13) excluded by S.I. 1987/1498, art. 7, **Sch. 2 para. 3**
- C2** S. 12(1)–(11)(13) restricted (1. 7. 1992) by S.I. 1992/1547, arts. 5, 6, **Sch. 2**
- C3** S. 12(12) excluded (*temp*) by S.I. 1986/2168, **art. 12(2)(a)**
- C4** S. 12(12) excluded by S.I. 1986/2168, **art. 12(1)(a)**

Marginal Citations

- M1** 1970 c. 18 (N.I.)

Changes to legislation:

Building Societies Act 1986, Section 12 is up to date with all changes known to be in force on or before 24 May 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

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](#)