

1987 No. 1975

BUILDING SOCIETIES

**The Building Societies (Limited Credit Facilities) Order
1987**

Approved by both Houses of Parliament

Made - - - - 18th November 1987

Coming into force 19th November 1987

The Treasury, in exercise of the powers conferred on them by section 19 of the Building Societies Act 1986 (a), and of all other powers enabling them in that behalf, hereby makes the following Order, a draft of which has been laid before and approved by resolution of each House of Parliament:

Title and commencement

1. This Order may be cited as the Building Societies (Limited Credit Facilities) Order 1987 and shall come into force on the day after the day on which it is made.

Interpretation

2. In this Order—

“the Act” means the Building Societies Act 1986;

“facility account”, “facility account holder”, “facility agreement” and “facility debt” have the meanings respectively given to them in Article 3(2) below;

“facility limit” has the meaning given to it in Article 6(1) below; and

“society” means a building society.

Facility debts and accounts

3.—(1) The forms of property which, by virtue of this Order, a society is to have power, subject to the provisions of this Order, to acquire, hold and dispose of as class 3 assets are facility debts.

(2) For the purposes of this Order—

(a) a facility debt is the aggregate of the sums in which a person is indebted, or treated by subparagraph (e) below as indebted, to the society on a facility account (whether those sums represent principal, interest or other sums payable on the facility account and whether they are immediately payable or not),

(b) a facility account holder is that person,

(c) a facility account is an account which (by virtue of an agreement to which the society and the facility account holder are parties or a series of agreements to at least one of which the society, and to at least one of which the facility account holder, is a party) the facility account holder is capable of operating (or of

(a) 1986 c.53.

authorising, or causing the authorisation of, another person to operate) so as to cause the facility account holder to become indebted to the society (or the person so authorised to become indebted to the society and the facility account holder to become indebted to that authorised person), and—

- (i) if the facility account is also a share account, to reduce the value of the shares in the society held by the facility account holder, or
 - (ii) if the facility account is also a deposit account, to reduce the amount owing by the society to the facility account holder,
- (d) a facility agreement is that agreement or series of agreements, and
- (e) where the indebtedness to the society is or includes indebtedness of a person authorised under subparagraph (c) above, the indebtedness of that authorised person shall be treated as indebtedness of the facility account holder.

Societies to which power is available

4. The power conferred by this Order is not available to a 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.

Facility account holder to be an individual

5. A society may enter into a facility agreement only where the facility account holder (or, where there are joint facility account holders, each of them) is an individual.

Limit on balances

6.—(1) A society may enter into a facility agreement only if under its terms the facility account holder agrees to the effect that—

- (a) if at any time the facility debt exceeds a limit specified for the purposes of the facility agreement (and being in the range beginning at nil and ending at the relevant limit) he will not at that time operate the facility account or authorise, or cause the authorisation of, another person to operate it, and
- (b) he will not at any other time operate or authorise, or cause the authorisation of, another person to operate the facility account if such operation would cause the facility debt to exceed that specified limit,

and for the purposes of this Order a facility limit is the specified limit to which this paragraph applies.

(2) Joint facility account holders shall be treated, for the purpose of this Article, as a single facility account holder and each facility limit on any facility account of any of them with the society is to be taken into account in determining the relevant limit described in paragraph (4) below in relation to the facility agreement between the society and them, and so is the aggregate of sums outstanding in respect of loans made by the society under section 16 of the Act to any of them.

(3) It shall be the duty of the society to recover as soon as practicable from any facility account holder any amount by which his facility debt to the society (or, where there is more than one such facility debt, their aggregate) exceeds at any time—

- (a) where he has only one facility account with the society, the limit which would be the relevant limit in respect of that account were it opened at that time, or
- (b) where he has more than one such facility account, the limit which would, were those accounts combined into a single account opened at that time, be the relevant limit in respect of that single account.

(4) For the purposes of this Article the relevant limit is x minus y where—

- (a) x is—
 - (i) the limit for the time being in force under section 16(8) (loans to individuals) of the Act, or
 - (ii) if a mobile home loan is outstanding as a result of which the amount which may be lent under section 16 of the Act is less than that limit, that lesser amount, and
- (b) y is the aggregate of—

- (i) sums outstanding in respect of loans made by the society under section 16 of the Act to the facility account holder, and
- (ii) facility limits on any other facility account of the facility account holder with the society.

Class 3 asset limits

7. The aggregate of facility debts owing to a society shall count in accordance with section 20 (commercial asset structure requirements) of the Act towards the limits applicable to class 3 assets under that section, and in calculating that aggregate—

- (a) where a society has the power conferred by section 16 of the Act and the power conferred by this Order, and the society has entered into arrangements which could have been entered into under either of those powers (or could have, had the society at the time of entry had both of those powers, been entered into under either of them), the society shall, in respect of each such arrangement, record the power under which it is to be treated as having been entered into;
- (b) where a society has the power conferred by section 34(1) of and paragraph 1 of Part I of Schedule 8 to the Act (power to provide money transmission services) and the power conferred by this Order, any overdrawn which could have been permitted under either of those powers (or could have, had the society at the time of permission had both of those powers, been permitted under either of them) shall be treated as a facility debt;
- (c) where the facility accounts of the society include accounts which are also share accounts, the value of shares in those accounts shall not be deducted from that aggregate of facility debts;
- (d) where the facility accounts of the society include accounts which are also deposit accounts, the value of the deposits in those accounts shall not be deducted from that aggregate of facility debts.

Amendment of 1986 Act

8.—(1) Schedule 1 to this Order shall have effect for the purpose of amending section 15 (loans for mobile homes) of the Act.

(2) Schedule 2 to this Order shall have effect for the purpose of amending section 16 (loans to individuals) of the Act.

Mark Lennox-Boyd
Tony Durant

18th November 1987

Two of the Lords Commissioners of Her Majesty's Treasury

SCHEDULE 1

Article 8(1)

AMENDMENT OF SECTION 15 OF THE ACT

1. At the end of section 15(5)(b) there shall be inserted the words: "and any facility limits agreed for the time being between the society and that individual".

2. At the end of section 15(6) there shall be inserted the words: ", and so is any facility limit which is agreed for the time being between the society and any one of the joint borrowers".

3. In section 15(12), before the definition of "mobile home", the following definition shall be inserted:

" "facility limit" has the meaning which it has for the purposes of the Building Societies (Limited Credit Facilities) Order 1987;"

AMENDMENT OF SECTION 16 OF THE ACT

1. At the end of section 16(5)(b) there shall be inserted the words: "and any facility limits agreed for the time being between the society and that individual".
 2. At the end of section 16(6)(c) there shall be inserted the words: "and any facility limits agreed for the time being between the society and that individual".
 3. At the end of section 16(7) there shall be inserted the words: ", and so is any facility limit which is agreed for the time being between the society and any one of the joint borrowers".
 4. After section 16(16) the following subsection shall be added:
"(17) In this section "facility limit" has the meaning which it has for the purpose of the Building Societies (Limited Credit Facilities) Order 1987."
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EXPLANATORY NOTE

(This note is not part of the Order)

This Order empowers building societies with commercial assets of at least £100 million to operate accounts on which an individual can draw and to agree a limit of indebtedness of that individual to the society of up to £5,000. Any such indebtedness will count as a class 3 asset, and class 3 assets may not exceed more than 5 per cent of a society's total commercial assets.

By virtue of sections 15 and 16 of the Building Societies Act a building society with that commercial asset holding may make mobile home loans of up to £10,000 per individual and other loans of up to £5,000 per individual, subject to provisions netting maximum amounts which may be so lent. This Order provides for the inclusion of indebtedness limits agreed under this Order in those netting arrangements.

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