

2005 No. 2863

HOUSING, ENGLAND

**The Social Landlords (Additional Purposes or Objects)
(Amendment) (England) Order 2005**

<i>Made</i> - - - -	<i>12th October 2005</i>
<i>Laid before Parliament</i>	<i>14th October 2005</i>
<i>Coming into force</i> - -	<i>5th November 2005</i>

The First Secretary of State, in exercise of the powers conferred by section 2(7) of the Housing Act 1996(a), makes the following Order:

Citation, commencement and application

1.—(1) This Order may be cited as the Social Landlords (Additional Purposes or Objects) (Amendment) (England) Order 2005 and shall come into force on 5th November 2005.

(2) The Order applies in relation to bodies eligible for registration as social landlords by the Housing Corporation in England(b).

Amendment of the Social Landlords (Permissible Additional Purposes or Objects) Order 1996

2.—(1) The Social Landlords (Permissible Additional Purposes or Objects) Order 1996(c) is amended as follows.

(2) In article 2 (interpretation)—

(a) in paragraph (1) for the definition of “qualifying lending institution”, substitute—

““qualifying lending institution” means—

(a) the Housing Corporation; or

(b) a person who—

(i) is an authorised person within the meaning given to that expression by section 31 of the Financial Services and Markets Act 2000(d), and

(ii) has permission under that Act to enter into a regulated mortgage contract as lender;

(a) 1996 c. 52. The Secretary of State’s functions under section 2, so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672), article 2 and Schedule 1.

(b) See sections 1 and 56 of the Housing Act 1986, as amended by paragraphs 82, 83 and 94 of Schedule 16 to the Government of Wales Act 1998 (c.38).

(c) S.I. 1996/2256; amended by S.I. 2001/3649.

(d) 2000 c. 8.

“regulated mortgage contract” has the meaning given by article 61(3)(a) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001(a);”;

(b) in paragraph (2) delete sub-paragraphs (b) and (c).

(3) In article 3 (additional permissible purposes or objects), after paragraph (c), add—

“(d) disposing of houses on leases—

- (i) granted on a payment of premium calculated by reference to a percentage of the value of the house or the cost of providing it, or
- (ii) under which the tenant (or his personal representatives) will or may be entitled to a sum calculated by reference directly or indirectly to the value of the house.”.

Amendment of the Social Landlords (Additional Purposes or Objects) Order 1999

3.—(1) Article 3 (Priority of mortgages) of the Social Landlords (Additional Purposes or Objects) Order 1999(b) is amended as follows.

(2) For the definition of “qualifying lending institution”, substitute—

““qualifying lending institution” means—

- (a) the Housing Corporation; or
- (b) a person who—
 - (i) is an authorised person within the meaning given to that expression by section 31 of the Financial Services and Markets Act 2000, and
 - (ii) has permission under that Act to enter into a regulated mortgage contract as lender;

“regulated mortgage contract” has the meaning given by article 61(3)(a) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001.”.

(3) In paragraph (4) delete sub-paragraphs (b) and (c).

Signed by authority of the First Secretary of State

12th October 2005

Yvette Cooper
Minister of State
Office of the Deputy Prime Minister

(a) S.I. 2001/544. Article 2 amended by S.I. 2002/1777 article 2(1)-(3) and article 61 is amended by S.I. 2001/3544 articles 2 and 8(a)-(c).
(b) S.I. 1999/985; amended by S.I. 2001/3649.

EXPLANATORY NOTE

(This note is not part of the Order)

Section 2 of the Housing Act 1996 specifies the bodies that are eligible for registration as social landlords. For two categories of body (a society registered under the Industrial and Provident Societies Act 1965 and a company registered under the Companies Act 1985) the section sets out conditions that must be satisfied for registration. Section 2 provides there are permissible purposes or objects in addition to the core purposes or objects which bodies in those categories must have.

In the Social Landlords (Permissible Additional Purposes or Objects) Order 1996 (“the 1996 Order”) and the Social Landlords (Additional Purposes or Objects) Order 1999 (“the 1999 Order”), the Secretary of State has specified additional purposes and objects, and made provision regarding the priority of mortgages entered into in pursuance of these, in respect of loans advanced by ‘qualifying lending institutions’.

Article 4 of the 1996 Order provides that a charge securing a loan advanced by a qualifying lending institution will have priority over a charge securing a borrower’s liability to make a payment to a registered social landlord under certain types of covenant. Article 3 of the 1999 Order provides that a charge securing a loan advanced by a qualifying lending institution will have priority over a charge securing a borrower’s liability to make a payment to a social landlord under the type of loan specified in that article. These Orders permit lenders to have the first charge on the property instead of the social landlord.

This Order amends the definition of ‘qualifying lending institution’ in the 1996 and 1999 Orders, so that all mortgage lenders who are authorised persons under the Financial Services and Markets Act 2000, and who have permission to enter into regulated mortgage contracts, can benefit from having a first charge over the property concerned. A regulated mortgage contract is a contract for a loan to a person secured by a first charge on land, where at least 40% of the land is, or is intended to be, used by the borrower as, or in connection with, a dwelling.

This Order also amends the 1996 Order to specify as an additional permissible purpose or object of bodies eligible to be registered as social landlords disposing of houses on terms which are the same as those defined in section 2(6) of the Housing Act 1996 as “shared ownership terms”. These are disposals on leases either (a) granted on a payment of a premium calculated by reference to a percentage of the value of the house or of the cost of providing it, or (b) under which the tenant (or his personal representatives) will or may be entitled to a sum calculated by reference directly or indirectly to the value of the house.

The amendments made by this Order apply to bodies eligible for registration by the Housing Corporation in England.

STATUTORY INSTRUMENTS

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