1987 No. 1671

BUILDING SOCIETIES

The Building Societies (Residential Use) Order 1987

Made - - - -	*15th September 1987*
Laid before Parliament	*30th September 1987*
Coming into force -	*1st April 1988*

The Building Societies Commission, with the consent of the Treasury, in exercise of the powers conferred on it by section 12(1) and (2) of the Building Societies Act 1986(a) and of all other powers enabling it in that behalf hereby makes the following Order:

Citation and commencement

1. This Order may be cited as the Building Societies (Residential Use) Order 1987 and shall come into force on 1st April 1988.

Interpretation

2. In this Order–

"the Act" means the Building Societies Act 1986;

"the borrower", in this article and in articles 3 and 4, includes a dependant of the borrower;

"a dependant" has the meaning given in article 8;

"gross external area" has the meaning given in the Schedule;

"grounds" means land which either has not been built on or contains outbuildings but no other buildings;

"outbuilding" means a building or a structure which either–

(a) is required to be excluded from the gross external area calculation in accordance with paragraph 4 of the Schedule; or

(b) is a shed, greenhouse, summerhouse or other similar building or structure;

"relevant grounds" means grounds which are not for the residential use of the borrower;

"residential area" means the internal floor area of those rooms in a building which are for the residential use of the borrower;

"society" means a building society;

"total area" has the meaning given in the Schedule; and

"valuer" means a person who is competent to value the land on which an advance is to be secured and who would not be disqualified under section 13 of the Act (which makes provision as to the valuation of security) from making a report on that land under that section.

(a) 1986 c.53.

Residential use

3. For the purposes of section 11(2)(b) of the Act (which requires land upon which a class 1 advance is secured to be for the residential use of the borrower), land is for the residential use of the borrower if either of the following requirements is satisfied–

(a) that all of the land is for the residential use of the borrower; or

(b) that the residential area within that land is not less than forty per cent of the total area of that land.

Future occupation

4. Where–

(a) land fails to satisfy one of the requirements of article 3 solely because by reason of the borrower's occupation he is required either–

(i) to work outside the United Kingdom; or

(ii) to live in accommodation provided by his employer,

and is thereby prevented from residing on the land, and

(b) the borrower intends to reside on the land upon his ceasing to work outside the United Kingdom or his ceasing to live in accommodation provided by his employer, as the case may be,

the land shall be treated as satisfying that requirement.

Evidence of residential use under article 3(a)

5. A society shall be entitled to be satisfied (in the absence of evidence to the contrary) that the requirement in article 3(a) is satisfied by a statement supported by the signature of the borrower which relates to the land on which the advance is to be secured and states that all of that land is for the residential use of the borrower or a dependant of his.

Evidence of residential use under article 3(b)

6. A society shall be entitled to be satisfied (in the absence of evidence to the contrary) that the requirement in article 3(b) is satisfied if it receives both–

(a) a statement supported by the signature of the borrower which relates to the land on which the advance is to be secured and states–

(i) which rooms of the buildings he or his dependant intends to reside in;

(ii) the intended use of the remaining rooms;

(iii) the intended use of the grounds; and

(b) a valuer's certificate stating that the residential area within that land (as indicated by the borrower's statement) is not less than forty per cent of the total area of that land.

Evidence of future occupation

7. A society shall be entitled to be satisfied (in the absence of evidence to the contrary) that the land on which the advance is to be secured falls within article 4 by receipt of–

(a) a statement, supported by the signature of the borrower, under article 5 or article 6,

(b) a declaration so supported that–

(i) the borrower is, by reason of his occupation, required either to work outside the United Kingdom or to live in accommodation provided by his employer and is thereby prevented from residing on the land, and

(ii) the borrower intends, upon ceasing to work outside the United Kingdom or (as the case may be) ceasing to live in accommodation provided by his employer, to reside upon the land in accordance with that statement,

or (where that statement relates to a dependant of the borrower) that the dependant is subject to that requirement and has that intention, and

(c) where that statement is made under article 6, a valuer's certificate in accordance with paragraph (b) of that article.

Prescribed dependants

8.—(1) For the purposes of section 11(2)(b) of the Act, a person is a dependant of a borrower if he both–

(a) is a relative of the borrower; and

(b) is wholly or partly maintained by the borrower.

(2) A person is a relative of the borrower if he is–

(a) the borrower's spouse;

(b) the borrower's brother, sister, ancestor or descendant;

(c) the borrower's spouse's brother, sister, ancestor or descendant; or

(d) the spouse of any person classified, by virtue of sub-paragraph (b) or (c) of this paragraph, as a relative of the borrower.

(3) In this article–

"ancestor" means a parent or a parent's parent;

"brother" includes a half-brother and a step-brother;

"child" includes a step-child;

"descendant" means a child or a child's child;

"parent" includes a step-parent;

"relative" includes a relative by adoption;

"sister" includes a half-sister and a step-sister; and

"spouse" includes a former spouse.

In witness whereof the common seal of the Building Societies Commission is hereunto fixed, and is authenticated by me, a person authorised under paragraph 14 of Schedule 1 to the Building Societies Act 1986, on 3rd September 1987.

L.S.

D. B. Severn
Secretary to the Commission

We consent to this Order,

Michael Neubert
David Lightbown

15th September 1987 Two of the Lords Commissioners of Her Majesty's Treasury

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SCHEDULE

Article 2

1. The total area is the sum of the gross external area and the relevant grounds.

2. The gross external area is the sum of the areas of each floor of a building (other than an outbuilding), being measured so as to include the features listed in paragraph 3 and to exclude the features listed in paragraph 4.

3. The features to be included when measuring the area of a floor in accordance with paragraph 2 are:

(a) perimeter wall thicknesses and external projections;

(b) areas occupied by internal walls and partitions;

(c) columns, piers, chimney-breasts, stairwells, lift-wells and similar structures;

(d) lift rooms, plant rooms, tank rooms and fuel stores;

(e) garages (whether detached or not) and open-sided covered parking areas; and

(f) outside water or earth closets.

4. The features to be excluded when measuring the area of a floor in accordance with paragraph 2 are–

(a) open balconies;
(b) open fire escapes;
(c) open covered ways or minor canopies;
(d) open vehicle parking areas, terraces and similar areas;
(e) domestic coal houses; and
(f) areas with a headroom of less than five feet.

EXPLANATORY NOTE

(This note is not part of the Order)

The requirements which must be satisfied in order for an advance to be classified as a class 1 advance are in section 11(2) of the Building Societies Act 1986. One of these requirements is that the land is for the residential use of the borrower or a dependant of his of a prescribed description.

This Order specifies the circumstances in which land is for a person's residential use, who are to be a person's dependants and the evidence upon which a building society is entitled (in the absence of evidence to the contrary) to be satisfied as to these matters.

This Order comes into force on 1 April 1988. Before that date the classification of land according to residential use is governed by article 5 of the Building Societies Act 1986 (Powers and Miscellaneous Transitional Provisions) Order 1986 (S.I. 1986/2169), which treats land on any of which a borrower or his dependant resides as being for the residential use of the borrower. This Order instead applies a test of residential use of forty per cent of the land and sets the criteria for how that forty per cent is measured.

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