

1987 No. 172

BUILDING SOCIETIES

The Building Societies (Provision of Services) Order 1987

<i>Made</i>	- - -	<i>5th February 1987</i>
<i>Laid before Parliament</i>		<i>12th February 1987</i>
<i>Coming into force</i>		<i>5th March 1987</i>

The Building Societies Commission, in exercise of the powers conferred on it by section 34(2) of the Building Societies Act 1986(a), hereby makes the following Order:-

Citation and commencement

1. This Order may be cited as the Building Societies (Provision of Services) Order 1987 and shall come into operation on 5th March 1987.

Interpretation

2. In this Order, "the Act" means the Building Societies Act 1986.

Variation of restrictions in relation to certain services

3.—(1) This Article varies Part III of Schedule 8 to the Act as follows.

(2) In paragraph 5 (arranging for investment services), before "Arranging" there shall be inserted "(1)" and after "individuals" there shall be inserted the following sub-paragraph -

"(2) The power to arrange for the provision of investment services does not include power -

- (a) to buy or sell any investment, either as principal or agent, or
- (b) to give advice concerning any investment."

(3) In place of paragraph 7 (arranging for the provision of credit), there shall be substituted the following paragraph -

"7. Arranging for the provision of credit and connected services is restricted to their provision by -

- (a) any recognised bank or licensed institution;
- (b) any body corporate connected with the person arranging for the services to be provided; or
- (c) any other body for the time being approved for the purposes of this Schedule by the Commission, whether in relation to all building societies, to specified classes of building society, or to a particular building society."

(4) In paragraph 12 (conditions applying to estate agency subsidiaries), after sub-paragraph (c) there shall be added the following sub-paragraph –

“(d) its business must not include any activity which the society could not undertake by reason of the fact that –

- (i) the society has not adopted a particular adoptable power, whether because the power is not available to it or for any other reason, or
- (ii) the activity would be in contravention of a restriction upon the extent of a power the society has adopted, being either a restriction specified in this Part of this Schedule and relating to a power to provide a financial service or a restriction assumed by the society.”.

(5) In place of paragraph 13 (prohibition on acting as agent for estate agency subsidiary), there shall be substituted the following paragraph –

“13. No employee of a building society whose duties include –

- (a) making a report on the value of land which is to secure an advance,
- (b) making an assessment of the adequacy of the security for an advance to be secured on land, or
- (c) authorising the making of an advance to be secured on land,

shall perform any service for any subsidiary of the society which provides estate agency services.”.

Variation of supplementary provisions

4.—(1) This Article varies Part IV of Schedule 8 to the Act as follows.

(2) After paragraph 4, there shall be inserted the following paragraphs –

“Provision of credit by connected bodies

4A.—(1) For the purposes of paragraph 7(b) of Part III of this Schedule, a body corporate is connected with a person arranging for credit and connected services to be provided if and only if –

- (a) one is a building society and the other is a subsidiary or relevant associated body of that society; or
- (b) both are subsidiaries of the same building society.

(2) For the purposes of sub-paragraph (1) above an associated body of a building society which is not a corresponding European body as referred to in section 18(2)(b) of this Act is a relevant associated body of that society.

Subsidiaries providing estate agency services

4B. For the purpose of determining whether the condition in paragraph 12(d) of Part III of this Schedule is fulfilled as regards a subsidiary of a building society, the continuation, during the first fifteen months following the date on which an undertaking became or the business of an undertaking was transferred to a subsidiary of the society, of any activity carried on as part of the business of the undertaking immediately before that date shall be disregarded.”.

(3) In paragraph 5 (sanctions for breach of restrictions), in place of “acts as agent” there shall be substituted “performs any service”.

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 5th February 1987.



G. M. Binns
Secretary to the Commission

EXPLANATORY NOTE

(This note is not part of the Order)

This Order varies Schedule 8 to the Building Societies Act 1986, which specifies financial services and services relating to land which building societies may provide (in some cases only through subsidiaries) and restrictions which apply in relation to the provision of particular services.

The power of societies to arrange for the provision of services relating to the acquisition or disposal of investments is made subject to an additional restriction, set out in article 3(2) of the Order. A society is not to be able, in the course of providing this service, either to buy or sell an investment itself or to give advice concerning a particular investment.

A restriction which appears in Schedule 8 concerning the powers of societies to arrange for the provision of credit by third parties is varied by article 3(3). Societies are enabled to make arrangements not only with recognised banks, licensed deposit-takers and bodies approved by the Building Societies Commission in relation to all societies or classes of society, as hitherto, but also with certain connected bodies and bodies approved by the Commission in relation to the society concerned.

Article 3(4) imposes an additional restriction regarding the power of societies to provide estate agency services. While such services may be provided through a subsidiary which undertakes other business besides estate agency work (as defined in the Estate Agents Act 1979 (c.38)), the business of an estate agency subsidiary must not include any activity which is outside the powers of its parent society, either because of the society's failure to adopt a power or because of a restriction of certain kinds upon the extent of a power it has adopted. Article 4 of the Order makes an exception in the case of newly-acquired estate agencies, which will give a society an opportunity to adopt additional powers or to vary or remove restrictions upon its powers that the society has assumed.

Article 3(4) also varies the restriction in Schedule 8 which prohibits employees of a society from acting as agent for an estate agency subsidiary. In consequence, the prohibition will apply to any service which an employee undertakes for the subsidiary, but will not apply in relation to employees who do not have responsibilities relating to the society's mortgage lending business.