

Co-operative and Community Benefit Societies and Credit Unions Bill

EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Treasury with the consent of Malcolm Wicks, the Member in charge of the Bill, are published separately as Bill 14 – EN.

Co-operative and Community Benefit Societies and Credit Unions Bill

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TO

Make provision for societies to be registered as co-operative or community benefit societies and to re-name the Industrial and Provident Societies Acts; to apply to registered societies the provisions relating to directors' disqualification and to make provision for the application of certain other enactments relating to companies; to confer power to make provision for credit unions corresponding to any provision applying to building societies; and for connected purposes.

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Co-operative and community benefit societies

1 Registration of societies as co-operative or community benefit societies

- (1) For section 1 of the Industrial and Provident Societies Act 1965 (c. 12) (societies that may be registered) substitute—

“1 Societies that may be registered

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- (1) A society for carrying on any industry, business or trade (including dealings of any kind with land) may be registered under this Act as—
(a) a co-operative society, or
(b) a community benefit society.

As to registration under this Act as a credit union, see the Credit Unions Act 1979.

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- (2) A society may be registered as a co-operative society only if it is shown to the satisfaction of the Authority that the society is a *bona fide* co-operative society.

For this purpose “co-operative society” does not include a society that carries on, or intends to carry on, business with the object of making profits mainly for the payment of interest, dividends or bonuses on money invested or deposited with, or lent to, the society or any other person.

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- (3) A society may be registered as a community benefit society only if it is shown to the satisfaction of the Authority that in view of the fact that the business of the society is being, or is intended to be, conducted for the benefit of the community, there are special reasons why the society should be registered under this Act rather than as a company under the Companies Acts. 5
- (4) A society may not be registered as a co-operative society or community benefit society unless –
- (a) the society’s rules contain provision in respect of the matters mentioned in Schedule 1, and 10
 - (b) the place that under those rules is to be the society’s registered office is situated in Great Britain or the Channel Islands.”
- (2) After section 4 of that Act insert –
- “4A Pre-2009 Act societies**
- (1) In this Act “pre-2009 Act society” means a society (other than a credit union) that was registered or treated as registered under this Act immediately before the commencement of section 1 of the Co-operative and Community Benefit Societies and Credit Unions Act 2009. 15
- (2) Nothing in that section affects the status of a pre-2009 Act society as registered or treated as registered under this Act.”. 20
- (3) In section 16(1) of that Act (cancellation of registration: grounds), in paragraph (c)(ii) for “neither of the conditions specified in section 1(2) of this Act is fulfilled” substitute “the relevant registration condition is not met”.
- (4) After that subsection insert –
- “(1A) For the purposes of subsection (1)(c)(ii) the relevant registration condition is not met if – 25
- (a) in the case of a society registered as a co-operative society, the condition specified in section 1(2) is not met;
 - (b) in the case of a society registered as a community benefit society, the condition specified in section 1(3) is not met; 30
 - (c) in the case of a pre-2009 Act society, neither of the conditions specified in section 1(2) and (3) is met.”.
- (5) In section 74(1) of that Act (interpretation - general), before the definition of “prescribed” insert – 35
- ““pre-2009 Act society” has the meaning given by section 4A(1);”.
- (6) In section 20(1)(b) of the Credit Unions Act 1979 (c. 34) (cancellation of registration as credit union: adaptation of grounds), for “neither of the conditions in section 1(2) of that Act is fulfilled” substitute “the relevant registration condition is not met”.
- (7) In section 1(9) of the Co-operatives and Community Benefit Societies Act 2003 (c. 15) (community benefit societies: power to restrict use of assets), for the definition of “community benefit society” substitute – 40
- ““community benefit society” means –
- (a) a society registered under the 1965 Act as a community benefit society, or 45

- (b) a pre-2009 Act society (as defined by section 4A(1) of the 1965 Act) which meets the condition in section 1(3) of that Act.”

2 Re-naming of Industrial and Provident Societies Acts

The Acts listed below may be cited by the new short title indicated: 5

<i>Existing short title</i>	<i>New short title</i>	
Industrial and Provident Societies Act 1965	Co-operative and Community Benefit Societies and Credit Unions Act 1965	
Industrial and Provident Societies Act 1967	Co-operative and Community Benefit Societies and Credit Unions Act 1967	10
Friendly and Industrial and Provident Societies Act 1968	Co-operative and Community Benefit Societies and Credit Unions Act 1968	15
Industrial and Provident Societies Act 1975	Co-operative and Community Benefit Societies Act 1975	
Industrial and Provident Societies Act 1978	Co-operative and Community Benefit Societies Act 1978	
Industrial and Provident Societies Act 2002	Co-operative and Community Benefit Societies and Credit Unions Act 2002	20
Co-operatives and Community Benefit Societies Act 2003	Co-operative and Community Benefit Societies Act 2003	

3 Application of provisions relating to directors disqualification 25

In the Company Directors Disqualification Act 1986 (c. 46), after section 22C insert—

“22D Application of Act to societies registered under the Industrial and Provident Societies Act 1965

- (1) In this section “registered society” means a society registered or deemed to be registered under the Industrial and Provident Societies Act 1965 (“the 1965 Act”). 30
- (2) This Act applies to registered societies as it applies to companies.
- (3) Accordingly, in this Act—
- (a) references to a company include a registered society, and 35
- (b) references to a director or an officer of a company include a member of the committee or an officer of a registered society.

In paragraph (b) “committee” and “officer” have the same meaning as in the 1965 Act: see section 74(1) of that Act.

- (4) As they apply in relation to registered societies, the provisions of this Act have effect with the following modifications –
- (a) in section 2(1) (disqualification on conviction of indictable offence), the reference to striking off includes cancellation of the registration of a society under the 1965 Act; 5
 - (b) in section 3 (disqualification for persistent breaches) and section 5 (disqualification on summary conviction), references to the companies legislation shall be read as references to the legislation relating to registered societies;
 - (c) in section 8(1) (disqualification after investigation), the reference to investigative material shall be read as including – 10
 - (i) any report made under section 47 or 49(1) of the 1965 Act (inspection of books or appointment of inspector), and
 - (ii) any information, books, accounts or other documents obtained under section 48 of the 1965 Act; 15
 - (d) references to the registrar shall be read as references to the Financial Services Authority;
 - (e) references to a shadow director shall be disregarded.
- (5) In the application of Schedule 1 to the members of the committee of a registered society, references to provisions of the Companies Act 2006 shall be read as including references to the corresponding provisions of the legislation relating to registered societies. 20
- (6) In this section “the legislation relating to registered societies” means the Industrial and Provident Societies Acts 1965 to 2003, the Credit Unions Act 1979 and the Co-operative and Community Benefit Societies and Credit Unions Act 2009.” 25

4 Power to apply certain other provisions relating to companies

- (1) The Treasury may by regulations –
- (a) make provision applying to societies registered under the Industrial and Provident Societies Act 1965 (c. 12) any provision mentioned in subsection (2), or 30
 - (b) make provision for such societies corresponding to any such provision, in either case, with such modifications as appear to the Treasury to be appropriate. 35
- (2) The provisions are –
- (a) Parts 14 and 15 of the Companies Act 1985 (c. 6) (investigations);
 - (b) Part 5 of the Companies Act 2006 (c. 46) (company names);
 - (c) Part 31 of that Act (dissolution and restoration to the register).
- (3) Regulations made by virtue of subsection (2)(a) may amend or repeal the following provisions – 40
- (a) section 47 of the Industrial and Provident Societies Act 1965 (inspection of books by order of Authority);
 - (b) section 48 of that Act (production of documents and provision of information); 45
 - (c) section 49 of that Act (appointment of inspectors and calling of special meeting), so far as relating to the appointment of inspectors.

- (4) Regulations made by virtue of subsection (2)(b) may amend or repeal section 5 of the Industrial and Provident Societies Act 1965 (c. 12) (name of society).
- (5) Regulations made by virtue of subsection (2)(c) may amend or repeal the following provisions of the Industrial and Provident Societies Act 1965—
- (a) section 16(1)(a)(iii) (cancellation of registration: society having ceased to exist); 5
 - (b) section 59 (restriction on dissolution or cancellation of registration).
- (6) Subsections (3) to (5) above are not to be read as restricting the power conferred by section 6 of this Act (general power to make consequential amendments).
- (7) Regulations under this section may— 10
- (a) confer power to make orders, regulations and other subordinate legislation;
 - (b) create criminal offences;
 - (c) provide for the charging of fees (but not any charge in the nature of taxation). 15

Credit unions

5 Power to make provision corresponding to provision applying to building societies

- (1) In the Credit Unions Act 1979 (c. 34), before section 24 (under the heading “*General and miscellaneous*”) insert— 20
- “23A Power to make provision corresponding to provision applying to building societies**
- (1) The Treasury may by regulations amend this Act so as to make provision for credit unions corresponding to any enactment applying to building societies. 25
- (2) The power conferred by subsection (1) may not be exercised so as to modify any of the following provisions of this Act—
- (a) sections 1 and 2 (registration as a credit union);
 - (b) section 3 (use of name “credit union”);
 - (c) section 8 (general prohibition on deposit-taking), but without prejudice to the power to add exceptions to those in sections 9 and 10 and to modify those sections; 30
 - (d) section 21 (amalgamations and transfers of engagements);
 - (e) section 22 (no conversion of credit union into company, etc.);
 - (f) section 23 (conversion of company into credit union). 35
- (3) Regulations under subsection (1) may—
- (a) confer power to make orders, regulations and other subordinate legislation;
 - (b) create criminal offences;
 - (c) provide for the charging of fees (but not any charge in the nature of taxation). 40
- (4) The Treasury may by regulations make such amendments of enactments as appear to them to be appropriate in consequence of any provision made under subsection (1).

This includes power to make consequential amendments of the provisions listed in subsection (2).

- (5) In this section “enactment” includes –
 - (a) an enactment contained in subordinate legislation within the meaning of the Interpretation Act 1978 (c. 30), 5
 - (b) an enactment contained in, or in an instrument made under, an Act of the Scottish Parliament,
 - (c) an enactment contained in, or in an instrument made under, Northern Ireland legislation within the meaning of the Interpretation Act 1978, and 10
 - (d) an enactment contained in, or in an instrument made under, a Measure or Act of the National Assembly for Wales.
- (6) Before making regulations under this section the Treasury must consult such persons as appear to them to be appropriate.
- (7) No regulations under this section are to be made unless a draft has been laid before and approved by a resolution of each House of Parliament.” 15
- (2) In section 29(2) of that Act (orders and regulations: negative resolution procedure), at the beginning insert “Except as provided by section 23A(6),”.
- (3) In section 33(4) of that Act (extent: Northern Ireland), after “With the exception of” insert “section 23A so far as it confers power to make consequential amendments of enactments extending to Northern Ireland,”. 20

Supplementary provisions

6 Consequential amendments

- (1) The Treasury may by regulations make such amendments of enactments as appear to them to be appropriate in consequence of any provision made by or under this Act. 25
- (2) This power is exercisable in relation to any enactment passed or made before the commencement of the relevant provision, and accordingly extends to the provisions of this Act (apart from this section).
- (3) In this section “enactment” includes – 30
 - (a) an enactment contained in subordinate legislation within the meaning of the Interpretation Act 1978,
 - (b) an enactment contained in, or in an instrument made under, an Act of the Scottish Parliament,
 - (c) an enactment contained in, or in an instrument made under, Northern Ireland legislation within the meaning of the Interpretation Act 1978, and 35
 - (d) an enactment contained in, or in an instrument made under, a Measure or Act of the National Assembly for Wales.
- (4) The power conferred by this section may, in particular, be exercised so as to replace the words “industrial and provident society” wherever occurring (including in the title of an enactment). 40

7 Regulations

- (1) Regulations under this Act may contain such supplementary, incidental and transitional provisions as appear to the Treasury to be necessary or expedient.
- (2) Regulations under this Act must be made by statutory instrument.
- (3) No regulations under this Act are to be made unless a draft has been laid before and approved by a resolution of each House of Parliament. 5

8 Short title, commencement and extent

- (1) The short title of this Act is the Co-operative and Community Benefit Societies and Credit Unions Act 2009.
- (2) The provisions of this Act (apart from this section) come into force on such day as the Treasury may by order appoint, and different days may be so appointed for different purposes. 10
- (3) An order under subsection (2) must be made by statutory instrument and may contain such transitional provision as appears to the Treasury to be necessary or expedient. 15
- (4) Sections 5 and 6 extend to Northern Ireland so far as they confer power to make consequential amendments of enactments that so extend (and section 7 and subsections (1) to (3) above have effect accordingly).
- (5) Her Majesty may by Order in Council direct that any of the provisions of this Act, or any instrument made under it, shall extend, with such modifications (if any) as may be specified in the Order, to any of the Channel Islands. 20
Any such Order in Council may make such transitional, incidental or supplementary provision as appears to Her Majesty to be necessary or expedient.
- (6) Subject to subsections (4) and (5), the provisions of this Act extend to Great Britain only. 25

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