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STATUTORY INSTRUMENTS

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**2006 No. 314**

**The Co-operative and Community Benefit Societies (Northern Ireland) Order 2006**

*Miscellaneous*

**Application of Company Directors Disqualification Order to registered societies** **N.I.**

8. After Article 25 of the Company Directors Disqualification (Northern Ireland) Order 2002 (NI 4) (application of Order to incorporated friendly societies) there shall be inserted the following Article—

**“Application of Order to registered societies**

**25A.**—(1) This Order applies to societies registered under the Industrial and Provident Societies Act (Northern Ireland) 1969 (c. 24) (“registered societies”) as it applies to companies.

(2) In its application to registered societies, this Order shall have effect as follows—

- (a) references in this Order to a company, or to a director or an officer of a company shall include, respectively, references to a registered society or to a member of the committee of management or officer, within the meaning of the Industrial and Provident Societies Act (Northern Ireland) 1969 (c. 24), of a registered society;
- (b) in Article 5(1) “striking off of a company” shall include the cancellation of the registration of a registered society under that Act;
- (c) in Articles 6(1) and 8(1) “the companies legislation” shall include that Act;
- (d) in Article 11(2) “investigative material” shall include a report made under section 43A, 56 or 58(1) of that Act and information, books, accounts or other documents obtained under section 57 of that Act;
- (e) references to the registrar shall have effect as references to the registrar as defined in section 101(1) of that Act;
- (f) references to a shadow director shall be omitted.

(3) In the application of Schedule 1 to the members of the committee of management of a registered society, references to provisions of the Insolvency Order or the Companies Order include references to the corresponding provisions of the Industrial and Provident Societies Act (Northern Ireland) 1969 (c. 24).”.

**Community benefit societies: power to restrict use of assets** **N.I.**

9.—(1) The Department may by regulations make provision for enabling any community benefit society, or any community benefit society of a prescribed kind, to ensure that—

- (a) assets of the society of a prescribed kind,
- (b) assets of the society specified by it in accordance with the regulations, or
- (c) all of the society's assets,

cannot be used or dealt with except in a case mentioned in paragraph (2).

(2) The cases are—

- (a) where the use or dealing is, directly or indirectly, for a purpose that is for the benefit of the community and is of a prescribed kind or, if no kinds of purpose are prescribed under this sub-paragraph, for any purpose that is for the benefit of the community; or
- (b) where the circumstances are such as may be prescribed.

(3) Where under the regulations a society has ensured as mentioned in paragraph (1) as respects any of its assets, the assets concerned shall be “dedicated assets” for the purposes of this Article.

(4) Regulations under this Article may, in particular—

- (a) provide for the procedure by which a society may ensure as mentioned in paragraph (1);
- (b) provide for such of a society's registered rules as are of a prescribed kind to be unalterable, or for them to be alterable only in prescribed circumstances or in circumstances specified in rules of a prescribed kind;
- (c) provide that, in any circumstances prescribed under paragraph (2)(b), dedicated assets shall be dealt with in a prescribed way;
- (d) make provision for ensuring that any society, company or other person to whom any dedicated assets are transferred in prescribed circumstances cannot use or deal with those assets except in a case mentioned in paragraph (2);
- (e) provide for members of a society who lose property rights as a result of the society's ensuring as mentioned in paragraph (1) to be compensated for that loss (whether by payment of a prescribed amount or of an amount determined in a prescribed way or otherwise), subject to such exceptions as may be prescribed;
- (f) provide for the enforcement of provisions designed to ensure as mentioned in paragraph (1);
- (g) make provision for the carrying out of investigations by persons appointed by a prescribed person;
- (h) confer power on a prescribed person to require persons of a prescribed description to provide him with information in order to enable or assist him to perform any of his functions under the regulations;
- (i) provide for restrictions on the use and disclosure of information obtained by any person in the performance of any function under the regulations.

(5) Regulations under this Article may—

- (a) impose criminal liability;
- (b) confer functions on a prescribed person;
- (c) confer jurisdiction on any court;
- (d) authorise a prescribed person to make rules, binding on persons of a prescribed description, for the purpose of enabling or assisting him to perform any of his functions under the regulations;
- (e) make provision as to the making, publication and enforcement of such rules;
- (f) provide for a prescribed person to charge fees sufficient to meet the costs of performing any of his functions under the regulations;
- (g) modify, exclude or apply (with or without modifications) any statutory provision or rule of law;
- (h) contain such incidental, consequential and supplemental provision as the Department considers appropriate.

(6) Regulations under this Article may not create any new criminal offence punishable with imprisonment for more than seven years.

(7) No regulations may be made under this Article unless a draft of the regulations has been laid before and approved by a resolution of the Assembly.

(8) In this Article—

[<sup>F1</sup>“community benefit society” means—

- (a) a society registered under the principal Act as a community benefit society, or
- (b) a pre-2016 Act society (as defined by section 1A of the principal Act) that meets the condition in section 1(2)(a)(ii) of the principal Act;]

“prescribed” means prescribed by regulations under this Article;

“registered rules” has the same meaning as in the principal Act.

#### Textual Amendments

- F1** Words in art. 9(8) substituted (6.4.2018) by [Credit Unions and Co-operative and Community Benefit Societies Act \(Northern Ireland\) 2016 \(c. 16\)](#), s. 17(2), [Sch. 1 para. 32](#); S.R. 2017/217, art. 2(d)

#### Power to modify statutory provisions relating to [<sup>F2</sup>registered societies] **N.I.**

**10.**—(1) If, on any modification of the statutory provisions in force in Northern Ireland relating to companies, it appears to the Department to be expedient to modify the relevant statutory provisions for the purpose of assimilating the law relating to companies and the law relating to industrial and provident societies, the Department may, by order, make such modifications of the relevant statutory provisions as it thinks appropriate for that purpose.

(2) The relevant statutory provisions are the provisions of [<sup>F3</sup>the Co-operative and Community Benefit Societies Acts (Northern Ireland) 1969 and 1976] as for the time being in force except the following provisions of the principal Act—

- (a) section 1 (societies which may be registered);
- (b) section 9(1) (amendments of registered rules);
- (c) sections 15 to 17 (cancellation, suspension or refusal of registration of society or rules);
- (d) sections 22 to 26 (nominations, provision for intestacy, payment in respect of mentally incapable persons and validity of payments);
- (e) sections 59 to 63 (amalgamation, transfer of engagements and conversions);
- (f) section 64(b) (dissolution of registered society by instrument);
- (g) section 65 (power of registrar to petition for winding up);
- (h) section 67 (instrument of dissolution); and
- (i) section 68 (restriction on dissolution or cancellation of registration of society).

(3) The power conferred by paragraph (1) includes power to modify the relevant statutory provisions so as to—

- (a) confer power to make orders, regulations, rules or other subordinate legislation;
- (b) create criminal offences; or
- (c) provide for the charging of fees but not any charge in the nature of taxation.

(4) An order under this Article may—

- (a) make consequential amendments of or repeals in the provisions listed in paragraph (2); or

(b) make such transitional or saving provisions as appears to the Department to be necessary or expedient.

(5) No order shall be made under this Article unless a draft of it has been laid before and approved by a resolution of the Assembly.

(6) In this Article “modification” includes any additions and, as regards modifications of the statutory provisions relating to companies, any modification effected by any statutory provision coming into operation after the making of this Order.

**Textual Amendments**

- F2** Words in art. 10 heading substituted (6.4.2018) by Credit Unions and Co-operative and Community Benefit Societies Act (NorthernIreland) 2016 (c. 16), s. 17(2), **Sch. 1 para. 33(3)**; S.R. 2017/217, art. 2(d)
- F3** Words in art. 10(2) substituted (6.4.2018) by Credit Unions and Co-operative and Community Benefit Societies Act (NorthernIreland) 2016 (c. 16), s. 17(2), **Sch. 1 para. 33(2)**; S.R. 2017/217, art. 2(d)

**Repeals** **N.I.**

**11.** The statutory provisions specified in the Schedule are hereby repealed to the extent specified in the second column of that Schedule.

**Changes to legislation:**

There are currently no known outstanding effects for the The Co-operative and Community Benefit Societies (Northern Ireland) Order 2006, Miscellaneous.