Draft Regulations laid before Parliament under section 7 of the Co-operative and Community Benefit Societies and Credit Unions Act 2010, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2014 No.

CO-OPERATIVE SOCIETIES
COMMUNITY BENEFIT SOCIETIES
CREDIT UNIONS

The Co-operative and Community Benefit Societies and Credit Unions (Investigations) Regulations 2014

Made - - - -	***
Coming into force - -	*6th April 2014*

In accordance with section 4(8) of the Co-operative and Community Benefit Societies and Credit Unions Act 2010(**1**) the Treasury have consulted such persons as appear to them to be appropriate.

A draft of these Regulations has been laid before Parliament in accordance with section 7 of that Act and approved by a resolution of each House of Parliament.

The Treasury, in exercise of the powers conferred by sections 4(1), (2)(a), (3) and (7), 6 and 7 of the Co-operative and Community Benefit Societies and Credit Unions Act 2010(**2**), make the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Co-operative and Community Benefit Societies and Credit Unions (Investigations) Regulations 2014 and come into force on 6th April 2014.

(2) In these Regulations, "the 1965 Act" means the Industrial and Provident Societies Act 1965(**3**).

(3) In these Regulations and in the provisions of the Companies Act 1985(**4**) applied by regulation 2, "registered society" means a society registered under the 1965 Act.

(**1**) 2010 c.7.
(**2**) Section 4(3) was amended by S.I. 2013/496.
(**3**) 1965 c.12. The Act is prospectively re-named by section 2 of the Co-operative and Community Benefit Societies and Credit Unions Act 2010.
(**4**) 1985 c.6.

Application of Part 14 of the Companies Act 1985 and subordinate legislation

2.—(1) The provisions of Part 14 of the Companies Act 1985 (investigation of companies and their affairs; requisition of documents) set out in the Table in paragraph (3) apply to registered societies with—

(a) the general modifications set out in paragraph (2);

(b) any other modification specified in the Table in paragraph (3); and

(c) any other necessary modification.

(2) Unless different provision is made in paragraph (3), in the provisions of Part 14 of the Companies Act 1985 applied by paragraph (3)—

(a) a reference to a committee is to be read as a reference to a committee within the meaning of section 74(1) of the 1965 Act;

(b) a reference to a company is to be read as a reference to a registered society;

(c) a reference to an officer of a company is to be read as a reference to an officer (within the meaning of section 74(1) of the 1965 Act (**5**)) of a registered society;

(d) a reference to the Secretary of State is to be read as a reference to the Financial Conduct Authority;

(e) a reference to a subsidiary is to be read as a reference to a subsidiary within the meaning of section 15 of the Friendly and Industrial and Provident Societies Act 1968(**6**).

(3) The provisions applying to registered societies, and the modifications, are as follows.

Table of applied provisions of Part 14 of the Companies Act 1985

Applied provision of the Companies Act 1985	*Modification*
Section 432(**7**) (other company investigations)	In subsection (3) omit "Subsections (1) and (2) are without prejudice to the powers of the Secretary of State under section 431; and". Omit subsection (4).
Section 433(**8**) (inspectors' powers during investigation)	In subsection (1) omit "431 or".
Section 434(**9**) (production of documents and evidence to inspectors)	In subsection (1) omit "431 or". In subsection (5) for "any of sections 431 to 433" substitute "section 432 or 433".
Section 436(**10**) (obstruction of inspectors treated as contempt of court)	

(**5**) The definition of "officer" was amended by paragraph 11 of Schedule 1 to the Friendly and Industrial and Provident Societies Act 1968 (c.55) and is prospectively amended by section 2 of the Co-operative and Community Benefit Societies and Credit Unions Act 2010.
(**6**) 1968 c.55. The Act is prospectively re-named by section 2 of the Co-operative and Community Benefit Societies and Credit Unions Act 2010.
(**7**) Section 432 was amended by section 55 of the Companies Act 1989 (c.40) and section 1035 of the Companies Act 2006 (c.46).
(**8**) Section 433 was amended by Schedules 13 and 17 to the Financial Services Act 1986 (c.60).
(**9**) Section 434 was amended by section 56 of the Companies Act 1989, Schedule 3 to the Youth Justice and Criminal Evidence Act 1999 (c.23), section 1038 of the Companies Act 2006 and S.I. 2009/1941.
(**10**) Section 436 was amended by section 56 of the Companies Act 1989.

Applied provision of the Companies Act 1985	*Modification*
Section 437(**11**) (inspectors' reports)	In subsection (1A) omit "431 or". Omit subsection (2A). In subsection (3)(b), "prescribed"(**12**) means prescribed by regulations made by the Secretary of State. In subsection (3)(b) omit sub-paragraph (iv).
Section 439(**13**) (expenses of investigating a company's affairs)	In subsection (1), for "an investigation under any of the powers conferred by this Part" substitute "an investigation under, or exercise of any other powers conferred by, this Part". For subsection (4) substitute— "(4) A registered society dealt with by an inspector's report is liable except in so far as the Financial Conduct Authority otherwise directs.". After subsection (4) insert— "(4A) The Financial Conduct Authority may, if it considers it just, direct that a registered society is liable for all or any part of the expenses incurred by the Authority or a person authorised by the Authority for the purposes of section 447, 448 or 453A.". In subsection (6) for "subsection (4) or (5)" substitute "subsection (4)". In subsection (8) for "subsections (4) and (5)" substitute "subsection (4)". Omit subsections (5), (9) and (10).
Section 441(**14**) (inspectors' report to be evidence)	In subsection (1) the reference to section 8 of the Company Directors Disqualification Act 1986 includes a reference to section 8 as applied by section 22E of that Act(**15**).

(**11**) Section 437 was amended by Schedule 13 to the Financial Services Act 1986, section 57 of the Companies Act 1989, section 1035 of, and Schedule 16 to, the Companies Act 2006 and S.I. 2009/1941.
(**12**) "Prescribed" is defined in section 1167 of the Companies Act 2006 for the purposes of the Companies Acts.
(**13**) Section 439 was amended by section 59 of the Companies Act 1989 and section 1176 of, and Schedule 16 to, the Companies Act 2006.
(**14**) Section 441 was amended by section 61 of the Companies Act 1989, Schedules 6 and 9 to the Insolvency Act 1985 (c.65), Schedule 13 to the Insolvency Act 1986 (c.45) and S.I. 2009/1941.
(**15**) 1986 c.46; section 8 was amended by section 6 of the Insolvency Act 2000 (c.39), Schedule 2 to the Companies (Audit, Investigations and Community Enterprise) Act 2004 (c.27), section 1039 of the Companies Act 2006 and S.I. 2001/3649

Applied provision of the Companies Act 1985	*Modification*
Section 446A(**16**) (general powers to give directions)	In subsection (2) omit "431," and "or 442(1)".
Section 446B (direction to terminate investigation)	In subsection (2), omit "or 442(3)".
Section 446C (resignation and revocation of appointment)	
Section 446D (appointment of replacement inspectors)	
Section 446E (obtaining information from former inspectors etc.)	
Section 447(**17**) (power to require documents and information)	
Section 447A(**18**) (information provided: evidence)	
Section 448(**19**) (entry and search of premises)	
Section 448A(**20**) (protection in relation to certain disclosures: information provided to Secretary of State)	
Section 449(**21**) (provision for security of information obtained)	In subsection (3), the reference to the Secretary of State is to be read as a reference to the Secretary of State, and not as a reference to the Financial Conduct Authority. In subsection (6A)(b)(ii) omit "or Northern Ireland".
Section 450(**22**) (punishment for destroying, mutilating etc. company documents)	Omit subsection (1A). In subsection (3)(b)(ii) omit "or Northern Ireland".

and 2009/1941. Section 22E is prospectively inserted by section 3 of the Co-operative and Community Benefit Societies and Credit Unions Act 2010.

(**16**) Sections 446A to 446E were inserted by section 1035 of the Companies Act 2006.

(**17**) Section 447 was substituted by section 21 of the Companies (Audit, Investigations and Community Enterprise) Act 2004 and amended by section 1038 of the Companies Act 2006.

(**18**) Section 447A was inserted by Schedule 2 to the Companies (Audit, Investigations and Community Enterprise) Act 2004 and amended by S.I. 2009/1941.

(**19**) Section 448 was substituted by section 64 of the Companies Act 1989 and amended by Schedules 3 and 16 to the Companies Act 2006.

(**20**) Section 448A was inserted by section 22 of the Companies (Audit, Investigations and Community Enterprise) Act 2004 and amended by S.I. 2009/1941.

(**21**) Section 449 was substituted by Schedule 2 to the Companies (Audit, Investigations and Community Enterprise) Act 2004 and amended by Schedules 3 and 16 to the Companies Act 2006.

(**22**) Section 450 was amended by section 66 of the Companies Act 1989, Schedules 3 and 16 to the Companies Act 2006 and S.I. 2001/3649.