Draft Order laid before Parliament under section 14(1) of the Legislative and Regulatory Reform Act 2006, for approval by resolution of each House of Parliament. This version replaces that laid before Parliament on 25th November 2009.

DRAFT STATUTORY INSTRUMENTS

2010 No.

REGULATORY REFORM

The Legislative Reform (Industrial and Provident Societies and Credit Unions) Order 2010

Made - - - - ***

Coming into force [in accordance with article 1]

The Treasury, in exercise of the power conferred by section 1 of the Legislative and Regulatory Reform Act 2006(**1**), make the following Order.

For the purposes of section 3(1) of that Act, they consider, where relevant, that the conditions in section 3(2) are satisfied.

They have consulted in accordance with section 13(1) and (2) of that Act.

They have laid a draft Order and an explanatory document before Parliament in accordance with section 14(1) of that Act.

Pursuant to section 15 of that Act, the super-affirmative resolution procedure (within the meaning of Part 1 of that Act) applies in relation to the making of the Order.

The period of 60 days referred to in section 18(2) of that Act has expired.

In accordance with section 18(2) of that Act, they have had regard to any representations, resolutions and resolution and recommendations made during that period and in particular to [name any Parliamentary report].

In accordance with section 18(3) of that Act, they have laid a statement before Parliament.

In accordance with section 18(4) of that Act, the draft Order has been approved by resolution of each House of Parliament.

(**1**) 2006 c.51.

PART 1

Introductory

Citation, commencement and extent

1.—(1) This Order may be cited as the Legislative Reform (Industrial and Provident Societies and Credit Unions) Order 2010 and comes into force on 1st July 2010.

(2) This Order extends to Great Britain only, except Article 22 which also extends to Northern Ireland.

Interpretation

2. In this Order—

"the 1965 Act" means the Industrial and Provident Societies Act 1965(**2**);

"the 1968 Act" means the Friendly and Industrial and Provident Societies Act 1968(**3**);

"the 1979 Act" means the Credit Unions Act 1979(**4**).

PART 2

Industrial and Provident Societies

Maximum shareholding in society

3. In section 6(**5**) of the 1965 Act (maximum shareholding in society), after subsection (1) insert —

"(1A) Any interest in the shares of the society which are not withdrawable shall be disregarded for the purposes of subsection (1) of this section."

Annual return

4.—(1) Section 39(**6**) of the 1965 Act (annual returns) is amended as follows.

(2) In subsection (1)—

(a) for "period required by this section to be included in the return" substitute "year of account";

(b) for "period" substitute "year";

(c) in paragraph (a) for "period required to be included in the return" substitute "year of account".

(3) In subsection (1A)(b) for "period included in the return" substitute "year of account".

(4) In subsection (1B)—

(a) in paragraph (a) for "period included in the return" substitute "year of account";

(**2**) 1965 c.12.
(**3**) 1968 c.55.
(**4**) 1979 c.34.
(**5**) Section 6 was amended by the Housing (Consequential Provisions) Act 1985 (c.71), Schedule 2, paragraph 8, and by S.I. 1994/341 and S.I. 1997/627.
(**6**) Section 39 was amended by the Friendly and Industrial and Provident Societies Act 1968 (c.55) and by S.I. 1996/1738 and S.I. 2001/2617.

(b) in paragraph (b) for "period" substitute "year".

(5) Omit subsections (2), (2A),(3) and (4).

5. After section 39 of the 1965 Act insert—

"**Year of account (for societies registered before 1st July 2010)**

39A.—(1) This section applies to a society registered under section 1 of this Act before 1st July 2010.

(2) The year of account for a society to which this section applies begins with whichever is the later of—

(a) the date of the society's registration, and

(b) the date to which the society's last annual return was made up.

(3) Subject to subsections (5) and (6) the year of account for a society to which this section applies ends—

(a) with the date of the last balance sheet published by the society before the appropriate date; or

(b) if the date of that balance sheet is earlier than 31st August immediately preceding the appropriate date or later than 31st January of the year in which the appropriate date falls, with 31st December immediately preceding the appropriate date.

(4) For the purposes of subsection (3) "the appropriate date" is 31st March of the year in which an annual return is required by section 39 to be sent to the Authority or the date on which that return is so sent, whichever is the earlier.

(5) In the case of a society which is terminated by an instrument of dissolution under section 55(1)(b) of this Act the last year of account for that society ends with the date of the instrument of dissolution.

(6) A society to which this section applies may alter the date on which its current and subsequent years of account end to a date other than that specified in subsection (3)(a) or (b) by notice to the Authority.

(7) A notice under subsection (6) must state whether it extends or shortens the current year of account.

(8) A notice extending a society's current year of account is not effective if—

(a) it is given less than 5 years after the end of an earlier year of account of the society that was extended under this section; or

(b) it extends that year of account such that it exceeds 18 months.

Year of account (for societies registered on or after 1st July 2010)

39B.—(1) This section applies to a society registered under section 1 of this Act on or after 1st July 2010.

(2) The year of account for a society to which this section applies is determined according to its accounting reference date in each calendar year.

(3) Subject to subsection (7) below the accounting reference date is the last day of the month in which the anniversary of its registration falls.

(4) The first year of account is the period of more than 6 months but not more than 18 months beginning with the date of the society's registration and ending with its accounting reference date.

(5) Subsequent years of account are successive periods of 12 months beginning immediately after the end of the previous year of account and ending with the society's accounting reference date.

(6) In the case of a society which is terminated by an instrument of dissolution under section 55(1)(b) of this Act the last year of account for that society ends with the date of the instrument of dissolution.

(7) A society to which this section applies may by notice to the Authority specify a new accounting reference date having effect in relation to the society's current and subsequent years of account.

(8) A notice under subsection (7) must state whether the current year of account—

(a) is to be shortened, so as to come to an end on the first occasion on which the new accounting reference date falls or fell after the beginning of the year of account; or

(b) is to be extended, so as to come to an end on the second such occasion.

(9) A notice extending a society's current year of account is not effective if—

(a) it is given less than 5 years after the end of an earlier year of account of the society that was extended under this section; or

(b) it extends that year of account such that it exceeds 18 months."

6. In section 31 of the 1979 Act, in subsection (4) for "section 39 (annual accounts)" substitute "sections 39 to 39B (annual returns etc)".

PART 3

Industrial and Provident Societies and Credit Unions

Provision of copies of rules

7. In section 15(**7**) of the 1965 Act (provision of copies of rules)—

(a) for subsection (1) substitute—

"(1) A registered society shall, on demand, give a copy of its registered rules—

(a) free of charge, to any member of the society to whom a copy of those rules has not previously been given; and

(b) to any other person, upon payment of such fee as the society may require, not exceeding the specified amount.";

(b) after subsection (1) insert—

"(1A) In subsection (1) of this section "specified amount" means £5 or such other amount as the Treasury may specify by order.

(1B) The power to make an order under this section shall be exercisable by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament."

Members under 18

8.—(1) In section 20(**8**) of the 1965 Act (members under 18)—

(**7**) Section 15 was amended by the Decimal Currency Act 1969 (c.19), section 10(1), and by the Criminal Justice Act 1982 (c.48), sections 37 and 46.

(**8**) Section 20 was amended by the Family Law Reform Act 1969 (c.46), section 1 and Schedule 1, Part 1.

(a) omit the words "but above the age of sixteen"; and

(b) for "enjoy all the rights" to "under those rules, but" substitute—

"(a) enjoy all the rights of a member; and

(b) if between the ages of sixteen and eighteen, execute all instruments and give all receipts necessary to be executed or given under those rules,

but a person under the age of sixteen".

(2) In section 9(**9**) of the 1979 Act (deposits by persons too young to be members), for "section 20 of the 1965 Act" substitute "any provision of the credit union's rules".

Dissolution

9.—(1) In section 55(**10**) of the 1965 Act (dissolution of registered society) for subsection (1)(b) substitute—

"(b) in accordance with section 58 of this Act, by an instrument of dissolution—

(i) to which not less than three-fourths of the members of the society have given their consent testified by their signatures to the instrument;

(ii) in the case of a dormant society which is not a credit union, which has been approved by a special resolution of the society; or

(iii) in the case of a credit union, which has been approved by a special resolution of the society and confirmed by the Authority."

(2) In that section after subsection (1) insert—

"(1A) In subsection (1)(b) above "special resolution" has the same meaning as in section 50 of this Act.

(1B) In subsection (1)(b)(ii) above a society is "dormant" if its accounts for the current year of account and the two years of account immediately preceding the current year of account show no accounting transactions other than—

(a) fees paid to the Authority;

(b) payment of dividends; or

(c) payment of interest;

and it has notified the Authority that it is dormant.

(1C) For the purposes of subsection (1)(b)(iii) above the Authority shall be deemed to have confirmed a special resolution if, within twenty one days of the credit union sending a copy of that special resolution to the Authority, the Authority has not notified the credit union in writing to the contrary."

(3) In section 58 of the 1965 Act (instrument of dissolution)—

(a) in subsection (3) at the end insert "or, if the instrument was approved by a special resolution of the society, by a further special resolution.";

(b) after subsection (5) insert—

"(5A) Subsection (5) of this section does not apply to an instrument which pursuant to section 55(1)(b)(iii) above is not confirmed by the Authority.

(5B) A copy of every special resolution for the purposes of section 55(1)(b) of this Act or subsection (3) of this section, signed by the chairman of the meeting at which the resolution was confirmed and countersigned by the secretary of the society, shall

(**9**) Section 9 was amended by S.I. 2002/1501.
(**10**) Section 55 was amended by the Insolvency Act 1986 (c.45), Schedule 14, and by S.I. 2001/2617.