



# Co-operative and Community Benefit Societies Act (Northern Ireland) 1969

## 1969 CHAPTER 24

### PART II

#### REGISTERED SOCIETIES

##### ACCOUNTS, ETC.

#### **35 Books of account, etc.**

- (1) Every registered society shall—
  - (a) cause to be kept proper books of account with respect to its transactions and its assets and liabilities, and
  - (b) establish and maintain a satisfactory system of control of its books of account, its cash holdings and all its receipts and remittances.
- (2) For the purposes of paragraph (a) of subsection (1), proper books of account shall not be taken to be kept with respect to the matters mentioned in that paragraph if there are not kept such books as are necessary to give a true and fair view of the state of the affairs of the society and to explain its transactions.

#### **36 Form in which books of account may be kept.**

- (1) Any book of account to be kept by a registered society may be kept either by making entries in bound books or by recording the matters in question in any other manner.
- (2) Where any such book of account is not kept by making entries in a bound book but by some other means, the society shall take adequate precautions for guarding against falsification and facilitating its discovery.

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*Changes to legislation:* There are currently no known outstanding effects for the Co-operative and Community Benefit Societies Act (Northern Ireland) 1969. (See end of Document for details)

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### [<sup>F1</sup>36A Year of account (existing societies)

- (1) This section applies to a registered society that was registered before the day this section comes into operation.
- (2) The society's year of account begins—
  - (a) in the case of its first year of account, with the date of the society's registration;
  - (b) in any other case, immediately after the end of its previous year of account.
- (3) The society's year of account ends—
  - (a) with the date of the last balance sheet published by the society in the relevant period, or
  - (b) if no balance sheet is published in that period, with the 31 December in that period.
- (4) The “relevant period”—
  - (a) begins with the 31 August following the beginning of the year of account, and
  - (b) ends with the following 31 January.
- (5) The society may by notice to the registrar alter the date on which its current and subsequent years of account end to a date other than that provided for by subsection (3).
- (6) A notice under subsection (5) must state whether it extends or shortens the current year of account.
- (7) A notice extending the current year of account has no effect if—
  - (a) it is given less than 5 years after the end of a year of account that was extended under this section, or
  - (b) it would extend the year of account so that it would exceed 18 months.
- (8) If the society is dissolved by an instrument of dissolution under section 66A, its last year of account ends with the date of the instrument of dissolution.

<p><b>F1</b> S. 36A - S. 36B inserted (23.4.2016) by <a href="#">Credit Unions and Co-operative and Community Benefit Societies Act (Northern Ireland) 2016 (c. 16)</a>, <b>ss. 11</b>, 17(1)</p>
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### 36B Year of account (new registrations)

- (1) This section applies to a registered society that is registered on or after the day this section comes into operation.
- (2) The society's first year of account is the period of more than 6 months but not more than 18 months that—
  - (a) begins with the date of the society's registration, and
  - (b) ends with its accounting reference date.
- (3) Each subsequent year of account—
  - (a) begins immediately after the end of the previous year of account, and
  - (b) ends with its next accounting reference date.
- (4) In each calendar year, the society's “accounting reference date” is (subject to subsection (5)) the last day of the month in which the anniversary of the society's registration falls.

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- (5) The society may by notice to the registrar specify a new accounting reference date having effect in relation to its current and subsequent years of account.
- (6) A notice under subsection (5) 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.
- (7) A notice extending the current year of account has no effect if—
  - (a) it is given less than 5 years after the end of a year of account that was extended under this section, or
  - (b) it would extend the year of account so that it would exceed 18 months.
- (8) If the society is dissolved by an instrument of dissolution under section 66A, its last year of account ends with the date of the instrument of dissolution.]

<p><b>F1</b> S. 36A - S. 36B inserted (23.4.2016) by <a href="#">Credit Unions and Co-operative and Community Benefit Societies Act (Northern Ireland) 2016 (c. 16)</a>, <b>ss. 11, 17(1)</b></p>
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### **37 General provisions as to accounts and balance sheets of registered societies.**

- (1) Every revenue account of a registered society shall give a true and fair view—
  - (a) if it deals with the affairs of the society as a whole, of the income and expenditure of the society as a whole, or
  - (b) if it deals with a particular business conducted by the society, of the income and expenditure of the society in respect of that business,
 for the period to which the account relates.
- (2) Every registered society shall, in respect of each year of account, cause to be prepared either—
  - (a) a revenue account which deals with the affairs of the society as a whole for that year, or
  - (b) two or more revenue accounts for that year which deal separately with particular businesses conducted by the society.
- (3) In a case falling within subsection (2)(b), without prejudice to the application of subsection (1)(b) to each revenue account dealing with a particular business conducted by the society, the revenue accounts in question, when considered together, shall give a true and fair view of the income and expenditure of the society as a whole for the year of account to which they relate.
- (4) Every balance sheet of a registered society shall give a true and fair view of the state of the affairs of the society as at the date of the balance sheet.

*Subs. (5) rep. by 1997 NI 22*

- (6) If in relation to any revenue account, revenue accounts or balance sheet of a society a member of the committee of the society fails to take all reasonable steps to secure compliance—
  - (a) with the provision of subsection (1) or subsection (4) which is applicable in that case, or

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(b) in a case falling within subsection (2)(b), with subsection (3), he shall be guilty of an offence and liable on summary conviction to a fine not exceeding<sup>F2</sup> level 1 on the standard scale], unless he proves that he had reasonable grounds to believe, and did believe, that a competent and reliable person was charged with the duty of seeing that the relevant provision was complied with and was in a position to discharge that duty.

<sup>F3</sup>(7) .....

<sup>F3</sup>(8) .....

**F2** 1984 NI 3

**F3** S. 37(7)(8) omitted (23.4.2016) by virtue of [Credit Unions and Co-operative and Community Benefit Societies Act \(Northern Ireland\) 2016 \(c. 16\)](#), s. 17(1), [Sch. 1 para. 48](#)

#### **[<sup>F4</sup>37A Publication of accounts and balance sheets of registered societies.**

- (1) A registered society shall not publish any revenue account or balance sheet unless it has been signed by the secretary of the society and by two members of the committee of the society acting on behalf of that committee.
- (2) Where at the end of a registered society's year of account no disapplication under section 38A(1) is in force in relation to the year, the society shall not publish a year end revenue account or balance sheet unless—
  - (a) it has been previously audited by the auditor or auditors last appointed to audit the accounts and balance sheet of the society, and
  - (b) it incorporates a report by the auditor or auditors stating whether in their opinion it complies with subsection (1) or, as the case may be, subsection (4) of section 37.
- (3) Where at the end of a registered society's year of account a disapplication under section 38A(1) is in force in relation to the year and the society's turnover in the preceding year of account exceeded £90,000, the society shall not publish a year end revenue account or balance sheet unless—
  - (a) it is one on which the society has obtained from a person appointed under subsection (2) of section 43A a report which meets the requirements of subsection (3) of that section, and
  - (b) it incorporates so much of the report as relates to it.
- (4) Where at the beginning of a year of account (in this subsection referred to as “the current year of account”) a registered society is subject to subsection (2) in relation to the publication of a year end revenue account or balance sheet for the preceding year of account, it shall not publish any interim revenue account or balance sheet for the current year of account—
  - (a) if a disapplication under section 38A(1) is in force in relation to that year, unless it incorporates a report by an appropriate person stating whether in his opinion it complies with subsection (1) or (4), as the case may be, of section 37; and
  - (b) if no disapplication under section 38A(1) is in force in relation to that year, unless paragraphs (a) and (b) of subsection (2) are met in relation to it.

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(5) Where at the beginning of a year of account (in this subsection referred to as “the current year of account”) a registered society is subject to subsection (3) in relation to the publication of a year end revenue account or balance sheet for the preceding year of account, it shall not publish any interim revenue account or balance sheet for the current year of account unless it incorporates a report by an appropriate person stating—

- (a) whether, in his opinion, the revenue account or, as the case may be, the balance sheet, is in agreement with the books of account kept by the society under section 35, and
- (b) whether, in his opinion, on the basis of the information contained in those books of account, the revenue account or, as the case may be, the balance sheet complies with the requirements of this Act.

(6) Where a registered society's year of account is one in relation to which a direction under section 43C has effect, the society shall not publish any year end or interim revenue account or balance sheet, unless it incorporates a report by the auditor or auditors appointed in pursuance of the direction stating whether in their opinion it complies with subsection (1) or (4), as the case may be, of section 37.

[ Subsections (4) to (6) do not apply to an interim revenue account or balance sheet<sup>F5</sup>(6A) that—

- (a) is published together with the latest year end revenue account and balance sheet complying with subsection (2), (3) or (6) (as the case may be), and
- (b) is marked in clearly legible characters and in a prominent position with the words “UNAUDITED REVENUE ACCOUNT” or “UNAUDITED BALANCE SHEET” (as the case may be).]

(7) Subsection (3) shall cease to apply in relation to a year of account if a direction under section 43C is made in relation to it.

(8) Section 43B shall apply in relation to a person appointed for the purposes of subsection (4) or (5) as it applies in relation to a person appointed under section 43A(2).

(9) In subsection (4) references to a disapplication under section 38A(1) being in force in relation to a year of account shall, where the year of account has ended, be construed as references to a disapplication under that provision being in force at the end of the year.

(10) Subject to subsection (11), in subsections (4) and (5) references to an appropriate person are to a person who is—

- (a) a qualified auditor for the purposes of this Act, and
- (b) not ineligible by virtue of section 42(1) to be appointed as auditor of the society.

(11) In relation to the application of subsection (4) to a society which—

- (a) was an exempt society in respect of the preceding year of account, and
- (b) appointed persons who were not qualified auditors to audit its accounts and balance sheet for that year,

subsection (10) shall, if the year is not one in relation to which the registrar has given a direction under section 38(6)(a), have effect with the omission of paragraph (a) of that subsection.

(12) In this section—

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“interim balance sheet”, in relation to a year of account, means a balance sheet relating to the position at a time in the year other than the end;

“interim revenue account”, in relation to a year of account, means a revenue account for any period falling within the year of account, other than one ending at the end of the year;

“turnover” has the same meaning as in section 38A;

“year end balance sheet”, in relation to a year of account, means a balance sheet relating to the position at the end of the year; and

“year end revenue account”, in relation to a year of account, means a revenue account for the year or for any period falling within the year of account and ending at the end of the year.]

**F4** 1997 NI 22

**F5** S. 37A(6A) inserted (23.4.2016) by [Credit Unions and Co-operative and Community Benefit Societies Act \(Northern Ireland\) 2016 \(c. 16\)](#), **ss. 12, 17(1)**

### **38** **Obligation to appoint auditors.**

- (1) Subject to the following provisions of this section<sup>F6</sup> and section 38A(1)], every registered society shall in each year of account <sup>F7</sup>... appoint a qualified auditor or qualified auditors to audit its accounts and balance sheet for that year.
- (2) Subsection (1) shall not apply to any registered society if—
  - (a) the receipts and payments of that society in respect of the preceding year of account when added together did not exceed five thousand pounds;
  - (b) the number of its members at the end of that year did not exceed five hundred; and
  - (c) the value of its assets at the end of that year did not in the aggregate exceed five thousand pounds.
- (3) A registered society to which, by virtue of subsection (2), subsection (1) does not apply in respect of any year of account is in this Act referred to as an exempt society in respect of that year of account.
- (4) Subject to any direction given by the registrar under subsection (5), every society which is an exempt society in respect of the current year of account shall in that year appoint at its option either—
  - (a) a qualified auditor or qualified auditors, or
  - (b) two or more persons who are not qualified auditors,
 to audit its accounts and balance sheet for that year.
- (5) The registrar may give a direction in the case of any particular society which is an exempt society in respect of the current year of account requiring it to appoint a qualified auditor to audit its accounts and balance sheet for that year.
- (6) The registrar may give a direction in the case of any particular society which was an exempt society in respect of any year of account before the year of account in which that direction is given and did not appoint a qualified auditor or qualified auditors to audit its accounts and balance sheet for that year—
  - (a) requiring it to appoint a qualified auditor to audit those accounts and that balance sheet, and

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- (b) in a case where that society has sent to [<sup>F8</sup>the registrar] its annual return for that year before the date of the direction, requiring it after its accounts and balance sheet have been audited by a qualified auditor to send to [<sup>F8</sup>the registrar] within three months from receipt of the direction a further annual return complying with the requirements of this Act (other than that as to time of sending).
- (7) Regulations made by <sup>F9</sup>... the [<sup>F10</sup>Department] may—
- (a) substitute for any sum or number for the time being specified in subsection (2) such sum or number as may be specified in the regulations; and
  - (b) prescribe what receipts and payments of a society shall be taken into account for the purposes of that subsection.

**F6** 1997 NI 22

**F7** Words in s. 38(1) omitted (23.4.2016) by virtue of [Credit Unions and Co-operative and Community Benefit Societies Act \(Northern Ireland\) 2016 \(c. 16\)](#), s. 17(1), **Sch. 1 para. 49**

**F8** Words in s. 38(6)(b) substituted (6.4.2018 immediately after 2016 c. 16 (N.I.), s. 8(2) comes into force) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2018 \(S.I. 2018/323\)](#), art. 1, **Sch. 2 para. 10(a)** (with art. 3)

**F9** Words in s. 38(7) omitted (6.4.2018 immediately after 2016 c. 16 (N.I.), s. 8(2) comes into force) by virtue of [The Financial Services Act 2012 \(Mutual Societies\) Order 2018 \(S.I. 2018/323\)](#), art. 1, **Sch. 2 para. 10(b)** (with art. 3)

**F10** Word in Act substituted (23.4.2016) by [Credit Unions and Co-operative and Community Benefit Societies Act \(Northern Ireland\) 2016 \(c. 16\)](#), 17(1) **Sch. 1 para. 46**

### [<sup>F11</sup>38A Power of registered societies to disapply section 38.

- (1) Subject to subsections (3) and (4), a registered society may disapply section 38 in relation to any year of account <sup>F12</sup>... if—
  - (a) the value of its assets at the end of the preceding year of account did not in the aggregate exceed £1,400,000, and
  - (b) its turnover for that year did not exceed £350,000.
- (2) The power conferred by subsection (1) shall be exercisable by resolution passed at a general meeting at which—
  - (a) less than 20 per cent. of the total votes cast are cast against the resolution, and
  - (b) less than 10 per cent. of the members of the society for the time being entitled under the society's rules to vote cast their votes against the resolution.
- (3) Subsection (1) shall not apply to a registered society which—
  - (a) is registered in the register of housing associations maintained by the Department of the Environment,
  - (b) is, or has, a subsidiary,
  - (c) <sup>F13</sup> . . . or
  - (d) holds, or has, at any time since the end of the preceding year of account, held, a deposit<sup>F14</sup> . . . , other than a deposit in form of withdrawable share capital.

[ In paragraph (3)(d), the reference to a deposit must be read with—

- <sup>F14</sup>(3A)
- (a) section 22 of the Financial Services and Markets Act 2000;
  - (b) any relevant order under that section; and
  - (c) Schedule 2 to that Act.]

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- (4) The registrar may by notice to a registered society disapply subsection (1) in relation to the year of account of the society in which the notice is given.
- (5) Where a registered society exercises the power conferred by subsection (1), the disapplication shall cease to have effect if, at any time before the end of the year of account to which it relates—
- (a) the society becomes one to which subsection (3) applies, or
  - (b) the registrar gives the society notice under subsection (4).
- (6) In the case of a registered society which is a charity within the meaning of the Charities Act (Northern Ireland) 1964, subsection (1) shall have effect with the substitution for paragraph (b) of—
- “(b) its gross income for that year did not exceed £250,000.”.
- (7) For a period which is a registered society's year of account, but not in fact a year, the maximum figure in subsection (1)(b) (including that provision as it has effect by virtue of subsection (6)) shall be proportionately adjusted.
- (8) In this section, “turnover”, in relation to a registered society, means the amounts derived from the provision of goods and services falling within the society's activities, after deduction of—
- (a) trade discounts,
  - (b) value added tax, and
  - (c) any other taxes based on the amounts so derived.]

**F11** 1997 NI 22

**F12** Words in s. 38A(1) omitted (23.4.2016) by virtue of [Credit Unions and Co-operative and Community Benefit Societies Act \(Northern Ireland\) 2016 \(c. 16\)](#), s. 17(1), [Sch. 1 para. 50](#)

**F13** S. 38A(c) omitted (6.4.2008) by virtue of [Insurance Accounts Directive \(Miscellaneous Insurance Undertakings\) Regulations 2008 \(S.I. 2008/565\)](#), [reg. 15\(3\)](#)

**F14** SI 2002/1555

### 39 Re-appointment and removal of qualified auditors.

- (1) A qualified auditor appointed to audit the accounts and balance sheet of a registered society for the preceding year of account shall be re-appointed as auditor of the society for the current year of account unless—
- [<sup>F15</sup>(a) a resolution has been passed at a general meeting of the society—
- (i) appointing somebody instead of him, or
  - (ii) providing expressly that he shall not be appointed, or
  - (iii) disapplying section 38 in relation to the current year of account,
- or]
- (b) he has given to the society notice in writing of his unwillingness to be re-appointed, or
  - (c) he is ineligible for appointment as auditor of the society for the current year of account, or
  - (d) he has ceased to act as auditor of the society by reason of incapacity;
- but, where notice is given of an intended resolution to appoint some person or persons in place of a retiring auditor and the resolution cannot be proceeded with at the meeting



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because of the death or incapacity of that person or those persons, or because he is or they are ineligible for appointment as auditor or auditors of the society for the current year of account (as the case may be), the retiring auditor shall not be automatically re-appointed by virtue of this subsection.

- (2) For the purposes of subsection (1), a person is ineligible for appointment as auditor of a society for the current year of account if, but only if—
- (a) his appointment in relation to the society is prohibited by section 42, or
  - (b) (in the case of a society which is not an exempt society in respect of that year of account) he is not a qualified auditor at the time when the question of his appointment falls to be considered.

F15 1997 NI 22

#### **40 Provisions as to resolutions relating to appointment and removal of auditors.**

- (1) Subject to subsection (5), a resolution at a general meeting of a registered society—
- (a) appointing another person as auditor in place of a retiring qualified auditor, or
  - (b) providing expressly that a retiring qualified auditor shall not be re-appointed,
- shall not be effective unless notice of the intention to move it has been given to the society not less than twenty-eight days before the meeting at which it is moved.
- (2) Where notice of the intention to move any such resolution has been given under subsection (1) to a society which is required by its rules to give notice to its members of the meeting at which the resolution is to be moved, the society shall if it is practicable to do so give them notice of the resolution at the same time and in the same manner as it gives notice of the meeting.
- (3) Where notice of the intention to move any such resolution has been given to any society under subsection (1), and that society does not give notice of the resolution under subsection (2), it shall give notice of the resolution to its members not less than fourteen days before the meeting at which the resolution is to be moved, either by advertisement in a newspaper having an appropriate circulation or in any other way allowed by the rules of the society.
- (4) Where—
- (a) for any of the reasons mentioned in section 39(1) an intended resolution to appoint some person or persons in place of a retiring qualified auditor cannot be proceeded with at the meeting, and
  - (b) by the rules of the society an auditor can only be appointed by a resolution passed at a general meeting after notice of the intended resolution has been given to the society before the meeting,
- a resolution passed at that meeting re-appointing the retiring auditor or appointing an auditor in place of the retiring auditor shall be effective notwithstanding that no notice of that resolution has been given to the society under its rules.
- (5) On receipt by a society of notice given under subsection (1) of an intended resolution, it shall forthwith send a copy of the notice to the retiring auditor.
- (6) On receipt of a copy of such a notice, the retiring auditor may at any time before the date of the general meeting make representation in writing to the society (not

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exceeding a reasonable length) with respect to the intended resolution, and, without prejudice to the preceding provision, the retiring auditor may—

- (a) notify the society that he intends to make such representations, and
- (b) request that notice of his intention, or of any such representations made by him and received by the society before notice of the intended resolution is given to its members, shall be given to members of the society.

(7) Subject to subsection (8), a society which receives representations or a notification of intended representations under subsection (6) before the date when notice of the intended resolution is required by subsection (2) or subsection (3) (as the case may be) to be given to its members shall—

- (a) in any notice of the resolution given to its members, state that it has received those representations or that notification (as the case may be),
- (b) in any such notice, state that any member may receive on demand made before the date of the general meeting a copy of any representations which have been or may be received by the society before that date, and
- (c) send a copy of any representations received by the society before the date of the meeting to any member on demand made before that date;

but without prejudice either to the preceding provisions of this subsection or to his right to be heard orally, the retiring auditor may also require that any representations made by him before the date of the general meeting shall be read out at the meeting.

(8) Copies of any such representations need not be sent out, and the representations need not be read out at the meeting if, on the application either of the society or of any other person, the High Court is satisfied that the rights conferred by this section are being abused to secure needless publicity for defamatory matter; and the Court may order the costs of the society on an application under this section to be paid, in whole or in part, by the auditor, notwithstanding that he is not a party to the application.

(9) Any provision in this section which requires notice to be given to the members of a society or confers any right upon a member (as the case may be) shall be construed in the case of a meeting of delegates appointed by members as requiring the notice to be given to the delegates so appointed or conferring the right upon a delegate (as the case may be).

#### [<sup>F16</sup>41 Meaning of qualified auditor

In this Act qualified auditor means a person eligible for appointment as a statutory auditor under Part 42 of the Companies Act 2006]

<p><b>F16</b> S. 41 substituted (23.4.2016) by <a href="#">Credit Unions and Co-operative and Community Benefit Societies Act (Northern Ireland) 2016 (c. 16)</a>, s. 17(1), <a href="#">Sch. 1 para. 51</a></p>
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#### 42 Restrictions on appointment of auditors.

- (1) None of the following persons shall be appointed as auditor of a registered society—
- (a) an officer or servant of the society; or
  - (b) a person who is a partner of or in the employment of, or who employs, an officer or servant of the society; or

*Para. (c) rep. by SR 1993/67*

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- (d) a person whose appointment as auditor of any other registered society—
- (i) which is a subsidiary of that society, or
  - (ii) of which that society is a subsidiary, or
  - (iii) which is a subsidiary of the society of which that society is a subsidiary,
- is prohibited by virtue of paragraph (a) or (b); or
- [<sup>F17</sup>(e) a person who is [<sup>F18</sup>prohibited by section 1214 of the Companies Act 2006 (independence requirement) from acting as statutory auditor] of a company which is a subsidiary of that society.]
- (2) Any appointment made by a society in contravention of subsection (1) shall not be an effective appointment for the purposes of this Act.
- Subs. (3) rep. by SR 1993/67*
- (4) In this section “company” has the same meaning as in section 47 and references to an officer or servant shall be construed as not including an auditor.

**F17** SR 1993/67

**F18** Words in s. 42(1)(e) substituted (6.4.2008) by [Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), arts. 2(2), 3(1), [Sch. 1 para. 6](#) (with arts. 6, 11, 12)

#### **43 Auditors' report and right of access to books and to attend and be heard at meetings.**

- (1) The auditors of a registered society shall make a report to the society on the accounts examined by them, and on the revenue account or accounts and the balance sheet of the society for the year of account in respect of which they are appointed.
- (2) The report shall state whether the revenue account or accounts and the balance sheet for that year comply with the requirements of this Act and whether, in the opinion of the auditors—
  - (a) the revenue account or accounts give a true and fair view in accordance with section 37 of the income and expenditure of the society as a whole for that year of account and, in the case of each such account which deals with a particular business conducted by the society, a true and fair view in accordance with that section of the income and expenditure of the society in respect of that business for that year, and
  - (b) the balance sheet gives a true and fair view in accordance with that section of the state of the affairs of the society as at the end of that year of account.
- (3) Without prejudice to the provisions of subsection (2), where the report of the auditors relates to any accounts other than the revenue account or accounts for the year of account in respect of which they are appointed that report shall state whether those accounts give a true and fair view of any matter to which they relate.
- (4) It shall be the duty of the auditors of a registered society, in preparing their report under this section, to carry out such investigations as will enable them to form an opinion as to the following matters, that is to say—
  - (a) whether the society has kept proper books of account in accordance with the requirements of section 35(1)(a);

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- (b) whether the society has maintained a satisfactory system of control over its transactions in accordance with the requirements of section 35(1)(b); and
- (c) whether the revenue account or accounts, the other accounts, if any, to which the report relates, and the balance sheet are in agreement with the books of account of the society;

and if the auditors are of opinion that the society has failed to comply with section 35(1)(a) or (b), or if the revenue account or accounts, the other accounts, if any, and the balance sheet are not in agreement with the books of account of the society, the auditors shall state that fact in their report.

- (5) Every auditor of a society—
  - (a) shall have a right of access at all times to the books, deeds and accounts of the society, and to all other documents relating to its affairs, and
  - (b) shall be entitled to require from the officers of the society such information and explanations as he thinks necessary for the performance of the duties of the auditors.
- (6) If the auditors fail to obtain all the information and explanations which, to the best of their knowledge and belief, are necessary for the purposes of their audit, they shall state that fact in their report.
- (7) The auditors of a society shall be entitled—
  - (a) to attend any general meeting of the society, and to receive all notices of and other communications relating to any general meeting which any member of the society is entitled to receive, and
  - (b) to be heard at any meeting which they attend on any part of the business of the meeting which concerns them as auditors.

<sup>F19</sup>(8) .....

<p><b>F19</b> S. 43(8) omitted (23.4.2016) by virtue of <a href="#">Credit Unions and Co-operative and Community Benefit Societies Act (Northern Ireland) 2016 (c. 16)</a>, s. 17(1), <a href="#">Sch. 1 para. 52</a></p>
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<sup>F20</sup>**43A Duty to obtain accountant's reports where section 38 applied.**

- (1) Subsection (2) applies where—
  - (a) at the end of a registered society's year of account a disapplication under section 38A(1) is in force in relation to the year, and
  - (b) the society's turnover in the preceding year of account exceeded £90,000.
- (2) The society shall, before the end of the period of twenty-eight days beginning immediately after the end of the year of account, appoint an appropriate person to make—
  - (a) a report on the society's accounts and balance sheet for the year which meets the requirements of subsection (3), and
  - (b) a report relating to the preceding year of account which meets the requirement of subsection (4).
- (3) A report for the purposes of subsection (2)(a) shall—
  - (a) state whether, in the opinion of the person making the report, the revenue account or accounts, the other accounts (if any) to which the report relates,

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and the balance sheet are in agreement with the books of account kept by the society under section 35, and

- (b) state whether, in that person's opinion, on the basis of the information contained in those books of account, the revenue account or accounts and the balance sheet comply with the requirements of this Act.
- (4) A report for the purposes of subsection (2)(b) shall state whether in the opinion of the person making the report the financial criteria for the exercise of the power conferred by section 38A(1) were met in relation to the year.
- (5) In subsection (2) the reference to an appropriate person is to a person who is—
- (a) a qualified auditor for the purposes of this Act,
  - (b) not ineligible by virtue of section 42(1) to be appointed as auditor of the society.
- (6) In this section, “turnover” has the same meaning as in section 38A.]

F20 1997 NI 22

#### **43B Rights of person appointed under section 43A(2).**

- (1) A person appointed under section 43A(2) shall, for the purposes of his appointment—
- (a) have a right of access at all times to the books, deeds and accounts of the relevant society, and to all other documents relating to its affairs, and
  - (b) be entitled to require from the officers of the relevant society such information and explanations as he thinks necessary.
- (2) If a person appointed under section 43A(2) fails to obtain all the information and explanations which, to the best of that person's knowledge and belief, are necessary for the purposes of doing what he has been appointed to do, that fact shall be stated in his report.
- (3) A person appointed under section 43A(2) shall be entitled—
- (a) to receive notice of, and attend, any general meeting of the relevant society at which any relevant matter is discussed, and
  - (b) to be heard at any such general meeting which he attends on any part of the business of the meeting which relates to any relevant matter.
- (4) For the purposes of subsection (3), the following are relevant matters, namely—
- (a) any report of the person appointed under subsection (2) of section 43A, and
  - (b) any matter which is relevant to what that person has been appointed under that subsection to do.
- (5) In this section, references to the relevant society, in relation to a person appointed under section 43A(2) are to the registered society responsible for his appointment under that provision.

#### **43C Registrar's power to require accounts for past years to be audited.**

- (1) The registrar may give a direction to a registered society in respect of any relevant year of account of the society preceding that in which the direction is given—

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- (a) requiring it to appoint a qualified auditor or qualified auditors to audit its accounts and balance sheet for that year, and
  - (b) where it has sent to [<sup>F21</sup>the registrar] its annual return for that year before the date of the direction, requiring it after its accounts and balance sheet have been audited by a qualified auditor or qualified auditors to send to [<sup>F21</sup>the registrar] within three months from receipt of the direction a further annual return complying with the requirements of this Act (other than that as to time of sending).
- (2) For the purposes of this section, a year of account of a registered society is a relevant year of account if it is one at the end of which there is in force in relation to it a disapplication under section 38A(1).

**F21** Words in s. 43C(1)(b) substituted (6.4.2018 immediately after 2016 c. 16 (N.I.), s. 8(2) comes into force) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2018 \(S.I. 2018/323\)](#), art. 1, [Sch. 2 para. 11](#) (with art. 3)

#### 44 Remuneration of qualified auditors.

- (1) The [<sup>F22</sup>Department may] prescribe the maximum rates of remuneration to be paid by all registered societies or such registered societies as may be specified for the audit of their accounts and balance sheets by qualified auditors [<sup>F23</sup> or for the making of a report for the purposes of section 37A(4)(a) or (5) or 43A(2)(a) or (b)].
- (2) [<sup>F23</sup>where a maximum rate of remuneration has been prescribed under subsection (1), no auditor or reporting accountant] shall, in respect of his services to that society, ask for, receive or be entitled to receive remuneration in excess of the rate so prescribed.
- [<sup>F23</sup>(3) In this section, “reporting accountant” means a person appointed to make a report for the purposes of section 37A(4)(a) or (5) or 43A(2)(a) or (b).]

**F22** Words in s. 44(1) substituted (6.4.2018 immediately after 2016 c. 16 (N.I.), s. 8(2) comes into force) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2018 \(S.I. 2018/323\)](#), art. 1, [Sch. 2 para. 12](#) (with art. 3)

**F23** 1997 NI 22

#### 45 Group accounts.

- (1) Subject to the provisions of section 46, where at the end of a year of account of a registered society <sup>F24</sup>... the society has subsidiaries, it shall cause to be prepared accounts for that year (in this Act referred to as “group accounts” ) dealing as mentioned in the following provisions of this section with the state of affairs and income and expenditure of the society and its subsidiaries.
- (2) The group accounts of a registered society shall give a true and fair view of the state of affairs and income and expenditure of the society and the subsidiaries dealt with thereby as a whole, so far as concerns members of the society.
- (3) Without prejudice to the provisions of subsection (2), the group accounts shall comprise such accounts and contain such particulars as the [<sup>F25</sup>Department may] prescribe.

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- (4) Where the year of account of a subsidiary does not coincide with that of the society of which it is a subsidiary, the group accounts shall, unless the registrar on the application or with the consent of the committee of the society otherwise directs, deal with the subsidiary's state of affairs as at the end of its year of account ending with or last before that of the society, and with the subsidiary's income and expenditure for that year of account.
- (5) A registered society which has caused group accounts to be prepared in accordance with subsection (1) shall submit those accounts for audit to the auditors appointed to audit the accounts and balance sheet of the society for that year of account; and those auditors shall make a report to the society on the group accounts, stating whether those accounts have been properly prepared in accordance with the requirements of this Act and regulations made thereunder and whether in their opinion they give a true and fair view of the state of affairs and income and expenditure of the society and its subsidiaries in accordance with subsection (2).
- (6) A registered society shall send its group accounts and a copy of the report of the auditors under subsection (5) to the registrar together with its annual return for the year of account to which those group accounts relate.
- (7) The latest group accounts of a registered society shall be supplied free of charge, together with the latest annual return of the society, to every member or person interested in the funds of the society who applies under section 48(6) for a copy of the latest annual return.

**F24** Words in s. 45(1) omitted (23.4.2016) by virtue of [Credit Unions and Co-operative and Community Benefit Societies Act \(Northern Ireland\) 2016 \(c. 16\)](#), s. 17(1), [Sch. 1 para. 53](#)

**F25** Words in s. 45(3) substituted (6.4.2018 immediately after 2016 c. 16 (N.I.), s. 8(2) comes into force) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2018 \(S.I. 2018/323\)](#), art. 1, [Sch. 2 para. 13](#) (with art. 3)

#### **46 Exemption from requirements in respect of group accounts.**

- (1) Section 45 shall not require group accounts to be prepared by a registered society where that society is at the end of its year of account the wholly owned subsidiary of another body corporate incorporated in Northern Ireland.
- (2) The group accounts of a registered society prepared under that section need not deal with a subsidiary of the society if in the opinion of the committee of the society, approved by the registrar—
  - (a) it is impracticable, or would be of no real value to members of the society, in view of the insignificant amounts involved, or would involve expense or delay out of proportion to the value to members of the society; or
  - (b) the result would be misleading, or harmful to the business of the society or any of its subsidiaries; or
  - (c) the business of the society and that of the subsidiary are so different that they cannot reasonably be treated as a single undertaking.
- (3) If in respect of each subsidiary of a registered society the committee of the society is of any such opinion as is mentioned in subsection (2) and that opinion is approved by the registrar, then that society shall not be required to cause group accounts to be prepared under section 45.

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- [<sup>F26</sup>(3A) In relation to any year of account of a registered society, a subsidiary of the society shall be disregarded for the purposes of section 45 if—
- (a) the society's previous year of account was one in relation to which the subsidiary was not required to be dealt with in group accounts of the society for that year,
  - (b) the reason for that was subsection (2) or (3) or this subsection, and
  - (c) the auditors of the society include in the appropriate report a certificate to the effect that they agree with the committee of the society that—
    - (i) the reason given by the committee in their last opinion in respect of the subsidiary to have been approved by the registrar under subsection (2) or (3), and
    - (ii) the grounds so given by them for that reason, continued to apply throughout the year of account.
- (3B) For the purposes of subsection (3A)(c), the appropriate report is—
- (a) where the year of account is one in relation to which the registered society is subject to the obligation under subsection (1) of section 45, the report required to be made under subsection (5) of that section by the society's auditors, and
  - (b) where it is not, the report required to be made by them under section 43(1).
- (3C) A certificate shall be disregarded for the purposes of subsection (3A)(c) if contained in a report made after the date which, in relation to the year to which the certificate relates, is the last date for making the annual return.]
- (4) For the purposes of this section a registered society shall be deemed to be the wholly owned subsidiary of another body corporate if it has no members except that other body corporate and the wholly owned subsidiaries of that body and its or their nominees.

F26 1997 NI 22
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#### 47 Meaning of “subsidiary” .

- (1) For the purposes of this Act, a company shall, subject to the provisions of subsection (4), be deemed to be a subsidiary of a registered society if, but only if, that society either—
  - (a) is a member of the company and controls the composition of its board of directors; or
  - (b) holds at least half in nominal value of the company's equity share capital.
- (2) For the purposes of subsection (1)(a), the composition of a company's board of directors shall be deemed to be controlled by a registered society if, but only if, that society by the exercise of some power exercisable by it without the consent or concurrence of any other person can appoint or remove the holders of all or a majority of the directorships.
- (3) A society shall be deemed for the purposes of subsection (2) to have power to appoint to a directorship if either—
  - (a) a person cannot be appointed thereto without the exercise in his favour by that society of such a power as is mentioned in that subsection; or



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- (b) a person's appointment thereto follows necessarily from his appointment as a member of the committee of that society; or
  - (c) the directorship is held by that society itself.
- (4) In determining whether a company is a subsidiary of a registered society—
  - (a) any shares held or power exercisable by that society in a fiduciary capacity shall be treated as not held or exercisable by it;
  - (b) subject to paragraphs (c) and (d), any shares held or power exercisable by any person as a nominee for that society (except where that society is concerned only in a fiduciary capacity) shall be treated as held or exercisable by that society;
  - (c) any shares held or power exercisable by any person by virtue of the provisions of any debentures of the company or of a trust deed for securing any issue of such debentures shall be disregarded; and
  - (d) any shares held or power exercisable by, or by a nominee for, that society (not being held or exercisable as mentioned in paragraph (c)) shall be treated as not held or exercisable by that society if the ordinary business of that society includes the lending of money and the shares are held or power is exercisable as mentioned above by way of security only for the purposes of a transaction entered into in the ordinary course of that business.
- (5) For the purposes of this Act, a registered society shall be deemed to be a subsidiary of another such society if, but only if, that other society either—
  - (a) is a member of the first mentioned society and controls the composition of its committee; or
  - (b) can exercise at least half of the votes to which members of the first-mentioned society are entitled under its rules.
- (6) For the purposes of subsection (5)(a), the composition of a society's committee shall be deemed to be controlled by another society if, but only if, either—
  - (a) that other society by the exercise of some power exercisable by it without the consent or concurrence of any other person can appoint and remove the members or a majority of the members of that committee; or
  - (b) that other society is itself a member of that committee and by the exercise of such a power as is mentioned in paragraph (a) can either appoint and remove the remaining members of that committee or appoint and remove such number of members of that committee as, together with itself, would constitute a majority of the members of that committee.
- (7) A society shall be deemed for the purposes of subsection (6) to have power to appoint a person to membership of the committee of another society if either—
  - (a) he cannot be appointed without the exercise in his favour by the first-mentioned society of such a power as is mentioned in paragraph (a) of that subsection; or
  - (b) his appointment follows necessarily from his appointment as a member of the committee of the first-mentioned society.
- (8) Subsection (4) shall apply with the necessary modifications in determining whether a registered society is a subsidiary of another such society as it applies in determining whether a company is a subsidiary of such a society.
- (9) In this section “company” includes any body corporate other than a registered society, and “equity share capital” means, in relation to a company, its issued share capital

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excluding any part thereof which, neither as respects dividends nor as respects capital, carries any right to participate beyond a specified amount in a distribution.

#### 48 Annual returns.

[<sup>F27</sup>(1) A registered society must, within the period of 7 months beginning immediately after the end of a year of account, send to the registrar—

- (a) a return relating to its affairs for that year (the society's “annual return” for that year),
- (b) a copy of each balance sheet made during that year, and
- (c) a copy of any relevant auditor's report for that year.

(1A) “Relevant auditor's report” means—

- (a) if section 38 (duty to appoint auditors) applies for that year, the auditor's report on the society's accounts for that year and any auditor's report on a balance sheet made during that year;
- (b) otherwise, any report for that year required by section 43A.]

(2) The said return shall—

- (a) contain the revenue account or accounts of the society prepared in accordance with section 37(2) in respect of the year of account to which the return relates, and a balance sheet as at the end of that year, and
- (b) not contain any accounts other than the revenue account or accounts for that year unless those other accounts have been examined by the auditors of the society under section 43[<sup>F28</sup> or been the subject of a report for the purposes of section 43A(2)(a)], <sup>F29</sup> ...

<sup>F30</sup>(c) .....

<sup>F31</sup>(3) .....

<sup>F31</sup>(4) .....

<sup>F31</sup>(5) .....

(6) Every registered society shall supply free of charge to every member or person interested in the funds of the society who applies for it a copy of the latest return of the society under this section and shall so supply with every such copy a copy of the report of the auditors on the accounts and balance sheet contained in the return.

[<sup>F28</sup>(6A) Where the year of account to which an annual return relates is one at the end of which there is in force in relation to the year a disapplication under section 38A(1), subsection (6) shall have effect as if for the reference to the report of the auditors on the accounts and balance sheet contained in the return there were substituted a reference to any report which the society is required, because of the disapplication, to obtain under section 43A(2)(a).]

<sup>F32</sup>(7) .....

**F27** S. 48(1)(1A) substituted (23.4.2016) for s. 48(1)-(1B) by [Credit Unions and Co-operative and Community Benefit Societies Act \(Northern Ireland\) 2016 \(c. 16\)](#), s. 17(1), [Sch. 1 para. 38\(2\)](#)

**F28** 1997 NI 22

**F29** Word in s. 48(2)(b) omitted (23.4.2016) by virtue of [Credit Unions and Co-operative and Community Benefit Societies Act \(Northern Ireland\) 2016 \(c. 16\)](#), s. 17(1), [Sch. 1 para. 38\(3\)\(a\)](#)

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- F30** S. 48(2)(c) omitted (23.4.2016) by virtue of Credit Unions and Co-operative and Community Benefit Societies Act (Northern Ireland) 2016 (c. 16), s. 17(1), **Sch. 1 para. 38(3)(b)**
- F31** S. 48(3)-(5) omitted (23.4.2016) by virtue of Credit Unions and Co-operative and Community Benefit Societies Act (Northern Ireland) 2016 (c. 16), s. 17(1), **Sch. 1 para. 38(4)**
- F32** S. 48(7) omitted (23.4.2016) by virtue of Credit Unions and Co-operative and Community Benefit Societies Act (Northern Ireland) 2016 (c. 16), s. 17(1), **Sch. 1 para. 54**

#### **49 Display of latest balance sheet.**

Every registered society shall keep a copy of the latest balance sheet of the society<sup>F33</sup> . . . hung up at all times in a conspicuous position at the registered office of the society.

**F33** 1997 NI 22

**Changes to legislation:**

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