

SCHEDULES

SCHEDULE 2

Article 4.

AMENDMENT OF THE INDUSTRIAL AND PROVIDENT SOCIETIES ACT (NORTHERN IRELAND) 1969

1. In section 2 (registration of society)—
 - (a) in subsections (1)(a) (minimum number of members for registration) and (1)(b) (minimum number of members to sign application for registration) for “seven” there shall be substituted “three”;
 - (b) for subsection (2) (which requires an application for registration of a society of registered societies to be signed by two members of the committee and the secretary of each of the constituent societies, or, where there are more than three such societies, of any three of them, and to be accompanied by certain copy documents) there shall be substituted—

“(2) A society whose members consist solely of two or more registered societies may be registered under this Act if the application for registration is signed by the secretary of each (or, if more than two, of each of any two) of the constituent societies and is accompanied by two printed copies of the rules of the society sought to be registered.”.
2. In section 9(1)(a) (which requires an amendment of the rules of a society consisting of registered societies to be signed by, inter alios, two members of the committee and the secretary of each of the constituent societies, or, where there are more than three such societies, of any three of them)—
 - (a) the words “two members of the committee and” shall cease to have effect, and
 - (b) for “(or, if more than three, of each of any three)” there shall be substituted “(or, if more than two, of each of any two)”.
3. In section 15(1)(a)(i) (cancellation of registration of a society when the number of members falls below the specified minimum) for “seven” there shall be substituted “three”.
- 4.—(1) In section 29 (charges on assets of registered societies)—
 - (a) in subsection (2) (application for recording of charge) for “fourteen days” there shall be substituted “twenty-one days”;
 - (b) in subsection (5) (late registration)—
 - (i) for “High Court” there shall be substituted “registrar”,
 - (ii) in paragraph (a) for “fourteen days” there shall be substituted “twenty-one days”, and
 - (iii) for “Court may, on such terms as it thinks fit, order” there shall be substituted “registrar may, on such terms as he thinks fit, direct”.

(2) This paragraph shall apply to instruments executed on or after the day on which this Order comes into operation.
- 5.—(1) In section 37 (general provisions as to accounts and balance sheets of registered societies) subsection (5) (which restricts the circumstances in which a society can publish a revenue account or balance sheet) shall cease to have effect.

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(2) After that section there shall be inserted—

“Publication of accounts and balance sheets registered societies.

37A.—(1) A registered society shall not publish any revenue account or balance sheet unless it has been signed by of 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.

(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.

(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,
- (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—

“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.”.

6.—(1) In section 38 (obligation to appoint auditors) in subsection (1) (obligation to appoint qualified auditor in each year of account) after “Subject to the following provisions of this section” there shall be inserted “and section 38A(1)”.

(2) After that section there shall be inserted—

“Power of registered societies to disapply section 38.

38A.—(1) Subject to subsections (3) and (4), a registered society may disapply section 38 in relation to any year of account beginning on or after the day on which the Deregulation (Northern Ireland) Order 1997 comes into operation 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—

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- (a) is registered in the register of housing associations maintained by the Department of the Environment,
- (b) is, or has, a subsidiary,
- (c) prepares accounts under the Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations (Northern Ireland) 1994, or
- (d) holds, or has, at any time since the end of the preceding year of account, held, a deposit within the meaning of the Banking Act 1987, other than a deposit in form of withdrawable share capital.

(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.”.

7. In section 39(1) for paragraph (a) (resolutions of a society which displace automatic re-appointment of qualified auditor) there shall be substituted—

- “(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”.

8. After section 43 there shall be inserted—

“Duty to obtain accountant’s reports where section 38 applied.

43A.—(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—

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- (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, 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) 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.

Rights of person appointed under

43B.—(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.

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Registrar’s power to require accounts for past years to be audited.

43C.—(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—

- (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 him 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 him 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).”.

9. In section 44 (remuneration of qualified auditors)—

- (a) at the end of subsection (1) (power of registrar to prescribe maximum rates of remuneration for qualified auditors) there shall be added “or for the making of a report for the purposes of section 37A(4)(a) or (5) or 43A(2)(a) or (b).”;
- (b) in subsection (2) (auditor not to receive remuneration in excess of the prescribed rate), for the words from the beginning to “auditor” there shall be substituted “where a maximum rate of remuneration has been prescribed under subsection (1), no auditor or reporting accountant”;
- (c) after subsection (2) there shall be added—

“(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).”.

10. After section 46(3) (exemption from requirements in respect of group accounts) there shall be inserted—

“(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).

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(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.”.

11. In section 48 (annual returns)—

- (a) for subsection (1) (duty to send annual return together with certain documents) there shall be substituted—

“(1) Every registered society shall, within the period of seven months beginning immediately after the end of the period required by this section to be included in the return, send to the registrar a return relating to its affairs for that period together with—

- (a) where the period required to be included in the return is one at the end of which there is in force in relation to the period a disapplication under section 38A(1), the documents mentioned in subsection (1 A), and
(b) where it is not, the documents mentioned in subsection (1B).

(1A) The documents referred to in subsection (1)(a) are—

- (a) copies of the reports, if any, which the society is required, because of the disapplication, to obtain under section 43A; and
(b) a copy of each balance sheet made during the period included in the return.

(1B) The documents referred to in subsection (1)(b) are—

- (a) a copy of the report of the auditor or auditors on the society’s accounts for the period included in the return; and
(b) a copy of each balance sheet made during that period and of any report of the auditor or auditors on that balance sheet.”;

- (b) in subsection (2)(b) (non-revenue accounts only to be included in annual return if examined by auditors) after “section 43” there shall be inserted “or been the subject of a report for the purposes of section 43A(2)(a)”;

- (c) in subsection (4) (under which returns made up to a date later than the usual date must be sent to the registrar within three months) the words from “and in that case” to the end shall cease to have effect;

- (d) after subsection (6) there shall be inserted—

“(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).”.

12. In section 49 (display of latest balance sheet) the words “, together with the report thereon of the auditor or auditors,” shall cease to have effect.

13. In section 62(2) (conversion of company into registered society) for “seven” there shall be substituted “three”.