

INDUSTRIAL AND PROVIDENT SOCIETIES (NORTHERN IRELAND) ORDER 2006

S.I. 2006 No. 314 (N.I. 3)

EXPLANATORY MEMORANDUM

INTRODUCTION

1. The above Order is being made under the Northern Ireland Act 2000 and is subject to affirmative resolution
2. This Explanatory Memorandum has been prepared by the Department of Enterprise, Trade and Investment (“the Department”) in order to assist the reader in understanding the Order. It does not form part of the Order.

BACKGROUND AND POLICY OBJECTIVES

3. The Order is intended to bring the legislation governing Industrial and Provident Societies in Northern Ireland into line with the equivalent legislation in Great Britain – in particular, the Co-Operative and Community Benefit Societies Act 2003.
4. The Industrial and Provident Societies (Northern Ireland) Order will form part of the Department’s strategy to help Industrial and Provident Societies (I&P Societies) in Northern Ireland to reach their full potential, by removing legal, regulatory and policy barriers that may act as obstacles to their growth and development. The aim is to create a supportive and enabling framework, ensuring that the needs of I&P Societies’ members are met, at the same time protecting their interests. By modernising key policy areas, the Department intends to create a regulatory environment which will encourage I&P Societies to maximise their contribution to social and economic development in Northern Ireland.
5. The main purpose of the Order is to achieve the above mentioned objectives by creating parity between I&P Societies legislation in Northern Ireland and Great Britain. I&P Societies in GB are regulated by comparatively recent legislation, most notably the Co-Operative and Community Benefit Societies Act 2003. In order to avoid I&P Societies in Northern Ireland being left behind GB, this draft Order applies many of the provisions of the recent GB legislation to NI legislation, amending the appropriate sections of the Industrial and Provident Societies Act (Northern Ireland) 1969 and inserting new provisions where necessary.

CONSULTATION

6. A consultation paper was issued in May 2004, with subsequent focus groups being held during June and July 2004. Consultees included all of the major I&P Societies in Northern Ireland, as well as leaders of various I&P representative bodies. Other government departments in Northern Ireland were also consulted, as were the Financial Services Authority and HM Treasury. A further consultation paper, including the draft Order in Council, was issued in May 2005. No issues were identified by these consultations.

OPTIONS CONSIDERED

- Options were considered in relation to each proposal: registration of Societies; share capital; protection of societies; protection of third parties; accounting and audit matters, and insolvency arrangements. In each case, options included maintaining the current position and introducing provisions to bring the regulation of Industrial and Provident Societies in Northern Ireland into line with the parallel regulatory regime in Great Britain. The provisions detailed below, under ‘Main Elements of the Order’, represent the Department’s preferred options.

FINANCIAL EFFECTS OF THE ORDER

- The Department has considered the potential financial effects of the Order, and has concluded that there will be no financial effects on the I&P sector as a result of the proposals contained therein.

HUMAN RIGHTS ISSUES

- The provisions of the Order are compatible with the Convention on Human Rights.

EQUALITY IMPACT ASSESSMENT

- A screening exercise has been carried out by the Department into the Equality impact of the proposed Order. This exercise has concluded that a full Equality Impact Assessment is unnecessary.

SUMMARY OF THE REGULATORY APPRAISAL

- A screening exercise has been carried out by the Department into the regulatory impact of the proposed Order. This exercise has concluded that a full Regulatory Impact Assessment is unnecessary.

MAIN ELEMENTS OF THE ORDER

- The Order consists of 11 Articles and 1 Schedule. Articles 1 and 2 are introductory. Articles 3 to 7 make amendments to The Industrial and Provident Societies Act (Northern Ireland) 1969 (the “principal Act”). Articles 8 to 10 make various provisions relating to areas of I&P regulation under the Co-Operatives and Community Benefit Societies Act 2003 which the Department wishes to apply to regulation of I&P Societies in Northern Ireland. Article 11 makes the necessary repeals to give effect to the provisions contained in Articles 3 to 10.

COMMENTARY ON ARTICLES

- A summary of each article follows:
Article 3 places requirements on bodies wishing to register as Community Benefit Societies.
Article 4 defines the capacity of an I&P Society and the power of its committee to bind it.
Article 5 deals with the status of purported deeds, contracts and obligations entered into by I&P Societies.
Article 6 further clarifies the procedures for execution of deeds and other documents.
Article 7 makes provision for conversion into, or transfer of engagements to, a limited company by an I&P Society.
Article 8 applies the Company Directors Disqualification (Northern Ireland) Order 2002 to societies registered under the principal Act.
Article 9 enables the Department to restrict a society from using its assets for purpose other than that which is of benefit to the community, or other uses as may be considered appropriate under the rules and ethos of that particular society.

This Explanatory Memorandum refers to the Industrial and Provident Societies (Northern Ireland) Order 2006No. 314 (N.I. 3)

Article 10 enables the Department to make changes to I&P law to bring it into line with the relevant sections of company law, as and when this becomes necessary for the good governance of I&P societies. This article also sets out in detail the areas of I&P law, as contained in the principal Act, which are to be exempted from this measure.

Article 11 repeals the statutory provisions listed in the Schedule.

Article 11 – Repeals

Article 11 repeals the sections of the principal Act as listed in the schedule.

The Schedule repeals:

1. The Industrial and Provident Societies (Northern Ireland) Act 1969 (c.24) - in section 3 the words “with a common seal and with”; in section 5(6) the words “engraven with legible characters on its seal and”; section 5(7)(a) in its entirety.
2. The Companies Consolidation (Consequential Provisions) (Northern Ireland) Order 1986 (NI 9)-
In Part I of Schedule 1, the entry relating to section 1(2) of the Industrial and Provident Societies Act (Northern Ireland) 1969 (c. 24).

COMMENCEMENT

Articles 1 and 2 of the Order shall come into operation on the 14th day of March 2006.

The remaining provisions of the Order shall come into operation on such day or days as the Department may by Order appoint.