

SCHEDULE 1

Regulation 2

Restriction on Use

The rule included in a prescribed community benefit society's rules must be in the following terms—

“Restriction on use

Pursuant to regulations made under section 1 of the Co-operatives and Community Benefit Societies Act 2003:

- (1) All of the society's assets are subject to a restriction on their use.
- (2) The society must not use or deal with its assets except—
 - (a) where the use or dealing is, directly or indirectly, for a purpose that is for the benefit of the community;
 - (b) to pay a member of the society the value of his withdrawable share capital or interest on such capital;
 - (c) to make a payment pursuant to section 24 (proceedings on death of nominator), 25 (provision for intestacy) or 26 (payments in respect of mentally incapable persons) of the Industrial and Provident Societies Act 1965;
 - (d) to make a payment in accordance with the rules of the society to trustees of the property of bankrupt members or, in Scotland, members whose estate has been sequestrated;
 - (e) where the society is to be dissolved or wound up, to pay its creditors; or
 - (f) to transfer its assets to one or more of the following—
 - (i) a prescribed community benefit society whose assets have been made subject to a restriction on use and which will apply that restriction to any assets so transferred;
 - (ii) a community interest company;
 - (iii) a registered social landlord which has a restriction on the use of its assets which is equivalent to a restriction on use and which will apply that restriction to any assets so transferred;
 - (iv) a charity (including a community benefit society that is a charity); or
 - (v) a body, established in Northern Ireland or a State other than the United Kingdom, that is equivalent to any of those persons.
- (3) Any expression used in this rule which is defined for the purposes of regulations made under section 1 of the 2003 Act shall have the meaning given by those regulations.”

SCHEDULE 2

Regulation 17

Application of the 1965 Act with Modifications

1.—(1) Subsection (3) of section 2(1) (registration of society) shall, for the purpose of the registration of a prescribed community benefit society that has included in its rules a restriction on use, have effect as if, after “thereunder”, there were inserted “and the provisions of the Community Benefit Societies (Restriction on Use of Assets) Regulations 2006”.

(1) Section 2(3) was amended by [S.I.2001/2617](#) and [S.I.2001/3649](#).

(2) Subsection (3) of section 10(2) (amendment of registered rules) shall, for the purpose of an amendment made to the rules of a prescribed community benefit society in accordance with regulation 4(2), have effect as if, after “this Act”, there were inserted “or the provisions of the Community Benefit Societies (Restriction on Use of Assets) Regulations 2006”.

2. Section 16(3) (cancellation of registration of society) shall apply to a prescribed community benefit society that has a restriction on use as if—

(a) at the end of subsection (1)(c), there were inserted—

“; or

(iv) on proof to the Authority’s satisfaction that the society has contravened regulation 3 of the Community Benefit Societies (Restriction on Use of Assets) Regulations 2006”; and

(b) in subsection (4), after “subsection (1)(c)(ii)” there were inserted “or (iv)”.

3. Section 48(4) (production of documents and provision of information for certain purposes) shall apply to a prescribed community benefit society that has a restriction on use and to an officer or former officer of such a society as if, in subsection (1)—

(a) after “section 16(1)(c)(ii)” there were inserted “or (iv)”; and

(b) after “of this Act” there were inserted “, or regulation 9, 10 or 11 of the Community Benefit Societies (Restriction on Use of Assets) Regulations 2006 or for the purposes of gathering evidence to enable the court to exercise its powers under regulation 15 of those Regulations”.

4. Section 50(5) (amalgamation of societies) shall apply to a prescribed community benefit society that has a restriction on use as if—

(a) at the beginning of subsection (1), for the word “Any” there were substituted “Subject to subsection (1A), any”; and

(b) after subsection (1), there were inserted—

“(1A) A registered society that—

(a) is a prescribed community benefit society; and

(b) has a restriction on use,

may only amalgamate with another registered society that is a prescribed community benefit society and has a restriction on use and, for this purpose, “prescribed community benefit society” and “restriction on use” have the same meaning as in the Community Benefit Societies (Restriction on Use of Assets) Regulations 2006.”.

5. Section 51 (transfer of engagements between societies) shall apply to a prescribed community benefit society that has a restriction on use as if—

(a) at the beginning of subsection (1), for the word “Any” there were substituted “Subject to subsection (1A), any”;

(b) after subsection (1), there were inserted—

“(1A) A registered society that—

(a) is a prescribed community benefit society; and

(b) has a restriction on use,

(2) Section 10(3) was amended by [S.I.2001/2617](#) and [S.I.2001/3649](#).

(3) Section 16 was amended by [S.I.2001/2617](#); there is another amending instrument which is not relevant.

(4) Section 48(1) was amended by [S.I.2001/2617](#).

(5) Section 50 was amended by [S.I.2001/2617](#).

may only transfer its engagements in accordance with subsection (1) where the effect of that transfer would be that the whole or any part of the society's assets would be transferred to another registered society that is a prescribed community benefit society and has a restriction on use and, for this purpose, "prescribed community benefit society" and "restriction on use" have the same meaning as in the Community Benefit Societies (Restriction on Use of Assets) Regulations 2006."

6. Section 52 (conversion into, amalgamation with, or transfer of engagements to company) shall apply to a prescribed community benefit society that has a restriction on use as if, in subsection (1), for " , a company under the Companies Acts" there were substituted—

“—

- (a) a community interest company (within the meaning of section 26 of the Companies (Audit, Investigations and Community Enterprise) Act 2004⁽⁶⁾);
- (b) a company under the Companies Acts that is a registered social landlord (within the meaning of the Community Benefit Societies (Restriction on Use of Assets) Regulations 2006); or
- (c) a company under the Companies Acts that is a charity (within the meaning of those Regulations).”

7. Section 59 (restriction on dissolution or cancellation of registration of society) shall apply to a prescribed community benefit society that has a restriction on use as if, at the end, there were added “and that any such conveyance or transfer complied with the society's restriction on use”.

⁽⁶⁾ 2004 c.27.