
STATUTORY INSTRUMENTS

1996 No. 1738

The Deregulation (Industrial and Provident Societies) Order 1996

Power to opt out of duty to have accounts audited: industrial and provident societies

8.—(1) After section 4 of the 1968 Act there shall be inserted—

“Power of societies to disapply section 4.

4A.—(1) Subject to subsections (3) and (4) of this section, a society may disapply section 4 of this Act in relation to any year of account beginning on or after the day on which the Deregulation (Industrial and Provident Societies) Order 1996 comes into force 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) of this section 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) of this section shall not apply to a society which—

- (a) is a credit union within the meaning of the Credit Unions Act 1979,
- (b) is registered in the register of housing associations maintained by the Housing Corporation, Housing for Wales or Scottish Homes,
- (c) is, or has, a subsidiary,
- (d) prepares accounts under the Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 1993(1), or
- (e) 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(2), other than a deposit in form of withdrawable share capital.

(4) The registrar may by notice to a society disapply subsection (1) of this section in relation to the year of account of the society in which the notice is given.

(5) Where a society exercises the power conferred by subsection (1) of this section, 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) of this section applies, or
- (b) the registrar gives the society notice under subsection (4) of this section.

(1) S.I.1993/3245.
(2) 1987 c. 22.

(6) In the case of a society which is a charity within the meaning of the Charities Act 1993⁽³⁾, or a recognised body as defined by section 1(7) of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990⁽⁴⁾, subsection (1) of this section 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 society’s year of account, but not in fact a year, the maximum figure in subsection (1)(b) of this section (including that provision as it has effect by virtue of subsection (6) of this section) shall be proportionately adjusted.

(8) In this section, “turnover”, in relation to a 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.”

(2) After section 9 of that Act there shall be inserted—

“Duty to obtain accountant’s reports where section 4 applied.

9A.—(1) Subsection (2) of this section applies where—

- (a) at the end of a society’s year of account a disapplication under section 4A(1) of this Act 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 28 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) of this section, and
- (b) a report relating to the preceding year of account which meets the requirement of subsection (4) of this section.

(3) A report for the purposes of subsection (2)(a) of this section 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 1 of this Act, 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 and the appropriate registration Act.

(4) A report for the purposes of subsection (2)(b) of this section shall state whether in the opinion of the person making the report the financial criteria for the exercise of the power conferred by section 4A(1) of this Act were met in relation to the year.

(5) In subsection (2) of this section, the reference to an appropriate person is to a person who is—

- (a) a qualified auditor for the purposes of this Act, and
- (b) not ineligible by virtue of section 8(1) of this Act to be appointed as auditor of the society.

(6) In this section, “turnover” has the same meaning as in section 4A of this Act.

(3) 1993 c. 10.

(4) 1990 c. 40.

Rights of person appointed under section 9A(2).

9B.—(1) A person appointed under section 9A(2) of this Act 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 9A(2) of this Act 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 9A(2) of this Act 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) of this section, the following are relevant matters, namely—

- (a) any report of the person appointed under subsection (2) of section 9A of this Act, 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 9A(2) of this Act, are to the society responsible for his appointment under that provision.

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

9C.—(1) The registrar may give a direction to a 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 and section 39 of the Act of 1965 (other than that as to time of sending).

(2) For the purposes of this section, a year of account of a 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 4A(1) of this Act.”