
STATUTORY INSTRUMENTS

2020 No. 744

The Co-operative and Community Benefit Societies and Credit Unions (Arrangements, Reconstructions and Administration) (Amendment) and Consequential Amendments Order 2020

PART 3

Amendment of the Co-operative and Community Benefit Societies and Credit Unions (Arrangements, Reconstructions and Administration) Order 2014

Amendment of Schedule 1

11. In Schedule 1—

- (a) paragraph 1 becomes paragraph 1—(1);
- (b) after subparagraph (1) of paragraph (1) insert—
 - “(2) Unless the context otherwise requires and subject to any further modification in this Schedule, in Part A1 of the 1986 Act, subparagraph (1) of this paragraph applies as if “relevant CCBS” was substituted for “relevant society” in each place it appears.”;
- (c) after paragraph 1 insert—

“PART 1A

Modified application of Part A1 of the Insolvency Act 1986 to Co-operative and Community Benefit Societies (further modifications)

1A. Part A1 of the 1986 Act (moratorium) applies in relation to a relevant CCBS with the further modifications set out in this Part and with any other necessary modification.

1B. Section A5 (obtaining a moratorium for other overseas companies) is omitted.

1C. Section A20 (restrictions on insolvency proceedings etc) has effect as if after subsection (3) there were inserted—

“(4) In subsection (1)(h) “administrative receiver” in relation to a relevant CCBS means—

- (a) a receiver or manager of the whole “or substantially the whole” of the society’s property appointed by or on behalf of the holder of a floating charge, or
- (b) a person who would be such a receiver or manager but for the appointment of some other person as the receiver of part of the society’s property.”.

1D. Section A28 (restrictions on payment of certain pre-moratorium debts) has effect as if after subsection (1) there were inserted—

“(1A) During a moratorium, withdrawal of shares from the relevant CCBS is prohibited.”

1E. Section A35 (monitoring) has effect as if after subsection (2) there were inserted—

“(3) In carrying out its functions under this chapter the monitor must have regard to the rules of the relevant CCBS and the obligations of the relevant CCBS under the Co-operative and Community Benefit Societies Act 2014.”.

1F. Section A48 of the 1986 Act (prosecution of delinquent officers of company) has effect as if—

(a) in subsection (3), in the definition of “the appropriate authority”—

(i) at the end of paragraph (a) there were added “or the Financial Conduct Authority (“the FCA”)”;

(ii) at the end of each of paragraph (b) and paragraph (c)(i), (ii) and (iv) there were added “or the FCA”; and

(iii) in paragraph (c)(iii), after “Lord Advocate” there were inserted “or the FCA”;

(b) for subsection (4) there were substituted—

“(4) Subsection (4A) applies where a report is made to the Secretary of State or the FCA under subsection (2) in relation to a relevant CCBS whose registered office is situated in England and Wales.

(4A) The Secretary of State or the FCA may, for the purpose of investigating the matter reported and such other matters relating to the CCBS affairs as appear to require investigation, exercise the power to appoint inspectors which would be exercisable by the FCA under section 106 of the Co-operative and Community Benefit Societies Act 2014 upon an application made for that purpose under subsection (1) of that section.”;

(c) subsections (5) to (8) were omitted; and

(d) in subsection (10), for the definition of “prosecuting authority” there were substituted—

““prosecuting authority” means—

(a) in the case of a relevant CCBS whose registered office is situated in England and Wales, the Director of Public Prosecutions, the Secretary of State or the FCA; and

(b) in the case of a relevant society whose registered office is situated in Scotland, the Lord Advocate.”.

1G. Chapter 8 of Part A1 of the 1986 Act (miscellaneous and general) has effect as if before section A49 there were inserted—

“**A48A.** This Part has effect as if it required any proposal under it to be framed so as to enable a relevant CCBS to comply with the rules of the society and the provisions of the 2014 Act.”.

1H. Section A50 (power to modify this Part etc in relation to certain companies) is omitted.

1I. Section A54 has effect as if—

(a) in subsection (1), after the definition of “qualified person” there were inserted—

““CCBS” means a co-operative society or community benefit society that is registered under the 2014 Act but not a society that is—

- (a) a private registered provider of social housing;
 - (b) registered as a social landlord under Part 1 of the Housing Act 1996 or Part 2 of the Housing (Scotland) Act 2010; or
 - (c) a credit union within the meaning of section 31(1) of the Credit Unions Act 1979”;
- (b) after subsection (3) there were inserted—
- “(3A) In this Part a reference to a floating charge, in relation to a relevant society—
- (a) whose registered office is situated in England or Wales, is a reference to a floating charge which is either—
 - (i) a charge in respect of which an application has been made for the purposes of section 59 of the Co-operative and Community Benefit Societies Act 2014; or
 - (ii) created by a debenture registered under section 9 of the Agricultural Credits Act 1928 as applied by section 14 of that Act;
 - (b) whose registered office is situated in Scotland, is a reference to a floating charge which is either—
 - (i) a charge created by an instrument a copy of which has been delivered to the Financial Conduct Authority in pursuance of section 63 of the Co-operative Benefit Societies Act 2014; or
 - (ii) created and registered under Part 2 of the Agricultural Credits (Scotland) Act 1929.”.

1J. Section A55 is omitted.

1K. Schedule ZA1 has effect as if—

- (a) in paragraph 15—
 - (i) in subparagraph (2)(e) for “holding company” there were substituted “parent society”; and
 - (ii) after subparagraph (4) there were inserted—

“(5) For the purposes of this paragraph a “parent society” is a society in relation to which another society is treated as a subsidiary society within the meaning of section 101 of the Co-operative and Community Benefit Societies Act 2014.”;
- (b) paragraph 18 were omitted.”;
- (d) in paragraph 3A omit “, and Schedule A1 to,”;
- (e) omit paragraphs 6 to 8.