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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order amends the Co-operative and Community Benefit Societies and Credit Unions (Arrangements, Reconstructions and Administration) Order 2014 ([S.I. 2014/229](#)) (“the 2014 Order”), inserting a new Schedule to make supplementary provision in consequence of the application of Part A1 of the Insolvency Act 1986 ([c. 45](#)) (moratorium) in relation to certain co-operative and community benefit societies (“relevant CCBS”).

Part 1 of the new Schedule (Schedule 1A) contains the interpretative provisions, and ensures that the court dealing with a moratorium, whether in England and Wales, or in Scotland, will be the court that has jurisdiction to wind up the relevant CCBS.

Part 2 of Schedule 1A makes provision in relation to England and Wales. Provision is made about the content and timing of the notice to obtain and extend a moratorium, the proposed monitor’s statement and consent to act (including those of a replacement or additional monitor), the monitor’s notice to the relevant CCBS’s creditors and the Financial Conduct Authority when the moratorium comes into force and the notices required for a change in the end date of the moratorium. Rules 1.4, 1.8 and 1.9 of the Insolvency (England and Wales) Rules 2016 ([S.I. 2016/1024](#)) (“the Rules”) are applied regarding the format of documents in so far as they are relevant to any requirement imposed by provisions in Part 2 of the Schedule, and rule 1.5 of the Rules applies where documents are required to be authenticated. Specified rules contained in Chapter 9 of Part 1 of the Rules are applied in relation to the delivery of documents. In respect of applications to court, the provisions of the Civil Procedure Rules and any related Practice Directions apply for the purposes of proceedings under Part A1 of the Insolvency Act 1986 (the moratorium) together with rule 1.35 and specified and modified rules from Part 12 of the Rules.

In addition, Part 2 of Schedule 1A draws on the relevant rules in Parts 15 and 16 of the Rules (with modifications) to apply the qualifying decision-making procedure (see section 246ZE of the Insolvency Act 1986), voting rights and majority rules when members of the committee of the relevant CCBS are seeking creditors’ consent to extend the moratorium. The notice period to be given to the monitor before entering insolvency proceedings, and the contents of the monitor’s notice to the court to end the moratorium are specified.

Part 2 of the Schedule also sets the priority of moratorium debts in a subsequent administration or winding up and sets a time limit on when a challenge can be made to a monitor’s fees by a subsequent administrator or liquidator. Information that must be used to identify and contact both the relevant CCBS and the monitor are listed. In deciding whether to bring the moratorium to an end, the monitor must disregard any debts that are likely to be paid within 5 days, and any debts which the creditor has agreed to defer until a later date.

Part 3 of Schedule 1A makes equivalent provision in relation to Scotland, through the application of the relevant provisions in the Insolvency (Scotland) (Company Voluntary Arrangements and Administration) Rules 2018 ([S.S.I. 2018/1082](#)).

An impact assessment has not been prepared for this instrument as no, or no significant, impact on the private, voluntary or public sectors, is foreseen. A de minimis impact assessment is available from HM Treasury, 1 Horse Guards Road, London, SW1A 2HQ and is published with the Explanatory Memorandum alongside this instrument on [www.legislation.gov.uk](http://www.legislation.gov.uk).