



HM TREASURY

Legislative Reform (Industrial and Provident Societies and Credit Unions) Order 2010:

Explanatory document

March 2010



HM TREASURY

Legislative Reform (Industrial and Provident Societies and Credit Unions) Order 2010:

Explanatory document

March 2010



Official versions of this document are printed on 100% recycled paper. When you have finished with it please recycle it again.

If using an electronic version of the document, please consider the environment and only print the pages which you need and recycle them when you have finished.

© Crown copyright 2009

The text in this document (excluding the Royal Coat of Arms and departmental logos) may be reproduced free of charge in any format or medium providing that it is reproduced accurately and not used in a misleading context. The material must be acknowledged as Crown copyright and the title of the document specified.

Where we have identified any third party copyright material you will need to obtain permission from the copyright holders concerned.

For any other use of this material please write to Office of Public Sector Information, Information Policy Team, Kew, Richmond, Surrey TW9 4DU or e-mail: licensing@opsi.gov.uk

ISBN 978-1-84532-687-6
PU920

Contents

		Page
Chapter 1	Introduction	3
Chapter 2	Background to the draft Order	5
Chapter 3	Ministerial duties under the 2006 Act	9
Chapter 4	The draft Order	15
Annex A	Impact Assessment	31
Annex B	List of consultees	33
Annex C	List of Respondents to the Consultation	37
Annex D	Members of the working group on IPS and credit union legislative reform	39

1

Introduction

1.1 This Explanatory Document is laid before Parliament in accordance with section 14 of the Legislative and Regulatory Reform Act 2006 ("the 2006 Act") together with a draft of the Legislative Reform (Industrial and Provident Societies and Credit Unions) Order 2010 ("the draft Order") which Treasury ministers propose to make under section 1 of that Act.

1.2 The purpose of the draft Order is to update the legislative framework for credit unions and industrial and provident societies (IPs) in Great Britain to enable those societies to better serve their members and to help in the delivery of the government's financial inclusion programme.

1.3 The Explanatory Document is arranged as follows:

- Chapter 2 sets out the background and provides an overview of the proposals.
- Chapter 3 discusses the Treasury's consultation, and sets out the Minister's recommended Parliamentary procedure and statements as regards compatibility with human rights and EU membership obligations.
- Chapter 4 provides a full analysis of the proposed reforms, following the order in which they were presented for consultation. The commentary includes details of respondents' views on each proposed reform and the Government's response to these. It also identifies and gives reasons for the conferral of legislative functions and the procedural requirements attaching to the exercise of those functions.
- Annex A sets out the Impact Assessment of the draft Order.
- Annex B provides a list of consultees.
- Annex C provides a list of consultation respondents.
- Annex D provides a list of working group members.

2

Background to the draft Order

2.1 The core of legislation governing IPSs and credit unions¹ goes back to the mid 19th century. Today the main statute is the Industrial and Provident Societies Act 1965 (“the 1965 Act”), which is the key registration vehicle for cooperatives, benefit of the community societies and credit unions. Additional provision is made for the accounts of IPSs and credit unions in the Friendly and Industrial and Provident Societies Act 1968 (“the 1968 Act”).

2.2 Co-operatives and societies for the benefit of the community (“bencoms”) are types of IPSs, the difference being that a co-operative conducts its business for the mutual benefit of its members whereas a bencom operates for persons other than its own members. In broad terms an IPS can do anything a company can do with the exception that if it has withdrawable share capital it cannot provide banking services. In fact very few IPSs provide financial services. IPSs cannot be created primarily for the purpose of creating a financial return for their members. Members of an IPS have equal rights in their societies on the basis of one member one vote regardless of financial commitment.

2.3 There are over 4,300 cooperatives in the UK, with over 11 million members and total assets of £8.5 billion. Together they create and sustain nearly 200,000 jobs and contribute some £27 billion in turnover. The most significant in terms of numbers are the consumer and worker cooperatives, cooperatives consortiums, agricultural cooperatives and housing cooperatives.

2.4 Credit Unions are created by the Credit Unions Act 1979 (“the 1979 Act”) and are, in effect, financial cooperatives which take deposits from, and lend to, their members. All members of a credit union must fulfil membership criteria (known as “common bonds”) and there are limits on the range of products credit unions may offer. They are regulated as deposit takers under the Financial Services and Markets Act 2000 (FSMA) and subject to the rules set out in the FSA’s specialist handbook CRED. The FSA acts as both the registrar and regulator for credit unions in the UK.

2.5 While the provisions of the 1979 Act only apply to credit unions, some of the provisions of the 1965 Act and 1968 Act relevant to the draft Order apply to both credit unions and IPSs.

Reasons for Reform

2.6 The existing legislation governing societies is not geared for running modern organisations, is inflexible and hampers their ability to serve their members.

2.7 There are numerous restrictions on the operations of societies, which inhibit their operational effectiveness and their ability to provide services to members and deal with other corporate bodies.

2.8 Increasingly these bodies have become important vehicles for Government policy on issues such as financial and social inclusion, however concerns over their powers and governance constrain the efficiency of their delivery. The legislative framework, rooted in the 19th century, constrains their ability to meet their members’ needs and to compete fairly with companies. For

¹ Credit Unions are also IPSs, although for ease of reference the term IPS is used in this Explanatory Document to refer to cooperatives and bencoms only. References to “societies” includes credit unions.

example, credit unions in Great Britain face problems related to the scope and eligibility criteria of their membership qualifications and agricultural cooperatives are significantly constrained both by the current £20000 cap on the level of investment that their members can invest and the statutory fixed year ends making them unable to tie in their financial year end with their agricultural cycles.

2.9 The draft Order will remove the administrative burdens on credit unions and other industrial and provident societies. They will allow credit unions, with the consent of their members, to change their rules on issues such as who may become members of the credit union and on what terms. This is intended to allow them to open their membership to a wider range of individuals and groups, and to merge where appropriate to create larger credit unions. The changes will also allow credit unions to offer a wider range of products to members, including interest-bearing shares.

2.10 For co-operatives and benefit of the community societies, the provisions relating to share capital will allow societies to benefit from individual investment of more than £20,000 per member. The draft Order also removes administrative burdens relating to minimum age of members and officers and fees for copies of a society's rules. It makes dissolution easier, where appropriate, and makes limited changes to the accounting regime. These changes are intended to make administration of all societies smoother and more cost-effective.

Relationship with the Co-operative and Community Benefit Societies and Credit Unions Bill

2.11 This draft Order forms part of a review of legislation started in 2007 with the aim of providing the mutual sector with a cost-effective legislative framework, which will enable them to compete more effectively in the modern economy and to continue to fulfil their valuable social role. Further legislative reforms are being put forward in a private members bill: "The Cooperative and Community Benefit Societies and Credit Unions Bill".

2.12 The measures in the LRO are designed to remove or reduce restrictions that hinder the growth and development of societies. The Co-op Bill provides for the future development of the legislation governing mutuals, in particular improving governance and administrative arrangements, by enabling the Treasury to apply aspects of company law to IPSs and building society law to credit unions. The two pieces of legislation work together to create an integrated reform package.

2.13 In brief, the Co-op Bill does the following.

- It provides that societies wishing to register under the Industrial and Provident Societies Act 1965 shall be registered as co-operative societies or community benefit societies and changes the names of the Industrial and Provident Societies Act 1965.
- It applies the Company Directors Disqualification Act 1986 to officers of industrial and provident societies, as it applies to officers of companies, building societies and friendly societies.
- It gives the Treasury powers to apply to industrial & provident societies, with appropriate modifications, company law on investigation of companies, company names, dissolution and restoration to the register.
- It enables provisions corresponding to building society law to be made for credit unions. Building society law has been tailored to deal with issues specific to institutions which accept deposits. This is therefore a suitable model to allow credit union law to keep pace with credit unions' expanding membership and operations.

Summary of proposals

2.14 The proposals covered by the draft Order are summarised below. For ease of reference they are given the same numbering as used in the consultation documents.

Amendments to the 1965 and 1968 Act

- A1 Abolish the minimum age for membership and reduce the minimum age for becoming an officer of a society
- A2 Remove the restriction on the maximum holding of non-withdrawable shares in an IPS
- A3 Amend the provision on charging a fee for a copy of a society's rules
- A4 Facilitate the easier dissolution of societies
- A5 Give IPSs the flexibility of choosing their own year-ends
- A6 Remove the requirement on IPSs to have interim accounts audited

Amendments to the 1979 Act

- B1/2 Amend the requirements for membership of a credit union
- B3 Reform restrictions on non-qualifying members of credit unions
- B4 Allow credit unions to admit bodies corporate to membership
- B5 Allow credit unions to offer interest on deposits
- B6 Abolish the 8% per annum limit on dividends
- B7 Amend the "attachment of shares" provisions
- B8 Allow credit unions to charge the market rate for providing ancillary services to their members

3

Ministerial duties under the 2006 Act

3.1 Treasury Ministers have fulfilled the obligations laid down to undertake a full and extensive consultation on the LRO proposals through the Treasury's consultation exercises described below.

3.2 The Exchequer Secretary to the Treasury has assessed the responses to the consultation and in the light of these has decided that it is appropriate to proceed with the proposals in the draft Order.

3.3 Treasury Ministers are satisfied that the Order serves the purpose set out in section 1(2) of the 2006 Act and meets the conditions imposed by section 3(2) of that Act.

Overview of Treasury Consultation

3.4 As part of its review of mutuals legislation, the Treasury informally consulted the sector on modernising the legislative framework for cooperatives and credit unions in Great Britain before publishing its first consultation document in June 2007 ("Review of the GB cooperative and credit union legislation: a consultation"). This was followed by a summary of responses in December 2007.

3.5 The Treasury consulted on the proposals which form the basis of the draft Order in July 2008 ("Proposals for a Legislative Reform Order for Credit Unions and Industrial & Provident Societies in Great Britain"). Consultees were chosen from a range of size and experience in the sector to ensure a broad sample. Sixty-nine of the largest credit unions were written to (around 15% of the total number of credit unions in Great Britain) as the proposals will primarily impact on larger credit unions. The major trade bodies, including UK Credit Unions Ltd (UKCU) which represents smaller credit unions, were also written to. The consultation was also published on the Treasury's public website inviting responses. Many IPSs and credit unions responded via their respective trade bodies. The Treasury published the Government's response in April 2009 ("Proposals for a Legislative Reform Order for credit unions and Industrial and Provident Societies in Great Britain: response to consultation"). This summary of responses was sent to all the respondents to the consultation, representative bodies and key stakeholders in the financial services sector. A copy was also posted on the Treasury's website.

3.6 Copies of the above-mentioned consultation documents can be found at:

http://www.hm-treasury.gov.uk/d/consult_coopreviewresponses211207.pdf

http://www.hm-treasury.gov.uk/d/consult_lro230708.pdf

http://www.hm-treasury.gov.uk/d/consult_lro_summary.pdf

3.7 The Treasury set up a Working Group of experts to help develop policy and to advise on their implementation. A list of Working Group members is provided at Annex D.

3.8 A series of meetings was held with the Working Group, and their views were invited on a draft of the Order in May 2009. A near final version of the Order was published on the Treasury's website in July 2009. The Working Group has had the opportunity to comment on the draft Order and is content with its provisions.

Overview of consultation responses

3.9 The Treasury received 75 responses to its July 2008 consultation on the proposals for the draft Order. These were from a wide group of stakeholders ranging from individual members of credit unions, representative bodies, individual societies, other Government departments and firms providing professional service to the sector.

3.10 Of these responses, 30 related to the proposals concerning industrial and provident societies. 45 responses related to the proposals concerning credit unions.

3.11 We have included further detail on the responses relating to specific proposals in chapter 4. Box 3.A summarises the changes to the proposals for the LRO that were made in light of the consultation responses.

Box 3.A: Summary of revisions made to the LRO following consultation

- Proposal A3: The government agreed to increase the fee societies can charge non-members for copies of rules from the proposed £1 to £5;
- Proposal A4: The government agreed to impose additional safeguards on the proposed easier route to dissolution: IPSs must be dormant, and the use of the new procedure by credit unions must be confirmed by the FSA. The government also decided to model the new route on the model of transfer of engagements to another society rather than to a company as was proposed in the consultation.
- Proposals B1: The government took on board respondents' concerns that the limit on the potential number of members should only apply to common bonds based on location and not the employment or associational common bonds. The government accordingly revised its proposals such that the conditions relating to the number of potential members and a credit union's ability to serve those members only apply where the rules of a society provide for a common bond involving a connection with a locality. In addition the government responded to concerns regarding the level at which the numerical limit on the potential number of members should be set by agreeing to raise it from 1 to 2 million.
- Proposal B2: Consultees' views were sought on 2 options for amending the requirement relating to common bonds. Option A would allow the combination of only two common bonds, unless a further addition was necessary to facilitate a merger. Option B would allow any combination of common bonds. The majority of respondents favoured option B. This option is implemented by the draft Order.
- Proposal B4: The government accepted respondents' proposal that credit unions should be able to offer ordinary as well as deferred shares to corporate members. It also responded to concerns expressed by the working group after the public consultation by amending the definition of when a corporate body falls within the common bond of "residing or being employed in a particular locality" to extend it beyond just having its place of business there to having a "significant connection" with the locality.
- Proposal B7: respondents were generally opposed to the proposal as set out in the consultation document, taking the view that the decision to attach shares must remain a discretionary decision of the Board of Directors and not the members. The government therefore revised the proposal so that the discretion to attach shares will remain with the Board, but the decision has to take place at the time a loan is made rather than at a later date when a borrower tries to withdraw shares.

3.12 The responses relating to the use of an LRO are detailed below.

Removal of burdens and expected benefits

3.13 The consultation document asked whether the proposals would remove or reduce burdens on societies and whether they had any views on the expected benefits of the proposals addressed in the partial Impact Assessments.

3.14 With the exception of the proposal to abolish the attachment of shares for credit unions (B7), respondents were of the view that the proposals would serve to remove or reduce burdens to the growth of membership and development of societies.

3.15 IPS respondents said that clarity in the legislation would assist currently registered societies as well as those considering whether to use the IPS legal form. They considered that there would be considerable cost savings as well as other benefits such as greater diversity in the membership base of cooperative societies and heightened profile, which could not readily be quantified. IPS respondents were of the view that it was common knowledge that IPS legislation was out of date and in need of reform, citing in particular the minimum age for membership and the limit on charging for copies of the rules. They considered that the proposals would lighten the administrative burdens, provide flexibility for societies on membership issues and remove limitations on financial planning and reporting.

3.16 Credit Union respondents agreed (with the exception of proposal B7) that the proposals would remove or reduce burdens in the 1979 Act and agreed with the analysis provided in the Impact Assessment. Some expressed the view that the reforms would provide access for more people and make it easier for credit unions to attract more members. The membership surveys provided by credit union respondents were supportive of the proposed reforms, especially the reform of the common bond, removal of the 10 per cent limit on non-qualifying membership, enabling credit unions to admit to their membership bodies corporate, unincorporated associations or partnerships and for credit unions to be able to pay interest on members' deposits.

3.17 As explained in more detail in Chapter 4, the Treasury took on board concerns raised about the proposal to repeal the attachment of shares (B7) and revised it accordingly.

Non-legislative means of securing the policy objective

3.18 The consultation document asked whether there were any non-legislative means of remedying the difficulties which the proposals are intended to address.

3.19 Respondents were not aware of any non-legislative means that would satisfactorily remedy the difficulties which the draft Order addresses.

Proportionality and fair balance

3.20 The consultation document asked whether the proposals are proportionate to the policy objective and, when taken as a whole, strike a fair balance between the public interest and any person adversely affected by it.

3.21 Respondents were in agreement that the proposals in the consultation document were proportionate to the policy objective and that the proposals taken as a whole struck a fair balance.

Removal of any protection

3.22 The consultation document asked whether the proposals remove any necessary protections.

3.23 IPS respondents were of the view that the proposals did not appear on the face of it to remove any necessary protection. Credit unions respondents were of the same view save for the above-mentioned attachment of shares proposal, which was subsequently revised.

Infringement of rights or freedoms

3.24 The consultation document asked whether the proposals prevent any person from continuing to exercise any right or freedom which they might reasonably expect to continue to exercise.

3.25 Respondents were not aware of any instances where the proposals in the consultation could prevent any person from continuing to exercise any right or freedom.

Constitutional significance

3.26 The consultation document asked whether readers considered the proposals to be constitutionally significant.

3.27 Respondents did not consider the proposals in the consultation document to have constitutional significance.

Parliamentary procedure

3.28 There were no objections to the use of a Legislative Reform Order.

3.29 IPS respondents were of the view that the proposals were unlikely to be controversial. Credit union respondents were of the view that the proposals would be uncontroversial with the exception of the above-mentioned attachment of shares proposal (B7), which has subsequently been revised. The Working Group is now content with the draft Order.

Devolved administrations

3.30 Matters relating to societies are reserved to Westminster under the Scottish and Welsh devolution agreements.

3.31 The legislation covering Industrial and Provident Societies and credit unions is devolved to the Northern Ireland Assembly and the amendments in the draft Order will extend to Great Britain only.

3.32 The original 1965 Act did extend to the Channel Islands. However given that subsequent amendments to it have not been extended to the Channel Islands, the draft Order does not extend to the Channel Islands.

Ministers' recommended Parliamentary process

3.33 Treasury Ministers recommend that the draft Order and the Explanatory Document should be laid in Parliament under the super affirmative resolution procedure for which provision is made by section 18 of the 2006 Act.

3.34 Given the relative complexity of some of the provisions it is considered appropriate for the draft Order to receive a degree of Parliamentary scrutiny greater than that which would be available under the negative resolution procedure. The draft Order does not contain any proposals of wider political or public importance, and has wide-spread support from the sector. However, Ministers believe that there is justification for the use of the super-affirmative procedure provided for in section 18 of the 2006 Act, on the basis of the breadth and relative complexity of the amendments made by the draft Order.

Compatibility with the Convention on Human Rights

3.35 The Exchequer Secretary to the Treasury, Sarah McCarthy-Fry, has made the following statement regarding human rights:

"In my opinion the provisions of the Legislative Reform (Industrial and Provident Societies and Credit Unions) Order 2010 are compatible with the Convention rights."

3.36 The Minister does not consider that the provisions set out in this draft order engage any of the Convention rights protected under the Human Rights Act 1998.

Compatibility with the obligations arising from membership of the European Union

3.37 It is the Treasury Ministers' view that the proposals included in the draft Order are compatible with all the requirements of EU membership and with EU legislation.

4

The draft Order

4.1 The draft Order amends the 1965 Act, the 1979 Act, and the 1968 Act and makes a consequential amendment to s76 of FSMA. Consolidated texts and “Pre-consolidated texts” of the 1965, 1979 and 1968 Acts and s76 of FSMA have been provided.

4.2 None of these reforms could have been achieved by non-legislative means. None has constitutional significance.

Proposal A1: Membership age

4.3 Section 20 of the 1965 Act enables minors between the age of 16 and 18 to join a society unless its rules provide otherwise, but not to become an officer of a society. It applies to IPSs and credit unions.

4.4 Section 20 does not expressly prohibit the admission of members under 16. However, the sector has interpreted it as preventing them from admitting members under 16 on the basis that the words “a person under the age of 18 but above the age of 16 may be a member... unless contrary provision is made by the society’s registered rules” imply that those under the age of 16 cannot be members whatever the rules say. The *“Registry of Friendly Societies, Guide to the Law Relating to Industrial and Provident Societies”* (HMSO, 1978), written by the Chief Registrar of Friendly Societies, takes this view. It is also supported by the fact that the legislation for Friendly Societies clearly provides for the membership of minors (including those under 16), suggesting that had this been the intention for IPSs, similar provision would have been made in the 1965 Act.

4.5 On this interpretation of the existing legislation, membership is restricted to persons over 16, and holding office is restricted to persons over 18. This provision restricts the participation of younger people in societies and puts societies at a disadvantage in comparison with companies. At common law, minors can be members of companies. The Companies Act 2006 has imposed a minimum age of 16 to become a director of a company.

4.6 Consultation respondents welcomed the proposal to amend this provision to remove the restriction on membership and to reduce the age-limit for becoming an officer to 16, commenting that it would not only allow for creative engagement with the younger generation but would engender a sustainable membership amongst the next generation.

4.7 Article 8 of the draft Order amends section 20 of the 1965 Act to provide for persons under the age of 16 to become members and to reduce the age limit for becoming an officer to 16. Societies retain the ability to make contrary provision in their rules. Article 8 draws a distinction between persons aged 16 and 17 who, as currently, may execute an instrument and give receipt, and persons under 16, in relation to which no express provision is made. It was not thought appropriate to enable anyone, however young, to be able to execute an instrument.

4.8 Article 8 also amends section 9 of the 1979 Act to reflect the fact that there is no longer a statutory minimum age for membership, but that a credit union’s rules may provide for a minimum age. Section 9 allows a credit union to take deposits from a person who is under the age at which he can become a member.

4.9 The flexibility given to societies by the reform ensures that it is proportionate to the aim sought, namely increased participation of younger people in societies. The transitional provision in article 20 of the LRO reduces the burden on those societies which wish to retain age limits by keeping the existing law in force until the next general meeting of a society, so they will not need to call a meeting specifically to change rules as a result of this provision.

Proposal A2: Remove the restriction on the maximum holding of non-withdrawable shares

4.10 At present, subject to limited exceptions, the maximum shareholding which any one member may have in an IPS is limited to £20,000¹. This constitutes an unnecessary obstacle to productivity, as it prevents members from investing more than £20,000 in the society and so allowing the society to expand and invest. The limit is particularly onerous for agricultural co-operatives which use their share capital for capital investment in plant and machinery as it restricts the total amount of investment such societies may make. It also constitutes an obstacle to profitability, as increased investment from their members could increase societies' opportunities to diversify or expand their business and in turn improve their profitability.

4.11 IPSs may issue shares which are transferable i.e. which can be transferred to another person who also qualifies for membership of the society and / or withdrawable i.e. which the member can withdraw and receive the value of the shares from the society. The proposal to remove the limit on shareholding was limited to non-withdrawable shares as doing this for withdrawable shares could have unintended consequences in terms of the application of European banking rules and money laundering regulations to IPSs. The difficulty with extending the limit on withdrawable shares is to keep the level of maximum shareholding at such a level that it does not fall within the requirements for regulation as a deposit taker under FSMA. There is a tension between the need for members, particularly of agricultural societies, to be able to invest in capital machinery without their investment being seen as deposits. There is a wider issue about the treatment of withdrawable shares as deposits that will be subject to further review. Removing the limit on transferable shares helps to some degree by giving a further route to investment. The current measures will help societies in the medium term whilst a balance is sought between the need for regulation of financial services and the ability of members of IPSs to invest in their own societies.

4.12 Consultation respondents pointed out that share capital in societies plays different roles with different implications depending on the business sector in question. For some societies, particularly those with high capital investments such as agricultural cooperatives, restrictions on shares inhibits productivity. Such societies were therefore supportive of the measure. Respondents also welcomed the proposal that the government use its existing power to increase the limit on withdrawable share capital and argued that in addition the Government should have a duty to review the limit every three years. Use of this power will be subject to separate consultation and legislation.

4.13 Article 3 of the draft Order amends s6 of the 1965 Act so that the £20,000 limit will not apply to shares which are not withdrawable.

4.14 The Treasury has an existing power to raise the £20,000 limit in s6 of the 1965 Act but in doing so would not be able to distinguish between withdrawable and non-withdrawable shares. Use of this power would therefore be an inadequate means for securing the policy objective.

4.15 The amendment to section 6 of the 1965 Act is proportionate to the objective of allowing societies to raise more funds through the issue of shares as (a) it only applies to shares which are not withdrawable; and (b) there are safeguards in place to protect members from exposing

¹ S6 of the 1965 Act. This section does not apply to credit unions (see s31(3) of the 1979 Act).

themselves to significant risks such as the requirement on societies to provide copies of their annual return (which includes their accounts) to any person on request and, in respect of co-operative societies, requirements under FSMA to issue a prospectus for any offer of transferable shares where the total consideration of the offer exceeds the equivalent of 2.5 million euros.

4.16 This provision does not remove a necessary protection: as with any other risk capital, investors will have to take a view as to whether non-withdrawable shares in societies represent a good investment.

Proposal A3: Amend the provision on charging a fee for a copy of a society's rules

4.17 Section 15 of the 1965 Act prevents a society (IPs and credit unions) charging more than 10 pence for a copy of its rules. This limit does not reflect the actual cost of such provision and therefore constitutes a financial burden. There is also currently nothing to prevent societies charging their members for copies of the rules.

4.18 The position for credit unions and IPs is different from that for building societies and friendly societies, both of which are prevented from charging members for copies of rules, and are allowed to charge non-members up to the prescribed amount (currently £1).

4.19 Consultation respondents welcomed the proposal to allow societies to charge more for providing a copy of its rules to non-members, but expressed the view that the proposed fee of £1 was insufficient to cover the cost of production or postage. They suggested a fee of £5.

4.20 Article 7 of the draft Order amends the 1965 Act to enable societies to charge a fee not exceeding the specified amount (i.e. £5 or such other amount as the Treasury may specify by order) for provision of a copy of its registered rules to non-members. Thus societies will no longer be able to charge members for provision of the rules but will be able to cover the cost of providing copies of rules to non-members. They will be able (but not required) to charge non-members up to £5. It will be open to societies to charge different amounts depending on the medium in which copies are provided. For example, a society could choose to charge less for provision of electronic copies.

4.21 This amendment could not be achieved by non-legislative means. It achieves a fair balance between the right of members to receive free copies of the rules and the society to recover its costs of providing copies to non-members.

Conferral of Legislative Function

4.22 Article 7 gives the Treasury power to make an order amending the figure of £5. This power is stated by the proposed section 15(1B) to be exercisable by statutory instrument subject to the negative resolution procedure. The negative resolution procedure is considered appropriate given the limited nature of the power which is intended to enable the Treasury to amend the maximum amount which may be charged by societies to non-members for their rules in order to reflect what is needed for societies to recover the costs.

Proposal A4 Facilitate the easier dissolution of societies

4.23 Under section 55 of the 1965 Act a solvent society (including a credit union) wishing to dissolve must prepare an instrument of dissolution, which must be signed by not less than three-quarters of the members of the society. This requirement makes it difficult for societies to dissolve, particularly if they have lost touch with a significant number of their members. Without being dissolved a society remains encumbered with having to confirm to statutory requirements such as filing annual returns and the FSA is still required to perform its statutory requirement as registrar for dormant societies. Furthermore, members of inactive societies, who find it difficult

to obtain the requisite number of signatures to dissolve a society are unable to benefit from any distribution of assets which would occur on a dissolution.

4.24 Societies also have the option of a members' voluntary winding up under the Insolvency Act 1986, which requires a special resolution at a general meeting, but not the turnout threshold required by the existing s55. However the society is required to appoint a liquidator under this procedure. Voluntary winding up under the Insolvency Act will remain an option alongside the new dissolution procedure in the draft Order.

4.25 In the case of an insolvent society, the procedures used will be a creditors' voluntary winding up by resolution of the society in general meeting, or a winding up order of the court, which are both governed by the Insolvency Act 1986 as applied by s55(a) of the IPSA 1965. The procedures are, for the most part, the same as those applicable to a company (see s55(a)).

4.26 The consultation document proposed amending the procedure for dissolution to align it with that for conversion into, amalgamation with, or transfer of engagements to, a company under s52 of the 1965 Act. The procedure in s52 is for the society to pass a "special resolution" which meets the following requirements:

- It is given at a general meeting of which notice, specifying the intention to propose the resolution, has been given according to the rules;
- It is passed by not less than three-fourths of the members (or proxies) voting at the meeting;
- At least half of the qualifying members of the society voted (in person or by proxy) and
- The resolution is confirmed by simple majority at a subsequent general meeting of which notice is given between 14 days and one month after the first meeting.

4.27 Consultation respondents were supportive of amending s55 to make it easier for societies to dissolve but wished some safeguards to be put in place to prevent an extant society from being dissolved and allowing demutualisation by the back door. Some respondents made the point that the issue to resolve is the dissolution of dormant societies, not to make dissolution easier more generally. The Treasury has responded to this concern by providing that only dormant IPSs can use the new dissolution procedure.

4.28 One respondent suggested that all resolution procedures should be streamlined in a manner similar to that in the Companies act 2006 to enable IPSs to use electronic methods for giving notice of resolutions. The Treasury is carrying out work on the use of electronic communications by the mutuals sector and will be consulting on this shortly.

4.29 Some respondents expressed concern about potential abuse of proxy voting in this dissolution procedure. The draft Order enables credit unions and dormant IPSs to use the procedure for a special resolution set out in s50 to dissolve. The procedure in s50 allows for voting by proxy but only where this is allowed by rules. Societies therefore retain discretion as to how they deal with the issue of proxy voting in their rules.

4.30 Article 9 of the draft Order provides for an easier route for dissolution based on the special resolution procedure set out in s50 of the 1965 Act for amalgamation of societies or transfer of engagements to another society. This procedure is less onerous than that proposed by the consultation document as (a) only two-thirds rather than three-quarters of those who vote must agree; and (b) there is no requirement for at least half of the qualifying members of the society to have voted. This change to the proposal was thought appropriate in light of the additional safeguards now included. It was also considered that the requirement for at least half of the qualifying members to have voted (as proposed in the consultation) does not adequately meet

the problem that dormant societies have of not being able to trace sufficient qualifying members to meet this threshold.

4.31 Under the existing procedure a society with 100 members would be required to obtain the signatures of 75 of those members in order to dissolve. The new procedure would enable the society to dissolve following a two-thirds agreement by vote at a general meeting to dissolve and a majority vote in favour at the subsequent general meeting (provided in both cases that the numbers voting at the meeting satisfies the society's own quorum rule). So if a society's quorum is 10 members, it would require 7 to vote in favour of the dissolution at the first meeting and 6 to vote in favour at the subsequent meeting.

4.32 The additional safeguards in the draft Order are that, in the case of IPSs, the society must be dormant to be able to use this procedure; and in the case of credit unions, the dissolution must be confirmed by the FSA. 'Dormant' is defined as a society whose accounts for the current and previous two years show no accounting transactions other than fees to the FSA or the payment of dividends or interest and which has notified the FSA that it is dormant.

4.33 This amendment achieves a fair balance between the desire to facilitate easier dissolution where it is appropriate to do so without allowing the procedure to be abused.

Proposal A5: Give IPSs the flexibility of choosing their own year-end date

4.34 Section 39 of the 1965 Act requires societies to have a year-end which falls between 31 August and 31 January unless a year end falling outside this period is approved by the FSA, which has to be satisfied that special circumstances exist. Section 39 is expressly disapplied for credit unions by s31 of the 1979 Act. Credit Unions are subject to separate requirements in FSA rules for submitting annual returns.

4.35 Consultation respondents agreed unanimously that IPSs should have the flexibility to choose their own year-ends that suit their own commercial and financial convenience, as is the case for companies.

4.36 Article 5 of the draft Order limits s39 to covering the documents required to be provided in an annual return and inserts two new sections to deal with the timing of annual returns. New s39A relates to IPSs registered before the draft Order comes into force; s39B relates to IPSs registered after the draft Order comes into force.

4.37 For existing IPSs the position in relation to calculating the year of account remains as it currently is, except that it enables societies to alter their year-end by notice to the FSA.

4.38 S39B establishes a new regime for societies registered after the draft Order comes into force which is modelled on the provisions for calculating accounting periods in sections 391 and 392 of the Companies Act 2006. It also allows for societies to choose their own year-end by notice to the FSA.

4.39 This amendment removes the burden on IPSs resulting from the limitation on the period within which the year-end can fall. It also removes the burden on the FSA of having to determine whether special circumstances exist to allow a year-end falling outside that period. This amendment would not remove any necessary protection. It achieves a fair balance as it will not have any impact on existing societies who do not wish to change their year-end, while making it easier for those who do.

Proposal A6: Remove the requirement on IPSs to have interim accounts audited

4.40 Under the 1968 Act those IPSs which choose to publish interim accounts are required to have them audited. This is in contrast to the position for companies, which are not required to have their interim accounts audited.

4.41 Article 10 of the draft Order reduces this burden by providing that a society can publish interim accounts provided that they are published alongside the last published year-end accounts and are clearly identified as unaudited interim accounts. This aligns the position for IPSs with the modified position for credit unions under s24 of the 1979 Act. S24 has accordingly been repealed.

4.42 Consultation respondents were supportive of this proposal. Some suggested that the new provision should be aligned with the position for companies. S838 of the Companies Act 2006 sets out the requirements for company interim accounts. These are specific to companies and cross-refer to other aspects of the accounting regime for companies. Aligning the law for IPSs with that for credit unions achieves the policy goal in a straightforward manner. It is not clear what benefit there would be for societies to follow the requirements for companies.

4.43 The safeguards included in this amendment ensure that it does not remove any necessary protection and achieves a fair balance between removing a burden on societies and ensuring that the public is not misled.

Amendments to the 1979 Act

Proposal B1/2: Amend the requirements for membership of a credit union

4.44 Under the 1979 Act membership of a credit union is based on the concept of a “common bond” between its members. S1 of that Act provides that a society may be registered as a credit union if it is shown, to the satisfaction of the FSA that, among other things, admission to membership is restricted to certain specified membership criteria “and that in consequence a common bond exists between members of the society”.

4.45 In today’s society, it is increasingly difficult to demonstrate that a “common bond” exists between people even if, for example, they live in the same locality or are employed by the same employer. If the credit union is based on a combination of membership qualifications the “common bond” requirement becomes even more difficult to satisfy. Potential credit unions face financial cost and administrative inconvenience in seeking to show the FSA that the current test, which is relatively unclear, is satisfied.

4.46 Furthermore, this requirement could become an obstacle to productivity. Credit unions make a significant contribution to local economies by contributing to financial inclusion and capability. There is an added benefit that the money they attract and lend are retained locally, rather than contributing to the global profits of external shareholders as in the case of banks and, to a more limited extent, building societies. As a result, credit unions have become a significant contributor to the Government’s Financial Inclusion policy. If, for example, a group of individuals are deterred from forming a credit union because they are not sure they will meet the common bond test, or if two credit unions are deterred from merging because they are unsure that the merged credit union will meet the current test, this current requirement would have the effect of: (a) restricting the potential competition between the merged credit union and other institutions such as banks or building societies; (b) stifling investment as a larger credit union might provide an appropriate vehicle for public or private sector investment in a community; and (c) being an obstacle to enterprise, as a larger credit union would be in a better position to start new businesses or invest in existing businesses.

4.47 In its consultation document the Treasury proposed to remove the additional “common bond” requirement and allow credit unions to provide for more combinations of membership qualifications (to be renamed “common bonds”) than is possible under the current legislation. Consultees were given two options. Option A would allow the combination of only two common bonds, unless a further addition was necessary to facilitate a merger. Option B would allow any combination of common bonds. The policy objective behind option B was to give credit unions the flexibility to offer wider scope for membership thus giving more people access to credit unions and allowing credit unions to grow and deliver a wide range of financial services to members.

4.48 To prevent credit unions becoming too big, it was also proposed to create a new “potential field of membership” test providing for a maximum of 1 million potential members.

4.49 Consultation respondents generally agreed that the current membership requirement is overly restrictive and supported replacing the “common bond” requirement with a “field of membership” test as this would enable credit unions to provide services to new groups, including, for example, housing association tenants and national employers.

4.50 There was disagreement, however, on the number of potential members. Three respondents were opposed to increasing the membership limit beyond 1 million or wanted to defer a decision. Others expressed concern that the proposed 1 million limit for potential membership was unduly restrictive, arguing that there were already some credit unions which had potential common bonds exceeding this limit and that it would prevent others offering

credit union services to new groups of people. It was recognised that the higher limit must also be consistent with the credit union being an organisation with a restricted membership and not open to the public generally. Respondents suggested that a 2 million limit of potential members would be more appropriate. They were also of the view that the numerical limit should only apply to common bonds relating to locality (e.g. residing or being employed in a particular locality) as other common bonds (e.g. being employed by a particular employer) would be naturally limited. The government accepted the arguments for increasing the limit to 2 million and restricting it to credit unions with one or more common bonds relating to locality, or such other common bonds as may be specified (as to which see below).

4.51 Some of the smaller credit unions responded negatively to the proposed changes because they believe that credit unions should remain small and relatively simple organisations. The purpose of the draft Order is not to marginalise small credit unions, but to provide a viable framework for all credit unions, including small ones. Small credit unions can continue to exist equally well under the new regime, but if in the future they decide they want to grow, they will be able to do so more easily. Most failures in the credit union sector are small credit unions and therefore the provisions in the draft Order which facilitate mergers between credit unions (e.g. allowing any combinations of common bonds) will help to protect them.

4.52 The majority of consultation responses preferred option B i.e. allowing credit unions to provide for any combination of common bonds. Their view was that it would enable credit unions to reach out to more members and could improve both the strength and stability of credit unions. It would offer certainty to credit unions and avoid a situation where a planned or proposed merger could not take place because of the limitations in the legislation. Some respondents, however, considered that option B could lead to an imbalance of members. They cited a hypothetical case of a Registered Social Landlord in Scotland with no known social or business links with the original credit union, which might, say, have a membership qualification, based on an employer in SE England. They recommended that a decision on adopting option B be deferred to allow time to carry out a further review of the issue. The government noted respondents' concerns in relation to Option B but took the view that there are adequate safeguards in the proposed reforms. It also noted that a majority (47) preferred Option B. The Government considered that deferring a decision would unacceptably delay access to credit union services for a wider section of the population. It has therefore implemented Option B in the draft Order.

4.53 Article 12 of the draft Order deletes the existing provisions in section 1 of the 1979 Act relating to qualifications for admission to membership and the consequential requirement for a common bond to exist. Article 13 inserts new section 1A into the 1979 Act. New section 1A(1) provides that admission to membership of a credit union must be restricted to persons who fall within one or more common bonds. The list of common bonds in subsection (2) is substantively the same as the list known as "membership qualifications" in existing s1(4) of the 1979 Act (although the qualification at paragraph (f) – 'residing in or being employed in a particular location' – has not been replicated because there is no longer any restriction on combination of common bonds and it is therefore unnecessary). Subsection (3) of new section 1A replicates existing s1(6) regarding the application of the rules to members of the same household as someone who falls within a common bond. Subsection (4) deals with the application of the common bonds to corporate members (discussed in more detail under proposal B4 below). Subsection (5) provides that the FSA may accept a statutory declaration as sufficient evidence that the requirements of new section 1A are met. There is existing provision for the FSA to accept a statutory declaration in s1(5). The wording of the new provision makes clear that the default position is for the FSA to accept a statutory declaration (as opposed to the existing wording which requires a case-by-case consideration) but the FSA retains the discretion to look behind the declaration.

4.54 Article 13 of the draft Order also inserts new section 1B into the 1979 Act and sets out further requirements to be satisfied before registration where a common bond appropriate to a credit union involves a connection with a locality or the rules of a credit union provide for a common bond of such other description as may be specified. One of two alternative requirements is that the conditions in subsection (3) are met. The conditions in subsection (3) are (a) that the number of potential members does not exceed two million or such higher figure as may be specified; or (b) that it is reasonably practicable for every potential member to participate in votes of the society, serve on the society's committee and have access to all the services offered by the society.

4.55 Article 14 of the draft Order makes consequential amendments to other sections of the 1979 Act which refer to the existence of a common bond and membership qualifications.

4.56 As a whole, the amendments implemented by articles 12 – 14 are proportionate as they allows credit unions to grow, whilst retaining the concept of a membership-based organisation. The advantages of allowing credit unions to expand outweighs any disadvantage in allowing the creation of larger and more diverse credit unions, which in any event is limited for common bonds relating to locality by the potential field of membership test.

4.57 Any changes to a credit union's membership requirements pursuant to these amendments will require a change to its rules. The rules of a credit union can only be amended by a resolution passed by at least 2/3 of the members present at a general meeting. Notice of that meeting must be given in accordance with the Credit Union's rules. Thus existing members will have a say in whether or not they want their credit union to take advantage of the new provisions to expand its capacity to attract new members.

Conferral of Legislative Functions

4.58 New section 1B provides for further requirements to be met where the rules of a society provide for one or more common bonds of such other description as may be satisfied. The requirements include meeting the condition that the number of potential members of the society does not exceed two million or such higher figure as may be specified.

4.59 Subsection (5) states that "specified" means specified by order made by the Treasury. Section 29 of the 1979 Act provides that a power to make an order conferred on the Treasury by any provision of the Act shall be exercisable by statutory instrument and that a statutory instrument made under the Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.

4.60 The reason for conferring a power on the Treasury to specify other common bonds as giving rise to the requirement to satisfy the further requirements in section 1B is to ensure that credit unions can meet the needs of all their members and that they do not grow so large and undefined that they could be considered to be open to the public generally and therefore run the risk of losing their current exemption from the Banking Consolidation Directive².

4.61 The reason for conferring a power to increase the figure of two million as the maximum number of potential members is to take into account the possibility that as the sector grows a larger pool of potential members may be justifiable. The negative resolution procedure is considered to be appropriate to the purposes of the amending powers.

² Directive 2006/49/EC of the European Parliament and of the Council of 14th June 2006 relating to the taking up and pursuit of the business of credit institutions. OJ No L 177,30.6.2006, p 1.

Proposal B3: Reform restrictions on non-qualifying members of credit unions

4.62 The 1979 Act restricts the number of non-qualifying members a credit union may have to a maximum of 10 per cent. Non-qualifying members are members who cease to fulfil the qualifications for admission to membership: for example, they are no longer resident in the locality or employed by the relevant employer.

4.63 The Treasury considers this artificial restriction to be an unnecessary burden on credit unions. In today's mobile society it is increasingly likely that individuals will change employers, move to different parts of the country or alter their lifestyle in other ways which mean they no longer qualify for membership of a particular credit union. The current restriction places an artificial limit on the growth of credit unions and an obstacle to profitability as a credit union which has to reduce its membership to comply with the non-qualifying member limit loses the potential reserve from members who have to leave. Similarly the members which have to leave might suffer a loss in profitability, particularly if they are businesses, as they will lose the benefit of membership.

4.64 Consultation respondents were supportive of the Treasury's proposal to repeal the 10% limit, agreeing that increasing mobility of labour meant that members who had an association with a credit union based on geography or work place connection stood to lose their membership when they moved away. Respondents were of the view that members should not have to change their financial services provider purely because they had moved house or job. Respondents preferred the concept of permanent membership based on the tenet that once a member, always a member.

4.65 Article 16 of the draft Order repeals the 10 per cent legislative limit on non-qualifying members, leaving credit unions free to set their own limits via their rules.

4.66 The potential disadvantage of removing the 10 per cent limit is the potential dilution of a credit union's membership. However this is outweighed by the advantages of allowing membership to continue, thus encouraging wider participation in credit union, which in turn will bring economic and social benefits, The amendment is proportionate as credit unions retain discretion to set their own limits via their rules.

Proposal B4: Allow credit unions to admit bodies corporate to membership

4.67 At present the 1979 Act explicitly prevents credit unions from admitting bodies corporate to membership³. In addition the membership requirements are not designed for individuals becoming members on behalf of unincorporated associations or partnerships.

4.68 The Treasury considers this to be an unnecessary burden on credit unions, constituting an obstacle to productivity. Membership of a credit union by companies, partnerships and local community groups could bring economic and social benefit to those bodies, the credit union and existing members of the credit union. Credit unions could benefit significantly from investment by a larger business, which might be for social responsibility reasons. This would improve the stability of the credit union, which in turn would have benefits for its members in terms of dividends and loan rates. Local businesses may also benefit from membership of a credit union both indirectly by supporting the local community and having access to new networks and marketing opportunities and directly as a recipient of the credit union's services.

4.69 The Treasury therefore proposed repealing the restriction on corporate bodies becoming members, subject to safeguards setting a limit on the percentage of such bodies and the

³ IPSs can have corporate members under the current law (s2 & 19 of the 1965 Act), although the rules of a society can exclude or limit corporate members. It is also possible for an IPS to be made up entirely of corporate members normally other cooperatives although it would be possible to have a cooperative made up of companies) – this is known as a federal cooperative.

number of shares to be held by them. The Treasury also proposed creating a new class of shares, called deferred shares, to be offered to corporate bodies. The purpose of deferred shares is to provide a mechanism for bodies corporate to invest in a society, to give it support and strengthen its finances, without allowing them excessive influence over the society by being able to withdraw their shares.

4.70 Consultation respondents were divided on this proposal. The majority welcomed the potential for corporate membership while others took the view that membership should be based on individuals and the inclusion of corporate members would create a burden on societies and detract from the core principles of one member one vote.

4.71 A number of respondents were concerned that allowing credit unions to offer only deferred shares to bodies corporate would limit their ability to offer services to corporate members. They argued that many local community groups and charities were incorporated and so would be unable to use the credit union for day-to-day banking and other services. They pointed out that a significant number of credit unions would like to be able to provide services to small, incorporated businesses and social enterprises. In response to this the Treasury has accepted the case for allowing flexibility for credit unions to be able to offer either ordinary shares or deferred shares to corporate members. This is reflected in the draft Order.

4.72 Respondents were generally supportive of proposals to limit the proportion of corporate members in a credit union compared to individual members, and to limit the proportion of shares and loans held by these members. They saw this as an important safeguard to prevent corporate members from wielding undue influence over the operations of the credit union.

4.73 New s1A of the 1979 Act, inserted by Article 13, makes provision for the application of the common bonds in subsection (2) of that article to apply to bodies corporate. It was proposed in the consultation that corporate bodies would fall within the common bond of "residing or being employed in a particular locality" where the principal place of business of the body corporate is in that locality. This was discussed in detail at a working group meeting where members expressed concern that the formulation was too narrow and would prevent, for example, a housing association for the south west, but whose head office is in London, from becoming a member of a Swindon credit union, if that is where much of its housing provision takes place. It was agreed with members of the working group that this would be replaced by the formulation in the draft Order (new s1A(4)(c)).

4.74 Article 15 of the draft Order inserts section 5A into the 1979 Act providing for the first time that a credit union may admit corporate bodies and individuals acting on behalf of unincorporated associations or partnerships to membership, if its rules so provide. However the number of corporate members is limited to 10% and the number of shares, other than deferred shares, held by corporate members cannot exceed 25%.

4.75 Article 13 of the draft Order makes specific provision for membership criteria in relation to corporate bodies. It also requires credit union rules to make provision for terminating the membership of corporate members or the repayment of shares in order to comply with the limits set out above.

4.76 Article 17 of the draft Order inserts a new section 31A into the 1979 Act which creates a new class of shares called deferred shares which can be offered to any member of a credit union. The key feature of deferred shares is that the principal can only be repaid to the shareholder if (a) the credit union is wound up or dissolved and creditors have been paid in full; or (b) the FSA consents to repayment.

4.77 Article 25 of the draft Order enables the FSA to vary unilaterally a credit union's permission (to carry on a regulated activity) to enable it to admit bodies corporate to membership. The existing permissions given to credit unions under Part 4 of FSMA restrict credit unions to dealing

with retail customers only. Article 25 thus avoids every credit union which wants to have corporate members having to apply individually to the FSA for a variation of permission. If a credit union does not want the FSA to vary its permission (because, for example, it may have an impact on its insurance) it can notify the FSA of this.

4.78 As set out above there are significant potential benefits from allowing bodies corporate, partnerships and unincorporated associations to become members of credit unions. The limits on corporate membership and shareholding will protect credit unions and their members from the risk of corporate members exercising a disproportionate level of influence. Credit Unions are free make express provision in their rules not allowing corporate membership or to self-impose stricter limits on corporate membership, shareholding and loans than are contained in the legislation. The proposals are thus proportionate and achieve a fair balance.

Conferral of Legislative Function

4.79 Article 15 states that the number of corporate members shall not exceed ten percent of the total number of members or such higher percentage as may be specified. The number of shares which may be allotted to corporate members is limited to twenty five per cent of the total allotted to members or such higher percentage as may be specified. Subsection (5) states that “specified” means specified by order made by the Treasury. Again, section 29 of the 1979 Act applies to this term.

4.80 The reason for these provisions is to enable the Treasury to increase the cap on the amount of shareholding by corporate members if, in light of credit unions’ experience of having corporate members, it becomes apparent that this would be a sensible thing to do. Credit Unions would retain the discretion to keep corporate shareholding below this upper limit. The negative resolution procedure is considered to be appropriate to the purposes of the amending power. The reason for this is that it follows existing policy that where only thresholds or limits are being amended, as opposed to the legislation itself, then the use of the negative resolution procedure is appropriate.

4.81 Article 15 also amends section 11 to regulate the making of loans to corporate members. A loan must not result in the aggregate balances on loans by a credit union to such members exceeding ten per cent of the balances on all loans made to members or such higher percentage as may be specified. Section 11(7) states that “specified” mean specified by order and by virtue of article 4 of and Part I of Schedule 1 to the Financial Services and Markets Act 2000 (Mutual Societies) Order 2001 (S.I. 2001/2617) the order-making power was transferred from the Chief Registrar to the Treasury. Again, section 29 of the 1979 Act applies. The amending power will provide flexibility as the market for loans to corporate members develops and the negative resolution procedure is considered to provide an appropriate level of Parliamentary control.

4.82 Subsection (5) of new section 31A (inserted by article 17) provides for the modification of the definition of deferred shares by Treasury order if the definition in the Building Societies Act 1986 or any instrument made under it is modified. As the definition of deferred shares in section 31A is based on that in section 119 of the Building Societies Act and in relevant secondary legislation made under that Act (currently the Building Societies (Deferred Shares Order) 1991 (S.I. 1991 No. 701)) it is necessary to have this option for amendment and the negative resolution procedure is appropriate.

Proposal B5: Allow credit unions to offer interest on deposits

4.83 Under the 1979 Act credit unions cannot offer interest on members’ deposits. They can only offer a discretionary dividend. The Treasury takes the view that this constitutes an obstacle to the productivity and profitability of credit unions, preventing them innovating by offering new products to their members and missing out on potential customers. It also puts credit

unions at a disadvantage in comparison with banks and building societies which do not have this restriction.

4.84 The Treasury considers the risks of allowing credit unions to offer interest-bearing shares to be outweighed by the policy interest of making credit unions more competitive by allowing them to offer more mainstream savings products and so reach a wider audience. The risks are also reduced by the safeguards included in the draft Order. Furthermore, the decision as to whether to offer interest-bearing shares will be a matter for credit union members. This measure is therefore proportionate to the aim sought.

4.85 Consultation respondents agreed that credit unions should be able to offer interest on members' deposits subject to the safeguards set out in the consultation document, which have been carried over into the draft Order. They saw this as an important tool for credit unions to mobilise savings as well as enabling credit unions to compete on a more level playing field with other financial services providers in the provision of Child Trust Funds and Individual Savings Accounts.

4.86 Credit Unions are subject to the accounting provisions of the 1968 Act. All credit unions must establish and maintain a satisfactory system of control of their accounts, cash holdings, receipts and remittances (s1(1)(a)). Section 4 requires credit unions to appoint an auditor. Section 9 imposes requirements on auditors of societies, including a requirement to make a report on the revenue accounts and balance sheet ('s9 report').

4.87 FSA rules require credit unions to submit an annual return and their audited accounts published in accordance with s3A of the 1968 Act. This includes revenue accounts and the year end balance sheet.

4.88 The consultation document put forward two pre-conditions for a credit union to issue interest-bearing shares. First, it would be required to hold reserves of £50,000 or 5% of its assets, whichever is higher; and secondly, it must demonstrate that it has adequate systems of control in place to manage the payment of interest to members. It was envisaged that the second condition would be satisfied by a credit union's auditors including a statement to this effect in its s9 report.

4.89 During subsequent discussions with representatives of the auditing profession it was suggested that it would be preferable for the auditor's statement relevant to issuing interest-bearing shares to be separate from the s9 report as the two reports address different matters. A concern was also raised that a credit union which has just completed its most recent set of financial statements but then takes the decision to issue interest-bearing shares would have to wait for completion of the following year's audit to do so. More fundamentally, concerns were expressed about the wording of the proposed statement by auditors. The draft Order therefore differs slightly from the proposal set out in the consultation document in order to meet these concerns.

4.90 Article 19 of the draft Order inserts a new section 7A into the 1979 Act which will allow credit unions to offer interest-bearing shares, provided that certain conditions are met. These conditions are:

- the credit union's rules provide for interest-bearing shares to be offered;
- its most recent year end balance sheet has been submitted to the FSA;
- that balance sheet shows that it holds reserves of at least £50,000 or 5 per cent of its total assets, whichever is greater; and
- it has submitted to the FSA a report by its auditors stating that in their opinion the credit union satisfies such conditions as are specified by the FSA for this purpose.

4.91 Section 7A(2) provides that once a credit union has started to issue interest bearing shares it must submit an annual report to the FSA showing that it continues to fulfil the conditions specified by the FSA.

4.92 Section 7A(3) makes provision for converting interest-bearing shares into non-interest bearing shares if: (a) a credit union's rules are amended such that they no longer provide for interest-bearing shares; or (b) the year end balance sheet does not show the required amounts of reserves or has not been submitted to the FSA on time or for two years running; or (c) the annual report has not been submitted to the FSA in accordance with s7A(2) for two consecutive years.

4.93 Article 19 amends Schedule 1 to the 1979 Act so that where the issue of interest-bearing shares is permitted by a credit union's rules, the rules must also include provision for converting such shares into shares which are not interest-bearing to comply with s7A(3).

Conferral of Legislative Function

4.94 One of the conditions in the new s7A which must be satisfied before credit unions can issue interest-bearing shares is that the most recent balance sheet shows reserves of at least £50,000 or five per cent of total assets whichever is greater. Subsection (3) enables the amount and percentage to be amended by Treasury order to refer to such other sum or percentage as appropriate. Section 29 of the 1979 Act applies again. The amending power will give any necessary flexibility when the effect of the power to issue interest-bearing shares can be assessed in light of experience. Again it is considered that the negative resolution procedure provides sufficient control over any increase or decrease in the amount or the percentage of reserves required to be held by credit unions issuing interest-bearing shares.

4.95 A separate condition in the new s7A which must be satisfied before a credit union can issue interest-bearing shares is that it submit to the FSA a report by its auditors stating that in their opinion the credit union satisfies such conditions as are specified by the Authority for this purpose. Thus the conditions the credit union must meet (and the auditor must report on) will be left to the FSA to determine. The FSA will also specify the date by which the annual report must be submitted.

4.96 The FSA is responsible for regulating credit unions and is best placed to stipulate, following consultation with key stakeholders, precisely what conditions a credit union's auditors must be satisfied the credit union meets before it takes on the risk of offering interest-bearing shares. These conditions may well develop over time and require revision in light of experience.

4.97 It would be open to the FSA to specify these conditions in rules made under s138 of the Financial Services and Markets Act 2000, or in a direction to be included in its handbook for credit unions (CRED).

Proposal B6: Abolish the 8 per cent per annum limit on dividends

4.98 The 1979 Act prevents credit unions from paying a dividend in excess of 8 per cent per annum. This restricts productivity as it limits credit unions' ability to innovate by offering a range of savings products which could include products which would attract a higher rate of dividend. It also constitutes an obstacle to productivity as a wider range of savings products could result in greater income for credit unions, which could be reinvested for the benefit of their members in the form of better savings and loan rates. For example, they could offer shares which are subject to more restrictive withdrawal conditions (such as longer notice period) but at the year end pay a higher dividend on those shares than on ordinary shares. This reform is consistent with the provision allowing interest-bearing shares described above, which is not subject to a cap on the interest rate.

4.99 Consultation respondents agreed with the Treasury's proposal to abolish this limit, some taking the view that there were already safeguards in place to allow members at an AGM to vote on a dividend proposed by directors. The FSA suggested maintaining the limit on dividends where a credit union dissolves to prevent any surplus going to members rather than charity (as specified in the current legislation).

4.100 Article 21 of the draft Order restricts the application of the 8% limit so that it only applies on dissolution of a credit union.

4.101 It is not thought that this amendment removes any necessary protection. It is proportionate as it removes a restriction while leaving it up to individual credit unions to decide what level of dividend to award, having regard to their liquidity and general financial situation.

Proposal B7: Amend the "attachment of shares" provisions

4.102 Under the 1979 Act a credit union member has to obtain the permission of the credit union Board to make a withdrawal of shares, where this would reduce the member's shareholding to less than his total liability to the credit union⁴. This is in contrast with the position of a bank or building society customer who does not face such restrictions and can in general withdraw savings or use a current account without the permission of the bank or building society.

4.103 The Treasury originally proposed amending the 1979 Act so that the credit union's permission is not required for such withdrawals unless the rules of the credit union specifically require it.

4.104 The majority of respondents, particularly those representing credit union boards were opposed to this proposal on the basis that the decision on allowing withdrawals below the level of liability should remain a discretionary decision of the Board of Directors. Some respondents were concerned that members would not wish to vote for a provision in the rules allowing the credit union to prevent withdrawals in such circumstances as they may have outstanding loans. This could impact on the liquidity of the credit union and increase the risk of the loan portfolio.

4.105 Taking account of these views, the Treasury modified its proposal so that the decision, while remaining with the Board of Directors, is taken at the time a person takes out a loan rather than at the time a person, to whom a loan has been made, tries to make a withdrawal that would decrease his shareholding below the amount of the loan. This ensures that the position is made clear to the borrower at the time he takes out the loan rather than relying on the discretion of the Board when trying to make a withdrawal at a later date. It also provides certainty for the FSA for the purpose of making prudential rules as it ensures a clear divide between shares which are attached and which are not and ensures that the position remains the same for the life of a loan. This has a knock on effect for liquidity requirements as the FSA can require different levels of liquidity against shares which can be withdrawn and those that can't (including 'attached' shares). It is also relevant to the FSA's provisioning rules as where a loan is in arrears and shares are non-withdrawable, it makes sense for those rules to require credit unions to provision only for the net liability (loan less shares). But it is difficult to apply this to shares which are potentially withdrawable, depending on a future decision of the credit union Board.

4.106 ABCUL have recently expressed concerns regarding the lack of flexibility in this proposal for the Board to allow withdrawals of 'attached' shares in an emergency. However, to allow this flexibility would defeat the purpose of the proposal which is to ensure fairness to borrowers and

⁴ The position is different in respect of secured loans where withdrawals which would reduce the shareholding below to less than the liability are not permitted.

certainty for the purpose of FSA liquidity requirements. The potential cost to credit unions and their members of retaining flexibility in terms of the knock on effect on liquidity and provisioning rules would seem to be greater than the disadvantage of surrendering this flexibility. In the example of the emergency situation put forward by ABCUL it would be open to the credit union to extend the loan, thus releasing funds in that way or to vary the terms of the loan by mutual consent. The Treasury therefore takes the view that this provision is proportionate and should be retained.

4.107 Article 18 of the draft Order therefore repeals section 7(5)(b) and inserts a provision into section 11 (loans) requiring the terms of a loan (other than a secured loan) to include provision as to whether for the duration of the loan the borrower or guarantor is to be permitted to withdraw shares which would reduce his shareholding to less than his total liability. Article 27 provides that the repeal of s7(5)(b) will not apply in relation to loans made before the draft Order comes into force.

Proposal B8: Allow credit unions to charge the market rate for providing ancillary services to their members

4.108 Under the 1979 Act credit unions may only charge on a cost-recovery basis for services which are ancillary to accepting a deposit or making a loan, such as making or receiving payments, issuing and administering chequebooks and money transactions. This amounts to an obstacle to profitability – if credit unions were able to charge anyone requiring such services at the market rate, they would be able to put the profits back into the business for the benefit of all members (for example by paying a higher dividend, or offering loans at a lower rate). Other deposit-takers such as banks and building societies do not face such restrictions on charging for ancillary services.

4.109 Consultation respondents were in favour of allowing credit unions to charge market rate for such services, arguing that it was appropriate in the context of the market in which credit unions operate. 79 percent of respondents to the ABCUL survey of its members agreed with this proposal. A number commented that the current restriction was holding back product development. The proposal was strongly supported by ABCUL.

4.110 Respondents explained that in the past credit unions have been put off from developing new services to meet the needs of their members because of the difficulties in calculating the exact cost of providing the service. They were therefore of the view that this proposal would assist credit unions in developing new services in response to the changing needs of an expanding membership.

4.111 Article 20 of the draft Order replaces the current provision in s9A(1) of the 1979 Act with a provision allowing a credit union to charge such fee as it considers appropriate for ancillary services.

4.112 The Treasury considers that the impact on those who have to pay more for ancillary services is outweighed by the public interest of giving credit unions an additional source of funding and encouraging them to offer ancillary services where they do not do so already. In any event it is reasonable to expect those receiving additional services from a credit union to pay the normal market rate for them and it will be up to the credit union to set the rate, taking its members' interests into account.

A Impact Assessment

Impact Assessment to follow.

Summary: Intervention & Options

Department /Agency: HM Treasury	Title: Impact Assessment of LRO on Industrial & Provident Societies and Credit unions	
Stage: Final proposal stage	Version: Final	Date 23rd November 2009
Related Publications: Related Publications: Proposals for a legislative Reform Order for credit unions and industrial and provident societies in Great Britain: response to consultation		

Available to view or download at:

http://www.hm-treasury.gov.uk/consult_credit_union.htm

Contact for enquiries: Nigel Tonks

Telephone: 0207 270 5272

What is the problem under consideration? Why is government intervention necessary?

This is part of the Government's wider review of mutuals legislation. The legislation for Industrial & Provident Societies and Credit Unions requires modernising to reflect the current commercial realities.

What are the policy objectives and the intended effects?

Industrial and Provident Societies

- Remove the minimum age for membership of an Industrial & Provident Society and reduce the minimum age for an officer of an Industrial & Provident Society, while allowing Societies to retain the ability to make contrary provision in their rules.
- Modify the rules on share capital. The Government views the current £20,000 limit to be unduly restrictive and an obstacle to productivity. The legislation will be amended so that the £20,000 limit only applies to withdrawable shares with no limit on transferable shareholdings.
- Amend the provision on fees for a copy of the society's rules. Current legislation limits the fee to 10 pence. The LRO will increase this limit to £5 while giving Treasury power to vary the £5 fee by a negative resolution statutory instrument.
- Facilitate the easier dissolution of registered societies which have become dormant.
- Give societies the flexibility to decide their own accounting year-ends to suit their commercial and financial convenience. The LRO aligns the provisions of the IPSA 1965 with the equivalent provisions of the Companies Act 2006.
- Remove the requirement on societies to have interim accounts audited. To reduce the burden on business the LRO will amend the current legislation so that an IPS or credit union can publish unaudited interim accounts provided they are clearly identified as such and are published alongside the most recent audited annual accounts.

Credit Unions

- Provide for an easier procedure for dissolution for Credit Unions, subject to confirmation by the FSA.
- Reform the requirements relating to membership qualifications and rename them "common bonds". The legislation will allow a combination of any number of common bonds, however where a credit union has a common bond based on locality, membership will be limited to 2 million.
- Reform restrictions on non-qualifying members of Credit Unions. The LRO will repeal the 10 per cent limit on non-qualifying members, allowing credit unions to set their own limits via their rules.
- The LRO will allow credit unions to admit corporate bodies to membership, while capping the proportion of corporate membership (including companies, unincorporated associations or partnerships) to 10%, and limiting the proportion of total assets held by, or loans made to, corporate members.
- Allow credit unions to offer interest on deposits, provided certain requirements are met.
- Abolish the 8 per cent per annum limit on dividends (except on the dissolution of a credit union).
- Allow credit unions to charge the market rate for providing ancillary services to their members. The LRO will bring credit unions into line with other financial service providers and allow them to consider providing other services.

What policy options have been considered? Please justify any preferred option.

- (a) Partial implementation.
- (b) Full implementation.

Option (b) is the preferred option. The sector, in consultation, considered that full implementation is necessary to secure reduction of administrative burdens.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? 3 years

Ministerial Sign-off For final proposal/implementation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) the benefits justify the costs.

Signed by the responsible Minister:

Date: 23 November 2009



Summary: Analysis & Evidence

Policy Option: B

Description: Full Implementation

COSTS	ANNUAL COSTS		<p>Description and scale of key monetised costs by 'main affected groups' Mainly relate to Treasury and FSA logistical costs in consulting, drafting and publishing documentation. Circa £100K.</p> <p>Some IPSs may have to amend their rulebooks but many review these regularly and have anticipated these changes, keeping costs to a minimum.</p> <p>The changes in share capital will provide savings to IPSs but there may be initial legal costs.</p> <p>Amendment of rulebooks incurs a small cost to some credit unions.</p> <p>Education costs for some credit union staff who may require training regarding the changes. The credit unions' trade associations will provide this.</p> <p>Cost of upgrading credit union computer systems; Most credit unions already have the capability while a few will take the opportunity to incorporate other changes and upgrade.</p>
	One-off (Transition)	1 Yr	
	£ 0.15m		
	<p>Average Annual Cost (excluding one-off)</p>		
	£ N/A		<p>Total Cost (PV) £ 0.15m</p>
<p>Other key non-monetised costs by 'main affected groups'</p> <p>Nil.</p>			

BENEFITS	ANNUAL BENEFITS		<p>Description and scale of key monetised benefits by 'main affected groups'</p> <p>IPSs</p> <p>Changes in share capital rules will reduce legal fees for the sector.</p> <p>Amending the charge for copies of a society's rules will reduce costs.</p> <p>The reduction in audit fees for IPSs has been estimated by the sector at over £250,000 annually.</p> <p>Credit Unions</p> <p>Primary benefits arise from allowing more freedom to credit unions relating to membership and modernising certain rules.</p> <p>Ability to attract new members and be competitive.</p> <p>Allowing credit unions to charge the market rate for ancillary services.</p>
	One-off	1 Yr	
	£ Not quantifiable		
	<p>Average Annual Benefit (excluding one-off)</p>		
	£ 0.275m		<p>Total Benefit (PV) £ Not quantifiable</p>
<p>Other key non-monetised benefits by 'main affected groups'</p> <p>Modernising while creating a flexible legislative framework to enable the IPS sector to grow and develop. Reduced administrative burden for the Registrar.</p> <p>All of the changes to rules will make credit union more attractive to new members while allowing previously excluded groups to become members.</p>			

Key Assumptions/Sensitivities/Risks

Benefits from the AIA assume that savings made by agents are passed on to SME companies. One-off cost assessment assumes that the adjustments to the new rates and allowances will require software changes which cannot meaningfully be quantified.

Price Base
Year 2009

Time Period
Years 1

Net Benefit Range (NPV)
£ 0.275m

NET BENEFIT (NPV Best estimate)
£ 0.275m

What is the geographic coverage of the policy/option?

GB

On what date will the policy be implemented?		During 2010		
Which organisation(s) will enforce the policy?		HMRC		
What is the total annual cost of enforcement for these organisations?		£ N/A		
Does enforcement comply with Hampton principles?		Yes		
Will implementation go beyond minimum EU requirements?		No		
What is the value of the proposed offsetting measure per year?		£N/A		
What is the value of changes in greenhouse gas emissions?		£ N/A		
Will the proposal have a significant impact on competition?		No		
Annual cost (£-£) per organisation (excluding one-off)	Micro £0	Small £0	Medium £65.88	Large £65.88
Are any of these organisations exempt?	No	No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices)		(Increase - Decrease)		
Increase of	£	N/A	Decrease of	£ N/A
		Net Impact		£
				N/A

Key:

Annual costs and benefits: Constant Prices

(Net) Present Value

Evidence Base

IPSS

1. PROPOSAL

- 1.1 To remove the minimum age for membership of an Industrial & Provident Society and reduce the minimum age for an officer of an Industrial & Provident Society.
- 1.2 Modify the rules on share capital.
- 1.3 Amend the provision on fees for a copy of the society's rules.
- 1.4 Facilitate the easier dissolution of dormant societies.
- 1.5 Give societies the flexibility to decide their own accounting year-ends.
- 1.6 Remove the requirement on societies to have interim accounts audited.

2. OBJECTIVE

- 2.1 The LRO will update the legislative framework under which Industrial and Provident Societies and Credit Unions operate and remove unnecessary burdens on those societies.

3. BACKGROUND

- 3.1 The Treasury carried out a consultation on the "Review of GB cooperative and credit union legislation" from 21 June to 12 September 2007. This was followed by a further consultation in July 2008 "Proposals for a Legislative Reform Order for credit unions and industrial and provident societies in Great Britain" Respondents identified some 30 policy and legislative issues which they wanted Treasury to address. The responses were published 19 April 2009.
- 3.2 The Treasury is taking forward many of these proposals in a Legislative Reform Order.
- 3.3 Further legislative reforms, which are outside the scope of a Legislative Reform Order, are being put forward in a private members Bill "The Cooperative and Community Benefits Societies and Credit Unions Bill".

4. OPTIONS APPRAISAL.

- (a) Partial Implementation.
- (b) Full implementation.

Option (b) is the Government's preferred option.

Option	Costs		Benefits
(a) Partial Implementation.	Will be less than Option (b) but will be of less value. There will still be restrictions that do not apply to other financial institutions.		Of limited value and benefit. Difficult to quantify.
(b) Full implementation.	<p><u>Authorities</u></p> <p><u>FSA</u> May need to update its systems and processes to implement the rules. Difficult to quantify as this would depend on the number of societies adopting all the changes.</p> <p><u>HM Treasury</u> Policy and Legal in consulting and drafting documentation. Circa £50K</p>	<p><u>IPSS</u></p> <p>Implementation costs - thought to be mainly relating to administrative matters such as revised stationary, rule books etc, some computer software changes and staff education. Some legal costs. Circa £30k</p>	Benefits accruing, whilst substantial, are difficult to quantify. Primary benefits arise by allowing Industrial & Provident Societies and Credit Unions more freedom in attracting and retaining members, and added flexibility within certain of their rules. As a result, the mutual sector will be placed on a more dynamic footing going forward.

5. RISKS, UNCERTAINTY AND UNINTENDED CONSEQUENCES

5.1 There are no known areas where unintended consequences could occur.

6. IMPLEMENTATION

6.1 The proposal will be implemented by Legislative Reform Order.

7. WHO WILL BE AFFECTED

7.1 All Industrial & Provident Societies and Credit Unions in Great Britain.

8. EQUITY AND FAIRNESS

8.1.1 The Government considers that the changes proposed by this proposal will not bring disproportionate benefits or have disproportionate effects on particular groups.

9. CONSULTATION WITH SMALL BUSINESS

The Government sought respondents' views on the Government's proposals and implementation proposals. The proposals are the result of an earlier consultation and have been drafted with the assistance of a Working Group comprising of key stakeholders.

- SMALL FIRMS IMPACT TEST

We do not expect the proposed changes to impose any extra costs on small firms.

- COMPETITION ASSESSMENT

We have carried out a simple competition assessment and are of the view that the proposals in the LRO are not expected to lead to any barriers to entry.

10. CONSULTATION

10.1 HMT held an initial public consultation on these provisions in 2007 with a follow up consultation in 2008 on Proposals for a Legislative Reform Order to amend Industrial & Provident Society and Credit Union Legislation. The Treasury has held subsequent discussions with key stakeholders including the Financial Services Authority and the Department for Business, Enterprise and Regulatory Reform. The Treasury has also consulted with the main trade representative bodies for IPSs and credit unions.

11. ENFORCEMENT AND SANCTIONS

11.1 The FSA will be responsible for enforcing the provisions in the LRO.

12. SUMMARY AND RECOMMENDATIONS

12.1 Benefits cannot be quantified but are substantial, since they offer additional ways of ensuring financial stability within the mutual sector. Because the benefits will far outweigh the costs we recommend that this proposal be adopted.

Credit Unions

1. PROPOSAL

- 1.7 Provide for an easier procedure for dissolution for Credit Unions, subject to confirmation by the FSA.
- 1.8 Rename membership qualifications "common bonds" and allow a credit union to have any combination of common bonds, subject to a restriction on the potential number of members of 2 million if one of a credit union's common bonds relates to locality.
- 1.9 Reform restrictions on non-qualifying members of Credit Unions.
- 1.10 Allow Credit Unions to admit bodies corporate, unincorporated associations or partnerships to membership.
- 1.11 Allow Credit Unions to offer interest on deposits, provided certain requirements are met.
- 1.12 Abolish the 8 per cent per annum limit on dividends.
- 1.13 Allow Credit Unions to charge the market rate for providing ancillary services to their members.

2. OBJECTIVE

- 2.2 When the LRO comes into force it will create an enabling environment for Industrial & Provident Societies and Credit Unions while updating the legislative framework under which they operate.

3. BACKGROUND

- 3.1 The Treasury carried out a consultation on the "Review of GB cooperative and credit union legislation" from 21 June to 12 September 2007. This was followed by a further consultation in July 2008 "Proposals for a Legislative Reform Order for credit unions and industrial and provident societies in Great Britain" Respondents identified some 30 policy and legislative issues which they wanted Treasury to address. The responses were published 19 April 2009.
- 3.2 The Treasury is taking forward many of these proposals in a Legislative Reform Order.
- 3.3 Further legislative reforms are being put forward in a private members Bill "The Cooperative and Community Benefits Societies and Credit Unions Bill", which are outside the scope of a Legislative Reform Order.

4. OPTIONS APPRAISAL.

(a) Partial Implementation.

(b) Full implementation.

Option (b) is the Government's preferred option.

Option	Costs		Benefits
(a) Partial Implementation.	Will be less than Option (b) but will be of less value. There will still be restrictions that do not apply to other financial institutions.		Of limited value and benefit. Difficult to quantify.
(b) Full implementation.	<p><u>Authorities</u> <u>FSA</u> May need to update its systems and processes to check membership criteria etc. Difficult to quantify as this would depend on the number of societies revising their membership and rules. <u>HM Treasury</u> Policy and Legal in consulting and drafting documentation. Circa £50K</p>	<p><u>Credit Unions</u> Implementation costs - thought to be mainly relating to administrative matters such as revised stationary, rule books etc, some computer software changes and staff education. Circa £20k</p>	Benefits accruing, whilst substantial, are difficult to quantify. Primary benefits arise by allowing Industrial & Provident Societies and Credit Unions more freedom in attracting and retaining members, and added flexibility within certain of their rules. As a result, the mutual sector will be placed on a more dynamic footing going forward.

5. RISKS, UNCERTAINTY AND UNINTENDED CONSEQUENCES

5.1 There are no known areas where unintended consequences could occur.

6. IMPLEMENTATION

6.1 The proposal will be implemented by Legislative Reform Order.

7. WHO WILL BE AFFECTED

7.1 All Industrial & Provident Societies and Credit Unions in Great Britain.

8. EQUITY AND FAIRNESS

8.1.1 The Government considers that the changes proposed by this proposal will not bring disproportionate benefits or have disproportionate effects on particular groups.

9. CONSULTATION WITH SMALL BUSINESS

The Government sought respondents' views on the Government's proposals and implementation proposals. The proposals are the result of an earlier consultation and have been drafted with the assistance of a Working Group comprising of key stakeholders.

- SMALL FIRMS IMPACT TEST

We do not expect the proposed changes to impose any extra costs on small firms.

- COMPETITION ASSESSMENT

We have carried out a simple competition assessment and are of the view that the proposals in the LRO are not expected to lead to any barriers to entry.

10. CONSULTATION

10.1 HMT held an initial public consultation on these provisions in 2007 with a follow up consultation in 2008 on Proposals for a Legislative Reform Order to amend Industrial & Provident Society and Credit Union Legislation. The Treasury has held subsequent discussions with key stakeholders including the Financial Services Authority and the Department for Business, Enterprise and Regulatory Reform. The Treasury has also consulted with the main trade representative bodies for IPSs and Credit Unions.

11. ENFORCEMENT AND SANCTIONS

11.1 The FSA will be responsible for enforcing the provisions in the LRO.

12. SUMMARY AND RECOMMENDATIONS

12.1.1 Benefits cannot be quantified but are substantial, since they offer additional ways of ensuring financial stability within the mutual sector. Because the benefits will far outweigh the costs we recommend that this proposal be adopted.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
Competition Assessment	No	No
Small Firms Impact Test	No	No
Legal Aid	No	No
Sustainable Development	No	No
Carbon Assessment	No	No
Other Environment	No	No
Health Impact Assessment	No	No
Race Equality	No	No
Disability Equality	No	No
Gender Equality	No	No
Human Rights	No	No
Rural Proofing	No	No

B

List of consultees

Anglia Regional Co-operative Society
Brambles Housing Co-op
Canolfan Cydweithredol Cymru/ Wales Co-operative Centre
CDS (Co-operative Development Society)
Charity Law Association
Chelmsford Star Co-op
Citylife
CNW (Cooperatives North West)
Community Broadband Network
Confederation of Co-operative Housing (CCH)
Co-operative & Mutuals Solutions Ltd (CMS)
Co-operative Assistance Network Ltd
Co-operatives Futures
Co-operatives North West
Co-operatives South East
COOPS UK
Cornerstone Housing Co-op
Country Markets
D&L Scott
Delta T Devices LTD
East of England Co-op
EFFP (English Farming & Food Partnership)
Ethical Consumer Research Association
Ethos PR
Fane Valley Co-op Society Ltd
Financial Services Smaller Business Practitioner Panel (SBPP)
Footprint Worker Co-op
Headingley Development Trust
Heart of England Co-operative Society Ltd
Lincolnshire Cooperative Ltd
Midcounties Co-operative Society Ltd
National Food Stores Ltd
National Housing Federation (NHF)
One Community Limited
Penrith Co-op
Phone Co-op Ltd
Plunkett Foundation
Plymouth & South West Co-operation Ltd
Radical Routes
Scottish Agricultural Organisation Society (SAOS)
Scottish Midland Co-operative Society

Shared Interest
Situ8
Southern Co-operatives
Star Holdings
Tamworth Co-op
The Channel Islands' Cooperative Society Ltd
The Co-op Group
The Guild (Eastern Region) LLP
Triangle Wholefoods Collective Ltd/ A Suma
Tue Food Community Co-op
Upstart Services Ltd
Upstream Ltd
Rochdale Social Enterprise Forum
Rochdale Federation of Tenants and Residents Associations
CDA (Brave Ltd)
Harlow CDA
Baker Brown Associates
Tower Hamlets Co-operative Development Agency
NCVO
Ian Snaith, Law Faculty, University of Leicester
Charles Richard Wood
Charlie Cattell, Social Economy Consultant
Samuel Hope, School of Business and Social Sciences, Roehampton University
The Tool Factory LLP
Graham Mitchell, MC3 LLP
Housing Corporation
Co-operative & Community Finance
Credit Union Training and Enterprise
Co-operative Development Scotland (CDS)
Supporters Direct
Social Enterprise East Midlands
Community Development Finance Association (CDFA)
Social Enterprise People
UK Society for Co-operative Studies (UK SCS)

ABCUL (Association of British Credit Unions Ltd)
ABCUL South West Chapter
National Association of Credit Union Workers (NACUW)
UK Credit Unions Limited (UKCU)
ACE Credit Union Services
Credit Union Consultation Working Group
Graham Hickman
Watling & Grahame Park CU Ltd
Penilee CU Ltd
Ellesmere Port & Nelson CU Ltd
North Lincolnshire CU Ltd
Just CU Ltd
Leicester Caribbean CU Ltd
Bedford CU Ltd

Partners CU Ltd
Tim Presswood, Chair Manchester CU Ltd
Watford CU Ltd
Hope (Plymouth) CU Ltd
East Renfrewshire CU Ltd
Sharon Angus – Crawshaw Crewe and Nantwich CU Ltd
Rainbow Saver Anglian CU Ltd
Tamworth CU Ltd
Police CU Ltd
Northumberland CU Ltd
Firesave CU Ltd
Hull & East Yorkshire CU Ltd
Ipswich and Suffolk CU Ltd
Moneywise Newcastle CU Ltd
Scotwest CU Ltd
Neath Port Talbot CU Ltd
Mendip Community CU Ltd
Capital CU Ltd
Llandudno & District CU Ltd
Blackburn Seafield & District CU Ltd
North London Enterprise CU Ltd
Torfaen CU Ltd
Tower Hamlets CU Ltd
Pendle Community CU Ltd
Glasgow CU Ltd
Worcestershire CU Ltd
Scottish Transport CU Ltd
Jubilee Tower CU Ltd
Kirklees CU Forum
Camden Plus CU Ltd
Exeter CU Ltd
Glasgow Taxi Trade CU Ltd
Bristol CU Ltd
StreetCred CU Ltd
Tower Hamlets Community CU Ltd
East Lancashire Finance Ltd
HHH CU Ltd
Croydon Savers CU Ltd
Halton CU Ltd
Handsworth Breakthrough CU Ltd
Hatfield CU Ltd
Inverness CU Ltd
Grampian CU Ltd
Castle & Minster CU Ltd
No 1 Police CU Ltd
Financial Inclusion Services Ltd
Sheffield CU Ltd
Moneyline Yorkshire (IPS Ltd)
Enterprise CU Ltd

Waltham Forest CU Ltd
Lincolnshire CU Ltd
Dalmeir CU Ltd
Nottingham CU Ltd
Cleator Moor and District CU Ltd
City Save CU Ltd
Enterprise the Business CU Ltd
Black Squirrel CU Ltd
Clockwise Leicester CU Ltd
Haven CU Ltd
Edmonton CU Ltd
1st Class CU Ltd
Hampshire CU Ltd
Norfolk CU Ltd
Forest of Dean CU Ltd
East Sussex CU Ltd
Steven Guy
Richard Wood
Terry Clay
Roger Hawkins
Bob Andrews
Dave Sternberg
Sally Chicken
Nicholas Ryder
Carol Wilson
Peter Gane
Martin Grombridge
Peter Mason
Barclays
CDA Brave Ltd
Chartered Institute of Housing
Herefordshire Council
CUTE, Barry Epstein
Alexander Sloan, CA s
Cooperative Development Scotland
Norman Rides

Building Societies Association
European Commission
Law Commission



List of Respondents to the Consultation

The following bodies and individuals submitted responses to the consultation.

ABCUL
Abronhill CU
ACE Credit Union Services
Association of Friendly Societies
Anglia Regional Co-operative Society
All Party Parliamentary Group on Credit Unions
BCD CU
Bedford CU
Borough & Parish Community CU
Bute CU
Brockweir & Hewelsfield Village Shop Association
Calderdale CU
Cambuslang CU
Capital CU
Carmyle CU
Co-operative & Social Enterprise Development Agency
Castle & Minster CU
Chryston & District CU
Chartered Institute of Housing
Citysave CU
Cobbetts LLP
Colchester CU
Commsave CU
Co-operatives UK
Cornton CU
Craigmillar CU
Cumbernauld South CU
Cumnock & Doon CU
Drumchapel CU
East of England Co-operative Society
Ethos Public Relations
Fairfield Govan CU
FireSave CU
1st Class CU
First Shipbuilders CU
Forres Area CU
FSA

Glasgow CU
Greater Glasgow CU
Greater Govan CU
Greater Milton & Fossilpark CU
Haghill & Denniston CU
Heart of England Co-operative Society
Herefordshire Council
Housing Corporation
Institute of Chartered Secretaries and Administrators
Kirklands CU
Law School – University of Leicester
Lincolnshire Co-operative Ltd
Mark Lazarowicz MP Chair, Westminster Parliamentary Co-operative Group
Midlands Co-operative Society
Newarthill CU
New Easterhouse CU
Northumberland CU
North Coatbridge CU
North Glasgow CU
North London Enterprise CU
Parkhead CU
Penny Post CU
Plymouth & South West Co-operative Society
Scottish Agricultural Organisation Society
Scottish Transport CU
Scotwest CU
Shared Interest Society
Shettleston & Tollcross CU
Somerset Co-operative Services
South Central Middlesbrough CU
Southern Co-operatives
Stranraer CU
St.Thomas (Shildon) CU
Taxi Trade CU
UKCU
Transave CU
Welcome CU
Welsh Assembly Government

D

Members of the working group on IPS and credit union legislative reform

Helen Barber, Head of Legal Services and Deputy Secretary, Coops UK

James Graham, CEO, Scottish Agricultural Organisation Society

Pauline Green, CEO, Coops UK

Bill Greenwood, CEO, UK Credit Unions Ltd

Philip Hardman, The Co-op Group

Peter Hunt, CEO, MUTUO

Mark Lyonette, CEO, ABCUL

Abbie Shelton, ABCUL

Cliff Mills, Partner, Cobbetts

Ian Snaith, Professor and author of handbook on Industrial & Provident Society law.

Dave Grace, Vice President, World Council of Credit Unions (WOCCU)

David Orr, National Federation of Housing Associations

Financial Services Authority

HM Treasury

Office of the Third Sector

HM Treasury contacts

This document can be found in full on our website at:
hm-treasury.gov.uk

If you require this information in another language,
format or have general enquiries about HM Treasury
and its work, contact:

Correspondence and Enquiry Unit
HM Treasury
1 Horse Guards Road
London

SW1A 2HQ

Tel: 020 7270 4558

Fax: 020 7270 4861

E-mail: public.enquiries@hmtreasury.gov.uk

ISBN 978-1-84532-687-6



9 781845 326876 >