EXPLANATORY MEMORANDUM TO

THE CO-OPERATIVE AND COMMUNITY BENEFIT SOCIETIES AND CREDIT UNIONS ACT 2010 (CONSEQUENTIAL AMENDMENTS) REGULATIONS 2014

2014 No. [XXXX]

1. This explanatory memorandum has been prepared by HM Treasury and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 These Regulations will make amendments to secondary legislation consequential upon the commencement of section 1 of the Co-operatives and Community Benefit Societies and Credit Unions Act 2010 as re-enacted in the Co-operative and Community Benefit Societies Act 2014 ("the 2014 Act"), which lays down new registration requirements for societies in Great Britain other than credit unions.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Context

4.1 Section 6(1) of the Co-operative and Community Benefit Societies and Credit Unions Act 2010 ("the 2010 Act") empowers the Treasury, by regulations, to make such amendments of enactments as appear to be appropriate in consequence of any provision made by or under that Act. Section 6(4) provides that the power may be exercised so as to replace the words "industrial and provident society" wherever occurring, including in the title of an enactment.

4.2 Section 1 of the 2010 Act substitutes section 1 of the Industrial and Provident Societies Act 1965 ("the 1965 Act"). This provides that a society which meets the specified conditions may be registered as a co-operative society or a community benefit society rather than an industrial and provident society. Societies already registered are referred to as "pre-2010 Act societies".

4.3 Section 1 of the 2010 Act has been consolidated in the Co-operative and Community Benefit Societies Act 2014, which will come into force on 1 August 2014. The 2014 Act consolidates industrial and provident society legislation in

Great Britain, largely by repealing and re-enacting the 1965 Act and other primary legislation (but not section 6 of the 2010 Act).

4.4 In the 2014 Act "registered society" means a society registered under that Act as a co-operative or community benefit society or credit union or a society registered or treated as registered under the 1965 Act (as either a an industrial and provident society or a credit union) - section 1 of the 2014 Act.

4.5 Section 2 of the 2014 Act consolidates provision, as amended by section 1 of the 2010 Act, about the type of society that may be registered. An industrial and provident society will no longer be registered under that name. A new society, other than a credit union, is to be registered as a co-operative society or a community benefit society.

4.6 The 2014 Act makes provision for savings. In Schedule 5, paragraph 1 provides that the repeal and re-enactment of provisions of the 2014 Act does not affect the continuity of the law; paragraph 4 provides that any power conferred by an Act that is exercisable in relation to a provision repealed by the 2014 Act is exercisable in relation to the corresponding provision of the 2014 Act.

4.7 The Regulations provide for commencement on 1 August 2014 immediately after the commencement of the 2014 Act. By virtue of that provision for savings section 6 can be exercised to make amendments in consequence of the enactment of the registration requirements in the 2014 Act, just as it could have been used, independently of any consolidation, in consequence of commencing section 1 of the 2010 Act.

4.8 These Regulations change references in secondary legislation to an industrial and provident society to take account of these changes in the law without changing the scope of the provision which contains the reference.

4.9 Credit unions whose registered office is in Great Britain are registered under section 1 of the 1965 Act as credit unions (section 1 of the Credit Unions Act 1979), and will be registered under section 2 of the 2014 Act. Section 149 of the 2014 Act defines a credit union as a registered society that is registered as a credit union.

4.10 Industrial and provident societies and credit unions are a devolved matter in Northern Ireland. Industrial and provident societies are registered under the Industrial and Provident Societies Act (Northern Ireland) 1969, which is the main enactment regulating industrial and provident societies. Credit unions were also registered under that Act until 1985, and Part III provided for the application of Part II to credit unions with modification (broadly in line with the approach in Great Britain: credit unions are registered under industrial and provident society legislation which applies to them with modifications). Part III was repealed by the

Credit Unions (Northern Ireland) Order 1985 (SI 1985/1205), under which credit unions are now registered and by which they are regulated separately from industrial and provident societies.

5. Territorial Extent and Application

5.1 This instrument applies to England and Wales and Scotland.

6. European Convention on Human Rights

6.1 The Economic Secretary to the Treasury has made the following statement regarding Human Rights:

6.2 In my view the provisions of the Co-operative and Community Benefit Societies and Credit Unions Act 2014 (Consequential Amendments) Regulations 2014 are compatible with the Convention rights.

7. Policy background

- What is being done and why

7.1 Section 1 of the Co-operatives and Community Benefit Societies and Credit Unions Act 2010 comes into force on 1 August 2014. New industrial and provident societies will be registered as either co-operative or community benefit societies.

7.2 The reason for the change is that the expression "industrial and provident society" is now widely perceived as old fashioned. The change has been requested by the sector, which believes that the new names will mean more to the public and their members and are more appropriate and up to date. This means that new societies (other than credit unions) will be required to register as either a co-operative or a community benefit society and that existing industrial and provident societies can choose to change their name.

7.3 The changes do not affect legislation in Northern Ireland.

7.4 In determining what consequential amendment is appropriate for a given reference in secondary legislation to an industrial and provident society, it is necessary to consider, by reference to the enactment concerned and the statute which contains the enabling power:

a) whether to include or exclude credit unions;

b) whether the reference includes a reference to societies whose registered office is in Northern Ireland;

c) whether to refer only to societies registered under the 2014 Act (and not to existing societies); and

d) whether to refer only to one type of IPS (i.e. just community benefit societies).

- Consolidation

7.5 These Regulations are made partly in connection with the consolidation of primary legislation. Otherwise, not applicable.

8. Consultation outcome

8.1 The new registration requirements explained above, together with a number of other industrial and provident society reforms, were consulted upon in a public consultation "Review of the GB cooperative and credit union legislation" carried out by the Government in 2007. The proposals received the support of the sector.

9. Guidance

9.1 The Treasury does not intend to issue guidance with these Regulations.

10. Impact

10.1 These Regulations have no impact on business, charities or voluntary bodies.

10.2 Existing industrial and provident societies will be able to change names registered with the Financial Conduct Authority (FCA). Costs are expected to be minimal and only incurred by choice of those wishing to change their name. . The sector has indicated that the cost of registering new names will be offset by the benefit of having names that mean more to the public and members.

10.3 These wider changes have no impact on the public sector, except, indirectly, if the FCA needs some short term additional resource to deal with a large number of name changes. The FCA has indicated that any costs are expected to be covered within the existing fees charged to the sector and do not plan to pass any costs on to businesses.

10.4 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation applies to small business. The changes in the law, for which these Regulations make consequential amendments, have been requested by the mutual societies sector.

12. Monitoring & review

12.1 While no specific review is planned for this instrument, it will be reviewed as part of any review of policy on co-operatives and community benefit societies.

13. Contact

Candice Mullineux at the Treasury: 0207 270 1037 or email: Candice.Mullineux@hmtreasury.gsi.gov.uk can answer any queries regarding the instrument.