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STATUTORY INSTRUMENTS

2020 No. 990

PENSIONS

The Pension Protection Fund (Moratorium and Arrangements and Reconstructions for Companies in Financial Difficulty) (Amendment and Revocation) Regulations 2020

Approved by both Houses of Parliament

Made - - - -	*14th September 2020*
Laid before Parliament	*15th September 2020*
Coming into force - -	*16th September 2020*

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections A51 and A55 of the Insolvency Act 1986(**a**), sections 901I, 1291 and 1292 of the Companies Act 2006(**b**) and section 43 of the Corporate Insolvency and Governance Act 2020.

In accordance with section 1291 of the Companies Act 2006, as modified by section 901I(8) of that Act, and section 43 of the Corporate Insolvency and Governance Act 2020, this instrument is made without a draft having been laid before, and approved by a resolution of, each House of Parliament.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Pension Protection Fund (Moratorium and Arrangements and Reconstructions for Companies in Financial Difficulty) (Amendment and Revocation) Regulations 2020, and come into force on 16th September 2020.

(2) This regulation and regulations 2, 3, 5 and 6 extend to England and Wales, Scotland and Northern Ireland.

(3) Regulation 4 extends to England and Wales and Scotland.

(**a**) 1986 c. 45. Sections A51 and A55 were inserted by section 1 of the Corporate Insolvency and Governance Act 2020 (c. 12). Sections A51 and A55 were applied to relevant CCBS by article 2(A1) of the Co-operative and Community Benefit Societies and Credit Unions (Arrangements, Reconstructions and Administration) Order 2014 (S.I. 2014/229) ("the 2014 Order"), inserted by article 7(b) of the Co-operative and Community Benefit Societies and Credit Unions (Arrangements, Reconstructions and Administration) (Amendment) and Consequential Amendments Order 2020 ("the 2020 Order") (S.I. 2020/744), with modifications set out in Part 1A of Schedule 1 to the 2014 Order, inserted by article 11 of the 2020 Order. The 2014 Order was amended by S.I. 2014/1815. "Relevant CCBS" is defined in article 1(2) of the 2014 Order.

(**b**) 2006 c. 46. Section 901I was inserted by section 7 of, and Schedule 9 to, the Corporate Insolvency and Governance Act 2020. Section 901I has been applied to relevant societies by article 2(4) of the 2014 Order, inserted by article 7(c) of the 2020 Order, with modifications set out in Part 2 of Schedule 2A to the 2014 Order, inserted by article 12 of the 2020 Order.

Amendment of the Pension Protection Fund (Moratorium and Arrangements and Reconstructions for Companies in Financial Difficulty) Regulations 2020

2. The Pension Protection Fund (Moratorium and Arrangements and Reconstructions for Companies in Financial Difficulty) Regulations 2020(**a**) are amended in accordance with regulations 3 to 5.

Amendment of regulation 1

3. In regulation 1(4), after the definition of "LLP" insert—

> ""relevant CCBS" has the meaning given in article 1(2) of the Co-operative and Community Benefit Societies and Credit Unions (Arrangements, Reconstructions and Administration) Order 2014(**b**);
>
> "relevant society" has the meaning given by the modification to section 901A(4) of the Companies Act 2006 in paragraph 3 of Schedule 2A to the Co-operative and Community Benefit Societies and Credit Unions (Arrangements, Reconstructions and Administration) Order 2014(**c**);".

Amendment of regulation 2

4. In regulation 2, for "or CIO" in each place it occurs substitute ", CIO or relevant CCBS".

Amendment of regulation 3

5. In regulation 3, for "or LLP" in each place it occurs substitute ", LLP or relevant society".

Revocation

6. The Pension Protection Fund (Moratorium and Arrangements and Reconstructions for Companies in Financial Difficulty) (Amendment) Regulations 2020 (**d**) are revoked.

Guy Opperman
Parliamentary Under Secretary of State
Department for Work and Pensions

14th September 2020

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Pension Protection Fund (Moratorium and Arrangements and Reconstructions for Companies in Financial Difficulty) Regulations 2020 (S.I. 2020/693) ("the 2020 Regulations") to apply those provisions to co-operative societies and community benefit societies.

These Regulations, in certain circumstances, extend to the Board of the Pension Protection Fund ("the Board") rights that are normally exercised by a pension scheme's trustees or managers where they are creditors of a co-operative society or community benefit society. Where the trustees or managers lose their rights as a result the Board is required to consult with them.

Regulation 4 amends regulation 2 of the 2020 Regulations. The amended regulation 2 now also applies when a moratorium under Part A1 of the Insolvency Act 1986 (c. 45) is or has been in

(**a**) S.I. 2020/693.
(**b**) S.I. 2014/229. The definition of "relevant CCBS" was inserted into the 2014 Order by article 6 of the 2020 Order.
(**c**) The modification to section 901A(4) was inserted into the 2014 Order by article 12 of the 2020 Order.
(**d**) S.I. 2020/783.

force in relation to a relevant co-operative society or community benefit society which is, or has been at some point while the moratorium has been in force, an employer in respect of an eligible pension scheme. It gives the Board the right, instead of the trustees or managers of the scheme, to participate in decisions as to whether to extend the moratorium and decisions in relation to a challenge to the directors' actions. The Board must consult the trustees or managers before exercising those rights.

Regulation 5 amends regulation 3 of the 2020 Regulations. The amended regulation 3 now also applies when a restructuring plan (a compromise or arrangement) is proposed under Part 26A of the Companies Act 2006 (c. 46) in relation to a relevant society which is an employer in respect of an eligible pension scheme and the trustees or managers of the scheme are a creditor of that society to whom the compromise or arrangement is proposed. It gives the Board, in addition to the trustees or managers, the rights exercisable by the trustees or managers as creditors under Part 26A. It gives the Board, instead of the trustees or managers, the right to vote on a compromise or arrangement and the Board must consult the trustees or managers before exercising this right.

Regulation 6 revokes the Pension Protection Fund (Moratorium and Arrangements and Reconstructions for Companies in Financial Difficulty) (Amendment) Regulations 2020 as those Regulations were defective.

A full impact assessment has not been produced for this instrument as no impact, or no significant impact on the private, public or voluntary sectors is foreseen.

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