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STATUTORY RULES OF NORTHERN IRELAND

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**2006 No. 258**

The Community Benefit Societies (Restriction on Use of Assets) Regulations (Northern Ireland) 2006

PART IV

ENFORCEMENT MEASURES

**Condition for exercise of enforcement measures**

8. In deciding whether and how to exercise the powers conferred by regulations 9, 10 and 11, the Registrar must adopt an approach which is based on the principle that those powers should be exercised only to the extent necessary to maintain confidence in community benefit societies.

**Enforcement notification**

9.—(1) If the Registrar considers that a prescribed community benefit society is contravening or has contravened regulation 3, he may issue an enforcement notification.

(2) An enforcement notification is a notification which imposes requirements on a society to take all such steps as may be necessary for securing that a contravention is brought to an end or is not repeated.

**Restitution**

10.—(1) If the Registrar considers that—

- (a) a prescribed community benefit society has contravened regulation 3;
- (b) the society has suffered loss as a result; and
- (c) an officer of the society has been knowingly concerned in the contravention,

the Registrar may require the officer concerned, in accordance with such arrangements and within such period as the Registrar considers appropriate, to pay to the society such amount as appears to the Registrar to be just having regard to the extent of the loss suffered by the society as a result of the contravention.

(2) If all or any of the amount payable by the officer is outstanding at the end of the period within which payment is required to be made, the society may recover the outstanding amount as a debt due to it.

(3) The Registrar may not exercise the power in paragraph (1) if he considers, having taken into account any representations made to him in response to a warning notice, that the officer concerned took all reasonable steps to secure that the society did not contravene regulation 3.

## **Removal of officers**

**11.**—(1) If the Registrar considers that a prescribed community benefit society has contravened regulation 3 and that an officer of the society has been knowingly concerned in the contravention, the Registrar may direct the society to remove the officer from his office or position.

(2) The Registrar may not exercise the power in paragraph (1) if he considers, having taken into account any representations made to him in response to a warning notice, that the officer concerned took all reasonable steps to secure that the society did not contravene regulation 3.

## **Warning notice**

**12.**—(1) If the Registrar proposes to exercise a power conferred by regulation 9, 10 or 11, he must give a warning notice to the society and any officer in relation to whom the power is to be exercised.

(2) A warning notice must—

- (a) be in writing;
- (b) state the action which the Registrar proposes to take; and
- (c) give reasons for the proposed action.

(3) A warning notice must specify a reasonable period within which the persons to whom it is given may make representations to the Registrar.

(4) The Registrar may extend the period specified in the notice.

(5) The Registrar must then decide, within a reasonable period, whether to exercise the power concerned.

## **Decision notice**

**13.**—(1) If the Registrar decides to exercise a power conferred by regulation 9, 10 or 11, he must give a decision notice to the society and any officer in relation to whom the power is exercised.

(2) A decision notice must—

- (a) be in writing;
- (b) give reasons for the decision to exercise the power concerned;
- (c) set out the terms of, as the case may be, the enforcement notification, requirement for payment or direction for removal of an officer; and
- (d) indicate that there is a right of appeal to the High Court and that any appeal must be brought within 28 days.

(3) Subject to regulation 14(4), a society which is subject to an enforcement notification or a direction for removal must comply with it.

## **Appeal**

**14.**—(1) If the Registrar decides to exercise a power conferred by regulation 9, 10 or 11, the society and any officer in relation to whom it is exercised may appeal to the High Court.

(2) On an appeal from any decision of the Registrar, the court has the power to—

- (a) quash or vary the decision of the Registrar, including the power to reduce the amount of the payment required under regulation 10(1) to such amount as it thinks proper; and
- (b) substitute its own decision for any decision quashed on appeal.

(3) An appeal to the court must be made before the end of the period of 28 days beginning with the date on which the decision notice in question is given.

(4) A decision to exercise a power conferred by regulation 9, 10 or 11 is not to be treated as having any effect—

- (a) during the period within which an appeal may be brought; and
- (b) if the matter is the subject of an appeal, until the appeal has been finally disposed of.

### **Court orders**

**15.**—(1) If, on the application of the Registrar, the court is satisfied that—

- (a) there is a reasonable likelihood that a prescribed community benefit society will contravene regulation 3; or
- (b) a prescribed community benefit society is contravening or has contravened regulation 3 and there is a reasonable likelihood that the contravention will continue or be repeated,

the court may make an order restraining the contravention by the society.

(2) If, on the application of the Registrar, the court is satisfied that—

- (a) an officer of a prescribed community benefit society is likely to be knowingly concerned in a contravention of regulation 3; or
- (b) an officer of a prescribed community benefit society is or has been knowingly concerned in a contravention of regulation 3 and there is a reasonable likelihood that the contravention will continue or be repeated,

the court may make an order requiring him to take such steps as the court may direct to prevent the contravention or bring it to an end.

(3) The jurisdiction conferred by this regulation is exercisable by the High Court.

(4) Nothing in this regulation affects the right of any person other than the Registrar to bring proceedings in respect of the matters to which these Regulations apply.