

*Draft of 7th August 2013*

*Draft Order laid before Parliament under section 2(5) of the Industrial and Provident Societies Act 2002, for approval by resolution of each House of Parliament.*

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DRAFT STATUTORY INSTRUMENTS

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**2013 No.**

**INDUSTRIAL AND PROVIDENT SOCIETIES**

**The Industrial and Provident Societies Act 1965 (Inspection of Register) Order 2013**

*Made* - - - - \*\*\*

*Coming into force* - - - - [] April 2014

There has been a modification of certain of the statutory provisions in force in Great Britain relating to companies<sup>(a)</sup>, and it appears to the Treasury to be expedient to modify the relevant statutory provisions<sup>(b)</sup> for the purpose of assimilating the law relating to companies and the law relating to industrial and provident societies.

A draft of this instrument has been laid before Parliament in accordance with section 2(5) of the Industrial and Provident Societies Act 2002<sup>(c)</sup> and approved by a resolution of each House of Parliament.

The Treasury make the following Order in exercise of the powers conferred by section 2 of the Industrial and Provident Societies Act 2002.

**Citation and commencement**

This Order may be cited as the Industrial and Provident Societies Act 1965 (Inspection of Register) Order 2013 and comes into force on [] April 2014.

**Amendment of the Industrial and Provident Societies Act 1965**

— The Industrial and Provident Societies Act 1965<sup>(d)</sup> is amended as follows.

In subsection (1) of section 46 (inspection of books by members, etc.)—

omit “and” at the end of paragraph (a),

omit paragraph (b).

In section 46(2) for “the foregoing subsection” substitute “subsection (1) or section 46A”.

After section 46 insert—

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- a** () See sections 116, 117 and 119 of the Companies Act 2006 (c.46).  
**b** () “Relevant statutory provisions” is defined by section 2(2) of the Industrial and Provident Societies Act 2002 and includes section 46 of the Industrial and Provident Societies Act 1965 (c.12).  
**c** () 2002 c.20. The title of the Act is prospectively amended by section 2 of the Co-operative and Community Benefit Societies and Credit Unions Act 2010 (c.7), and section 2 is prospectively amended by section 1 of that Act.  
**d** () 1965 c.12.

#### **□ Request for inspection of register**

**46A.**—(1) A member of a registered society, and any person having an interest in its funds, must on payment of such reasonable fee as the society may set be allowed to inspect, at all reasonable hours—

- (a) all entries in the society’s duplicate register kept under section 44(3)(a), or
- (b) if no duplicate register is kept, all entries in the register kept under section 44(1) except those made under section 44(1)(b) or (c).

(2) Subsection (1) is subject to any regulations of the society as to the time and manner of inspection.

(3) A person seeking to exercise the right conferred by subsection (1) must make a request to the society to that effect.

(4) The request must contain the following information—

- (a) in the case of an individual, the individual’s name and address;
- (b) in the case of a body corporate, the name and address of an individual responsible for making the request on its behalf;
- (c) the purpose for which the information is to be used; and
- (d) whether the information will be disclosed to any other person, and if so—
  - (i) where that person is an individual, the individual’s name and address;
  - (ii) where that person is a body corporate, the name and address of an individual responsible for receiving the information on its behalf; and
  - (iii) the purpose for which the information is to be used by that person.

#### **Response to request for inspection of register**

**46B.**—(1) Where a registered society receives a request under section 46A, it must within five working days either—

- (a) comply with the request, or
- (b) apply to the court.

(2) If it applies to the court it must notify the person making the request.

(3) If on an application under this section the court is satisfied that the inspection is not sought for a proper purpose—

- (a) it must direct the society not to comply with the request, and
- (b) it may further order that the society’s costs (in Scotland, expenses) on the application be paid in whole or in part by the person who made the request, even if that person is not a party to the application.

(4) If the court makes such a direction and it appears to the court that the society is or may be subject to other requests made for a similar purpose (whether made by the same person or different persons), it may direct that the society is not to comply with any such request.

(5) A order under subsection (4) must contain such provision as appears to the court appropriate to identify the requests to which it applies.

(6) If on an application under this section the court does not direct the society not to comply with the request, the society must comply with the request immediately upon the court giving its decision or, as the case may be, the proceedings being discontinued.

(7) In this section—

“the court” means—

- (a) in England and Wales, the High Court or the county court;
- (b) in Scotland, the Court of Session or the sheriff court;

“working day” means a day that is not a Saturday or Sunday, Christmas Day, Good Friday or any day that is a bank holiday under the Banking and Financial Dealings Act 1971<sup>(a)</sup> in the part of Great Britain where the society’s registered office is situated.

### **Offence in connection with request for inspection of register**

**46C.**—(1) It is an offence for a person knowingly or recklessly to make in a request under section 46A a statement that is misleading, false or deceptive in a material particular.

(2) A person guilty of an offence under this section is liable—

(a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both);

(b) on summary conviction—

(i) in England and Wales, to imprisonment for a term not exceeding twelve months or to a fine (or both);

(ii) in Scotland, to imprisonment for a term not exceeding twelve months, or to a fine not exceeding the statutory maximum (or both).□.

### **Transitional provisions**

— Until the coming into force of section 17(1) of the Crime and Courts Act 2013<sup>(b)</sup>, the reference in the definition of “the court” in section 46B(7) of the Industrial and Provident Societies Act 1965 to “the county court” is to be read as a reference to “a county court”.

In relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003<sup>(c)</sup>, the reference in section 46C(2)(b)(i) of the Industrial and Provident Societies Act 1965 to “twelve months” is to be read as a reference to “six months”.

In relation to an offence committed before the commencement of section 85 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012<sup>(d)</sup>, the reference in section 46C(2)(b)(i) of the Industrial and Provident Societies Act 1965 to “a fine” is to be read as a reference to “a fine not exceeding the statutory maximum”.

*Name*

*Name*

[date] Two of the Lords Commissioners of Her Majesty’s Treasury

### **EXPLANATORY NOTE**

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

This Order amends the Industrial and Provident Societies Act 1965 (c.12) (“1965 Act”) in respect of the inspection of the duplicate register. Section 46(1)(b) of the 1965 Act gives members of registered societies and persons having an interest in the funds of societies the right to inspect the duplicate register. This Order makes the exercise of this right conditional on making a request to the society in the terms set out in new section 46A(4) of the 1965 Act and on payment of a fee. The society must either comply with the request within five working days or make an application

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**a** ( ) 1971 c.80.  
**b** ( ) 2013 c.22.  
**c** ( ) 2003 c.44.  
**d** ( ) 2012 c.10.

to the court for a direction. New section 46B(3) of the 1965 Act gives the court the power to direct the society not to comply with the request where the court is satisfied that the inspection is not sought for a proper purpose. New section 46C of the 1965 Act contains a related criminal offence.

The Order is made under section 2 of the Industrial and Provident Societies Act 2002 (c.20) so as to make the conditions for inspection of the duplicate register of registered societies consistent with the relevant company law conditions. The conditions for companies were altered by sections 116(3) and (4), 117 and 119 of the Companies Act 2006 (c.46).