

Draft Co-operative and Community Benefit Societies Bill

Ian Snaith's Consultation Response

It is important first to commend both Co-operatives UK and the Government for achieving this important development in the law governing co-operatives and community benefit societies. In a sense, this Consolidation is the culmination of campaigning by the co-operative movement for law reform over the last twenty years. The consolidation is important for bringing together the vast range of separate pieces of primary and secondary legislation which contain the the law applicable to these societies and the consolidation in 2014 of changes to the last consolidated legislation (the Industrial and Provident Societies Act 1965) after a space of only fifty years is an improvement on the seventy two years that elapsed between the Industrial and Provident Societies act 1893 and the 1965 Act.

The benefit of having all the law applicable to societies in one place will be felt by societies and all those who advise them as well as those wishing to establish new businesses using this legal structure.

I have had the advantage of reading both the consultation response from Co-operatives UK at http://www.uk.coop/sites/storage/public/downloads/co-operative_community_benefit_societies_bill_-_co-operatives_uk_consultation_response.pdf and the Co-operatives UK Report which accompanied their response at http://www.uk.coop/sites/storage/public/downloads/cukconsolreport_final.pdf.

I am fully in agreement with the content of both of those documents and support the suggestions they make about the consolidation.

It is inherent in the process of consolidation using the Consolidation of Enactments (Procedure) Act 1949 that the fast track legislative procedure provided there depends on an assurance to Parliamentarians that no substantive change other than those referred to in the Law Commission Memorandum is contained in the legislation. In my view, the suggestions made by Co-operatives UK take the constitutional importance of that constraint fully into account.

Here, I simply add a few comments of my own in response to the questions specifically raised by the Law Commission in launching the consultation on this draft Bill.

1. Does the Bill accurately reproduce the effect of the legislation being consolidated (with the changes described in the draft Law Commission recommendations)?

While time and resources have not been sufficient for me to conduct a full analysis of the Draft Bill, on simply reading through the documents provided, it appears to reproduce the effect of the existing legislation with only the changes described and justified in the Law Commission recommendations.

2. Can the drafting of the Bill be improved, without altering the effect of the law?

I was impressed by the clarity, precision and elegance of the drafting and saw no aspect of it that seemed to be in need of improvement.

3. Are the contents of the Drafter's Notes and the draft Law Commission recommendations satisfactory?

The reasoning in the Drafter's Notes wholly justifies the drafting decisions implemented in the draft bill and I fully support all the changes recommended by the Law Commission.

As noted above, I support the arguments of Co-operatives UK for certain other changes which might be made as part of the consolidation process - see their submission and attached report for details of that.

In addition, I noticed one minor point while reading through the draft. Clause 25(1): Is it necessary to keep the reference to £5000 as the amount below which HM Treasury may not set the limit on holdings of withdrawable share capital? That figure was inserted to prevent a reduction below the figure established at the time of the insertion of the power to raise the limit. Surely, that should now be changed to £20,000 or, when the Bill is proposed to Parliament, the figure to which that is raised

in proposed secondary legislation on which HMT have consulted? It is hard to see that Parliament intended that the figure should be reduced at any point and even harder to envisage circumstances in which that would be proposed by HMT.

4. Is there relevant legislation that has not been consolidated (given that it has been decided not to include the corresponding legislation in Northern Ireland or legislation on credit unions)?

I have not noticed any such omissions.