

CO-OPERATIVES, MUTUALS AND FRIENDLY SOCIETIES BILL

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Co-operatives, Mutuals and Friendly Societies Bill as brought from the House of Commons on 27 February 2023 (HL Bill 106).

- These Explanatory Notes have been prepared by HM Treasury, with the consent of Lord Kennedy of Southwark in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Bill will mean in practice; provide background information on the development of policy; and provide additional information on how the Bill will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Bill. They are not, and are not intended to be, a comprehensive description of the Bill.

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Overview of the Bill

- 1 This Bill provides HM Treasury with the power to make regulations which would allow co-operatives, mutual insurers that are bodies corporate and friendly societies to opt to restrict the use or dealing of their assets. Other mutuals, including building societies or credit unions, are not captured in this legislation. Regulations made by HM Treasury under this power would enable these mutuals to ensure that their assets are only used for certain circumstances or purposes, which would be set out in the regulations.

Policy background

- 2 'Mutuals' is an umbrella term for organisations that are member-owned, democratically controlled, and run for the benefit of their members. There are several types of mutuals in the UK.
- 3 One type of mutual is the co-operative. There are over 7,000 independent co-operative businesses across a variety of industries in the UK which, according to Co-operatives UK, collectively have more than 250,000 employees and nearly 14 million members¹. The sector also includes financial mutuals such as mutual insurers and friendly societies, which provide financial services products such as insurance and are owned entirely by their policyholders, known as members. Profits earned by firms are retained or rebated to members in the form of dividends or reduced future premiums. The financial mutual sector in the UK serves over 30 million members and writes over £20 billion in premiums annually².
- 4 At present, legislation (section 29 of the Cooperative and Community Benefit Societies Act 2014) allows for community benefit societies, a type of co-operative which conducts its business for the benefit of the community, to choose to adopt statutory restrictions on the distribution of surplus capital the society has at the end of each financial year. This has been used by many of these community benefit societies to preserve the purpose of their society by "locking in" these funds for focused usage.
- 5 Co-operatives, mutual insurers, and friendly societies may at present adopt voluntary restrictions on the distribution of their assets, which would be voted on by members of the societies and adopted into society rules. However, without a legal framework permitting these categories of mutuals to adopt legislative restrictions, there is a possibility that restrictions in rules may be overturned in future.
- 6 This Bill therefore seeks to provide HM Treasury with the power to make regulations to allow co-operatives, mutual insurers that are bodies corporate and friendly societies to choose to adopt legal restrictions on the use of their assets. The intention is that, where the members of the society choose to adopt these legal restrictions, the use of the assets would be limited to specific purposes. The use of any of these assets for other purposes would then carry legal recourse.

¹ P.3, Co-op Economy 2021, https://www.uk.coop/sites/default/files/2021-06/Economy%202021_1.pdf

² P.2, UK Market Insights 2022, <https://www.icmif.org/wp-content/uploads/2022/10/UK-Market-Insights-2022.pdf>

Territorial extent and application

- 7 This Bill extends to England, Scotland, Wales and Northern Ireland. It only applies to Northern Ireland in respect of mutual insurers and friendly societies.

Commentary on provisions of Bill

Clause 1: Powers to restrict use of assets of relevant mutual entities.

- 8 Subsection (1) enables the Treasury to make regulations to enable mutual entities to ensure that some or all their assets can only be used or dealt with for the purpose for which the activities of the mutual entity are carried on or for in certain prescribed circumstances. The regulations may define which mutual entities have this option which would allow for the provisions to apply to co-operatives, mutual insurers that are bodies corporate and friendly societies (see subsection (3)).
- 9 Subsection (2) enables the Treasury to prescribe in the regulations the purposes or prescribed circumstances for which assets can be locked in.
- 10 Subsection (5) lists certain matters which the regulations may cover. For example, it provides that the Treasury may make regulations about the procedure by which a mutual can adopt an asset lock; how assets which have been locked must be dealt with in certain circumstances; circumstances in which the asset lock may cease to apply; to ensure that any person to whom locked in assets are transferred can only use them for the same purpose for which the mutual entity could have used them; and exceptions that may apply.
- 11 Subsection (6) provides for the Treasury to include in the regulations other provisions for giving effect to a statutory asset lock regime. For example, functions may be conferred on a person specified to supervise and enforce compliance with the asset lock regime. It also permits the regulations to create criminal offences, though these may not be punishable by imprisonment for a term of more than seven years (see subsection (7)).
- 12 Subsection (8) requires any regulations under this section to be approved in draft by affirmative resolution in each House of Parliament before they are made.
- 13 Subsection (9) defines 'mutual entity'.

Commencement

- 14 Clause 1 comes into force on Royal Assent.

Financial implications of the Bill

- 15 This Bill provides HM Treasury with powers to make regulations to allow co-operatives, mutual insurers that are bodies corporate, and friendly societies to choose to adopt legal restrictions on the use of their assets. As this Bill does not make further substantive changes in primary legislation, and because this legislation will be optional to adopt and likely to cost the sector less than £5 million per year, the Government considers that there is no need for an impact assessment at this stage.
- 16 The fact that mutuals may choose to opt into the asset lock where they find it suitable for their business, but are not required to adopt it, serves to mitigate negative impacts. The policy intent of the Bill is to provide an additional deterrent against demutualisation and create

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safeguards for the mutual model, which should be a net benefit for the mutuals sector. HM Treasury will continue to work with the sector and regulators to ensure the regulations are appropriately adapted to the needs and specificities of the different mutual models in the sector.

- 17 Mutual entities may incur some costs (e.g. legal advice) when considering the appropriateness of an asset lock for their organisation. However, we do not expect costs to be significant (above £5 million per annum).

Parliamentary approval for financial costs or for charges imposed

- 18 The Bill does not require a money resolution or a ways and means resolution. A money resolution is required where a bill authorises new charges on the public revenue – broadly speaking new expenditure. A money resolution is not generally required where, as in this case, a bill will only give rise to minor administrative costs. A ways and means resolution is required where a bill authorises new charges on people – broadly speaking, new taxation or other similar charges. That is not the case for this Bill.

Compatibility with the European Convention on Human Rights

- 19 This is a Private Member's Bill, and the Government is not required to give a statement of compatibility with the European Convention on Human Rights (ECHR) in accordance with section 19(1)(a) of the Human Rights Act 1998. However, the Government has examined the compatibility of the provisions of the Bill with the European Convention on Human Rights and considers that the provisions of the Bill are compatible with the Convention rights.

Related documents

- 20 The following documents are relevant to the Bill and can be read at the stated locations:

- Research Briefing on the Co-operatives, Mutuals and Friendly Societies Bill 2022-23: <https://commonslibrary.parliament.uk/research-briefings/cbp-9647/>
- Will write letter on the policy intent of the Bill: [EST letter following Committee Stage of Mutuals PMB.pdf \(parliament.uk\)](#)
- Proceedings and amendments: [Co-operatives, Mutuals and Friendly Societies Bill publications - Parliamentary Bills - UK Parliament](#)
- Bill as brought from the Commons: [Co-operatives, Mutuals and Friendly Societies Bill \(parliament.uk\)](#)

Annex A – Territorial extent and application in the United Kingdom

Provision	England	Wales		Scotland		Northern Ireland	
	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Legislative Consent Motion process engaged?	Extends and applies to Scotland?	Legislative Consent Motion process engaged?	Extends and applies to Northern Ireland?	Legislative Consent Motion process engaged?
Clause 1	Yes	Yes	N/A	Yes	N/A	In part	N/A

Subject matter and legislative competence of devolved legislatures

- 21 Friendly societies law is reserved to the UK Government.
- 22 Co-operatives law for England, Wales, and Scotland is reserved to the UK Government, but it is devolved for Northern Ireland. It will be for the Northern Ireland Executive to decide whether similar provisions should apply in Northern Ireland.

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