



Northern Ireland Council for Voluntary Action

**NICVA'S RESPONSE TO
DETI'S CONSULTATION PAPER
'The Industrial & Provident
Societies (Northern Ireland)
Order 2005'
(March 2005)**

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NICVA'S RESPONSE TO THE DEPARTMENT OF ENTERPRISE, TRADE AND INVESTMENT (DETI) CONSULTATION PAPER 'The Industrial and Provident Societies (Northern Ireland) Order 2005'

INTRODUCTION

NICVA (Northern Ireland Council for Voluntary Action) welcomes the opportunity to respond to the legislative proposals on the Industrial and Provident Societies (NI) Order.

NICVA is the umbrella body for the voluntary and community sector in Northern Ireland. It provides almost 1,000 members with information, advice and training on a wide range of issues from management consultancy and finance to policy development and lobbying. NICVA adopts a community development approach, empowering local communities to pursue their own needs and agendas.

NICVA's response is based on consultation with members and reflects comments by members. It is also informed by earlier work carried out by NICVA in related policy areas including the DETI's consultation on the modernisation of NI Policy on Credit Unions and Industrial and Provident Societies.

OUR RESPONSE

NICVA welcomes the various proposals to remove the legal, regulatory and policy barriers that may act as obstacles to the growth, development and modernisation of Industrial and Provident Societies (I&PSs).

Registration of Community Benefit Societies

NICVA welcomes the proposal to remove the outdated reference to 'special reasons' as it is not entirely clear what they entail as these are currently at the discretion of the Registrar. The proposed new replacement wording of "*that the business of the society is being, or is intended to be, conducted for the benefit of the community*" should make the rationale clearer for registering as a community benefit society. NICVA also welcomes the recognition by the Department of the need to have clear registration criteria which will distinguish an I&PS from the proposed new Community Interest Company (CIC).

Model Rules

The Department does not intend, (as proposed in the initial consultation) to find alternative ways of funding the costs of maintaining model rules. NICVA is concerned that new organisations that do not come under the umbrella of an existing representative organisation, may find it costly and cumbersome to adapt existing Model Rules to its needs and characteristics.

Registration Process

NICVA is disappointed that the proposal in last year's consultation paper (the review of I&PSs) to introduce guidance from the Registrar on eligibility to register as an

I&PS has been dropped. NICVA can however take some comfort in the assurances from the Department that any organisation wishing to set up as an I&PS will be assisted by the Registrar.

Share Capital

In last year's consultation paper (2004) on the review of I&PSs, it was proposed to increase the share capital provided that deposit taking and withdrawal would be prohibited, or a substantial period of notice would be required. NICVA welcomes the proposal to change the Share Capital limit via subordinate legislation however NICVA believes that guidance will be needed to ensure best practice.

Capacity of Society and Power of Committee

NICVA welcomes the proposal to bring Northern Ireland legislation into line with Great Britain (GB) with respect to the capacity of the I&PS and the power of the Committee to bind it and the additional formalities and obligations to which Societies are subject in making contracts and sealing deeds. This should bring I&PS registered in Northern Ireland up to the same operational level as those operating in GB.

Contracts, Deeds and Use of Official Seal

NICVA welcomes the proposals to update I&PS legislation so that Societies have the scope to enter into contract, execute documents and seal deeds and also that it reflects updates to company law as currently an I&PS fares less favourably than a company. Again, these changes should ensure that I&PS in NI are not in a less favourable position than those operating in GB.

Transfer of Engagements and Voting Threshold

NICVA welcomes the proposal to safeguard an I&PS by increasing the voting requirements to ensure that a minimum of 50% of eligible members must be present and voting in order to ratify a conversion into, or transfer of engagements, into a company.

Application of Company Directors Disqualification (NI) Order 2004

NICVA welcomes the proposal to apply the Company Directors (NI) Disqualification Order 2002 to the I&PS to bring it into line with companies and credit unions. This should result in a disqualified person being ineligible to serve as a Director of an I&PS.

Assets Lock

NICVA welcomes the proposal to introduce an asset lock, which is not currently a requirement for an I&PS in Northern Ireland. This would prohibit the distribution of assets among members in the event of the Society winding up and should ensure that assets continue to be invested for the benefit of the community.

NICVA is concerned however that the inclusion of the asset lock will be at the discretion of each Community Benefit Society and not compulsory as is the case with

charitable and not-for-profit companies. NICVA believes that the protection of assets (against distribution to members or shareholders) would underpin good practice and promote public confidence in the Society.

Power to Modify I&PSs Legislation

NICVA welcomes the proposal to permit DETI to make legislative changes more quickly and efficiently when it becomes apparent that there is a clear need for change. This will enable I&PS law to reflect updates to company law. This will bring legislation in Northern Ireland into line with that in GB and will, again, mean that I&PSs registered here are not in a less favourable position than those registered in GB.