

## Chapter 3

# Society registration

## 3.1 Effect of registration

- 3.1** **G** This chapter covers the effect of registration, registration requirements, details of the application process and our approach to society names.
- 3.1.1** **G** The main benefits of registering as a society under the Act include:
- (1) Corporate body status
    - (a) The society is a legal person. It can act, hold property, sue and be sued in its own name.
    - (b) It has 'perpetual succession'. This means a society continues to exist even if its membership changes, unless it stops being registered.
  - (2) Limited liability
    - (a) Members are only personally liable for the share capital they hold in the society and the amount of any share capital they have not yet paid for.
    - (b) Anyone can check that the society is a registered society under the Act and see any other information we receive from the society under the Act by searching the public register we keep.
    - (c) Members are not liable for any debts, contracts and other liabilities the society has taken on.
    - (d) The officers of the society can be prosecuted if they breach their duties under the Act.
  - (3) Other effects of registration
    - (a) The rules of a society are binding between the society and its members.
    - (b) The society's board can make, change or end contracts on behalf of the society.
    - (c) The society can recover debts that members owe it in court.
    - (d) If a member owes the society any money then the society can set the value of a member's shares against their debt.

## 3.2 Summary of requirements

- 3.2.1** **G** The Act states that we can register a society as follows:
- 'A society for carrying on any industry, business or trade (including dealings of any kind with land) may be registered under this Act as—
- (a) a co-operative society, or
  - (b) a community benefit society.'
- [Note: see s2, the act]
- 3.2.2** **G** We explain our approach to defining co-operative societies and community benefit societies in ■ RFCCBS 3 and 4 respectively.
- 3.2.3** **G** The requirement to carry on an 'industry, business or trade' generally means that a society that exists primarily to hold shares in other organisations (other than in its own subsidiary) and does not carry out any activity of its own is unlikely to be able to be registered.
- 3.2.4** **G** Every society must also:
- (1) have at least three members unless it consists of two registered societies;
  - (2) have a proposed name that is not undesirable (see ■ RFCCBS 3.8);
  - (3) have its registered office in Great Britain or the Channel Islands;
  - (4) have rules that include the required provisions and which are not contrary to the Act (see ■ RFCCBS 3.4).
- 3.2.5** **G** Please see below for further details on names and rules.

## 3.3 Process

### Application

- 3.3.1** **G** To register a society, an applicant can email this application form along with one electronic copy of the signed rules to [mutual.societies@fca.org.uk](mailto:mutual.societies@fca.org.uk). Paper copies can also be submitted. When submitting paper copies, applicants need to include two signed copies of the rules.
- [**Note:** <https://www.fca.org.uk/your-fca/documents/forms/registering-a-new-industrial-and-provident-society-forms>]

### Model Rules

- 3.3.2** **G** Societies can use model rules rather than having to draft their own. Some organisations, called 'sponsoring bodies', have already produced their own model rules and will sponsor applications. A list of sponsoring bodies can be found here.
- [**Note:** <https://www.fsa.org.uk/firms/model-rules-sponsoring-bodies>]

- 3.3.3** **G** Generally speaking, it will take us less time to assess an application using model rules because we have already determined that the rules in general are not contrary to the legislation. This reduces the cost of registration because our assessment can focus on the applicant's specific business in the context of the model rules.

### Costs

- 3.3.4** **G** Applicants need to pay a fee before we can assess their application. This fee is reduced if applicants use a set of rules we have already approved as a model. We charge more for registration depending on the number of amendments that are made to a model set of rules.
- [**Note:** <https://www.handbook.fca.org.uk/handbook/FEES/App/1/3.html>]
- 3.3.5** **G** We charge more for multiple changes because it takes us more time to assess the rules. However, we do not view simply filling in a gap in a model and choosing from a series of options in a model as a change. By change we mean when the words within a single rule are changed. So multiple changes within a single rule will count as one change. We also do not count deletions or cosmetic alterations – such as renumbering – as changes.
- 3.3.6** **G** Once registered a society must pay a fee to us in each year following its year of registration. This fee is called the periodic fee. It covers all

communications with us, including any applications to change rules and to submit annual returns.

**Timing**

3.3.7 **G** We aim to assess at least 90% of complete applications within 15 working days. If an application form is incomplete, e.g. missing signatures, this will inevitably cause delays as we will need to send it back to the applicant.

3.3.8 **G** If you have a specific deadline to meet, please ensure you submit your complete application in good time.

**Confirmation**

3.3.9 **G** When a society is registered, it will appear on the Mutuels Public Register. We also send a certificate bearing our seal and confirming registration to the society. This sealed certificate is conclusive proof of registration.

[Note: <http://mutuals.fsa.gov.uk>]

## 3.4 Rules of the Society

### 3.4.1

**G** A society must have rules which include:

- (1) the society's name;
- (2) the objects of the society;
- (3) the place of the society's registered office to which all communications and notices to the society may be addressed;
- (4) the terms of admission of the members, including any society or company investing funds in the society under the provisions of the Act;
- (5) the method of holding meetings, the scale and right of voting, and the method of making, altering or rescinding rules;
- (6) the appointment and removal of a Committee of Management (by whatever name, e.g. a 'board') and of managers or other officers, and their respective powers and remuneration;
- (7) the maximum amount of interest in the shares of the society which may be held by any member otherwise than by virtue of Section 24 of the Act;
- (8) whether the society may contract loans or receive monies on deposit subject to the provisions of this Act from members or others, and if so under what conditions, under what security, and to what limits of amount;
- (9) whether any or all shares are transferable, and provision for the form of transfer and registration of shares, and for the consent of the committee to transfer or registration;
- (10) whether any or all shares are withdrawable, and provision for the method of withdrawal and for payment of the balance due on them on withdrawing from the society;
- (11) provision for the audit of accounts in accordance with Part 7 of the Act;
- (12) whether members may withdraw from the society and if so how, and provision for the claims of the representatives of deceased members and of the trustees of the property of bankrupt members (or, in Scotland, members whose estates have been sequestrated), and for the payment of nominees;

- (13) the way in which the society’s profits are to be applied;
- (14) if the society is to have a common seal, provision for its custody and use;
- (15) whether any part of the society’s funds may be invested, and if so by what authority and in what way.

**3.4.2** **G** Societies can include additional rules providing those rules are not contrary to the Act.

**Objects**

**3.4.3** **G** Societies must have an ‘objects’ rule. The ‘objects’ describe and identify the purpose for which the society has been set up. Objects rules can be broad, but not so vague that they are meaningless in practice. For example, an object for a community benefit society of ‘to benefit the community’ is insufficient.

**Entrenchment/fundamental rules**

**3.4.4** **G** Societies can decide that specific rules are ‘fundamental’ – requiring a higher threshold for change. They can also seek to entrench rules to try and prevent those rules from amendment in the future. There is however no legislative mechanism to give effect to the entrenchment of rules.

**3.4.5** **G** A society can still deem certain clauses to be fundamental, or put in higher thresholds for rule amendments to particular clauses, as long as such amendments are not contrary to the legislation. For instance, any attempts at entrenchment cannot change statutory thresholds (see ■ RFCCBS 3.4.15 onwards for further details).

**3.4.6** **G** Before we register a rule amendment, we will check if that clause is fundamental or subject to a higher voting threshold and seek to give it that effect.

**3.4.7** **G** We are limited in our ability to do this. The courts have decided that even fundamental clauses can be changed under certain circumstances, e.g. if all members unanimously approve the rule amendment.

**Changes to statutory thresholds**

**3.4.8** **G** The Act gives societies the ability to:

- (1) transfer engagements to another society or a company;
- (2) convert to a company;
- (2) amalgamate with other societies or companies.

**3.4.9** **G** For each of these processes, the legislation states the voting thresholds which have to be met.

**3.4.10** **G** A society’s rules cannot change these statutory thresholds. If, for example, the legislation says a society may do X if X% of members vote in favour, then the rules of a society cannot change these requirements. So a society cannot set out in its rules ‘absolute minimums’ on numbers of members voting, or introduce additional voting thresholds.

**3.4.11** **G** Similarly, if the legislation says a society can do something if certain criteria are met, then no rule can alter this.

**Statutory asset locks**

**3.4.12** **G** Statutory asset locks put a legal restriction on how a society can use its assets. These asset locks are only available to community benefit societies other than regulated housing associations or charities. This is because regulated housing associations and charities already have separate statutory asset locks.

**3.4.13** **G** If a society has a statutory asset lock, it cannot use or deal with its assets unless it is for the benefit of the community or for one of the purposes given in ■ RFCCBS 3.4.15 below.

**3.4.14** **G** Co-operative societies can put a non-statutory asset lock in their rules, but it does not have the same effect as a statutory asset lock.

**3.4.15** **G** If a community benefit society wants to put in place a statutory asset lock, their rules must include the following wording:

[**Note:** Regulation 2, Schedule 1, The Community Benefit Societies (Restriction on Use of Assets) Regulations 2006]

Restriction on use	
Pursuant to regulations made under section 1 of the Co-operatives and Community Benefit Societies Act 2003:	
(1)	All of the society’s assets are subject to a restriction on their use.
(2)	The society must not use or deal with its assets except—
(a)	where the use or dealing is, directly or indirectly, for a purpose that is for the benefit of the community;
(b)	to pay a member of the society the value of his withdrawable share capital or interest on such capital;
(c)	to make a payment pursuant to sections 36 (payments in respect of persons lacking capacity), 37 (nomination by members of entitlement to property in society on member’s death), 40 (death of a member: distribution of property not exceeding £5,000) of the



Restriction on use	
	Co-operative and Community Benefit Societies Act 2014;
(d)	to make a payment in accordance with the rules of the society to trustees of the property of bankrupt members or, in Scotland, members whose estate has been sequestrated;
(e)	where the society is to be dissolved or wound up, to pay its creditors; or
(f)	to transfer its assets to one or more of the following—
	(i) a prescribed community benefit society whose assets have been made subject to a restriction on use and which will apply that restriction to any assets so transferred;
	(ii) a community interest company;
	(iii) a registered social landlord which has a restriction on the use of its assets which is equivalent to a restriction on use and which will apply that restriction to any assets so transferred;
	(iv) a charity (including a community benefit society that is a charity); or
	(v) a body, established in Northern Ireland or a State other than the United Kingdom, that is equivalent to any of those persons.
(3)	Any expression used in this rule which is defined for the purposes of regulations made under section 1 of the 2003 Act shall have the meaning given by those regulations.

## 3.4.16

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Societies can include this wording in their rules at the time the society is registered, or the wording can be added at any point in the society's lifetime by special resolution. However once included, the wording cannot be removed. The asset lock will apply for the rest of the society's life.

[Note: Clause 4, *ibid.*]

## 3.5 Conversion from a friendly society

- 3.5.1** **G** Societies registered under the Friendly Societies Act 1974 as working men's clubs, benevolent societies and specially authorised societies can convert to become co-operative societies or community benefit societies. Societies registered under the Friendly Societies Act 1974 as friendly societies cannot convert.  
[Note: s84A Friendly Societies Act 1974]
- 3.5.2** **G** The effect of conversion is that the society becomes either a co-operative society or a community benefit society under the Act and so an incorporated legal entity. Its registration under the Friendly Societies Act 1974 is cancelled.
- 3.5.3** **G** When a society is registered under the Act, all the property held immediately before that registration by any person in trust for the society or its branches becomes the property of the new society.
- 3.5.4** **G** The new society continues to be entitled to all rights, and is subject to all liabilities, of the society previously registered under the Friendly Societies Act 1974.
- 3.5.5** **G** Within 90 days of the society being registered, the trustees must deliver the society's property and documents relating to the affairs of the society to the society's registered office.
- 3.5.6** **G** **Conversion application process**  
The proposal to register under the Act must be voted on by members of the society in the same manner and by the same procedure as would be applied for rule changes.
- 3.5.7** **G** A new registration form must be completed to convert a society under the Act. The applicant should choose the 'converting from a friendly society' option.  
[Note: <http://www.fca.org.uk/your-fca/documents/forms/registering-a-new-industrial-and-provident-society-forms>]
- 3.5.8** **G** The secretary and three members must sign two copies of the rules for the new society, and include them with the application.

## 3.5.9

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The society must decide whether to apply to be a co-operative society or a community benefit society. ■ RFCCBS 4 and 5 of this document will help the society decide whether to apply to be a co-operative society or a community benefit society. As general guidance:

- (1) **Working men's clubs** which benefit members, require membership to make use of facilities, or which would distribute money to members on dissolution, could register as co-operative societies.
- (2) **Benevolent societies** that do not require people to be members in order to get benefits, and which do not distribute money to members on dissolution, may be able to register as community benefit societies. However, benevolent societies which only provide benefits to members are more likely to meet the criteria for registering as a co-operative society.
- (3) **Specially authorised societies** are generally more likely to already meet the criteria for registering a co-operative society.

## 3.5.10

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There is no fee for converting to a society because the society is already paying a periodic fee to us (see ■ RFCCBS 3.3.6 for more information).

## 3.6 Conversion from a company

- 3.6.1** **G** A company can convert to become a society. Converting from a community interest company is dealt with separately below.
- 3.6.2** **G** The company must pass a special resolution. The resolution should:
- (1) be accompanied by a copy of the rules the society will have;
  - (2) appoint three members of the company to sign the rules;
  - (3) decide if those signatories are authorised to accept any proposals from us to alter the rules or if only a general meeting of the company can accept them;
  - (4) deal with the position of members who hold shares in the company of a nominal value that exceeds that statutory limit on shareholding in a society. Where the nominal value of the company shares held by any member is in excess of the statutory maximum shareholding in a society, the resolution can provide for the conversions of the excess shares into transferable loan stock in the society. The interest rate and repayment terms should be set by the resolution.
- 3.6.3** **G** If we are satisfied with the resolution and rules, we will issue an acknowledgement of registration and a certificate confirming the rules have been registered.
- 3.6.4** **G** We will send a copy of the resolution and our registration certificate to Companies House. When Companies House has registered this resolution and certificate, the conversion will formally take effect.
- 3.6.5** **G** At this point, the company's registration as a company becomes void and Companies House will cancel it.

## 3.7 Conversion from a community interest company

- 3.7.1** **G** A community interest company can convert into a community benefit society with a restriction on the use of assets (statutory asset lock).
- 3.7.2** **G** The community interest company needs to pass a special resolution. The resolution should:
- (1) be accompanied by a copy of the rules the society will have;
  - (2) appoint members of the company to sign the rules;
  - (3) decide if those signatories are authorised to accept any proposals from us to alter the rules, or if only a general meeting of the company can accept them;
  - (4) deal with the position of members who hold shares in the company of a nominal value that exceeds that statutory limit on shareholding in a society. Where the nominal value of the company shares held by any member is in excess of the statutory maximum shareholding in a society, the resolution can provide for the conversion of the excess shares into transferable loan stock in the society. The interest rate and repayment terms should be set by the resolution.
- 3.7.3** **G** The company must send a copy of the resolution and rules to Companies House.
- 3.7.4** **G** Companies House will then forward each of the documents to the Office of the Regulator of Community Interest Companies (CIC Regulator).
- 3.7.5** **G** The CIC Regulator must then decide if the company can cease being a community interest company, and give the company notice of that decision.
- 3.7.6** **G** The company then needs to send us a copy of the new rules and resolution together with a copy of the CIC Regulator's decision.
- 3.7.7** **G** When we have registered the society, we will issue an acknowledgement of registration and a certificate confirming that the rules in the resolution have been registered.

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- 3.7.8** **G** We will then send a copy of the resolution, our acknowledgment and certificate of registration and a copy of the CIC Regulator’s decision to Companies House.
- 3.7.9** **G** The conversion takes effect when Companies House registers the resolution and certificate of registration. At this point, the company’s registration under the Companies Act 2006 becomes void and Companies House will cancel it.

## 3.8 Names

- 3.8.1** **G** The Act provides that a society can register with any name unless we believe that name is 'undesirable'.
- 3.8.2** **G** We generally consider a name to be undesirable if:
- (1) it is the same as that used by another legal entity, charity, or society, unless:
    - (a) the proposed society is intended to be part of the same group as an existing 'same as' entity and that entity consents to the society using the proposed name;
    - (b) the application to register includes a letter from the existing entity confirming that it consents to the registration of the proposed name and that it will form part of the same group;
  - (2) it is too similar to that used by another legal entity, charity or society. A name may be too similar if: the difference is only a few characters, signs, symbols or punctuation, or if it looks and sounds the same;
  - (3) its use would constitute an offence or is offensive;
  - (4) it is misleading;
  - (5) it gives an incorrect impression of its legal form, for instance, if the name contains the word 'company';
  - (6) it is likely to wrongly give the impression that the society is connected with the government or any other public or local authority;
  - (7) it includes a word requiring permission as at [RFCCBS App 1](#) of this guidance and does not have this permission;
  - (8) it includes the name, brand or trademark of another organisation without their permission.
- 3.8.3** **G** We will generally also consider a name undesirable if it includes a word or expression in [RFCCBS App 1](#), unless the relevant body has confirmed in writing that it does not object to its use.
- 3.8.4** **G** If a society's name includes an acronym then we will ask for the expanded version of that acronym and will assess that expanded version against the

indicators set out above (with the exception of the indicators looking at availability).

- 3.8.5** **G** Where a name includes words in a foreign language we expect to receive a translation of those words. We will assess that translated version against the indicators set out above (with the exception of the indicators looking at availability).

#### **‘Limited’**

- 3.8.6** **G** The last word in the name of every society must be ‘limited’ (or ‘cyfyngedig’ if its registered office is in Wales) unless we are satisfied that the society’s objects are wholly charitable or benevolent.

- 3.8.7** **G** If we approve the removal of ‘limited’ and later believe that the society (whether in consequence of a rule change or otherwise) is not being conducted wholly for charitable or benevolent objects then we can direct the society to add the word ‘limited’ to its name.

#### **Business or ‘trading’ names**

- 3.8.8** **G** A society, like other legal entities, can use a business name that is different from its registered name. Our role under the Act is limited to the registered name of a society, i.e. – the name given in the society’s rules. We have no role in relation to business names unless we are listed as the public authority with responsibility for approving the use of a sensitive word e.g. ‘bank’, in which case approval must be obtained. For further information on sensitive business names please refer to our website.

[**Note:** <https://www.the-fca.org.uk/sensitive-names>]

- 3.8.9** **G** Legal requirements on business names set out in Part 41 of the Companies Act 2006 apply to ‘any person carrying on business in the United Kingdom’, and so apply to societies. For example, societies must get permission to use a sensitive word within their business name, and cannot trade under a name containing an inappropriate indication of legal form (e.g. ‘limited’). For further information please refer to the information on business names on the Companies House<sup>14</sup> website.

[**Note:** <https://www.gov.uk/government/publications/incorporation-and-names>]

- 3.8.10** **G** Even if a society trades under a different business name, its registered name must still appear in full outside its premises and in business documents such as letters, invoices, receipts, websites etc. Further details on the requirements for displaying registered names is at **RFCCBS 8.1.2 to 8.1.4** of this guidance.