

Co-operative and Community Benefit Societies (Environmentally

EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Public Bill Office on behalf of Anna McMorrin, the Member in charge of the Bill, are published separately as Bill 12-EN.

Draft Bill

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TO

Enable co-operative and community benefit societies to raise external share capital for the purpose of making environmentally sustainable investment; to make associated provisions about restricting conversion to company status and the distribution of capital on winding-up; and for connected purposes.

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Green shares

(1) The Co-operative and Community Benefit Societies Act 2014 is amended as follows.

(2) At the end of section 27 (power to invest) insert—
“(4) This section is subject to section 27A (green shares).”

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(3) After section 27 insert—

“Green shares

27AGreen shares

- (1) A registered society may issue one or more shares for the purpose of raising external capital to make environmentally sustainable investment. 5
- (2) A share issued under subsection (1) is to be known as a “green share”.
- (3) A green share may be transferable but is not withdrawable. 10
- (4) In this Act, investment is “environmentally sustainable” if it is in economic activity which—
- (a) contributes substantially to at least one of the environmental sustainability goals; and 15
 - (b) does not do significant harm to the other environmental sustainability goal.
- (5) The environmental sustainability goals are—
- (a) to create an innovative, productive and low carbon society which recognises the limits of the global environment and therefore uses resources efficiently and proportionately (including acting on climate change); and 20
 - (b) to maintain and enhance a biodiverse natural environment with healthy functioning ecosystems that support social, economic and ecological resilience 25

and the capacity to adapt to change (for example climate change).

- (6) The Treasury may by regulations revise subsections (4) and (5).

27B Green shares: issuance, rights and repayment

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- (1) A society may only issue green shares if it is authorised to do so by its rules.

- (2) The rules of any society may exclude or restrict the issue of green shares.

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- (3) A society may only repay a green share if it has, at the time of repayment, at least one other issued share.

- (4) The holder of a green share is—

(a) a member of the society;

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(b) entitled to only one vote, regardless of—

(i) the value or number of shares they hold, and

(ii) any entitlement they have as a result of their participation in the society otherwise than as a holder of a green share;

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(c) entitled only to the general level of compensation payable under the rules of the society; and

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(d) entitled, on redemption of the share or the earlier solvent liquidation of the society, only to repayment of the nominal value of

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the share and to no other bonus or part of any surplus.

- (5) No holder of a green share, who is a member of a registered society only by virtue of holding such a share, is entitled to propose, or vote in respect of any resolution of that society under— 5
- (a) section 109 (amalgamation of societies);
 - (b) section 110 (transfer of engagements between societies); 10
 - (c) section 112 (conversion of society into a company, amalgamation with a company etc); or
 - (d) section 110 of the Insolvency Act 1986 (concerning a proposed transfer or sale of business or property). 15
- (6) The Treasury may by regulations make further provision about—
- (a) the issuance of green shares;
 - (b) the rights of holders of green shares; 20
 - (c) the repayment of green shares;
 - (d) the determination of the terms and conditions of green shares;
 - (e) procedures for amending society rules about green shares. 25

27C Green shares: protections against tax and fraud loopholes

- (1) This section makes provision for protections against—

- (a) abuse of green shares; or
 - (b) exploitation of tax loopholes resulting from the creation of green shares.
- (2) The Treasury may by regulations make provision to— 5
 - (a) remove opportunities for investment fraud;
 - (b) safeguard the tax system; or
 - (c) protect the integrity of society status; in relation to the matters in subsection (1).
- (3) The Treasury may by regulations make provision for one or more pilot schemes for the introduction of some or all the provisions of this Act for the purpose of providing assurance that the introduction of green shares will not have unintended consequences relating to the matters in subsection (1). 10
- (4) But regulations under this section may not— 15
 - (a) impose a new tax;
 - (b) continue an expiring tax;
 - (c) increase the rate of an existing tax; or 20extend of the incidence of a tax so as to include persons not already taxpayers.”
- (4) After section 29 (power to restrict use of assets of a community benefit society) insert— 25
 - “29A Capital surpluses: societies with a green share**
 - (1) The Treasury must by regulations make provision—

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- (a) enabling the rules of a society with a green share to permanently prohibit the distribution of a capital surplus; and
- (b) for the destination of any capital surplus of a society with a green share— 5
 - (i) on the solvent winding up of a society; or
 - (ii) on conversion of a society to a company under section 112.
- (2) Regulations under subsection (1)(b) must provide that a capital surplus may only be distributed to another corporate body which prohibits its members from receiving anything more than a repayment of the nominal value of shares they hold. 10 15
- (3) In this section, “capital surplus” means the amount remaining after deducting a society’s total liabilities, including repayment of members’ capital, from its total assets.”
- (5) At the beginning of section 112(1) (conversion of society into a company, amalgamation with a company etc), insert “Subject to section 114A,”. 20
- (6) After section 112(4) insert—
 - “(4A) Section 114A makes provision for restrictions to this section for societies with a green share.” 25
- (7) After section 114 (conversion of society into a company: supplementary) insert—

**“114A Restrictions to conversion of society
with a green share into a company**

(1) The Treasury must by regulations make provision for societies with a green share in accordance with this section.

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(2) The regulations must permit a society, through rules, to permanently and irreversibly exempt itself from the provisions of section 112—

(a) on registration of the society; or

(b) by special resolution of the society in accordance with section 113.

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(3) The regulations must permit a society to remove protection of asset provisions on establishing rules under subsection (2).

**114B Power to restrict acquisition by society
with a green share of its own shares**

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The Treasury may by regulations make provision applying Part 18 of the Companies Act 2006 (acquisition by limited company of its own shares) to a registered society with a green share.”

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(8) In section 147(2)(a) (regulations and orders), for “29” substitute—

“27A to 27C, 29, 29A, 114A, 114B”.

2 Short title, commencement and extent

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(1) This Act may be cited as the Co-operative and Community Benefit Societies (Environmentally Sustainable Investment) Act 2020.

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- (2) This section comes into force come into force on the day on which this Act is passed.
- (3) Section 1 comes into force on such day or days as the Treasury may regulations made by statutory instrument appoint, and different days may be appointed for different purposes.

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