

2002 No. 1501

FINANCIAL SERVICES AND MARKETS

**The Financial Services and Markets Act 2000
(Consequential Amendments and Transitional Provisions)
(Credit Unions) Order 2002**

| | |
|-------------------------------|-----------------------|
| <i>Made</i> - - - - - | <i>10th June 2002</i> |
| <i>Laid before Parliament</i> | <i>10th June 2002</i> |
| <i>Coming into force</i> - - | <i>2nd July 2002</i> |

The Treasury, in exercise of the powers conferred upon them by sections 426 to 428 of the Financial Services and Markets Act 2000(a), hereby make the following Order:

ARRANGEMENT OF ORDER

PART 1

General

1. Citation, commencement and interpretation

PART 2

Amendments to the 1979 Act etc.

2. Amendments to the 1979 Act
3. Revocations

PART 3

Transitional Provisions

4. Application of definition of “consumer” to customers of credit unions before commencement
5. Compensation scheme
6. Saving of section 19 of the 1979 Act
7. Saving of section 39 of the 1965 Act

(a) 2000 c. 8.

PART 4

Rules

8. Existing provisions
9. Designation of existing provisions to take effect as rules
10. Modification of existing provisions
11. Consequences of contravention of continued provision
12. Verification of continued provisions
13. Revocation and alteration
14. Guidance on continued provisions
15. Consultation on provisions prior to commencement
16. Cost benefit analyses

PART 5

Miscellaneous

17. Amendment to the Permission Order
18. Amendment to the Trustee Savings Banks Act 1985

PART 1

GENERAL

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Financial Services and Markets Act 2000 (Consequential Amendments and Transitional Provisions) (Credit Unions) Order 2002 and comes into force on 2nd July 2002.

(2) In this Order—

“the Act” means the Financial Services and Markets Act 2000;

“the 1965 Act” means the Industrial and Provident Societies Act 1965(a);

“the 1979 Act” means the Credit Unions Act 1979(b);

“commencement” means the beginning of 2nd July 2002;

“credit union” means a society registered under the 1965 Act by virtue of section 1 of the 1979 Act(c);

“deposit” has the meaning given by article 5 of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001(d);

“the Permission Order” means the Financial Services and Markets Act 2000 (Permission and Applications) (Credit Unions etc.) Order 2002(e).

PART 2

AMENDMENTS TO THE 1979 ACT ETC.

Amendments to the 1979 Act

2.—(1) Subject to any transitional provision made by Part 3 of this Order, the 1979 Act is amended as follows.

(2) In section 1 (registration under the 1965 Act)—

(a) in subsection (1)—

(i) for “sections 6(4) and 15(1)”, substitute “section 6(4)”;

(ii) omit the word “and” at the end of paragraph (b);

(iii) after paragraph (c), insert—

“(d) the society has made an application to the Authority for Part IV permission under section 40 of the Financial Services and Markets Act 2000 (in this Act referred to as “the 2000 Act”) to accept deposits; and

(e) the Authority is satisfied that, once registered under the 1965 Act, the society will satisfy, and continue to satisfy, the threshold conditions set out in Schedule 6 to the 2000 Act in relation to the regulated activity of accepting deposits;”;

(b) after subsection (1), insert—

“(1A) The Authority shall not issue an acknowledgement of registration under section 2(3) of the 1965 Act to a credit union unless it also proposes to give that society permission under Part IV of the 2000 Act to accept deposits.

(1B) If the Authority issues an acknowledgment of registration to a credit union under that section, it shall determine any outstanding application of that credit union for permission under Part IV of the 2000 Act to accept deposits as soon as reasonably possible thereafter.”.

(a) 1965 c. 12.

(b) 1979 c. 34.

(c) Amended by S.I. 1996/1189 and S.I. 2001/2617.

(d) S.I. 2001/544; amended by S.I. 2001/3544; S.I. 2002/682 and S.I. 2002/1310.

(e) S.I. 2002/704.

(3) In section 2(1) (supplementary and transitional provisions as to registration), after “matters to be provided for in their rules”, insert “and section 7(3) of that Act (acceptance of certain deposits not to be treated as carrying on the business of banking)”.

(4) In section 5 (maximum interest of members)(a), omit subsections (3), (4), (4A) and (10).

(5) In section 8 (general prohibition on deposit-taking)(b), omit subsections (2), (4) and (5).

(6) In section 9 (deposits by persons too young to be members)(c)—

(a) in subsection (1), omit the words “up to a total of £5000” and the words from “; and nothing in section 7(3)” to the end of that subsection; and

(b) omit subsections (2) to (5).

(7) In section 10 (power to borrow money)(d)—

(a) in subsection (1), omit the words from “from an authorised bank” to the end of that subsection; and

(b) omit subsections (2) to (6).

(8) In section 11 (loans)(e)—

(a) for subsection (1), substitute—

“(1) A credit union may make to a member a loan, upon such security (or without security) and terms as the rules of the credit union may provide.”; and

(b) omit subsection (4).

(9) Omit section 13 (investments)(f).

(10) In section 14 (computation and application of profits)(g), omit subsections (1) and (7).

(11) Omit section 15 (insurance against fraud or other dishonesty)(h).

(12) In section 17(1), omit subsections (2) and (3) (power to require financial statement).

(13) In section 18(1) (power to appoint inspector and call meeting)(i), after “is of the opinion that”, insert “, for reasons connected with the exercise of its functions under this Act or the 1965 Act.”.

(14) Omit section 19 (power to suspend operations of credit union)(j).

(15) After subsection (1) of section 20 (cancellation or suspension of registration), insert—

“(1A) The Authority may also exercise the power to cancel the registration of a credit union in accordance with section 16 of the 1965 Act where the credit union’s Part IV permission has been cancelled or where the Authority has given the credit union a warning notice under section 54(1) of the 2000 Act.

(1B) Cancellation of registration under section 16 of the 1965 Act by virtue of subsection (1A) may not take effect until the Authority has cancelled the credit union’s Part IV permission and there is no possibility (or no further possibility) of that determination of the Authority being reversed or varied.

(1C) In its application to credit unions, in subsection (4) of section 16 of the 1965 Act, the reference to the ground referred to in subsection (1)(c)(ii) shall include a reference to the ground mentioned in subsection (1A) of this section.

(1D) Section 18 of the 1965 Act does not apply in relation to a decision of the Authority to cancel the registration of a credit union by virtue of subsection (1A) of this section (and so a society may not appeal from a decision of the Authority to cancel its registration by virtue of subsection (1A)).”.

(a) Subsections (3) and (8) amended, and subsections (4A) and (10) inserted, by S.I. 1996/1189; subsections (4) and (10) amended by S.I. 2001/2617.

(b) Amended by the Banking Act 1987 (c. 22) Schedule 6 and S.I. 2001/3649.

(c) Amended by S.I. 2001/811 and S.I. 2001/2617.

(d) Amended by S.I. 2001/2617.

(e) Subsections (2) and (6) are repealed by the Financial Services and Markets Act 2000, Schedule 22; this repeal commences on 2nd July 2002. Amended by S.I. 1989/2423; S.I. 1996/1189 and S.I. 2001/2167.

(f) Amended by S.I. 2001/2617.

(g) Subsections (2), (3), (5) and (6) are repealed by the Financial Services and Markets Act 2000, Schedule 22; this repeal commences on 2nd July 2002. Amended by S.I. 2001/2167.

(h) Amended by the Insurance Companies Act 1982 (c. 50), Schedule 5, S.I. 2001/2617 and S.I. 2001/3649.

(i) Amended by S.I. 2001/2617.

(j) Amended by S.I. 2001/2617.

(16) In section 21(3)(a) (amalgamations and transfers of engagements)(a), after “Industrial and Provident Societies Acts 1965 to 1978”, insert “or any requirement imposed by or under the 2000 Act”.

(17) In section 23(3) (conversion of company into credit union)(b)–

- (a) at the end of paragraph (a), insert “and”;
- (b) in paragraph (b), for the words “section 5(3) above”, substitute “any applicable rules made by the Authority under the 2000 Act”;
- (c) omit the word “and” at the end of paragraph (b); and
- (d) omit paragraph (c).

(18) In subsection (2) of section 24 (dis-application of requirements as to interim balance sheets)(c), omit the words from “and section 39(1) of the 1965 Act” to the end of that subsection.

(19) Omit section 27 (prohibition on undischarged bankrupts and other persons).

(20) In section 31 (definitions)(d)—

- (a) in subsection (1)—
 - (i) omit the definition of “authorised bank”(e); and
 - (ii) after the definition of “non-qualifying member”, insert—

““Part IV permission” means a permission given by the Authority under Part IV of the 2000 Act or having effect as if so given;”;

(b) for subsection (1A)(f), substitute—

“(1A) In this Act, references to a deposit or accepting deposits must be read with—

- (a) section 22 of the 2000 Act;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”; and

(c) after subsection (3), insert—

“(4) Sections 7(1)(b) (registered society not to carry on the business of banking), section 39 (annual accounts)(g) and section 40 (display of latest balance sheet)(h) of the 1965 Act (which are replaced by, or are inconsistent with, provisions of the 2000 Act) do not apply to credit unions.”.

(21) In Schedule 1 (matters to be provided for in rules of credit union)—

- (a) in paragraph 7, for “subject to section 5(3) of this Act”, substitute “subject to any applicable rules made by the Authority under the 2000 Act”;
- (b) in paragraph 11, after “the Friendly and Industrial Provident Societies Act 1965”, insert “and any applicable rules made by the Authority under section 340 of the 2000 Act”; and
- (c) in paragraph 13, omit sub-paragraph (a).

(22) Omit Schedule 2(i).

Revocations

3. The following regulations and instruments, which were made under the 1979 Act, are revoked—

- (a) the Credit Unions (Insurance against Fraud) etc. Regulations 1980(j);

(a) Amended by S.I. 2001/2617.

(b) Amended by S.I. 2001/2617.

(c) Amended by S.I. 1996/1738.

(d) Amended by the Banking Act 1987 (c. 22), Schedule 6; S.I. 2001/1149, S.I. 2001/2617 and S.I. 2001/3649; repealed in part by the Trustee Savings Bank Act 1985 (c. 58), Schedule 4 and the Statute Law (Repeals) Act 1993 (c. 50).

(e) Amended by the Banking Act 1987 (c. 22), Schedule 6 and by S.I. 2001/3649; modified by S.I. 1992/3218.

(f) Inserted by S.I. 2001/3649.

(g) Amended by the Friendly and Industrial and Provident Societies Act 1968 (c. 55), Schedule 1; S.I. 1996/1738; S.I. 2001/2617.

(h) Repealed in part by S.I. 1996/1738.

(i) Amended by S.I. 2001/2617.

(j) These Regulations, made under section 15 of the 1979 Act, were not made by statutory instrument and were not subject to any Parliamentary procedure. They have not been amended.

- (b) the Credit Unions (Increase in Limits of Shareholding, of Deposits by persons too young to be members and of Loans) Order 1989(a);
- (c) the Credit Unions (Authorised Investments) Order 1993(b); and
- (d) the Credit Unions (Increase in Limits on Deposits by persons too young to be members and of Periods for the Repayment of Loans) Order 2001(c).

PART 3

TRANSITIONAL PROVISIONS

Application of definition of “consumer” to customers of credit unions before commencement

4.—(1) In section 138 of the Act (Authority’s general rule-making power)(d), “consumers” includes (in addition to persons defined as “consumers” in subsection (7)) persons—

- (a) who before commencement used the services provided by a credit union in the course of accepting deposits;
- (b) who have rights or interests which are derived from, or are otherwise attributable to, the use of such services by other persons; or
- (c) who have rights or interests which may be adversely affected by the use of any such services by persons acting on their behalf or in a fiduciary capacity in relation to them.

(2) The definition of “consumers” in paragraph (1) is referred to in this article as “the extended definition”.

(3) For the purposes of the extended definition, subsection (8) and (9) of section 138 of the Act apply as if—

- (a) references to an authorised person were references to a credit union; and
- (b) references to carrying on a regulated activity were references to accepting deposits.

(4) The extended definition applies for the purposes of subsection (3) of section 5 (the protection of consumers), subsection (7) of section 10 (the Consumer Panel), subsection (5) of section 14 (cases in which the Treasury may arrange independent inquiries), subsection (6) of section 186 (objection to acquisition of control) and subsection (11) of section 391 (publication of notices) of the Act.

(5) But the extended definition does not apply for the purposes of paragraph 1 of Schedule 4 to the Act (Treaty rights).

Compensation scheme

5.—(1) Notwithstanding anything to the contrary in section 213(9) or 224(3) of the Act—

- (a) any credit union which, after commencement, becomes unable, or is likely to become unable, to satisfy claims against it which relate to deposits which were accepted before commencement, and
- (b) any credit union which—
 - (i) has ceased to have Part IV permission by virtue of article 3(4) of the Permission Order, and
 - (ii) thereafter, becomes unable, or is likely to become unable, to satisfy claims against it which relate to deposits which were accepted after commencement but before the date on which it ceased to have Part IV permission,

is to be treated after commencement as a relevant person in relation to such a claim or potential claim for the purposes of Part XV of the Act (compensation scheme) and any rules made before commencement by the Authority under that Part.

(a) S.I. 1989/2423; made under sections 5(4), 9(4), (5) and 11(7) of the 1979 Act.

(b) S.I. 1993/3100; amended by S.I. 1997/2646 and S.I. 2001/3649. Made under section 13(1) of the 1979 Act.

(c) S.I. 2001/811; made under sections 9(4) and 11(4), (4A) and (7) of the 1979 Act.

(d) Modified by S.I.2001/1821.

(2) Any rules made by the Authority before commencement under section 214(1)(a) of the Act (rules making provision as to the circumstances in which a person is to be taken to be unable or likely to be unable to satisfy claims made against him) apply for the purpose of determining whether a credit union has become, or is likely to become, unable to satisfy claims against it within the meaning of paragraph (1).

Saving of section 19 of the 1979 Act

6.—(1) Notwithstanding the repeal of section 19 of, and Schedule 2 to, the 1979 Act (power to suspend operations of credit unions), that section and that Schedule continue to have effect in relation to any credit union whose Part IV permission ceases to have effect by virtue of article 3(4) of the Permission Order (failure to re-apply for permission when directed by the Authority to do so).

(2) Where the Authority has, prior to the relevant date, served a notice which complies with the conditions set out in paragraph (4) on a specified credit union, paragraph 1 of Schedule 2 to the 1979 Act does not apply to any direction given to that credit union the nature of which is specified in the notice in accordance with paragraph (4)(c).

(3) A specified credit union is a credit union which falls within the class specified in a direction given under article 3(1) of the Permission Order but which has not complied with that direction.

(4) The conditions are that the notice—

- (a) is served on the credit union and on every member of its committee;
- (b) states that the Authority proposes, on or after the relevant date, to give a direction under section 19 of the 1979 Act;
- (c) specifies the nature of the direction the Authority proposes to give and the considerations which have led it to conclude that such a direction should be given;
- (d) is served at least twenty-eight days before the relevant date; and
- (e) states that no direction will be given if the credit union complies with the applicable direction under article 3(1) of the Permission Order.

(5) Where the Authority serves a notice of the kind specified by paragraph (2), references in paragraph 2 of Schedule 2 to the 1979 Act to “the notice” are to be treated as references to that notice.

(6) In this article, the “relevant date” in relation to a credit union is the date on which the Part IV permission of that credit union ceases to have effect by virtue of article 3(4) of the Permission Order.

Saving of section 39 of the 1965 Act

7. Notwithstanding any amendment made by this Order which relates to section 39 of the 1965 Act, that section applies in respect of any period which—

- (a) is required by that section to be included in a return, and
- (b) has expired before commencement,

as if that amendment had not been made.

PART 4

RULES

Existing provisions

8. For the purposes of this Part, an “existing provision” means any provision of any enactment or subordinate legislation which—

- (a) is repealed or revoked at commencement by this Order; or
- (b) by virtue of this Order, ceases to apply to a credit union at commencement.

Designation of existing provisions to take effect as rules

9.—(1) The Authority may, before commencement, designate any existing provision which appears to it to be necessary or expedient so long as that provision could be included in a rule made by the Authority by virtue of a provision of or made under the Act.

(2) An existing provision which is designated by the Authority under this article has effect after commencement, with such modifications (if any) as may be made under article 10, as if it were a rule made by the Authority under the Act; such a provision is referred to in this Part as a “continued provision”.

(3) Paragraph (2) applies in spite of any repeal, revocation or dis-application of the existing provision which occurs on commencement.

(4) To designate an existing provision, the Authority must—

- (a) make an instrument in writing (“the designation instrument”) identifying the provision in the manner required by paragraph (5);
- (b) specify in the designation instrument the provision of, or made under, the Act under which the existing provision will be treated as having effect;
- (c) specify any modification to be made to the provision pursuant to article 10;
- (d) publish the designation instrument in the way appearing to the Authority to be best calculated to bring it to the attention of the public;
- (e) have in place arrangements whereby a copy of the continued provision may be made available to any person on request.

(5) When the Authority designates an existing provision, it must also—

- (a) publish an explanation of the purposes of the existing provision being designated; and
- (b) publish an explanation for the Authority’s reasons for believing that designating the existing provision is compatible with its general duties under section 2 of the Act.

(6) In order to identify the existing provision for the purposes of paragraph (4), the Authority must give sufficient information about—

- (a) the title of the enactment or subordinate legislation in which the provision is found,
- (b) whether the provision has been amended or whether its meaning has been affected by any subsequent provision,

to ensure that a person can ascertain with certainty the content of the provision being designated.

(7) To the extent that the designation instrument does not comply with paragraph (4)(b), it is void.

(8) The Authority may charge a reasonable fee for providing a person with a copy of a designation instrument or of the continued provision made available under paragraph (4)(e).

(9) The Authority must give a copy of any designation instrument to the Treasury.

(10) The making of a designation instrument is a legislative function for the purposes of Schedule 1 to the Act.

(11) A person is not to be taken to have contravened any continued provision if he shows that at the time of the alleged contravention the relevant designation instrument had not been published in accordance with paragraph (4)(d).

Modification of existing provisions

10.—(1) When designating an existing provision, the Authority—

- (a) must make such modifications to it as appear to the Authority necessary to ensure that, so far as possible, the existing provision has the same effect (subject to any modifications made under sub-paragraph (b)) after commencement as it did immediately before commencement;
- (b) may make such modifications to it as have the effect of limiting its application to a class of persons narrower than the class to which it applied immediately before commencement.

(2) The modifications authorised by paragraph (1)(a) include the addition of such transitional provisions as are necessary to ensure the result there mentioned.

(3) If an existing provision designated under article 9 purports to include a modification which is not authorised by this article and which would alter the effect or application of the provision, to the extent that it is not so authorised, the modification is void.

Consequences of contravention of continued provision

11.—(1) If a designation instrument provides, in relation to any of the continued provisions identified in it, as mentioned in subsection (1) of section 149 of the Act (evidential provisions), then that subsection applies as it applies where a particular rule so provides.

(2) Subsections (2) and (3) of section 149 of the Act apply for the purposes of this article as if the references to a rule (other than the references in paragraphs (a) and (b) of subsection (2)) included references to a designation instrument.

(3) Unless a designation instrument provides, in relation to a specified provision of any of the existing provisions designated in it, as mentioned in subsection (2) of section 150 of the Act (actions for damages), then that section applies as it applies to a rule not falling within subsection (4) of that section.

Verification of continued provisions

12.—(1) This article applies to continued provisions instead of section 154 of the Act (verification of rules).

(2) The production of a printed copy of a designation instrument or a continued provision purporting to be made by the Authority on which is endorsed a certificate which—

- (a) is signed by a member of the Authority's staff authorised by it for that purpose, and
- (b) contains the required statement or statements,

is evidence (or in Scotland, sufficient evidence) of the facts stated in the certificate.

(3) The required statements in relation to a copy of a designation instrument are—

- (a) that the instrument was made by the Authority;
- (b) that the copy is a true copy of the instrument; and
- (c) that on a specified date the instrument was published in accordance with article 9.

(4) The required statement in relation to a copy of a continued provision is that the text set out in the document is a continued provision within the meaning of this Part.

(5) A certificate purporting to be signed as mentioned in paragraph (2) is to be taken to have been properly signed unless the contrary is shown.

(6) A person who wishes in any legal proceedings to rely on a designation instrument or on a continued provision may require the Authority to endorse a copy of that instrument or provision with a certificate of the kind mentioned in paragraph (2).

Revocation and alteration

13. Nothing in this Part is to be taken as implying a contrary intention for the purposes of section 14 of the Interpretation Act 1978(a) in relation to continued provisions and, accordingly, such rules may, after commencement, be revoked or altered in accordance with the provision of the Act under which the continued provisions have effect as made.

Guidance on continued provisions

14.—(1) This article applies to any guidance which—

- (a) relates to the operation of any continued provision; or
- (b) is consequential on or supplemental to the designation of any existing provision.

(2) Where the Authority gives guidance to which this article applies, the Authority is to be treated as having complied with section 157(3) of the Act in relation to that guidance.

(3) The Authority must, when it gives guidance to which this article applies, publish—

- (a) an estimate of the costs together with an analysis of the benefits that will arise from the guidance;

(a) 1978 c. 30.

- (b) an explanation of the purpose of the guidance; and
- (c) an explanation of the Authority’s reasons for believing that giving the guidance is compatible with its general duties under section 2 of the Act.

Consultation on provisions prior to commencement

15.—(1) This article applies to rules which contain provisions which have been the subject of relevant prior consultation and to guidance on any such rules.

(2) Where the Authority makes rules or gives guidance to which this article applies, the Authority is to be treated as having complied with section 155 of the Act in relation to those rules or in relation to that guidance.

(3) “Relevant prior consultation” means consultation which—

- (a) took place prior to commencement;
- (b) was undertaken in relation to an existing provision; and
- (c) complies with the requirements of section 5 of the Regulatory Reform Act 2001(a).

(4) A provision is to be treated as having been the subject of relevant prior consultation if it achieves the result proposed in the relevant prior consultation, even if it achieves that result in a different way to that proposed in the relevant prior consultation (for example, by way of a rule rather than by way of an amendment to an existing provision).

(5) In making rules or giving guidance to which this article applies, the Authority must take into account any responses to the relevant prior consultation.

(6) The Authority must, when it makes rules or gives guidance to which this article applies, publish—

- (a) an estimate of the costs together with an analysis of the benefits that will arise from the rules or guidance;
- (b) an explanation of the purpose of the rules or guidance;
- (c) an explanation of the Authority’s reasons for believing that making the rules or giving the guidance is compatible with its general duties under section 2 of the Act; and
- (d) an account, in general terms, of the responses to the relevant prior consultation and the Authority’s response to them.

Cost benefit analyses

16.—(1) Paragraph (3)(a) of article 14 and paragraph (6)(a) of article 15 do not apply if the Authority considers—

- (a) that, making the appropriate comparison, there will be no increase in costs; or
- (b) that, making that comparison, there will be an increase in costs but the increase will be of minimal significance.

(2) In making the appropriate comparison, the Authority may disregard the repeal, revocation or lapsing at commencement of any enactment, subordinate legislation or other instrument or provision.

(3) In this article, “the appropriate comparison” means a comparison between the overall position if the rules are made (or guidance is given) and the overall position if they are not made (or not given).

(a) 2001 c. 6.

PART 5
MISCELLANEOUS

Amendment to the Permission Order

17. At the end of article 2(1) of the Permission Order (permission of credit unions registered at commencement), insert “or from a person who is under the age at which he may become a member of the credit union by virtue of section 20 of the Industrial and Provident Societies Act 1965”.

Amendment to the Trustee Savings Banks Act 1985

18. In paragraph 11(2) (c) of Part III of Schedule 1 to the Trustee Savings Banks Act 1985(a), omit the words “the Credit Unions Act 1979 or”.

10th June 2002

Nick Ainger
John Heppell
Two of the Lords Commissioners of Her Majesty’s Treasury

(a) 1985 c. 58

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes amendments to the legislation relating to credit unions that are consequential on the expiry, on 2nd July 2002 (“commencement”), of the transitional exemption of credit unions from the general prohibition imposed by section 19 of the Financial Services and Markets Act 2000 (“the Act”). (See article 6 of the Financial Services and Markets Act 2000 (Exemption) Order 2001 (S.I. 2001/1201).) This Order also makes transitional provisions in connection with commencement.

Article 2 amends the Credit Unions Act 1979 (“the 1979 Act”). Section 1 of the 1979 Act is amended so as to provide that the Financial Services Authority (“the Authority”) shall not issue an acknowledgement of registration to a credit union unless the Authority also proposes to give that credit union permission under Part IV of the Act to accept deposits. Provisions of the 1979 Act which relate to matters which are also dealt with under the Act itself are repealed. Similarly, provisions which relate to matters on which the Authority could make rules under the Act are also repealed.

Article 3 revokes certain instruments and regulations which were made under the 1979 Act.

Article 4 modifies the definition of “consumer” in the Act so that it includes those who used the services provided by a credit union before commencement and certain related persons.

Article 5 makes transitional provisions which clarify how the compensation scheme established under Part XV of the Act applies to certain credit unions.

Article 6 provides that section 19 of the 1979 Act (which is repealed by article 2) continues to apply, notwithstanding that repeal, to credit unions whose permission under Part IV of the Act ceases to have effect by virtue of article 3 of the Financial Services and Markets Act 2000 (Permission and Applications) (Credit Unions etc.) Order 2002 (S.I. 2002/704) (failure to reapply for permission when required to do so by a direction given by the Authority).

Article 7 provides that section 39 of the Industrial and Provident Societies Act 1965 (which by virtue of amendments made by article 2 ceases to apply to credit unions) continues to have effect, notwithstanding that amendment, in relation to returns which relate to a period that expired before commencement.

Article 9 permits the Authority to designate as a rule an existing provision (as defined by article 8). Article 10 allows the Authority to modify such existing provisions. Article 11 specifies the consequences of contravening an existing provision which has been so designated. Article 12 relates to the verification of such provisions. Article 13 makes it clear that any designated provision may be revoked or altered after commencement.

Article 14 permits the Authority to make guidance which relates to, or is consequential on, any provision which has been designated under article 9 without complying with the requirements imposed by section 157(3) of the Act (duty to publish a draft etc.). Subject to article 16, in giving such guidance, the Authority must publish a cost benefit analysis.

Article 15 waives the obligation on the Authority to consult before it makes rules (or gives guidance on such rules) where relevant prior consultation (as defined by article 15(3)) has taken place. The Authority must take into account any responses to such consultation before it makes rules pursuant to this article. Subject to article 16, in making such rules (or giving such guidance), the Authority must publish a cost benefit analysis.

Article 16 specifies the circumstances in which the Authority need not publish a cost benefit analysis when it gives guidance or makes rules under article 14 or 15.

Article 17 amends the Financial Services and Markets Act 2000 (Permission and Applications) (Credit Unions etc.) Order 2002 (S.I. 2002/704). The effect of the amendment is that credit unions will, after commencement, have permission under Part IV of the Act to accept deposits from persons who are too young to be members of a credit union.

Article 18 amends the Trustee Savings Banks Act 1985.

2002 No. 1501

FINANCIAL SERVICES AND MARKETS

**The Financial Services and Markets Act 2000
(Consequential Amendments and Transitional Provisions)
(Credit Unions) Order 2002**

£3.00

© Crown copyright 2002

Printed and published in the UK by The Stationery Office Limited
under the authority and superintendence of Carol Tullo, Controller of
Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.
E1022 7/2002 121022 19585

ISBN 0-11-042432-8



9 780110 424323