
STATUTORY INSTRUMENTS

2011 No. 2832

The Financial Services and Markets Act 2000
(Permissions, Transitional Provisions and Consequential
Amendments) (Northern Ireland Credit Unions) Order 2011

PART 2

Consequential Amendments

Amendments to banking legislation

12.—(1) In section 7(5) of the Dormant Bank and Building Society Accounts Act 2008⁽¹⁾, for the definition of “credit union”, substitute—

““credit union” means a credit union within the meaning of section 31(1) of the Credit Unions Act 1979 or a credit union within the meaning of Article 2(2) of the Credit Unions (Northern Ireland) Order 1985;”.

(2) In section 2(2)(b) of the Banking Act 2009⁽²⁾, after “Credit Unions Act 1979”, insert “or a credit union within the meaning of Article 2(2) of the Credit Unions (Northern Ireland) Order 1985”.

Amendments to the 1985 Order

13.—(1) The 1985 Order is amended as follows.

(2) In Article 2 (interpretation) insert at the appropriate place—

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

““the Authority” means the Financial Services Authority;”.

(3) In Article 2(2A)⁽³⁾ for “Sub-paragraphs” substitute “In this Order, references to a deposit or accepting deposits and sub-paragraphs”.

(4) After paragraph (3) of Article 2A (the registrar and assistant registrar)⁽⁴⁾ insert—

“(4) In the exercise of the registrar’s functions under this Order, the registrar must cooperate with the Authority in the exercise by the Authority of any of its functions in relation to credit unions.

(5) The registrar may share with the Authority any information obtained by the registrar relating to credit unions which the Authority might reasonably require for the purpose of the performance of any of its functions in relation to credit unions.”.

(5) In Article 3(1) (registration)—

(a) for “Articles 13, 24(1) and 37(1)”, substitute “Article 13”;

(1) 2008 c. 31.

(2) 2009 c. 1.

(3) Article 2(2A) was inserted by S.I. 2002/1555. There are other amendments to Article 2 not relevant to this Order.

(4) Article 2A was inserted by the Friendly Societies Act 1992 (c.40), section 120, Schedule 21, Part 2, paragraph 29.

- (b) omit the word “and” immediately before sub-paragraph (c) and, at the end of sub-paragraph (c), change the full stop to a semi-colon; and
- (c) after sub-paragraph (c), insert—
 - “(d) the society has made an application to the Authority for a permission under Part 4 of the 2000 Act to accept deposits; and
 - (e) the Authority has confirmed to the registrar that the Authority is satisfied that, once registered under this Order, 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.”.
- (6) After Article 4(2) (supplementary provisions as to registration), insert—
 - “(2A) The registrar must not issue an acknowledgement of registration under paragraph (2) unless the Authority has confirmed to the registrar that it proposes to give the society permission under Part 4 of the 2000 Act to accept deposits.”.
- (7) After Article 8(1) (rules) insert—
 - “(1A) The rules of a credit union must not be inconsistent with the 2000 Act or any rules made or any requirements imposed by or under that Act.”.
- (8) Omit paragraphs (2) to (5) of Article 13 (minimum and maximum number of members) (the title to which becomes “Minimum number of members”).
- (9) Omit paragraphs (3) to (4A)(5) and (10) of Article 14 (membership and voting rights).
- (10) Omit Article 22 (restriction on business of credit union).
- (11) Omit Article 24 (prohibition on carrying on banking).
- (12) In Article 25 (prohibition on deposit-taking), omit paragraphs (2)(6), (4) and (5).
- (13) In Article 26 (deposits by persons too young to be members)—
 - (a) in paragraph (1) omit “up to a total of £10,000”; and
 - (b) omit paragraphs (2) to (9).
- (14) In Article 27 (power to borrow money)—
 - (a) in paragraph (1), omit “temporarily” to the end of that paragraph; and
 - (b) omit paragraphs (2) to (6).
- (15) In Article 28 (loans by credit unions)—
 - (a) for paragraph (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 paragraphs (2), (4)(7) and (6).
- (16) Omit Articles 28B (loans by approved credit unions), 28C (grant of certificates of approval) and 28D (withdrawal of certificates of approval)(8).
- (17) In Article 31(3) (charges on assets of credit unions), omit the word “and” immediately before sub-paragraph (b) and insert after that sub-paragraph—
 - “and

(5) Article 14(4A) was inserted by [S.I. 1997/2984 \(N.I. 22\)](#).

(6) Article 25(2) was inserted by [S.I. 2002/1555](#).

(7) Paragraphs (2) and (4) of Article 28 were amended by [S.R. 1993/429](#).

(8) Articles 28B, 28C and 28D were inserted by [S.I. 1997/2984 \(N.I. 22\)](#).

- (c) that copies of the instrument included in such an application, the note of any prescribed particulars so included, and the acknowledgement of the application issued are sent to the Authority;”.
- (18) Omit paragraphs (3) and (4) of Article 32 (holding of land).
- (19) Omit Article 33 (investments).
- (20) In Article 36 (computation and application of surplus) (the title to which becomes “Application of surplus”)—
 - (a) omit paragraphs (1), (2), (6) and (7);
 - (b) for paragraph (3) substitute—
 - “(3) Following the application of such amount of its surplus funds to its reserves as may be required by rules made by the Authority under the 2000 Act, a credit union may apply such proportion of the remaining amount available for distribution in respect of any year of account (that is to say, the surplus for that year reduced or increased by any transfer to or from general reserve) in one or more of the following ways as the credit union may in general meeting determine—
 - (a) subject to paragraph (4), in the payment to members of dividends on the amount of their paid-up shares;
 - (b) as a rebate of interest paid by or due from members who have received loans from the credit union, such rebate being proportional to the interest paid by or due from such members during that year of account; and
 - (c) subject to paragraph (5), for social, cultural or charitable purposes.”.
- (21) Omit Article 37 (insurance against fraud or other dishonesty).
- (22) In Article 38 (guarantee funds)—
 - (a) in paragraph (2), for “Subject to paragraph (3), a” substitute “A”; and
 - (b) omit paragraph (3).
- (23) Omit Article 39 (prohibition on undischarged bankrupts and other persons).
- (24) In Article 42 (accounts and balance sheets)—
 - (a) in paragraph (1) omit the words “and shall, in particular, identify the funds held in trust under Article 26”;
 - (b) in paragraph (3), omit the words “and shall, in particular, identify the funds mentioned in paragraph (1)”.
- (25) For Article 49 (annual returns) substitute—
 - “**49.**—(1) Every credit union must, by the due date, send to the registrar a return relating to its affairs for the year required by this Article to be included in the return together with—
 - (a) a copy of the report of the auditors on the credit union’s accounts for the year of account; and
 - (b) subject to paragraph (7), a copy of each balance sheet made during that year and of any report of the auditors on that balance sheet.
 - (2) The return required by paragraph (1) must—
 - (a) contain the revenue account of the credit union prepared in accordance with Article 42(2) in respect of the year of account to which the return relates, and a balance sheet as at the end of that year; and

- (b) not contain any accounts other than the revenue account for that year unless those other accounts have been examined by the auditors of the credit union under Article 47.
- (3) For the purposes of this Article—
 - (a) the end of a credit union’s year of account is 30th September; and
 - (b) the due date is the date specified in rules made by the Authority under the 2000 Act or, if no date is specified, 6 months after the end of its year of account.
- (4) A credit union may alter the date on which its current and subsequent years of account end by notice to the Authority.
- (5) A notice under paragraph (4) must state whether it extends or shortens the current year of account.
- (6) A notice extending a credit union’s current year of account is not effective if it extends that year of account such that it exceeds 15 months.
- (7) Paragraph (1)(b) does not apply to an interim balance sheet made up and displayed under Article 42(5).
- (8) The last return under this Article by a credit union which is being terminated by an instrument of dissolution under Article 68(b) shall be made up to the date of the instrument of dissolution.
- (9) Every credit union must, on request, supply free of charge to every member or person interested in the funds of the credit union a copy of the latest return of the credit union under this Article, and must supply with every such copy a copy of the report of the auditors on the accounts and balance sheet relating to that return.”.
- (26) Omit Article 50 (display of latest balance sheet).
- (27) In Article 53 (duties of receiver or manager of credit union’s property) after “the registrar” each time it appears add “and the Authority”.
- (28) In Article 57 (production of documents and provision of information) omit—
 - (a) paragraph (3); and
 - (b) in paragraph (4) “or (3)”.
- (29) Omit Article 59 (suspension of credit union’s operations).
- (30) In Article 60(1) (cancellation of registration), after “by writing under his hand” insert “and with the consent of the Authority”.
- (31) In Article 61(1) (suspension of registration) after “by writing under his hand” insert “and with the consent of the Authority”.
- (32) In Article 62 (appeals), for paragraph (1) substitute—
 - “(1) A society may appeal to the High Court from the decision of the registrar to refuse registration of the society as a credit union (including a refusal by reason only of anything contained in or omitted from the society’s rules) on any ground other than that—
 - (a) he is not satisfied that a common bond exists between the members of the society;
 - (b) the society has not made an application to the Authority for Part 4 permission under section 40 of the 2000 Act to accept deposits; or
 - (c) the Authority has not confirmed to the registrar that the Authority is satisfied that, once registered under this Order, 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.”.

(33) In Article 63 (petition for winding-up), after “the registrar” insert “, having first obtained the consent of the Authority,”.

(34) After paragraph (6) of Article 65 (amalgamation of credit unions) insert—

“(7) The registrar must not register a special resolution under this Article unless the Authority has first confirmed to the registrar that the proposed amalgamation would not, in its opinion, result in a contravention of the 2000 Act, or any requirement imposed by or under that Act.”.

(35) After paragraph (3) of Article 66 (transfer of engagements between credit unions) insert—

“(4) The registrar must not register a special resolution under this Article unless the Authority has first confirmed to the registrar that the proposed transfer would not, in its opinion, result in a contravention of the 2000 Act, or any requirement imposed by or under that Act.”.

(36) In paragraph (5) of Article 70 (instrument of dissolution) for “Article 49(4)” substitute “Article 49(8)”.

(37) In Article 72 (decision of disputes)(9)—

(a) in paragraph (1) for “(2), (4) and (5)”, substitute “(2), (4), (5) and (7)”;

(b) for paragraph (2) substitute—

“(2) Unless—

(a) the rules of the credit union expressly forbid it; or

(b) a complainant is eligible to have the complaint dealt with under the ombudsman scheme,

the parties to a dispute in a credit union may by consent refer the dispute to the registrar who shall hear and determine it.”; and

(c) after paragraph (9) insert—

“(10) Nothing in this Article or in rules of a kind mentioned in paragraph (1) prevents any person from having a complaint dealt with under the ombudsman scheme.

(11) In this Article, “the ombudsman scheme” has the meaning it has in section 225(3) of the 2000 Act.”.

(38) In Article 76(2) (prosecution of offences) omit “, other than under Article 24(2)(b), 25(4)(b), 27(6)(b), 32(4)(b), 33(6)(b) or 59(7)(b)”.

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

(a) in paragraph 7, for “subject to Article 14(3)”, substitute “subject to any applicable rules made by the Authority under the 2000 Act”;

(b) in paragraph 11, after “credit union”, insert “in accordance with any applicable rules made by the Authority under section 340 of the 2000 Act”; and

(c) in paragraph 13, omit sub-paragraph (a).

(40) Omit Schedule 3 (procedure in relation to directions under Article 59)

(41) Omit paragraph 2 of Schedule 4 (savings).

Revocations

14. The following regulations and statutory rules are revoked—

(a) the Credit Unions (Limit on Loans) Regulations (Northern Ireland) 1986(10);

(9) Article 72 was amended by the Arbitration Act 1996 (c. 23), section 107(1), Schedule 3, paragraph 44.

(10) S.R. 1986 No. 130.

- (b) the Credit Unions (Insurance against Fraud etc.) Order (Northern Ireland) 1988(11);
- (c) the Credit Unions (Authorised Investments) Regulations (Northern Ireland) 1995(12);
- (d) the Credit Unions (Limit on Membership) Order (Northern Ireland) 2006(13);
- (e) the Credit Unions (Limit on Shares) Order (Northern Ireland) 2006(14);
- (f) the Credit Unions (Deposits and Loans) Order (Northern Ireland) 2006(15).

Review

- 15.—(1) The Treasury must from time to time—
- (a) carry out a review of articles 12 to 14,
 - (b) set out the conclusions of the review in a report, and
 - (c) publish the report.
- (2) The report must in particular—
- (a) set out the objectives intended to be achieved by the amendments made by articles 12 to 14,
 - (b) assess the extent to which those objectives are achieved, and
 - (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.
- (3) The first report under this article must be published before the end of the period of five years beginning with 31st March 2012 in conjunction with the Treasury’s report setting out the conclusions of its review of the Financial Services and Markets Act 2000 (Exemption) (Amendment No. 2) Order 2011(16).
- (4) Reports under this article are afterwards to be published at intervals not exceeding five years.

(11) S.R. 1988 No. 245.
(12) S.R. 1995 No. 31.
(13) S.R. 2006 No. 76.
(14) S.R. 2006 No. 77.
(15) S.R. 2006 No. 78.
(16) S.I. 2011/2716.