



## 2016 CHAPTER 16

### *Credit Unions*

#### **Corporate members of credit unions**

1.—(1) In Article 2(2) of the 1985 Order (interpretation) at the appropriate places insert—

““body corporate” includes a partnership regarded as a legal person under the law of the country or territory in which it was established;”;

““corporate member”, in relation to a credit union, means—

- (a) a body corporate that is a member of the credit union,
- (b) an individual who is a member of the credit union in the individual’s capacity as a partner in a partnership, or
- (c) an individual who is a member of the credit union in the individual’s capacity as an officer or member of the governing body of an unincorporated association;”;

““partnership” means a partnership not regarded as a legal person under the law of the country or territory in which it was established;”.

(2) In Article 14 of that Order (membership) for paragraph (1) substitute—

“(1) The following may be members of a credit union—

- (a) an individual (acting on his or her own behalf);
- (b) if, and to the extent, permitted by virtue of Article 14A—
  - (i) a body corporate;
  - (ii) an individual acting in the capacity as a partner in a partnership;

(iii) an individual acting in the capacity as an officer or member of the governing body of an unincorporated association.”.

(3) After that Article insert—

**“14A Corporate members**

(1) A credit union may admit persons of a kind mentioned in Article 14(1)(b)(i) to (iii) (persons who will, if admitted, be corporate members) if its rules so provide.

(2) The number of corporate members of a credit union must not exceed 10% of the total number of members.

(3) For the purposes of paragraph (2) the number of corporate members and the total number of members are to be determined in accordance with Article 13(1A) and (1B) (membership rules: treatment of corporate members).

(4) The number of shares in a credit union allotted to corporate members must not exceed 25% of the total number of allotted shares.

(5) For the purposes of paragraph (4) the total number of allotted shares is the total found in the most recent year-end balance sheet submitted to the appropriate authority.

(6) Where shares are allotted to an individual who is a corporate member, then for the purpose of determining the amount of the interest in the shares of the credit union held by each of its members—

(a) the partnership or, as the case may be, the unincorporated association is to be treated as a member holding the shares, and

(b) the shares are not to be treated as being held by the individual.

(7) The Department may by order substitute for the percentage for the time being specified in paragraph (2) or (4) such other percentage as it considers appropriate.”.

**Removal of restriction on non-qualifying members of a credit union**

2. In Article 14 of the 1985 Order (membership and voting rights)—

(a) in paragraph (5) omit “, subject to paragraph (6),”;

(b) omit paragraph (6).

**Interest-bearing shares**

3.—(1) In Article 2(2) of the 1985 Order at the appropriate place insert—

““interest-bearing share” means a share issued on terms which entitle the holder to interest but not to a dividend;”.

(2) After Article 23 of that Order insert—

**“23A Power to issue interest-bearing shares**

- (1) A credit union may issue interest-bearing shares if—
  - (a) its rules so provide,
  - (b) its most recent year-end balance sheet shows that it holds reserves of at least the threshold amount,
  - (c) its auditors have made a report under Article 47 on that balance sheet,
  - (d) it has given the appropriate authority a copy of the balance sheet, and
  - (e) it has given the appropriate authority a copy of a relevant report, made after the date of the balance sheet.
- (2) The “threshold amount” is whichever of the following is greater—
  - (a) £50,000;
  - (b) 5% of the credit union’s total assets.

(3) A “relevant report” is a report made by the auditors appointed to audit the credit union’s accounts and balance sheet, stating that in their opinion the credit union satisfies such conditions as are specified by the appropriate authority for the purposes of this paragraph.

(4) The Department may by order substitute for the amount or percentage for the time being specified in paragraph (2) such other amount or percentage as it considers appropriate.

**23B Duties where interest-bearing shares have been issued**

- (1) This Article applies to a credit union that has issued interest-bearing shares.
- (2) The credit union must give the appropriate authority a relevant report each year, by the date specified by the appropriate authority for the purposes of this paragraph.
- (3) The credit union must convert any interest-bearing shares in issue into shares that are not interest-bearing if—
  - (a) its rules cease to provide for the issue of interest-bearing shares,
  - (b) neither its most recent year-end balance sheet nor the year-end balance sheet preceding it shows that the credit union holds reserves of at least the threshold amount,
  - (c) neither of those balance sheets was given to the appropriate authority by the specified date, or
  - (d) for two consecutive years it has not complied with paragraph (2).
- (4) In this Article—

“relevant report” and “threshold amount” have the same meaning as in Article 23A;

“specified date”, in relation to a credit union’s year-end balance sheet, means the date by which rules under the 2000 Act require the credit union to give a copy of the balance sheet to the appropriate authority.”.

#### **Attachment of shares**

4.—(1) In Article 23 of the 1985 Order (shares)—

- (a) in paragraph (3) after “paragraph (4)” insert “and Article 28(1E)”;
- (b) for paragraph (4) substitute—

“(4) Where a credit union has made a loan to a member which is treated by virtue of Article 28A as a secured loan, the member must not be permitted to withdraw shares if the member’s shareholding is (or following withdrawal would be) less than the member’s total liability.

(5) In paragraph (4)—

- (a) the member’s “shareholding” is the member’s paid-up shareholding in the credit union;
- (b) the member’s “total liability” is the member’s total liability (including contingent liability) to the credit union whether as borrower, guarantor or otherwise;
- (c) where the loan has been made to an individual in his or her capacity as a corporate member, the member’s “shareholding” and “total liability” are any shareholding and total liability in that capacity.”.

(2) In Article 28 of that Order (loans by credit unions) after paragraph (1D) (inserted by paragraph 9 of Schedule 1) insert—

“(1E) The terms of a loan made from a credit union to a member (other than a loan treated by virtue of Article 28A as a secured loan) must state whether, for the duration of the loan, the borrower is permitted to withdraw shares where the borrower’s shareholding is (or following withdrawal would be) less than the borrower’s total liability.

(1F) In paragraph (1E)—

- (a) the borrower’s “shareholding” is the borrower’s paid-up shareholding in the credit union;
- (b) the borrower’s “total liability” is the borrower’s total liability (including contingent liability) to the credit union whether as borrower, guarantor or otherwise;
- (c) where the loan is made to an individual in his or her capacity as a corporate member, the borrower’s “shareholding” and “total liability” are any shareholding and total liability in that capacity.”.

**Supply by credit union of copies of its rules**

5. In Article 12 of the 1985 Order (provision of copies of rules) for paragraph (1) substitute—

“(1) A credit union must, on demand, give a copy of its registered rules—

- (a) free of charge to any member of the credit union who has not previously been given a copy of those rules;
- (b) to any other person upon payment of such fee (not exceeding £5) as the credit union may determine.

(1A) The Department may by regulations substitute for the amount for the time being specified in paragraph (1)(b) such other amount as it considers appropriate.”.

**Application of surplus funds for social, cultural or charitable purposes**

6. In Article 36(5) of the 1985 Order (restriction on application of surplus for social, cultural or charitable purposes) omit “of not less than 3 per cent per annum (or such other rate as an order may specify)”.

**Application of directors disqualification provisions to credit unions**

7. In the Company Directors Disqualification (Northern Ireland) Order 2002 after Article 25A insert—

**“25B Application of Order to credit unions**

- (1) This Order applies to credit unions as it applies to companies.
- (2) Accordingly, in this Order—
  - (a) references to a company include a credit union,
  - (b) references to a director of a company include a member of the board of directors of a credit union, and
  - (c) references to an officer of a company include an officer of a credit union.
- (3) In its application in relation to credit unions, this Order has effect as if—
  - (a) in Article 5(1) the reference to striking off included the cancellation of the registration of a credit union under the 1985 Order;
  - (b) in Articles 6(1) and 8(1) references to the companies legislation included the 1985 Order;
  - (c) Articles 11A to 11E were omitted;

- (d) references to the registrar were to the registrar as defined in Article 2A of the 1985 Order;
- (e) references to a shadow director were omitted.
- (4) In this Article—
  - “board of directors”, “credit union” and “officer” (in relation to a credit union) have the meaning given by Article 2(2) of the 1985 Order;
  - “the 1985 Order” means the Credit Unions (Northern Ireland) Order 1985.”.

### *Co-operative and Community Benefit Societies*

#### **Registration of societies as co-operative or community benefit societies etc.**

**8.—**(1) In the 1969 Act for section 1 (societies which may be registered) substitute—

##### **“1 Societies that may be registered**

(1) A society for carrying on any industry, business or trade (including dealings of any kind with land) that meets the conditions in subsection (2) may be registered under this Act as—

- (a) a co-operative society, or
- (b) a community benefit society.

(2) The conditions are—

- (a) that it is shown to the satisfaction of the registrar—
  - (i) in the case of registration as a co-operative society, that the society is a bona fide co-operative society, or
  - (ii) in the case of registration as a community benefit society, that the business of the society is being, or is intended to be, conducted for the benefit of the community,
- (b) that the society’s rules contain provision in respect of the matters mentioned in Part 1 of Schedule 1, and
- (c) that the place that under those rules is to be the society’s registered office is in Northern Ireland.

(3) Subsection (1) is subject to—

- (a) section 2 (minimum number of members of a society);
- (b) section 7(1) (society with withdrawable share capital not to be registered with the object of carrying on the business of banking).

(4) For the purposes of subsection (2)(a)(i) “co-operative society” does not include a society that carries on, or intends to carry on, business with the object

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of making profits mainly for the payment of interest, dividends or bonuses on money invested or deposited with, or lent to, the society or any other person.

### **1A Meaning of “registered society”**

(1) In this Act “registered society” means—

- (a) a society registered under this Act as a co-operative or community benefit society, or
- (b) a society that was registered or treated as registered under this Act (otherwise than as a credit union) immediately before section 8 of the Credit Unions and Co-operative and Community Benefit Societies Act (Northern Ireland) 2016 came into operation.

(2) Nothing in that section affects the status of a society within subsection (1)(b) (a “pre-2016 Act society”) as registered or treated as registered under this Act.”.

(2) Accordingly, the legislation mentioned below may be cited by the new short title or title indicated.

<i>Existing short title or title</i>	<i>New short title or title</i>
Industrial and Provident Societies Act (Northern Ireland) 1969	Co-operative and Community Benefit Societies Act (Northern Ireland) 1969
Industrial and Provident Societies (Amendment) (Northern Ireland) Order 1976	Co-operative and Community Benefit Societies (Northern Ireland) Order 1976
Industrial and Provident Societies (Northern Ireland) Order 2006	Co-operative and Community Benefit Societies (Northern Ireland) Order 2006

### **Members under 18 years old**

**9.** In the 1969 Act for section 19 (members under age of 18) substitute—

#### **“19 Members under age of 18**

(1) A person under the age of 18 may be a member of a registered society unless the society’s registered rules provide otherwise.

(2) A person under the age of 18—

- (a) may enjoy all the rights of a member of a registered society, and
- (b) if aged 16 or over, may execute all instruments and give all receipts necessary to be executed or given under a society’s registered rules.

This is subject to the society's registered rules and to the provisions of this Act.

(3) A person under the age of 16 may not be a member of a registered society's committee or a trustee, manager or treasurer of a registered society."

### **Limits on holding shares**

**10.**—(1) Section 6(1) of the 1969 Act (maximum shareholding in society) is amended as follows.

(2) After "any interest in the" insert "withdrawable".

(3) For "twenty thousand pounds" substitute "£100,000".

(4) The amendment made by subsection (3) does not restrict the power conferred by section 4 of the Industrial and Provident Societies (Amendment) (Northern Ireland) Order 1976 (power to alter limit specified in section 6(1) of the 1969 Act).

### **Year of account**

**11.** In the 1969 Act after section 36 insert—

#### **"36A Year of account (existing societies)**

(1) This section applies to a registered society that was registered before the day this section comes into operation.

(2) The society's year of account begins—

(a) in the case of its first year of account, with the date of the society's registration;

(b) in any other case, immediately after the end of its previous year of account.

(3) The society's year of account ends—

(a) with the date of the last balance sheet published by the society in the relevant period, or

(b) if no balance sheet is published in that period, with the 31 December in that period.

(4) The "relevant period"—

(a) begins with the 31 August following the beginning of the year of account, and

(b) ends with the following 31 January.



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(5) The society may by notice to the registrar alter the date on which its current and subsequent years of account end to a date other than that provided for by subsection (3).

(6) A notice under subsection (5) must state whether it extends or shortens the current year of account.

(7) A notice extending the current year of account has no effect if—

- (a) it is given less than 5 years after the end of a year of account that was extended under this section, or
- (b) it would extend the year of account so that it would exceed 18 months.

(8) If the society is dissolved by an instrument of dissolution under section 66A, its last year of account ends with the date of the instrument of dissolution.

### **36B Year of account (new registrations)**

(1) This section applies to a registered society that is registered on or after the day this section comes into operation.

(2) The society's first year of account is the period of more than 6 months but not more than 18 months that—

- (a) begins with the date of the society's registration, and
- (b) ends with its accounting reference date.

(3) Each subsequent year of account—

- (a) begins immediately after the end of the previous year of account, and
- (b) ends with its next accounting reference date.

(4) In each calendar year, the society's "accounting reference date" is (subject to subsection (5)) the last day of the month in which the anniversary of the society's registration falls.

(5) The society may by notice to the registrar specify a new accounting reference date having effect in relation to its current and subsequent years of account.

(6) A notice under subsection (5) must state whether the current year of account—

- (a) is to be shortened, so as to come to an end on the first occasion on which the new accounting reference date falls or fell after the beginning of the year of account, or
- (b) is to be extended, so as to come to an end on the second such occasion.

- (7) A notice extending the current year of account has no effect if—
- (a) it is given less than 5 years after the end of a year of account that was extended under this section, or
  - (b) it would extend the year of account so that it would exceed 18 months.
- (8) If the society is dissolved by an instrument of dissolution under section 66A, its last year of account ends with the date of the instrument of dissolution.”.

### **Publication of unaudited interim accounts**

**12.** In section 37A of the 1969 Act (publication of accounts and balance sheets of registered societies) after subsection (6) insert—

“(6A) Subsections (4) to (6) do not apply to an interim revenue account or balance sheet that—

- (a) is published together with the latest year end revenue account and balance sheet complying with subsection (2), (3) or (6) (as the case may be), and
- (b) is marked in clearly legible characters and in a prominent position with the words “UNAUDITED REVENUE ACCOUNT” or “UNAUDITED BALANCE SHEET” (as the case may be).”.

### **Dissolution of a registered society by an instrument of dissolution**

**13.—**(1) In section 64 of the 1969 Act (dissolution of a registered society)—

- (a) in subsection (1) omit paragraph (b) (and the “or” at the end of paragraph (a));
- (b) in the heading at the end insert “on winding up”.

(2) After section 66 of that Act insert—

#### **“66A Dissolution of a society by an instrument of dissolution**

(1) A registered society may be dissolved by an instrument of dissolution that complies with section 67 and is approved—

- (a) in the case of any society, by at least 75% of the society’s members consenting to it, that consent being testified by their signatures to the instrument, or
- (b) in the case of a dormant society, by a special resolution of the society.

(2) “Dormant society” means a society—

- (a) whose accounts for the current year of account and the two years of account preceding it show no accounting transactions except—

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- (i) fees paid to the registrar;
  - (ii) fees paid to the FCA;
  - (iii) fees paid to the PRA;
  - (iv) payments of dividends;
  - (v) payments of interest; and
- (b) that has notified the registrar that it is dormant.
- (3) “Special resolution” has the same meaning as in section 59.”.
- (3) In section 67 of that Act (instrument of dissolution)—
- (a) in subsection (1) for “section 64(1)(b)” substitute “section 66A(1)”;
  - (b) for subsection (3) substitute—
    - “(3) An alteration in an instrument of dissolution may be made—
    - (a) by at least 75% of the society’s members consenting to it, that consent being testified by their signatures to the alteration, or
    - (b) if the instrument was approved by a special resolution of the society, by a further special resolution (as defined in section 59).”;
  - (c) after subsection (5) insert—
    - “(5A) A copy of every special resolution for the purposes of section 66A or subsection (3) of this section—
    - (a) signed by the chair of the meeting at which the resolution was confirmed, and
    - (b) countersigned by the society’s secretary,

must be sent to the registrar before the end of the period of 14 days beginning with the day the resolution was confirmed.

    - (5B) The registrar must register a copy of a special resolution received under subsection (5A) at the same time as the registrar registers the instrument of dissolution and any alterations to it.”;
  - (d) in subsection (6)—
    - (i) after “consents to” insert “, or approval of,”;
    - (ii) at the end insert “or of the special resolution (as the case may be).”.

### *General*

#### **Review of section 1**

- 14.—(1)** The Department must—

- (a) carry out a review of the operation of section 1 as it relates to unincorporated associations, and
  - (b) prepare a report of that review.
- (2) The Department must lay the report before the Assembly.
- (3) The Department must begin to carry out the review before the end of the period of 2 years beginning with the day of Royal Assent.

### **Interpretation**

**15.** In this Act—

“the 1969 Act” means the Industrial and Provident Societies Act (Northern Ireland) 1969;

“the 1985 Order” means the Credit Unions (Northern Ireland) Order 1985;

“the Department” means the Department of Enterprise, Trade and Investment;

“statutory provision” has the meaning given by section 1(f) of the Interpretation Act (Northern Ireland) 1954.

### **Minor and consequential amendments**

**16.—**(1) Schedule 1 is comprised as follows—

- (a) Part 1 contains amendments consequential on the provision made by section 1;
  - (b) Part 2 contains amendments consequential on the provision made by section 8;
  - (c) Part 3 contains general minor and consequential amendments;
  - (d) Part 4 contains amendments that remove obsolete material etc.
- (2) The Department may by regulations make such other amendments of statutory provisions as it considers appropriate in consequence of any provision made by this Act.
- (3) Regulations under subsection (2) may contain incidental, transitional, transitory or saving provision.
- (4) Regulations under subsection (2) that amend or repeal a provision of an Act of Parliament or Northern Ireland legislation must not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Assembly.
- (5) Other regulations under subsection (2) are subject to negative resolution.

### **Commencement**

- 17.—**(1) Subject to subsections (2) and (3), this Act comes into operation on the day after Royal Assent.

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(2) Sections 4, 8 and 16(1)(b) and Part 2 of Schedule 1 come into operation on such day or days as the Department may by order appoint.

(3) Section 9 comes into operation at the end of the period of two months beginning with the day of Royal Assent.

(4) Schedule 2 contains transitional provision.

(5) The Department may by order make transitional, transitory or saving provision in connection with the coming into operation of any provision of this Act.

**Short title**

**18.** This Act may be cited as the Credit Unions and Co-operative and Community Benefit Societies Act (Northern Ireland) 2016.