STATUTORY INSTRUMENTS

1985 No. 1205 (N.I. 12)

The Credit Unions (Northern Ireland) Order 1985

- - - - - - *31st July 1985*

Modifications etc. (not altering text)

C1 Order power to amend conferred (21.2.2009) by Banking Act 2009 (c. 1), **ss. 159**, 167, 263(1) (with s. 247); S.I. 2009/296, arts. 2, **3**, Sch. para. 3

C2 Order power to amend conferred (24.1.2013) by Financial Services Act 2012 (c. 21), s. 50(2)(g) (with Sch. 20); S.I. 2013/113, art. 2(1)(a)

Introductory

Title and commencement

1.—(1) This Order may be cited as the Credit Unions (Northern Ireland) Order 1985.

(2) This Order shall come into operation on such day or days as the Head of the Department may by order appoint[F1].

F1 fully exercised by SR 1986/108

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

[[F2] " the 2000 Act " means the Financial Services and Markets Act 2000; **]**

"amendment", in relation to the rules of a credit union, includes a new rule, and a resolution rescinding a rule, of the credit union;

"annual return" means the annual return which a credit union is required by Article 49 to send to the registrar;

[[F3]"the appropriate authority" means—

(a) in relation to a credit union which is a PRA -authorised person, the PRA ; and

(b) in relation to a credit union which is not a PRA -authorised person, the FCA ; **]**

"authorised bank" means—

(a) **[**[F4]a person who has permission under **[**[F5]Part 4A**]** of the Financial Services and Markets Act 2000 to accept deposits;

(ab) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule) to accept deposits;

(ac) a municipal bank, that is to say a company which, immediately before the 1st December 2001 fell within the definition in section 103 of the Banking Act 1987;**]**

(b) a trustee savings bank within the meaning of section 3 of the Trustee Savings Banks Act 1981;

(c) the National Savings Bank;

Sub.#para. (d) rep. by SI 2001/1149

[F6...

"board of directors" means the committee of management or other directing body of a credit union;

[[F7"body corporate" includes a partnership regarded as a legal person under the law of the country or territory in which it was established;**]**

[[F8"civil partner" includes former civil partner**[[F9** and reputed civil partner**];]**

[[F7"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;**]**

"credit union" means a society registered under this Order or a society registered under the Industrial and Provident Societies Act (Northern Ireland) 1969 as a credit union;

"the Department" means the Department of Economic Development;

[[F3"the FCA" means the Financial Conduct Authority;**]**

[[F10"interest-bearing share " means a share issued on terms which entitle the holder to interest but not to a dividend;**]**

"meeting", includes, where the rules of a credit union so allow, a meeting of delegates appointed by members;

"member of the family", in relation to any person, means—

(a) his spouse**[[F8** or civil partner**]**;

(b) any lineal ancestor, lineal descendant, brother, sister, half-brother, half-sister, uncle, aunt, nephew, niece, first cousin of his or his spouse**[[F8** or civil partner**]**;

(c) the spouse**[[F8** or civil partner**]** of any person within sub-paragraph (b);

(d) adoptive father, mother, son or daughter;

and for the purpose of deducing any such relationship—

Sub#para. (i) rep. by 1987 NI 22

(ii) an illegitimate child or step-child shall be treated as**[[F8** the legitimate child of the relationship in question**]**;

"non-qualifying member" means a person who remains a member of a credit union by virtue of Article 14(5) and includes, in relation to an amalgamated credit union or a credit union which has accepted a transfer of engagements, a person who does not have the required qualifications for admission to membership of that credit union but became a member of it by virtue of the

amalgamation or transfer of engagements, having been immediately before the amalgamation or transfer a non-qualifying member of one of the amalgamating credit unions or, as the case may be, the credit union from which the transfer of engagements was made;

"officer", includes any treasurer, secretary, member of the board of directors, manager or servant of the credit union other than a servant appointed by the board of directors, but does not include an auditor appointed by the credit union in accordance with the requirements of this Order;

"order" except in Article 1(2), means an order made by the Department subject to affirmative resolution;

[[F3]"the PRA" means the Prudential Regulation Authority;**]**

[[F3]"PRA-authorised person" has the meaning in section 2B of the 2000 Act;**]**

[[F7]"partnership" means a partnership not regarded as a legal person under the law of the country or territory in which it was established;**]**

"persons claiming through a member", includes the heirs, executors or administrators and assignees of a member and, where nomination is allowed, his nominee;

"prescribed" means prescribed by regulations;

"registered", in relation to the name or an office of a credit union means for the time being registered under this Order;

"registered rules" means the rules of the credit union registered under this Order as for the time being in force after any amendment of the rules so registered;

[[F11]"registrar" has the meaning assigned to it by Article 2A;**]**

"regulations" means regulations made by the Department subject to negative resolution;

"spouse" includes former spouse and reputed spouse;

"statutory provision" has the meaning assigned to it by section 1(f) of the Interpretation Act (Northern Ireland) 1954;

"year of account" means any period required by Article 49 to be included in an annual return of the credit union.

[[F12]"year-end balance sheet" means a balance sheet relating to the position at the end of a year of account;**]**

[[F4](2A) **[**[F13]In this Order, references to a deposit or accepting deposits and sub-paragraphs**]** (a) and (ab) of the definition of "authorised bank" in paragraph (2) must be read with—

(a) section 22 of the Financial Services and Markets Act 2000;

(b) any relevant order under that section; and

(c) Schedule 2 to that Act.**]**

(3) In this Order "the current year of account", in relation to the appointment of an auditor or auditors, means the year of account in which the question of that appointment arises, and "the preceding year of account" means the year of account immediately preceding the current year of account.

(4) References in this Order to the registrar include references to the officer appointed as assistant to the registrar.

F2 Art. 2(2): definition of "the 2000 Act" inserted (31.3.2012) by Financial Services and Markets Act 2000 (Permissions, Transitional Provisions and Consequential Amendments) (Northern Ireland Credit Unions) Order 2011 (S.I. 2011/2832), arts. 1(2), **13(2)**

F3 Words in art. 2(2) inserted (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), art. 1(1), **Sch. 7 para. 2(2)(c)** (with Sch. 12)
F4 SI 2002/1555
F5 Words in art. 2(2) substituted (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), art. 1(1), **Sch. 7 para. 2(2)(a)** (with Sch. 12)
F6 Words in art. 2(2) omitted (1.4.2013) by virtue of The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), art. 1(1), **Sch. 7 para. 2(2)(b)** (with Sch. 12)
F7 Words in art. 2(2) inserted (23.4.2016) by Credit Unions and Co-operative and Community Benefit Societies Act (NorthernIreland) 2016 (c. 16), **ss. 1(1)**, 17
F8 2004 c.33
F9 SR 2005/479
F10 Words in art. 2(2) inserted (23.4.2016) by Credit Unions and Co-operative and Community Benefit Societies Act (NorthernIreland) 2016 (c. 16), **ss. 3(1)**, 17
F11 1992 c. 40
F12 Words in art. 2(2) inserted (23.4.2016) by Credit Unions and Co-operative and Community Benefit Societies Act (NorthernIreland) 2016 (c. 16), s. 17, **Sch. 1 para. 43**
F13 Words in art. 2(2A) substituted (31.3.2012) by Financial Services and Markets Act 2000 (Permissions, Transitional Provisions and Consequential Amendments) (Northern Ireland Credit Unions) Order 2011 (S.I. 2011/2832), arts. 1(2), **13(3)**

[F14 The registrar and assistant registrar

2A.—(1) The person appointed by the Head of the Department to perform in Northern Ireland the functions of registrar under this Order shall be known as the Registrar of Credit Unions for Northern Ireland (in this Order referred to as "the registrar").

(2) A person appointed by the Department to assist the registrar shall be known as the Assistant Registrar of Credit Unions for Northern Ireland (in this Order referred to as "the assistant registrar").

(3) Anything which is required or authorised to be done by or to the registrar under this Order may be done by or to the assistant registrar.

[[F15](4) In the exercise of the registrar's functions under this Order, the registrar must cooperate with the FCA and the PRA in the exercise by those authorities of any of their functions in relation to credit unions.

(5) The registrar may share with each of the FCA and the PRA any information obtained by the registrar relating to credit unions which each of those authorities might reasonably require for the purpose of the performance of any of its functions in relation to credit unions. **]]**

F14 1992 c. 40
F15 Art. 2A(4) (5) substituted (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496) , art. 1(1) , **Sch. 7 para. 3** (with Sch. 12)

Registration as a credit union

Registration

3.—(1) Subject to **[**[F16]Article 13**]** a society may be registered as a credit union under this Order if—

(a) it is shown to the satisfaction of the registrar that the conditions specified in paragraph (2) are fulfilled;

(b) the rules of the society comply with Article 8(1); [F17]. . .

(c) the place which under those rules is to be the society's registered office is situated in Northern Ireland **[**[F18]**;]**

[[F19](d) the society has made an application for a permission under Part 4A of the 2000 Act to accept deposits;

(e) the FCA is satisfied that, once registered under this Order, the society will satisfy, and continue to satisfy, the threshold conditions (within the meaning of section 55B(1) of the 2000 Act) for which the FCA is responsible in relation to the regulated activity of accepting deposits; and

(f) the PRA is satisfied that, once registered under this Order, the society will satisfy, and continue to satisfy, the threshold conditions (within the meaning of section 55B(1) of the 2000 Act) for which the PRA is responsible in relation to the regulated activity of accepting deposits. **]**

[[F20](1A) The FCA must notify the registrar in writing if it is satisfied as mentioned in paragraph (1)(e).

(1B) The PRA must notify the registrar in writing if it is satisfied as mentioned in paragraph (1)(f). **]**

(2) The conditions referred to in paragraph (1)(a) are—

(a) that the objects of the society are those, and only those, of a credit union; and

(b) that admission to membership of the society is restricted to persons each of whom has, in relation to all the other members, not less than one common bond.

(3) The objects of a credit union are—

(a) the promotion of thrift among its members by the accumulation of their savings;

(b) the creation of sources of credit for the benefit of its members at a fair and reasonable rate of interest;

(c) the use and control of members' savings for their mutual benefit; and

(d) the training and education of members in the wise use of money and in the management of their financial affairs.

[[F21](3A) In paragraph (3) references to members do not include corporate members.**]**

(4) A common bond for the purpose of paragraph (2)(b) is—

(a) following a particular occupation;

(b) residing or being employed in a particular locality;

(c) being employed by a particular employer;

(d) being a member of a bona fide organisation or being otherwise associated with other members of the society for a purpose other than that of forming a society to be registered as a credit union;

(e) any other common bond approved by the registrar.

(5) In ascertaining whether a common bond exists between the members of a society, the registrar—

[[F22](a) may, if he considers it proper in the circumstances of the case, treat as sufficient evidence of the existence of a common bond a statutory declaration which is given by three members and the secretary of the society, and is to the effect that a common bond exists,**]**

(b) may, if he considers it proper in the circumstances of the case, treat the fact that admission to membership is restricted as mentioned in paragraph (2)(b) as sufficient evidence of the existence of a common bond.

(6) For the purposes of this Order, if the rules of a credit union so provide, a person shall be treated as having the qualifications required for admission to membership stated in those rules if he is a member of the same household as, and is a member of the family of, another person who is a member of the credit union and who has a direct common bond with those other members.

F16 Words in art. 3(1) substituted (31.3.2012) by Financial Services and Markets Act 2000 (Permissions, Transitional Provisions and Consequential Amendments) (Northern Ireland Credit Unions) Order 2011 (S.I. 2011/2832), arts. 1(2), **13(5)(a)**

F17 Word in art. 3(1) omitted (31.3.2012) by virtue of Financial Services and Markets Act 2000 (Permissions, Transitional Provisions and Consequential Amendments) (Northern Ireland Credit Unions) Order 2011 (S.I. 2011/2832), arts. 1(2), **13(5)(b)**

F18 In art. 3(1)(c) ";" substituted (31.3.2012) by Financial Services and Markets Act 2000 (Permissions, Transitional Provisions and Consequential Amendments) (Northern Ireland Credit Unions) Order 2011 (S.I. 2011/2832), arts. 1(2), **13(5)(b)**

F19 Art. 3(1)(d)-(f) substituted for art. 3(1)(d)(e) (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), art. 1(1), **Sch. 7 para. 4(2)** (with Sch. 12)

F20 Art. 3(1A)(1B) inserted (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), art. 1(1), **Sch. 7 para. 4(3)** (with Sch. 12)

F21 Art. 3(3A) inserted (23.4.2016) by Credit Unions and Co-operative and Community Benefit Societies Act (NorthernIreland) 2016 (c. 16), s. 17, **Sch. 1 para. 1**

F22 1997 NI 22

[F23 Common bonds: corporate members

3A.—(1) This Article applies for the purposes of determining whether—

(a) a body corporate, or

(b) an individual acting in the capacity as a partner in a partnership or an officer or member of the governing body of an unincorporated association,

has a common bond within Article 3(4)(a) to (d) in relation to other members of a credit union.

(2) The body corporate or individual falls within the common bond specified in Article 3(4)(a) if the principal business of the body corporate, partnership or unincorporated association—

(a) requires it to employ or otherwise engage persons who follow the particular occupation, or

(b) relates to that occupation in some other way.

(3) The body corporate or individual falls within the common bond specified in Article 3(4)(b) if the body corporate, partnership or unincorporated association has a place of business in, or other significant connection with, the particular locality.

(4) The body corporate or individual falls within the common bond specified in Article 3(4)(c) if the body corporate, partnership or unincorporated association—

(a) employs the persons who qualify for membership under that common bond, or

(b) provides services, or is otherwise related, to that employer.

(5) The body corporate or individual falls within the common bond specified in Article 3(4)(d) if the body corporate, partnership or unincorporated association is a member of a bona fide organisation or otherwise associated with other members of the society for the purpose specified in that provision.]

F23 Art. 3A inserted (23.4.2016) by Credit Unions and Co-operative and Community Benefit Societies Act (NorthernIreland) 2016 (c. 16), s. 17, **Sch. 1 para. 2**

Supplementary provisions as to registration

4.—(1) An application for the registration of a society under this Order shall be signed by 21 members and the secretary of the society and shall be sent with 2 printed copies of the society's rules to the registrar.

(2) On being satisfied that a society has complied with the provisions of this Order as to registration the registrar shall issue to the credit union an acknowledgement of registration in the prescribed form which shall be conclusive evidence that the credit union is duly registered under this Order unless it is proved that the registration of the credit union has been cancelled or is for the time being suspended.

[[F24](2A) The registrar must not issue an acknowledgement of registration under paragraph (2) unless the appropriate regulator (within the meaning of section 55A of the 2000 Act) has confirmed to the registrar that it proposes to give the society permission under Part 4A of that Act to accept deposits.**]**

(3) A society whose objects are wholly or substantially those of a credit union within the meaning of Article 3(3) shall not be registered otherwise than as a credit union under this Order and any such registration shall be void.

F24 Art. 4(2A) substituted (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496) , art. 1(1) , **Sch. 7 para. 5** (with Sch. 12)

Registration to effect incorporation of credit union with limited liability

5. A credit union shall by virtue of its registration be a body corporate known by its registered name, by which it may sue and be sued, with perpetual succession and a common seal and with limited liability; and that registration shall rest in the credit union all property for the time being vested in any person in trust for the credit union and all legal proceedings pending by or against the trustees of the credit union may be brought or continued by or against the credit union in its registered name.

Use of name " credit union ", etc.

6.—(1) A credit union shall not be registered under this Order under a name which in the opinion of the registrar is undesirable.

(2) The name of every credit union shall contain the words "credit union" and the word "Limited" shall be the last word in that name.

(3) Every credit union shall cause its registered name to be painted or affixed, and to be kept painted or affixed, in a conspicuous position and in letters easily legible, on the outside of its registered office and every other office or place in which the business of the credit union is carried on, and shall have that name engraven in legible characters on its seal and set out in legible characters—

(a) in all notices, advertisements and other official publications of the credit union;

(b) in all business letters of the credit union;

(c) in all bills of exchange, promissory notes, endorsements, cheques, and orders for money or goods, purporting to be signed by or on behalf of the credit union;

(d) in all bills, invoices, receipts, and letters of credit of the credit union.

(4) Any officer of a credit union, or any other person acting on a credit union's behalf, who—

(a) uses any seal purporting to be a seal of the credit union which does not have the credit union's registered name engraven on it in legible characters; or

(b) issues or authorises the issue of any document such as is mentioned in paragraph (3) (a) or (d) in which that name is not set out in legible characters; or

(c) signs or authorises to be signed on behalf of the credit union any document such as is mentioned in paragraph (3)(c) in which that name is not so set out,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale and, in the case of a conviction by virtue of sub-paragraph (c), shall further be personally liable to the holder of any such document as is referred to in that sub-paragraph for the amount specified in the document unless that amount is duly paid by the credit union.

(5) Subject to paragraph (6), a person shall not, unless registered as a credit union,—

(a) use, in reference to himself, a name, title or descriptive expression containing the words "credit union" or any cognate term or any derivative of those words; or

(b) represent himself as being a credit union;

and any person who contravenes this paragraph shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(6) Paragraph (5) does not apply to—

(a) the use by an officer or employee of a credit union of a title or descriptive expression indicating his office or post with the credit union; or

(b) the use with reference to an association or group of credit unions of a name which has been approved in writing by the registrar.

Change of name

7.—(1) A credit union may change its name in the following manner and in that manner only, that is to say—

(a) by a resolution for the purpose passed at a general meeting of the credit union after the giving of such notice as is required by the rules of the credit union for such a resolution or, if the rules do not make special provision as to notice of such a resolution, after the giving of such notice as is required by the rules for a resolution to amend the rules; and

(b) with the approval in writing of the registrar.

(2) A change in the name of a credit union shall not affect any right or obligation of the credit union, or of any member of the credit union and any pending legal proceedings may be continued by or against the credit union notwithstanding its new name.

Rules

Rules

8.—(1) The rules of a credit union shall be in such form as the registrar may determine and shall contain—

(a) provision with respect to the matters mentioned in Schedule 1;

(b) such additional provisions as the registrar may determine.

[[F25](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.**]**

(2) An acknowledgement of the registration of a credit union issued under Article 4(2) shall also constitute an acknowledgement, and be conclusive evidence, of the registration under this Order of the rules of that credit union in force at the date of the credit union's registration.

F25 Art. 8(1A) inserted (31.3.2012) by Financial Services and Markets Act 2000 (Permissions, Transitional Provisions and Consequential Amendments) (Northern Ireland Credit Unions) Order 2011 (S.I. 2011/2832), arts. 1(2), **13(7)**

Supplementary provisions as to rules

9.—(1) The rules of a credit union or any schedule to those rules may specify the form of any instrument necessary for carrying the purposes of the credit union into effect.

(2) The rules of a credit union may impose reasonable fines (not exceeding £100) on persons who contravene any of those rules.

(3) Where, within such reasonable time as may be specified in the rules, a person has failed to pay any fine imposed by the rules of a credit union under paragraph (2), the credit union may cancel the membership of that person of the credit union.

(4) Any provision of, or of any instrument made under, this Order or any other statutory provision requiring or authorising the rules of a credit union to deal with particular matters shall be without prejudice to the power of such a credit union to make rules with respect to any other matter which are not inconsistent with any such provision or with any other provision of this or any other statutory provision and which are not otherwise unlawful.

Amendment or registered rules

10.—(1) The rules of a credit union shall not be amended except by a resolution passed by not less than two-thirds of the members present at a general meeting called for the purpose after the giving of such notice as is by the rules required for such a resolution.

(2) Subject to paragraph (3), any amendment of a credit union's rules as for the time being registered under this Order shall not be valid until the amendment has been so registered, for which purpose there shall be sent to the registrar 2 copies of the amendment signed by 3 members and the secretary of the credit union.

(3) Paragraph (2) shall not apply to a change in the situation of a credit union's registered office or in the name of a credit union; but—

(a) notice of any change in the situation of a credit union's registered office shall, not later than 14 days from the date of that change, be sent to the registrar; and

(b) where such a notice is duly sent, or where a change in the name of a credit union is made in accordance with Article 7, the change in the situation of the credit union's registered office or, as the case may be, the change in the credit union's name shall be registered by the registrar as an amendment of the credit union's rules.

(4) Subject to paragraph (7), the registrar, on being satisfied that any amendment of a credit union's rules is not contrary to the provisions of this Order, shall issue to the credit union in respect of that amendment an acknowledgement of registration in the prescribed form which shall be conclusive evidence that it is duly registered.

(5) Notwithstanding anything in the rules of any credit union, the board of directors of a credit union may by resolution passed during the appropriate period make such amendments of the rules of the credit union as may be consequential on the provisions of this Order.

(6) For the purposes of paragraph (5) the appropriate period, in relation to any credit union, shall be whichever is the longer of the following two periods, that is to say—

(a) a period of 1 year beginning with the date of the coming into operation of this Article, and

(b) a period beginning with the date of the coming into operation of this Article and ending with the date on which an amendment of the rules of that credit union is first registered after that date under paragraph (4).

(7) Notwithstanding anything in paragraph (4), after the end of 1 year beginning with the date of the coming into operation of this Article, the registrar shall not be required to register any amendment of a credit union's rules unless such consequential amendments of the rules of that credit union as are mentioned in paragraph (5) either have been made before the application for registration of that amendment or are to be effected by that amendment.

Rules to bind members

11.—(1) Subject to paragraph (2) the registered rules of a credit union shall bind the credit union and all members of it and all persons claiming through them respectively to the same extent as if each member had subscribed his name and affixed his seal to those rules and there were contained in those rules a covenant on the part of each member and any person claiming through him to conform to those rules subject to the provisions of this Order.

(2) A member of a credit union shall not, without his consent in writing having been first obtained, be bound by any amendment of the credit union's rules registered after he became a member if and so far as that amendment requires him to take or subscribe for more shares than the number held by him at the date of registration of the amendment, or to pay upon the shares so held any sum exceeding the amount unpaid upon them at that date, or in any other way increases the liability of that member to contribute to the share or loan capital of the credit union.

Provision of copies of rules

12.—**[**[F26](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.**]**

(2) If any person, with intent to mislead or defraud, gives to any other person—

(a) a copy of any rules other than rules for the time being registered under this Order on the pretence that they are the existing rules, or that there are no other rules, of a credit union; or

(b) a copy of the rules of a society which is not registered under this Order on the pretence that they are the rules of a credit union,

he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

F26 Art. 12(1)-(1A) substituted for art. 12(1) (23.4.2016) by Credit Unions and Co-operative and Community Benefit Societies Act (Northern Ireland) 2016 (c. 16), **ss. 5**, 17

Membership of credit union

[[F27]**Minimum number of members]**

13.—(1) The minimum number of members of a credit union shall be 21.

[[F28](1A) Where shares are allotted to an individual who is a corporate member (see Articles 14(1)(b) and 14A), then for the purposes of paragraph (1) the partnership or (as the case may be) the unincorporated association is to be treated as the member in respect of those shares.

(1B) This does not affect the treatment of the individual as a member in respect of any shares that the individual holds on his or her own behalf.**]**

(2) [F29]. . . . . .

(3) [F29]. . . . . .

(4) [F29]. . . . . .

(5) [F29]. . . . . .

F27 Art. 13 heading substituted (31.3.2012) by Financial Services and Markets Act 2000 (Permissions, Transitional Provisions and Consequential Amendments) (Northern Ireland Credit Unions) Order 2011 (S.I. 2011/2832), arts. 1(2), **13(8)**

F28 Art. 13(1A)(1B) inserted (23.4.2016) by Credit Unions and Co-operative and Community Benefit Societies Act (Northern Ireland) 2016 (c. 16), s. 17, **Sch. 1 para. 3**

F29 Art. 13(2)-(5) omitted (31.3.2012) by virtue of Financial Services and Markets Act 2000 (Permissions, Transitional Provisions and Consequential Amendments) (Northern Ireland Credit Unions) Order 2011 (S.I. 2011/2832), arts. 1(2), **13(8)**

Membership and voting rights

14.—[[F30](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.**]**

(2) A person shall not be a member of a credit union unless he holds at least 1 fully paid-up share in that credit union, but the rules of the credit union shall not require a person to hold more than £5 in fully paid-up shares as a condition of membership.

(3) [F31]. . . . . .

(4) [F31]. . . . . .

(4A) [F31]. . . . . .

(5) A member of a credit union who ceases to have the required qualifications for admission to membership shall be entitled[F32]... to retain his membership unless the rules of the credit union provide otherwise.

[F33](6) . . . . . .

(7) Non-qualifying members of a credit union shall be left out of account in determining for any purpose whether a common bond exists between the members of the credit union.

(8) A non-qualifying member of a credit union shall be entitled, except so far as the rules of the credit union may provide otherwise, to purchase shares and[F34]. . . to receive loans.

(9) Subject to any provision in the rules of a credit union as to voting by a chairman who has a casting vote, on every matter which is determined by a vote of members of a credit union every member shall be entitled to vote and shall have one vote only.

[[F35](9A) Article 13(1A) and (1B) (membership rules: treatment of corporate members) apply for the purpose of paragraph (9); and the vote of the partnership or unincorporated association is to be cast by the corporate member.**]**

(10) [F36]. . . . . .

F30 Art. 14(1) substituted (23.4.2016) by Credit Unions and Co-operative and Community Benefit Societies Act (Northern Ireland) 2016 (c. 16), **ss. 1(2)**, 17

F31 Art. 14(3)-(4A) omitted (31.3.2012) by virtue of Financial Services and Markets Act 2000 (Permissions, Transitional Provisions and Consequential Amendments) (Northern Ireland Credit Unions) Order 2011 (S.I. 2011/2832), arts. 1(2), **13(9)**

F32 Words in art. 14(5) omitted (23.4.2016) by virtue of Credit Unions and Co-operative and Community Benefit Societies Act (Northern Ireland) 2016 (c. 16), **ss. 2(a)**, 17

F33 Art. 14(6) omitted (23.4.2016) by virtue of Credit Unions and Co-operative and Community Benefit Societies Act (Northern Ireland) 2016 (c. 16), **ss. 2(b)**, 17

F34 1997 NI 22

F35 Art. 14(9A) inserted (23.4.2016) by Credit Unions and Co-operative and Community Benefit Societies Act (Northern Ireland) 2016 (c. 16), s. 17, **Sch. 1 para. 4**

F36 Art. 14(10) omitted (31.3.2012) by virtue of Financial Services and Markets Act 2000 (Permissions, Transitional Provisions and Consequential Amendments) (Northern Ireland Credit Unions) Order 2011 (S.I. 2011/2832), arts. 1(2), **13(9)**

[[F37]**Corporate members**

14A.—(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.**]**

F37 Art. 14A inserted (23.4.2016) by Credit Unions and Co-operative and Community Benefit Societies Act (NorthernIreland) 2016 (c. 16), **ss. 1(3)**, 17

Members under the age of 18

15. A person under the age of 18 years but above the age of 16 years may be a member of a credit union unless the rules otherwise provide and may, subject to those rules and to the provisions of this Order, enjoy all the rights of a member and execute all instruments and give all receipts necessary to be executed or given under those rules, but shall not be a member of the board of directors or any committee, trustee, manager or treasurer of the credit union.

Remedy for debts from members

16.—(1) All money payable to a credit union by a member of it shall be a debt recoverable summarily by the credit union from the member.

(2) A credit union shall have a lien on the shares of any member for any debt due to the credit union by that member, and may set off any sum credited to the member on those shares in or towards the payment of that debt.

[[F38](3) Where any debt arises in respect of shares held by, or a loan made to, an individual who is a corporate member, paragraphs (1) and (2) are to be read subject to Articles 23(2A) and (2B) (transfer of shares) and 28(1C) and (1D) (transfer of loans).**]**

F38 Art. 16(3) inserted (23.4.2016) by Credit Unions and Co-operative and Community Benefit Societies Act (NorthernIreland) 2016 (c. 16), s. 17, **Sch. 1 para. 5**

Nomination to property in credit union

17.—(1) Subject to paragraphs (2) and (3), a member of a credit union may, by a written statement signed by him and delivered at or sent to the credit union's registered office during his lifetime or made in any book kept at that office, nominate a person or persons to become entitled at his death to the whole, or to such part or respective parts as may be specified in the nomination, of any property in the credit union (whether in shares, loans or otherwise) which he may have at the time of his death.

(2) The nomination by a member of a credit union under paragraph (1) of a person who is at the date of the nomination an officer or servant of the credit union shall not be valid unless that person is the husband, wife,**[**[F39] civil partner,**]** father, mother, child, brother, sister, nephew or niece of the nominator.

(3 [F40] For the purposes of the disposal of any property which is the subject of a nomination under paragraph (1) if the nomination was made after 20th April 1967 and at the date of the nominator's death the amount of his property in the credit union comprised in the nomination exceeds £5,000 (or such higher amount as may be substituted under section 6(1) of the Administration of Estates (Small Payments) Act (Northern Ireland) 1967), the nomination shall be valid to the extent of £5,000 (or such higher amount as aforesaid) but not further or otherwise.

(4) A nomination by a member of a credit union under paragraph (1) may be varied or revoked by a subsequent nomination by him under that paragraph or by any similar document in the nature of a revocation or variation signed by the nominator and delivered at or sent to the credit union's registered office during his lifetime, but shall not be revocable or variable by the will of the nominator or by any codicil to such will.

(5) Every credit union shall keep a book in which the names of all persons nominated under paragraph (1) and any revocation or variation of any nomination under that paragraph shall be recorded.

(6) The**[**[F39] formation of a marriage or civil partnership by**]** a member of a credit union shall operate as a revocation of any nomination made by him before the marriage**[**[F39] or civil partnership was formed**]**; but if any property of that member has been transferred by an officer of the credit union

in pursuance of the nomination in ignorance of**[**[F39] the formation of a marriage or civil partnership**]** by the nominator subsequent to the date of the nomination, the receipt of the nominee shall be a valid discharge to the credit union and the credit union shall be under no liability to any other person claiming the property.

[[F41](7) A nomination made by an individual who is a corporate member is valid only if—

(a) in the case of a nomination made by an individual acting in the capacity as a partner in a partnership, the person nominated is (immediately before the individual's death) a partner in the partnership;

(b) in the case of a nomination made by an individual acting in the capacity as an officer or member of the governing body of an unincorporated association, the person nominated is (immediately before the individual's death) an officer or member of the governing body of the unincorporated association.**]**

F39 2004 c.33
F40 mod. by SR 2004/68
F41 Art. 17(7) inserted (23.4.2016) by Credit Unions and Co-operative and Community Benefit Societies Act (NorthernIreland) 2016 (c. 16), s. 17, **Sch. 1 para. 6**

Proceedings on death of nominator

18.—(1) Subject to paragraph (2), where any member of a credit union has made a nomination under Article 17, the board of directors, on receiving satisfactory proof of the death of that member, and if and to the extent that the nomination is valid under paragraphs (2) and (3) of that Article, shall in the case of each person entitled under the nomination either transfer to him, or pay him the full value of, any property to which he is so entitled.

(2) Where any of the property comprised in a nomination under Article 17 consists of shares in the credit union, paragraph (1) shall have effect notwithstanding that the rules of the credit union declare the shares in the credit union not be transferable; but if the transfer of any shares comprised in the nomination in the manner directed by the nominator would raise the shareholding of any nominee beyond the maximum for the time being permitted in the case of that credit union, the board of directors shall not transfer to that nominee more of those shares than will raise his shareholding to that maximum and shall pay him the value of any of those shares not transferred.

[[F42](2A) The reference in paragraph (2) to the shareholding of the nominee is to be read in accordance with Article 14A(6).**]**

(3) Where any sum fails to be paid under paragraph (1) or (2) to a nominee who is under the age of 16 years, the credit union may pay that sum to either parent, or to a guardian, of the nominee or to any other person of full age who will undertake to hold it on trust for the nominee or to apply it for his benefit and whom the credit union may think a fit and proper person for the purpose, and the receipt of that parent, guardian or other person shall be a sufficient discharge to the credit union for all money so paid.

F42 Art. 18(2A) inserted (23.4.2016) by Credit Unions and Co-operative and Community Benefit Societies Act (Northern Ireland) 2016 (c. 16), s. 17, **Sch. 1 para. 7**

Provision for small payments on death

19 [F43]**.** If any member of a credit union dies and at his death his property in the credit union (whether in shares, loans or otherwise) does not exceed in the whole £5,000 (or such higher amount as may be substituted under section 6(1) of the Administration of Estates (Small Payments) Act

(Northern Ireland) 1967) and is not the subject of any nomination under Article 17, then the board of directors may, without letters of administration or probate of any will, distribute that property among such persons as appear to the board on such evidence as it deems satisfactory to be entitled by law to receive it.

F43 Art. 19 modified by S.R. 2004/68

Payments in respect of mentally incapable persons

20. Where in the case of a member of a credit union or a person claiming through such a member the credit union's board of directors is satisfied after considering medical evidence that the member or person is incapable through disorder or disability of mind of managing his own affairs and is also satisfied that no person has been duly appointed to administer his property on his behalf, and it is proved to the satisfaction of the board that it is just and expedient so to do, the credit union may pay the amount of any property (whether in shares, loans or otherwise) belonging to that member or person to any person whom it judges proper to receive it on his behalf, whose receipt shall be a good discharge to the credit union for any sum so paid.

Validity of payment to persons apparently entitled

21. All payments or transfers made by the board of directors of a credit union under Article 19 or 20 to any person appearing to the board at the time of the payment or transfer to be entitled under those Articles shall be valid and effectual against any demand made upon the board or credit union by any other person.

Operation of credit union

Restriction on business of credit union

22. [F44] . . . . . .

F44 Art. 22 omitted (31.3.2012) by virtue of Financial Services and Markets Act 2000 (Permissions, Transitional Provisions and Consequential Amendments) (Northern Ireland Credit Unions) Order 2011 (S.I. 2011/2832), arts. 1(2), **13(10)**

Shares

23.—(1) All shares in a credit union shall be of £1 denomination and may, subject to the rules of the credit union, be subscribed for either in full or by periodical or other subscriptions but no share shall be allotted to a member until it has been fully paid in cash.

[[F45](2) Shares in a credit union shall be transferable only in accordance with—

(a) Article 18(1) (transfer to nominees on death of nominator), or

(b) paragraph (2A) (transfer of certain corporate shares);

and a credit union shall not issue to a member a certificate denoting ownership of a share.

(2A) Shares held by an individual who is a corporate member may be transferred, in accordance with the rules of the credit union, to another individual ("the transferee"), who must be—

(a) in the case of shares held by an individual acting in the capacity as a partner in a partnership, another partner in the partnership;

(b) in the case of shares held by an individual acting in the capacity as an officer or member of the governing body of an unincorporated association, another officer or member of that governing body.

(2B) On the transfer of a share under paragraph (2A), all the rights and liabilities that the holder of the share has in respect of it, or in connection with it, are transferred to the transferee.**]**

(3) Subject to paragraph (4), shares in a credit union shall be withdrawable, but a credit union shall not issue shares except on terms enabling it to require not less than 60 days' notice of withdrawal.

(4) If a withdrawal of shares would reduce a member's paid-up shareholding in the credit union to less than his total liability (including contingent liability) to the credit union whether as borrower, guarantor or otherwise, then—

[[F46](a) in the case of a member to whom there is a loan by the credit union which is treated by virtue of Article 28A as a secured loan, the withdrawal shall not be permitted; and**]**

(b) in any other case, the withdrawal shall be permitted only at the discretion of the board of directors.

F45 Art. 23(2)-(2B) substituted for art. 23(2) (23.4.2016) by Credit Unions and Co-operative and Community Benefit Societies Act (Northern Ireland) 2016 (c. 16), s. 17, **Sch. 1 para. 8**

F46 1997 NI 22

[[F47]Power to issue interest-bearing shares

23A.—(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.

F47 Art. 23A - Art. 23B inserted (23.4.2016) by Credit Unions and Co-operative and Community Benefit Societies Act (NorthernIreland) 2016 (c. 16), **ss. 3(2)**, 17

Duties where interest-bearing shares have been issued

23B.—(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.**]**

F47 Art. 23A - Art. 23B inserted (23.4.2016) by Credit Unions and Co-operative and Community Benefit Societies Act (NorthernIreland) 2016 (c. 16), **ss. 3(2)**, 17

Prohibition on carrying on banking

24. [F48] . . . . . .

F48 Art. 24 omitted (31.3.2012) by virtue of Financial Services and Markets Act 2000 (Permissions, Transitional Provisions and Consequential Amendments) (Northern Ireland Credit Unions) Order 2011 (S.I. 2011/2832), arts. 1(2), **13(11)**

Prohibition on deposit-taking

25.—(1) Subject to Articles 26 and 27, a credit union shall not accept a deposit from any person except by way of subscription for its shares.

(2) [F49] . . . . . .

(4) [F50] . . . . . .

(5) [F51] . . . . . .

F49 Art. 25(2) omitted (31.3.2012) by virtue of Financial Services and Markets Act 2000 (Permissions, Transitional Provisions and Consequential Amendments) (Northern Ireland Credit Unions) Order 2011 (S.I. 2011/2832), arts. 1(2), **13(12)**

F50 Art. 25(4) omitted (31.3.2012) by virtue of Financial Services and Markets Act 2000 (Permissions, Transitional Provisions and Consequential Amendments) (Northern Ireland Credit Unions) Order 2011 (S.I. 2011/2832), arts. 1(2), **13(12)**

F51 Art. 25(5) omitted (31.3.2012) by virtue of Financial Services and Markets Act 2000 (Permissions, Transitional Provisions and Consequential Amendments) (Northern Ireland Credit Unions) Order 2011 (S.I. 2011/2832), arts. 1(2), **13(12)**

Deposits by persons too young to be members

26.—(1) A credit union may take deposits[F52]. . . from a person who is under the age at which, by virtue of Article 15, he may become a member of the credit union.

(2) [F53] . . . . . .

(3) [F53] . . . . . .

(4) [F53] . . . . . .

(5) [F53] . . . . . .

(6) [F53] . . . . . .

(7) [F53] . . . . . .

(8) [F53] . . . . . .

(9) [F53] . . . . . .

F52 Words in art. 26(1) omitted (31.3.2012) by virtue of Financial Services and Markets Act 2000 (Permissions, Transitional Provisions and Consequential Amendments) (Northern Ireland Credit Unions) Order 2011 (S.I. 2011/2832), arts. 1(2), **13(13)(a)**

F53 Art. 26(2)-(9) omitted (31.3.2012) by virtue of Financial Services and Markets Act 2000 (Permissions, Transitional Provisions and Consequential Amendments) (Northern Ireland Credit Unions) Order 2011 (S.I. 2011/2832), arts. 1(2), **13(13)(b)**

Power to borrow money

27.—(1) A credit union may borrow money [F54] . . . .

(2) [F55] . . . . . .

(3) [F55] . . . . . .

(4) [F55] . . . . . .

(5) [F55] . . . . . .

(6) [F55] . . . . . .

F54 Words in art. 27(1) omitted (31.3.2012) by virtue of Financial Services and Markets Act 2000 (Permissions, Transitional Provisions and Consequential Amendments) (Northern Ireland Credit Unions) Order 2011 (S.I. 2011/2832), arts. 1(2), **13(14)(a)**

F55 Art. 27(2)-(6) omitted (31.3.2012) by virtue of Financial Services and Markets Act 2000 (Permissions, Transitional Provisions and Consequential Amendments) (Northern Ireland Credit Unions) Order 2011 (S.I. 2011/2832), arts. 1(2), **13(14)(b)**

Loans by credit unions

28.—**[**[F56](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.**]**

[[F57](1A) But a credit union may make a loan to a corporate member only if—

(a) the credit union's rules provide that it may make loans to corporate members, and

(b) the making of the loan would not result in the total amount of the outstanding balances on loans made to corporate members exceeding 10% of the total amount of the outstanding balances on all loans made by the credit union to members.

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

(1C) If a credit union's rules provide that it may make loans to corporate members, those rules may also provide that loans to individuals who are corporate members may be transferred in accordance with this paragraph.

(1D) The reference in paragraph (1C) to the transfer of a loan is to a transferof all the rights and liabilities that the borrower has under the loan, or in connection with it, to an individual who is—

(a) in the case of a loan to a person who is an individual acting in the capacity as a partner in a partnership, another partner in the partnership;

(b) in the case of shares held by an individual acting in the capacity as an officer or member of the governing body of an unincorporated association, another officer or member of that governing body.**]**

(2) [F58] . . . . . .

Para. (3) rep. by 1997 NI 22

(4) [F59] . . . . . .

(5) A credit union may charge interest on loans made by it but such interest shall be at a rate not exceeding 1 per cent per month (or such other rate as an order may specify) on the amount of the loan outstanding and such interest shall be inclusive of all administrative and other expenses incurred in connection with the making of the loan.

(6) [F60] . . . . . .

F56 Art. 28(1) substituted (31.3.2012) by Financial Services and Markets Act 2000 (Permissions, Transitional Provisions and Consequential Amendments) (Northern Ireland Credit Unions) Order 2011 (S.I. 2011/2832), arts. 1(2), **13(15)(a)**

F57 Art. 28(1A)-(1D) inserted (23.4.2016) by Credit Unions and Co-operative and Community Benefit Societies Act (Northern Ireland) 2016 (c. 16), s. 17, **Sch. 1 para. 9**

F58 Art. 28(2) omitted (31.3.2012) by virtue of Financial Services and Markets Act 2000 (Permissions, Transitional Provisions and Consequential Amendments) (Northern Ireland Credit Unions) Order 2011 (S.I. 2011/2832), arts. 1(2), **13(15)(b)**

F59 Art. 28(4) omitted (31.3.2012) by virtue of Financial Services and Markets Act 2000 (Permissions, Transitional Provisions and Consequential Amendments) (Northern Ireland Credit Unions) Order 2011 (S.I. 2011/2832), arts. 1(2), **13(15)(b)**

F60 Art. 28(6) omitted (31.3.2012) by virtue of Financial Services and Markets Act 2000 (Permissions, Transitional Provisions and Consequential Amendments) (Northern Ireland Credit Unions) Order 2011 (S.I. 2011/2832), arts. 1(2), **13(15)(b)**

[[F61]Loans to be treated as secured

28A.—(1) This Article applies where—

(a) a credit union makes a loan to a member of the credit union, and

(b) at the time the loan is made, the member's paid-up shareholding in the credit union is equal to or greater than his total liability (including contingent liability) to the credit union, whether as borrower, guarantor or otherwise.

(2) On the application of the member to the credit union, the loan shall be treated for the purposes of this Order as a secured loan.**]**

F61 1997 NI 22

Loans by approved credit unions

28B. [F62]. . . . . .

F62 Art. 28B omitted (31.3.2012) by virtue of Financial Services and Markets Act 2000 (Permissions, Transitional Provisions and Consequential Amendments) (Northern Ireland Credit Unions) Order 2011 (S.I. 2011/2832), arts. 1(2), **13(16)**

Grant of certificates of approval

28C. [F63]. . . . . .

F63 Art. 28C omitted (31.3.2012) by virtue of Financial Services and Markets Act 2000 (Permissions, Transitional Provisions and Consequential Amendments) (Northern Ireland Credit Unions) Order 2011 (S.I. 2011/2832), arts. 1(2), **13(16)**

Withdrawal of certificates of approval

28D. [F64]. . . . . .

F64 Art. 28D omitted (31.3.2012) by virtue of Financial Services and Markets Act 2000 (Permissions, Transitional Provisions and Consequential Amendments) (Northern Ireland Credit Unions) Order 2011 (S.I. 2011/2832), arts. 1(2), **13(16)**

Promissory notes and bills of exchange

29. A promissory note or bill of exchange shall be deemed to have been made, accepted or endorsed on behalf of any credit union if made, accepted or endorsed in the name of the credit union, or by or on behalf or account of the credit union, by any person acting under the authority of the credit union.

Contracts

30.—(1) Contracts may be made, varied or discharged on behalf of a credit union as follows:—

(a) a contract which, if made between individuals, would be by law required to be in writing under seal may be made, on behalf of the credit union in writing under the common seal of the credit union;

(b) a contract which, if made between individuals, would be by law required to be in writing, signed by the parties to be charged with the contract, may be made on behalf of the credit union in writing by any person acting under the express or implied authority of the credit union;

(c) a contract which, if made between individuals, would by law be valid although made by parol only, and not reduced into writing, may be made by parol on behalf of the credit union by any person acting under the express or implied authority of the credit union;

(d) a contract made according to this paragraph may be varied or discharged in the same manner in which it is authorised by this Article to be made and a contract under seal which, if made between individuals, might be varied or discharged in writing not under seal, signed by any person interested in the contract, may be similarly varied or discharged in writing not under seal on behalf of the credit union, signed by any person acting under the express or implied authority of the credit union.

(2) A signature purporting to be made by a person holding any office in a credit union attached to a writing by which any contract purports to be made, varied or discharged by or on behalf of the credit union shall, until the contrary is proved, be taken to be the signature of a person holding that office at the time when the signature was made.

(3) A contract which may be or have been made, varied or discharged according to the provisions of this Article shall be effectual in law and bind the credit union and its successors and all other parties to the contract.

Charges on assets of credit unions

31.—(1) An instrument which is executed by a credit union and which creates or is evidence of a fixed or floating charge on assets of the credit union shall not be a bill of sale for the purposes of the Bills of Sale (Ireland) Acts 1879 and 1883 or be invalidated by those Acts if the charge is recorded in accordance with paragraph (2).

(2) An application for the recording of a charge under paragraph (1) shall be made by delivering by post or otherwise to the registrar, within the period of 14 days beginning with the date of execution of the instrument which creates or is evidence of the charge of within any extended period allowed under paragraph (5),—

(a) a copy of the instrument authenticated in the prescribed manner and such additional particulars relating to the charge and so authenticated as may be prescribed; and

(b) such fee as may be prescribed.

(3) The registrar shall secure—

(a) that an acknowledgement in the prescribed form of every application made for the purposes of this Article is issued to the person by whom the application was made; [F65]. . .

(b) that the copy of the instrument included in such an application, a note of any prescribed particulars so included and a copy of the acknowledgement of the application issued in pursuance of sub-paragraph (a) are filed in the prescribed manner and made available for inspection during office hours by members of the public on payment of such fee as may be prescribed; **[**[F66]and

(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 **[**[F67]FCA and, if the society is a PRA-authorised person, the PRA**]**;**]**

and an acknowledgement issued under this paragraph shall be conclusive evidence that any document specified by the acknowledgement was delivered to the registrar on the date so specified.

(4) Regulations may provide for the giving of notice to the registrar of any release, discharge or other transaction relating to any charge in respect of which an application has been made for the purposes of this Article and for the filing in the prescribed manner of any such notice appearing to the registrar to relate to the charge.

(5) If in the case of an instrument such as is mentioned in paragraph (1) it appears to the High Court, on the application of the credit union which executed the instrument or of any other person claiming the benefit of the instrument, that by reason of inadvertence or other sufficient cause—

(a) an application for the recording of the charge to which the instrument relates was not made within the period of 14 days mentioned in paragraph (2); or

(b) any matters were omitted from or were mis-stated in such an application,

the Court may, on such terms as it thinks fit, order that the period for making such an application shall be extended or, as the case may be, that the omission or mis-statement shall be rectified.

F65 Word in art. 31(3) omitted (31.3.2012) by virtue of Financial Services and Markets Act 2000 (Permissions, Transitional Provisions and Consequential Amendments) (Northern Ireland Credit Unions) Order 2011 (S.I. 2011/2832), arts. 1(2), **13(17)**

F66 Art. 31(3)(c) and preceding word inserted (31.3.2012) by Financial Services and Markets Act 2000 (Permissions, Transitional Provisions and Consequential Amendments) (Northern Ireland Credit Unions) Order 2011 (S.I. 2011/2832), arts. 1(2), **13(17)**

F67 Words in art. 31(3)(c) substituted (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), art. 1(1), **Sch. 7 para. 6** (with Sch. 12)

Holding of land

32.—(1) A credit union may acquire and hold in its own name any land for the purpose of conducting its business on the land but, subject to paragraph (2), for no other purpose, and may dispose of any such land; and—

(a) no person shall be bound to inquire as to the authority for any dealing with the land by a credit union; and

(b) the receipt of the credit union shall be a discharge for all money arising from or in connection with any dealing with land by it.

(2) A credit union may hold any estate in land so far as is necessary for the purpose of making loans to its members on the security of an estate in land and of enforcing any such security.

(3) [F68] . . . . . .

(4) [F68] . . . . . .

F68 Art. 32(3)(4) omitted (31.3.2012) by virtue of Financial Services and Markets Act 2000 (Permissions, Transitional Provisions and Consequential Amendments) (Northern Ireland Credit Unions) Order 2011 (S.I. 2011/2832), arts. 1(2), **13(18)**

Investments

33. [F69] . . . . . .

F69 Art. 33 omitted (31.3.2012) by virtue of Financial Services and Markets Act 2000 (Permissions, Transitional Provisions and Consequential Amendments) (Northern Ireland Credit Unions) Order 2011 (S.I. 2011/2832), arts. 1(2), **13(19)**

Discharge of mortgages

34.—(1) Where, in the case of any mortgage to a credit union of any property, a receipt in full for all money secured by the mortgage on that property is endorsed on or annexed to the mortgage or other assurance, being a receipt—

(a) signed by 2 members of the board of directors and countersigned by the secretary of the credit union or, if the credit union is in liquidation, signed by the liquidator or liquidators for the time being, described as such; and

(b) in the form set out in Schedule 2, or in any other form set out in the rules of the credit union or any schedule to those rules,

then, that receipt shall be fully effective to vacate the mortgage and vest in the mortgagor the estate of and in the property comprised in the mortgage.

(2) If the mortgage is registered in accordance with the Registration of Deeds Acts, the Registrar under those Acts shall—

(a) on production of the receipt mentioned in paragraph (1), make an entry in the margin of the registry-book against the registry of the memorial of the mortgage that the mortgage is satisfied; and

(b) grant a certificate, either on the mortgage or separately, that the mortgage is satisfied.

(3) The certificate granted under paragraph (2) (b) shall—

(a) be received in all courts and proceedings without further proof; and

(b) have the effect of clearing the register of the mortgage.

(4) In this Article "mortgage" includes a further charge, and "mortgagor", in relation to a mortgage, means the person for the time being entitled to the equity of redemption.

Receipt on payment of money secured to a credit union

35. On payment of all money intended to be secured to a credit union on the security of any property, the debtor or his successor or representatives shall be entitled to a receipt in the form set out in Schedule 2, or in any other form set out in the rules of the credit union or any schedule to those rules.

[[F70]Application of surplus]

36.—(1) [F71]. . . . . .

(2) [F72]. . . . . .

[[F73](3) Following the application of such amount of its surplus funds to its reserves as may be required by rules made by the **[**[F74]FCA under the 2000 Act and, if the society is a PRA-authorised person, rules made by the PRA 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.**]**

(4) The dividend payable on any shares of a credit union shall not exceed a rate of 8 per cent per annum or such other rate as an order may specify.

(5) No part of the amount available for distribution in respect of any year of account shall be applied by a credit union for the purposes mentioned in paragraph (3) (c) unless a dividend [F75]... is paid for that year on all paid-up shares of the credit union; and the total sum applied for those purposes out of the amount available for distribution in respect of any year of account shall not exceed 10 per cent of that amount.

(6) [F76]. . . . . .

(7) [F77]. . . . . .

F70 Art. 36 heading substituted (31.3.2012) by Financial Services and Markets Act 2000 (Permissions, Transitional Provisions and Consequential Amendments) (Northern Ireland Credit Unions) Order 2011 (S.I. 2011/2832), arts. 1(2), **13(20)**

F71 Art. 36(1) omitted (31.3.2012) by virtue of Financial Services and Markets Act 2000 (Permissions, Transitional Provisions and Consequential Amendments) (Northern Ireland Credit Unions) Order 2011 (S.I. 2011/2832), arts. 1(2), **13(20)(a)**

F72 Art. 36(2) omitted (31.3.2012) by virtue of Financial Services and Markets Act 2000 (Permissions, Transitional Provisions and Consequential Amendments) (Northern Ireland Credit Unions) Order 2011 (S.I. 2011/2832), arts. 1(2), **13(20)(a)**

F73 Art. 36(3) substituted (31.3.2012) by Financial Services and Markets Act 2000 (Permissions, Transitional Provisions and Consequential Amendments) (Northern Ireland Credit Unions) Order 2011 (S.I. 2011/2832), arts. 1(2), **13(20)(b)**

F74 Words in art. 36(3) substituted (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), art. 1(1), **Sch. 7 para. 7** (with Sch. 12)

F75 Words in art. 36(5) omitted (23.4.2016) by virtue of Credit Unions and Co-operative and Community Benefit Societies Act (Northern Ireland) 2016 (c. 16), **ss. 6**, 17

F76 Art. 36(6) omitted (31.3.2012) by virtue of Financial Services and Markets Act 2000 (Permissions, Transitional Provisions and Consequential Amendments) (Northern Ireland Credit Unions) Order 2011 (S.I. 2011/2832), arts. 1(2), **13(20)(a)**

F77 Art. 36(7) omitted (31.3.2012) by virtue of Financial Services and Markets Act 2000 (Permissions, Transitional Provisions and Consequential Amendments) (Northern Ireland Credit Unions) Order 2011 (S.I. 2011/2832), arts. 1(2), **13(20)(a)**

Insurance against fraud or other dishonesty

37. [F78] . . . . . .

F78 Art. 37 omitted (31.3.2012) by virtue of Financial Services and Markets Act 2000 (Permissions, Transitional Provisions and Consequential Amendments) (Northern Ireland Credit Unions) Order 2011 (S.I. 2011/2832), arts. 1(2), **13(21)**

Guarantee funds

38.—(1) Subject to the provisions of this Article, a credit union, or any 2 or more credit unions, may enter into arrangements with a person carrying on the business of insurance for the purpose of making funds available to meet losses incurred by members of a credit union which is a party to the arrangements; and any 2 or more credit unions may enter into any other kind of arrangements for that purpose.

(2) **[**[F79]A**]** credit union may make contributions under arrangements made in accordance with paragraph (1), and such arrangements may in particular provide for the vesting of a fund in trustees appointed under the arrangements.

(3) [F80] . . . . . .

F79 Word in art. 38(2) substituted (31.3.2012) by Financial Services and Markets Act 2000 (Permissions, Transitional Provisions and Consequential Amendments) (Northern Ireland Credit Unions) Order 2011 (S.I. 2011/2832), arts. 1(2), **13(22)(a)**

F80 Art. 38(3) omitted (31.3.2012) by virtue of Financial Services and Markets Act 2000 (Permissions, Transitional Provisions and Consequential Amendments) (Northern Ireland Credit Unions) Order 2011 (S.I. 2011/2832), arts. 1(2), **13(22)(b)**

Prohibition on undischarged bankrupts and other persons

39. [F81] . . . . . .

F81 Art. 39 omitted (31.3.2012) by virtue of Financial Services and Markets Act 2000 (Permissions, Transitional Provisions and Consequential Amendments) (Northern Ireland Credit Unions) Order 2011 (S.I. 2011/2832), arts. 1(2), **13(23)**

Accounts, etc.

Books of account, etc.

40.—(1) Every credit union shall—

(a) cause to be kept proper books of account with respect to its transactions and its assets and liabilities, and

(b) establish and maintain a satisfactory system of control of its accounts, its cash holdings and all its receipts and remittances.

(2) For the purposes of sub-paragraph (a) of paragraph (1), proper books of account shall not be taken to be kept with respect to the matters mentioned in that sub-paragraph if there are not kept such accounts as are necessary to give a true and fair view of the state of the affairs of the credit union and to explain its transactions.

Form in which books of account may be kept

41.—(1) Any books of account to be kept by a credit union may be kept either by making entries in bound books or by recording the matters in question in any other manner.

(2) Where any such book is not kept by making entries in a bound book but by some other means, the credit union shall take adequate precautions for guarding against falsification and facilitating its discovery.

Accounts and balance sheets

42.—(1) Every revenue account of a credit union shall give a true and fair view of the income and expenditure of the credit union for the period to which the account relates [F82] . . . .

(2) Every credit union shall, in respect of each year of account, cause to be prepared a revenue account which deals with the affairs of the credit union for that year.

(3) Every balance sheet of a credit union shall give a true and fair view of the state of the affairs of the credit union as at the date of the balance sheet[F83] . . . .

(4) Subject to paragraph (5), a credit union shall not publish any revenue account or balance sheet unless—

(a) it has been previously audited by the auditor or auditors last appointed to audit the accounts and balance sheet of the credit union,

(b) it incorporates a report by the auditor or auditors stating whether in their opinion it complies with the provision of paragraph (1) or paragraph (3) which is applicable in that case, and

(c) it has been signed by the secretary of the credit union and by 2 members of the board of directors acting on behalf of that board.

(5) A credit union may display at its registered office, but only at that office, an interim revenue account or balance sheet which has not been audited, provided that—

(a) the latest audited revenue account and balance sheet are displayed side by side with the interim revenue account or balance sheet; and

(b) the interim revenue account or balance sheet so displayed is marked in clearly legible characters and in a prominent position with the words "UNAUDITED REVENUE ACCOUNT" or, as the case may be, "UNAUDITED BALANCE SHEET".

(6) If in relation to any revenue account or balance sheet of a credit union a member of the board of directors fails to take all reasonable steps to secure compliance with the provision of paragraph (1) or paragraph (3) which is applicable in that case he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale, unless he proves that he had reasonable grounds to believe, and did believe, that a competent and reliable person was charged with the duty of seeing that the relevant provision was complied with and was in a position to discharge that duty.

F82 Words in art. 42(1) omitted (31.3.2012) by virtue of Financial Services and Markets Act 2000 (Permissions, Transitional Provisions and Consequential Amendments) (Northern Ireland Credit Unions) Order 2011 (S.I. 2011/2832), arts. 1(2), **13(24)(a)**

F83 Words in art. 42(3) omitted (31.3.2012) by virtue of Financial Services and Markets Act 2000 (Permissions, Transitional Provisions and Consequential Amendments) (Northern Ireland Credit Unions) Order 2011 (S.I. 2011/2832), arts. 1(2), **13(24)(b)**

Obligation to appoint auditors

43. Every credit union shall in each year of account appoint a qualified auditor or qualified auditors to audit its accounts and balance sheet for that year.

Re-appointment and removal of qualified auditors

44.—(1) A qualified auditor appointed to audit the accounts and balance sheet of a credit union for the preceding year of account shall be re-appointed as auditor of the credit union for the current year of account unless—

(a) a resolution has been passed at a general meeting of the credit union appointing somebody instead of him or providing expressly that he shall not be re-appointed, or

(b) he has given to the credit union notice in writing of his unwillingness to be re-appointed, or

(c) he is ineligible for appointment as auditor of the credit union for the current year of account, or

(d) he has ceased to act as auditor of the credit union by reason of incapacity;

but, where notice is given of an intended resolution to appoint some person or persons in place of a retiring auditor and the resolution cannot be proceeded with at the meeting because of the death or incapacity of that person or those persons, or because he is or they are ineligible for appointment as auditor or auditors of the credit union for the current year of account (as the case may be), the retiring auditor shall not be automatically re-appointed by virtue of this paragraph.

(2) For the purposes of paragraph (1), a person is ineligible for appointment as auditor of a credit union for the current year of account if, but only if—

(a) his appointment in relation to the credit union is prohibited by Article 46, or

(b) he is not a qualified auditor at the time when the question of his appointment falls to be considered.

Resolutions relating to appointment and removal of auditors

45.—(1) A resolution at a general meeting of a credit union—

(a) appointing another person as auditor in place of a retiring qualified auditor, or

(b) providing expressly that a retiring qualified auditor shall not be re-appointed,

shall not be effective unless notice of the intention to move it has been given to the credit union not less than 28 days before the meeting at which it is moved.

(2) Where notice of the intention to move any such resolution has been given under paragraph (1) to a credit union which is required by its rules to give notice to its members of the meeting at which the resolution is to be moved, the credit union shall if it is practicable to do so give them notice of the resolution at the same time and in the same manner as it gives notice of the meeting.

(3) Where notice of the intention to move any such resolution has been given to any credit union under paragraph (1), and that credit union does not give notice of the resolution under paragraph (2), it shall give notice of the resolution to its members not less than 14 days before the meeting at which the resolution is to be moved, either by advertisement in a newspaper having an appropriate circulation or in any other way allowed by the rules of the credit union.

(4) Where—

(a) for any of the reasons mentioned in Article 44 (1) an intended resolution to appoint some person or persons in place of a retiring qualified auditor cannot be proceeded with at the meeting, and

(b) by the rules of the credit union an auditor can only be appointed by a resolution passed at a general meeting after notice of the intended resolution has been given to the credit union before the meeting,

a resolution passed at that meeting re-appointing the retiring auditor or appointing an auditor in place of the retiring auditor shall be effective notwithstanding that no notice of that resolution has been given to the credit union under its rules.

(5) On receipt by a credit union of notice given under paragraph (1) of an intended resolution, it shall forthwith send a copy of the notice to the retiring auditor.

(6) On receipt of a copy of such a notice, the retiring auditor may at any time before the date of the general meeting make representations in writing to the credit union (not exceeding a reasonable length) with respect to the intended resolution, and, without prejudice to paragraph (4), the retiring auditor may—

(a) notify the credit union that he intends to make such representations, and

(b) request that notice of his intention, or of any such representations made by him and received by the credit union before notice of the intended resolution is given to its members, shall be given to members of the credit union.

(7) Subject to paragraph (8), a credit union which receives representations or a notification of intended representations under paragraph (6) before the date when notice of the intended resolution is required by paragraph (2) or paragraph (3) (as the case may be) to be given to its members shall—

(a) in any notice of the resolution given to its members, state that it has received those representations or that notification (as the case may be),

(b) in any such notice, state that any member may receive on demand made before the date of the general meeting a copy of any representations which have been or may be received by the credit union before that date, and

(c) send a copy of any representations received by the credit union before the date of the meeting to any member on demand made before that date;

but without prejudice either to the preceding provisions of this paragraph or to his right to be heard orally, the retiring auditor may also require that any representations made by him before the date of the general meeting shall be read out at the meeting.

(8) Copies of any such representations need not be sent out, and the representations need not be read out at the meeting if, on the application either of the credit union or of any other person, the High Court is satisfied that the rights conferred by this Article are being abused to secure needless publicity for defamatory matter; and the Court may order the costs of the credit union on an application under this Article to be paid, in whole or in part, by the auditor, notwithstanding that he is not a party to the application.

(9) Any provision in this Article which requires notice to be given to the members of a credit union or confers any right upon a member (as the case may be) shall be construed in the case of a meeting of delegates appointed by members as requiring the notice to be given to the delegates so appointed or conferring the right upon a delegate (as the case may be).

Qualified auditors

46.—(1) A person shall not be qualified for appointment as auditor of any credit union**[**[F84] unless he is eligible for appointment as a **[**[F85]statutory auditor under Part 42 of the Companies Act 2006**].]**

(2) None of the following persons shall be qualified for appointment as auditor of a credit union—

(a) an officer or servant of the credit union;

(b) a person who is a partner of, or in the employment of, or who employs, an officer or servant of the credit union;

Sub#para.(c) rep. by SR 1993/67

(3) Any appointment made by a credit union in contravention of paragraph (1) or (2) shall not be an effective appointment for the purposes of this Order.

Para. (4) rep. by SR 1993/67

(5) In paragraph (2), references to an officer or servant shall be construed as not including an auditor.

F84 SR 1993/67

F85 Words in art. 46(1) substituted (6.4.2008) by Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), arts. 2(2), 3(1), **Sch. 1 para. 2(d)** (with arts. 6, 11, 12)

Auditors' report, right of access and to be heard

47.—(1) The auditors of a credit union shall make a report to the credit union on the accounts examined by them, and on the revenue account and the balance sheet of the credit union for the year of account in respect of which they are appointed.

(2) The report shall state whether the revenue account and the balance sheet for that year comply with the requirements of this Order and whether, in the opinion of the auditors—

(a) the revenue account gives a true and fair view in accordance with Article 42 of the income and expenditure of the credit union for that year of account, and

(b) the balance sheet gives a true and fair view in accordance with that Article of the state of the affairs of the credit union as at the end of that year of account.

(3) Without prejudice to paragraph (2), where the report of the auditors relates to any accounts other than the revenue account for the year of account in respect of which they are appointed that report shall state whether those accounts give a true and fair view of any matter to which they relate.

(4) The auditors of a credit union, in preparing their report under this Article, shall carry out such investigations as will enable them to form an opinion as to the following matters, that is to say—

(a) whether the credit union has kept proper books of account in accordance with the requirements of Article 40 (1) (a);

(b) whether the credit union has maintained a satisfactory system of control over its transactions in accordance with the requirements of Article 40 (1) (b); and

(c) whether the revenue account, the other accounts, if any, to which the report relates, and the balance sheet are in agreement with the books of account of the credit union,

and if the auditors are of opinion that the credit union has failed to comply with Article 40 (1) (a) or (b), or if the revenue account, the other accounts, if any, and the balance sheet are not in agreement with the books of account of the credit union, the auditors shall state that fact in their report.

(5) Every auditor of a credit union—

(a) shall have a right of access at all times to the books, deeds and accounts of the credit union, and to all other documents relating to its affairs, and

(b) shall be entitled to require from the officers of the credit union such information and explanations as he thinks necessary for the performance of the duties of the auditors.

(6) If the auditors fail to obtain all the information and explanations which, to the best of their knowledge and belief, are necessary for the purposes of their audit, they shall state that fact in their report.

(7) The auditors of a credit union shall be entitled—

(a) to attend any general meeting of the credit union, and to receive all notices of and other communications relating to any general meeting which any member of the credit union is entitled to receive, and

(b) to be heard at any meeting which they attend on any part of the business of the meeting which concerns them as auditors.

Remuneration of qualified auditors

48.—(1) Regulations may prescribe the maximum rates of remuneration to be paid by credit unions for the audit of their accounts and balance sheets by qualified auditors.

(2) Where the maximum rate of remuneration which may be paid by a credit union for the audit of its accounts and balance sheet has been prescribed under paragraph (1), an auditor shall not, in respect of his services to a credit union, ask for, receive or be entitled to receive remuneration in excess of the rate so prescribed.

Annual returns

[[F86]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 **[**[F87]appropriate 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 **[**[F87]appropriate 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.**]**

F86 Art. 49 substituted (31.3.2012) by Financial Services and Markets Act 2000 (Permissions, Transitional Provisions and Consequential Amendments) (Northern Ireland Credit Unions) Order 2011 (S.I. 2011/2832), arts. 1(2), **13(25)**

F87 Words in art. 49(3)(b)(4) substituted (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), art. 1(1), **Sch. 7 para. 8** (with Sch. 12)

Display of latest balance sheet

50. [F88] . . . . . .

F88 Art. 50 omitted (31.3.2012) by virtue of Financial Services and Markets Act 2000 (Permissions, Transitional Provisions and Consequential Amendments) (Northern Ireland Credit Unions) Order 2011 (S.I. 2011/2832), arts. 1(2), **13(26)**

Officers, receivers, etc.

Security by officers

51.—(1) Every officer of a credit union having receipt or charge of money shall, if the rules of the credit union so require, before entering upon the execution of his office give security in such sum as the board of directors may direct conditioned for his rendering a just and true account of all money received and paid by him on account of the credit union at such times as its rules appoint or as the credit union or its board of directors requires him so to do and for the payment by him of all sums due from him to the credit union.

(2) An officer of a credit union shall give security in accordance with paragraph (1) either—

(a) by becoming bound either with or without a surety as the board of directors may require, in a bond in such form as the board of directors may approve; or

(b) by giving the security of a guarantee society; or

(c) by giving such other security as the board of directors may direct.

Duty of officers to account

52.—(1) Every officer of a credit union having receipt or charge of money, and every servant of a credit union in receipt or charge of money who is not engaged under a special agreement to account, shall—

(a) at such times as he is required so to do by the rules of the credit union; or

(b) on demand; or

(c) upon notice in writing requiring him so to do being served on him,

render an account as may be required by the credit union or its board of directors to be examined and allowed or disallowed by it, and shall, on demand or on such notice as is mentioned in sub-paragraph (c) pay over all money and deliver all property for the time being in his hands or custody to such person as the credit union or board of directors may appoint.

(2) Any duty imposed by paragraph (1) on an officer or servant of a credit union shall, after his death, be taken to be imposed on his personal representatives.

(3) In case of any contravention of paragraph (1) or (2), the credit union—

(a) may sue on any bond or security given under Article 51; or

(b) may apply to the county court or to a court of summary jurisdiction and the order of that county court or court of summary jurisdiction shall be final and conclusive.

Duties of receiver or manager of credit union's property

53.—[[F89](1)**]** Every receiver or manager of the property of a credit union who has been appointed under the powers contained in any instrument shall—

(a) within 1 month from the date of his appointment, notify the registrar **[**[F90]and **[**[F91]the appropriate person**]]** of his appointment; and

(b) within 1 month [F92]... after the expiration of the period of 6 months from that date, and of every subsequent period of 6 months, deliver to the registrar **[**[F90]and **[**[F91]the appropriate person**]]** a return showing his receipts and his payments during that period of 6 months; and

(c) within 1 month after he ceases to act as receiver or manager, notify the registrar **[**[F90]and **[**[F91]the appropriate person**]]** of that fact and deliver to the registrar **[**[F90]and **[**[F91]the appropriate person**]]** a return showing his receipts and his payments during the final period and the aggregate amount of his receipts and of his payments during all preceding periods since his appointment.

[[F93](2) In this article, "the appropriate person" means—

(a) the registrar;

(b) the FCA ; and

(c) if the society is a PRA -authorised person, the PRA .

(3) The registrar, the FCA and, if the society is a PRA -authorised person, the PRA may each allow a period of longer than 1 month for the delivery of returns to it under paragraph (1)(b). **]**

F89 Art. 53 renumbered as art. 53(1) (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), art. 1(1), **Sch. 7 para. 9(2)** (with Sch. 12)

F90 Words in art. 53 added (31.3.2012) by Financial Services and Markets Act 2000 (Permissions, Transitional Provisions and Consequential Amendments) (Northern Ireland Credit Unions) Order 2011 (S.I. 2011/2832) , arts. 1(2) , **13(27)**

F91 Words in art. 53(1) substituted (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), art. 1(1), **Sch. 7 para. 9(3)** (with Sch. 12)

F92 Words in art. 53(1)(b) omitted (1.4.2013) by virtue of The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), art. 1(1), **Sch. 7 para. 9(4)** (with Sch. 12)

F93 Art. 53(2)(3) inserted (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), art. 1(1), **Sch. 7 para. 9(5)** (with Sch. 12)

Registers, books, etc.

Register of members and officers

54.—(1) Every credit union shall keep at its registered office a register and enter in that register—

(a) the names and addresses of its members;

(b) a statement of the number of shares held by each member and of the amount paid or agreed to be considered as paid on the shares of each member;

(c) a statement of other property in the credit union, whether in loans or otherwise, held by each member;

(d) the date at which each person was entered in the register as a member, and the date at which any person ceased to be a member;

(e) the names and addresses of the officers of the credit union, with the offices held by them respectively, and the dates on which they assumed office.

(2) The register may be kept either by making entries in bound books or by recording the matters in question in any other manner; but, where it is not kept by making entries in a bound book but by some other means, adequate precautions shall be taken for guarding against falsification and facilitating its discovery.

(3) Every credit union shall either—

(a) keep at its registered office a duplicate register, containing the particulars in the register kept under paragraph (1) other than those entered under sub-paragraph (b) or (c) of that paragraph; or

(b) so construct the register kept under paragraph (1) that it is possible to open to inspection the particulars in the register other than the particulars entered under paragraph (1) (b) or (c) without exposing those last-mentioned particulars.

(4) The registrar or a person acting on his behalf may at all reasonable hours inspect any particulars in any register or duplicate register kept under this Article.

(5) A credit union's register or duplicate register kept under this Article, or any other register or list of members or shares kept by the credit union, shall be prima facie evidence of any of the following particulars entered in the register, that is to say—

(a) the names and addresses of the members;

(b) the number of shares respectively held by the members, the distinguishing numbers of those shares, if they are distinguished by numbers, and the amount paid or agreed to be considered as paid on any of those shares;

(c) the date at which the name of any person was entered in that register or list as a member;

(d) the date at which any such person ceased to be a member.

Restriction on inspection of books

55.—(1) A member or other person shall not have any right to inspect the books of a credit union except as this Order otherwise permits.

(2) Subject to any provisions as to the time and manner of inspection which may be included in the rules of a credit union, any member, and any person having an interest in the funds, of the credit union shall be allowed to inspect at all reasonable hours—

(a) his own account; and

(b) all the particulars contained in the duplicate register kept under Article 54(3)(a) or, if no duplicate register is kept, all the particulars in the register kept under Article 54(1) other than those entered under paragraph (1)(b) or (c) of that Article.

(3) A credit union may by its rules authorise, in addition to any inspection in pursuance of paragraph (2), the inspection of such of the credit union's books upon such conditions as may be set out in the rules, but no person who is not an officer of the credit union or specially authorised by a resolution of the credit union shall be authorised by the rules to inspect the loan or share account of any other person without that other person's written consent.

Inspection of books by order of registrar

56.—(1) Subject to paragraph (2), the registrar may, on the application of 10 members of a credit union each of whom has been a member of the credit union for not less than 12 months immediately preceding the date of the application, appoint an accountant or actuary to inspect, and to report on, the books of the credit union.

(2) The members making an application under paragraph (1) shall deposit with the registrar as security for the costs of the proposed inspection such sum as he may require; and all expenses of and incidental to the inspection shall be defrayed by the applicants, or out of the funds of the credit union, or by the members or officers, or former members or officers, of the credit union, in such proportions as the registrar shall direct.

(3) A person appointed under this Article may make copies of, and take extracts from, any books of the credit union at all reasonable hours at the credit union's registered office or at any other place where those books are kept.

(4) The registrar shall communicate the results of any inspection under this Article to the applicants and to the credit union.

Production of documents and provision of information

57.—(1) The registrar may at any time, by notice in writing served on a credit union or on any person who is or has been an officer of a credit union, require that credit union or person to produce to the registrar such books, accounts and other documents relating to the business of the credit union, and to furnish to him such other information relating to that business, as the registrar considers necessary for the exercise of his powers under this Order; and any such notice may contain a requirement that any information to be furnished in accordance with the notice shall be verified by a statutory declaration.

(2) The registrar may, if he considers it just, direct that all or any of the expenses incurred by him in exercising his powers under paragraph (1) in relation to any credit union shall, either wholly or to such extent as he may determine, be defrayed out of the funds of the credit union or by the officers or former officers of the credit union or any of them; and any sum which any credit union or other person is required by such a direction to pay shall be a debt recoverable summarily by the registrar from that credit union or person

(3) [F94] . . . . . .

(4) Any credit union or other person failing, without reasonable excuse, to comply with a notice under paragraph (1) [F95]. . . shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

F94 Art. 57(3) omitted (31.3.2012) by virtue of Financial Services and Markets Act 2000 (Permissions, Transitional Provisions and Consequential Amendments) (Northern Ireland Credit Unions) Order 2011 (S.I. 2011/2832), arts. 1(2), **13(28)(a)**

F95 Words in art. 57(4) omitted (31.3.2012) by virtue of Financial Services and Markets Act 2000 (Permissions, Transitional Provisions and Consequential Amendments) (Northern Ireland Credit Unions) Order 2011 (S.I. 2011/2832), arts. 1(2), **13(28)(b)**

Suspension of credit union, etc.

Appointment of inspectors and calling of special meetings

58.—(1) Upon the application of one-tenth of the whole number of members of a credit union or, in the case of a credit union with more than 1,000 members, of 100 of those members, the registrar may, with the consent of the Department—

(a) appoint an inspector to investigate and report on the affairs of the credit union; or

(b) call a special meeting of the credit union.

(2) An application under this Article shall be supported by such evidence for the purpose of showing that the applicants have good reason for requiring the investigation or meeting and are not actuated by malicious motives, and such notice of the application shall be given to the credit union, as the registrar shall direct.

(3) The registrar may require the applicants to give security for the costs of the proposed investigation or meeting before appointing any inspector or calling the meeting.

(4) Without prejudice to paragraph (1) where the registrar is of the opinion that an investigation should be held into the affairs of a credit union or that the affairs of the credit union call for consideration by a meeting of the members, he may, with the consent of the Department—

(a) appoint an inspect to investigate and report on the affairs of the credit union; or

(b) call a special meeting of the credit union; or

(c) (either on the same or different occasions) both appoint such an inspector and call such a meeting.

(5) All expenses of and incidental or preliminary to any investigation or meeting under this Article shall be defrayed by the members applying for it, or out of the funds of the credit union, or by the members or officers, or former members or officers, of the credit union, in such proportions as the registrar shall direct.

(6) An inspector appointed under this Article may require the production of all or any of the books, accounts, securities and documents of the credit union and may examine on oath its officers, members, agents and servants in relation to its business, and may for that purpose administer oaths.

(7) The registrar may direct at what time and place a special meeting under this Article is to be held, and what matters are to be discussed and determined at the meeting; and the meeting shall have all the powers of a meeting called according to the rules of the credit union, and may appoint its own chairman notwithstanding any rule of the credit union to the contrary.

Suspension of credit union's operations

59. [F96]. . . . . .

F96 Art. 59 omitted (31.3.2012) by virtue of Financial Services and Markets Act 2000 (Permissions, Transitional Provisions and Consequential Amendments) (Northern Ireland Credit Unions) Order 2011 (S.I. 2011/2832), arts. 1(2), **13(29)**

Cancellation of registration

60.—(1) Subject to the provisions of this Article and Article 62(2)(b), and without prejudice to Article 65(6) or 66(3), the registrar may, by writing under his hand **[**[F97]and with the consent of **[**[F98]the FCA and, if the society is a PRA-authorised person, the PRA**]]**, cancel the registration of any credit union—

(a) if at any time it is proved to his satisfaction—

(i) that the number of members of the credit union has been reduced to less than 21; or

(ii) that an acknowledgement of registration has been obtained by fraud or mistake; or

(iii) that the credit union has ceased to exist;

(b) at the request of the credit union, to be evidenced in such manner as he shall direct;

(c) with the consent of the Department—

(i) on proof to his satisfaction that the credit union exists for an illegal purpose, or has wilfully and after notice from him violated any of the provisions of this Order or the Industrial and Provident Societies Act (Northern Ireland) 1969;

(ii) if at any time it appears to him that there is no longer a common bond between the members of the credit union.

(2) Not less than 2 months' previous notice in writing specifying briefly the ground of the proposed cancellation shall be given by the registrar to a credit union before its registration is cancelled otherwise than—

(a) at its own request; or

(b) by virtue of Article 65(6) or 66(3)—

and if before the expiration of the period of that notice the credit union duly lodges an appeal under Article 62(2)(b), then, without prejudice to Article 61(2), the credit union's registration shall not be cancelled before the date of the determination or abandonment of the appeal.

(3) Notice of every cancellation under this Article of a credit union's registration shall, as soon as practicable after it takes place, be published in the Belfast Gazette and in any other manner which the registrar considers necessary for bringing the cancellation to the notice of persons affected by the cancellation.

(4) From the date of the publication in the Belfast Gazette under paragraph (3) of a notice of the cancellation of a credit union's registration, the credit union shall absolutely cease to be entitled to any of the privileges of this Order as a credit union, but without prejudice to any liability actually incurred by the credit union which may be enforced against it as if the cancellation had not taken place.

F97 Words in art. 60(1) inserted (31.3.2012) by Financial Services and Markets Act 2000 (Permissions, Transitional Provisions and Consequential Amendments) (Northern Ireland Credit Unions) Order 2011 (S.I. 2011/2832), arts. 1(2), **13(30)**

F98 Words in art. 60(1) substituted (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), art. 1(1), **Sch. 7 para. 10** (with Sch. 12)

Suspension of registration

61.—(1) Where under Article 60(1)(c) the registrar might with the consent of the Department cancel the registration of a credit union, he may, by writing under his hand **[**[F99]and with the consent of the **[**[F100]FCA and, if the society is a PRA-authorised person, the PRA**]]**—

(a) subject to paragraph (3), suspend the registration of that credit union for any term not exceeding three months; and

(b) with the consent of the Department, but subject to Article 62(2)(c), renew any such suspension for the like period.

(2) Where before the expiration of the period of a notice under Article 60(2) of the proposed cancellation of a credit union's registration, that credit union duly lodges an appeal from the proposed cancellation under Article 62(2)(b), the registrar may by writing under his hand suspend the credit union's registration from the expiration of that period until the date of the determination or abandonment of the appeal.

(3) Not less than two months' previous notice in writing specifying briefly the ground of the proposed suspension shall be given by the registrar to a credit union before its registration is suspended under paragraph (1)(a).

(4) Notice of every suspension of a credit union's registration under paragraph (1)(a) or (2) and of any renewal of a suspension under paragraph (1)(b) shall, as soon as practicable after it takes place, be published in the Belfast Gazette and in any other manner which the registrar considers necessary for bringing the suspension to the notice of persons affected by the suspension.

(5) From the date of publication in the Belfast Gazette of a notice under paragraph (4) of the suspension of any credit union's registration under paragraph (1)(a) or (2) until the period of that suspension and any renewal of that suspension under paragraph (1)(b) ends (whether on the expiration of that period or on a successful appeal under Article 62(2)(c) from such a renewal) the credit union shall not be entitled to any of the privileges of this Order as a credit union, but without prejudice to any liability actually incurred by the credit union which may be enforced against it as if the suspension had not taken place.

F99 Words in art. 61(1) inserted (31.3.2012) by Financial Services and Markets Act 2000 (Permissions, Transitional Provisions and Consequential Amendments) (Northern Ireland Credit Unions) Order 2011 (S.I. 2011/2832), arts. 1(2), **13(31)**

F100 Words in art. 61(1) substituted (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), art. 1(1), **Sch. 7 para. 11** (with Sch. 12)

Appeals

[[F101]**62.**—(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;

[[F102](b) the society has not made an application under Part 4A of the 2000 Act to accept deposits; or

(c) the FCA or the PRA has not confirmed to the registrar that it is satisfied that, once registered under this Order, the society will satisfy, and continue to satisfy, the threshold conditions (within the meaning of section 55B(1) of the 2000 Act) for which it is responsible in relation to the regulated activity of accepting deposits. **]]**

(2) A credit union may appeal to the High Court from any decision of the registrar—

(a) to refuse registration of any amendment of the credit union's rules; or

(b) to cancel the credit union's registration (being a cancellation of which notice is required under Article 60(2), and not being a cancellation by virtue of Article 60(1)(c)(ii)) if the appeal is lodged before the expiration of the period of notice of the proposed cancellation given under Article 60(2); or

(c) to renew under Article 61(1)(b) a suspension of the credit union's registration so far as that renewal provides for the suspension to continue more than three months from the original date of suspension.

(3) If any decision such as is mentioned in paragraph (1) or (2)(a) is overruled on appeal, the registrar shall issue to the credit union an acknowledgement of registration under this Order, or, as the case may be, of the amendment under Article 10(4).

F101 Art. 62(1) substituted (31.3.2012) by Financial Services and Markets Act 2000 (Permissions, Transitional Provisions and Consequential Amendments) (Northern Ireland Credit Unions) Order 2011 (S.I. 2011/2832) , arts. 1(2) , **13(32)**

F102 Art. 62(1)(b)(c) substituted (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), art. 1(1), **Sch. 7 para. 12** (with Sch. 12)

Petition for winding-up

63. A petition for the winding-up of a credit union may be presented to the court by the registrar **[**[F103], having first obtained the consent of the **[**[F104]FCA and, if the society is a PRA-authorised person, the PRA**]**,**]** if it appears to him that—

(a) the credit union is unable to pay sums due and payable to its members, or is able to pay such sums only by obtaining further subscriptions for shares or by defaulting in its obligations to creditors; or

(b) there has been, in relation to that credit union, a failure to comply with any provision of, or any direction given under, this Order or the Industrial and Provident Societies Act (Northern Ireland) 1969; or

(c) there is no longer a common bond between the members of the credit union;

or in any other case where it appears to him that the winding-up of the credit union is in the public interest or is just and equitable having regard to the interests of all the members of the credit union.

F103 Words in art. 63 inserted (31.3.2012) by Financial Services and Markets Act 2000 (Permissions, Transitional Provisions and Consequential Amendments) (Northern Ireland Credit Unions) Order 2011 (S.I. 2011/2832), arts. 1(2), **13(33)**

F104 Words in art. 63 substituted (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), art. 1(1), **Sch. 7 para. 13** (with Sch. 12)

Amalgamations and transfers of engagements

Restrictions on amalgamations and transfers of engagements

64. For the purposes of Articles 65 and 66, a credit union with which another credit union may amalgamate or to which that other credit union may transfer its engagements or from which that other credit union may accept a transfer of engagements shall be a credit union with a membership which has a common bond similar to the common bond between the members of that other credit union.

Amalgamation of credit unions

65.—(1) Any 2 or more credit unions may by special resolution of each of those credit unions become amalgamated together as one credit union, with or without any dissolution or division of the funds of those credit unions or any of them; and the property of each of those credit unions shall become vested in the amalgamated credit union without the necessity of any form of conveyance other than that contained in the special resolution.

(2) In this Article "special resolution" means a resolution which is—

(a) passed by not less than two-thirds of such members of the credit union for the time being entitled under the credit union's rules to vote as may have voted in person, or by proxy where the rules allow proxies, at any general meeting of which notice, specifying the intention to propose the resolution, has been duly given according to those rules; and

(b) confirmed by a majority of such members of the credit union for the time being entitled as aforesaid as may have voted as aforesaid at a subsequent general meeting of which notice has been duly given held not less than 14 days nor more than one month from the day of the meeting at which the resolution was passed in accordance with sub-paragraph (a).

(3) At any such meeting as aforesaid, a declaration by the chairman that the resolution has been carried shall be deemed conclusive evidence of that fact.

(4) A copy of every special resolution for the purposes of this Article signed by the chairman of the meeting at which the resolution was confirmed and countersigned by the secretary of the credit union shall be sent to the registrar and registered by him; and until that copy is so registered the special resolution shall not take effect.

(5) A credit union shall send a copy of any special resolution for registration in accordance with paragraph (4) within 14 days from the day on which the resolution is confirmed under paragraph (2)(b), but this paragraph shall not invalidate registration after that time.

(6) If credit unions become amalgamated together under this Article without the dissolution of any one or more of them, the registration of any such credit union not dissolved shall upon amalgamation become void and, subject to Article 71(2), be cancelled by the registrar.

[[F105](7) The registrar must not register a special resolution under this Article unless the **[**[F106]appropriate 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.**]**

[[F107](8) If the appropriate authority is the PRA, it must consult the FCA before giving its confirmation under paragraph (7).**]**

F105 Art. 65(7) inserted (31.3.2012) by Financial Services and Markets Act 2000 (Permissions, Transitional Provisions and Consequential Amendments) (Northern Ireland Credit Unions) Order 2011 (S.I. 2011/2832), arts. 1(2), **13(34)**

F106 Words in art. 65(7) substituted (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), art. 1(1), **Sch. 7 para. 14(2)** (with Sch. 12)

F107 Art. 65(8) inserted (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), art. 1(1), **Sch. 7 para. 14(3)** (with Sch. 12)

Transfer of engagements between credit unions

66.—(1) Any credit union may by special resolution transfer its engagements to any other credit union which may undertake to fulfil those engagements; and if that resolution approves the transfer of the whole or any part of the credit union's property to that other credit union, the whole or, as

the case may be, that part of the credit union's property shall vest in that other credit union without any conveyance or assignment.

(2) Paragraphs (2) to (5) of Article 65 shall have effect for the purposes of this Article as they have effect for the purposes of that Article.

(3) If a credit union transfers all its engagements under paragraph (1), the registration of that credit union upon the transfer shall become void and, subject to Article 71(2), be cancelled by the registrar.

[[F108](4) The registrar must not register a special resolution under this Article unless the **[**[F109]appropriate 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.**]**

[[F110](5) If the appropriate authority is the PRA, it must consult the FCA before giving its confirmation under paragraph (4).**]**

F108 Art. 66(4) inserted (31.3.2012) by Financial Services and Markets Act 2000 (Permissions, Transitional Provisions and Consequential Amendments) (Northern Ireland Credit Unions) Order 2011 (S.I. 2011/2832), arts. 1(2), **13(35)**

F109 Words in art. 66(4) substituted (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), art. 1(1), **Sch. 7 para. 15(2)** (with Sch. 12)

F110 Art. 66(5) inserted (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), art. 1(1), **Sch. 7 para. 15(3)** (with Sch. 12)

Saving for rights of creditors

67. An amalgamation or transfer of engagements in pursuance of Article 65 or 66 shall not prejudice any right of a creditor of any credit union which is a party to such amalgamation or transfer of engagements.

Dissolution of credit union

[[F111]*Dissolution of credit union*

68.—(1) A credit union may be dissolved—

(a) on its being wound up in pursuance of an order or resolution made as is directed in regard to companies by the Insolvency (Northern Ireland) Order 1989, or

(b) in accordance with Article 70, by an instrument of dissolution to which not less than three-fourths of the members of the credit union have given their consent testified by their signatures to the instrument.

(2) The provisions of the Insolvency (Northern Ireland) Order 1989 applied by paragraph (1)(a) have effect as if the credit union were a company, but any reference to the registrar of companies shall be read as a reference to the registrar within the meaning of this Order.

(3) A copy of any resolution passed for the voluntary winding up of a credit union must be sent by the credit union to the registrar within 15 days after it is passed.
For the purposes of Article 73 (offences by credit unions, officers etc) as it applies in relation to a failure to comply with this paragraph, a liquidator of the credit union shall be treated as an officer of it.

(4) A copy of any such resolution must be annexed to every copy of the registered rules of the credit union issued after the passing of the resolution.

(5) This section has effect subject to Article 71 (restriction on dissolution or cancellation of registration).**]**

F111 Art. 68 substituted (1.10.2009) by Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 66** (with art. 10)

Liability of members in winding-up

69. Where a credit union is wound up by virtue of Article 68(a), the liability of a present or past member of the credit union to contribute for payment of the debts and liabilities of the credit union, the expenses of winding-up, and the adjustment of the rights of contributories amongst themselves, shall be qualified as follows, that is to say—

(a) no person who ceased to be a member not less than one year before the beginning of the winding-up shall be liable to contribute;

(b) no person shall be liable to contribute in respect of any debt or liability contracted after he ceased to be a member;

(c) no person who is not a member shall be liable to contribute unless it appears to the court that the contributions of the existing members are insufficient to satisfy the just demands on the credit union;

(d) no contribution shall be required from any person exceeding the amount, if any, unpaid on the shares in respect of which he is liable as a past or present member;

(e) in the case of a share which has been withdrawn, a person shall be taken to have ceased to be a member in respect of that share as from the date of the notice of application for withdrawal.

Instrument of dissolution

70.—(1) The following provisions of this Article shall have effect where a credit union is to be dissolved by an instrument of dissolution under Article 68(b).

(2) The instrument of dissolution shall set forth—

(a) the liabilities and assets of the credit union in detail;

(b) the number of the members and the nature of their respective interests in the credit union;

(c) the claims of creditors, if any, and the provision to be made for their payment; and

(d) unless stated in the instrument of dissolution to be left to the award of the registrar, the intended appropriation or division of the funds and property of the credit union.

(3) Alterations in the instrument of dissolution may be made by the consent of not less than three-fourths of the members of the credit union testified by their signatures to the alteration.

(4) The instrument of dissolution shall be sent to the registrar accompanied by a statutory declaration made by 3 members and the secretary of the credit union that all relevant provisions of this Order have been complied with; and any person knowingly making a false or fraudulent declaration in the matter shall be guilty of an offence and liable to the penalties provision by Article 10 of the Perjury (Northern Ireland) Order 1979.

(5) The instrument of dissolution and any alterations to the instrument shall be registered in like manner as an amendment of the rules of the credit union and shall be binding upon all the members of the credit union, but shall not be so registered until the registrar has received such a final return from the credit union as is referred to in **[**[F112]Article 49(8)**]**.

(6) The registrar shall cause notice of the dissolution to be advertised at the expense of the credit union in the Belfast Gazette and in any other manner which the registrar considers necessary for bringing such notice to the attention of persons affected by the dissolution: and unless—

(a) within 3 months from the date of the Belfast Gazette in which that advertisement appears a member or other person interested in or having any claim on the funds of the credit union commences in the county court [F113]... proceedings to set aside the dissolution of the credit union: and

(b) that dissolution is set aside accordingly,

then, subject to paragraph (7), the credit union shall be legally dissolved from the date of the advertisement and the requisite consents to the instrument of dissolution shall be deemed to have been duly obtained without proof of the signatures to the instrument.

(7) If the certificate referred to in Article 71(1) has not been lodged with the registrar by the date of the advertisement referred to in paragraph (6), the credit union shall be legally dissolved only from the date when that certificate is so lodged.

(8) Notice of any proceedings to set aside the dissolution of a credit union shall be sent to the registrar by the person taking those proceedings not later than 7 days after they are commenced or not later than the expiration of the period of 3 months referred to in paragraph (6), whichever is the earlier; and notice of any order setting the dissolution aside shall be sent by the credit union to the registrar within 7 days after the making of the order.

F112 Words in art. 70(5) substituted (31.3.2012) by Financial Services and Markets Act 2000 (Permissions, Transitional Provisions and Consequential Amendments) (Northern Ireland Credit Unions) Order 2011 (S.I. 2011/2832), arts. 1(2), **13(36)**

F113 Words in art. 70(6) repealed (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 92, **Sch. 9 Pt. 1** (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3)

Restriction on dissolution or cancellation of registration of credit union

71.—(1) Where a credit union is to be dissolved under Article 68 the credit union shall not be dissolved until there has been lodged with the registrar a certificate that all property vested in the credit union has been duly conveyed or transferred to the persons entitled and such certificate shall be signed—

(a) where the credit union is to be dissolved under Article 68(a), by the liquidator; or

(b) where the credit union is to be dissolved under Article 68(b), by the secretary or other officer of the credit union approved by the registrar.

(2) The registration of a credit union shall not be cancelled by the registrar under Article 65(6) or 66(3) until there has been lodged with the registrar a certificate signed by the secretary or other officer of the credit union approved by the registrar that all property vested in the credit union has been duly conveyed or transferred by the credit union to the persons entitled.

Disputes, offences and legal proceedings

Decision of disputes

72.—(1) Subject to paragraphs **[**[F114](2), (4), (5) and (7)**]**, every dispute between a credit union or an officer of a credit union and—

(a) a member of the credit union; or

(b) any person aggrieved who has ceased to be a member of the credit union not more than 6 months previously; or

(c) any person claiming through a member of the credit union or any such person aggrieved; or

(d) any person claiming under the rules of the credit union,

shall, if the credit union's rules give directions as to the manner in which such disputes are to be decided, be decided in that manner.

[[F115](1A) Where an individual is, or has been, a corporate member of a credit union, the reference in paragraph (1)(c) to any person "claiming through" that individual includes any partner of the partnership or (as the case may be) any member of the unincorporated association in question.**]**

[[F116](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.**]**

(3) A decision made under paragraph (1) or (2) on any dispute shall be binding and conclusive on all parties without appeal; and—

(a) the decision shall not be removable into any court of law or restrainable by injunction; and

(b) application for the enforcement of the decision may be made to the county court.

(4) Subject to paragraph (5), any dispute directed by the rules of a credit union to be referred to a court shall be determined by a court of summary jurisdiction.

(5) Where, whether by virtue of paragraph (4) or otherwise, a dispute is cognisable under the rules of a credit union by a court of summary jurisdiction, the parties to the dispute may by agreement refer the dispute to the county court, which may hear and determine it.

(6) Where the rules of a credit union contain no direction as to disputes, or where no decision is made on a dispute within 40 days after application to the credit union for a reference under its rules, any person such as is mentioned in paragraph (1)(a) to (d) who is a party to the dispute may apply either to the county court or to a court of summary jurisdiction, which may hear and determine the matter in dispute.

(7) For the purposes of the hearing or determination of a dispute under this Article[F117]. . .

(a) **[**[F117]without prejudice to any powers exercisable by virtue of Part I of the Arbitration Act 1996,**]** the registrar may—

(i) administer oaths and require the attendance of all parties concerned and of witnesses;

(ii) require the production of all books and documents relating to the matter in question; and may

(iii) order the expenses of determining the dispute to be paid either out of the funds of the credit union or by such parties to the dispute as he shall think fit;

and any person refusing to attend, or to produce any documents, or to give evidence, before the registrar shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale;

(b) [F117]. . . a court of summary jurisdiction may grant to either party such discovery as to documents and otherwise, or such inspection of documents, being, in the case of discovery to be made on behalf of the credit union, discovery by such officer of the credit union as the[F117]. . . court may determine,**[**[F117] as might be granted by the registrar**]** under section 21(1) of and Schedule 2 to that Act of 1937.

[[F117](8) The court or registrar to whom any dispute is referred under paragraphs (2) to (6) may at the request of either party state a case on any question of law arising in the dispute for the opinion of the High Court.**]**

(9) Anything which under this Article is required or authorised to be done by, to or before the registrar may be done by, to or before such person as he may, with the consent of the Department, appoint for the purpose and paragraph (8) shall apply to such a person in like manner as it applies to the registrar.

[[F118](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.**]**

F114 Words in art. 72(1) substituted (31.3.2012) by Financial Services and Markets Act 2000 (Permissions, Transitional Provisions and Consequential Amendments) (Northern Ireland Credit Unions) Order 2011 (S.I. 2011/2832), arts. 1(2), **13(37)(a)**

F115 Art. 72(1A) inserted (23.4.2016) by Credit Unions and Co-operative and Community Benefit Societies Act (Northern Ireland) 2016 (c. 16), s. 17, **Sch. 1 para. 10**

F116 Art. 72(2) substituted (31.3.2012) by Financial Services and Markets Act 2000 (Permissions, Transitional Provisions and Consequential Amendments) (Northern Ireland Credit Unions) Order 2011 (S.I. 2011/2832), arts. 1(2), **13(37)(b)**

F117 1996 c. 23

F118 Art. 72(10)(11) inserted (31.3.2012) by Financial Services and Markets Act 2000 (Permissions, Transitional Provisions and Consequential Amendments) (Northern Ireland Credit Unions) Order 2011 (S.I. 2011/2832), arts. 1(2), **13(37)(c)**

Offences by credit unions

73. If any credit union, or any officer or member of a credit union, or any other person—

(a) contravenes any provision of this Order; or

(b) in purported compliance with a requirement under this Order, makes a return, or knowingly or recklessly gives information which is false in a material particular;

that credit union, officer, member or other person, as the case may be, shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Fraud or misappropriation

74. Any person who—

(a) obtains possession by false representation or imposition of any property of a credit union; or

(b) having any such property in his possession, withholds or misapplies it or wilfully applies any part of it to purposes which are not authorised by the rules of the credit union or which are not in accordance with this Order;

shall be guilty of an offence and—

(i) if it is proved that he acted with any fraudulent intent, shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale and to be ordered to deliver up that property or to repay all money improperly applied; or

(ii) if it is not so proved, may be ordered to deliver up that property or to repay all money improperly applied.

Falsification

75. Any person who, with intent to falsify it or to evade any of the provisions of this Order, wilfully makes, or orders or allows to be made, any entry or erasure in, or omission from,—

(a) any balance sheet of a credit union; or

(b) any contribution or collecting book; or

(c) any return or document required for the purposes of this Order; or

(d) any account or balance sheet displayed under this Order,

shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Prosecution of offences

76.—(1) Summary proceedings for an offence under this Order shall not be instituted except by—

(a) in the case of proceedings under Article 74,—

(i) the credit union; or

(ii) any member of that credit union authorised by the credit union or its board of directors or by the registrar; or

(iii) the registrar;

(b) in any other case, the registrar or any person aggrieved.

(2) Notwithstanding Article 19(1)(a) of the Magistrates' Courts (Northern Ireland) Order 1981 (limitation of time for taking proceedings) summary proceedings for an offence under this Order[F119]. . . may be instituted by the registrar at any time within one year after the first discovery of the offence by the registrar, but shall not in any case be instituted after the expiration of 3 years from the commission of the offence.

F119 Words in art. 76(2) omitted (31.3.2012) by virtue of Financial Services and Markets Act 2000 (Permissions, Transitional Provisions and Consequential Amendments) (Northern Ireland Credit Unions) Order 2011 (S.I. 2011/2832), arts. 1(2), **13(38)**

Recovery of costs, etc.

77. Any costs ordered or directed by the registrar to be paid by any person under this Order shall be a debt recoverable summarily by the registrar from that person.

Miscellaneous and general

Regulations and orders

78.—(1) Regulations may—

(a) make provision with respect to registration and procedure under this Order and prescribe the forms to be used for such registration and procedure;

(b) make provision with respect to the functions of the registrar under this Order;

(c) provide for the inspection, and furnishing of copies, of documents in the custody of the registrar under this Order;

(d) prescribe the scale of fees to be paid for the inspection, or the furnishing of copies, of documents in the custody of the registrar or in connection with the exercise by the registrar of any of his functions under this Order.

(2) Regulations under this Article may provide that persons contravening the regulations shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding an amount specified in the regulations.

(3) The amount which may be specified in regulations as mentioned in paragraph (2) shall not exceed level 4 on the standard scale.

[[F120]Incidental, transitional, etc. provision

78A An order under any of the following may contain such incidental, transitional, transitory or saving provision as the Department considers appropriate—

(a) Article 14A(7) (alteration of maximum proportion of corporate members);

(b) Article 23A(4) (alteration of threshold amount required for credit union to issue or retain interest-bearing shares);

(c) Article 28(1B) (alteration of maximum proportion of loan book which may be made to corporate members).**]**

F120 Art. 78A inserted (23.4.2016) by Credit Unions and Co-operative and Community Benefit Societies Act (NorthernIreland) 2016 (c. 16), s. 17, **Sch. 1 para. 44**

Fees

79. Any fees received by the registrar by virtue of this Order shall be paid into the Consolidated Fund.

Form, deposit and evidence of documents

80.—(1) Without prejudice to Article 49(2)(a) and (b) and subject to any regulations made under this Order, every return and other document required for the purposes of this Order—

(a) shall be made in such form, and

(b) shall contain such particulars, and

(c) shall be deposited and registered or recorded, with or without observations on the return or other document, in such manner,

as the registrar may direct.

(2) Every document purporting to be signed by the registrar, including in particular any document purporting to be a copy or extract of a credit union's rules or of any other instrument or document whatsoever, and every document purporting to be signed by any inspector under this Order shall, in the absence of any evidence to the contrary, be received in evidence without proof of the signature.

Annual reports by registrar

81. The registrar shall each year make a report to the Head of the Department of his proceedings under this Order and the Head of the Department shall lay the report before the Assembly.

Great Britain credit unions

82.—(1) Regulations may make provision for giving effect to any arrangements made under section 32(1) of the Credit Unions Act 1979, and such regulations may in particular—

(a) confer rights and obligations (appropriate to credit unions) under this Order on Great Britain credit unions in such circumstances as may be specified in the regulations;

(b) confer functions on the registrar in relation to Great Britain credit unions; and

(c) make such modifications of this Order and the Government of Ireland (Companies, Societies, etc.) Order 1922 as appear to the Department to give effect to the arrangements.

(2) In this Article "Great Britain credit union" means a society which is registered as a credit union under the law for the time being in force in Great Britain for purposes corresponding to those of this Order and which carries on or intends to carry on business in Northern Ireland.

Savings, amendments and repeals

83.—(1) The savings in Schedule 4 shall have effect.

Para. (2)—Amendments

Para. (3)—Repeals

SCHEDULES

SCHEDULE 1

Article 8(1)(a).

MATTERS TO BE PROVIDED FOR IN RULES OF CREDIT UNION

1. The name of the credit union, which shall comply with Article 6(1) and (2).

2. The objects of the credit union which shall comply with Article 3(3).

3. The place which is to be the registered office of the credit union to which all communications and notices to the credit union may be addressed.

4. The qualifications required for, and the terms of, admission to membership of the credit union, including any special provision for

[[F121](a) identifying individuals who are corporate members, or**]**

[[F122](b) the insurance of members in relation to their shares.**]**

F121 Sch. 1 para. 4(a) inserted (23.4.2016) by Credit Unions and Co-operative and Community Benefit Societies Act (NorthernIreland) 2016 (c. 16), s. 17, **Sch. 1 para. 11(2)(a)**

F122 Words in Sch. 1 para. 4 renumbered as Sch. 1 para. 4(b) (23.4.2016) by Credit Unions and Co-operative and Community Benefit Societies Act (NorthernIreland) 2016 (c. 16), s. 17, **Sch. 1 para. 11(2)(b)**

5. The mode of holding meetings, including provisions as to the quorum necessary for the transaction of any description of business, and the mode of making, altering or rescinding rules.

6. The appointment and removal of board of directors and functional committees, by whatever name, and of managers of other officers and their respective powers and remuneration.

7. Determination (**[**[F123]subject **[**[F124]to Article 14A(6) and**]** to any applicable rules made by **[**[F125]each of the FCA and the PRA**]** under the 2000 Act**]**) of the maximum amount of the interest in the shares of the credit union which may be held by any member.

F123 Words in Sch. 1 para. 7 substituted (31.3.2012) by Financial Services and Markets Act 2000 (Permissions, Transitional Provisions and Consequential Amendments) (Northern Ireland Credit Unions) Order 2011 (S.I. 2011/2832), arts. 1(2), **13(39)(a)**

F124 Words in Sch. 1 para. 7 inserted (23.4.2016) by Credit Unions and Co-operative and Community Benefit Societies Act (NorthernIreland) 2016 (c. 16), s. 17, **Sch. 1 para. 11(3)**

F125 Words in Sch. 1 para. 7 substituted (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), art. 1(1), **Sch. 7 para. 16(2)** (with Sch. 12)

8. Provision for the mode of withdrawal of shares and for payment of the balance due on shares on withdrawing from the credit union.

9. The mode and circumstances in which loans to members are to be made and repaid, including any special provision for the insurance of members in relation to loans made to them.

10. Provision for the custody and use of the credit union's seal.

11. Provision for the audit of accounts by one or more auditors appointed by the credit union **[**[F126]in accordance with any applicable rules made by **[**[F127]each of the FCA and the PRA**]** under section 340 of the 2000 Act**]**.

F126 Words in Sch. 1 para. 11 inserted (31.3.2012) by Financial Services and Markets Act 2000 (Permissions, Transitional Provisions and Consequential Amendments) (Northern Ireland Credit Unions) Order 2011 (S.I. 2011/2832), arts. 1(2), **13(39)(b)**

F127 Words in Sch. 1 para. 11 substituted (1.4.2013) by The Financial Services Act 2012 (Mutual Societies) Order 2013 (S.I. 2013/496), art. 1(1), **Sch. 7 para. 16(3)** (with Sch. 12)

[[F128]**11A** Provision—

(a) setting out the conditions which must be met for the transfer of shares under Article 23(2A) or the transfer of loans under Article 28(1C), and

(b) about the means by which and manner in which the credit union may be satisfied that those conditions are met.**]**

F128 Sch. 1 para. 11A inserted (23.4.2016) by Credit Unions and Co-operative and Community Benefit Societies Act (NorthernIreland) 2016 (c. 16), s. 17, **Sch. 1 para. 11(4)**

12. Provision for the withdrawal of members from the credit union and for the claims of the representatives of deceased members or the assignees or trustees of the property of bankrupt members and for the payment of nominees.

[[F129]**13.** Provision for—

(a) terminating the membership of corporate members in order to comply with the limit on the number of corporate members (see Article 14A(2));

(b) the repayment of shares held by a corporate member where—

(i) the membership is terminated in order to comply with the limit on the number of corporate members, or

(ii) shares must be repaid in order to comply with the limit on shares allotted to corporate members (see Article 14A(4)).**]**

F129 Sch. 1 para. 13 substituted (23.4.2016) by Credit Unions and Co-operative and Community Benefit Societies Act (NorthernIreland) 2016 (c. 16), s. 17, **Sch. 1 para. 11(5)**

[[F130]**13A** If the issue of interest-bearing shares is permitted, provision for the conversion of such shares into shares that are not interest-bearing in order to comply with Article 23B(3).**]**

F130 Sch. 1 para. 13A inserted (23.4.2016) by Credit Unions and Co-operative and Community Benefit Societies Act (NorthernIreland) 2016 (c. 16), s. 17, **Sch. 1 para. 45**

14. Provision for the dissolution of the credit union, including provision requiring any assets remaining after the payment of debts, repayment of share capital and discharge of other liabilities—

(a) to be transferred to another credit union; or

(b) if not so transferred, to be applied for charitable purposes.

SCHEDULE 2

Articles 34(1)(b), 35.

FORM OF RECEIPT ON MORTGAGE, ETC.

The Limited hereby acknowledges that it has this day of 19

received the sum of £ , representing all money intended to be secured by the [within (or above) written]

[annexed] deed [and by a further charge dated, etc. , or otherwise as required].

)

) Board of Directors

)

Secretary

[F131][F131]SCHEDULE 3

. . . . . .

F131 Sch. 3 (paras. 1-5) omitted (31.3.2012) by virtue of Financial Services and Markets Act 2000 (Permissions, Transitional Provisions and Consequential Amendments) (Northern Ireland Credit Unions) Order 2011 (S.I. 2011/2832), arts. 1(2), **13(40)**

SCHEDULE 4

Article 83(1).

SAVINGS

1. Where immediately before the date of the commencement of this Order a credit union with a membership of not less than seven but less than 21 is registered under the Industrial and Provident Societies Act (Northern Ireland) 1969, the provisions of Articles 13(1) and 60(1)(a)(i) shall have effect, in relation to that credit union, as if for the reference to 21 as the minimum number of members provided for in those Articles there were substituted a reference to the number of members on the register of that credit union on that date.

2. [F132] . . . . . .

F132 Sch. 4 para. 2 omitted (31.3.2012) by virtue of Financial Services and Markets Act 2000 (Permissions, Transitional Provisions and Consequential Amendments) (Northern Ireland Credit Unions) Order 2011 (S.I. 2011/2832), arts. 1(2), **13(41)**

3. The provisions of this Schedule shall have effect without prejudice to section 29 of the Interpretation Act (Northern Ireland) 1954.

Schedule 5—Amendments

Schedule 6—Repeals

Status:
Point in time view as at 31/10/2016.

Changes to legislation:
There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Credit Unions (Northern Ireland) Order 1985. Any changes that have already been made by the team appear in the content and are referenced with annotations.