

STATUTORY INSTRUMENTS

1985 No. 1205

The Credit Unions (Northern Ireland) Order 1985

Dissolution of credit union

[^{F1}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 [^{F2}FCA].

(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 [^{F3}FCA] 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).]

F1 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)

F2 Words in art. 68(2) substituted (6.4.2018 immediately after 2016 c. 16 (N.I.), s. 8(2) comes into force) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2018 \(S.I. 2018/323\)](#), art. 1, **Sch. 3 para. 20** (with art. 3)

F3 Word in art. 68(3) substituted (6.4.2018 immediately after 2016 c. 16 (N.I.), s. 8(2) comes into force) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2018 \(S.I. 2018/323\)](#), art. 1, **Sch. 3 para. 2(s)** (with art. 3)

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;

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- (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 [F⁴FCA], 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 [F⁵FCA] 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 [F⁶FCA] has received such a final return from the credit union as is referred to in [F⁷Article 49(8)].

(6) The [F⁸FCA] 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 [F⁸FCA] 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 ^{F9}... 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 [F¹⁰FCA] 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.

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(8) Notice of any proceedings to set aside the dissolution of a credit union shall be sent to the [F11FCA] 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 [F11FCA] within 7 days after the making of the order.

- F4** Word in art. 70(2)(d) substituted (6.4.2018 immediately after 2016 c. 16 (N.I.), s. 8(2) comes into force) by virtue of [The Financial Services Act 2012 \(Mutual Societies\) Order 2018 \(S.I. 2018/323\)](#), art. 1, **Sch. 3 para. 2(t)** (with art. 3)
- F5** Word in art. 70(4) substituted (6.4.2018 immediately after 2016 c. 16 (N.I.), s. 8(2) comes into force) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2018 \(S.I. 2018/323\)](#), art. 1, **Sch. 3 para. 2(t)** (with art. 3)
- F6** Word in art. 70(5) substituted (6.4.2018 immediately after 2016 c. 16 (N.I.), s. 8(2) comes into force) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2018 \(S.I. 2018/323\)](#), art. 1, **Sch. 3 para. 2(t)** (with art. 3)
- F7** 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)**
- F8** Word in art. 70(6) substituted (6.4.2018 immediately after 2016 c. 16 (N.I.), s. 8(2) comes into force) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2018 \(S.I. 2018/323\)](#), art. 1, **Sch. 3 para. 2(t)** (with art. 3)
- F9** 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)
- F10** Word in art. 70(7) substituted (6.4.2018 immediately after 2016 c. 16 (N.I.), s. 8(2) comes into force) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2018 \(S.I. 2018/323\)](#), art. 1, **Sch. 3 para. 2(t)** (with art. 3)
- F11** Word in art. 70(8) substituted (6.4.2018 immediately after 2016 c. 16 (N.I.), s. 8(2) comes into force) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2018 \(S.I. 2018/323\)](#), art. 1, **Sch. 3 para. 2(t)** (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 [F12FCA] 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 [F12FCA].

(2) The registration of a credit union shall not be cancelled by the [F12FCA] under Article 65(6) or 66(3) until there has been lodged with the [F12FCA] a certificate signed by the secretary or other officer of the credit union approved by the [F12FCA] that all property vested in the credit union has been duly conveyed or transferred by the credit union to the persons entitled.

- F12** Word in art. 71 substituted (6.4.2018 immediately after 2016 c. 16 (N.I.), s. 8(2) comes into force) by [The Financial Services Act 2012 \(Mutual Societies\) Order 2018 \(S.I. 2018/323\)](#), art. 1, **Sch. 3 para. 2(u)** (with art. 3)

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Changes and effects yet to be applied to the whole Order associated Parts and Chapters:

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- Sch.1 Pt.I amended by [S.I. 1996/2653 art.2\(b\)](#)
- Sch.1 Pt.I rev.in pt. by [S.I. 1996/2653 art.2\(a\)](#)
- Sch. 1 Pt. 1 words inserted by [S.I. 1996/2653 art. 2\(b\)](#)
- Sch. 1 Pt. 1 words omitted by [S.I. 1996/2653 art. 2\(a\)](#)