
STATUTORY INSTRUMENTS

1985 No. 1205

The Credit Unions (Northern Ireland) Order 1985

Operation of credit union

Restriction on business of credit union

22. A credit union shall not carry on any business or activity other than that appropriate to the objects set out in Article 3(3).

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.

(2) Without prejudice to Article 18(1), shares in a credit union shall not be transferable and a credit union shall not issue to a member a certificate denoting ownership of a share.

(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—

- [^{F1}(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.

F1 1997 NI 22

Prohibition on carrying on banking

24.—(1) A credit union shall not carry on the business of banking.

(2) A credit union which contravenes paragraph (1) shall be guilty of an offence and shall be liable—

- (a) on conviction on indictment, to a fine; or
- (b) on summary conviction, to a fine not exceeding the statutory maximum.

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.

[^{F2}(2) In this Article and Article 26 “deposit” [^{F3} must be read with—

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

Status: Point in time view as at 01/01/2006.

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- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.]

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(4) If a credit union accepts a deposit in contravention of this Article it shall be guilty of an offence and shall be liable—

- (a) on conviction on indictment, to a fine; or
- (b) on summary conviction, to a fine not exceeding the statutory maximum.

(5) The fact that a deposit is taken in contravention of this Article shall not affect any civil liability arising in respect of the deposit or the money deposited.

F2	1987 c. 22
F3	SI 2002/1555

Deposits by persons too young to be members

26.—(1) A credit union may take deposits up to a total of [^{F4} £1,000] 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) Any deposit received by a credit union as mentioned in paragraph (1) shall be held by it on trust for the depositor until he attains the age mentioned in that paragraph and all such deposits shall be kept in a fund apart from the general funds of the credit union and shall be invested only in the manner specified in [^{F5} regulations under Article 33(1)].

(3) The moneys which from year to year are earned by the investment of deposits in accordance with paragraph (2) shall, after deduction of the expenses incurred in operating the separate fund referred to in that paragraph, be distributed as interest to the depositors.

(4) An order may amend paragraph (1) so as to substitute for the amount specified in that paragraph such other amount as may be specified in the order.

(5) An order under paragraph (4) may contain such transitional, consequential, incidental or supplementary provisions as appear to the Department to be necessary or appropriate.

(6) Where an order is made under paragraph (4), the board of directors of a credit union may, by a resolution recorded in writing and passed during the appropriate period resolve that depositors may hold such greater amount not exceeding the sum specified in the order as may be recorded in the resolution and the registered rules shall have effect accordingly.

(7) For the purposes of paragraph (6) the appropriate period shall be whichever is the shorter of the following 2 periods, that is to say—

- (a) a period of 1 year beginning with the date of the making of the order, and
- (b) a period beginning with the date of the making of the order and ending with the date on which any amendment of the rules of the credit union is first registered after that date under Article 10.

(8) The board of directors of a credit union shall not vary or revoke a resolution under paragraph (6) except in so far as they may be authorised to do so by an order made under paragraph (4).

(9) Where the board of directors of a credit union have exercised the power to pass a resolution under paragraph (6) and an amendment of the credit union's rules is subsequently registered under Article 10 the registered rules of the credit union shall thereupon have effect as if the resolution had not been passed, so, however, this paragraph shall not affect any interest in the funds of the credit union held by a depositor immediately before the date on which the amendment is registered.

F4 SR 1993/429
F5 2001 c. 14 (NI)

Power to borrow money

27.—(1) A credit union may borrow money temporarily from an authorised bank or from another credit union or an association of credit unions but the amount so borrowed and not repaid shall not at any time exceed in the aggregate one half of the total paid-up share capital.

(2) A temporary loan obtained by a credit union from an authorised bank shall be disregarded for the purposes of the limit on borrowing imposed by paragraph (1) if the credit union has obtained the consent in writing of the registrar.

(3) A person dealing with a credit union shall not be obliged to satisfy himself or to inquire whether the limit on borrowing by that credit union imposed by paragraph (1) has been or is being observed, but if a person who lends money to a credit union or takes security in connection with such a loan has, at the time when the loan is made or the security is given, actual notice of the fact that the limit has been or is thereby exceeded, the debt or security shall be unenforceable.

(4) Subject to paragraph (3), a transaction with a credit union shall not be invalid or ineffectual solely by reason of the fact that the limit on borrowing by that credit union imposed by paragraph (1) has been or is thereby exceeded.

(5) Where money borrowed by a credit union is not repaid on written demand on the date on which repayment is due, the credit union shall not make any loans or permit the withdrawal of any shares until the repayment is made.

(6) If a credit union borrows in excess of the limit imposed by paragraph (1) or makes loans or permits withdrawals in contravention of paragraph (5), it shall be guilty of an offence and shall be liable—

- (a) on conviction on indictment, to a fine; or
- (b) on summary conviction to a fine not exceeding the statutory maximum.

Loans by credit unions

28.—(1) Subject to the provisions of this Article, a credit union may make to a member who is of full age a loan for a provident or productive purpose, upon such security (or without security) and terms as the rules of the credit union may provide.

(2) The total amount on loan to a member of a credit union shall not at any time be more than^{[F6} £10,000] (or such other sum as an order may specify) in excess of his total paid-up shareholding in the credit union at that time.

Para. (3) rep. by 1997 NI 22

(4) The maximum period within which a loan by a credit union must be repaid shall be—

- (a) in the case of an unsecured loan,^{[F6} 4 years] or such longer period as an order may specify; or
- (b) in any other case, such period as an order may specify.

(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) A credit union shall not at any time make a loan to a member if the making of such a loan would bring the total amount outstanding on loan to members above the prescribed limit.

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F6 SR 1993/429

[^{F7}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.]

F7 1997 NI 22

Loans by approved credit unions

28B.—(1) Where a credit union holds a certificate of approval under Article 28C, Article 28 shall have effect in relation to it with the following modifications.

(2) For paragraph (2) there shall be substituted—

“(2) The total amount on loan to a member of a credit union shall not at any time exceed his total paid-up shareholding in the credit union by more than—

- (a) the greater of—
 - (i) £10,000 (or such other sum as an order may specify), and
 - (ii) 1.5 per cent. of the total paid-up shareholdings in the credit union, or
- (b) the greater of—
 - (i) 20 per cent. of the credit union's general reserve, and
 - (ii) £10,000 (or such other sum as an order may specify),

whichever is the less.” .

(3) After that paragraph there shall be inserted—

“(2A) Where paragraph (2) would be breached in relation to a member of a credit union because of a reduction in—

- (a) the total shareholdings in the credit union, or
- (b) the amount of the credit union's general reserve,

that paragraph shall, in relation to him, have effect, as respects any amount on loan to him immediately before the reduction, as if there were added at the end “ at the time of the loan, or latest loan, to the member ”.” .

(4) After paragraph (6) there shall be inserted—

“(6A) A credit union shall not at any time make a loan to a member if the making of such a loan would—

- (a) bring the total amount outstanding in respect of loans to relevant members above five times the credit union's general reserve, or
- (b) increase the amount by which the total amount so outstanding exceeds five times the credit union's general reserve.

(6B) For the purposes of paragraph (6A) a member of a credit union is a relevant member if the amount on loan to him from the credit union exceeds his paid-up shareholding in the credit union by an amount equal to at least 10 per cent. of the credit union's general reserve.

(6C) For the purposes of this Article, the total assets or general reserve of, or total shareholdings in, a credit union at any time shall be taken to be the total assets, general reserve or total shareholdings as shown in the most recent audited balance sheet to have been sent to the registrar under Article 49(1).” .

Grant of certificates of approval

28C.—(1) The registrar may, on the application of a credit union, issue a certificate of approval to it if it appears to him that—

- (a) the credit union has a general reserve which is not less than 10 per cent. of its total assets; and
- (b) in relation to the kind of lending permitted under Article 28B, the arrangements for the management of the credit union and its activities are satisfactory.

(2) Applications under paragraph (1) shall be in writing.

(3) The registrar may only refuse an application under paragraph (1) if he has complied with paragraphs (4) and (5).

(4) Not less than 14 days before refusing an application under paragraph (1), the registrar shall serve on the credit union concerned a notice stating that he proposes to refuse the application and specifying the grounds on which he proposes to do so.

(5) The registrar shall—

- (a) consider any representations with respect to a notice under paragraph (4) which may be made to him by the credit union concerned within such period as he may allow, not being less than 14 days from the date on which the notice is served, and
- (b) if the credit union concerned so requests, afford it an opportunity of being heard by him within that period.

Withdrawal of certificates of approval

28D.—(1) The registrar may at any time withdraw a certificate of approval if—

- (a) it appears to him that the credit union does not comply with Article 28C(1)(a), or
- (b) it appears to him that, in relation to the kind of lending permitted under Article 28B the arrangements for the management of the credit union concerned or its activities are not satisfactory, or
- (c) the credit union concerned so requests.

(2) Paragraphs (3) to (5) of Article 28C shall apply in relation to the exercise of the power conferred by paragraph (1)(a) or (b) as they apply in relation to the refusal of an application under paragraph (1) of that Article.

(3) Where, when a credit union ceases to be the holder of a certificate of approval, there is on loan to a member of the credit union an amount which exceeds the limit applicable under Article 28(2)—

- (a) that provision shall have effect to prohibit the making of any loan by the credit union to the member in breach of that limit, but
- (b) the limit on the total amount which may be on loan to the member shall otherwise continue to be that which applied immediately before the day on which the credit union ceased to be the holder of a certificate of approval.

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(4) The fact that a credit union ceases to hold a certificate of approval shall not affect the validity of any term which is in force immediately before the day on which the credit union ceases to be the holder of such a certificate and which relates to the period within which a loan by the credit union must be repaid.

(5) In this Article “certificate of approval” means a certificate of approval under Article 28C.

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; and
 - (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;

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.

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) In any case where a credit union becomes absolutely entitled to any estate in land by foreclosure or by release or other extinguishment of a right of redemption the credit union shall sell that estate as soon as may be conveniently practicable.

(4) If a credit union continues to hold any estate in land in contravention of paragraph (3) it shall be guilty of an offence and shall be liable—

- (a) on conviction on indictment, to a fine; or
- (b) on summary conviction, to a fine not exceeding the statutory maximum.

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Investments

33.—(1) A credit union may not invest any part of its surplus funds except in the prescribed manner and regulations may contain provisions authorising the application of the funds of a credit union in any form of investment subject to any limitations as to amount, whether by reference to a fixed sum or by reference to a proportion of the total investments of the credit union or otherwise.

(2) Any surplus funds of a credit union which are not either—

- (a) invested in accordance with paragraph (1), or
- (b) kept in cash in the custody of officers of the credit union,

shall be kept by the credit union on current account with, or otherwise on loan to, an authorised bank.

(3) Where an institution ceases to be an authorised bank and any funds of a credit union are on loan to that institution, the credit union shall take all practicable steps to call in and realise the loan within the period of 3 months from the time when the institution ceased to be an authorised bank or, if that is not possible, as soon after the end of that period as possible.

(4) In this Article “surplus funds”, in relation to a credit union, means funds not immediately required for its purposes.

(5) Nothing in this Article shall—

- (a) prevent a credit union from making a temporary loan to another credit union,^{F8} . . .

Sub#para. (b) rep. by 2001 c. 14 (NI)

(6) If a credit union contravenes any of the provisions of this Article, it shall be guilty of an offence and shall be liable—

- (a) on conviction on indictment to a fine; or
- (b) on summary conviction, to a fine not exceeding the statutory maximum.

F8 2001 c. 14 (NI)

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.

Computation and application of surplus

36.—(1) In ascertaining the surplus or deficit resulting from the operations of a credit union during any year of account all operating expenses in that year shall be taken into account (including payments of interest) and provision shall be made for depreciation of assets, for tax liabilities and for bad and doubtful debts, but no provision shall be made in respect of amounts to be paid by way of dividend.

(2) A credit union shall out of its surplus establish and maintain a general reserve, as follows—

- (a) if at the end of any year of account the amount standing to general reserve before any transfer under this paragraph is less than 10 per cent of total assets, the credit union shall transfer to general reserve not less than 20 per cent of its surplus for that year or such lesser sum as is required to bring the general reserve up to 10 per cent of total assets;
- (b) if at the end of any year of account the amount standing to general reserve before any transfer under this paragraph is more than 20 per cent of total assets, the credit union shall transfer to the revenue account and treat as revenue for that year a sum not less than that required to reduce the general reserve to 20 per cent of total assets;
- (c) subject to sub-paragraphs (a) and (b), a credit union may at the end of any year of account—
 - (i) transfer to general reserve from the surplus for that year, or
 - (ii) transfer from general reserve to the revenue account and treat as revenue for that year, such sum as the credit union may in general meeting determine, provided that the general reserve is not thereby reduced to less than 10 per cent or increased to more than 20 per cent of total assets.

(3) Not less than 90 per cent of the 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 accordance with paragraph (2), shall be applied in such one or more of the following ways as the credit union shall 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 of not less than 3 per cent per annum (or such other rate as an order may specify) is paid for that year on

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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) Where in accordance with paragraph (3) a credit union in general meeting determines that an amount shall be applied in any of the ways mentioned in sub-paragraphs (a) to (c) of that paragraph, that amount may, unless the determination is that it be distributed or expended forthwith, be so applied by being appropriated to a fund to be distributed or expended at some future date or dates; and where in accordance with that paragraph a credit union in general meeting determines that an amount shall be applied for a purpose falling within sub-paragraph (c) of that paragraph, that amount may, unless the determination is that it be expended in some specific manner, be expended for that purpose at the discretion of the board of directors.

(7) Nothing in this Article applies to income arising from, or to expenses incurred by a credit union in operating, such a trust fund as is referred to in Article 26 (2).

Insurance against fraud or other dishonesty

37.—(1) A society shall not be registered as a credit union unless the registrar is satisfied that on registration there will be in force in relation to that society a policy of insurance complying with the requirements of this Article; and a credit union shall at all times maintain in force such a policy and if it fails to do so shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) In order to comply with this Article, a policy of insurance—

- (a) subject to such exceptions as an order may specify, must insure the credit union in respect of every description of loss suffered or liability incurred by reason of the fraud or other dishonesty of any of its officers or employees;
- (b) must so insure the credit union up to a limit of not less than £20,000 (or such other figure as an order may specify) in respect of any 1 claim, except that the liability of the insurer may be restricted to an amount not less than £100,000 (or such other figure as an order may specify) in respect of the total of the claims made in any 1 year;
- (c) must not, except with the consent in writing of the registrar, provide in relation to any claim for any amount greater than 1 per cent of the limit referred to in sub-paragraph (b) to be met by the credit union; and

[^{F9}(d) must be issued by—

- (i) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect and carry out contracts of insurance of a relevant class, or
- (ii) an EEA firm of the kind mentioned in paragraph 5(d) 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 of that Schedule) to effect and carry out contracts of insurance of a relevant class.]

[^{F9}(2A) Sub-paragraph (d) of paragraph (2) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order made under that section; and
- (c) Schedule 2 to that Act.]

F9 SI 2002/1555

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) Subject to paragraph (3), 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) Arrangements under paragraph (1) shall not come into force and a contribution shall not be made under them by a credit union, until they have been approved in writing by the registrar, and the registrar shall not approve any such arrangements unless they provide that any variation of their terms shall also require his approval.

Prohibition on undischarged bankrupts and other persons

39. A person who is an undischarged bankrupt or who has been convicted on indictment of any offence involving fraud or dishonesty shall not—

- (a) sign an application form for registration of a society under this Order; or
- (b) act as a director of a credit union; or
- (c) directly or indirectly take part in or be concerned in the management of a credit union; or
- (d) permit his name to be put forward for election or appointment to any office in a credit union;

and where a person holding any office in a credit union becomes ineligible by virtue of this Article to hold that office, he shall forthwith cease to hold that office.

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