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## STATUTORY INSTRUMENTS

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# 1985 No. 1205

## The Credit Unions (Northern Ireland) Order 1985

### 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<sup>F1</sup>. . . .

(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<sup>F2</sup>. . . .

(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.

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(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.

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| <p><b>F1</b> Words in art. 42(1) omitted (31.3.2012) by virtue of <a href="#">Financial Services and Markets Act 2000 (Permissions, Transitional Provisions and Consequential Amendments) (Northern Ireland Credit Unions) Order 2011 (S.I. 2011/2832)</a>, arts. 1(2), <b>13(24)(a)</b></p> <p><b>F2</b> Words in art. 42(3) omitted (31.3.2012) by virtue of <a href="#">Financial Services and Markets Act 2000 (Permissions, Transitional Provisions and Consequential Amendments) (Northern Ireland Credit Unions) Order 2011 (S.I. 2011/2832)</a>, arts. 1(2), <b>13(24)(b)</b></p> |
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### ***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;

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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<sup>F3</sup> unless he is eligible for appointment as a <sup>F4</sup>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.

**F3** SR 1993/67

**F4** 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**

**[<sup>F5</sup>49.**—(1) Every credit union must, by the due date, send to the [<sup>F6</sup>FCA] 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

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- (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 [F7 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 [F7 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.]

**F5** 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)**

**F6** Word in art. 49(1) 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(i)** (with art. 3)

**F7** 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.** <sup>F8</sup> .....

**F8** 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)**

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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\(a\)](#)