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## STATUTORY INSTRUMENTS

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# 1985 No. 1205

## The Credit Unions (Northern Ireland) Order 1985

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 [F1FCA] may<sup>F2</sup>...—

- (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 [F1FCA] shall direct.

(3) The [F1FCA] 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 [F1FCA] 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, [F3the FCA] may<sup>F4</sup>...—

- (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 [F1FCA] 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 [F5FCA] 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.

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**F1** Word in art. 58(1)-(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\(m\)](#) (with art. 3)

**Changes to legislation:** *The Credit Unions (Northern Ireland) Order 1985, Suspension of credit union, etc. is up to date with all changes known to be in force on or before 24 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- F2** Words in art. 58(1) omitted (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. 13** (with art. 3)
- F3** Words in art. 58(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. 3(d)** (with art. 3)
- F4** Words in art. 58(4) omitted (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. 13** (with art. 3)
- F5** Word in art. 58(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(m)** (with art. 3)

### ***Suspension of credit union's operations***

**59.** <sup>F6</sup> .....

- F6** 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 [<sup>F7</sup>FCA may, in writing and, if the society is a PRA-authorized person, after consulting][<sup>F8</sup> the PRA], cancel the registration of any credit union—

- (a) if at any time it is proved to [<sup>F9</sup>the FCA's] 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 [<sup>F10</sup>the FCA] shall direct;
- (c) [<sup>F11</sup>if at any time] —
- (i) [<sup>F12</sup>it is proved to the FCA's] satisfaction that the credit union exists for an illegal purpose, or has wilfully and after notice from [<sup>F13</sup>the FCA] violated any of the provisions of this Order [<sup>F14</sup>(or the Co-operative and Community Benefit Societies Act (Northern Ireland) 1969) ] ;
  - (ii) <sup>F15</sup>... it appears to [<sup>F16</sup>the FCA] that there is no longer a common bond between the members of the credit union.

[<sup>F17</sup>(d) if the credit union's permission under Part 4A of the 2000 Act has been cancelled or the credit union has received a warning notice under section 55Z of that Act.]

[<sup>F18</sup>(1A) The FCA must not cancel the registration of a credit union by virtue of paragraph (1) (d) unless the appropriate regulator (within the meaning given in section 55A of the 2000 Act) has cancelled the credit union's permission under Part 4A of the 2000 Act and there is no possibility (or no further possibility) of that determination of the appropriate regulator being reversed or varied.]

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(2) Not less than 2 months' previous notice in writing specifying briefly the ground of the proposed cancellation shall be given by the [F<sup>19</sup>FCA] 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 [F<sup>20</sup>FCA] 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.

- F7 Words in art. 60(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. 14\(a\)\(i\)](#) (with art. 3)
- F8 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)
- F9 Words in art. 60(1)(a) 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. 14\(a\)\(ii\)](#) (with art. 3)
- F10 Words in art. 60(1)(b) 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. 3\(e\)](#) (with art. 3)
- F11 Words in art. 60(1)(c) 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. 14\(a\)\(iii\)\(aa\)](#)(with art. 3)
- F12 Words in art. 60(1)(c)(i) 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. 14\(a\)\(iii\)\(cc\)](#) (with art. 3)
- F13 Words in art. 60(1)(c)(i) 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. 14\(a\)\(iii\)\(bb\)](#) (with art. 3)
- F14 Words in art. 60(1)(c)(i) substituted (6.4.2018) by [Credit Unions and Co-operative and Community Benefit Societies Act \(Northern Ireland\) 2016 \(c. 16\)](#), s. 17(2), [Sch. 1 para. 22](#); S.R. 2017/217, art. 2(d)
- F15 Words in art. 60(1)(c)(ii) omitted (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. 14\(a\)\(iii\)\(dd\)](#) (with art. 3)
- F16 Words in art. 60(1)(c)(ii) 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. 14\(a\)\(iii\)\(bb\)](#) (with art. 3)
- F17 Art. 60(1)(d) inserted (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. 14\(a\)\(iv\)](#) (with art. 3)

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- F18** Art. 60(1A) inserted (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. 14(b)** (with art. 3)
- F19** Word in art. 60(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. 2(n)** (with art. 3)
- F20** Word in art. 60(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(n)** (with art. 3)

### **Suspension of registration**

**61.**—(1) Where under Article 60(1)(c) the [<sup>F21</sup>FCA might cancel the registration of a credit union, it may, in writing and, if the society is a PRA-<sup>F22</sup>authorised person, after consulting] the PRA]—

- (a) subject to paragraph (3), suspend the registration of that credit union for any term not exceeding three months; and
- (b) <sup>F23</sup>...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 [<sup>F24</sup>FCA may, in writing,] 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 [<sup>F25</sup>FCA] 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 [<sup>F26</sup>FCA] 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.

- F21** Words in art. 61(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. 15(a)(i)** (with art. 3)
- F22** 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)
- F23** Words in art. 61(1)(b) omitted (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. 15(a)(ii)** (with art. 3)
- F24** Words in art. 61(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. 15(b)** (with art. 3)

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- F25** Word in art. 61(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(o)** (with art. 3)
- F26** Word in art. 61(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(o)** (with art. 3)

## Appeals

<sup>F27</sup>62.—(1) A society may appeal to the High Court from the decision of the <sup>F28</sup>FCA] 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) <sup>F29</sup>the FCA] is not satisfied that a common bond exists between the members of the society;
- <sup>F30</sup>(b) the society has not made an application under Part 4A of the 2000 Act to accept deposits;  
<sup>F31</sup> ...
- (c) the FCA<sup>F32</sup>is not] 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. ]]<sup>F33</sup>or]
- <sup>F34</sup>(d) the PRA has not confirmed to the FCA that it is satisfied that, once registered under this Order, the society will satisfy, and continue to satisfy, the threshold conditions (within the meaning given in 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 <sup>F35</sup>FCA] —
- (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)) <sup>F36</sup>or (d)] 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 <sup>F37</sup>FCA] 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).

- F27** 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)**
- F28** Word in art. 62(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. 16(a)(i)** (with art. 3)
- F29** Words in art. 62(1)(a) 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. 3(f)** (with art. 3)
- F30** 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 )

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- F31** Word in art. 62(1) omitted (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. 16(a)(ii)** (with art. 3)
- F32** Words in art. 62(1)(c) 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. 16(a)(iii)** (with art. 3)
- F33** Word in art. 62(1) inserted (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. 16(a)(iv)** (with art. 3)
- F34** Art. 62(1)(d) inserted (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. 16(a)(v)** (with art. 3)
- F35** Word in art. 62(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. 2(p)** (with art. 3)
- F36** Words in art. 62(2)(b) inserted (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. 16(b)** (with art. 3)
- F37** Word in art. 62(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(p)** (with art. 3)

### ***Petition for winding-up***

63. [<sup>F38</sup>The FCA may present a petition to the court for the winding up of a credit union, having first consulted the PRA (if the society is a PRA-authorized person)], if it appears to [<sup>F39</sup>the FCA] 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 [<sup>F40</sup>(or the Co-operative and Community Benefit 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 [<sup>F39</sup>the FCA] 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.

- F38** Words in art. 63 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. 17(a)** (with art. 3)
- F39** Words in art. 63 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. 17(b)** (with art. 3)
- F40** Words in art. 63(b) substituted (6.4.2018) by [Credit Unions and Co-operative and Community Benefit Societies Act \(Northern Ireland\) 2016 \(c. 16\)](#), s. 17(2), **Sch. 1 para. 23**; S.R. 2017/217, art. 2(d)

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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\(a\)](#)