
DRAFT STATUTORY INSTRUMENTS

2010 No.

The Legislative Reform (Industrial and Provident Societies and Credit Unions) Order 2010

PART 4

Credit Unions

11. Articles 12 to 21 amend the 1979 Act.

Common bonds

12.—(1) Section 1(1) (registration under the Industrial and Provident Societies Act 1965) is amended as follows.

(2) For subsection (2)(b) substitute—

“(b) that the requirements of section 1A (common bonds appropriate to a credit union) and, where applicable, section 1B (further requirements where common bond relates to locality) are met.”

(3) After subsection (3) insert—

“(3ZA) In subsection (3) above references to members do not include corporate members.”

(4) Omit subsections (3A) to (6).

13. After section 1 insert—

“Common bonds appropriate to a credit union

1A.—(1) Under the rules of the society admission to membership must be restricted to persons who fall within one or more common bonds appropriate to a credit union (whether or not any other qualifications for admission to membership are required under the rules).

(2) The common bonds appropriate to a credit union are—

- (a) following a particular occupation;
- (b) being employed by a particular employer;
- (c) residing or being employed in a particular locality;
- (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 for the time being approved by the Authority.

(3) If the rules of a credit union so provide, a person who is a member of the same household as, and is a relative of, another person who is a member of the credit union and falls directly within a common bond is treated as also falling within that common bond.

(4) For the purposes of this section, a body corporate or a person applying for membership in his capacity as a partner in a partnership or a trustee for an unincorporated association—

- (a) falls within the common bond specified in paragraph (a) of subsection (2) if the principal business of the body corporate, partnership or unincorporated association—
 - (i) requires it to employ or otherwise engage persons who follow that occupation, or
 - (ii) relates to that occupation in some other way;
- (b) falls within the common bond specified in paragraph (b) of that subsection if the body corporate, partnership or unincorporated association—
 - (i) employs the persons who qualify for membership under that common bond, or
 - (ii) provides services, or is otherwise related, to that employer;
- (c) falls within the common bond specified in paragraph (c) of that subsection if the body corporate, partnership or unincorporated association has a place of business in, or other significant connection with, that locality; and
- (d) falls within the common bond specified in paragraph (d) of that subsection 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 paragraph.

(5) The Authority may accept as sufficient evidence that the requirement of this section is met a statutory declaration to that effect given by three members and the secretary of the society.

Further requirements where common bond relates to locality

1B.—(1) The requirements of this section must be met where—

- (a) the rules of a society provide for one or more common bonds involving a connection with a locality, or
 - (b) the rules of a society provide for one or more common bonds of such other description as may be specified.
- (2) The requirements are—
- (a) that the conditions in subsection (3) are met, or
 - (b) that extraordinary circumstances exist justifying registration of the society as a credit union.
- (3) The conditions are—
- (a) that the number of potential members of the society does not exceed two million or such higher figure as may be specified; and
 - (b) that it is reasonably practicable for every potential member to participate in votes of the society, serve on the society's committee and have access to all the services offered by the society.

(4) The Authority may accept as sufficient evidence that the conditions in subsection (3) are met a statutory declaration to that effect given by three members and the secretary of the society.

(5) In this section “specified” means specified by order made by the Treasury.”

14.—(1) In section 5 (membership and voting rights)—

(a) in subsection (5), for “ceases to fulfil the qualifications for admission to membership” substitute “ceases to fall within a common bond and as a result would not qualify for admission to membership”;

(b) in subsection (7), for “whether a common bond exists between the members of the credit union” substitute “whether the requirements of section 1B are met”.

(2) In section 20(2) (cancellation or suspension of registration and petition for winding up)—

(a) in subsection (1)(b), for “there is no longer a common bond between the members of a credit union” substitute “the rules of a credit union provide for one or more common bonds involving a connection with a locality and the requirements of section 1B are no longer met”;

(b) in subsection (2), for paragraph (c) substitute—

“(c) the rules of a credit union provide for one or more common bonds involving a connection with a locality and the requirements of section 1B are no longer met;”.

(3) In section 21(3) (amalgamations and transfers of engagements)—

(a) in subsection (3), for paragraph (b), substitute—

“(b) section 1B (further requirements where common bond relates to locality) would apply to the proposed amalgamated credit union or, as the case may be, the credit union proposing to accept the transfer of engagements and the requirements of that section would not be met.”;

(b) in subsection (4), for “does not fulfil the qualifications for admission to membership” substitute “does not fall within a common bond and as a result does not qualify for admission to membership”.

(4) In Schedule 1 (matters to be provided for in rules of credit union), for paragraph 4 substitute—

“4. The qualifications for admission to membership of the society, including one or more common bonds appropriate to a credit union.

4A. The terms of admission to membership of the society, including any special provision for the insurance of members in relation to their shares.”

Corporate members

15.—(1) In section 5, omit subsection (1).

(2) After section 5 insert—

“Corporate members

5A.—(1) A credit union may admit bodies corporate as members if its rules so provide.

(2) The number of corporate members of a credit union shall not at any time exceed ten per cent of the total number of members of the credit union or such higher percentage as may be specified.

(2) Section 20 was amended by [S.I. 2001/2617](#); there are other amending instruments but none is relevant.

(3) Section 21 was amended by [S.I. 2001/2617](#); there are other amending instruments but none is relevant.

(3) The number of shares allotted to corporate members of a credit union shall not at any time exceed twenty-five per cent of the total shares allotted to all members of the credit union or such higher percentage as may be specified.

(4) For the purpose of subsection (3) above, the total shares allotted to all members of the credit union shall be that found in the most recent year-end balance sheet submitted to the Authority.

(5) In this section—

(a) “specified” means specified by order made by the Treasury;

(b) “shares” means shares other than deferred shares.

(6) In this Act “corporate member”, in relation to a credit union, means—

(a) a body corporate which is a member of the credit union;

(b) an individual who is a member of the credit union in his capacity as a partner in a partnership; or

(c) an individual who is a member of the credit union in his capacity as a trustee for an unincorporated association.”

(3) In section 11(4) (loans)—

(a) in subsection (1), at the beginning, insert “Subject as follows,”;

(b) after subsection (1) insert—

“(1A) A credit union may only make a loan to a corporate member if—

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

(b) making the loan would not result in the aggregate of the outstanding balances on loans made by the credit union to corporate members exceeding ten per cent of the aggregate of the outstanding balances on all loans made by the credit union to members, or such higher percentage as may be specified.”

(4) In section 31(1)(5) (interpretation), after the definition of “civil partner” insert—

““corporate member”, in relation to a credit union, has the meaning assigned to it by section 5A above;”.

(5) In Schedule 1, for paragraph 13 substitute—

“**13.** Provision for—

(a) terminating the membership of corporate members in order to comply with the limit on the number of corporate members (see section 5A above); and

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

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

(ii) the shares must be repaid in order to comply with the limit on shares allotted to corporate members (see section 5A above).”

Non-qualifying members

16. In section 5—

(a) in subsection (5) omit “, subject to subsection (6) below,”;

(4) Section 11 was amended by [S.I. 2002/1501](#); there are other amending instruments but none is relevant.

(5) Section 31 was amended by the [Civil Partnership Act 2004 \(c.33\)](#); there are other amending instruments but none is relevant.

- (b) omit subsection (6).

Deferred shares

17.—(1) In section 7 (shares)—

- (a) in subsection (2), after “Shares in a credit union” insert “, other than deferred shares,”;
- (b) in subsection (4), after “shares in a credit union” insert “, other than deferred shares,”;
- (c) at the end, insert—

“(6) If deferred shares are subscribed for in full, the credit union shall transfer a sum equal to the amount paid on those shares to its reserves.”

(2) In section 11 after subsection (1A) as inserted by article 15(3)(b) insert—

“(1B) Subsection (1) does not apply in relation to a member holding only deferred shares.”

(3) In section 11A(1)(b) after “the member’s paid-up shareholding in the credit union” insert “, excluding any deferred shares,”.

(4) After section 31(6) insert—

“31A.—(1) In this Act, references to deferred shares are to a class of shares where—

- (a) the rights and obligations of the credit union and the member in respect of those shares are set out in a single document, or in a series of documents (“the issue documents”);
- (b) each of the issue documents is provided to every applicant for the shares;
- (c) one of the issue documents contains a prominent statement to the effect that the shares are deferred shares for the purposes of this Act;
- (d) each of the issue documents contains a prominent statement stating whether the shares are, or are not, an investment covered by the Financial Services Compensation Scheme (see section 213 of the Financial Services and Markets Act 2000);
- (e) any document evidencing title to the shares contains the statements required by paragraphs (c) and (d) above;
- (f) one of the issue documents contains a term which prohibits the repayment of any principal to the shareholder except in Case A or Case B.

(2) Case A is the winding up or dissolution of the credit union in circumstances where all sums due from the credit union to creditors claiming in the winding up or dissolution are paid in full.

(3) Case B is where—

- (a) the credit union applies to the Authority for consent to repay principal to the shareholder,
- (b) the credit union so applies otherwise than in consequence of a provision in any of the issue documents which requires it to apply, grants it any benefit for applying or imposes a sanction against failure to apply, and
- (c) the Authority grants consent.

(6) Section 31 was amended by 2002/1501; there are other amending instruments but none is relevant.

(4) “Creditors” in subsection (2) above includes members holding shares, other than deferred shares, in the credit union, as regards the principal of those shares and any interest or dividend due on them.

(5) On any modification of the definition of “deferred shares” in the Building Societies Act 1986 or an instrument made under that Act, the Treasury may, by order, modify the meaning of deferred shares in this section so as to assimilate it to the modified definition.”

Attachment of shares

18.—(1) In section 7(7), for subsection (5) substitute—

“(5) Where a credit union has made a loan to a member which is treated by virtue of section 11A(2) below as a secured loan, the member shall not be permitted to withdraw shares where his paid-up shareholding, excluding any deferred shares, in the credit union is, or following the withdrawal would be, less than his total liability (including contingent liability) to the credit union whether as borrower, guarantor or otherwise.”

(2) In section 11, after subsection (1B) (inserted by article 17(2)) insert—

“(1C) Where a loan by a credit union is made to a member and is not a secured loan within the meaning of section 11A below, the terms of the loan must include provision as to whether, for the duration of the loan, the borrower is permitted to withdraw shares where his paid-up shareholding (excluding any deferred shares) in the credit union is, or following the withdrawal would be, less than his total liability (including contingent liability) to the credit union whether as borrower, guarantor or otherwise.”

Interest-bearing shares

19.—(1) After section 7, insert—

“Power to issue interest-bearing shares

7A.—(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 £50,000 or five per cent of its total assets, whichever is greater;
- (c) its auditors, in their report made under section 9 of the Friendly and Industrial and Provident Societies Act 1968 relating to that balance sheet, state that in their opinion the systems of control of the credit union are adequate to manage the payment of interest on shares; and
- (d) it has submitted that balance sheet to the Authority.

(2) A credit union shall convert any interest-bearing shares in issue into shares which are not interest-bearing if—

- (a) its rules no longer provide for the issue of interest-bearing shares; or
- (b) neither its most recent year end balance sheet nor the balance sheet immediately preceding it—
 - (i) shows that the credit union holds reserves of at least £50,000 or five per cent of its total assets, whichever is greater;
 - (ii) contains a statement by its auditors in accordance with paragraph (c) of subsection (1) above; or

(7) Section 7(5) was amended by [S.I. 1996/1189](#).

(iii) has been submitted to the Authority.

(3) The Treasury may by order provide for subsections (1)(b) and (2)(b)(i) above to have effect as if the references to £50,000 and five per cent were references to such other sum or percentage as they think appropriate.

(4) In this section “year end balance sheet” has the same meaning as in section 3A of the Friendly and Industrial and Provident Societies Act 1968.

(5) In this Act “interest-bearing share” means a share issued on terms which entitle the holder to interest but not to a dividend.”

(2) In section 31(1), after the definition of “credit union” insert—

““interest-bearing share” has the meaning assigned to it by section 7A(5) above;”.

(3) In Schedule 1, after paragraph 13, insert—

“**13A.** If the issue of interest-bearing shares is permitted, provision for converting such shares into shares which are not interest-bearing to comply with subsection (2) of section 7A above.”

Fee for ancillary services

20. In section 9A(1)(8) (power to charge for ancillary services), for “a fee to cover the cost of”, substitute “such fee as it considers appropriate for”.

Dividends

21. In section 14(4)(9) (computation and application of profits), after “credit union” insert “on its dissolution”.

(8) Section 9A was inserted by [S.I. 2003/256](#).

(9) Section 14 was amended by [S.I. 2001/2617](#); there are other amending instruments but none is relevant.