

SCHEDULE 3

Article 2(b)

Amendments of the Credit Unions (Northern Ireland) Order 1985

1. The Credit Unions (Northern Ireland) Order 1985 is amended as follows.
2. In the following provisions for “registrar”, wherever it appears, substitute “FCA”—
 - (a) in Article 2(2) (interpretation), the definition of “annual return”;
 - (b) in Article 3 (registration), paragraphs (1)(a), (1B)(1), (4)(e) and (5);
 - (c) in Article 4 (supplementary provisions as to registration), paragraphs (1) and (2);
 - (d) in Article 6 (use of name “credit union”, etc.), paragraphs (1) and (6)(b);
 - (e) in Article 7 (change of name), paragraph (1)(b);
 - (f) in Article 8 (rules), paragraph (1);
 - (g) in Article 10 (amendment of registered rules), paragraphs (2), (3), (4) and (7);
 - (h) in Article 31 (charges on assets of credit unions), paragraph (2);
 - (i) in Article 49(2) (annual returns), paragraph (1);
 - (j) in Article 54 (register of members and officers), paragraph (4);
 - (k) in Article 56 (inspection of books by order of registrar), in the heading and paragraphs (1), (2) and (4);
 - (l) in Article 57 (production of documents and provision of information), paragraphs (1) and (2);
 - (m) in Article 58 (appointment of inspectors and calling of special meetings), paragraphs (1) to (5) and (7);
 - (n) in Article 60 (cancellation of registration), paragraphs (2) and (3);
 - (o) in Article 61 (suspension of registration), paragraphs (3) and (4);
 - (p) in Article 62 (appeals), paragraphs (2) and (3);
 - (q) in Article 65 (amalgamation of credit unions), paragraphs (4) and (6);
 - (r) in Article 66 (transfer of engagements between credit unions), paragraph (3);
 - (s) in Article 68 (dissolution of credit union), paragraph (3)(3);
 - (t) in Article 70 (instrument of dissolution), paragraphs (1)(d), (4), (5), (6), (7) and (8);
 - (u) in Article 71 (restriction on dissolution or cancellation of registration of credit union);
 - (v) in Article 76 (prosecution of offences);
 - (w) in Article 77 (recovery of costs, etc.);
 - (x) in Article 80 (form, deposit and evidence of documents), paragraph (1); and
 - (y) in Article 82 (Great Britain credit unions), paragraph (1)(b).
3. In the following provisions for “he” substitute “the FCA”—
 - (a) Article 3(5)(a) and (b);
 - (b) Article 56(2);
 - (c) Article 57(2);
 - (d) Article 58(4);

(1) Paragraph (1B) was inserted by [S.I. 2013/496](#).

(2) Article 49 was substituted by [S.I. 2011/2832](#) and amended by [S.I. 2013/496](#).

(3) Article 68 was substituted by [S.I. 2009/1941](#).

- (e) Article 60(1)(b); and
 - (f) Article 62(1)(a)(4).
4. In Article 2—
- (a) in paragraph (2)—
 - (i) omit the definitions of “prescribed” and “registrar”(5);
 - (ii) after the definition of “the Department” insert—
 - ““electronic form” means a document or information sent by electronic means (for example, by email or fax), or by any other means while in electronic form (for example, sending a disc in the post);
 - “electronic means” means a document or information sent initially and received at its destination by means of electronic equipment for the processing (which includes digital compression) or storage of data, and entirely transmitted, conveyed and received by wire, by radio, by optical means or by other electromagnetic means;”
 - (iii) after the definition of “the FCA” insert(6)—
 - ““the FCA’s seal” means the seal provided for in regulations made under section 109(1)(b) of the Friendly Societies Act 1974;”; and
 - (b) omit paragraph (4).
5. Omit Article 2A(7) (the registrar and assistant registrar).
6. In Article 3 omit paragraph (1A)(8).
7. In Article 4—
- (a) in paragraph (1) for “with 2 printed copies of the society’s rules to the registrar” substitute “to the FCA with 2 copies of the society’s rules or, if the application is made by electronic means, one copy of those rules”;
 - (b) in paragraph (2) for “in the prescribed form” substitute “, bearing the FCA’s seal,”; and
 - (c) for paragraph (2A)(9) substitute—
 - “(2A) The FCA must not issue an acknowledgement of registration under paragraph (2) unless—
 - (a) if the FCA is the appropriate regulator (within the meaning given in section 55A of the 2000 Act(10)), it proposes to give the society permission under Part 4A of the 2000 Act to accept deposits; or
 - (b) if the PRA is the appropriate regulator (within the meaning given in section 55A of the 2000 Act), the PRA has confirmed to the FCA that it proposes to give the society permission under Part 4A of the 2000 Act to accept deposits.”.
8. In Article 10, in paragraph (4) for “in the prescribed form” substitute “, bearing the FCA’s seal,”.
9. In Article 31—

(4) Article 62(1) was substituted by [S.I 2011/2832](#).

(5) The definition of “registrar” was amended by the Friendly Societies Act 1992, Schedule 21, paragraph 28.

(6) The definition of “the FCA” was inserted by [S.I 2013/496](#).

(7) Article 2A was inserted by the Friendly Societies Act 1992, Schedule 21, paragraph 29, and amended by [SI 2013/496](#).

(8) Paragraph (1A) was inserted by [S.I. 2013/496](#).

(9) Paragraph (2A) was substituted by [S.I. 2013/496](#).

(10) Section 55A was substituted (together with the rest of Part 4A of the Financial Services and Markets Act 2000) by the Financial Services Act 2012, section 11(2).

- (a) in paragraph (2)—
 - (i) in sub-paragraph (a)—
 - (aa) for “the prescribed manner” substitute “such manner as may be directed by the FCA”;
 - (bb) for “and so authenticated as may be prescribed” substitute “authenticated in such manner as may be directed by the FCA”;
 - (ii) for sub-paragraph (b) substitute—
 - “(b) any fee required by rules made in accordance with paragraph 23 of Schedule 1ZA to the 2000 Act.”;
 - (b) for paragraph (3) substitute—
 - “(3) If an application is made in accordance with subsection (2), the FCA must—
 - (a) give the person who makes the application an acknowledgment of the application, bearing the FCA’s seal;
 - (b) place the copy of the instrument included in the application, a note of any particulars included in it, and a copy of the acknowledgement on a file kept by the FCA in respect of the society; and
 - (c) make the file available for inspection during office hours by members of the public on payment of any fee required by rules made in accordance with paragraph 23 of Schedule 1ZA to the 2000 Act.”; and
 - (c) for paragraph (4) substitute—
 - “(4) The FCA may, under Article 80, make provision for—
 - (a) the giving to the FCA of notice of any release, discharge or other transaction relating to a charge in respect of which an application under this Article has been made;
 - (b) the inclusion in the file mentioned in this Article of any such notice appearing to the FCA to relate to the charge.”.
- 10.** In Article 53 (Duties of receiver or manager of credit union’s property)(**11**)—
- (a) in paragraph (1) omit “the registrar and”, in each place where these words appear;
 - (b) omit paragraph (2)(a); and
 - (c) in paragraph (3) omit “The registrar.”.
- 11.** In Article 54, in paragraph (4) for “his” substitute “the FCA’s”.
- 12.** In Article 57, in paragraphs (1) and (2)—
- (a) for “him” substitute “it”; and
 - (b) for “his” substitute “its”.
- 13.** In Article 58, in paragraphs (1) and (4) omit “, with the consent of the Department(**12**)”.
- 14.** In Article 60(**13**) (Cancellation of registration)—
- (a) in paragraph (1)—

(11) Article 53 was amended by [S.I 2013/496](#) and [S.I 2011/2832](#).

(12) The Department’s functions under the Credit Unions (Northern Ireland) Order 1985 are exercisable by the Department of Economic Development, which was renamed “the Department of Enterprise, Trade and Investment” by [S.I. 1999/283 \(N.I. 1\)](#) and is renamed “the Department for the Economy” by the Departments Act (Northern Ireland) 2016, section 1(3) and Schedule 1, paragraph 1(3).

(13) Article 60 was amended by [S.I 2011/2832](#) and [S.I 2013/496](#).

- (i) for the words from “registrar” to “person,” substitute “FCA may, in writing and, if the society is a PRA-authorised person, after consulting”;
 - (ii) in sub-paragraph (a) for “his” substitute “the FCA’s”;
 - (iii) in sub-paragraph (c)—
 - (aa) for “with the consent of the Department” substitute “if at any time”;
 - (bb) in paragraphs (i) and (ii) for “him” substitute “the FCA”;
 - (cc) in paragraph (i) for “on proof to his” substitute “it is proved to the FCA’s”;
 - (dd) in paragraph (ii) omit “if at any time”; and
 - (iv) after sub-paragraph (c) insert—
 - “(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(14).”; and
 - (b) after paragraph (1) insert—
 - “(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.”.
- 15.** In Article 61 (Suspension of registration)—
- (a) in paragraph (1)—
 - (i) for the words from “registrar” to “person,” substitute “FCA might cancel the registration of a credit union, it may, in writing and, if the society is a PRA-authorised person, after consulting”;
 - (ii) in sub-paragraph (b) omit “with the consent of the Department, but”;
 - (b) in paragraph (2) for “registrar may by writing under his hand” substitute “FCA may, in writing,”.
- 16.** In Article 62 (Appeals)(15)—
- (a) in paragraph (1)—
 - (i) for “registrar”, where it first appears, substitute “FCA”;
 - (ii) after sub-paragraph (b), omit “or”;
 - (iii) in sub-paragraph (c) for the words from “or the PRA” to “that it is” substitute “is not”;
 - (iv) after sub-paragraph (c), insert “or”;
 - (v) after sub-paragraph (c) insert—
 - “(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.”; and
 - (b) in paragraph (2)(b) after “Article 60(1)(c)(ii)” insert “or (d)”.

(14) Section 55Z was substituted (together with the rest of Part 4A of the Financial Services and Markets Act 2000) by the Financial Services Act 2012, section 11(2).

(15) Article 62 was amended by [S.I 2013/496](#) and [S.I 2011/2832](#).

- 17.** In Article 63 (Petition for winding up)(**16**)—
- (a) for the words from the beginning to “the PRA” substitute “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)”; and
 - (b) for “him”, in both places where it appears, substitute “the FCA”.
- 18.** In Article 65 (Amalgamation of credit unions)(**17**)—
- (a) in paragraph (4) for “him” substitute “it”; and
 - (b) for paragraphs (7) and (8) substitute—
 - “(7) If the appropriate authority is the FCA, the FCA must not register a special resolution under this Article unless the proposed amalgamation would not, in its opinion, result in a contravention of the 2000 Act, or any requirement imposed by or under that Act.
 - (8) If the appropriate authority is the PRA, the FCA must not register a special resolution under this Article unless the PRA, having first consulted the FCA, has confirmed to the FCA that the proposed amalgamation would not, in its opinion, result in a contravention of the 2000 Act, or any requirement imposed by or under that Act.”.
- 19.** In Article 66 (Transfer of engagements between credit unions) for paragraphs (4)(**18**) and (5)(**19**) substitute—
- “(4) If the appropriate authority is the FCA, the FCA must not register a special resolution under this Article unless the proposed transfer would not, in its opinion, result in a contravention of the 2000 Act, or any requirement imposed by or under that Act.
 - (5) If the appropriate authority is the PRA, the FCA must not register a special resolution under this Article unless the PRA, having first consulted the FCA, has confirmed to the FCA that the proposed transfer would not, in its opinion, result in a contravention of the 2000 Act, or any requirement imposed by or under that Act.”.
- 20.** In Article 68 (Dissolution of a credit union)(**20**), in paragraph (2) for “registrar within the meaning of this Order” substitute “FCA”.
- 21.** In Article 72 (Decision of disputes)(**21**)—
- (a) in paragraph (1) for “(2)” substitute “(3A)”;
 - (b) omit paragraph (2);
 - (c) in paragraph (3) omit “or (2)”;
 - (d) after paragraph (3) insert—
 - “(3A) Any dispute which would, under the rules of a registered society, fall to be determined by the FCA is to be referred to the county court for determination.”;
 - (e) in paragraph (7)—
 - (i) for sub-paragraph (a) substitute—
 - “(a) the county court may order the expenses of the hearing or determination to be paid out of the funds of the credit union or by such parties to the dispute as the court considers appropriate;”;
-
- (16)** Article 63 was amended by [S.I 2011/2832](#) and [S.I 2013/496](#).
(17) The words in Article 65(7) were inserted by [S.I 2011/2832](#) and substituted by [S.I 2013/496](#). Article 65(8) was inserted by [S.I 2013/496](#).
(18) Article 66(4) was inserted by [S.I 2011/2832](#) and substituted by [S.I 2013/496](#).
(19) Article 66(5) was inserted by [S.I 2013/496](#).
(20) Article 68 was substituted by [S.I 2009/1941D](#)
(21) Article 72 was amended by [S.I 2011/2832](#).

- (ii) in sub-paragraph (b) for “as might be granted by the registrar(22)” substitute “as it considers necessary for the just and expeditious disposal of the dispute”;
 - (f) in paragraph (8)—
 - (i) for “or registrar to whom” substitute “to which”;
 - (ii) for “(2)” substitute “(3A)”;
 - (g) omit paragraph (9).
22. Omit Article 78 (regulations and orders).
23. Omit Article 79 (fees).
24. In Article 80—
- (a) in paragraph (1) omit “and subject to any regulations made under this Order”;
 - (b) in paragraph (2) omit the words from the beginning to “, and”;
 - (c) after paragraph (2) insert—

“(3) A document bearing the FCA’s seal, including any document purporting to be a copy or extract of a credit union’s rules or of any other instrument or document, is to be received in evidence without further proof.”.
25. After Article 80 insert—

“Form etc of electronic documents

80A.—(1) A document or information required for the purposes of this Order, must, if sent in electronic form, be sent in a form, and by a means, that the sender reasonably considers will enable the recipient to read it and retain a copy of it.

- (2) For the purposes of this Article, a document or information can be read only if—
 - (a) it can be read with the naked eye; or
 - (b) to the extent that it consists of images (for example photographs, pictures, maps, plans or drawings), it can be seen with the naked eye.

Power of FCA or PRA to impose requirements as to form etc of electronic documents

80B.—(1) The FCA or PRA (“the authority”) may impose requirements as to the form, authentication and manner of delivery of documents sent electronically to it under this Order.

- (2) As regards authentication, the authority may—
 - (a) require the document to be authenticated by a particular person or a person of a particular description;
 - (b) specify the means of authentication;
 - (c) require the document to contain or be accompanied by the name or registered number of the society to which it relates (or both).
- (3) As regards the manner of delivery, the authority may specify requirements as to the hardware and software to be used, and technical specifications (for example, matters relating to protocol, security, anti-virus protection or encryption).

(22) These words were substituted by the Arbitration Act 1996 (c. 23), Schedule 3, paragraph 44(1) and (2)(c).

(4) The power conferred by this Article does not authorise the authority to require documents to be delivered electronically.

(5) Requirements imposed under this Article must not be inconsistent with requirements imposed by this Order or any other enactment with respect to the form, authentication and delivery of the document concerned.

(6) In this Article, a document is sent electronically if it is sent by electronic means or in electronic form.

Fees for inspection and copying of documents

80C. The FCA or PRA may charge a person a reasonable fee before—

- (a) allowing the person to inspect a document held by it in connection with this Order; or
- (b) providing the person with a copy of such a document (or a copy of part of such a document).”.

26. Omit Article 81 (annual reports by registrar).