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STATUTORY INSTRUMENTS

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**1996 No. 1189**

**DEREGULATION**

**The Deregulation (Credit Unions) Order 1996**

*Made* - - - - *29th April 1996*

*Coming into force* - - *1st September 1996*

Whereas:

- (a) the Treasury are of the opinion that certain provisions of the Credit Unions Act 1979(1) impose burdens affecting persons in the carrying on of a trade, business, profession or otherwise and that by amending or repealing the provisions concerned and by making certain other provisions it is possible to remove or reduce the burdens without removing any necessary protection;
- (b) the Treasury have consulted such organisations as appear to them to be representative of interests substantially affected by their proposals and such other persons as they consider appropriate;
- (c) it appears to the Treasury that it is appropriate following that consultation to proceed with the making of this Order;
- (d) a document setting out the Treasury's proposals has been laid before Parliament in accordance with section 3 of the Deregulation and Contracting Out Act 1994(2) and the period for Parliamentary consideration under section 4 of that Act has expired;
- (e) the Treasury have had regard to the representations made during that period;
- (f) a draft of this Order has been laid before Parliament with a statement giving details of such representations and the changes to the Treasury's proposals in the light of those representations; and
- (g) a draft of this Order has been approved by resolution of each House of Parliament.

Now, therefore, the Treasury in exercise of the powers conferred on them by section 1 of the Deregulation and Contracting Out Act 1994, hereby make the following Order:—

**Title and Commencement**

1. This Order may be cited as the Deregulation (Credit Unions) Order 1996 and shall come into force on 1st September 1996.

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(1) 1979 c. 34.  
(2) 1994 c. 40.

## **Interpretation**

2. In this Order “the 1979 Act” means the Credit Unions Act 1979 and “the 1965 Act” means the Industrial and Provident Societies Act 1965(3).

## **Registration as a Credit Union**

3.—(1) Section 1 of the 1979 Act (which enables a society to be registered under the 1965 Act as a credit union) shall be amended as follows.

(2) In subsection (4) (which lists the appropriate qualifications for admission to membership) after paragraph (e) there shall be inserted—

“(f) residing in or being employed in a particular locality;”.

(3) In subsection (5) (ascertainment by registrar of whether a common bond exists between the members of the society) for paragraph (a) there shall be substituted—

“(a) may, if he considers it proper in the circumstances of the case, treat as sufficient evidence of the existence of a common bond a statutory declaration which is given by three members and the secretary of the society, and is to the effect that a common bond exists,”.

## **Shareholding Limit**

4.—(1) Section 5 of the 1979 Act (membership and voting rights) shall be amended as follows.

(2) In subsection (3) (which states the limit on a member’s interest in the shares of a credit union) for “£5,000” there shall be substituted “the greater of £5,000 and 1.5 per cent. of the total shareholdings in the credit union.”

(3) After subsection (4) there shall be inserted—

“(4A) Where subsection (3) above would be breached in relation to a member of a credit union because of a reduction in the total shareholdings in the credit union, that subsection shall, in relation to him, have effect, as respects any shares which he had, or interest which he claimed, immediately before the reduction, as if there were added at the end “at the time, or latest time, when he acquired shares, or an interest in the shares, of the credit union”.”

(4) After subsection (9) there shall be inserted—

“(10) For the purposes of subsection (3) above, the total shareholdings in a credit union at any time shall be taken to be the total shareholdings as shown in the most recent audited balance sheet to have been sent to the appropriate registrar under section 39 of the 1965 Act (annual returns).”

## **Loans to be treated as secured**

5.—(1) After section 11 of the 1979 Act (loans) there shall be inserted—

### **“Loans to be treated as secured**

11A.—(1) This section 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 Act as a secured loan.”

(2) In section 7(5) of the 1979 Act (which restricts a member’s right to withdraw shares in a credit union where the withdrawal would take his shareholding below his liability to the credit union) for paragraph (a) there shall be substituted—

“(a) in the case of a member to whom there is a loan by the credit union which is treated by virtue of section 11A below as a secured loan, the withdrawal shall not be permitted;”.

### **Relaxation of limits on loans**

6. In the 1979 Act—

(a) section 11(3) (which prohibits a loan to a non-qualifying member if his total liability to the credit union would exceed his total paid-up shareholding in it) and

(b) in section 5(8), the words “, subject to section 11(3) below”,

are hereby repealed.

### **Loans by approved credit unions**

7. After section 11A of the 1979 Act there shall be inserted—

#### **“Loans by approved credit unions**

**11B.**—(1) Where a credit union holds a certificate of approval under section 11C below, section 11 above shall have effect in relation to it with the following modifications.

(2) For subsection (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 may from time to time be specified), 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) £5,000 (or such other sum as may from time to time be specified),

whichever is the less.”.

(3) After that subsection there shall be inserted—

“(2A) Where subsection (2) above 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 subsection 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) In subsection (4), at the beginning there shall be inserted “Subject to subsection (4A) below,” and after that subsection there shall be inserted—

“(4A) Where a loan by a credit union is made at a time when it has a general reserve which is not less than 10 per cent. of its total assets, the maximum period within which the

loan must be repaid shall be ten years in the case of a secured loan and four years in the case of an unsecured loan, or such other period as may from time to time be specified.”

(5) After subsection (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 subsection (6A) above, 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 section, 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 appropriate registrar under section 39 of the 1965 Act.”.

#### **Grant of certificates of approval**

**11C.—**(1) The appropriate registrar may, on the application of a credit union, issue a certificate of approval to it if it appears to him that, in relation to the kind of lending permitted under section 11B above, the arrangements for the management of the credit union and its activities are satisfactory.

(2) Applications under subsection (1) above shall be in writing.

(3) The appropriate registrar may only refuse an application under subsection (1) above if he has complied with subsections (4) and (5) below.

(4) Not less than fourteen days before refusing an application under subsection (1) above, the appropriate 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 appropriate registrar shall—

- (a) consider any representations with respect to a notice under subsection (4) above which may be made to him by the credit union concerned within such period as he may allow, not being less than fourteen 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**

**11D.—**(1) The appropriate registrar may at any time withdraw a certificate of approval if—

- (a) it appears to him that, in relation to the kind of lending permitted under section 11B above, the arrangements for the management of the credit union concerned or its activities are not satisfactory, or
- (b) the credit union concerned so requests.

(2) Subsections (3) to (5) of section 11C above shall apply in relation to the exercise of the power conferred by subsection (1)(a) above as they apply in relation to the refusal of an application under subsection (1) of that section.

(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 section 11(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.

(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 section, “certificate of approval” means a certificate of approval under section 11C above.”

29th April 1996

*Derek Conway*  
*Simon Burns*  
Two of the Lords Commissioners of Her  
Majesty’s Treasury

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order amends the Credit Unions Act 1979 (“the Act”).

Article 3 of this Order amends section 1 of the Act to introduce a new membership qualification for credit unions: that of either living or working in a particular locality. It also allows the appropriate registrar to register a credit union on the basis of a statutory declaration by three members and the secretary that a common bond exists among the members.

Article 4 amends section 5 of the Act to allow a member to hold shares of up to 1.5% of a credit union’s total shareholdings, if that produces a higher figure than the £5,000 already permitted.

Article 5 amends section 11 of the Act to allow a loan which is equal to or less than a member’s shareholding to be regarded as a secured loan (which can be repaid over a longer period than an unsecured one). It also amends section 7(5) of the Act to prevent a member from withdrawing the shares used to support such a loan.

Article 6 amends sections 11(3) and 5(8) of the Act to raise the borrowing limit for non-qualifying members to the same level as applies to other members.

Article 7 amends section 11 of the Act to relax the limit on a member’s borrowings for those credit unions which can demonstrate to the Registrar that they have satisfactory arrangements to deal with the increased risk. The maximum that may be lent by such an approved credit union, in excess of shareholding, becomes: (a) the greater of £10,000 and 1.5% of total shareholding or (b) 20% of the credit union’s general reserve, whichever is the lesser amount. Approved credit unions may continue to make advances at the current statutory level of £5,000 in excess of shareholding. As a further safeguard the sum of those individual loans being greater than 10% of the general reserve may not exceed five times the value of the general reserve. The article also increases, for approved credit unions, the maximum periods within which a loan must be repaid, to ten years for a secured loan and four years for an unsecured loan, provided that the credit union’s general reserve at the time amounts to at least 10% of its assets. Procedures for the grant and withdrawal of certificates of approval for credit unions are introduced.