
STATUTORY INSTRUMENTS

2002 No. 1501

The Financial Services and Markets Act 2000
(Consequential Amendments and Transitional
Provisions) (Credit Unions) Order 2002

PART 2

AMENDMENTS TO THE 1979 ACT ETC.

Amendments to the 1979 Act

2.—(1) Subject to any transitional provision made by Part 3 of this Order, the 1979 Act is amended as follows.

(2) In section 1 (registration under the 1965 Act)—

(a) in subsection (1)—

(i) for “sections 6(4) and 15(1)”, substitute “section 6(4)”;

(ii) omit the word “and” at the end of paragraph (b);

(iii) after paragraph (c), insert—

“(d) the society has made an application to the Authority” for Part IV permission under section 40 of the Financial Services and Markets Act 2000 (in this Act referred to as “the 2000 Act”) to accept deposits; and

(e) the Authority” is satisfied that, once registered under the 1965 Act, the society will satisfy, and continue to satisfy, the threshold conditions set out in Schedule 6 to the 2000 Act in relation to the regulated activity of accepting deposits;”;

(b) after subsection (1), insert—

“(1A) The Authority shall not issue an acknowledgement of registration under section 2(3) of the 1965 Act to a credit union unless it also proposes to give that society permission under Part IV of the 2000 Act to accept deposits.

(1B) If the Authority” issues an acknowledgment of registration to a credit union under that section, it shall determine any outstanding application of that credit union for permission under Part IV of the 2000 Act to accept deposits as soon as reasonably possible thereafter.”.

(3) In section 2(1) (supplementary and transitional provisions as to registration), after “matters to be provided for in their rules”, insert “and section 7(3) of that Act (acceptance of certain deposits not to be treated as carrying on the business of banking)”.

(4) In section 5 (maximum interest of members)(1), omit subsections (3), (4), (4A) and (10).

(1) Subsections (3) and (8) amended, and subsections (4A) and (10) inserted, by S.I.1996/1189; subsections (4) and (10) amended by S.I. 2001/2617.

- (5) In section 8 (general prohibition on deposit-taking)(2), omit subsections (2), (4) and (5).
- (6) In section 9 (deposits by persons too young to be members)(3)—
- (a) in subsection (1), omit the words “up to a total of £5000” and the words from “; and nothing in section 7(3)” to the end of that subsection; and
 - (b) omit subsections (2) to (5).
- (7) In section 10 (power to borrow money)(4)—
- (a) in subsection (1), omit the words from “from an authorised bank” to the end of that subsection; and
 - (b) omit subsections (2) to (6).
- (8) In section 11 (loans)(5)—
- (a) for subsection (1), substitute—
 - “(1) A credit union may make to a member a loan, upon such security (or without security) and terms as the rules of the credit union may provide.”; and
 - (b) omit subsection (4).
- (9) Omit section 13 (investments)(6).
- (10) In section 14 (computation and application of profits)(7), omit subsections (1) and (7).
- (11) Omit section 15 (insurance against fraud or other dishonesty)(8).
- (12) In section 17(1), omit subsections (2) and (3) (power to require financial statement).
- (13) In section 18(1) (power to appoint inspector and call meeting)(9), after “is of the opinion that”, insert “, for reasons connected with the exercise of its functions under this Act or the 1965 Act.”.
- (14) Omit section 19 (power to suspend operations of credit union)(10).
- (15) After subsection (1) of section 20 (cancellation or suspension of registration), insert—
- (1A) The Authority may also exercise the power to cancel the registration of a credit union in accordance with section 16 of the 1965 Act where the credit union’s Part IV permission has been cancelled or where the Authority” has given the credit union a warning notice under section 54(1) of the 2000 Act.
 - (1B) Cancellation of registration under section 16 of the 1965 Act by virtue of subsection (1A) may not take effect until the Authority” has cancelled the credit union’s Part IV permission and there is no possibility (or no further possibility) of that determination of the Authority” being reversed or varied.
 - (1C) In its application to credit unions, in subsection (4) of section 16 of the 1965 Act, the reference to the ground referred to in subsection (1)(c)(ii) shall include a reference to the ground mentioned in subsection (1A) of this section.
 - (1D) Section 18 of the 1965 Act does not apply in relation to a decision of the Authority” to cancel the registration of a credit union by virtue of subsection (1A) of this section (and

(2) Amended by the Banking Act 1987 (c. 22) Schedule 6 and S.I. 2001/3649.

(3) Amended by S.I. 2001/811 and S.I. 2001/2617.

(4) Amended by S.I. 2001/2617.

(5) Subsections (2) and (6) are repealed by the Financial Services and Markets Act 2000, Schedule 22; this repeal commences on 2nd July 2002. Amended by S.I. 1989/2423; S.I. 1996/1189 and S.I. 2001/2167.

(6) Amended by S.I. 2001/2617.

(7) Subsections (2), (3), (5) and (6) are repealed by the Financial Services and Markets Act 2000, Schedule 22; this repeal commences on 2nd July 2002. Amended by S.I. 2001/2167.

(8) Amended by the Insurance Companies Act 1982 (c. 50), Schedule 5, S.I. 2001/2617 and S.I. 2001/3649.

(9) Amended by S.I. 2001/2617.

(10) Amended by S.I. 2001/2617.

so a society may not appeal from a decision of the Authority” to cancel its registration by virtue of subsection (1A)).”.

(16) In section 21(3)(a) (amalgamations and transfers of engagements)(**11**), after “Industrial and Provident Societies Acts 1965 to 1978”, insert “or any requirement imposed by or under the 2000 Act”.

(17) In section 23(3) (conversion of company into credit union)(**12**)—

- (a) at the end of paragraph (a), insert “and”;
- (b) in paragraph (b), for the words “section 5(3) above”, substitute “any applicable rules made by the Authority” under the 2000 Act”;
- (c) omit the word “and” at the end of paragraph (b); and
- (d) omit paragraph (c).

(18) In subsection (2) of section 24 (dis-application of requirements as to interim balance sheets)(**13**), omit the words from “and section 39(1) of the 1965 Act” to the end of that subsection.

(19) Omit section 27 (prohibition on undischarged bankrupts and other persons).

(20) In section 31 (definitions)(**14**)—

- (a) in subsection (1)—
 - (i) omit the definition of “authorised bank”(**15**); and
 - (ii) after the definition of “non-qualifying member”, insert—

““Part IV permission” means a permission given by the Authority” under Part IV of the 2000 Act or having effect as if so given;”;

(b) for subsection (1A)(**16**), substitute—

“(1A) In this Act, references to a deposit or accepting deposits must be read with—

- (a) section 22 of the 2000 Act;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.”; and

(c) after subsection (3), insert—

“(4) Sections 7(1)(b) (registered society not to carry on the business of banking), section 39 (annual accounts)(**17**) and section 40 (display of latest balance sheet)(**18**) of the 1965 Act (which are replaced by, or are inconsistent with, provisions of the 2000 Act) do not apply to credit unions.”.

(21) In Schedule 1 (matters to be provided for in rules of credit union)—

- (a) in paragraph 7, for “subject to section 5(3) of this Act”, substitute “subject to any applicable rules made by the Authority” under the 2000 Act”;
- (b) in paragraph 11, after “the Friendly and Industrial Provident Societies Act 1965”, insert “and any applicable rules made by the Authority” under section 340 of the 2000 Act”;
- (c) in paragraph 13, omit sub-paragraph (a).

(11) Amended by S.I. 2001/2617.

(12) Amended by S.I. 2001/2617.

(13) Amended by S.I. 1996/1738.

(14) Amended by the Banking Act 1987 (c. 22), Schedule 6; S.I. 2001/1149, S.I. 2001/2617 and S.I. 2001/3649; repealed in part by the Trustee Savings Bank Act 1985 (c. 58), Schedule 4 and the Statute Law (Repeals) Act 1993 (c. 50).

(15) Amended by the Banking Act 1987 (c. 22), Schedule 6 and by S.I. 2001/3649; modified by S.I. 1992/3218.

(16) Inserted by S.I. 2001/3649.

(17) Amended by the Friendly and Industrial and Provident Societies Act 1968 (c. 55), Schedule 1; S.I. 1996/1738; S.I. 2001/2617.

(18) Repealed in part by S.I.1996/1738.

(22) Omit Schedule 2(19).

Revocations

3. The following regulations and instruments, which were made under the 1979 Act, are revoked—

- (a) the Credit Unions (Insurance against Fraud) etc. Regulations 1980(20);
- (b) the Credit Unions (Increase in Limits of Shareholding, of Deposits by persons too young to be members and of Loans) Order 1989(21);
- (c) the Credit Unions (Authorised Investments) Order 1993(22); and
- (d) the Credit Unions (Increase in Limits on Deposits by persons too young to be members and of Periods for the Repayment of Loans) Order 2001(23).

(19) Amended by S.I. 2001/2617.

(20) These Regulations, made under section 15 of the 1979 Act, were not made by statutory instrument and were not subject to any Parliamentary procedure. They have not been amended.

(21) S.I. 1989/2423; made under sections 5(4), 9(4), (5) and 11(7) of the 1979 Act.

(22) S.I. 1993/3100; amended by S.I. 1997/2646 and S.I. 2001/3649. Made under section 13(1) of the 1979 Act.

(23) S.I. 2001/811; made under sections 9(4) and 11(4), (4A) and (7) of the 1979 Act.