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Credit Unions Act 1979

CHAPTER 34

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ELIZABETH II



Credit Unions Act 1979

1979 CHAPTER 34

An Act to enable certain societies in Great Britain to be registered under the Industrial and Provident Societies Act 1965 as credit unions; to make further provision with respect to societies so registered; to make provision with respect to the taxation of societies so registered and of Northern Ireland credit unions; to enable reciprocal arrangements to be made in relation to Northern Ireland credit unions; to facilitate the amendment of the Industrial and Provident Societies Act (Northern Ireland) 1969; and for connected purposes.
[4th April 1979]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Registration as a credit union

1.—(1) Subject to sections 6(4) and 15(1) below and to sections 2(1) and 7(1) of the Industrial and Provident Societies Act 1965 (in this Act referred to as “the 1965 Act”), a society may be registered under that Act if—

- Registration under the Industrial and Provident Societies Act 1965.
1965 c. 12.
- (a) it is shown to the satisfaction of the appropriate registrar that the conditions specified in subsection (2) below are fulfilled;
- (b) the rules of the society comply with section 4(1) below; and

(c) the place which under those rules is to be the society's registered office is situated in Great Britain ;
and a society which is so registered by virtue of this section shall be registered as, and is in this Act referred to as, a "credit union".

(2) The conditions referred to in subsection (1)(a) above are—

(a) that the objects of the society are those, and only those, of a credit union ; and

(b) that admission to membership of the society is restricted to persons all of whom fulfil a specific qualification which is stated in the rules and is appropriate to a credit union (whether or not any other qualifications are also required by the rules) and that in consequence a common bond exists between members of the society.

(3) The objects of a credit union are—

(a) the promotion of thrift among the members of the society by the accumulation of their savings ;

(b) the creation of sources of credit for the benefit of the members of the society at a fair and reasonable rate of interest ;

(c) the use and control of the members' savings for their mutual benefit ; and

(d) the training and education of the members in the wise use of money and in the management of their financial affairs.

(4) The qualifications for admission to membership which are appropriate to a credit union are—

(a) following a particular occupation ;

(b) residing in a particular locality ;

(c) being employed in a particular locality ;

(d) being employed by a particular employer ;

(e) 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 ;

and such other qualifications as are for the time being approved by the appropriate registrar.

(5) In ascertaining whether a common bond exists between the members of a society, the appropriate registrar—

(a) shall have regard to the nature of the qualification for admission to membership of the society, and

(b) may, if he considers it proper in the circumstances of the case, treat the fact that admission to membership is

restricted as mentioned in subsection (2)(b) above as sufficient evidence of the existence of a common bond.

(6) For the purposes of this Act, if the rules of a credit union so provide, a person shall be treated as fulfilling a qualification for admission to membership stated in those rules if he is a member of the same household as, and is a relative of, another person who is a member of the credit union and fulfils that qualification directly.

2.—(1) Section 1 of, and Schedule 1 to, the 1965 Act (societies which may be registered and matters to be provided for in their rules) shall not apply in relation to registration as a credit union. Supplementary and transitional provisions as to registration.

(2) In section 2(3) of the 1965 Act (acknowledgement of registration) as it applies to registration as a credit union the reference to compliance with the provisions of the 1965 Act shall be construed, subject to subsection (1) above, as a reference to compliance with the provisions as to registration of both that Act and this Act.

(3) A society whose objects are wholly or substantially those of a credit union within the meaning of section 1(3) above shall not be registered under the 1965 Act otherwise than as a credit union and, except in the case of a registration made before the commencement of this Act, any such registration shall be void.

(4) A society which at the commencement of this Act is registered under the 1965 Act but whose objects are wholly or substantially those of a credit union within the meaning of section 1(3) above shall take all reasonable steps to have its existing registration cancelled and become registered as a credit union.

(5) Where in accordance with subsection (4) above a society's existing registration is cancelled on its registration as a credit union, the society shall, notwithstanding anything in section 16(7) or section 3 of the 1965 Act, be taken for all purposes to be the same body corporate before and after the change of registration.

(6) If a society to which subsection (4) above applies does not become registered as a credit union within such reasonable period after the commencement of this Act as the appropriate registrar may allow, the registrar may proceed to cancel or suspend its existing registration under section 16 or section 17 of the 1965 Act in the same way as in the case of a society which no longer fulfils one of the conditions specified in section 1(2) of that Act; and an appeal shall lie under section 18 of that Act where it would lie in such a case.

Use of name
"credit
union", etc.

3.—(1) The name of every society registered as a credit union shall contain the words "credit union".

(2) Subject to subsection (3) below, a person shall not, unless registered as a credit union,—

(a) use in reference to himself a name, title or descriptive expression containing the words "credit union" or any cognate term or any derivative of those words; or

(b) represent himself as being a credit union ;

and any person who contravenes this subsection shall be guilty of an offence and liable on summary conviction to a fine not exceeding £500.

(3) Subsection (2) above does not apply to—

(a) the use by an officer or employee of a credit union of a title or descriptive expression indicating his office or post with the credit union ; or

(b) the use with reference to an association or group of credit unions of a name which has been approved in writing by the chief registrar.

(4) For the purposes of section 5(5) of the 1965 Act (societies which may be permitted to have a name which does not contain the word "limited") the objects of a credit union shall not be regarded as wholly charitable or benevolent.

Rules and membership

Rules.

4.—(1) The rules of a credit union shall be in such form as the appropriate registrar may determine and shall contain—

(a) provision with respect to the matters mentioned in Schedule 1 to this Act ; and

(b) such additional provision as the appropriate registrar may determine.

(2) The rules of a credit union may not be amended except by a resolution passed by not less than two-thirds of the members present at a general meeting called for the purpose after the giving of such notice as is by the rules required for such a resolution.

(3) In section 10(3) of the 1965 Act (acknowledgement of registration of amendment of rules where not contrary to the Act) as it applies to credit unions the reference to the 1965 Act shall be construed as including a reference to this Act.

(4) The Treasury may by regulations under section 71 of the 1965 Act vary the fee which under section 15 of that Act may be charged by a credit union for supplying a person with a copy of its registered rules.

(5) Section 11 of the 1965 Act (power to make rules as to fund for purchase of government securities) shall not apply to credit unions.

5.—(1) Only individuals shall be members of a credit union. Membership and voting rights.

(2) A person shall not be a member of a credit union unless he holds at least one fully paid-up share in that credit union, but the rules of the credit union shall not require a person to hold more than £5 in fully paid-up shares as a condition of membership.

(3) A member of a credit union shall not have or claim any interest in the shares of the credit union exceeding £2,000.

(4) The chief registrar may, by order made with the consent of the Treasury, from time to time amend subsection (3) above so as to substitute for the sum for the time being specified in that subsection such other sum, not being less than £2,000, as may be specified in the order.

(5) A member of a credit union who ceases to fulfil the qualifications for admission to membership shall be entitled, subject to subsection (6) below, to retain his membership unless the rules of the credit union provide otherwise; and, subject to section 21(4) below, in this Act the expression “non-qualifying member”, in relation to a credit union, means a person who remains a member of the credit union by virtue of this subsection.

(6) The number of non-qualifying members of a credit union shall not at any time exceed ten per cent. of the total membership of the credit union.

(7) Non-qualifying members of a credit union shall be left out of account in determining for any purpose whether a common bond exists between the members of the credit union.

(8) A non-qualifying member of a credit union shall be entitled, except so far as the rules of the credit union may provide otherwise, to purchase shares and, subject to section 11(3) below, to receive loans.

(9) Subject to any provision in the rules of a credit union as to voting by a chairman who has a casting vote, on every matter which is determined by a vote of members of a credit union every member shall be entitled to vote and shall have one vote only.

6.—(1) The minimum number of members of a credit union shall be twenty-one and, accordingly, in the following provisions, Minimum and maximum number of members. namely—

(a) section 2(1) of the 1965 Act, as it applies to registration as a credit union and to an application therefor,

1948 c. 38.

- (b) section 16(1)(a)(i) of that Act, as it applies to the cancellation of such a registration,
- (c) section 53(2) of that Act, as it applies to the conversion of a company into a credit union, and
- (d) section 222(d) of the Companies Act 1948 as it applies by virtue of section 55(a) of the 1965 Act to the presentation of a petition for winding up a credit union,

for the word “seven” there shall be substituted the words “twenty-one”.

(2) Subject to the following provisions of this section, the maximum number of members of a credit union shall be five thousand.

(3) The Treasury may, after consultation with the chief registrar, by order made by statutory instrument, from time to time amend subsection (2) above so as to substitute for the maximum number of members for the time being provided for in that subsection such other maximum number as may be specified in the order, but no such order shall be made unless a draft of it has been laid before and approved by a resolution of each House of Parliament.

(4) Subject to subsection (5) below a society shall not be registered as a credit union if the number of its members exceeds the maximum for the time being provided for in subsection (2) above.

(5) The appropriate registrar may grant exemption from the maximum number for the time being provided for in subsection (2) above—

- (a) to a credit union,
- (b) to a society or company seeking registration as a credit union, and
- (c) in respect of a credit union proposed to be created by amalgamation,

if he is satisfied that exemption would be in the public interest and in the interests of the members and would not jeopardise the existence of a common bond between them.

(6) An exemption under subsection (5) above may be granted on such conditions as the appropriate registrar thinks fit, and those conditions shall include, in particular, a condition that the number of members shall not exceed such other maximum as may be specified by him.

Operation of credit union

7.—(1) All shares in a credit union shall be of £1 denomination and may, subject to the rules of the credit union, be subscribed for either in full or by periodical or other subscriptions but no share shall be allotted to a member until it has been fully paid in cash. Shares.

(2) Shares in a credit union shall not be transferable and a credit union shall not issue to a member a certificate denoting ownership of a share.

(3) Nothing in subsection (2) above shall affect the operation of section 24(1) of the 1965 Act (transfer in pursuance of nomination on death of nominator).

(4) Subject to subsection (5) below, shares in a credit union shall be withdrawable but a credit union shall not issue shares except on terms enabling it to require not less than sixty days' notice of withdrawal.

(5) If a withdrawal of shares would reduce a member's paid-up shareholding in the credit union to less than his total liability (including contingent liability) to the credit union whether as borrower, guarantor or otherwise, then—

- (a) in the case of a non-qualifying member the withdrawal shall not be permitted; and
- (b) in any other case the withdrawal shall be permitted only at the discretion of the committee.

8.—(1) Subject to sections 9 and 10 below, a credit union shall not accept a deposit from any person except by way of subscription for its shares. General prohibition on deposit-taking.

(2) In this section and section 9 below a "deposit" means a sum of money paid on terms—

- (a) under which it will be repaid, with or without interest or at a premium, and either on demand or at a time or in circumstances agreed by or on behalf of the person making the payment and the credit union; and
- (b) which are not referable to the provision of property or services or to the giving of security.

(3) For the purposes of subsection (2)(b) above, money is paid on terms which are referable to the provision of property or services or to the giving of security if, and only if,—

- (a) it is paid by way of advance or part-payment for the sale, hire or other provision of property or services of any kind and is repayable only in the event that the property or services is or are not in fact sold, hired or otherwise provided; or

- (b) it is paid by way of security for payment for the provision of property or services of any kind provided or to be provided by the credit union ; or
- (c) it is paid by way of security for the delivery up or return of any property, whether in a particular state of repair or otherwise.

(4) If a credit union accepts a deposit in contravention of this section it shall be guilty of an offence and liable on conviction on indictment or on summary conviction to a fine which on summary conviction shall not exceed the statutory maximum.

(5) The fact that a deposit is taken in contravention of this section shall not affect any civil liability arising in respect of the deposit or the money deposited.

Deposits by persons too young to be members.

9.—(1) A credit union may take deposits up to a total of £250 from a person who is under the age at which, by virtue of section 20 of the 1965 Act, he may become a member of the credit union ; and nothing in section 7(3) of the 1965 Act shall apply to any such deposits.

1961 c. 62.

(2) Any deposit received by a credit union as mentioned in subsection (1) above shall be held by it on trust for the depositor and all such deposits shall be kept in a fund apart from the general funds of the credit union and shall be invested only in the manner specified in Part I or Part II of Schedule 1 to the Trustee Investments Act 1961 (narrower-range investments).

(3) The moneys which from year to year are earned by the investment of deposits in accordance with subsection (2) above shall, after deduction of the expenses incurred in operating the separate fund referred to in that subsection, be distributed as interest to the depositors.

(4) The chief registrar may, by order made with the consent of the Treasury, from time to time amend subsection (1) above so as to substitute for the maximum amount for the time being provided for in that subsection such other amount, being not less than £250, as may be specified in the order.

1978 c. 34.

(5) An order under subsection (4) above may contain such transitional, consequential, incidental or supplementary provisions as appear to the chief registrar to be necessary or appropriate, and in particular may make any such provision in connection with the alteration of the limit in subsection (1) above as is made by section 1 of the Industrial and Provident Societies Act 1978 in connection with the alterations made by that section in the limits in section 7(3) of the 1965 Act.

10.—(1) A credit union may borrow money from an authorised bank or temporarily from another credit union or an association of credit unions but the amount so borrowed and not repaid shall not at any time exceed in the aggregate one half of the total paid-up share capital. Power to borrow money.

(2) A temporary loan obtained by a credit union from an authorised bank shall be disregarded for the purposes of the limit on borrowing imposed by subsection (1) above if the credit union has obtained the consent in writing of the chief registrar.

(3) A person dealing with a credit union shall not be obliged to satisfy himself or to inquire whether the limit on borrowing by that credit union imposed by subsection (1) above has been or is being observed, but if a person who lends money to a credit union or takes security in connection with such a loan has, at the time when the loan is made or the security is given, actual notice of the fact that the limit has been or is thereby exceeded, the debt or security shall be unenforceable.

(4) Subject to subsection (3) above, no transaction with a credit union shall be invalid or ineffectual solely by reason of the fact that the limit on borrowing by that credit union imposed by subsection (1) above has been or is thereby exceeded.

(5) Where money borrowed by a credit union is not repaid on written demand on the date on which repayment is due, the credit union shall not make any loans or permit the withdrawal of any shares until the repayment is made.

(6) If a credit union borrows in excess of the limit imposed by subsection (1) above or makes loans or permits withdrawals in contravention of subsection (5) above, it shall be guilty of an offence and liable on conviction on indictment or on summary conviction to a fine which on summary conviction shall not exceed the statutory maximum.

11.—(1) Subject to the provisions of this section, a credit union may make to a member who is of full age a loan for a provident or productive purpose, upon such security (or without security) and terms as the rules of the credit union may provide. Loans.

(2) The total amount on loan to a member of a credit union shall not at any time be more than £2,000 (or such other sum as may from time to time be specified) in excess of his total paid-up shareholding in the credit union at that time.

(3) Without prejudice to subsection (2) above, a credit union shall not at any time make a loan to a non-qualifying member

if the making of the loan would cause that member's total liability (including contingent liability) to the credit union, whether as borrower, guarantor or otherwise, to exceed his total paid-up shareholding in the credit union at that time.

(4) The maximum period within which a loan by a credit union must be repaid shall be five years in the case of a secured loan and two years in the case of an unsecured loan, or such other period as may from time to time be specified.

(5) A credit union may charge interest on loans made by it but such interest shall be at a rate not exceeding one per cent. per month, or such other rate as may from time to time be specified, on the amount of the loan outstanding and such interest shall be inclusive of all administrative and other expenses incurred in connection with the making of the loan.

(6) A credit union shall not at any time make a loan to a member if the making of such a loan would bring the total amount outstanding on loans to members above such limit as may from time to time be specified.

(7) In this section "specified" means specified by order made by the chief registrar with the consent of the Treasury.

Power to hold land for limited purposes.

12.—(1) A credit union may hold, purchase or take on lease in its own name any land for the purpose of conducting its business thereon but, subject to subsection (3) below, for no other purpose, and may sell, exchange, mortgage or lease any such land, and erect, alter or pull down buildings on it.

(2) In the application of subsection (1) above to Scotland—

(a) for the word "exchange" there shall be substituted the word "excamb", and

(b) for the word "mortgage" there shall be substituted the words "grant a heritable security over".

(3) A credit union shall have power to hold any interest in land so far as is necessary for the purpose of making loans to its members on the security of an interest in land and of enforcing any such security.

(4) In any case where—

(a) in England or Wales, a credit union becomes absolutely entitled to any interest in land by foreclosure or by release or other extinguishment of a right of redemption, or

(b) in Scotland, a credit union acquires an interest in land by the exercise of any right which it holds as creditor in a heritable security,

the credit union shall sell that interest as soon as may be conveniently practicable.

(5) If a credit union continues to hold any interest in land in contravention of subsection (4) above it shall be guilty of an offence and liable on conviction on indictment or on summary conviction to a fine which on summary conviction shall not exceed the statutory maximum.

(6) No person shall be bound to inquire as to the authority for any dealing with land by a credit union; and the receipt of a credit union shall be a discharge for all moneys arising from or in connection with any dealing with land by it.

13.—(1) A credit union may not invest any part of its surplus **Investments.** funds except in a manner authorised by an order made by the chief registrar with the consent of the Treasury; and such an order may contain provisions authorising the application of the funds of a credit union in any form of investment subject to any limitations as to amount, whether by reference to a fixed sum or by reference to a proportion of the total investments of the credit union or otherwise.

(2) Any surplus funds of a credit union which are not either—

- (a) invested in accordance with subsection (1) above, or
- (b) kept in cash in the custody of officers of the credit union,

shall be kept by the credit union on current account with, or otherwise on loan to, an authorised bank.

(3) Where an institution ceases to be an authorised bank and any funds of a credit union are on loan to that institution, the credit union shall take all practicable steps to call in and realise the loan within the period of three months from the time when the institution ceased to be an authorised bank or, if that is not possible, as soon after the end of that period as possible.

(4) In this section “surplus funds”, in relation to a credit union, means funds not immediately required for its purposes.

(5) Nothing in this section shall—

- (a) prevent a credit union from making a temporary loan to another credit union; or
- (b) apply to funds held on trust as mentioned in section 9(2) above.

(6) If a credit union contravenes the provisions of this section, it shall be guilty of an offence and liable on conviction on indictment or on summary conviction to a fine which on summary conviction shall not exceed the statutory maximum.

Computation
and application
of profits.

14.—(1) In ascertaining the profit or loss resulting from the operations of a credit union during any year of account all operating expenses in that year shall be taken into account (including payments of interest) and provision shall be made for depreciation of assets, for tax liabilities and for bad and doubtful debts, but no provision shall be made in respect of amounts to be paid by way of dividend.

(2) A credit union shall out of its profits from year to year establish and maintain a general reserve, as follows—

- (a) if at the end of any year of account the amount standing to general reserve before any transfer under this subsection is less than 10 per cent. of total assets, the credit union shall transfer to general reserve not less than 20 per cent. of its profits for that year or such lesser sum as is required to bring the general reserve up to 10 per cent. of total assets ;
- (b) if at the end of any year of account the amount standing to general reserve before any transfer under this subsection is more than 20 per cent. of total assets, the credit union shall transfer to the revenue account and treat as revenue for that year a sum not less than that required to reduce the general reserve to 20 per cent. of total assets ;
- (c) subject to paragraphs (a) and (b) above, a credit union may at the end of any year of account—
 - (i) transfer to general reserve from the profits of that year, or
 - (ii) transfer from general reserve to the revenue account and treat as revenue for that year, such sum as the credit union may in general meeting determine, provided that the general reserve is not thereby reduced to less than 10 per cent. or increased to more than 20 per cent. of total assets.

(3) Not less than 90 per cent. of the amount available for distribution in respect of any year of account, that is to say, the profit of that year reduced or increased by any transfer to or from general reserve in accordance with subsection (2) above, shall be applied in such one or more of the following ways as the credit union shall in general meeting determine—

- (a) subject to subsection (4) below, in the payment to members of dividends on the amount of their paid-up shares ;
- (b) as a rebate of interest paid by or due from members who have received loans from the credit union, such rebate being proportional to the interest paid by or due from such members during that year of account ; and

(c) subject to subsection (5) below, for social, cultural or charitable purposes.

(4) The dividend payable on any shares of a credit union shall not exceed a rate of 8 per cent. per annum or such other rate as may from time to time be specified by order made by the chief registrar with the consent of the Treasury.

(5) No part of the amount available for distribution in respect of any year of account shall be applied by a credit union for the purposes mentioned in subsection (3)(c) above unless a dividend of not less than 3 per cent. per annum is paid for that year on all paid-up shares of the credit union ; and the total sum applied for those purposes out of the amount available for distribution in respect of any year of account shall not exceed 10 per cent. of that amount.

(6) Where in accordance with subsection (3) above a credit union in general meeting determines that an amount shall be applied in any of the ways mentioned in paragraphs (a) to (c) of that subsection, that amount may, unless the determination is that it be distributed or expended forthwith, be so applied by being appropriated to a fund to be distributed or expended from time to time or at some future date ; and where in accordance with that subsection a credit union in general meeting determines that an amount shall be applied for a purpose falling within paragraph (c) of that subsection, that amount may, unless the determination is that it be expended in some specific manner, be expended for that purpose at the discretion of the committee.

(7) Nothing in this section applies to income arising from, or to expenses incurred by a credit union in operating, such a trust fund as is referred to in section 9(2) above.

Insurance and other arrangements

15.—(1) A society shall not be registered as a credit union unless the appropriate registrar is satisfied that on registration there will be in force in relation to that society a policy of insurance complying with the requirements of this section ; and a credit union shall at all times maintain in force such a policy and if it fails to do so shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200.

Insurance
against fraud
or other
dishonesty.

(2) In order to comply with this section, a policy of insurance—

(a) subject to such exceptions as may be prescribed, must insure the credit union in respect of every description of loss suffered or liability incurred by reason of the fraud or other dishonesty of any of its officers or employees ;

- (b) must so insure the credit union up to a limit of not less than £20,000 (or such other figure as may be prescribed) in respect of any one claim, except that the liability of the insurer may be restricted to an amount not less than £100,000 (or such other figure as may be prescribed) in respect of the total of the claims made in any one year ;
- (c) must not, except with the consent in writing of the chief registrar, provide in relation to any claim for any amount greater than one per cent. of the limit referred to in paragraph (b) above to be met by the credit union ; and
- (d) must be issued by a person who is permitted under the Insurance Companies Act 1974 or the corresponding provision for the time being in force in Northern Ireland to carry on in Great Britain or Northern Ireland insurance business of a relevant class or who has corresponding permission under the law of another member State.

1974 c. 49.

(3) In paragraphs (a) and (b) of subsection (2) above “ prescribed ” means prescribed by regulations made by the chief registrar with the consent of the Treasury.

(4) Regulations made by virtue of paragraph (b) of that subsection may provide for different figures in relation to different descriptions of credit union, whether by reference to the amount of the assets of the credit union or to such other factors as appear to the chief registrar to be appropriate ; and if such regulations do so provide the reference in paragraph (c) of that subsection to the limit referred to in the said paragraph (b) shall be construed as a reference to the limit applicable to the credit union in question.

Guarantee
funds.

16.—(1) Subject to the provisions of this section, a credit union, or any two or more credit unions, may enter into arrangements with a person carrying on the business of insurance for the purpose of making funds available to meet losses incurred by members of a credit union which is a party to the arrangements ; and any two or more credit unions may enter into any other kind of arrangements for that purpose.

(2) Subject to subsection (3) below, a credit union shall have power to make contributions under arrangements made in accordance with subsection (1) above, and such arrangements may in particular provide for the vesting of a fund in trustees appointed under the arrangements.

(3) Arrangements under subsection (1) above shall not come into force and no contribution shall be made thereunder by a

credit union, until they have been approved by the appropriate registrar ; and the appropriate registrar shall not approve any such arrangements unless they provide that any variation of their terms shall also require his approval.

Powers of registrar

17.—(1) In relation to a credit union, the powers of the appropriate registrar under subsection (1) of section 48 of the 1965 Act to require the production of books, accounts and other documents and the furnishing of information in connection with the exercise of certain of his powers under that Act—

Power to require information.

(a) shall apply also in connection with the exercise of his functions under this Act ; and

(b) shall extend to the chief registrar in connection with the exercise of his functions under this Act ;

and subsections (2) and (3) of section 48 of the 1965 Act (penalties and defraying expenses) shall apply accordingly.

(2) Without prejudice to section 39 of the 1965 Act (duty to furnish annual returns), the appropriate registrar may from time to time by notice in writing served on a credit union require it to furnish, within such period as may be specified in the notice, a financial statement or periodic financial statements in such form and containing such information as may be so specified.

(3) If a credit union fails without reasonable excuse to comply with a notice under subsection (2) above it shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200.

18.—(1) Without prejudice to section 49 of the 1965 Act (appointment of inspector or calling of special meeting upon application of members of registered society), where the chief registrar 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, he may, with the consent of the Treasury, appoint an inspector to investigate and report on the affairs of the credit union or may call a special meeting of the credit union, or may (either on the same or on different occasions) both appoint such an inspector and call such a meeting.

Power to appoint inspector and call meeting.

(2) All expenses of and incidental to an investigation or meeting held pursuant to subsection (1) above shall be defrayed 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 chief registrar shall direct.

(3) Subsections (5) and (6) of the said section 49 (power to prescribe time and place of meeting, procedure, power to require evidence to be given, etc.) shall apply in relation to an inspector appointed or meeting called in accordance with this section.

Power to suspend operations of credit union.

19.—(1) If, with respect to any credit union, the chief registrar considers it expedient to do so having regard to the interests of all the members of the credit union or in the interests of potential members of the credit union, he may, with the consent of the Treasury, give a direction prohibiting the credit union to such extent and subject to such conditions as may be specified in the direction from carrying on any one or more of the following activities, that is to say,—

(a) borrowing money ;

(b) accepting a payment representing the whole or any part of an amount due by way of subscription for a share in the credit union other than a payment which fell due before the making of the order ;

(c) lending money ; and

(d) repaying share capital ;

and Schedule 2 to this Act shall have effect in relation to the giving of a direction under this section.

(2) Nothing in any direction given under this section shall make it unlawful for a credit union to borrow from an authorised bank if the credit union has obtained the consent in writing of the chief registrar.

(3) For the purposes of this section and of any direction given under it, if any indebtedness of a member to a credit union is set off to any extent against the share capital credited to him, then, to that extent, the setting off shall be treated as a repayment of that share capital.

(4) A direction given under this section may be revoked by the chief registrar with the consent of the Treasury and notice of the revocation shall be published in the same manner as notice of the giving of the direction.

(5) Where a direction under this section is revoked, any obligation of any person to make a payment to the credit union which fell due at a time when the credit union was prohibited by the direction from accepting it shall be suspended for a period equal to the period for which the prohibition was in force.

(6) Subject to subsection (5) above, any obligation to make to a credit union a payment which the credit union is prohibited from accepting by a direction under this section shall be wholly rescinded.

(7) If a credit union contravenes a direction under this section it shall be guilty of an offence and liable on conviction on indictment or on summary conviction to a fine which on summary conviction shall not exceed the statutory maximum.

20.—(1) In subsection (1) of section 16 of the 1965 Act (grounds for cancellation of registration) as it applies to credit unions—

Cancellation or suspension of registration and petition for winding up

(a) in paragraph (c)(i) the reference to violation of any of the provisions of the 1965 Act shall be construed as including a reference to violation of any of the provisions of this Act; and

(b) in paragraph (c)(ii) the reference to the fact that neither of the conditions in section 1(2) of that Act is fulfilled shall be construed as a reference to the fact that there is no longer a common bond between the members of a credit union;

and section 17(1) of that Act (suspension of registration on grounds which would justify cancellation) and section 18 of that Act (appeals) shall apply accordingly.

(2) A petition for the winding up of a credit union may be presented to the court by the appropriate registrar if it appears to him 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 of any direction given under, this Act or the Industrial and Provident Societies Acts 1965 to 1978; 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 him 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.

Amalgamations, transfers of engagements and conversions

21.—(1) In their application to credit unions, sections 50 and 51 of the 1965 Act (amalgamations of registered societies and transfers of engagements between them) shall have effect subject to the provisions of subsections (2) and (3) of this section.

Amalgamations and transfers of engagements.

(2) A credit union shall not amalgamate with or transfer its engagements to or accept a transfer of engagements from any registered society which is not a credit union.

(3) The appropriate registrar shall not register a special resolution under section 50 or section 51 of the 1965 Act if in his opinion—

- (a) the proposed amalgamation or transfer of engagements would result in a contravention of any provision of this Act or of the Industrial and Provident Societies Acts 1965 to 1978 ; or
- (b) there would be no common bond between the members of the proposed amalgamated credit union or, as the case may be, the credit union which proposes to accept the transfer of engagements.

(4) In this Act the expression “ non-qualifying member ”, in relation to an amalgamated credit union or a credit union which has accepted a transfer of engagements, includes a person who does not fulfil the qualifications for admission to membership of that credit union but became a member of it by virtue of the amalgamation or transfer of engagements, having been immediately before the amalgamation or transfer a non-qualifying member of one of the amalgamating credit unions or, as the case may be, the credit union from which the transfer of engagements was made.

No conversion of credit union into company, etc.

22. Section 52 of the 1965 Act (conversion of registered society into company or amalgamation with, or transfer of engagements from registered society to, company) shall not apply to credit unions.

Conversion of company into credit union.

23.—(1) In its application to the conversion of a company into a credit union, section 53 of the 1965 Act (conversion of company into registered society) shall have effect subject to the provisions of this section.

(2) In subsection (1) of that section the words from “ and for this purpose ” to the end (which refer to the limitation on share-holdings applicable to societies other than credit unions) shall be omitted.

(3) A company shall not be registered as a credit union in accordance with that section unless the appropriate registrar is satisfied—

- (a) that either there are no outstanding deposits by members with the company or that, in the case of every such outstanding deposit, the member concerned has consented

in writing to the deposit being converted into an equivalent amount of shares in the credit union immediately upon the company being registered as a credit union ;

- (b) that in no case does the nominal value of the company's shares held by any member, together with the amount of any deposit of his which is to be converted as mentioned in paragraph (a) above, exceed the maximum shareholding for the time being permitted by section 5(3) above in the case of a member of a credit union ; and
- (c) that, except in a case where an exemption has been granted to the company under subsection (5) of section 6 above, the number of its members does not exceed the maximum for the time being provided for in subsection (2) of that section in relation to a credit union.

General and miscellaneous

24.—(1) A credit union may display at its registered office, but only at that office, an interim revenue account or balance sheet which has not been audited, provided that—

Modifications of requirements as to audit of accounts.

- (a) the latest audited revenue account and balance sheet are displayed side by side with the interim revenue account or balance sheet ; and
- (b) the interim revenue account or balance sheet so displayed is marked in clearly legible characters and in a prominent position with the words "UNAUDITED REVENUE ACCOUNT" or, as the case may be, "UNAUDITED BALANCE SHEET".

(2) Paragraphs (a) and (b) of subsection (5) of section 3 of the Friendly and Industrial and Provident Societies Act 1968 (requirements as to audit) shall not apply in relation to any such interim revenue account or balance sheet as is referred to in subsection (1) above and section 39(1) of the 1965 Act (annual returns) shall not apply to any such interim balance sheet. 1968 c. 55.

25.—(1) After section 340 of the Income and Corporation Taxes Act 1970 there shall be inserted the following section— 1970 c. 10.

340A.—(1) Subject to subsection (2) below, in computing for the purposes of corporation tax the income of a credit union for any accounting period—

- (a) neither the activity of the credit union in making loans to its members nor in placing on deposit or otherwise investing from time to time its surplus funds shall

be regarded as the carrying on of a trade or part of a trade ; and

- (b) interest received by the credit union on loans made by it to its members shall not be chargeable to tax under Case III of Schedule D or otherwise.

(2) Paragraph (b) of subsection (1) above shall not apply to an accounting period of a credit union for which the credit union is obliged to make a return under section 340(5) of this Act and has not done so within three months after the end of that accounting period or such longer period as the inspector shall allow.

(3) No share interest, loan interest or annuity or other annual payment paid or payable by a credit union in any accounting period shall be deductible in computing for the purposes of corporation tax the income of the credit union for that period from any trade carried on by it or be treated for those purposes as a charge on income.

(4) A credit union shall not be regarded as an investment company for the purposes of section 304 or section 306 of this Act (management expenses and capital allowances).

(5) In the case of a credit union registered under the Industrial and Provident Societies Act (Northern Ireland) 1969 before the passing of the Credit Unions Act 1979, the preceding provisions of this section shall apply to the accounting period beginning on or after 1st October 1979.

(6) For the year 1978-79 and the next six following years of assessment there shall be disregarded for all purposes of the Income Tax Acts any share interest paid to a member by a credit union and a credit union shall not be obliged under section 340(5) of this Act to make a return in respect of any such payment.

(7) In this section—

“ credit union ” means a society registered as a credit union under the Industrial and Provident Societies Act 1965 or the Industrial and Provident Societies Act (Northern Ireland) 1969 ;

“ share interest ” and “ loan interest ” have the same meaning as in section 340 of this Act ;

“surplus funds”, in relation to a credit union, means funds not immediately required for its purposes ;
 and references to the payment of share interest or loan interest include references to the crediting of such interest.”.

(2) In section 340 of the Income and Corporation Taxes Act 1970 c. 10. 1970 (industrial and provident societies, etc.)—

- (a) in subsection (1) (share and loan interest to be deductible or constitute a charge on income) after the words “subject to subsection (6) below” there shall be inserted the words “and to section 340A(3) of this Act” ; and
- (b) at the beginning of subsection (3) (share and loan interest to be chargeable under Case III of Schedule D) and at the beginning of subsection (5) (duty to make return of payments made without deduction of tax) there shall be inserted the words “Subject to section 340A(6) of this Act.”.

26. A credit union shall not have any subsidiary within the meaning of section 15 of the Friendly and Industrial and Provident Societies Act 1968. Prohibition on subsidiaries. 1968 c. 55.

27. A person who is an undischarged bankrupt or who has been convicted on indictment of any offence involving fraud or dishonesty shall not— Prohibition on undischarged bankrupts and other persons.

- (a) sign an application form for registration of a credit union ; or
- (b) act as a member of the committee of a credit union ; or
- (c) directly or indirectly take part in or be concerned in the management of a credit union ; or
- (d) permit his name to be put forward for election or appointment to any office in a credit union ;

and where a person holding any office in a credit union becomes ineligible by virtue of this section to hold that office, he shall forthwith cease to hold that office.

28.—(1) Subject to subsections (2) and (3) below, in sections 61 to 66 and section 68 of the 1965 Act (general provisions as to offences by registered societies, their officers and others) as they apply to credit unions references to the 1965 Act shall include references to this Act. Provisions as to offences.

(2) Section 63 of the 1965 Act (continuing act or default to constitute a new offence every week) shall not apply to an offence under section 12(5) above.

(3) Without prejudice to the operation of subsection (1) above in relation to offences under the 1965 Act committed by or in relation to a credit union, section 66(2) of that Act (extension of time limit for summary prosecutions in certain cases) shall not apply to proceedings for an offence under this Act.

(4) Where under section 62 of the 1965 Act (offences by registered societies to be also offences by officers, etc.) as it applies by virtue of subsection (1) above an individual is convicted on indictment of an offence under this Act, he shall be liable not only to a fine but, in the alternative or in addition, to imprisonment for a term not exceeding two years.

(5) Where an offence under this Act which has been committed by a body corporate other than a registered society is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or similar officer of the body corporate, or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(6) In any proceedings for an offence under this Act it shall be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence by himself or any person under his control.

29.—(1) Any power to make an order conferred on the chief registrar by any provision of this Act, except Schedule 3 to this Act, shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(2) The Statutory Instruments Act 1946 shall apply to orders made by the chief registrar in the exercise of any power to which subsection (1) above applies notwithstanding that he is not a Minister of the Crown.

30.—(1) There shall be paid out of moneys provided by Parliament any increase attributable to this Act in the administrative expenses of the chief registrar and any assistant registrar.

(2) Any fees received by the chief registrar or any assistant registrar by virtue of this Act shall be paid into the Consolidated Fund.

Orders made
by the chief
registrar.

1946 c. 36.

Expenses
and fees.

31.—(1) In this Act—

“ authorised bank ” means—

Interpretation,
etc.

(a) a recognised bank or municipal bank within the meaning of the Banking Act 1979 ;

1979 c. 37.

(b) a trustee savings bank within the meaning of section 3 of the Trustee Savings Banks Act 1969 ;

1969 c. 50.

(c) the National Savings Bank ; and

(d) the Post Office in the exercise of its powers to provide banking services ;

and, so long as the powers conferred on the chief registrar by Schedule 3 to this Act remain exercisable, includes an institution for the time being designated by him in accordance with that Schedule ;

“ charitable ”, in the application of this Act to Scotland, shall be construed in the same way as in the Income Tax Acts ;

“ credit union ”, except in the expression “ Northern Ireland credit union ”, means a society registered under the 1965 Act by virtue of section 1 above ;

“ the 1965 Act ” means the Industrial and Provident Societies Act 1965 ;

“ non-qualifying member ”, in relation to a credit union, has the meaning assigned to it by sections 5(5) and 21(4) above ;

“ relative ”, in relation to any person, means any of the following—

(a) his spouse ;

(b) any lineal ancestor, lineal descendant, brother, sister, aunt, uncle, nephew, niece or first cousin of his or his spouse ; and

(c) the spouse of any relative within paragraph (b) above ;

and for the purpose of deducing any such relationship an illegitimate child or step-child shall be treated as a child born in wedlock ;

“ spouse ” includes former spouse and reputed spouse ; and

“ statutory maximum ”, in relation to a fine on summary conviction, means—

(a) in England and Wales, the prescribed sum within the meaning of section 28 of the Criminal Law Act 1977 ; and

(b) in Scotland, the prescribed sum within the meaning of section 289B of the Criminal Procedure (Scotland) Act 1975 ;

(which in each case was at the passing of this Act £1,000).

(2) Section 67 and sections 70 to 74 of the 1965 Act (supplementary provisions as to recovery of costs, fees, regulations, documents, meaning of "chief registrar", etc. and general interpretation provisions) shall apply for the purposes of this Act as they apply for the purposes of that Act.

(3) In its application to credit unions the 1965 Act shall have effect subject to the provisions of this Act and with the omission of the following provisions (which are replaced by, or are inconsistent with, provisions of this Act), that is to say sections 6, 12, 19, 21, 30 and 31.

Northern
Ireland.

32.—(1) The Treasury may make reciprocal arrangements with the Department of Commerce for Northern Ireland or such other authority as may be specified for the purposes of this subsection by any Measure of the Northern Ireland Assembly with a view to securing that, on or after the commencement of this Act,—

(a) the law applicable in England and Wales to credit unions registered at the central office and the law applicable in Scotland to credit unions registered by the assistant registrar for Scotland may be applied, in such cases and subject to such modifications as may be provided in the arrangements, to Northern Ireland credit unions; and

(b) the law applicable in Northern Ireland to Northern Ireland credit unions may be applied, in such cases and subject to such modifications as may be provided in the arrangements, to credit unions registered at the central office or by the assistant registrar for Scotland;

and section 76 of the 1965 Act (which enables societies registered in Northern Ireland to be treated for certain purposes as if they were registered under that Act) shall not apply to Northern Ireland credit unions.

(2) The Treasury may by regulations under section 71 of the 1965 Act make provision for giving effect to any arrangements made under subsection (1) above, and such regulations may in particular—

(a) confer rights and obligations (appropriate to credit unions) under this Act and the Industrial and Provident Societies Acts 1965 to 1978 on Northern Ireland credit unions in such circumstances as may be specified in the regulations;

(b) confer functions on the chief registrar, the central office and the assistant registrar for Scotland in relation to Northern Ireland credit unions; and

(c) make such modifications of this Act, the Industrial and Provident Societies Acts 1965 to 1978 and the Government of Ireland (Companies, Societies, etc.) Order 1922 as appear to the Treasury to be expedient to give effect to the arrangements. S. R. & O. 1922 No. 184.

(3) In this section "Northern Ireland credit union" means a society registered as a credit union under the law of Northern Ireland.

(4) An Order in Council made under paragraph 1(1)(b) of Schedule 1 to the Northern Ireland Act 1974 which contains a statement that its purposes correspond to those of this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament instead of the Order, or a draft of the Order, being subject to the procedure set out in paragraph 1(4) or (5) of that Schedule. 1974 c 28.

33.—(1) This Act may be cited as the Credit Unions Act 1979. Short title, commencement and extent.

(2) This section and section 32 above shall come into operation on the passing of this Act and the other provisions of this Act shall come into operation on such day as the Treasury may appoint by order made by statutory instrument; and different days may be so appointed for different provisions.

(3) Any reference in this Act to the commencement of any provision of this Act shall be construed as a reference to the day appointed under this section for the coming into operation of that provision.

(4) With the exception of section 25 and section 32(4) above, this Act does not extend to Northern Ireland.

SCHEDULES

Section 4(1).

SCHEDULE 1

MATTERS TO BE PROVIDED FOR IN RULES OF CREDIT UNION

1. The name of the society, which shall comply with section 3(1) above and with subsections (1) and (2) of section 5 of the 1965 Act (name not to be undesirable and to end with the word "limited").

2. The objects of the society.

3. The place which is to be the registered office of the society to which all communications and notices to the society may be addressed.

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

5. The mode of holding meetings, including provision as to the quorum necessary for the transaction of any description of business, and the mode of making, altering or rescinding rules.

6. The appointment and removal of a committee, by whatever name, and of managers or other officers and their respective powers and remuneration.

7. Determination (subject to section 5(3) of this Act) of the maximum amount of the interest in the shares of the society which may be held by any member.

8. Provision for the mode of withdrawal of shares and for payment of the balance due thereon on withdrawing from the society.

9. The mode and circumstances in which loans to members are to be made and repaid, including any special provision for the insurance of members in relation to loans made to them.

10. Provision for the custody and use of the society's seal.

11. Provision for the audit of accounts by one or more auditors appointed by the society in accordance with the requirements of the Friendly and Industrial and Provident Societies Act 1968.

12. Provision for the withdrawal of members from the society and for the claims of the representatives of deceased members or the trustees of the property of bankrupt members, or, in Scotland, members whose estate has been sequestrated, and for the payment of nominees.

13. Provision for terminating the membership of members in order to comply with—

(a) the limit on the number of members of a credit union for the time being provided for in subsection (2) of section 6 above or, if a conditional exemption has been granted under subsection (5) of that section, any other limit which may be specified as a condition of that exemption; and

(b) the limit provided for in subsection (6) of section 5 above on the number of non-qualifying members of a credit union :

SCH. 1

and for the repayment of the shares held by, and of any loans made to, a member whose membership is terminated for such a purpose.

14. Provision for the dissolution of the society, including provision requiring any assets remaining after the payment of debts, repayment of share capital and discharge of other liabilities—

(a) to be transferred to another credit union ; or

(b) if not so transferred, to be applied for charitable purposes.

SCHEDULE 2

Section 19

PROCEDURE IN RELATION TO DIRECTIONS UNDER SECTION 19

1. Not less than fourteen days before giving a direction, the chief registrar shall serve on the credit union concerned, and on every member of its committee, a notice stating that he proposes to give such a direction and specifying the nature of the direction he proposes to give and the considerations which have led him to conclude that he should give such a direction.

2. The chief registrar shall consider any representations with respect to the notice which may be made to him by the credit union within such period as he may allow, not being less than fourteen days from the date on which the credit union is served with the notice, and, if the credit union so requests, shall afford it an opportunity of being heard by him within that period.

3.—(1) On giving such a direction the chief registrar shall serve the direction on the credit union and shall serve on every member of its committee a notice of the giving of the direction.

(2) The direction and notices served in accordance with subparagraph (1) above shall be accompanied by a notice specifying the considerations which have led the chief registrar to conclude that he should give the direction.

(3) The chief registrar shall not have power to give such a direction unless all the considerations so specified were those, or were among those, which were specified in the notice under paragraph 1 above.

4. A notice under this Schedule may be served on a member of the committee of a credit union by sending it by post to his address, or latest address, as notified to the chief registrar by him or by the credit union.

5. Failure to serve a notice under this Schedule on a committee member shall not affect the validity of a direction.

6. Notice of the giving of a direction shall be published by the chief registrar in the Gazette and in any other manner which appears to him to be necessary for informing the public.

Section 31(1).

SCHEDULE 3

TEMPORARY POWERS TO DESIGNATE AUTHORISED BANKS

Powers of chief registrar

1.—(1) The chief registrar may, by order made with the consent of the Treasury, designate as an authorised bank for the purposes of this Act any body corporate or partnership carrying on the business of banking.

(2) An order under sub-paragraph (1) above may be varied or revoked by a subsequent order made by the chief registrar with the consent of the Treasury.

(3) Any order made under this paragraph shall be published in the Gazette.

Duration of powers

1979 c. 37.

2.—(1) When it appears to the Treasury that, the relevant provisions of the Banking Act 1979 having come into operation, there are in existence such number of recognised banks (within the meaning of that Act) as to render no longer necessary the powers conferred by paragraph 1 above, the Treasury shall by order made by statutory instrument provide that those powers may no longer be exercised.

(2) An institution which, immediately before the date on which the Treasury order referred to in sub-paragraph (1) above comes into effect, was an authorised bank for the purposes of this Act solely by virtue of an order of the chief registrar under this Schedule shall cease to be an authorised bank for those purposes on that date.

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