Draft Order laid before Parliament under section 116(1) and (2) of the Financial Services Act 2012, for approval by resolution of each House of Parliament.

D R A F T S T A T U T O R Y I N S T R U M E N T S

2018 No.

FINANCIAL SERVICES AND MARKETS

The Financial Services Act 2012 (Mutual Societies) Order 2018

Made - - - -	*2018*
Coming into force - -	*6th April 2018*

The Treasury make the following Order in exercise of the powers conferred by sections 50(1), (2) and (4), 51, 52, 115(2) and 118 of the Financial Services Act 2012(**a**).

A draft of this Order has been laid before Parliament and approved by a resolution of each House of Parliament in accordance with section 116(1) and (2) of the Financial Services Act 2012.

Citation and commencement

1. This Order may be cited as the Financial Services Act 2012 (Mutual Societies) Order 2018, and comes into force on 6th April 2018, immediately after the coming into force of section 8(2) of the Credit Unions and Co-operative and Community Benefit Societies Act (Northern Ireland) 2016(**b**).

Transfer of functions to the Financial Conduct Authority

2. The following Schedules to this Order have effect—

(a) Schedule 1 (which provides for the application of FSMA 2000(**c**) to the functions transferred to the FCA by Schedules 2 and 3);

(b) Schedules 2 and 3 (which amend legislation relating to mutual societies in Northern Ireland to provide for the functions of the Registrar of Credit Unions for Northern Ireland(**d**) to be transferred to the FCA); and

(c) Schedule 4 (which makes amendments in consequence of Schedules 2 and 3).

Transitional provisions

3.—(1) In this article—

(**a**) 2012 c. 21.

(**b**) 2016 c. 16. Section 8(2) is brought into force on 6 April 2018 by S.R (N.I) 2017 No. 217.

(**c**) For the meaning of "FSMA 2000", "the FCA" and "the PRA" see the Financial Services Act 2012, section 117. "FSMA 2000" means the Financial Services and Markets Act 2000 (c. 8), "the FCA" means the Financial Conduct Authority and "the PRA" means the Prudential Regulation Authority.

(**d**) The Registrar of Credit Unions for Northern Ireland is appointed to perform in Northern Ireland the functions of registrar by Article 2A(1) of The Credit Unions (Northern Ireland) Order 1985 (S.R (N.I) 1985 No. 1205).

"the registrar" means the Registrar of Credit Unions for Northern Ireland or the Assistant Registrar of Credit Unions for Northern Ireland; and

"relevant provision" means a provision of an enactment amended by Schedule 2, 3 or 4 of this Order.

(2) Where a relevant provision, as amended by this Order, requires any document, information or matter to be notified, copied or sent to the FCA, the provision has effect without the amendment if the document, information or matter was notified, copied or sent to the registrar before 6th April 2018.

(3) Any application made or notice given to the registrar under a relevant provision, and any other thing done in relation to the registrar under a relevant provision before 6th April 2018 is to be treated as if it had been made or given to, or done in relation to, the FCA.

(4) Any decision or notification made, or other thing done, by the registrar before 6th April 2018 in exercise of a function which, by virtue of this Order, becomes exercisable on that date by the FCA is to be treated as if it had been made or done by the FCA.

(5) This Order does not affect the validity of anything done (or having effect as if done) by or in relation to the registrar before 6th April 2018.

Name
Name
Date Two of the Lords Commissioners of Her Majesty's Treasury

SCHEDULE 1

Article 2(a)

Application of the Financial Services and Markets Act 2000 to transferred functions

Interpretation

1. In this Schedule—

(a) a reference to a numbered section or Schedule is a reference to that section of, or Schedule to, FSMA 2000;

(b) "the legislation relating to mutual societies in Northern Ireland" means—

(i) the Co-operative and Community Benefit Societies Act (Northern Ireland) 1969(**a**); and

(ii) the Credit Unions (Northern Ireland) Order 1985(**b**).

(c) "mutuals expenditure" means expenditure incurred by the FCA—

(i) in carrying out functions which are conferred by the legislation relating to mutual societies in Northern Ireland or are otherwise exercisable by virtue of this Order;

(ii) for any purpose incidental to, or in connection with, the carrying out of such functions (including expenditure incurred before 6th April 2018 in preparation for the assumption of those functions).

General

2.—(1) For the purposes of the provisions specified in sub-paragraph (2) the functions transferred by this Order are to be treated as functions conferred on the FCA under a provision of FSMA 2000.

(2) The provisions are—

(a) section 1A(3) and Schedule 1ZA(**c**) (which make general provision in relation to the FCA and its functions);

(b) section 1S (reviews)(**d**);

(c) section 3D (duty of FCA and PRA to ensure co-ordinated exercise of functions);

(d) section 3E (memorandum of understanding);

(e) sections 3I to 3K (power of PRA to restrain proposed action by FCA);

(f) section 139A(**e**) (power of the FCA to give guidance); and

(g) section 415(**f**) (jurisdiction in civil proceedings).

(**a**) 1969 c. 24. This citation is given by the Credit Unions and Co-operative and Community Benefit Societies Act (Northern Ireland) 2016 (c. 16), section 8(2), which comes into force on the same date as this Order by virtue of S.R (N.I) 2017 No. 217. The previous citation was the Industrial and Provident Societies Act (Northern Ireland) 1969.

(**b**) S.I 1985/1205 (N.I. 12), as amended by the Friendly Societies Act 1992 (c. 40) and by S.I. 2011/2832 and 2013/496. There are other amendments, but they are not relevant.

(**c**) Sections 1A, 1S, 3D, 3E and 3I to 3K of, and Schedule 1ZA to, FSMA 2000 were inserted by the Financial Services Act 2012, section 6 and Schedule 3. Schedule 1ZA to FSMA 2000 was also amended by the Bank of England and Financial Services Act 2016 (c. 14), the Financial Services (Banking Reform) Act 2013 (c. 33) and the Pension Schemes Act 2015 (c. 8).

(**d**) Section 1S was amended by Schedule 3 to the Pension Schemes Act 2015.

(**e**) Section 139A of FSMA 2000 was inserted by the Financial Services Act 2012, section 24. Sub-section 1A was inserted by paragraph 9 of Schedule 3 to the Pension Schemes Act 2015. Sub-section 4 was amended by SI 2016/680.

(**f**) Section 415 of FSMA 2000 was amended by the Financial Services Act 2012, section 16(14)(j) and Schedule 18, paragraph 24.

3. Section 3I (power of PRA to restrain proposed action by FCA), as applied by paragraph 2(2)(e), has effect as if—

(a) in subsection (2)(a) the reference to regulatory powers were a reference to the functions transferred by this Order; and

(b) subsections (2)(b) and (3) were omitted.

4. The FCA must maintain arrangements designed to enable it to determine whether persons are complying with requirements imposed on them by or under the legislation relating to mutual societies in Northern Ireland.

Rules relating to fees

5.—(1) This paragraph applies where the FCA makes, or proposes to make, rules under paragraph 23 of Schedule 1ZA (the Financial Conduct Authority: fees) which require the payment to the FCA of fees which relate in whole or in part to mutuals expenditure.

(2) Paragraph 23 of Schedule 1ZA, as applied by paragraph 2(2)(a), has effect as if the reference to fees and charges provided for by any other provision of FSMA 2000 included a reference to fees and charges provided for by any provision of the legislation relating to mutual societies in Northern Ireland.

(3) To the extent that the fees relate to mutuals expenditure—

(a) section 138I(2)(d)(**a**) (requirement for draft rules to be accompanied by an explanation of the FCA's reasons for believing that making the proposed rules is compatible with section 1B(1)) does not apply in relation to the rules; and

(b) the rules are not to be treated as a "regulating provision" within the meaning given in section 140A(1) (interpretation of Chapter 4 of Part 9A (competition scrutiny)).

Guidance

6. Sections 139A(3) (power of FCA to give guidance) and 139B(5)(**b**) (notification of FCA guidance to the Treasury) apply to guidance given to co-operative and community benefit societies whose registered offices are in Northern Ireland, whether or not the guidance is also given to co-operative and community benefit societies whose registered offices are in England and Wales or Scotland.

7.—(1) This paragraph applies where the FCA gives guidance under section 139A on the operation of a rule of the kind mentioned in paragraph 5.

(2) To the extent that the fees required to be paid by the rule relate to mutuals expenditure, the guidance is not to be treated as a "regulating provision" within the meaning given in section 140A(1).

8.—(1) This paragraph applies where—

(a) the FCA gives general guidance under section 139A with respect to any matter relating to functions exercisable under, or to any provision of, or made under, the legislation relating to mutual societies in Northern Ireland; and

(b) paragraph 6 does not apply.

(2) The guidance is not to be treated as a "regulating provision" within the meaning given in section 140A(1).

(a) Sections 138I and 140A of FSMA 2000 were inserted by the Financial Services Act 2012, section 24.
(b) Section 139B was inserted by the Financial Services Act 2012, section 24.

SCHEDULE 2

Article 2(b)

Amendments of the Co-operative and Community Benefit Societies Act (Northern Ireland) 1969

1. The Co-operative and Community Benefit Societies Act (Northern Ireland) 1969 is amended as follows.

2. In the following provisions for "he", wherever it appears, substitute "the registrar"—

(a) section 5 (name of society), subsection (5);

(b) section 15 (cancellation of registration of society), subsections (1)(b) and (4)(b);

(c) section 17 (appeal from refusal, cancellation or suspension of registration of society or rules), subsection (1)(a);

(d) section 29 (charges on assets of registered societies), subsection (5)(**a**);

(e) section 56 (inspection of books by order of registrar), subsections (1) and (2);

(f) section 57 (production of documents and provision of information for certain purposes), subsections (1) and (3); and

(g) section 58 (appointment of inspectors and calling of special meetings), subsection (3).

3. In section 2 (registration of society)—

(a) in subsection (1)(b) for "with two printed copies of the society's rules to the registrar" substitute "to the registrar with two copies of the society's rules or, if the application is made by electronic means, one copy of those rules";

(b) in subsection (2)—

(i) omit "printed";

(ii) at the end insert "(or, if the application is made by electronic means, one copy of those rules)"; and

(c) in subsection (3) for "in the prescribed form" substitute ", bearing the registrar's seal,".

4. In section 7A(**b**) (capacity of society not limited by its rules), in subsection (7) for "him" substitute "it".

5. In section 9 (amendment of registered rules), in subsection (3) for "in the prescribed form" substitute ", bearing the registrar's seal,".

6. In section 14(**c**) (provision of copies of rules), in subsection (1) for "by the registrar" insert "by the Department".

7. In section 15 (cancellation of registration of society)—

(a) in subsection (1)—

(i) for "by writing under his hand" substitute "in writing";

(ii) in paragraph (a) for "his" substitute "the registrar's";

(iii) in paragraph (c)—

(aa) for "with the approval of the Department(**d**)" substitute "if at any time";

(**a**) Section 29 was amended by S.I. 1997/2984 (N.I. 22).
(**b**) Section 7A was inserted by S.I. 2006/314 (N.I. 3).
(**c**) Section 14 was amended by S.R (NI) 1974 No. 317
(**d**) "Department" was substituted for "Ministry" in each place where it appears in the Co-operative and Community Benefit Societies Act (Northern Ireland) 1969, except in section 101 and Schedule 5, by the Credit Unions and Co-operative and Community Benefit Societies Act (Northern Ireland) 2016, section 16(1) and Schedule 1, paragraph 46, which came into force on 23 April 2016. By virtue of paragraph 56 of Schedule 1 to that Act "the Department" is the Department of

(bb) in sub-paragraphs (i), (ii) and (iii) for "him" substitute "the registrar";

(cc) in sub-paragraph (i) for "on proof to his" substitute "it is proved to the registrar's";

(dd) in sub-paragraph (ii)(**a**) omit "if at any time";

(ee) in sub-paragraph (iii) omit "if"; and

(b) in subsection (4)(a) for "him", in both places where it appears, substitute "the registrar".

8. In section 16 (suspension of registration of society)—

(a) in subsection (1)—

(i) omit "with the approval of the Department" (where those words first appear);

(ii) for "by writing under his hand" substitute "in writing";

(iii) in paragraph (b) omit "with the approval of the Department, but"; and

(b) in subsection (2) for "by writing under his hand" substitute "in writing".

9. In section 29 (charges on assets of registered societies)—

(a) in subsection (2)—

(i) in paragraph (a)—

(aa) for "prescribed manner" substitute "manner directed by the registrar";

(bb) for "and so authenticated as may be prescribed" substitute "authenticated in the manner directed by the registrar";

(ii) for paragraph (b) substitute—

"(b) any fee required by rules made in accordance with paragraph 23 of Schedule 1ZA to the Financial Services and Markets Act 2000(**b**).";

(b) for subsections (3) and (4) substitute—

"(3) If an application is made in accordance with subsection (2), the registrar must—

(a) give the person who makes the application an acknowledgment of the application, bearing the registrar'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 registrar 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 Financial Services and Markets Act 2000.

(4) The registrar may, under section 98 (Form, deposit and evidence of documents), make provision for—

(a) the giving to the registrar of notice of any release, discharge or other transaction relating to a charge in respect of which an application under this section has been made;

(b) the inclusion in the file mentioned in this section of any such notice appearing to the registrar to relate to the charge.".

10. In section 38 (obligation to appoint auditors)—

(a) in subsection (6)(b) for "him", in both places where it appears, substitute "the registrar"; and

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Enterprise, Trade and Investment, which is renamed "the Department for the Economy" by the Departments Act (Northern Ireland) 2016 (c. 5), section 1(3) and Schedule 1, paragraph 1(3).

(**a**) Section 15(1)(c)(ii) was amended by the Credit Unions and Co-operative and Community Benefit Societies Act (Northern Ireland) 2016, section 16(1) and Schedule 1, paragraph 12.

(**b**) 2000 c. 8. Schedule 1ZA was substituted by the Financial Services Act 2012, section 6(2) and Schedule 3.

(b) in subsection (7) omit "the registrar with the consent of".

11. In section 43C(**a**) (registrar's power to require accounts for past years to be audited), in subsection (1)(b) for "him", in both places where it appears, substitute "the registrar".

12. In section 44 (remuneration of qualified auditors), in subsection (1) for "registrar may, with the consent of the Department," substitute "Department may".

13. In section 45 (group accounts), in subsection (3) for "registrar may, with the consent of the Department," substitute "Department may".

14. In section 53 (register of members and officers), in subsection (4) for "his" substitute "its".

15. In section 57 (production of documents and provision of information for certain purposes)—

(a) in subsection (1) for "him" substitute "it"; and

(b) in subsection (3) for "him" substitute "it" and for "his" substitute "its".

16. In section 58 (appointment of inspectors and calling of special meetings), in subsection (1) omit ", with the consent of the Department".

17. In section 59 (amalgamation of societies), in subsection (4) for "him" substitute "it".

18. In section 61 (conversion into, or transfer of engagements to, company), in subsection (2)(**b**) for "signature of the registrar," substitute "registrar's seal".

19. In section 66A(**c**), in subsection (2)(a) for sub-paragraph (ii) substitute—

"(ii) fees paid before 6th April 2018 to the officer appointed to perform in Northern Ireland the functions of a registrar of credit unions;".

20. In section 69 (decision of disputes)—

(a) in subsection (1) for "(2)" substitute "(3A)";

(b) omit subsection (2);

(c) in subsection (3) omit "or (2)";

(d) after subsection (3) insert—

"(3A) Any dispute which would, under the rules of a registered society, fall to be determined by the registrar is to be referred to the county court(**d**) for determination.";

(e) in subsection (7)(**e**)—

(i) for paragraph (a) substitute—

"(a) the county court may order the expenses of the hearing or determination to be paid out of the society's funds or by such parties to the dispute as the court considers appropriate;";

(ii) in paragraph (b) for "as might be granted by the registrar" substitute "as it considers necessary for the just and expeditious disposal of the dispute";

(f) in subsection (8)(**f**)—

(i) for "or registrar to whom" substitute "to which";

(ii) for "(2)" substitute "(3A)"; and

(g) omit subsection (9).

(**a**) Section 43C was inserted by S.I. 1997/2984 (N.I. 22).
(**b**) Section 61(2) was amended by S.I 2009/1941.
(**c**) Section 66A was inserted by the Credit Unions and Co-operative and Community Benefit Societies Act (Northern Ireland) 2016, section 13.
(**d**) "County court" means a county court held under the County Courts (Northern Ireland) Order 1980 (S.I. 1980/397 (N.I. 3)) (see the Interpretation Act (Northern Ireland) 1954 (c. 33 (N.I.)), section 42(1)).
(**e**) Section 69(7) was amended by the Arbitration Act 1996 (c. 23), Schedule 3, paragraph 26(1) and (2).
(**f**) Section 69(8) was substituted by the Arbitration Act 1996 (c. 23), Schedule 3, paragraph 26(3).

21. In section 97 (regulations)—

(a) in subsection (1) omit paragraphs (a) to (d); and

(b) omit subsection (3).

22. In section 98 (form, deposit and evidence of documents)—

(a) in subsection (1) omit "and subject to any regulations made under this Act";

(b) in subsection (2) omit the words from the beginning to ", and"; and

(c) after subsection (2) insert—

"(3) A document bearing the registrar's seal, including any document purporting to be a copy or extract of a registered society's rules or of any other instrument or document, is to be received in evidence without further proof.".

23. After section 98 insert—

"Form etc of electronic documents

98A.—(1) A document or information required for the purposes of this Act 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 section, 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 registrar to impose requirements as to form etc of electronic documents

98B.—(1) The registrar may impose requirements as to the form, authentication and manner of delivery of documents sent electronically to it under this Act.

(2) As regards authentication, the registrar 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 registrar 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).

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

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

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

Fees for inspection and copying of documents

98C. The registrar may charge a person a reasonable fee before—

(a) allowing the person to inspect a document held by it in connection with this Act, or

(b) providing the person with a copy of such a document (or a copy of part of such a document).".

24. Omit section 99 (exercise of functions of registrar) and section 100 (annual reports by registrar).

25. In section 101(1) (interpretation)—

(a) for the definition of "registrar"(**a**) substitute—

""registrar" means the Financial Conduct Authority;

"registrar's seal" means the seal provided for in regulations made under section 109(1)(b) of the Friendly Societies Act 1974(**b**);";

(b) 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 expression 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;".

26. In section 102 (Great Britain societies)—

(a) for subsection (2) substitute—

"(2) Subject to subsection (8), where the registrar receives from a registered Great Britain society a notice that the society is carrying on or intends to carry on business in Northern Ireland, the registrar must place the notice on a file which it keeps in respect of the society." ; and

(b) in subsection (3)—

(i) for "copies of the rules of a registered Great Britain society are recorded" substitute "the registrar files a notice";

(ii) for the words from "that society", where they first appear, to "those rules", where they first appear, substitute "the registered Great Britain society from which the notice was received, and for the purposes of those provisions that society, the rules of that society".

(**a**) The definition was amended by the Friendly Societies Act 1992, Schedule 21, paragraph 21. The registrar was the officer appointed to perform in Northern Ireland the functions of a registrar of friendly societies, and by virtue of this amendment became the officer appointed to perform in Northern Ireland the functions of a registrar of credit unions.

(**b**) 1974 c. 46. See S.I. 2001/3729 for the form of the seal of the FCA to be used for certain purposes under enactments relating to mutual societies.

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)(**a**), (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(**b**) (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)(**c**);

(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);

(e) Article 60(1)(b); and

(**a**) Paragraph (1B) was inserted by S.I. 2013/496.
(**b**) Article 49 was substituted by S.I. 2011/2832 and amended by S.I. 2013/496.
(**c**) Article 68 was substituted by S.I 2009/1941.

(f) Article 62(1)(a)(**a**).

4. In Article 2—

(a) in paragraph (2)—

(i) omit the definitions of "prescribed" and "registrar"(**b**);

(ii) after the definition of "the Department" insert—

""electronic form" means a document or information sent by electronic means (for example, by email of 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(**c**)—

""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(**d**) (the registrar and assistant registrar).

6. In Article 3 omit paragraph (1A)(**e**).

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)(**f**) 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(**g**)), 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—

(a) in paragraph (2)—

(i) in sub-paragraph (a)—

(aa) for "the prescribed manner" substitute "such manner as may be directed by the FCA";

(**a**) Article 62(1) was substituted by S.I 2011/2832.
(**b**) The definition of "registrar" was amended by the Friendly Societies Act 1992, Schedule 21, paragraph 28.
(**c**) The definition of "the FCA" was inserted by S.I 2013/496.
(**d**) Article 2A was inserted by the Friendly Societies Act 1992, Schedule 21, paragraph 29, and amended by SI 2013/496.
(**e**) Paragraph (1A) was inserted by S.I. 2013/496.
(**f**) Paragraph (2A) was substituted by S.I. 2013/496.
(**g**) 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).

(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)(**a**)—

(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(**b**)".

14. In Article 60(**c**) (Cancellation of registration)—

(a) in paragraph (1)—

(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";

(**a**) Article 53 was amended by S.I 2013/496 and S.I 2011/2832.

(**b**) 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).

(**c**) Article 60 was amended by S.I 2011/2832 and S.I 2013/496.

(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(**a**)." ; 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"; and

(b) in paragraph (2) for "registrar may by writing under his hand" substitute "FCA may, in writing,".

16. In Article 62 (Appeals)(**b**)—

(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)".

17. In Article 63 (Petition for winding up)(**c**)—

(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-authorised person)"; and

(b) for "him", in both places where it appears, substitute "the FCA".

18. In Article 65 (Amalgamation of credit unions)(**d**)—

(a) in paragraph (4) for "him" substitute "it"; and

(b) for paragraphs (7) and (8) substitute—

(**a**) 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).

(**b**) Article 62 was amended by S.I 2013/496 and S.I 2011/2832.

(**c**) Article 63 was amended by S.I 2011/2832 and S.I 2013/496.

(**d**) 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.

"(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)(**a**) and (5)(**b**) 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)(**c**), in paragraph (2) for "registrar within the meaning of this Order" substitute "FCA".

21. In Article 72 (Decision of disputes)(**d**)—

(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;";

(ii) in sub-paragraph (b) for "as might be granted by the registrar(**e**)" 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)"; and

(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"; and

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(**a**) Article 66(4) was inserted by S.I 2011/2832 and substituted by S.I 2013/496.
(**b**) Article 66(5) was inserted by S.I 2013/496.
(**c**) Article 68 was substituted by S.I 2009/1941D
(**d**) Article 72 was amended by S.I 2011/2832.
(**e**) These words were substituted by the Arbitration Act 1996 (c. 23), Schedule 3, paragraph 44(1) and (2)(c).

(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).

(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).

SCHEDULE 4

Article 2(c)

Amendments in consequence of Schedules 2 and 3

PART 1

Consequential amendments of primary legislation

The Credit Unions Act 1979

1. In section 32 of the Credit Unions Act 1979(**a**) (Northern Ireland), in subsection (1), in paragraphs (a) and (b) for "credit unions registered by the FCA" substitute "societies registered as credit unions under the 2014 Act".

The Co-operative and Community Benefit Societies Act 2014

2.—(1) The Co-operative and Community Benefit Societies Act 2014(**b**) is amended as follows.

(2) In section 142 (Northern Ireland societies whose rules are recorded by the FCA)—

(a) in the heading for "whose rules are recorded by the FCA" substitute "to be treated as registered societies";

(b) in subsection (1) for paragraphs (a) and (b) substitute—

"(a) the society notifies the FCA that it wishes to be treated as a registered society, and

(b) the FCA places the notice on a file which it keeps in respect of the society."; and

(c) in subsection (2)(b) for sub-paragraphs (ii) and (iii) substitute—

"(ii) the society's rules, registered under the relevant Northern Ireland law, and

(iii) any amendment to the rules registered under that law,".

(3) In section 149 (interpretation of Act), in the definition of "Gazette" for paragraph (c) substitute—

"(c) the Belfast Gazette, if a notice given by the society has been filed under section 102 (Great Britain societies carrying on business in Northern Ireland) of the Co-operative and Community Benefit Societies Act (Northern Ireland) 1969;".

PART 2

Consequential amendments of secondary legislation

The Statutory Rules (Northern Ireland) Order 1979

3. In Part 1 of Schedule 1 to the Statutory Rules (Northern Ireland) Order 1979(**c**) (authorities who are rule-making authorities) omit the entry relating to the Registrar of Credit Unions for Northern Ireland.

(**a**) 1979 c. 34. Section 32 was amended by S.I. 2001/2617, 2002/1555 and 2013/496, and by the Co-operative and Community Benefit Societies Act 2014 (c.14), section 151(1) and Schedule 4, paragraphs 1 and 17.

(**b**) 2014 c. 14.

(**c**) S.I. 1979/1573 (N.I. 12). The entry omitted was substituted by the Friendly Societies Act 1992 (c.40), Schedule 21, paragraph 25.

The Insolvency (Northern Ireland) Order 1989

4.—(1) The Insolvency (Northern Ireland) Order 1989(**a**) is amended as follows.

(2) In Article 104 (application for winding up of a company), in paragraph (4AA) for "Registrar of Credit Unions for Northern Ireland" substitute "Financial Conduct Authority".

(3) In Article 104C (petition for winding up of a European Cooperative Society)—

(a) in paragraph (1)—

(i) in sub-paragraph (b) for "Registrar of Credit Unions for Northern Ireland" substitute "Financial Conduct Authority";

(ii) for "Registrar may" substitute "Authority may"; and

(b) in paragraph (2)—

(i) in sub-paragraph (b) for "Registrar of Credit Unions for Northern Ireland" substitute "Financial Conduct Authority";

(ii) for "Registrar may" substitute "Authority may".

The Drug Trafficking Offences Act 1986 (Crown Servants and Regulators etc.) Regulations 1994

5. In regulation 4(1) of the Drug Trafficking Offences Act 1986 (Crown Servants and Regulators etc.) Regulations 1994(**b**) (designation of persons performing regulatory etc. functions) omit sub-paragraphs (m) and (n) (which designate the Registrar of Credit Unions for Northern Ireland and the Assistant Registrar of Credit Unions for Northern Ireland for the purposes of section 36B(2)(a) of the Drug Trafficking Offences Act 1986(**c**)).

The Terrorism Act 2000 (Crown Servants and Regulators) Regulations 2001

6. In regulation 4 of the Terrorism Act 2000 (Crown Servants and Regulators) Regulations 2001(**d**) (disapplication of section 19 of the Terrorism Act 2000(**e**) in relation to persons performing functions of a public nature) omit paragraphs (n) and (o) (which disapply section 19 in relation to the Registrar of Credit Unions for Northern Ireland and the Assistant Registrar of Credit Unions for Northern Ireland).

The Company Directors Disqualification (Northern Ireland) Order 2002

7. In Article 25B of the Company Directors Disqualification (Northern Ireland) Order 2002(**f**) (application of Order to credit unions), in paragraph (3)(d) for "registrar as defined in Article 2A of the 1985 Order" substitute "Financial Conduct Authority".

(**a**) S.I. 1989/2405 (N.I. 19), as amended by S.I. 2006/2078. There are other amendments, but they are not relevant.

(**b**) S.I. 1994/1757.

(**c**) 1986 c. 32. Section 36B (exemptions for regulators from offence of failing to disclose knowledge or suspicion of money laundering) was inserted by the Criminal Justice Act 1993 (c. 36), Schedule 4, paragraph 1. It was repealed by the Drug Trafficking Act 1994 (c. 37), section 67 and Schedule 3 and re-enacted by section 61 of that Act. Section 61(2) to (4) were repealed by the Proceeds of Crime Act 2002 (c.29), Schedule 11, paragraph 25.

(**d**) S.I. 2001/192, to which there are amendments not relevant to this Order.

(**e**) 2000 c. 11. Section 19 creates the offence of failing to disclose a belief or suspicion, where it arises in the course of a trade, business or employment, that a terrorist property offence has been committed. There are amendments, but none are relevant.

(**f**) S.I. 2002/3150 (N.I. 4). Article 25B was inserted by the Credit Unions and Co-operative and Community Benefit Societies Act (Northern Ireland) 2016, section 7, which commenced on 23 April 2016.

The Community Benefit Societies (Restriction on Use of Assets) Regulations (Northern Ireland) 2006

8.—(1) The Community Benefit Societies (Restriction on Use of Assets) Regulations (Northern Ireland) 2006(**a**) are amended as follows.

(2) In regulation 2(2) (interpretation) for the definition of "Registrar" substitute—

""the Registrar" means the Financial Conduct Authority;".

(3) In the following provisions for "he" substitute "the Registrar"—

(a) in regulation 9 (enforcement notification), paragraph (1);

(b) in regulation 10 (restitution), paragraph (3);

(c) in regulation 11 (removal of officers), paragraph (2);

(d) in regulation 12 (warning notice), paragraph (1); and

(e) in regulation 13 (decision notice), paragraph (1).

(4) In regulations 10(3) and 11(2) for "him" substitute "it".

(5) In Schedule 2 (application of the Co-operative and Community Benefit Societies Act (Northern Ireland) 1969 with modifications), in paragraph 2(a), which modifies section 15(1)(c) of the Co-operative and Community Benefit Societies Act (Northern Ireland) 1969, in the sub-paragraph which is treated as inserted in that section for "on proof to the his" substitute "it is proved to the Registrar's".

The European Cooperative Society Regulations 2006

9.—(1) The European Cooperative Society Regulations 2006(**b**) are amended as follows.

(2) In regulation 3 (competent authorities)—

(a) for paragraph (1) substitute—

"(1) The Financial Conduct Authority is designated pursuant to Article 78(2) as the competent authority for the purposes of Articles 7, 21, 29, 30, 54 and 73 in relation to an SCE or cooperative which has (or in the case of an SCE proposes to have) its registered office in the United Kingdom."; and

(b) in paragraph (2) for the words from "body" to the end substitute "Financial Conduct Authority".

(3) In regulation 8 (register of SCEs)—

(a) in paragraph (1) for "Great Britain" substitute "the United Kingdom";

(b) omit paragraph (2); and

(c) in paragraph (3) for the words from "registers" to "are" substitute "register established under paragraph (1) is".

(4) In regulation 13 (branches)—

(a) in paragraph (1)—

(i) after "Financial Conduct Authority" insert "("the registrar")"; and

(ii) for "Great Britain" substitute "the United Kingdom";

(b) omit paragraph (2); and

(c) in paragraph (3)—

(i) after "send" insert "to the registrar"; and

(**a**) S.I. 2006/258.
(**b**) S.I. 2006/2078, as amended by 2013/496. There is one other amendment, but it is not relevant.

(ii) omit the comma at the end of sub-paragraph (c) and the words from "to the person" to the end.

The Overseas Companies Regulations 2009

10. In Schedule 1 to the Overseas Companies Regulations 2009(**a**) (public authorities to which the registrar is permitted to disclose information) omit the entry for the Registrar of Credit Unions for Northern Ireland.

The Companies (Disclosure of Date of Birth Information) Regulations 2015

11. In Schedule 1 to the Companies (Disclosure of Date of Birth Information) Regulations 2015(**b**) (public authorities to which the registrar is permitted to disclose information) omit the entry for the Registrar of Credit Unions for Northern Ireland.

Revocations

12. The following regulations are revoked-

(a) the Industrial and Provident Societies Regulations (Northern Ireland) 1969(**c**);

(b) the Industrial and Provident Societies (Payment for Copies of Rules) Regulations (Northern Ireland) 1974(**d**);

(c) the Credit Unions (Forms and Procedures) Regulations (Northern Ireland) 1986(**e**);

(d) the Credit Unions (Fees) Regulations (Northern Ireland) 1994(**f**); and

(e) the Industrial and Provident Societies (Fees) (Amendment) Regulations (Northern Ireland) 1994(**g**).

(**a**) S.I 2009/1801. "The registrar" means the registrar of companies for England and Wales, Scotland or Northern Ireland, as the case may require (see section 1060 of the Companies Act 2006 (c. 46)). There are amendments but none are relevant.
(**b**) S.I 2015/1694. "The registrar" means the registrar of companies for England and Wales, Scotland or Northern Ireland, as the case may require (see section 1060 of the Companies Act 2006 (c. 46)). There are amendments but none are relevant.
(**c**) S.R (NI) 1969 No. 353, as amended by S.R (NI) 1974 No. 437.
(**d**) S.R (NI) 1974 No. 317
(**e**) S.R (NI) 1986 No. 137
(**f**) S.R (NI) 1994 No. 436
(**g**) S.R (NI) 1994 No. 437

EXPLANATORY NOTE

(This note is not part of the Order)

This Order provides for functions of the Registrar of Credit Unions for Northern Ireland ("the registrar") relating to co-operative and community benefit societies and credit unions, except functions which relate to the determination of disputes, to be transferred to the Financial Conduct Authority ("the FCA"). It also provides for functions of the registrar which relate to the determination of disputes, to be transferred to the county court in Northern Ireland.

Article 2 gives effect to the following Schedules.

Schedule 1 applies certain provisions of the Financial Services and Markets Act 2000 (c. 8) to functions transferred to the FCA by Schedules 2 and 3.

Schedule 2 provides for the exercise by the FCA of functions of the registrar under the Co-operative and Community Benefit Societies Act (Northern Ireland) 1969 (c. 24).

Schedule 3 provides for the exercise by the FCA of functions of the registrar under the Credit Unions (Northern Ireland) Order 1985 (S.I 1985/1205 (N.I. 12)).

Schedule 4 makes amendments in consequence of the transfer of functions to the FCA by Schedules 2 and 3. It also revokes the following regulations made under the Co-operative and Community Benefit Societies Act (Northern Ireland) 1969 and the Credit Unions (Northern Ireland) Order 1985:

— the Industrial and Provident Societies Regulations (Northern Ireland) 1969 (S.R (NI) 1969 No. 353);

— the Industrial and Provident Societies (Payment for Copies of Rules) Regulations (Northern Ireland) 1974 (S.R (NI) 1974 No. 317);

— the Credit Unions (Forms and Procedures) Regulations (Northern Ireland) 1986 (S.R (NI) 1986 No. 137);

— the Credit Unions (fees) Regulations (Northern Ireland) 1994 (S.R (NI) 1994 No. 436); and

— the Industrial and Provident Societies (Fees) (Amendment) Regulations (Northern Ireland) 1994 (S.R (NI) 1994 No. 437).

Article 3 makes transitional provision in relation to the amendments made by this Order.

A full regulatory impact assessment has not been produced for this instrument as no significant impact on the costs of business or the voluntary sector is foreseen.

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