Draft Order laid before Parliament under section 14(1) of the Legislative and Regulatory Reform Act 2006, for approval by resolution of each House of Parliament. This version replaces that laid before Parliament on 25th November 2009.

DRAFT STATUTORY INSTRUMENTS

2010 No.

REGULATORY REFORM

The Legislative Reform (Industrial and Provident Societies and Credit Unions) Order 2010

Made - - - - ***

Coming into force [in accordance with article 1]

The Treasury, in exercise of the power conferred by section 1 of the Legislative and Regulatory Reform Act 2006(**a**), make the following Order.

For the purposes of section 3(1) of that Act, they consider, where relevant, that the conditions in section 3(2) are satisfied.

They have consulted in accordance with section 13(1) and (2) of that Act.

They have laid a draft Order and an explanatory document before Parliament in accordance with section 14(1) of that Act.

Pursuant to section 15 of that Act, the super-affirmative resolution procedure (within the meaning of Part 1 of that Act) applies in relation to the making of the Order.

The period of 60 days referred to in section 18(2) of that Act has expired.

In accordance with section 18(2) of that Act, they have had regard to any representations, resolutions and resolution and recommendations made during that period and in particular to [name any Parliamentary report].

In accordance with section 18(3) of that Act, they have laid a statement before Parliament.

In accordance with section 18(4) of that Act, the draft Order has been approved by resolution of each House of Parliament.

(**a**) 2006 c.51.

PART 1

Introductory

Citation, commencement and extent

1.—(1) This Order may be cited as the Legislative Reform (Industrial and Provident Societies and Credit Unions) Order 2010 and comes into force on 1st July 2010.

(2) This Order extends to Great Britain only, except Article 22 which also extends to Northern Ireland.

Interpretation

2. In this Order—

"the 1965 Act" means the Industrial and Provident Societies Act 1965(**a**);

"the 1968 Act" means the Friendly and Industrial and Provident Societies Act 1968(**b**);

"the 1979 Act" means the Credit Unions Act 1979(**c**).

PART 2

Industrial and Provident Societies

Maximum shareholding in society

3. In section 6(**d**) of the 1965 Act (maximum shareholding in society), after subsection (1) insert—

"(1A) Any interest in the shares of the society which are not withdrawable shall be disregarded for the purposes of subsection (1) of this section."

Annual return

4.—(1) Section 39(**e**) of the 1965 Act (annual returns) is amended as follows.

(2) In subsection (1)—

(a) for "period required by this section to be included in the return" substitute "year of account";

(b) for "period" substitute "year";

(c) in paragraph (a) for "period required to be included in the return" substitute "year of account".

(3) In subsection (1A)(b) for "period included in the return" substitute "year of account".

(4) In subsection (1B)—

(a) in paragraph (a) for "period included in the return" substitute "year of account";

(b) in paragraph (b) for "period" substitute "year".

(5) Omit subsections (2), (2A),(3) and (4).

(**a**) 1965 c.12.
(**b**) 1968 c.55.
(**c**) 1979 c.34.
(**d**) Section 6 was amended by the Housing (Consequential Provisions) Act 1985 (c.71), Schedule 2, paragraph 8, and by S.I. 1994/341 and S.I. 1997/627.
(**e**) Section 39 was amended by the Friendly and Industrial and Provident Societies Act 1968 (c.55) and by S.I. 1996/1738 and S.I. 2001/2617.

5. After section 39 of the 1965 Act insert—

"Year of account (for societies registered before 1st July 2010)

39A.—(1) This section applies to a society registered under section 1 of this Act before 1st July 2010.

(2)The year of account for a society to which this section applies begins with whichever is the later of—

(a) the date of the society's registration, and

(b) the date to which the society's last annual return was made up.

(3) Subject to subsections (5) and (6) the year of account for a society to which this section applies ends—

(a) with the date of the last balance sheet published by the society before the appropriate date; or

(b) if the date of that balance sheet is earlier than 31st August immediately preceding the appropriate date or later than 31st January of the year in which the appropriate date falls, with 31st December immediately preceding the appropriate date.

(4) For the purposes of subsection (3) "the appropriate date" is 31st March of the year in which an annual return is required by section 39 to be sent to the Authority or the date on which that return is so sent, whichever is the earlier.

(5) In the case of a society which is terminated by an instrument of dissolution under section 55(1)(b) of this Act the last year of account for that society ends with the date of the instrument of dissolution.

(6) A society to which this section applies may alter the date on which its current and subsequent years of account end to a date other than that specified in subsection (3)(a) or (b) by notice to the Authority.

(7) A notice under subsection (6) must state whether it extends or shortens the current year of account.

(8) A notice extending a society's current year of account is not effective if—

(a) it is given less than 5 years after the end of an earlier year of account of the society that was extended under this section; or

(b) it extends that year of account such that it exceeds 18 months.

Year of account (for societies registered on or after 1st July 2010)

39B.—(1) This section applies to a society registered under section 1 of this Act on or after 1st July 2010.

(2) The year of account for a society to which this section applies is determined according to its accounting reference date in each calendar year.

(3) Subject to subsection (7) below the accounting reference date is the last day of the month in which the anniversary of its registration falls.

(4) The first year of account is the period of more than 6 months but not more than 18 months beginning with the date of the society's registration and ending with its accounting reference date.

(5) Subsequent years of account are successive periods of 12 months beginning immediately after the end of the previous year of account and ending with the society's accounting reference date.

(6) In the case of a society which is terminated by an instrument of dissolution under section 55(1)(b) of this Act the last year of account for that society ends with the date of the instrument of dissolution.

(7) A society to which this section applies may by notice to the Authority specify a new accounting reference date having effect in relation to the society's current and subsequent years of account.

(8) A notice under subsection (7) must state whether the current year of account—

(a) is to be shortened, so as to come to an end on the first occasion on which the new accounting reference date falls or fell after the beginning of the year of account; or

(b) is to be extended, so as to come to an end on the second such occasion.

(9) A notice extending a society's current year of account is not effective if—

(a) it is given less than 5 years after the end of an earlier year of account of the society that was extended under this section; or

(b) it extends that year of account such that it exceeds 18 months."

6. In section 31 of the 1979 Act, in subsection (4) for "section 39 (annual accounts)" substitute "sections 39 to 39B (annual returns etc)".

PART 3

Industrial and Provident Societies and Credit Unions

Provision of copies of rules

7. In section 15(**a**) of the 1965 Act (provision of copies of rules)—

(a) for subsection (1) substitute—

"(1) A registered society shall, on demand, give a copy of its registered rules—

(a) free of charge, to any member of the society to whom a copy of those rules has not previously been given; and

(b) to any other person, upon payment of such fee as the society may require, not exceeding the specified amount.";

(b) after subsection (1) insert—

"(1A) In subsection (1) of this section "specified amount" means £5 or such other amount as the Treasury may specify by order.

(1B) The power to make an order under this section shall be exercisable by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament."

Members under 18

8.—(1) In section 20(**b**) of the 1965 Act (members under 18)—

(a) omit the words "but above the age of sixteen"; and

(b) for "enjoy all the rights" to "under those rules, but" substitute—

"(a) enjoy all the rights of a member; and

(b) if between the ages of sixteen and eighteen, execute all instruments and give all receipts necessary to be executed or given under those rules,

but a person under the age of sixteen".

(**a**) Section 15 was amended by the Decimal Currency Act 1969 (c.19), section 10(1), and by the Criminal Justice Act 1982 (c.48), sections 37 and 46.

(**b**) Section 20 was amended by the Family Law Reform Act 1969 (c.46), section 1 and Schedule 1, Part 1.

(2) In section 9(**a**) of the 1979 Act (deposits by persons too young to be members), for "section 20 of the 1965 Act" substitute "any provision of the credit union's rules".

Dissolution

9.—(1) In section 55(**b**) of the 1965 Act (dissolution of registered society) for subsection (1)(b) substitute—

"(b) in accordance with section 58 of this Act, by an instrument of dissolution—

(i) to which not less than three-fourths of the members of the society have given their consent testified by their signatures to the instrument;

(ii) in the case of a dormant society which is not a credit union, which has been approved by a special resolution of the society; or

(iii) in the case of a credit union, which has been approved by a special resolution of the society and confirmed by the Authority."

(2) In that section after subsection (1) insert—

"(1A) In subsection (1)(b) above "special resolution" has the same meaning as in section 50 of this Act.

(1B) In subsection (1)(b)(ii) above a society is "dormant" if its accounts for the current year of account and the two years of account immediately preceding the current year of account show no accounting transactions other than—

(a) fees paid to the Authority;

(b) payment of dividends; or

(c) payment of interest;

and it has notified the Authority that it is dormant.

(1C) For the purposes of subsection (1)(b)(iii) above the Authority shall be deemed to have confirmed a special resolution if, within twenty one days of the credit union sending a copy of that special resolution to the Authority, the Authority has not notified the credit union in writing to the contrary."

(3) In section 58 of the 1965 Act (instrument of dissolution)—

(a) in subsection (3) at the end insert "or, if the instrument was approved by a special resolution of the society, by a further special resolution.";

(b) after subsection (5) insert—

"(5A) Subsection (5) of this section does not apply to an instrument which pursuant to section 55(1)(b)(iii) above is not confirmed by the Authority.

(5B) A copy of every special resolution for the purposes of section 55(1)(b) of this Act or subsection (3) of this section, signed by the chairman of the meeting at which the resolution was confirmed and countersigned by the secretary of the society, shall be sent to the Authority before the end of the period of fourteen days beginning with the day on which the resolution was confirmed.

(5C) The Authority shall register any copy of a special resolution sent to it in accordance with subsection (5B) of this section at the same time as it registers the instrument of dissolution and any alterations thereto.";

(c) in subsection (6)—

(i) after "consents to" insert ", or approval of,";

(ii) at the end insert "or of the special resolution, as the case may be";

(d) at the end insert—

(**a**) Section 9 was amended by S.I. 2002/1501.
(**b**) Section 55 was amended by the Insolvency Act 1986 (c.45), Schedule 14, and by S.I. 2001/2617.

"(10) In this section "special resolution" has the same meaning as in section 50 of this Act."

Publication of interim accounts

10.—(1) In section 3A(**a**) of the 1968 Act (publication of accounts and balance sheets of societies), in subsections (4), (5) and (6), at the beginning insert "Subject to subsection (6A) of this section,".

(2) After subsection (6) of that section insert—

"(6A) Subsections (4) to (6) of this section do not apply to an interim revenue account or balance sheet where—

(a) it is published together with the latest year end revenue account and balance sheet complying with subsection (2) or (3) of this section, or audited under section 9C of this Act, as the case may be; and

(b) it 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"."

(3) Omit section 24(**b**) of the 1979 Act (modifications of requirements as to audit of accounts).

PART 4

Credit Unions

11. Articles 12 to 21 amend the 1979 Act.

Common bonds

12.—(1) Section 1(**c**) (registration under the Industrial and Provident Societies Act 1965) is amended as follows.

(2) For subsection (2)(b) substitute—

"(b) that the requirements of section 1A (common bonds appropriate to a credit union) and, where applicable, section 1B (further requirements where common bond relates to locality) are met."

(3) After subsection (3) insert—

"(3ZA) In subsection (3) above references to members do not include corporate members. "

(4) Omit subsections (3A) to (6).

13. After section 1 insert—

"Common bonds appropriate to a credit union

1A.—(1) Under the rules of the society admission to membership must be restricted to persons who fall within one or more common bonds appropriate to a credit union (whether or not any other qualifications for admission to membership are required under the rules).

(2) The common bonds appropriate to a credit union are—

(a) following a particular occupation;

(b) being employed by a particular employer;

(**a**) Section 3A was inserted by S.I. 1996/1738 and amended by S.I. 2001/2617.
(**b**) Section 24 was amended by S.I. 1996/1738.
(**c**) Section 1 was amended by S.I. 1996/1189, S.I. 2001/2617, S.I. 2002/1501 and S.I. 2003/256.

(c) residing or being employed in a particular locality;

(d) 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;

(e) any other common bond for the time being approved by the Authority.

(3) If the rules of a credit union so provide, a person who is a member of the same household as, and is a relative of, another person who is a member of the credit union and falls directly within a common bond is treated as also falling within that common bond.

(4) For the purposes of this section, a body corporate or a person applying for membership in his capacity as a partner in a partnership or a trustee for an unincorporated association—

(a) falls within the common bond specified in paragraph (a) of subsection (2) if the principal business of the body corporate, partnership or unincorporated association—

(i) requires it to employ or otherwise engage persons who follow that occupation, or

(ii) relates to that occupation in some other way;

(b) falls within the common bond specified in paragraph (b) of that subsection if the body corporate, partnership or unincorporated association—

(i) employs the persons who qualify for membership under that common bond, or

(ii) provides services, or is otherwise related, to that employer;

(c) falls within the common bond specified in paragraph (c) of that subsection if the body corporate, partnership or unincorporated association has a place of business in, or other significant connection with, that locality; and

(d) falls within the common bond specified in paragraph (d) of that subsection if the body corporate, partnership or unincorporated association is a member of a bona fide organisation or otherwise associated with other members of the society for the purpose specified in that paragraph.

(5) The Authority may accept as sufficient evidence that the requirement of this section is met a statutory declaration to that effect given by three members and the secretary of the society.

Further requirements where common bond relates to locality

1B.—(1) The requirements of this section must be met where—

(a) the rules of a society provide for one or more common bonds involving a connection with a locality, or

(b) the rules of a society provide for one or more common bonds of such other description as may be specified.

(2) The requirements are—

(a) that the conditions in subsection (3) are met, or

(b) that extraordinary circumstances exist justifying registration of the society as a credit union.

(3) The conditions are—

(a) that the number of potential members of the society does not exceed two million or such higher figure as may be specified; and

(b) that it is reasonably practicable for every potential member to participate in votes of the society, serve on the society's committee and have access to all the services offered by the society.

(4) The Authority may accept as sufficient evidence that the conditions in subsection (3) are met a statutory declaration to that effect given by three members and the secretary of the society.

(5) In this section "specified" means specified by order made by the Treasury."

14.—(1) In section 5 (membership and voting rights)—

(a) in subsection (5), for "ceases to fulfil the qualifications for admission to membership" substitute "ceases to fall within a common bond and as a result would not qualify for admission to membership";

(b) in subsection (7), for "whether a common bond exists between the members of the credit union" substitute "whether the requirements of section 1B are met".

(2) In section 20(**a**) (cancellation or suspension of registration and petition for winding up)—

(a) in subsection (1)(b), for "there is no longer a common bond between the members of a credit union" substitute "the rules of a credit union provide for one or more common bonds involving a connection with a locality and the requirements of section 1B are no longer met";

(b) in subsection (2), for paragraph (c) substitute—

"(c) the rules of a credit union provide for one or more common bonds involving a connection with a locality and the requirements of section 1B are no longer met;".

(3) In section 21(**b**) (amalgamations and transfers of engagements)—

(a) in subsection (3), for paragraph (b), substitute—

"(b) section 1B (further requirements where common bond relates to locality) would apply to the proposed amalgamated credit union or, as the case may be, the credit union proposing to accept the transfer of engagements and the requirements of that section would not be met.";

(b) in subsection (4), for "does not fulfil the qualifications for admission to membership" substitute "does not fall within a common bond and as a result does not qualify for admission to membership".

(4) In Schedule 1 (matters to be provided for in rules of credit union), for paragraph 4 substitute—

"**4.** The qualifications for admission to membership of the society, including one or more common bonds appropriate to a credit union.

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

Corporate members

15.—(1) In section 5, omit subsection (1).

(2) After section 5 insert—

"**Corporate members**

5A.—(1) A credit union may admit bodies corporate as members if its rules so provide.

(2) The number of corporate members of a credit union shall not at any time exceed ten per cent of the total number of members of the credit union or such higher percentage as may be specified.

(**a**) Section 20 was amended by S.I. 2001/2617; there are other amending instruments but none is relevant.
(**b**) Section 21 was amended by S.I. 2001/2617; there are other amending instruments but none is relevant.

(3) The number of shares allotted to corporate members of a credit union shall not at any time exceed twenty-five per cent of the total shares allotted to all members of the credit union or such higher percentage as may be specified.

(4) For the purpose of subsection (3) above, the total shares allotted to all members of the credit union shall be that found in the most recent year-end balance sheet submitted to the Authority.

(5) In this section—

(a) "specified" means specified by order made by the Treasury;

(b) "shares" means shares other than deferred shares.

(6) In this Act "corporate member", in relation to a credit union, means—

(a) a body corporate which is a member of the credit union;

(b) an individual who is a member of the credit union in his capacity as a partner in a partnership; or

(c) an individual who is a member of the credit union in his capacity as a trustee for an unincorporated association."

(3) In section 11(**a**) (loans)—

(a) in subsection (1), at the beginning, insert "Subject as follows,";

(b) after subsection (1) insert—

"(1A) A credit union may only make a loan to a corporate member if—

(a) the credit union's rules provide that it may make loans to corporate members, and

(b) making the loan would not result in the aggregate of the outstanding balances on loans made by the credit union to corporate members exceeding ten per cent of the aggregate of the outstanding balances on all loans made by the credit union to members, or such higher percentage as may be specified."

(4) In section 31(1)(**b**) (interpretation), after the definition of "civil partner" insert—

""corporate member", in relation to a credit union, has the meaning assigned to it by section 5A above;".

(5) In Schedule 1, for paragraph 13 substitute—

"**13.** Provision for—

(a) terminating the membership of corporate members in order to comply with the limit on the number of corporate members (see section 5A above); and

(b) the repayment of the shares held by a corporate member in any case where—

(i) the membership is terminated to comply with the limit on the number of corporate members, or

(ii) the shares must be repaid in order to comply with the limit on shares allotted to corporate members (see section 5A above)."

Non-qualifying members

16. In section 5—

(a) in subsection (5) omit ", subject to subsection (6) below,";

(b) omit subsection (6).

(**a**) Section 11 was amended by S.I. 2002/1501; there are other amending instruments but none is relevant.

(**b**) Section 31 was amended by the Civil Partnership Act 2004 (c.33); there are other amending instruments but none is relevant.

Deferred shares

17.—(1) In section 7 (shares)—

(a) in subsection (2), after "Shares in a credit union" insert ", other than deferred shares,";

(b) in subsection (4), after "shares in a credit union" insert ", other than deferred shares,";

(c) at the end, insert—

"(6) If deferred shares are subscribed for in full, the credit union shall transfer a sum equal to the amount paid on those shares to its reserves."

(2) In section 11 after subsection (1A) as inserted by article 15(3)(b) insert—

"(1B) Subsection (1) does not apply in relation to a member holding only deferred shares. "

(3) In section 11A(1)(b) after "the member's paid-up shareholding in the credit union" insert ", excluding any deferred shares,".

(4) After section 31(**a**) insert—

"**31A.**—(1) In this Act, references to deferred shares are to a class of shares where—

(a) the rights and obligations of the credit union and the member in respect of those shares are set out in a single document, or in a series of documents ("the issue documents");

(b) each of the issue documents is provided to every applicant for the shares;

(c) one of the issue documents contains a prominent statement to the effect that the shares are deferred shares for the purposes of this Act;

(d) each of the issue documents contains a prominent statement stating whether the shares are, or are not, an investment covered by the Financial Services Compensation Scheme (see section 213 of the Financial Services and Markets Act 2000);

(e) any document evidencing title to the shares contains the statements required by paragraphs (c) and (d) above;

(f) one of the issue documents contains a term which prohibits the repayment of any principal to the shareholder except in Case A or Case B.

(2) Case A is the winding up or dissolution of the credit union in circumstances where all sums due from the credit union to creditors claiming in the winding up or dissolution are paid in full.

(3) Case B is where—

(a) the credit union applies to the Authority for consent to repay principal to the shareholder,

(b) the credit union so applies otherwise than in consequence of a provision in any of the issue documents which requires it to apply, grants it any benefit for applying or imposes a sanction against failure to apply, and

(c) the Authority grants consent.

(4) "Creditors" in subsection (2) above includes members holding shares, other than deferred shares, in the credit union, as regards the principal of those shares and any interest or dividend due on them.

(5) On any modification of the definition of "deferred shares" in the Building Societies Act 1986 or an instrument made under that Act, the Treasury may, by order, modify the meaning of deferred shares in this section so as to assimilate it to the modified definition."

(**a**) Section 31 was amended by 2002/1501; there are other amending instruments but none is relevant.

Attachment of shares

18.—(1) In section 7(**a**), for subsection (5) substitute—

"(5) Where a credit union has made a loan to a member which is treated by virtue of section 11A(2) below as a secured loan, the member shall not be permitted to withdraw shares where his paid-up shareholding, excluding any deferred shares, in the credit union is, or following the withdrawal would be, less than his total liability (including contingent liability) to the credit union whether as borrower, guarantor or otherwise."

(2) In section 11, after subsection (1B) (inserted by article 17(2)) insert—

"(1C) Where a loan by a credit union is made to a member and is not a secured loan within the meaning of section 11A below, the terms of the loan must include provision as to whether, for the duration of the loan, the borrower is permitted to withdraw shares where his paid-up shareholding (excluding any deferred shares) in the credit union is, or following the withdrawal would be, less than his total liability (including contingent liability) to the credit union whether as borrower, guarantor or otherwise."

Interest-bearing shares

19.—(1) After section 7, insert—

"**Power to issue interest-bearing shares**

7A.—(1) A credit union may issue interest-bearing shares if—

(a) its rules so provide;

(b) its most recent year end balance sheet shows that it holds reserves of at least £50,000 or five per cent of its total assets, whichever is greater;

(c) its auditors, in their report made under section 9 of the Friendly and Industrial and Provident Societies Act 1968 relating to that balance sheet, state that in their opinion the systems of control of the credit union are adequate to manage the payment of interest on shares; and

(d) it has submitted that balance sheet to the Authority.

(2) A credit union shall convert any interest-bearing shares in issue into shares which are not interest-bearing if—

(a) its rules no longer provide for the issue of interest-bearing shares; or

(b) neither its most recent year end balance sheet nor the balance sheet immediately preceding it—

(i) shows that the credit union holds reserves of at least £50,0000 or five per cent of its total assets, whichever is greater;

(ii) contains a statement by its auditors in accordance with paragraph (c) of subsection (1) above; or

(iii) has been submitted to the Authority.

(3) The Treasury may by order provide for subsections (1)(b) and (2)(b)(i) above to have effect as if the references to £50,000 and five per cent were references to such other sum or percentage as they think appropriate.

(4) In this section "year end balance sheet" has the same meaning as in section 3A of the Friendly and Industrial and Provident Societies Act 1968.

(5) In this Act "interest-bearing share" means a share issued on terms which entitle the holder to interest but not to a dividend."

(**a**) Section 7(5) was amended by S.I. 1996/1189.

(2) In section 31(1), after the definition of "credit union" insert—

""interest-bearing share" has the meaning assigned to it by section 7A(5) above;".

(3) In Schedule 1, after paragraph 13, insert—

"**13A.** If the issue of interest-bearing shares is permitted, provision for converting such shares into shares which are not interest-bearing to comply with subsection (2) of section 7A above."

Fee for ancillary services

20. In section 9A(1)(**a**) (power to charge for ancillary services), for "a fee to cover the cost of", substitute "such fee as it considers appropriate for".

Dividends

21. In section 14(4)(**b**) (computation and application of profits), after "credit union" insert "on its dissolution".

PART 5

Consequential, transitional and supplementary provisions

Regulated Activities Order – consequential amendment

22. In article 76 of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001(**c**), after "section 119 of the Building Societies Act 1986", insert "or section 31A of the Credit Unions Act 1979".

Transitional provisions

23. The amendment to section 20 of the 1965 Act by article 8(1) shall not have effect in relation to a society until seven days following the first general meeting of that society after this Order comes into force.

24. For the purposes of sections 1, 1A and 1B of the 1979 Act as amended or inserted by articles 12 and 13—

(a) any reference in the rules of a credit union to a qualification for admission to membership shall, if the context requires, be interpreted as a reference to a common bond;

(b) any qualification for admission to membership of a credit union approved by the Authority before this Order comes into force shall be treated as a common bond approved by the Authority.

25.—(1) The Authority may, subject to paragraph (2), vary a permission given to a credit union under Part 4 of the Financial Services and Markets Act 2000(**d**) before 1st July 2010 by varying the description of the regulated activity for which it gives permission to the extent necessary for the credit union to admit bodies corporate to membership.

(2) The Authority may not vary a permission under paragraph (1) where a credit union gives written notice to the Authority before 1st July 2010 that it does not wish the Authority to vary its permission.

(**a**) Section 9A was inserted by S.I. 2003/256.
(**b**) Section 14 was amended by S.I. 2001/2617; there are other amending instruments but none is relevant.
(**c**) S.I. 2001/544, to which there are amendments which are not relevant to this Order.
(**d**) 2000 c.8.

26. No individual who is a member of a credit union immediately before this Order comes into force shall cease to be a member, or to be eligible for membership, by reason of the amendments made by this Order.

27. The amendment to section 7(5) of the 1979 Act by article 18 shall not have effect in relation to any loan made by the credit union before this Order comes into force.

28. Words and expressions used in articles 24 to 27 which are also used in the 1979 Act have the same meaning in those articles as they have in that Act.

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

EXPLANATORY NOTE

(This note is not part of the Order)

This Order removes a number of burdens imposed by the Industrial and Provident Societies Act 1965, the Friendly and Industrial and Provident Societies Act 1968 and the Credit Unions Act 1979.

Part 1 of the Order deals with commencement, extent and interpretation.

Part 2 of the Order concerns amendments applicable to industrial and provident societies. Article 3 removes the limit on the value of non-withdrawable shares which can be held by a member. Articles 4 and 5 amend the provisions relating to annual returns and calculation of the year-end.

Part 3 of the Order concerns amendments applicable to both Industrial and Provident Societies and credit unions ("societies"). Article 7 allows societies to charge up to £5 for provision of a copy of the society's rules to non members. Article 8 allows persons under the age of 18 to become members of a society and persons between the age of 16 and 18 to become Board members. Article 9 allows dormant societies to be dissolved by way of special resolution, subject to credit unions receiving confirmation from the Authority. Article 10 allows societies to publish unaudited interim accounts or balance sheets provided that they are published with the latest audited year end accounts and balance sheets and are clearly marked as unaudited.

Part 4 of the Order concerns amendments applicable to credit unions only. Articles 12 and 13 reform the membership qualifications for credit unions and provide for a limit on the potential number of members of a credit union with a common bond involving a connection with a locality of two million. The Treasury may by order increase that limit or extend the common bonds to which the limit applies. Article 15 repeals the prohibition on credit unions admitting bodies corporate to membership but imposes limits on the number of shares and total amount of loans which can be made to corporate members (including individuals acting in their capacity as partners in a partnership or trustees for an unincorporated association). Article 16 repeals the limit on non-qualifying members.

Article 17 provides for the issue of deferred shares by credit unions. Article 18 repeals the requirement for a withdrawal of shares which reduces a member's paid up shareholding to less than his total liability to be permitted only at the discretion of the Committee and imposes a requirement on a credit union to include as a term of any loan provision as to whether, for the duration of the loan, the borrower may withdraw shares which would reduce his shareholding to less than his liability. Article 19 provides for a credit union to issue interest-bearing shares provided it meets certain conditions. Article 20 allows credit unions to charge such fee as they think appropriate for ancillary services (whereas previously it was limited to covering costs). Article 21 provides that the limit of 8% on dividends only applies on the dissolution of a credit union.

Part 5 makes a consequential amendment to the Financial Services and Markets Act (Regulated Activities) Order 2001 (S.I.2001/544) and transitional provision in respect of membership age for Industrial and Provident Societies and the membership qualifications for credit unions. Article 25 gives the FSA a power to vary on its own initiative the permission given to a credit union under Part 4 of the Financial Services and Markets Act 2000 (c.8) to enable them to admit bodies corporate to membership.

A full impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available at www.hm-treasury.gov.uk.

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Draft Order laid before Parliament under section 14(1) of the Legislative and Regulatory Reform Act 2006, for approval by resolution of each House of Parliament. This version replaces that laid before Parliament on 25th November 2009.

DRAFT STATUTORY INSTRUMENTS

2010 No.

REGULATORY REFORM

The Legislative Reform (Industrial and Provident Societies and Credit Unions) Order 2010

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