



Isle of Man

Ellan Vannin

AT 19 of 1993

CREDIT UNIONS ACT 1993



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**Isle of Man***Ellan Vannin*

CREDIT UNIONS ACT 1993

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AN ACT to enable certain societies to be registered under the *Industrial and Building Societies Act 1892* as credit unions; and to make further provision with respect to societies so registered.

1 Registration of credit unions

[P1979/34/1]

- (1) Subject to the following provisions of this section and to sections 6(4) and 15(1), and to section 9 of the *Industrial and Building Societies Act 1892* (“**the 1892 Act**”), a society may be registered under that Act as a credit union, and a society which is so registered by virtue of this section is in this Act referred to as a “**credit union**”.
- (2) [Repealed]¹
- (3) A society may not be registered as a credit union unless —
 - (a) it is shown to the satisfaction of the Authority that the following conditions are fulfilled —
 - (i) the objects of the society are those, and only those, of a credit union; and
 - (ii) 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;²
 - (b) the rules of the society comply with section 4(1); and
 - (c) the place which under those rules is to be the society’s registered office is situated in the Island.
- (4) 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.
- (5) 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 Authority; and for the purposes of this Act the Island shall be treated as a particular locality.³
- (6) In ascertaining whether a common bond exists between the members of a society, the Authority —
- (a) shall have regard to the nature of the qualification for admission to membership of the society; and
 - (b) may, if it considers it proper in the circumstances of the case, treat the fact that admission to membership is restricted as mentioned in subsection (3)(a)(ii) as sufficient evidence of the existence of a common bond.⁴
- (7) 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 Supplementary and transitional provisions as to registration

[P1979/34/2]

- (1) Section 6 of, and Schedule 1 to, the 1892 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.
- (2) In section 9(5) of the 1892 Act (acknowledgement of registration) as it applies to registration as a credit union, the reference to compliance with

the provisions of the 1892 Act shall be construed, subject to subsection (1), 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(4) shall not be registered under the 1892 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 1892 Act but whose objects are wholly or substantially those of a credit union within the meaning of section 1(4) 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) a society's existing registration is cancelled on its registration as a credit union, the society shall, notwithstanding anything in section 11(5) or 17(1) of the 1892 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) applies does not become registered as a credit union within such reasonable period after the commencement of this Act as the Department of Economic Development may allow, the Department of Economic Development may proceed to cancel or suspend its existing registration under section 11 of the 1892 Act in the same way as if it were satisfied that it has ceased to exist; and an appeal shall lie under section 11(4) of that Act where it would lie in such a case.⁵

3 Use of name "credit union", etc

[P1979/34/3]

- (1) The name of every society registered as a credit union shall contain the words "credit union".
- (2) Subject to subsection (3), 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 £2,500.⁶
- (3) Subsection (2) does not apply to —
 - (a) the use by any 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 Authority.⁷
- (4) For the purposes of section 2 of the *Industrial and Building Societies (Amendment) Act 1955* (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

4 Rules

[P1979/34/4]

- (1) The rules of a credit union shall be in such form as the Authority may determine and shall contain –
 - (a) provision with respect to the matters mentioned in Schedule 1; and
 - (b) such additional provision as the Authority may determine.^{8 9}
- (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 14(3) of the 1892 Act (acknowledgement of registration of amendment of rules) as it applies to credit unions, the reference to conformity with the 1892 Act shall be construed as including a reference to conformity with this Act.
- (4) The Authority may by order vary the fee which under section 14(5) of the 1892 Act may be charged by a credit union for supplying a person with a copy of its registered rules.¹⁰

5 Membership and voting rights

[P1979/34/5]

- (1) Only individuals shall be members of a credit union.
- (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 £5,000.
- (4) The Authority may by order amend subsection (3) so as to substitute for the sum for the time being specified in that subsection such other sum, not being less than £5,000, as may be specified in the order.¹¹

- (5) A member of a credit union who ceases to fulfil the qualifications for admission to membership shall be entitled, subject to subsection (6), to retain his membership unless the rules of the credit union provide otherwise; and, subject to section 21(4), in this Act “**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 10 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), 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 Minimum and maximum number of members

[P1979/34/6]

- (1) The minimum number of members of a credit union shall be 21, and, accordingly, in section 9(1) of the 1892 Act, as it applies to registration as a credit union and to an application therefor, for “seven” there shall be substituted “twenty-one”.
- (2) Subject to the following provisions of this section, the maximum number of members of a credit union shall be 5,000.
- (3) The Authority may by order amend subsection (2) 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.¹²
- (4) Subject to subsection (5), 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).
- (5) The Authority may grant exemption from the maximum number for the time being provided for in subsection (2) —
 - (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 it 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.¹³

- (6) An exemption under subsection (5) may be granted on such conditions as the Authority 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 it.¹⁴

Operation of credit union

7 Shares

[P1979/34/7]

- (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.
- (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) shall affect the operation of section 17(5)(e) of the 1892 Act (transfer in pursuance of nomination on death of nominator).
- (4) Subject to subsection (5), 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 60 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 General prohibition on deposit taking

[P1979/34/8]

- (1) Subject to sections 9 and 10, a credit union shall not accept a deposit from any person except by way of subscription for its shares.
- (2) In this section and section 9 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 the giving of security.
- (3) For the purposes of subsection (2)(b), 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 –
- (a) on conviction on information to a fine, or
 - (b) on summary conviction to a fine not exceeding £5,000.¹⁵
- (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.

9 Deposits by persons too young to be members

[P1979/34/9]

- (1) A credit union may take deposits up to a total of £750 from a person who is under the age at which, by virtue of section 17(7) of the 1892 Act, he may become a member of the credit union.
- (2) Any deposit received by a credit union as mentioned in subsection (1) 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 (narrower-range investments) to the Trustee Investments Act 1961 (an Act of Parliament), as applied to the Island by section 1 of the *Trustee Act 1961*.
- (3) The moneys which from year to year are earned by the investment of deposits in accordance with subsection (2) 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 Authority may by order amend subsection (1) so as to substitute for the maximum amount for the time being provided for in that subsection

such other amount, being not less than £750, as may be specified in the order.¹⁶

10 Power to borrow money

[P1979/34/10]

- (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.
- (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) if the credit union has obtained the consent in writing of the Authority.¹⁷
- (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) 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), 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) 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) or makes loans or permits withdrawals in contravention of subsection (5), it shall be guilty of an offence and liable –
 - (a) on conviction on information to a fine, or
 - (b) on summary conviction to a fine not exceeding £5,000.¹⁸

11 Loans

[P1979/34/11]

- (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.
- (2) The total amount on loan to a member of a credit union shall not at any time be more than £5,000 (or such other sum as may from time to time be

- prescribed) in excess of his total paid-up shareholding in the credit union at that time.
- (3) Without prejudice to subsection (2), 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 5 years in the case of a secured loan and 2 years in the case of an unsecured loan, or such other period as may from time to time be prescribed.
 - (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 prescribed, 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 prescribed.
 - (7) In this section "prescribed" means prescribed by order made by the Authority.¹⁹
 - (8) Section 18(2) of the 1892 Act (secured advances to members) shall not apply to a credit union.

12 Power to hold land for limited purposes

[P1979/34/12]

- (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 (2), for no other purpose, and may sell, exchange, mortgage or lease any such land, and erect, alter or pull down buildings on it.
- (2) 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.
- (3) 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 Investments

[P1979/34/13]

- (1) A credit union may not invest any part of its surplus funds except in a manner authorised by an order made by the Authority; 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.²⁰
- (2) Any surplus funds of a credit union which are not either —
 - (a) invested in accordance with subsection (1), 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 3 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).
- (6) If a credit union contravenes the provisions of this section, it shall be guilty of an offence and liable —
 - (a) on conviction on information to a fine, or
 - (b) on summary conviction to a fine not exceeding £5,000.²¹
- (7) Section 18(3) and (3A) of the 1892 Act (investments) shall not apply to a credit union.

14 Computation and application of profits

[P1979/34/14]

- (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), 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), 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), 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), 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 prescribed by order made by the Authority.²²
- (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) 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) a credit union in general meeting determines that an amount shall be applied in any of the ways mentioned in subsection (3)(a) to (c), 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 subsection (3)(c), 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).

Insurance and other arrangements

15 Insurance against fraud or other dishonesty

[P1979/34/15]

- (1) A society shall not be registered as a credit union unless the Authority 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 £2,500.²³
- (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 Authority, provide in relation to any claim for any amount greater than one per cent of the limit referred to in paragraph (b) to be met by the credit union; and²⁴

- (d) must be issued by a person who is authorised or permitted under the *Insurance Act 2008* to carry on in the Island insurance business of a relevant class.²⁵
- (3) In subsection (2)(a) and (b) “prescribed” means prescribed by order made by the Authority.²⁶
- (4) An order made by virtue of subsection (2)(b) 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 Authority to be appropriate; and if such an order does so provide the reference in subsection (2)(c) to the limit referred to in subsection (2)(b) shall be construed as a reference to the limit applicable to the credit union in question.²⁷

16 Share guarantees

- (1) A society shall not be registered as a credit union unless the Authority is satisfied that on registration there will be in force in relation to that society arrangements complying with the requirements of this section, consisting of —
 - (a) a policy or policies of insurance issued by a person or persons authorised or permitted under the *Insurance Act 2008* to carry on in the Island insurance business of a relevant class, or²⁸
 - (b) arrangements (other than a policy of insurance) which are approved for the purpose by the Authority, or²⁹
 - (c) a combination of such a policy or policies and such arrangements, which is approved for the purpose by the Authority.^{30 31}
- (2) A credit union shall at all times maintain in force such arrangements as are referred to in subsection (1), and if it fails to do so it shall be guilty of an offence and liable on summary conviction to a fine not exceeding £2,500.³²
- (3) In order to comply with this section, arrangements —
 - (a) subject to such exceptions as may be prescribed, must insure —
 - (i) every member of the credit union, and
 - (ii) every person from whom deposits are taken under section 9,in respect of losses incurred by reason of the insolvency of the credit union; and
 - (b) must so insure the credit union up to a limit not less than the amount specified in subsection (4).
- (4) The amount referred to in subsection (3)(b) is the aggregate of —
 - (a) the interest in shares of every member of the credit union (not exceeding the amount specified in section 5(3)), together with any

- dividends accrued thereon, less the amount outstanding of any loan made to such member together with interest accrued thereon; and
- (b) the amount of deposits taken from every person under section 9 (not exceeding the amount specified in section 9(1)), together with interest accrued thereon under section 9(3).
- (5) For the purpose of this section a credit union becomes insolvent —
- (a) on the commencement of the winding-up of the credit union pursuant to section 24(4) of the 1892 Act;
 - (b) on the dissolution of the credit union otherwise than pursuant to the said section 24(4) where it is determined, in such manner as may be prescribed, that the credit union was immediately before such dissolution unable to pay its debts.
- (6) In this section “prescribed” means prescribed by order made by the Authority.³³

*Powers of Authority*³⁴

17 Power to require information

[P1965/12/48; P1979/34/17]

- (1) The Authority may at any time, by notice in writing served on a credit union or on any person who is or has been an officer of a credit union, require that credit union or person to produce to the Authority such books, accounts and other documents relating to the business of the credit union, and to furnish to it such other information as to that business, as the Authority considers necessary for the exercise of any of its powers under the Societies Acts in relation to that or any other credit union, and any such notice may contain a requirement that any information to be furnished in accordance with the notice shall be verified by a statutory declaration.³⁵
- (2) If a credit union or other person fails without reasonable excuse to comply with a notice under subsection (1) it or he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £1,000 or to imprisonment for a term not exceeding 3 months, or to both.
- (3) The Authority may, if it considers it just, direct that all or any of the expenses incurred by it in exercising its powers under subsection (1) in relation to any credit union shall, either wholly or to such extent as the Authority may determine, be defrayed out of the funds of the credit union or by the officers or former officers of the credit union or any of them; and any sum which any credit union or other person is required by such a direction to pay shall be a debt due to the Authority from that credit union or person.³⁶

- (4) Without prejudice to section 16(1)(d) of the 1892 Act (duty to furnish annual returns), the Authority may 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.³⁷
- (5) If a credit union fails without reasonable excuse to comply with a notice under subsection (4) it shall be guilty of an offence and liable on summary conviction to a fine not exceeding £1,000.

18 Power to appoint inspector and call meeting

[P1965/12/49; P1979/34/18]

- (1) Without prejudice to section 22 of the 1892 Act (appointment of inspector or calling of special meeting by court), where the Authority is of the opinion –
 - (a) that an investigation should be held into the affairs of a credit union, or
 - (b) that the affairs of the credit union call for consideration by a meeting of the members,

it may 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.³⁸

- (2) All expenses of and incidental to an investigation or meeting held pursuant to subsection (1) 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 Authority shall direct.³⁹
- (3) An inspector appointed under this section may require the production of all or any of the books, accounts, securities and documents of the credit union, and may examine on oath its officers, members, agents and servants in relation to its business, and may for that purpose administer oaths.
- (4) The Authority may direct at what time and place a special meeting under this section is to be held, and what matters are to be discussed and determined at the meeting; and the meeting shall have all the powers of a meeting called according to the rules of the credit union, and shall have power to appoint its own chairman notwithstanding any rule of the credit union to the contrary.⁴⁰

19 Power to suspend operations of credit union

[P1979/34/19]

- (1) If, with respect to any credit union, the Authority 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, it may 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 —

- (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 shall have effect in relation to the giving of a direction under this section.⁴¹

- (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 Authority.⁴²
- (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 Authority and notice of the revocation shall be published in the same manner as notice of the giving of the direction.⁴³
- (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), 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 —
 - (a) on conviction on information to a fine, or
 - (b) on summary conviction to a fine not exceeding £2,000.

20 Cancellation or suspension of registration and winding up

[P1979/34/20]

- (1) The grounds on which the registration of a credit union may be cancelled or suspended under section 11 of the 1892 Act, as it applies to credit unions, include —

- (a) that the Authority is satisfied that the number of members of the credit union has been reduced to less than 21;⁴⁴
- (b) that the Authority is satisfied that the credit union has after notice from it violated any of the provisions of the Societies Acts; and⁴⁵
- (c) that it appears to the Authority that there is no longer a common bond between the members of the credit union;⁴⁶

and section 11(4) of that Act (appeals) shall apply accordingly.

- (2) Without prejudice to section 24(4) of the 1892 Act (winding up), a petition for the winding up of a credit union may be presented to the court by the Authority if it appears to it 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, the Societies Acts; 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 the Authority 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.⁴⁷

Amalgamations, transfers of engagements and conversions

21 Amalgamations and transfers of engagements

[P1979/34/21]

- (1) In its application to credit unions, section 23(3) of the 1892 Act (amalgamations of registered societies and transfers of engagements between them) shall have effect subject to the provisions of subsections (2) and (3).
- (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 Authority shall not register a special resolution under section 23(3) of the 1892 Act if in its opinion —
 - (a) the proposed amalgamation or transfer of engagements would result in a contravention of any provision of the Societies Acts; 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.⁴⁸

- (4) In this Act “**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.

22 No conversion of credit union into company

[P1979/34/22]

Section 23(4) of the 1892 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.

23 Conversion of company into credit union

[P1979/34/23]

- (1) In its application to the conversion of a company into a credit union, section 8 of the 1892 Act (conversion of company into registered society) shall have effect subject to the provisions of this section.
- (2) A company shall not be registered as a credit union in accordance with that section unless the Authority 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) exceed the maximum shareholding for the time being permitted by section 5(3) 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 section 6(5), the number of its members does not exceed the maximum for the time being provided for in section 6(2) in relation to a credit union.⁴⁹

*General and miscellaneous***24 Audit of accounts**

[P1979/34/24]

- (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 —
 - (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) Section 16(1)(c) and (g) of the 1892 Act (audit etc.) shall not apply in relation to any such interim revenue account or balance sheet as is referred to in subsection (1).

25 Prohibition on undischarged bankrupts etc

[P1979/34/27]

A person who is an undischarged bankrupt or who has been convicted on information of any offence involving fraud or dishonesty shall not —

- (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.

26 Exclusion of deposit taking business under the *Financial Services Act 2008*

The carrying out by a credit union of transactions permitted by its rules shall not be treated as deposit taking business, and accordingly a credit union shall not be treated as a deposit taking institution, for the purposes of the *Financial Services Act 2008*.⁵⁰

27 Offences

[P1979/34/28]

- (1) In sections 25 to 31 of the 1892 Act (general provisions as to offences) as they apply to credit unions, references to the 1892 Act shall include references to this Act.
- (2) 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.
- (3) 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.

28 Orders

Orders made by the Authority under this Act (except an order under section 30(3)) shall not have effect unless they are approved by Tynwald.⁵¹

29 Interpretation

[P1979/34/31]

- (1) In this Act —

“**the 1892 Act**” means the *Industrial and Building Societies Act 1892*;

“**authorised bank**” means —

- (a) the holder of a licence under section 7 of the *Financial Services Act 2008* in respect of deposit taking;⁵²
- (b) the National Savings Bank;

“**Authority**” means the Isle of Man Financial Services Authority (as established by article 4 of the Transfer of Functions (Isle of Man Financial Services Authority) Order 2015);⁵³

“**civil partner**” includes former civil partner and reputed civil partner;⁵⁴

“**the Commission**” [Repealed]⁵⁵

“**credit union**” means a society registered under the 1892 Act by virtue of section 1;

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

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

- (a) his spouse or civil partner;⁵⁶
- (b) any lineal ancestor, lineal descendant, brother, sister, aunt, uncle, nephew, niece or first cousin of his or his spouse or civil partner; and⁵⁷
- (c) the spouse or civil partner of any relative within paragraph (b);⁵⁸

and for the purpose of deducing any such relationship a step-child shall be treated as a legitimate child;

“**the Societies Acts**” means the Industrial and Building Societies Acts 1892 to 1993;

“**spouse**” includes former spouse and reputed spouse.

- (2) Sections 2 and 32 of the 1892 Act shall apply for the purposes of this Act as they apply for the purposes of that Act.

30 Short title, citation and commencement

- (1) This Act may be cited as the Credit Unions Act 1993.
- (2) The Industrial and Building Societies Acts 1892 to 1986 and this Act may be cited together as the Industrial and Building Societies Acts 1892 to 1993.
- (3) This Act shall come into operation on such day as the Authority may by order appoint.^{59 60}

Schedule 1**MATTERS TO BE PROVIDED FOR IN RULES OF CREDIT UNION**

Section 4(1)

1. The name of the society, which shall comply with section 3(1) and with section 9(4) of the 1892 Act and section 1(1) of the Industrial and Building Societies (Amendment) Act 1955 (name not to be undesirable and to end with the word “limited”).
2. The objects of the society.
3. The place in the Island 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 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 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.
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, 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 6(2) or, if a conditional exemption has been granted under subsection 6(5), any other limit which may be specified as a condition of that exemption; and
- (b) the limit provided for in section 5(6) on the number of non-qualifying members of a credit union;
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

PROCEDURE IN RELATION TO DIRECTIONS UNDER SECTION 19

Section 19

1. Not less than 14 days before giving a direction, the Authority shall serve on the credit union concerned, and on every member of its committee, a notice stating that it proposes to give such a direction and specifying the nature of the direction it proposes to give and the considerations which have led it to conclude that it should give such a direction.⁶¹

2. (1) The Authority shall consider any representations with respect to the notice which may be made to it by the credit union within such period as it may allow, not being less than 14 days from the date on which the credit union is served with the notice.⁶²

(2) If the credit union so requests, the Authority shall afford it an opportunity of making oral representations to the Authority or a person appointed by it for the purpose within that period; and where such representations are made to a person so appointed, the Authority shall not give the direction without considering the report of that person.⁶³

3. (1) On giving such a direction the Authority 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.⁶⁴

(2) The direction and notices served in accordance with sub-paragraph (1) shall be accompanied by a notice specifying the considerations which have led the Authority to conclude that it should give the direction.⁶⁵

(3) The Authority 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 1.⁶⁶

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 Authority by him or by the credit union.⁶⁷

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 Authority in one or more newspapers published and circulating in the Island and in any other manner which appears to it to be necessary for informing the public.⁶⁸

ENDNOTES

Table of Endnote References

- ¹ Subs (2) repealed by Companies (Transfer of Functions) Act 2000 Schs 1 and 3.
- ² Para (a) amended by SD2015/0090 as amended by SD2015/0276.
- ³ Subs (5) amended by SD2015/0090 as amended by SD2015/0276.
- ⁴ Subs (6) amended by SD2015/0090 as amended by SD2015/0276.
- ⁵ Subs (6) amended by Companies (Transfer of Functions) Act 2000 Sch 1, by Interpretation Act 1976 s 16A and by SD155/10 Sch 2.
- ⁶ Subs (2) amended by Statute Law Revision Act 1997 Sch 1.
- ⁷ Para (b) amended by SD2015/0090 as amended by SD2015/0276.
- ⁸ Para (b) amended by SD2015/0090 as amended by SD2015/0276.
- ⁹ Subs (1) amended by SD2015/0090 as amended by SD2015/0276.
- ¹⁰ Subs (4) amended by SD2015/0090 as amended by SD2015/0276.
- ¹¹ Subs (4) amended by SD2015/0090 as amended by SD2015/0276.
- ¹² Subs (3) amended by SD2015/0090 as amended by SD2015/0276.
- ¹³ Subs (5) amended by SD2015/0090 as amended by SD2015/0276.
- ¹⁴ Subs (6) amended by SD2015/0090 as amended by SD2015/0276.
- ¹⁵ Para (b) amended by Statute Law Revision Act 1997 Sch 1.
- ¹⁶ Subs (4) amended by SD2015/0090 as amended by SD2015/0276.
- ¹⁷ Subs (2) amended by SD2015/0090 as amended by SD2015/0276.
- ¹⁸ Para (b) amended by Statute Law Revision Act 1997 Sch 1.
- ¹⁹ Subs (7) amended by SD2015/0090 as amended by SD2015/0276.
- ²⁰ Subs (1) amended by SD2015/0090 as amended by SD2015/0276.
- ²¹ Para (b) amended by Statute Law Revision Act 1997 Sch 1.
- ²² Subs (4) amended by SD2015/0090 as amended by SD2015/0276.
- ²³ Subs (1) amended by Statute Law Revision Act 1997 Sch 1 and by SD2015/0090 as amended by SD2015/0276.
- ²⁴ Para (c) amended by SD2015/0090 as amended by SD2015/0276.
- ²⁵ Para (d) amended by Insurance Act 2008 Sch 8.
- ²⁶ Subs (3) amended by SD2015/0090 as amended by SD2015/0276.
- ²⁷ Subs (4) amended by SD2015/0090 as amended by SD2015/0276.
- ²⁸ Para (a) amended by Insurance Act 2008 Sch 8.
- ²⁹ Para (b) amended by SD2015/0090 as amended by SD2015/0276.
- ³⁰ Para (c) amended by SD2015/0090 as amended by SD2015/0276.
- ³¹ Subs (1) amended by SD2015/0090 as amended by SD2015/0276.
- ³² Subs (2) amended by Statute Law Revision Act 1997 Sch 1.
- ³³ Subs (6) amended by SD2015/0090 as amended by SD2015/0276.
- ³⁴ Cross-heading substituted by SD2015/0090 as amended by SD2015/0276.
- ³⁵ Subs (1) amended by SD2015/0090 as amended by SD2015/0276.
- ³⁶ Subs (3) amended by SD2015/0090 as amended by SD2015/0276.

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- ³⁷ Subs (4) amended by SD2015/0090 as amended by SD2015/0276.
- ³⁸ Subs (1) amended by SD2015/0090 as amended by SD2015/0276.
- ³⁹ Subs (2) amended by SD2015/0090 as amended by SD2015/0276.
- ⁴⁰ Subs (4) amended by SD2015/0090 as amended by SD2015/0276.
- ⁴¹ Subs (1) amended by SD2015/0090 as amended by SD2015/0276.
- ⁴² Subs (2) amended by SD2015/0090 as amended by SD2015/0276.
- ⁴³ Subs (4) amended by SD2015/0090 as amended by SD2015/0276.
- ⁴⁴ Para (a) amended by SD2015/0090 as amended by SD2015/0276.
- ⁴⁵ Para (b) amended by SD2015/0090 as amended by SD2015/0276.
- ⁴⁶ Para (c) amended by SD2015/0090 as amended by SD2015/0276.
- ⁴⁷ Subs (2) amended by SD2015/0090 as amended by SD2015/0276.
- ⁴⁸ Subs (3) amended by SD2015/0090 as amended by SD2015/0276.
- ⁴⁹ Subs (2) amended by SD2015/0090 as amended by SD2015/0276.
- ⁵⁰ S 26 substituted by Financial Services Act 2008 Sch 6.
- ⁵¹ S 28 amended by SD2015/0090 as amended by SD2015/0276.
- ⁵² Para (a) substituted by Financial Services Act 2008 Sch 6.
- ⁵³ Definition of “Authority” inserted by SD2015/0090 as amended by SD2015/0276.
- ⁵⁴ Definition of “civil partner” inserted by Civil Partnership Act 2011 Sch 14.
- ⁵⁵ Definition of “the Commission” repealed by SD2015/0090 as amended by SD2015/0276.
- ⁵⁶ Para (a) amended by Civil Partnership Act 2011 Sch 14.
- ⁵⁷ Para (b) amended by Civil Partnership Act 2011 Sch 14.
- ⁵⁸ Para (c) amended by Civil Partnership Act 2011 Sch 14.
- ⁵⁹ Subs (3) amended by SD2015/0090 as amended by SD2015/0276.
- ⁶⁰ ADO (whole Act) 27/6/1994 (SD170/94).
- ⁶¹ Para 1 amended by SD2015/0090 as amended by SD2015/0276.
- ⁶² Subpara (1) amended by SD2015/0090 as amended by SD2015/0276.
- ⁶³ Subpara (2) amended by SD2015/0090 as amended by SD2015/0276.
- ⁶⁴ Subpara (1) amended by SD2015/0090 as amended by SD2015/0276.
- ⁶⁵ Subpara (2) amended by SD2015/0090 as amended by SD2015/0276.
- ⁶⁶ Subpara (3) amended by SD2015/0090 as amended by SD2015/0276.
- ⁶⁷ Subpara (4) amended by SD2015/0090 as amended by SD2015/0276.
- ⁶⁸ Subpara (6) amended by SD2015/0090 as amended by SD2015/0276.