



Isle of Man

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CREDIT UNIONS ACT 1993 - Keeling Schedule (showing amendments proposed by the Credit Unions (Amendment) Bill 2017)

Received Royal Assent: 19 October 1993

Passed: 20 October 1993

Commenced: 27 June 1994

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. [amended by] A BILL ... to impose a requirement for credit unions to be licensed by the Isle of Man Financial Services Authority; to make comprehensive and self-sufficient provision for the registration of credit unions; to break the reliance on the Industrial and Building Societies Acts 1892 to 1986; to subject credit unions to the requirements of the Financial Services Act 2008; and for connected purposes.

1 Incorporation of credit unions

- (1) The following provisions have effect with respect to applications for incorporation as a credit union —
- (a) at least 21 prospective applicants, who must be resident in the Island, and the proposed secretary must complete and sign the prescribed application form, which must then be submitted to the Department along with two copies of the rules of the proposed credit union;
 - (b) the Company and Business Names etc Act 2012 has effect in respect of applications for incorporation as a credit union, and the requirements of that Act are additional to the requirements of this Act;
 - (c) the word "limited" shall be the last word in the proposed name in every application for incorporation as a credit union;
 - (d) the Department, on being satisfied that the details set out in the application constitute compliance with the requirements of this Act, shall issue a certificate of incorporation in the prescribed form; and
 - (e) a certificate of incorporation issued in accordance with paragraph (d) shall be conclusive evidence that the credit union named therein exists as a separate legal entity.

These provisions are subject to subsections (2) to (8).

- (2) An application for incorporation under this Act may not be granted unless —
- (a) the specified application form has been completed, signed and submitted;

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- (b) no undischarged bankrupt has signed the application form;
- (c) it is shown to the satisfaction of the Authority that the following conditions have been fulfilled —
 - (i) the proposed objects are only those of a credit union; and
 - (ii) admission to membership of the proposed credit union is to be restricted to persons who reside in the Island and who fulfil any additional qualification that —
 - (A) falls within a category specified in; or
 - (B) has been prescribed in accordance with, subsection (4) (whether or not any other qualifications are also required by the rules);
- (d) the rules of the credit union are adequate and comply with section 4(1);
- (e) the proposed registered office is situated in the Island
- (f) the name of the proposed credit union is acceptable;
- (g) the required fee has been paid;
- (h) there will be acceptable fraud insurance in respect of the proposed credit union;
- (i) there are proposed arrangements for adequate savings protection and share guarantee; and
- (j) any other requirements imposed by or in accordance with this Act have been satisfied.
- (3) The objects of a credit union are —
 - (a) the promotion of thrift among the members of the credit union by the accumulation of their savings;
 - (b) the creation of sources of credit for the benefit of the members of the credit union at a fair and reasonable rate of interest;
 - (c) the use and control of the members' savings for their mutual benefit; and
 - (d) the training and education of the members in the wise use of money and in the management of their financial affairs.
- (4) The additional qualifications for admission to membership may include —
 - (a) following a particular occupation;
 - (b) residing in a particular part of the Island; or
 - (c) being employed by a particular employer,and such other qualifications as the Authority may prescribe by order.
- (5) Notwithstanding its incorporation under this Act and subject to section 27A, a credit union shall not —
 - (a) begin to carry on the business of a credit union unless the Authority has granted it a licence under section 7 of the Financial Services Act 2008; or
 - (b) continue carrying on the business of a credit union whilst the licence referred to in paragraph (a) is suspended or after it has been revoked in accordance with the aforesaid section,and in any case of contravention of this section the relevant provisions of the Financial Services Act 2008 shall apply.

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(6) An order made under subsection (4) shall be subject to consultation with such persons as the Authority considers appropriate, and shall not come into operation until it has been approved by Tynwald.

(7) For the avoidance of doubt —

(a) none of the following actions constitutes holding oneself out as carrying on, in or from the Island, a regulated activity within the meaning of section 4 of the Financial Services Act 2008 —

(i) submitting an application for incorporation under this section; or

(ii) the mere issue or the mere possession of a certificate of incorporation of a credit union, provided the required licence under the Financial Services Act 2008 is sought from the Authority within 5 working days after the issue of the certificate of incorporation; and

(b) in keeping with section 1(5), a credit union’s possession of a certificate of incorporation does not obviate the requirement to obtain the aforementioned licence before the credit union can lawfully carry on a regulated activity in or from the Island.

1 Registration of credit unions

~~(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]~~

~~(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;~~

~~(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 —~~

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- (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.

(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.

(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 Registration or incorporation under the 1892 Act

- (1) A society whose objects are wholly or substantially those of a credit union within the meaning of section 1(4) shall not be registered or incorporated under the 1892 Act but shall be incorporated as a credit union under this Act.
- (2) Any registration or incorporation of such a society under the 1892 Act shall be void.

2 Supplementary and transitional provisions as to registration

(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)

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~~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.~~

2A Appeals from decisions of the Department

- (1) Any person who is aggrieved by –
 - (a) the refusal of the Department to incorporate a credit union or any rules;
 - (b) the refusal of the Department to register or receive any document submitted to it; or
 - (c) any other act or decision of the Department under this Act,may appeal to a court of summary jurisdiction within 21 days after the date of the refusal or other act or decision, or within such further time as the court of summary jurisdiction may allow.
- (2) On hearing the appeal, the court of summary jurisdiction may –
 - (a) confirm the refusal or other act or decision of the Department; or
 - (b) give such directions or make such determination in the matter as it thinks fit.
- (3) If the refusal to incorporate is overruled on appeal, a certificate of incorporation in the prescribed form shall be given to the credit union by the Department.
- (4) The certificate of incorporation issued in accordance with subsection (3) shall have the same effect as one issued in accordance with section 1(1)(e).
- (5) Notwithstanding any other provision of any enactment or any rule of law, where a person appeals or applies to the court of summary jurisdiction in respect of an act or decision of the Department under this Act –
 - (a) the Department and any person authorised by it under that section for the purpose may continue to exercise its powers under that section as if no such appeal or application had been made; and
 - (b) no person shall be excused from fulfilling his obligations under that section by reason of that appeal or application, until a decision on the appeal or application is given.

2B Appeals from decisions of the Authority

A person aggrieved by a decision of the Authority may appeal in accordance with section 32 of the *Financial Services Act 2008*.

3 Use of name “credit union”, etc

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- (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.
- (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.
- (4) The objects of a credit union shall not be regarded as wholly charitable or benevolent.

~~(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

- (1) The rules of a credit union shall be in such form as the Authority may specify and shall contain —
 - (a) provision with respect to matters mentioned in the Schedule; and
 - (b) such additional provision as the Authority may determine.
- (2) The rules of a credit union may not be amended except by a resolution passed by not less than two-thirds of the members present at a general meeting called for the purpose after the giving of such notice as is by the rules required for such a resolution.
- (3) No rule and no amendment of a rule made by a credit union shall be valid until the same have been registered under this Act, and for that purpose the following steps shall be complied with —
 - (a) two copies of such rules or amendment of a rule, signed by three members and the secretary, shall be sent to the Department and one copy shall simultaneously be sent to the Authority; and
 - (b) the Authority shall assess and, if satisfied, advise the Department that the rule or amendment of a rule is in conformity with the requirements of this Act and any other applicable law;
 - (c) only after having been notified by the Authority in accordance with paragraph (b), the Department shall —

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- (i) register the rule or amendment of a rule;
 - (ii) return one of the copies to the secretary or other officer of the credit union, to which copy shall be attached a certificate of registration in the prescribed form; and
 - (iii) retain, stamp and register the other copy.
- (4) The provisions of this Act as to appeals from a refusal to incorporate shall apply to rules and amendments of rules in respect of the role to be played by the Department, and in respect of the role to be played by the Authority the provisions of the *Financial Services Act 2008* shall apply.
- (5) A copy of the rules of a credit union shall be —
- (a) delivered by the credit union to every person on demand, on payment of such reasonable fee, if any, as [the Department] may see fit to impose; and
 - (b) made available on the credit union's website.

4 Rules

- (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.
- (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.

4A Inspection, production and evidence of documents kept by Department

- (1) Any person may inspect a copy of any document kept by the Department, including the rules of a credit union, on payment of such fees as may be prescribed under section 28.
- (2) Any person may require —
- (a) a copy of the certificate of incorporation of any credit union; or
 - (b) a copy or extract of any other document or any part of any other document,
- to be certified by the Department, on payment of such fees as may be prescribed under section 28.
- (3) A copy or extract from any document registered at the office for the registration of companies, certified to be a true copy by the Department, shall in all proceedings be admissible in evidence as of equal validity with the original document.

5 Membership and voting rights

- ~~(1) The following may be members of credit unions —~~
- ~~(a) individuals; or~~
- ~~(b) bodies corporate and unincorporated societies, subject to the restriction that such members shall be permitted to save with the credit union but shall not be permitted to borrow therefrom.~~
- ~~(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.
- (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 ~~29(2)~~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 exceed 10 per cent. of the total membership of the credit union.~~
- ~~This is subject to subsection (11).~~
- ~~(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.
- ~~(10) The liability of a member of a credit union in respect of any share —~~
- ~~(a) upon which no advance has been made, shall be limited to the amount agreed to be paid by him under the original rules of the credit union;~~
- ~~(b) upon which an advance has been made, shall be limited to the amount payable thereon under any mortgage or other security, or under the rules of the credit union.~~
- ~~(11) The Authority may by order amend —~~

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- (a) subsection (6) to increase or decrease the maximum number of permitted non-qualifying members of a credit union; or
- (b) any provision of this Act prescribing matters to be provided for in the rules of a credit union.

6 Minimum and maximum number of members

- (1) In accordance with section 1(1), the minimum number of members of a credit union is 21.
- (2) The maximum number of members of a credit union shall be determined by the Authority and set out in the Rule Book.

6 Minimum and maximum number of members

- ~~(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.~~
- ~~(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.~~~~
- ~~(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.~~

Operation of credit union

7 Shares

- (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.
This subsection is subject to sections 7A and 7B.
- ~~(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.~~

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- ~~(3) Nothing in subsection (2) shall affect the operation of section 17(5)(c) 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 be only in the manner prescribed by order made by the Authority after consulting with such persons as appear appropriate; or~~
- ~~(b) in any other case, the withdrawal shall be permitted only at the discretion of the committee,~~
- ~~and in the case of an order made under paragraph (a), the order shall not come into operation until it has been approved by Tynwald.~~
- ~~(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.~~

7A Transfer in pursuance of nomination on death of nominator

- ~~(1) This section applies despite section 7(2).~~
- ~~(2) A member of a credit union who is 16 years old or older (“the nominator”) may nominate any person or persons to whom all or a portion of any property held on his behalf by the credit union are to be transferred upon the member’s death; but such nomination shall not be valid unless —~~
- ~~(a) it is in writing and signed by the nominator, and~~
- ~~(b) during the nominator’s lifetime —~~
- ~~(i) is delivered at or sent to the registered office of the credit union; or~~
- ~~(ii) is recorded at the registered office of the credit union.~~
- ~~(3) A nomination under subsection (1) shall be valid to a maximum sum of £5,000, regardless of whether the value of nominator’s property held by the credit union exceeds that sum. This is subject to subsection (7).~~
- ~~(4) The nominator may not validly nominate under this section a person who is an officer of the credit union unless such officer is his spouse, civil partner, father, mother, child, brother, sister, nephew or niece.~~
- ~~(5) A nomination made under this section may be revoked or varied by a subsequent nomination or by any similar document in the nature of a revocation or variation, in either case made in the manner prescribed in~~

subsection (2); but a nomination shall not be revocable or variable by the will of the nominator or by any codicil to the will.

- (6) The credit union shall keep a register in which it shall record —
- (a) the names of all persons so nominated; and
 - (b) all revocations or variations (if any) or such nominations, and (subject to subsection (7)) the property comprised in any such nomination to an amount not exceeding £5,000 shall be payable or transferrable to the nominee although the rules of the credit union declare the shares not to be transferrable.
- (7) The Department may by order amend subsection (3) or subsection (6) to increase or decrease the maximum sum prescribed in those subsections, and any such order —
- (a) shall not be made unless the Department has obtained the Authority's prior written agreement to the making of it; and
 - (b) shall not come into operation until it has been approved by Tynwald.

7B Effect on nomination of marriage and civil partnership

- (1) The marriage of a member of a credit union shall operate as a revocation of any nomination made by him before such marriage.
This is subject to subsection (2).
- (2) Despite subsection (1), in the event of an officer of a credit union having transferred any property of a member to a nominee in ignorance of a marriage contracted subsequent to the date of the nomination, the receipt of the nominee shall be a valid discharge to the credit union, and the credit union shall be under no liability to any other person claiming such property.
- (3) The formation of a civil partnership by a member of a credit union revokes any nomination made by the member before the formation of the civil partnership; but if any property of that member has been transferred by an officer of the credit union in pursuance of the nomination in ignorance of a civil partnership formed by the nominator after the date of the nomination —
- (a) the receipt of the nominee shall be a valid discharge to the credit union; and
 - (b) the credit union shall be under no liability to any other person claiming the property.
- (4) On receiving satisfactory proof of the death of a nominator, the committee of the credit union shall, subject to the limitation on account prescribed in section 7A, either —
- (a) transfer the property comprised in the nomination in manner directed by the nomination; or
 - (b) pay to every person entitled thereunder the full value of the property given to him,
unless the shares comprised in the nomination, if transferred as directed by the nominator, would raise the share capital of any nominee to a sum

- exceeding the maximum for the time being permitted in the case of the credit union, in which case they shall pay him the value of such excess.
- (5) Where a nominee who is nominated under the provisions of this section or section 7A is under 16 years of age, the credit union may pay the sum nominated —
- (a) to either parent, or to a guardian of the nominee; or
 - (b) to any other person of full age who will undertake —
 - (i) to hold the same on trust for the nominee; or
 - (ii) to apply the same for his benefit,
- and whom the credit union may think a fit and proper person for the purpose,
- and the receipt of such parent, guardian, or other person shall be a sufficient discharge to the credit union for all moneys so paid.

8 General prohibition on deposit taking

- (1) A credit union shall not accept a deposit from any person.
- (2) In this section "deposit" has the same meaning it has in the Regulated Activities Order 2011.
- (3) 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.

8 General prohibition on deposit taking

- (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.~~
- (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 under the age of 18

- (1) A person under the age of 18 may be a member of a credit union unless the rules of the credit union provide otherwise.
- (2) Despite subsections (1) and (3), a person under the age of 18 may not borrow from a credit union.
- (3) A person under the age of 18 –
 - (a) may enjoy all the rights of a member of a credit union unless the rules of the credit union provide otherwise;
 - (b) if aged 16 or over, may execute all instruments and give all receipts necessary to be executed or given under the rules of a credit union.This is subject to the rules of the credit union and the provisions of this Act.
- (4) A person under the age of 16 may not be a member of a credit union's committee or a trustee, manager or treasurer of a credit union.

9 Deposits by persons too young to be members

- ~~(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.~~

10 Power to borrow money

- (1) A credit union may borrow money.
- (2) The Authority may set out in the Rule Book such further terms, conditions or restrictions for the borrowing of money by credit unions as it considers necessary or desirable.

10 Power to borrow money

- ~~(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.~~
- ~~(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~~

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~~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.~~

11 Loans

~~(1) A credit union may make to a member who is 18 years old or older 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. This subject to subsections (2) and (3).~~

~~(2) The total amount on loan to a member of a credit union shall not at any time be more than £5,000 in excess of his total paid-up shareholding in the credit union at that time.~~

~~(3) The Authority may by order amend subsection (2) to increase or decrease the permitted total amount on loan to a member of a credit union, and any such order —~~

~~(a) shall be subject to consultation with such persons as the Authority considers appropriate; and~~

~~(b) shall not come into operation until it has been approved by Tynwald.~~

11 Loans

(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.

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- ~~(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.~~
- ~~(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

- (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.

12A Property and funds of credit unions

Any body corporate may, if its constitutional documents permit, hold shares in a credit union in its corporate name.

13 Special resolutions, etc

- (1) A credit union may, by a special resolution with the approval of the Department and the Authority in writing, change its name. This is subject to subsections (2) to (7).
- (2) The new name of a credit union shall not be identical to that of any credit union previously incorporated and still subsisting, or so nearly resembling the same as to be calculated to deceive, unless such subsisting credit union is in course of being terminated or dissolved, and consents to such incorporation.
- (3) Notice of a change of name under subsection (1) shall be sent to the Department and registered by it, and it shall give a certificate of the registration of such change of name.
- (4) A change of name shall not affect any right or obligation of the credit union, or of any member thereof, or other person, and any pending legal proceedings may be continued by or against the credit union, notwithstanding its change of name.

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- (5) At any meeting under this section a declaration by the chairman that a resolution has been carried shall be deemed as conclusive evidence of that fact.
- (6) A copy of every special resolution for any of the purposes mentioned in this section, signed by the chairman of the meeting and countersigned by the secretary, shall be sent to the Department and shall be registered there, and until such copy be registered such special resolution shall not take effect.
- (7) For the purposes of this section a “special resolution” is one which is passed by a majority of not less than three-fourths of such members of a credit union for the time being entitled under the rules to vote, as may be present in person or proxy (where the rules allow proxies) at any general meeting of which notice specifying the intention to propose such resolution has been duly given according to the rules, and which resolution is confirmed by the majority of such members for the time being entitled under the rules to vote, as may be present in person or by proxy at a subsequent general meeting of which notice has been given, held not less than 14 days, nor more than one month, from the day of the meeting at which such resolution was passed.

13 Investments

~~(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.~~

~~(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 indictment to a fine, or~~

~~(b) on summary conviction to a fine not exceeding £5,000.~~

~~(7) Section 18(3) and (3A) of the 1892 Act (investments) shall not apply to a credit union.~~

14 Financial statements and general reserve

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Every credit union shall —

- (a) submit to the Authority and to the Department annual financial statements;
and
- (b) maintain a general reserve.

This subsection is subject to such detailed requirements as shall be prescribed in the Rule Book.

14 Computation and application of profits

(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.

(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

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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).

Other arrangements *Insurance and other arrangements*

15 Insurance against fraud or other dishonesty

(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.

(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; and

(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.

(3) In subsection (2)(a) and (b) “prescribed” means prescribed by order made by the Authority.

(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.

16 Share guarantees

- (1) The Treasury may make regulations establishing a scheme for compensating savers in credit unions in cases where credit unions are unable or likely to be unable to satisfy claims in respect of any description of civil liability incurred by them in connection with their business, and such regulations —
 - (a) shall be subject to consultation with the Authority and any other person the Treasury may consider appropriate; and
 - (b) shall not come into operation until they have been approved by Tynwald.
- (2) The provisions of subsections (2) and (3) of section 25 of the *Financial Services Act 2008* shall apply *mutatis mutandis* to regulations under subsection (1).
- (3) If at the material time no regulations made under subsection (1) are in operation, the Authority shall not approve an application for incorporation as a credit union unless the Authority is satisfied that on incorporation there will be in force in relation to the credit union arrangements which are approved for the purpose by the Authority.
- (4) A credit union shall at all times maintain in force such arrangements as are referred to in subsection (3), and if it fails to do so it commits an offence and liable on summary conviction to a fine not exceeding £5,000.
- (5) The Authority may make regulations prescribing the circumstances in which a credit union becomes insolvent, and such circumstance shall be subject to section 20.
- (6) Regulations made under subsection (5) shall be subject to consultation with such persons as the Authority considers appropriate and shall not come into operation until they have been approved by Tynwald.

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, or~~
 - ~~(b) arrangements (other than a policy of insurance) which are approved for the purpose by the Authority, or~~
 - ~~(c) a combination of such a policy or policies and such arrangements, which is approved for the purpose by the Authority.~~
- ~~(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.~~
- ~~(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 —~~

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- ~~(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.~~

Powers of Authority

17 Inspection of affairs by order of court

With respect to the inspection of the affairs of credit unions, the following provisions shall have effect —

- ~~(a) upon the application, by petition of the Authority or of one-fifth of the whole number of members of a credit union, the court may —~~
 - ~~(i) appoint one or more inspectors to examine the affairs of the credit union, and to report thereon, and the inspector or inspectors may require the production of all or any of the books and documents of the credit union, and may examine on oath its officers and members, in relation to its business, and may administer such oath; or~~
 - ~~(ii) call a special meeting of the credit union in such manner and at such time and place as the court may direct, and the court may direct what matters shall be discussed and determined on at such meeting, which shall have all the powers of a meeting called according to the rules of the credit union, and shall in all cases have power to appoint its own chairman, any rule of the credit union to the contrary notwithstanding;~~
- ~~(b) the application in the section mentioned shall be supported by such evidence as the court shall require for the purpose of showing that the applicants have good reason for requiring such inspection to be made, or meeting to be called, and that they are not actuated by malicious motives in their application, and such notice thereof shall be given to the credit union as the court shall direct;~~
- ~~(c) the court may, if it thinks fit, require the applicant to give security for the costs of the proposed inspection or meeting before appointing any inspection, or calling such meeting;~~

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- (d) all expenses of, and incidental to, any such inspection or meeting, shall be defrayed either by the applicants or out of the funds of the credit union, as the court shall direct; and
- (e) the inspectors shall provide a copy of any report produced under paragraph (1)(a) to the Authority.

17 Power to require information

- ~~(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.~~
- ~~(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.~~
- ~~(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.~~
- ~~(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.~~

Powers, duties, obligations and privileges

18 Power to appoint inspector and call meeting

- (1) Without prejudice to section 17 and the relevant provisions of the Financial Services Act 2008, 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.
- (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.

- (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.

19 Duties and obligations of credit unions

(1) Every credit union shall —

(a) have its registered office in the Isle of Man, to which all communications and notices may be addressed, and send to the Department notice, in writing, of the situation of such office, and of every change therein;

(b) ensure compliance with the following requirements —

(i) the Secretary or other officer of each credit union shall, once in every year at least, prepare —

(A) an account of all receipts and expenditure of the credit union since the preceding statement; and

(B) a general statement of its funds and effects, liabilities and assets, showing the amounts due to the holders of the various classes of shares respectively, to members and creditors for loans, if any, and also the balance due or outstanding on their mortgage securities (not including prospective interest);

(ii) every such account and statement shall be submitted for audit to an auditor who is qualified under sections 14 to 14D of the Companies Act 1982, who shall —

(i) have access to all the books and accounts of the credit union;

(ii) examine the general statement of the receipts and expenditure, funds and effects of the credit union, and verify the same with the accounts and vouchers relating thereto; and

(iii) either sign the same as found by them to be correct, duly vouched, and in accordance with law, or specially report to the credit union in what respects they find it incorrect, unvouched, or not in accordance with law; and

(iii) every member and creditor for loans shall be entitled to receive from the credit union a copy of such account statement;

- (c) once in every year before the 1st of June send to the Department a general statement (to be called the annual return) of receipts and expenditure, funds and effects of the credit union as audited, which shall —

 - (i) show separately the expenditure in respect of the several objects of the credit union;
 - (ii) be made out to the 31st of December; and
 - (iii) state whether the audit has been conducted by the public auditor, and if by any persons other than the public auditor shall state the name, address, and calling or profession of each such person, and the manner in which, and the authority under which, he is appointed;
- (d) allow any member or person having an interest in the funds of the credit union to inspect the books and names of the members, at all reasonable hours, at the registered office of the credit union, or at any place where the same are kept; subject to such stipulations as to the time and manner of such inspection as may be made from time to time by the general meetings of the credit union, except that no such member or person, unless he be an officer of the credit union, or be specially authorised by a resolution thereof, shall have the right to inspect a loan or deposit account of any other member without the written consent of such member;
- (e) supply gratuitously to every member or person interested in the funds of the credit union, on his application, a copy of the last annual return of the credit union for the time being.
- (2) It shall be an offence if a credit union —

 - (a) fails to give any notice, send any return or document, or does or allows to be done any act or thing which the credit union is by this Act required to give, send, do, or allow to be done;
 - (b) wilfully neglects or refuses to do any act or to furnish any information required for the purposes of this Act by the Department, or other person authorised under this Act, or does any act or thing forbidden by this Act; or
 - (c) makes a return, or wilfully furnishes information, that is in any respect false or insufficient.
- (3) Every offence by a credit union under this Act shall be deemed to have been also committed by every officer of the same bound by the rules thereof to fulfil the duty whereof such offence is a breach, or if there be no such officer, then by every member of the committee of the same, unless such member be proved to have been ignorant of or to have attempted to prevent the commission of such offence; and every act or default under this Act constituting an offence, if continued, shall continue a new offence in every week during which the same continues.
- (4) Each return and other document required for the purposes of this Act shall be made in such form, and shall contain such particulars, as the Department, or the Authority as appropriate, shall prescribe.

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- (5) All documents by this section required to be sent to the Department shall be deposited with the rules of the credit unions to which the same respectively relate, and shall be registered or recorded by the Department, with such observations thereon, if any, as the Department shall direct.

19 Power to suspend operations of credit union

~~(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.~~

~~(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~~

~~(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.~~

19A Privileges of credit unions

(1) The incorporation of a credit union shall render it a body corporate by the name described in the certificate of incorporation, by which it may sue and be sued, with perpetual succession, and with limited liability; and shall vest in the credit union all property for the time being vested in any person in trust for the credit union.

(2) The rules of the credit union shall bind the credit union and all members thereof, and all persons claiming through them respectively, to the same

extent as if each member had subscribed his name thereto, and there were contained in such rules a covenant on the part of himself, his heirs, executors, and administrators, to conform thereto, subject to the provisions of this Act. This subsection is subject to subsection (3).

- (3) All moneys payable by a member to the credit union shall be a debt due from such member to the credit union, and shall be recoverable as such.
- (4) Two or more persons may jointly hold a share or shares in a credit union, and all shares held jointly by any two or more persons in any credit union subsisting at the time of the promulgation of this Act, the rules of which do not prohibit such joint holding, shall be deemed to be lawfully so held. This subsection is subject to section 5(2).
- (5) Any register or list of members or shares kept by any credit union shall be prima facie evidence of any of the following particulars entered therein —
- (a) the names, addresses, and occupations of the members, the number of shares held by them respectively, the numbers of such shares, if they are distinguished by numbers, and the amount paid or agreed to be considered as paid on any such shares;
 - (b) the date at which the name of any person, company, or credit union was entered in such register or list as a member; and
 - (c) the date at which any such person, company, or credit union ceased to be a member.
- (6) Contracts on behalf of the credit union may be made, varied or discharged, as follows —
- (a) any contract which if made between private persons would be by law required to be by deed, may be made on behalf of the credit union in writing, signed by two members of the committee, and countersigned by the secretary, and may in the same manner be varied or discharged;
 - (b) any contract which if made between private persons would be by law required to be in writing, signed by the persons to be charged therewith, may be made on behalf of the credit union in writing by any person acting under the express or implied authority of the credit union, and may in the same manner be varied and discharged;
 - (c) a signature purporting to be made by a person holding any office in the credit union attached to a writing whereby any contract purports to be made, varied or discharged by or on behalf of the credit union, shall prima facie be taken to be the signature of a person holding, at the time when the signature was made, the office so stated,
and all contracts which may be, or have been made, varied, or discharged according to the provisions herein contained, shall, so far as concerns the form thereof, be effectual in law and binding on the credit union and all other parties thereto, their heirs, executors, or administrators, as the case may be.

20 Winding up and dissolution of credit unions

- (1) A credit union may terminate or be dissolved —

- (a) upon the happening of any event declared by its rules to be the termination of the credit union;
 - (b) by dissolution in manner prescribed by its rules;
 - (c) by dissolution with the consent of three-fourths of the members, holding not less than two-thirds of the shares in the credit union, testified by their signatures to the instrument of dissolution;
 - (d) by winding-up (under the provisions of the Companies Acts, in like manner, as nearly as may be, as if the credit union were a company under such Acts) —
 - (i) voluntarily under the supervision of the court;
 - (ii) by the court, if the court shall so order, on the petition of any member authorised by three-fourths of the members present at a general meeting of the credit union specifically called for the purpose to present the same on behalf of the credit union; or
 - (iii) on the petition of the Authority or of any judgment creditor for not less than £1,500, but not otherwise.
- (2) The instrument of dissolution shall set forth —
- (a) the liabilities and assets of the credit union in detail;
 - (b) the number of members, and the amount standing to their credit in the books of the credit union; or the nature of their interests in the credit union respectively;
 - (c) the claims of depositors and other creditors, and the provision to be made for their payment;
 - (d) the intended appropriation of division of funds and property of the credit union;
 - (e) the names of one or more persons to be appointed trustees for the special purpose, and their remuneration,
- and alterations in the instrument of dissolution may be made with the like consent, testified in the same manner.
- (3) The instrument of dissolution and all alterations therein shall be registered in the manner provided for the registration of rules, and shall be binding upon all members of the credit union.
- (4) Where a credit union is wound-up the liability of a present or past member of the credit union to contribute for payment of the debts and liabilities of the credit union, the expenses of winding-up, and the adjustment of the rights of contributories amongst themselves, shall be qualified as follows —
- (a) no individual, credit union, or company who or which has ceased to be a member for one year or upwards prior to the commencement of the winding-up, shall be liable to contribute;
 - (b) no individual, credit union, or company shall be liable to contribute in respect of any debt or liability contracted after he or it ceases to be a member;
 - (c) no individual, credit union, or company not a member shall be liable to contribute, unless it appears to the court that the contributions of the existing members are insufficient to satisfy the just demands on the credit union;

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- (d) no contribution shall be required from any individual, credit union, or company exceeding the amount (if any) unpaid on the shares in respect of which he or it is liable as a past or present member;
 - (e) an individual, [credit union], or company shall be taken to have ceased to be a member, in respect of any withdrawable share withdrawn, from the date of the notice or application for withdrawal.
- (5) Without prejudice to subsection (3), 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) there has been, in relation to that credit union, a failure to comply with any provision of, or of any direction given under, the *Financial Services Act 2008*; or
 - (b) there is no longer a common bond between 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.

20 Cancellation or suspension of registration and winding up

~~(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;~~
- ~~(b) that the Authority is satisfied that the credit union has after notice from it violated any of the provisions of the Societies Acts; and~~
- ~~(c) that it appears to the Authority that there is no longer a common bond between the members of the credit union;~~

~~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.~~

20A Power to make orders as to the disposal of valueless documents

- (1) Where a credit union has been dissolved under this Act the Department, after consultation with the Authority and the Chief Registrar, may at any time after the expiration of 12 years (or 2 years where subsection (2) applies) from the date of dissolution, order the disposal, by destruction or otherwise,

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of documents relating to that credit union which are in the office for the registration of companies, the Public Record Office or any repository referred to in section 1(5) of the *Public Records Act 1999* and which are not of sufficient public value to justify their preservation.

- (2) The Department may make an order under subsection (1) at any time after the expiration of 2 years from such dissolution if it is satisfied that it has in its custody a copy of any document disposed of under that subsection.
- (3) A copy of any document to which subsection (2) applies shall for the purposes of this Act, be treated as if it were the original document and if the copy is not kept in a legible form, any duty of the Department to allow inspection of, or to furnish a copy of, the document or any part of it is to be treated as a duty to allow inspection of, or to furnish a reproduction of the copy or of the relevant part of it in legible form.

Amalgamations, transfers of engagements and conversions

21 Amalgamations and transfers of engagements

- (1) A credit union may —
- (a) amalgamate with another credit union;
 - (b) transfer its engagements to, or accept a transfer of engagements from, another credit union,
- but any such amalgamation or transfer shall not take effect unless the Department, having received the Authority’s written agreement to the amalgamation or transfer, registers it.
- (2) A credit union shall not amalgamate with or transfer its engagements to or accept a transfer of engagements from any body corporate that is not a credit union.

~~21 Amalgamations and transfers of engagements~~

- ~~(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.~~
- ~~(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~~

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~~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

The conversion of a credit union to a company is strictly prohibited.

~~22 No conversion of credit union into company~~

~~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 prohibited

The conversion of a company to a credit union is strictly prohibited.

~~23 Conversion of company into credit union~~

~~(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.~~

General and miscellaneous

24 Audit of accounts

- (1) A credit union may display at its registered office, ~~but only at that office,~~ and on its website 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”.

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- (2) Section 19(1)(b) ~~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~~

~~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, this Act or the *Financial Services Act 2008* 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*.

27 Offences

(1) Where an offence under this Act which has been committed by a body corporate other than a credit union 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 commits that offence and shall be liable to be prosecuted and, if convicted, punished accordingly.

(2) 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.

27 Offences

~~(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.~~

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(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.

27A Commencing business before incorporation and failure to make returns, etc

(1) If —

(a) any persons representing themselves to be a credit union commence business without first obtaining a certificate of incorporation as a credit union;

(b) any credit union —

(i) defaults in forwarding to the Department any returns or information required by this Act; or

(ii) submits a return that in any respect contains deliberately misleading or inaccurate information,

the persons commit, or the credit union commits, an offence and shall be liable on summary conviction to a fine not exceeding £2,500.

(2) If any credit union issues shares in excess of the limits prescribed in this Act, the directors or committee of management of such credit union shall be personally liable for the amount so received in excess.

27B Penalties for falsification

A person who wilfully makes, orders or allows to be made any entry, erasure, in or omission from —

(a) any balance-sheet of a credit union;

(b) any record of members' shares and borrowing; or

(c) any return or document,

required to be sent, produced, or delivered for the purposes of this Act, with intent to falsify the same, or to evade any of the provisions of this Act, commits an offence and is liable on summary conviction to a fine not exceeding £2,500.

27C Not using name of credit union

If any officer of the credit union, or any person on its behalf —

(a) issues or authorises the issue of any notice, advertisement, or other official publication of the credit union;

(b) signs or authorises to be signed on behalf of the credit union any bill of exchange, promissory note, endorsement, cheque, order for money or goods; or

(c) issues or authorises to be issued any bills or parcels, invoice, receipt, or letters of credit of the credit union,

in which the credit union’s name is not mentioned, the officer or person shall be liable to a penalty of £1,000, and shall further be personally liable to the holder of any such bill of exchange, promissory note, cheque, or order for money or goods for the amount thereof unless the same is duly paid by the credit union.

27D Recovery of penalties

The penalties imposed or to be imposed —

(a) by this Act; or

(b) by any regulations made hereunder,

shall be recoverable in a court of summary jurisdiction at the suit of the Department, the Authority or the Treasury, as may be appropriate.

27E Penalties against officers

Every credit union officer or member of a credit union, or other person convicted of an offence under this Act for which no penalty is expressly provided herein shall be liable to a penalty not exceeding £2,500.

27F Determination of disputes

(1) The rules of a credit union may direct disputes to be determined by —

(a) a form of alternative dispute resolution agreed by the parties; or

(b) the Department, if the parties agree thereto.

Subsection (3), by virtue of paragraph (a) thereof, applies to any form of alternative dispute resolution agreed by the parties in accordance with paragraph (a).

(2) Where —

(a) the parties to any dispute arising in a credit union agree to refer the dispute to the Department; or

(b) the rules of the credit union direct disputes to be referred to the Department,

the award of the Department shall have effect in accordance with subsection (3).

(3) Where either of the parties to the dispute refuses or neglects to comply with or conform to an award resulting from —

(a) the use, in accordance with subsection (1)(a), of a form of alternative dispute resolution; or

(b) an award of the Department under subsection (2),

the court shall enforce compliance with the award upon the petition of any party concerned, such petition to be heard summarily.

This subsection is subject to subsection (4) and only applies where the deadline for compliance with or conformity to the award (set out therein) has passed.

- (4) The court shall not act in accordance with subsection (3) unless good and sufficient proof has been adduced —
- (a) of an award having been made; and
 - (b) of the refusal of the party to comply therewith.
- (5) The court may hear and determine a dispute in the following cases —
- (a) if it shall appear to the court, upon the petition of any person concerned, that application has been made by either party to the dispute to the other party, for the purpose of having the dispute settled by arbitration under the rules of the credit union, and that such application has not within 40 days been complied with; or
 - (b) where the rules of the credit union direct disputes to be referred to the court or to justices.
- (6) Every determination by arbitrators or by the court under this Act of a dispute —
- (a) shall be binding and conclusive on all parties;
 - (b) shall be final to all intents and purposes;
 - (c) shall not be subject to appeal; and
 - (d) shall not be removed or removable into, or restrained or restrainable by the injunction of any court.
- This subsection is subject to subsection (7).
- (7) Despite subsection (6), the arbitrators or the court, as the case may be —
- (a) may, at the request of either party, state a case for the opinion of the Staff of Government Division of the High Court of Justice on any question of law; and
 - (b) shall have power to grant to either party to the dispute such discovery, as to documents and otherwise, as might now be granted by any court, such discovery to be made on behalf of the credit union by such officer of the credit union as the arbitrators or court may determine.

28 Additional provisions with respect to secondary legislation

- (1) The Department may make regulations concerning any of the following matters —
- (a) the fees to be paid to the Department for matters to be transacted, or for the inspection of documents under this Act;
 - (b) the maximum sum payable under section 4A(1); and
 - (c) incorporation of a credit union under this Act and any matters incidental thereto.
- (2) Regulations under subsection (1) shall not be made under paragraph (a) except with the concurrence of the Treasury and the Authority.
- (3) Before making any order, regulations or the Rule Book, the Authority shall consult —
- (a) the Treasury;
 - (b) such persons or bodies as appear to be representative of interests likely to be affected; and
 - (c) such other persons or bodies as the Authority may determine.

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- (4) The following shall not have effect unless they are approved by Tynwald —
- (a) regulations under subsection (1);
 - (b) orders made by the Authority under this Act (except an order under section 30(3)); and
 - (c) any other public document made by the Department.
- (5) Any form that the Department or the Treasury may or is required to prescribe under this Act may be prescribed by being made available on the website of the Department or the Treasury, as the case may be.
- (6) The Authority may specify on its website any form it requires a credit union to submit.

~~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.~~

29 Interpretation

(1) In this Act —

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

“amend” includes alter or rescind;

“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);

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

“the Commission” [Repealed]

“committee” means the committee of management, or other directing body of a credit union;

“the Court” means the Civil Division of the High Court of Justice;

“the Companies Acts” means the Companies Acts 1931 to 2004 and the *Companies Act 2006*;

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

“Department” means the Department of Economic Development;

“employee” includes an unpaid volunteer;

“land” includes hereditaments;

“meeting” includes (where the rules so allow) a meeting of delegates appointed by the members of a credit union;

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

“officer” has the meaning assigned by section 1(2) (disqualification orders: introduction) of the *Company Officers (Disqualification) Act 2009*;

“persons claiming through a member” include the heirs, executors, administrators, and assigns of a member, and also his nominees where nomination is allowed;

“property” means all real and personal estate (including books and papers);

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“public auditor” means an auditor appointed under section 3 of the Audit Act 2006 for the purpose of auditing the accounts of any body referred to in section 1 of that Act;

“recognised bank” means an institution which is —

- (a) licensed by the Authority to carry on a regulated activity falling within Class 1 of the Regulated Activities Order 2011; or
- (b) a bank that is licensed under the Banking Supervision (Bailiwick of Guernsey) Law 1994 as amended, or is registered under the Banking Business (Jersey) Law, 1991;
- (c) a bank which is supervised by the central bank or other banking regulator of a member state of the OECD;
- (d) a credit institution established in an EU or EEA state and duly authorised by the relevant home state regulator;
- (e) a bank supervised by the South African Reserve Bank; or
- (f) any other bank that —
 - (i) is subject to regulation by a national banking regulator;
 - (ii) is required to provide audited accounts annually;
 - (iii) has minimum net assets of £5 million (or its equivalent in any other currency at the relevant time) and has a surplus of revenue over expenditure for the last 2 financial years; and
 - (iv) has an annual audited report which is not materially qualified;

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

- (a) his spouse or civil partner;
 - (b) any lineal ancestor, lineal descendant, brother, sister, aunt, uncle, nephew, niece or first cousin of his or his spouse or civil partner; and
 - (c) the spouse or civil partner of any relative within paragraph (b);
- and for the purpose of deducing any such relationship a step-child shall be treated as a legitimate child;

“Rule Book” has the meaning given by section 18 of the *Financial Services Act 2008*, and includes any conditions imposed on a credit union’s licence under section 7 or 8 of that Act;

“rules” means the rules of a credit union for the time being in force; and

“amendment of a rule” includes a new rule, and a resolution or rule rescinding a rule;

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

“specify” includes power to specify by non-legislative means;

“spouse” includes former spouse and reputed spouse.

(2) In this Act, “non-qualifying member” —

- (a) in relation to a credit union, means a person who remains a member of the credit union by virtue of subsection 5(5); and
- (b) 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 or the

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amalgamating credit unions or, as the case may be, the credit union from which the transfer of engagements was made.

(3) The Authority may by order amend the definition of “recognised bank”.

(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.

Schedule

MATTERS TO BE PROVIDED FOR IN RULES OF CREDIT UNION

Section 4(1)

1. The name of the credit union.
2. The objects of the credit union.
3. The place in the Island which is to be the registered office of the credit union to which all communications and notices to the credit union may be addressed.
4. The qualifications for, and the terms of, admission to membership of the credit union, including any special provision for the insurance of members in relation to their shares.
5. The mode of holding meetings, including provision as to the quorum necessary for the transaction of any description of business, and the mode of making, altering or rescinding rules.
6. The appointment and removal of a committee, by whatever name, and of managers or other officers and their respective powers and remuneration.
7. Determination (subject to section 5(3)) of the maximum amount of interest in the shares of the credit union 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 credit union.
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 audit of accounts by one or more auditors appointed by the credit union, subject to the requirements that —
 - (a) accounts must be in accordance with section 3A of the *Companies Act 1982*;
 - and
 - (b) auditors must be qualified in accordance with sections 14 to 14F of that Act.
11. Provision for the withdrawal of members from the credit union 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.
12. Provision for terminating the membership of members in order to comply with —

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- (a) the limit on the number of members of a credit union for the time being provided for in accordance with section 6; 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.

13. Provision for the dissolution of the credit union, 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 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;~~

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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.

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.

(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.

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.

(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.

(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.

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.

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.

Ancillary provisions in the Credit Unions (Amendment) Bill 2017:

• Commencement

- (1) This Act comes into operation on such day or days as the Isle of Man Financial Services Authority (“the Authority”) may by order appoint, and different days may be appointed for different purposes of this Act.
- (2) An order under subsection (1) may make such transitional and saving provisions as the Authority considers necessary or expedient.

• Consequential amendments

The *Company and Business Names Etc Act 2012* is amended as follows —

- (a) in section 3(1), in the definition of “appropriate name approval authority”, delete “and (g),” and substitute **63**, (g) and (i), **62**;
- (b) in section 4(1) —
 - (i) delete the full stop at the end of paragraph (h) and substitute **64**; and **65**; and
 - (ii) insert the following immediately after paragraph (h) —

63	<u>(i) a credit union incorporated under the <i>Credit Unions Act 1993</i>. 62; and</u>
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- (c) in section 5(2) —
 - (i) delete the full stop at the end of paragraph (h) and substitute **66**; and **67**; and
 - (ii) insert the following immediately after paragraph (h) —

64	<u>(i) an application to incorporate a credit union under section 1 of the <i>Credit Unions Act 1993</i>. 62.</u>
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