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## STATUTORY INSTRUMENTS

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# 1985 No. 1205

## The Credit Unions (Northern Ireland) Order 1985

### Disputes, offences and legal proceedings

#### *Decision of disputes*

72.—(1) Subject to paragraphs [<sup>F1</sup>(2), (4), (5) and (7)], every dispute between a credit union or an officer of a credit union and—

- (a) a member of the credit union; or
- (b) any person aggrieved who has ceased to be a member of the credit union not more than 6 months previously; or
- (c) any person claiming through a member of the credit union or any such person aggrieved; or
- (d) any person claiming under the rules of the credit union,

shall, if the credit union's rules give directions as to the manner in which such disputes are to be decided, be decided in that manner.

[<sup>F2</sup>(2) Unless—

- (a) the rules of the credit union expressly forbid it; or
- (b) a complainant is eligible to have the complaint dealt with under the ombudsman scheme,

the parties to a dispute in a credit union may by consent refer the dispute to the registrar who shall hear and determine it.]

(3) A decision made under paragraph (1) or (2) on any dispute shall be binding and conclusive on all parties without appeal; and—

- (a) the decision shall not be removable into any court of law or restrainable by injunction; and
- (b) application for the enforcement of the decision may be made to the county court.

(4) Subject to paragraph (5), any dispute directed by the rules of a credit union to be referred to a court shall be determined by a court of summary jurisdiction.

(5) Where, whether by virtue of paragraph (4) or otherwise, a dispute is cognisable under the rules of a credit union by a court of summary jurisdiction, the parties to the dispute may by agreement refer the dispute to the county court, which may hear and determine it.

(6) Where the rules of a credit union contain no direction as to disputes, or where no decision is made on a dispute within 40 days after application to the credit union for a reference under its rules, any person such as is mentioned in paragraph (1)(a) to (d) who is a party to the dispute may apply either to the county court or to a court of summary jurisdiction, which may hear and determine the matter in dispute.

(7) For the purposes of the hearing or determination of a dispute under this Article<sup>F3</sup>. . .

- (a) [<sup>F3</sup>without prejudice to any powers exercisable by virtue of Part I of the Arbitration Act 1996,] the registrar may—

- (i) administer oaths and require the attendance of all parties concerned and of witnesses;

**Status:** Point in time view as at 31/03/2012.

**Changes to legislation:** The Credit Unions (Northern Ireland) Order 1985, Disputes, offences and legal proceedings is up to date with all changes known to be in force on or before 07 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(ii) require the production of all books and documents relating to the matter in question; and may

(iii) order the expenses of determining the dispute to be paid either out of the funds of the credit union or by such parties to the dispute as he shall think fit;

and any person refusing to attend, or to produce any documents, or to give evidence, before the registrar shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale;

(b) <sup>F3</sup> . . . a court of summary jurisdiction may grant to either party such discovery as to documents and otherwise, or such inspection of documents, being, in the case of discovery to be made on behalf of the credit union, discovery by such officer of the credit union as the <sup>F3</sup> . . . court may determine, [<sup>F3</sup> as might be granted by the registrar] under section 21(1) of and Schedule 2 to that Act of 1937.

[<sup>F3</sup>(8) The court or registrar to whom any dispute is referred under paragraphs (2) to (6) may at the request of either party state a case on any question of law arising in the dispute for the opinion of the High Court.]

(9) Anything which under this Article is required or authorised to be done by, to or before the registrar may be done by, to or before such person as he may, with the consent of the Department, appoint for the purpose and paragraph (8) shall apply to such a person in like manner as it applies to the registrar.

[<sup>F4</sup>(10) Nothing in this Article or in rules of a kind mentioned in paragraph (1) prevents any person from having a complaint dealt with under the ombudsman scheme.

(11) In this Article, “the ombudsman scheme” has the meaning it has in section 225(3) of the 2000 Act.]

**F1** Words in art. 72(1) substituted (31.3.2012) by [Financial Services and Markets Act 2000 \(Permissions, Transitional Provisions and Consequential Amendments\) \(Northern Ireland Credit Unions\) Order 2011 \(S.I. 2011/2832\)](#), arts. 1(2), **13(37)(a)**

**F2** Art. 72(2) substituted (31.3.2012) by [Financial Services and Markets Act 2000 \(Permissions, Transitional Provisions and Consequential Amendments\) \(Northern Ireland Credit Unions\) Order 2011 \(S.I. 2011/2832\)](#), arts. 1(2), **13(37)(b)**

**F3** 1996 c. 23

**F4** Art. 72(10)(11) inserted (31.3.2012) by [Financial Services and Markets Act 2000 \(Permissions, Transitional Provisions and Consequential Amendments\) \(Northern Ireland Credit Unions\) Order 2011 \(S.I. 2011/2832\)](#), arts. 1(2), **13(37)(c)**

### ***Offences by credit unions***

**73.** If any credit union, or any officer or member of a credit union, or any other person—

(a) contravenes any provision of this Order; or

(b) in purported compliance with a requirement under this Order, makes a return, or knowingly or recklessly gives information which is false in a material particular;

that credit union, officer, member or other person, as the case may be, shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

### ***Fraud or misappropriation***

**74.** Any person who—

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- (a) obtains possession by false representation or imposition of any property of a credit union; or
- (b) having any such property in his possession, withholds or misapplies it or wilfully applies any part of it to purposes which are not authorised by the rules of the credit union or which are not in accordance with this Order;

shall be guilty of an offence and—

- (i) if it is proved that he acted with any fraudulent intent, shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale and to be ordered to deliver up that property or to repay all money improperly applied; or
- (ii) if it is not so proved, may be ordered to deliver up that property or to repay all money improperly applied.

### ***Falsification***

**75.** Any person who, with intent to falsify it or to evade any of the provisions of this Order, wilfully makes, or orders or allows to be made, any entry or erasure in, or omission from,—

- (a) any balance sheet of a credit union; or
- (b) any contribution or collecting book; or
- (c) any return or document required for the purposes of this Order; or
- (d) any account or balance sheet displayed under this Order,

shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

### ***Prosecution of offences***

**76.—**(1) Summary proceedings for an offence under this Order shall not be instituted except by—

- (a) in the case of proceedings under Article 74,—
  - (i) the credit union; or
  - (ii) any member of that credit union authorised by the credit union or its board of directors or by the registrar; or
  - (iii) the registrar;
- (b) in any other case, the registrar or any person aggrieved.

(2) Notwithstanding Article 19(1)(a) of the Magistrates' Courts (Northern Ireland) Order 1981 (limitation of time for taking proceedings) summary proceedings for an offence under this Order<sup>F5</sup> . . . may be instituted by the registrar at any time within one year after the first discovery of the offence by the registrar, but shall not in any case be instituted after the expiration of 3 years from the commission of the offence.

**F5** Words in art. 76(2) omitted (31.3.2012) by virtue of [Financial Services and Markets Act 2000 \(Permissions, Transitional Provisions and Consequential Amendments\) \(Northern Ireland Credit Unions\) Order 2011 \(S.I. 2011/2832\)](#), arts. 1(2), **13(38)**

### ***Recovery of costs, etc.***

**77.** Any costs ordered or directed by the registrar to be paid by any person under this Order shall be a debt recoverable summarily by the registrar from that person.

**Status:**

Point in time view as at 31/03/2012.

**Changes to legislation:**

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