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STATUTORY INSTRUMENTS

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**2002 No. 1501**

**The Financial Services and Markets Act 2000  
(Consequential Amendments and Transitional  
Provisions) (Credit Unions) Order 2002**

**PART 4**

**RULES**

**Designation of existing provisions to take effect as rules**

9.—(1) The Authority may, before commencement, designate any existing provision which appears to it to be necessary or expedient so long as that provision could be included in a rule made by the Authority” by virtue of a provision of or made under the Act.

(2) An existing provision which is designated by the Authority” under this article has effect after commencement, with such modifications (if any) as may be made under article 10, as if it were a rule made by the Authority” under the Act; such a provision is referred to in this Part as a “continued provision”.

(3) Paragraph (2) applies in spite of any repeal, revocation or dis-application of the existing provision which occurs on commencement.

(4) To designate an existing provision, the Authority” must—

- (a) make an instrument in writing (“the designation instrument”) identifying the provision in the manner required by paragraph (5);
- (b) specify in the designation instrument the provision of, or made under, the Act under which the existing provision will be treated as having effect;
- (c) specify any modification to be made to the provision pursuant to article 10;
- (d) publish the designation instrument in the way appearing to the Authority” to be best calculated to bring it to the attention of the public;
- (e) have in place arrangements whereby a copy of the continued provision may be made available to any person on request.

(5) When the Authority” designates an existing provision, it must also—

- (a) publish an explanation of the purposes of the existing provision being designated; and
- (b) publish an explanation for the Authority”’s reasons for believing that designating the existing provision is compatible with its general duties under section 2 of the Act.

(6) In order to identify the existing provision for the purposes of paragraph (4), the Authority” must give sufficient information about—

- (a) the title of the enactment or subordinate legislation in which the provision is found,
- (b) whether the provision has been amended or whether its meaning has been affected by any subsequent provision,

to ensure that a person can ascertain with certainty the content of the provision being designated.

(7) To the extent that the designation instrument does not comply with paragraph (4)(b), it is void.

(8) The Authority may charge a reasonable fee for providing a person with a copy of a designation instrument or of the continued provision made available under paragraph (4)(e).

(9) The Authority must give a copy of any designation instrument to the Treasury.

(10) The making of a designation instrument is a legislative function for the purposes of Schedule 1 to the Act.

(11) A person is not to be taken to have contravened any continued provision if he shows that at the time of the alleged contravention the relevant designation instrument had not been published in accordance with paragraph (4)(d).