



Department of

**Enterprise, Trade
and Investment**

www.detini.gov.uk

Jim McManus
Clerk
Committee for Enterprise, Trade and Investment
Parliament Buildings
Stormont
BELFAST
BT4 3JP

31 July 2015

Dear Jim

**CREDIT UNIONS AND CO-OPERATIVE AND COMMUNITY BENEFIT SOCIETIES
BILL DELEGATED POWERS MEMORANDUM**

The Credit Unions and Co-Operative and Community Benefit Societies Bill was introduced in the Assembly on 23 June 2015. The Bill will make amendments to the key NI legislation applying to credit unions and industrial and provident societies.

To assist the Committee with its deliberations the Department has prepared the attached Delegated Powers Memorandum.

Yours sincerely

DAVID MCCUNE

Departmental Assembly Liaison Officer

DELEGATED POWERS MEMORANDUM

CREDIT UNIONS AND CO-OPERATIVE AND COMMUNITY BENEFIT SOCIETIES BILL

DELEGATED POWERS MEMORANDUM

Prepared by the Department of Enterprise, Trade and Investment

Introduction

1. This Memorandum identifies those provisions in the Credit Unions and Co-operative and Community Benefit Societies Bill which confer power to make delegated legislation. In each case, it explains why the power has been taken, why the matter would be dealt with by delegated legislation, and the reason for choosing the Assembly control selected.
2. The Bill is, in part, based on The Legislative Reform (Industrial and Provident Societies and Credit Unions) Order 2011 applying in Great Britain, which came into effect in January 2012.

Overview of the Credit Unions and Co-operative and Community Benefit Societies Bill

3. The Department's main policy objective in bringing forward the Credit Unions and Co-operative and Community Benefit Societies Bill is to update the key NI legislation governing credit unions and industrial and provident societies – the Credit Unions (Northern Ireland) Order 1985 and Industrial and Provident Societies Act (Northern Ireland) 1969 respectively.
4. The Bill has a total of 17 clauses and 2 Schedules.
5. The Bill contains a relatively standard provision which allows regulations to contain such incidental, transitory, transitional or saving provisions as the Department considers necessary. This does not, on its own, provide the

Department with any additional powers. Rather it allows such provisions to be included in the subordinate legislation described below, provided that the provisions relate strictly to the specifics of the power or duty described.

Clause 1 - Corporate members of credit unions

6. At present, only individuals can join a credit union; organisations such as companies cannot become members. The Bill will allow a credit union to admit as a member: a body corporate; a partner acting for a partnership; and an officer or member of the governing body acting for an unincorporated association (collectively referred to as 'corporate members').
7. Clause 1 inserts into the Credit Unions (Northern Ireland) Order 1985 ("the 1985 Order") a new Article 14A which allows a credit union to admit corporate members if its rules so provide.
8. Paragraphs (2) and (4) of new Article 14A provide that the number of corporate members of a credit union must not exceed 10% of the total members, and that the shares in a credit union allotted to corporate members must not exceed 25% of all shares.
9. Paragraph (7) of new Article 14A provides that the Department may substitute the percentages in paragraph (2) and (4) by Order. This will allow the Department to increase or decrease the membership and shareholding caps as appropriate without the need to legislate by way of primary legislation. The power is exercisable by way of affirmative procedure (by virtue of the definition of "order" in Article 2(2) of the 1985 Order) which provides the Assembly with the opportunity to debate and agree changes to the percentage amounts.

Clause 3 - Interest-bearing shares

10. Credit unions can currently only offer shares which entitle the holder to a dividend. The Bill will permit credit unions to also offer interest-bearing shares.
11. Clause 3 inserts a new Article 23A into the 1985 Order which will allow a credit union to offer interest-bearing shares subject to certain requirements concerning its registered rules, auditors, and reserves.
12. Paragraph (2) of the new Article 23A sets out one of these requirements: a credit union's balance sheet must show that it holds reserves of at least £50,000 or 5% of the credit union's total assets, whichever is the greater - this is referred to as the "threshold amount".
13. Paragraph (4) of the new Article 23A provides that the Department may by order substitute for the amount or percentage rate specified in new Article 23A(2) such other amount or percentage rate as it considers appropriate. As the Department may wish to amend the "threshold amount" in the future it would be appropriate to do this by way of subordinate legislation. An order will be subject to the scrutiny of the Assembly by way of affirmative resolution thereby ensuring a more stringent form of control. This will provide sufficient control over any increase or decrease in the amount or percentage of reserves required by credit unions issuing interest-bearing shares.

Clause 5 - Supply by credit union of copies of its rules

14. NI credit unions are currently obliged to deliver to any person who demands it a copy of the society's registered rules, for payment of not more than £1. The legislation does not prevent societies from imposing a charge on their own members for a copy of the rules.
15. Clause 5 amends Article 12 of the 1985 Order. The substituted Article 12(1)(a) provides that a credit union must, when asked, give a free copy of its rules to any

member who has not previously been provided with one. Article 12(1)(b) provides that a credit union can charge up to £5 to any other person who requests a copy of its rules.

16. The new Article 12(1A) gives the Department the power to substitute the amount of £5 with such other amount as it considers appropriate. This change in amount will be made by regulations subject to negative resolution procedure (see the definition of “regulations” in Article 2(2) of the 1985 Order). As the Department would anticipate that any regulations made would be routine and uncontroversial the negative resolution procedure is considered appropriate.

Clause 15 – Minor and consequential amendments

17. Clause 15(1) introduces Schedule 1 to the Bill, which makes amendments which are consequential on the other provisions of the Bill, and some further minor amendments. Clause 15(2) confers a power, exercisable by regulations, to make other amendments of statutory provisions (within the meaning given by section 1(f) of the Interpretation Act (Northern Ireland) 1954). Such regulations are subject to negative resolution.

18. In addition clause 15(3) provides that any regulations made under clause 15(2) may contain incidental, transitional, transitory or saving provisions. It is thought necessary to have this provision as Schedule 1 may not cite all the statutory provisions which may need amendment in consequence of the provisions made by this Bill.

Clause 16 – Commencement

19. Clause 14 (interpretation), 16 (commencement) and 17 (short title) come into operation on the day after the Bill receives Royal Assent. Clause 16(2) provides the Department with the power to bring sections 4, 8 and 15(1)(b) and Part 2 of Schedule 1 into operation at an appropriate time. Section 9 comes into operation at the end of 2 months beginning with the day of Royal Assent. Clause 16(5) provides for orders made for this purpose to contain transitional transitory or

saving provisions. As is normal, such commencement orders are not subject to any Assembly procedure.

Schedule 1, Part 1, paragraph 9 – loans to corporate members

20. Paragraph 9 of Schedule 1 inserts into Article 28 of the 1985 Order (loans by credit unions) new paragraphs (1A) and (1B). New Article 28(1A)(a) permits a credit union to make a loan to a corporate member if its rules so provide. New Article 28(1A)(b) restricts loans to corporate members to 10% of the total amount of the outstanding balances on all loans made by the credit union to members.

21. New Article 28(1B) permits the Department, by order, to substitute for the percentage loan cap in Article 28(1A)(b) such other percentage as it considers appropriate. As the Department may wish to change from time to time the percentage loan cap for corporate borrowing it is considered appropriate for the change to be achieved by way of subordinate legislation subject to affirmative procedure. As the power if used is concerned with a significant change in credit union rules any order will be subject to the scrutiny of the Assembly.