

**THE CO-OPERATIVE SOCIETIES ACT, 1998**

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SCHEDULE

to become members, is sufficient for the commencement of operations; and

(c) a notice of situation of registered office.

**10.** Subject to the other provisions of this Act, and within thirty days of receipt of the application, the Registrar shall register a co-operative as a co-operative society if the Registrar is satisfied that—

Registration of co-operatives

(a) the application complies with subsection (2) of section nine;

(b) the by-laws make adequate provision for—

(i) regular audits to be carried out;

(ii) the education, training and provision of advisory services to the members of the co-operative society; and

(c) the by-laws are not *ultra-vires* this Act or any other written law.

**11.** (1) A company registered under the Companies Act may, by a resolution made in accordance with the Companies Act, convert itself into a co-operative under this Act.

Conversion of company into co-operative society Cap. 388

(2) A company that has converted into a co-operative in accordance with subsection (1), shall apply to the Registrar for the registration of the co-operative as a co-operative society.

(3) An application for registration made under subsection (2) shall be accompanied by—

(a) the resolution made by the company converting itself into a co-operative as provided under subsection (1);

(b) four copies of the by-laws of the co-operative to be registered signed by ten members of the company and the secretary of the company;

(c) a resolution—

(i) authorising the ten members and the secretary of the company to sign the by-laws;

(ii) authorising the ten members and the secretary of the company to accept any alterations made by the Registrar without further consultations with the company or authorising such members to submit to the company in a general or extraordinary meeting any alterations made by the Registrar;

(d) a resolution confirming that the capital to be furnished, initially by the members of the company, is sufficient for the commencement of operations as a co-operative society; and

(e) notice of situation of registered office.

(4) Subject to the other provisions of this Act, where the Registrar is satisfied that the application, made under subsection (2), complies with subsection (3) and paragraphs (b) and (c) of section ten, the Registrar shall register the co-operative as a co-operative society.

Certificate of registration and name of co-operative society

**12.** (1) The Registrar shall issue a certificate of registration to a co-operative society upon its registration.

(2) The word " limited " shall be the last word in the name of every co-operative society and, except as otherwise provided in this Act, the word " co-operative " shall form part of the name of every co-operative society.

Action to be taken after registration of former company as co-operative society

**13.** After registering a co-operative, formed under section eleven, as a co-operative society—

(a) the Registrar shall return to the co-operative society three copies of the by-laws duly certified by the Registrar;

(b) the secretary of the company shall submit a copy of the resolution, made under section eleven, under the seal of the company with the certificate of registration, issued under section twelve, to the Registrar of Companies who shall register the resolution and the certificate; and the company shall cease to be a company registered under the Companies Act and the provisions of this Act shall apply, in all respects, to such co-operative society, as from the date of such registration with the Registrar of Companies;

(c) the registration shall not affect any right or claim subsisting for or against the former company or any liability incurred by the former company;

(d) for the purpose of enforcing any right, claim or liability under paragraph (c), the former company may be sued and proceeded against in the same manner as if it had not been registered as a co-operative society under this Act; and

(e) any right, claim or liability, specified under paragraph (c), shall have priority against the property of the co-operative society over all other right, claims or liabilities of the co-operative society.

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Effect of registration

**14.** A co-operative society shall be a body corporate with perpetual succession, a common seal and limited liability and shall, subject to the other provisions of this Act and its by-laws, have power to do all such acts and things as a body corporate may by law do or perform.

15. (1) If the Registrar is not satisfied with an application submitted by a co-operative, the Registrar shall refuse to register the co-operative as a co-operative society and shall give reasons for such refusal, within thirty days of receipt of the application.

Refusal to register

(2) Any person who is aggrieved by a decision of the Registrar, not to register a co-operative under this section, may, within thirty days of receipt of the decision, appeal to the Minister, subject to further appeal to the High Court.

16. The equity capital of a co-operative society shall consist of the sum of the shares of the members, the reserve funds and such additional funds or investments as may be provided for in the by-laws.

Equity capital

17. The liability of the members for debts and liabilities of a co-operative society shall be limited to the amount, if any, unpaid on the shares respectively held by them, or on the membership fee, as the case may be.

Liability of members

18. (1) A co-operative society shall—

Display of registered name

(a) cause its registered name to be painted or affixed, in a conspicuous place and in letters which are easily legible, at its registered office and at every other office or place at which the business of the co-operative society is carried on; and

(b) engrave its registered name, in legible characters, on its seal; and shall emboss its registered name—

(i) on all notices, advertisements and other official publications of the co-operative society;

(ii) on all business letters of the co-operative society; and

(iii) on all bills of exchange, promissory notes, endorsements, cheques, and orders for money or goods, purporting to be signed by or on behalf of the co-operative society.

19. (1) The by-laws of a co-operative society shall include provisions relating to the matter specified in the Schedule.

By-laws

(2) The Registrar shall register the by-laws of a co-operative society if such by-laws comply with paragraphs (b) and (c) of section *ten*.

20. (1) Subject to the other provisions of this Act and to the by-laws, the by-laws may be amended by a resolution of two-thirds of the members present at a general meeting of the co-operative society.

Amendments to by-laws

(2) An amendment to the by-laws shall take effect after the amendment has been registered with the Registrar; and for this purpose four copies of the amendment, signed by the chairperson, of the general meeting at which such amendments were made, and the secretary of the co-operative society, shall be forwarded to the Registrar.

(3) If the Registrar is satisfied that the amendment is not contrary to any provision of this Act, the Registrar shall register the amendment and shall forthwith return three copies of the amendment, duly certified by the Registrar, to the co-operative society.

(4) The provisions of section *fifteen* shall apply, with the necessary modifications, to a decision of the Registrar not to register any amendment to the by-laws.

Copy of regulations and by-laws and list of members to be open for inspection

21. A co-operative society shall keep a copy of its regulations, by-laws and list of members open to inspection by any member free of charge or any member of the public on payment of a prescribed fee, at all reasonable times, at the registered office of the co-operative society.

PART IV

RIGHTS AND LIABILITIES OF MEMBERS

Patronage bonus

22. A co-operative society may pay out a patronage bonus to its members; or may use such surplus for any other purpose specified in its by-laws or as may be decided by the general meeting of the co-operative society.

Membership governed by by-laws

23. Subject to the other provisions of this Act, membership of a co-operative society shall be governed by its by-laws, but in no case shall a co-operative society fix any limit to the number of its members.

Minors

24. (1) Notwithstanding anything contained in any other law, a minor may form or become a member of a co-operative society.

(2) Notwithstanding anything contained in the by-laws or any other law, where any member has not reached the age of eighteen years, that member may execute or cause to be executed any instrument under this Act; and any contract entered into by that member with the co-operative society shall be valid whether as principal or as surety, and shall be enforceable at law.

Members not to exercise rights until due payment made

25. Any person who wishes to be a member of a co-operative society shall not exercise the rights of a member until that person has paid to the co-operative society the amount required for membership of that co-operative society, or such person has acquired such interest in the co-operative society, as may be prescribed in or under this Act or the by-laws.



26. (1) Where a co-operative society does not have any share capital, a member who has paid the membership fee, as set by the co-operative society, in full, shall be issued with a certificate of membership.

Certificate of membership

(2) Where a co-operative society is registered with share capital and each member is obliged to take up shares in the co-operative society as a condition for being or remaining a member of the co-operative society, the shares may be paid for in instalments at the times and in the manner prescribed by the by-laws; but no share certificate shall be issued to a member until the shares to which it relates have been fully paid for.

27. A co-operative society shall have a lien over the shares or other interest of its members' for debts due from them to the co-operative society; and such shares or interest shall be subject to a set-off for any indebtedness by that member to the co-operative society.

Lien on member's share

28. (1) A co-operative society shall keep a register of its members and of the shares held, if any, by each member, or any membership fee paid, by its members; and the register shall be *prima facie* evidence of—

Co-operative society to keep membership register

- (a) the names, addresses and occupations of the members;
- (b) the number of, and amounts paid for any shares held by such members;
- (c) the date on which a member was registered as a member; and
- (d) the date on which a member ceased to be a member.

(2) A co-operative society shall furnish the Registrar with a list of its members; and such list shall be open for inspection, by any person, at the office of the Registrar, on payment of a prescribed fee.

29. (1) Subject to the other provisions of this Act, the by-laws shall provide for the holding of general and special meetings of the co-operative society, for the procedure at such meetings and the keeping of minutes at such meetings.

Meetings, votes of members and delegates

(2) A member or delegate shall have one vote at meetings of a co-operative society; and there shall be no voting by proxy.

(3) Subject to subsection (4), the by-laws may provide for plural voting rights for delegates or members who contribute above average to the development of the co-operative society; which may be determined in accordance with the patronage bonus such member or delegate receives from the co-operative society.

## (4) Notwithstanding subsection (3)—

- (a) no co-operative society, other than a co-operative union or a federation, shall provide for the determination of the number of voting rights on the basis of the number of shares held by a member;
- (b) no member shall have more than three voting rights;
- (c) plural voting rights shall not be exercised when a decision of the meeting requires a special resolution; and
- (d) in the event of an equality of votes, the chairperson shall have a casting vote in addition to the chairperson's deliberative vote.

Limitation  
on share  
holding

30. A member shall not hold more than one-fifth of the share capital of a co-operative society unless the by-laws provide otherwise for share holding by other co-operative societies.

Assignment,  
transfer,  
redemption  
and re-  
purchase of  
shares

31. (1) Subject to the provisions of subsection (2), shares may be assigned, transferred, redeemed or re-purchased by a member or co-operative society.

(2) An assignment, transfer, redemption or re-purchase of a share shall—

- (a) be subject to such conditions as may be prescribed in the by-laws; and
- (b) not be valid unless approved by the board; except that the board shall not give the approval if it would reduce the total number of members below the minimum required by this Act for the registration of a co-operative society.

Shares or  
interest not  
attachable

32. (1) The shares or other interests of a member in the capital of a co-operative society shall not be liable to attachment or sale, under decree or order of any court, in respect of any debt or liability incurred by a member.

(2) Subject to any condition that may be imposed in the by-laws, nothing contained in subsection (1) shall prohibit the transfer, assignment or sale of shares or other interests of a member to the co-operative society or to any member of the co-operative society.

Transfer of  
shares or  
interest on  
death of  
member

33. (1) On the death of a member, a co-operative society may—

- (a) transfer the shares or other interests of the deceased member to a person nominated in accordance with the rules made in that behalf; and if there is no person so nominated, to the legal representative of the deceased member; or

(b) pay to any nominee or legal representative, as the case may be, a sum, representing the value of such member's share or other interests, as may be provided in the by-laws.

(2) A co-operative society shall pay, to the legal representative of that member, all other moneys due to a deceased member from the co-operative society.

(3) All transfers and payments made by a co-operative society, in accordance with this section, shall be valid and have effect against any demand made upon the co-operative society by any other person.

34. (1) Subject to section *seventeen*, and subsection (2), the liability of a former member for the debts of a co-operative society, as they exist on the date on which that member ceased to be a member, shall continue for a period of two years reckoned from that date.

Liability of past member and estate of deceased member for debts of co-operative society

(2) Notwithstanding subsection (1) if the first audit of the accounts of the co-operative society, after that member ceased to be a member, discloses a credit balance in favour of the co-operative society, the financial liability of that member shall forthwith cease.

(3) Subject to section *seventeen*, and subsection (2) the estate of a deceased member shall be liable, for the debts of a co-operative society as they existed on the date of the death of that member, for a period of two years reckoned from that date.

35. (1) Subject to any prior claim of the Republic on the property of a debtor or a lien or claim of a landlord in respect of rent or any money recoverable as rent or to any agricultural charge or, in the case of immovable property, to any prior registered charge thereon, any debt or outstanding demand due and payable to a co-operative society by any member or former member shall be a first charge on all assets of that member or former member.

Creation of charges in favour of co-operative societies

(2) Nothing contained in subsection (1) shall affect the claim of any *bona fide* purchaser, for value, without notice, of a loan given by the co-operative society.

36. (1) A member may, at any time, withdraw from a co-operative society, subject to the other provisions of this Act and the by-laws.

Withdrawal by member

(2) Where a member withdraws from a co-operative society under subsection (1) or under circumstances such as illness, disability, permanent removal from the area or district served by the co-operative society or death, payment of the shares or other interests of the member shall be made in such order or priority as the by-laws may prescribe; or where not so prescribed, in such order or priority as the board may approve.

(3) Where the financial stability of a co-operative society would be impaired if the co-operative society made payment for the shares, held by a member who has withdrawn from the co-operative society, at their par or paid-up value, or of any other interests of such a member at the value shown on the books of the co-operative society, the directors may suspend payment for such period as may be approved by the annual general meeting, except that, such period shall not exceed one year from the time the member withdrew from the co-operative society.

Expulsion of member

37. (1) Upon any complaint arising against a member, the secretary shall, upon the instructions of the board, provide the member with a written notice of the particulars of the complaint and of the date, time and place of the meeting of the board at which the complaint shall be considered.

(2) The board may, after having given the member, against whom the complaint has been made, the opportunity to make representations or submissions, orally or in writing, or both, in rebuttal or in mitigation, recommend to the general meeting, in a report detailing the complaint and the opinion of the board, that the member be expelled.

(3) The general meeting may, after considering the report submitted by the board, expel a member by a resolution passed by at least a two-thirds majority vote of the members of the co-operative society.

(4) The secretary of the co-operative society shall, within two weeks from the date on which the member was expelled, inform the member, in writing, of the decision of the general meeting.

(5) Subject to section *thirty-four*, a member who has been expelled from a co-operative society, under this section shall—

(a) forfeit all rights to share in the net surplus or other benefits of the co-operative society from the date of such expulsion; and

(b) be refunded that member's share capital or other interest held in the co-operative society, together with such dividend as may later be declared and calculated up to the date of expulsion.

(6) A person who has been expelled from a co-operative society shall not be eligible for re-admission as a member of that co-operative society within a period of two years from the date of expulsion.

PART V

BOARD OF DIRECTORS

38. (1) A co-operative society shall have a board of directors, consisting of such number of persons as shall be prescribed in its by-laws, who shall be elected, by the members, at an annual general meeting, from amongst the members.

Board of directors

(2) The persons whose names appear in an application for the registration of a co-operative society shall, upon registration, be deemed to have all the powers and duties of directors; and shall direct the affairs of the co-operative society until directors have been elected at the first general meeting of the co-operative society.

39. (1) A co-operative society shall, at an annual general meeting, establish such number of committees as it may consider necessary for the purpose of assisting the board carry out its functions under this Act.

Committees of co-operative society

(2) A co-operative society shall elect from amongst its members at least three persons, who are not employees of the co-operative society, to constitute each committee.

(3) A co-operative society may confer upon a committee established under subsection (1) such specific functions as it may consider necessary in the interest of the co-operative society.

(4) A board may delegate to any committee established under subsection (1) such of its functions as it may determine.

(5) A committee established under subsection (1) shall, subject to the by-laws, determine its own procedures.

(6) The provisions of subsections (5) and (6) of section *forty-six* shall apply, with the necessary modifications, to a committee established under subsection (1).

40. Where the by-laws provide for the election of directors by members or delegates voting by districts or zones, the board so elected shall be deemed to be elected by all the members or delegates of the co-operative society.

Effect of election of directors by districts or zones

41. (1) The board shall represent the co-operative society, subject to the provisions of the by-laws.

Functions of board

(2) The board shall—

(a) direct and supervise the business of a co-operative society;

(b) be the custodian of the property of the co-operative society; and

(c) exercise all such powers of the co-operative society as are not required by or under this Act or the by-laws to be exercised by resolution of the co-operative society in a general or special meeting.

(3) Without prejudice to the generality of subsection (2), the board shall—

- (a) be provided with, and examine, reports from officers of the co-operative society as the board directs in order to determine the operations and financial status of the co-operative society;
- (b) keep the members informed of progress being made in the operations of the co-operative society;
- (c) render advice to the members, on any matter relating to co-operatives, as the members may require;
- (d) prepare and present to the annual general meeting an income and expenditure report for the previous financial year and the budget requirements for the forthcoming year, in accordance with the other provisions of this Act and the by-laws;
- (e) make a report to the annual general meeting of the work of the board during the preceding financial year including the activities undertaken by the co-operative society during the preceding financial year, together with such recommendations as it may consider necessary for the maintenance or improvement of the services provided by the co-operative society to its members; and
- (f) present audited accounts to the annual general meeting.

Chairperson  
and vice-  
chairperson

42. (1) The Co-operative society shall elect, from amongst its members, a chairperson and a vice-chairperson of a board who shall not be a chairperson or vice-chairperson in any other co-operative society nor be a direct employee of the co-operative society.

(2) The board may appoint such officers, as the board considers necessary, to assist the board in the performance of its functions, on such terms and conditions as the board may determine.

Term of  
office of  
director of  
board

43. (1) Subject to subsection (2), the term of office of a director of a board shall be prescribed in the by-laws.

(2) Notwithstanding subsection (1), a director of a board shall not hold office for a period of more than six consecutive years from the time of the first election of that director but may be eligible for election as a director after a lapse of one year after the end of the initial period.

Vacancy on  
board

44. (1) Subject to subsection (2), where, a vacancy on the board occurs, otherwise than by expiration of the term of office, the remaining directors of the board may, unless the by-laws provide otherwise, fill the vacancy until the next general meeting.

(2) Notwithstanding subsection (1) where, by reason of any vacancy on the board, the number of directors is reduced to less than the number required by the by-laws to constitute a quorum for a meeting of the board, the remaining directors shall, forthwith, call a special meeting of the co-operative society in order to fill the vacancy.

- (3) The office of director shall become vacant if the director—
- (a) is removed from office under the provisions of section *forty-seven*;
  - (b) resigns, giving not less than one month's notice in writing;
  - (c) holds any remunerative office in the co-operative society;
  - (d) is declared bankrupt;
  - (e) is declared to be of unsound mind;
  - (f) is connected with, or participates in the profits of, any contract made between the co-operative society and any other co-operative society, company, organisation or individual in which that director has an interest; the fact of which that director knowingly failed to disclose to the board at or before the time the contract was made;
  - (h) is sentenced to a term of imprisonment exceeding six months;
  - (h) is lawfully detained for a period exceeding three months or the Director's freedom of movement is restricted for a period exceeding three months under any written law;
  - (g) is guilty of gross misconduct in terms of the by-laws; or
  - (i) dies or ceases otherwise to be a member of the co-operative society.

**45.** If a loan or other transaction is made in contravention of this Act, all officers of the co-operative society who made the loan or other transactions or assented thereto, shall be jointly and severally liable to the co-operative society for the amount of the loan or other transaction and may only be relieved of such liability by a decision of a court.

Liability of directors and other officers for unlawful transactions

**46.** (1) Subject to the other provisions of this Act and of the by-laws, a board may determine its own procedure.

Procedure and meetings of board

(2) Upon giving notice of not less than seven days, a meeting of a board may be called by the chairperson and shall be called if not less than one-third of the directors so request in writing; except that if the urgency of any particular matter does not permit the giving of such notice, a special meeting may be called upon giving a shorter notice.

(3) Notwithstanding the provisions of the by-laws, the quorum at any meeting of a board shall be not less than one half of the number of directors.

(4) A board shall cause minutes to be kept of every meeting of the board.

(5) If a director is present at a meeting of a board at which any matter is the subject of consideration and in which matter the director or the director's spouse is, in a private capacity, interested, the director shall, as soon as is practicable after the commencement of the meeting, disclose the interest and shall not, unless the board otherwise directs, take part in any consideration or discussion of, or vote on, any question touching such matter.

(6) A disclosure of interest made under this section shall be recorded in the minutes of the meeting at which it is made.

Removal of  
director from  
office

47. (1) Notwithstanding section *forty-four* and in the absence of any provision in its by-laws, a co-operative society, at a general meeting may, by resolution passed by at least two-thirds of the members or delegates present, remove any director before the expiration of the term of office of that director and may fill the vacancy created by such removal—

(a) by appointing another director; or

(b) by appointing another board where all the directors are removed.

(2) Notwithstanding paragraph (b) of subsection (1) and subject to subsection (3), where all the directors are removed, the co-operative society may, in a general meeting, by a resolution passed by at least two thirds of the members or delegates present, authorise the Registrar to appoint officers to provide management and administrative support services to the co-operative society for a term, which shall not exceed one year, as the co-operative society may determine.

(3) Notwithstanding subsection (2) where officers have been appointed under subsection (2) their term of service shall come to an end as soon as the co-operative society appoints a board under paragraph (b) of subsection (1).

## PART VI

### CHARGES BY CO-OPERATIVE SOCIETIES

Registration  
of charges

48. (1) A charge, other than an agricultural charge, created by a co-operative society which is—

(a) a charge for the purpose of securing any issue of debentures;

(b) a charge on uncalled or unpaid share capital of the co-operative society;



- (c) a charge created or evidenced by an instrument which, if executed by an individual, would require registration as a bill of sale;
- (d) a charge on land, wherever situate, or any interest therein;
- (e) a charge on book debts; or
- (f) a floating charge on the undertaking or property of the co-operative society;

shall so far as any security on the property or undertaking of the co-operative society is hereby conferred, be void against the liquidator and any creditor of the co-operative society, unless the prescribed particulars of the charge, together with the instrument, are delivered or received by the Registrar of Agricultural Charges for registration in the manner prescribed under this Act, within thirty days after the date of its creation, but without prejudice to any contract or obligation for payment of any money secured.

(2) Where a charge becomes void under this section any money secured shall immediately become payable.

(3) Where a negotiable instrument has been given to secure the payment of any debts to a co-operative society, the deposit of the instrument for the purpose of securing an advance to the co-operative society shall not, for the purpose of this section, be treated as a charge on those debts.

(4) The holding of debentures entitling the holder to a charge on land shall not be deemed to be an interest in land.

(5) The Registrar of Agricultural Charges shall keep, for each co-operative society, a register, in the prescribed form, of all charges requiring registration under this section and shall, upon payment of the prescribed fee, enter in the register, with respect to every charge, the date of its creation, the amount secured by it, short particulars of the property charged and the names of the persons entitled to the charge.

(6) A certificate under the hand of the Registrar of Agricultural Charges relating to the registration of any charge registered under this section, stating the amount thereby secured, shall be issued by the Registrar of Agricultural Charges and the certificate shall be conclusive evidence that the requirements of this section, as to registration, have been complied with.

(7) A co-operative society shall submit to the Registrar of Agricultural Charges, for registration, the particulars of every

charge requiring registration under this section, but registration of any such charge may be effected on the application of any person interested therein.

(8) Where the registration is effected on the application of some person, other than the co-operative society, that person shall be entitled to recover from the co-operative society the amount of any fees properly paid, for the registration, by that person, to the Registrar of Agricultural Charges.

(9) The register kept under this section shall be open to inspection, by any person, upon payment of a prescribed fee.

(10) A co-operative society shall cause a copy of every instrument creating a charge, requiring registration under this section, to be kept at the registered office of the co-operative society.

(11) In this Part, except where the context otherwise provides, the expression "charge" includes a mortgage but excludes an agricultural charge.

Registration  
of enforce-  
ment of  
security and  
filing of  
accounts

49. (1) If a person obtains an order for the appointment of a receiver or manager of the property of a co-operative society, or appoints such a receiver or manager under any powers contained in any instrument, that person shall, within seven days from the date of the order of the appointment under the powers contained in the instrument, give notice of the fact to the Registrar of Agricultural Charges who shall, on payment of the prescribed fee, enter the fact in the register of charges.

(2) A person who fails to comply with the requirements of subsection (1), shall be guilty of an offence and shall be liable, on conviction, to a fine not exceeding one hundred and forty penalty units for every day during which the default continues.

(3) A receiver or manager of the property of a co-operative society who has been appointed under the powers contained in any instrument, and who has taken possession of the property, shall once in every half year, while remaining in possession, and also on ceasing to act as receiver or manager, file with the Registrar of Agricultural Charges an abstract, in the prescribed form, of receipts and payments during the period to which the abstract relates and shall also, on ceasing to act as receiver or manager, file with the Registrar of Agricultural Charges notice to that effect, and the Registrar of Agricultural Charges shall enter the notice in the register of charges.

(4) Every receiver or manager who does not comply with the provisions of subsection (3), shall be guilty of an offence and shall

be liable, on conviction, to a fine not exceeding six hundred penalty units.

50. A court on being satisfied that—

- (a) the omission to register a charge within the time required under section *forty-nine*;
- (b) the omission or mis-statement of any particular fact with respect to any such charge was accidental or due to inadvertence or to some other sufficient cause; or is of a nature prejudicial to creditors or the co-operative society; or
- (c) it is just and equitable to grant relief on any other grounds,

the court may, on the application of the co-operative society or any interested person, and on such terms and conditions as seem to that court just and expedient, order that the time for registration be extended or that the omission or mis-statement be rectified, as the case may be.

51. The Registrar of Agricultural Charges shall, upon being satisfied that the debt for which any registered charge was given has been paid or satisfied, order that a memorandum of satisfaction be entered on the register and shall, if requested by the co-operative society, furnish the co-operative society with a copy thereof.

52. If any co-operative society makes default in submitting to the Registrar of Agricultural Charges the particulars of any charge requiring registration under this Part, the co-operative society and every officer thereof or other person who is knowingly a party to the default shall, unless the registration has been effected on the application of some other person, be guilty of an offence and shall be liable, on conviction, to a fine not exceeding one hundred and forty penalty units for every day during which the default continues.

53. (1) A co-operative society shall keep a register of charges and agricultural charges and enter therein all charges specifically affecting the property of the co-operative society and all floating charges on the undertaking or any property of the co-operative society, giving in each case a short description of the property charged, the amount of the charge, and the names of the persons entitled thereto.

(2) If any officer knowingly and wilfully authorises or permits the omission of any entry required to be made under this section, that officer shall be guilty of an offence and shall be liable, on conviction, to a fine not exceeding two hundred and eighty penalty units.

Rectification of register of charges

Entry of memorandum of satisfaction on register

Failure to submit particulars for registration

Co-operative society's register of charges

Right to inspect copies of instruments and register of charges

54. (1) A copy of any instrument creating any charge requiring registration under this Part and the register of charges required to be kept under section *fifty-three*, shall—

(a) be available at all times for inspection by any creditor or member of the co-operative society free of charge; and

(b) be open for inspection by any other person on payment of a fee, not exceeding fifty fee units, for every inspection, as the co-operative society may prescribe.

(2) If inspection of any copy of any instrument creating a charge or the register of charges kept under section *fifty-three* is refused, any officer refusing inspection or authorising, or knowingly and wilfully permitting the refusal shall be guilty of an offence and shall be liable, on conviction—

(a) to a fine not exceeding two hundred penalty units; and

(b) to a fine not exceeding fifty penalty units for every day during which the refusal continues;

and the court may, by order, compel an immediate inspection of any copy of any instrument creating the charge or register of charges.

Perpetual charges

55. A condition contained in any charge created by a co-operative society shall not be invalid by reason only that the charge is made irredeemable or redeemable only on the happening of a contingency, however remote, on the expiration of a period, however long, notwithstanding any rule of equity to the contrary.

Agricultural charges  
Cap. 22.

56. The Agricultural Credits Act shall apply to any agricultural charge, created upon farming stock or agricultural assets, by a co-operative society.

## PART VII

### ADMINISTRATION OF CO-OPERATIVE SOCIETIES

Registered office

57. A co-operative society shall have a registered office to which all communications and notices may be addressed.

Seal of co-operative society

58. (1) The seal of a co-operative society shall be—

(a) such device as may be determined by the board;

(b) engraved as provided in section *eighteen*; and

(c) kept by the secretary to the board.

(2) The affixing of the seal of the board shall be authenticated by the chairperson or the vice-chairperson of the board and the secretary

or one other person authorised in that behalf by a resolution of the board.

(3) Any contract of instrument which, if entered into or executed by a person not being a body corporate, would not be required to be under seal, may be entered into or executed without seal on behalf of the board by the secretary or any other person generally or specially authorised by the board in that behalf.

(4) Any document purporting to be a document under the seal of the board or issued on behalf of the board shall be received in evidence without further proof, unless the contrary is proved.

59. (1) The board shall cause to be kept proper books of account and other records relating to the accounts of the co-operative society.

Books of account and records

(2) The records of the co-operative society shall be open for inspection, at the registered office of the co-operative society, by any member or delegate during office hours; except that no person who is not an officer of the co-operative society, or who is not specifically authorised by a resolution in that behalf of a general meeting, shall have the right to inspect the accounts of any other member without the written consent of that member.

(3) No officer shall, in any legal proceedings to which the co-operative society is not a party, be compelled to produce any of the books of account of the co-operative society or to appear as a witness to prove any matter, transaction or accounts therein recorded, unless the court for special reason so directs.

60. (1) An audit of the books of account of a co-operative society shall be conducted, annually, by an auditor or a person publicly carrying out the profession of an accountant in Zambia, engaged by the board with the approval of the general meeting.

Audit

(2) An auditor shall prepare and submit, to the members of the co-operative society and the Registrar, a report on the accounts and balance sheet examined by that auditor.

(3) The report specified under subsection (2) shall state—

(a) whether or not all the information and explanations required are obtained;

(b) whether in the opinion of the auditor—

(i) the balance sheet referred to in the report is properly drawn up so as to exhibit a true and correct view of the state of affairs of the

Rates of interest on loans

74. The interest rates on loans made by a credit union shall be determined by the board of the credit union.

Maintenance of cash reserve to meet withdrawals

75 (1) A credit union shall maintain a reserve, to meet withdrawals of money, in share and deposit accounts, consisting of cash on hand; or in a bank or other organisation authorised by law to accept moneys on deposit, and the reserve shall not, at the end of any calendar month, be less than ten per centum of the liabilities of the credit union to its members in respect of shares and deposits at that time.

(2) Cash may only be kept on hand by a credit union in accordance with the conditions regarding safe-keeping facilities, insurance and other safeguards as prescribed in the by-laws.

Non-application of Banking and Financial Services Act Cap. 387

76. The Banking and Financial Services Act shall not apply to a credit union registered under this Act.

## PART X

### CO-OPERATIVE UNIONS AND FEDERATIONS

Registration of co-operative unions and federations

77. (1) A co-operative may be registered as a co-operative union under this Act.

(2) A co-operative may be registered as a federation under this Act.

(3) Subject to the other provisions of this Part, the provisions of Part III shall apply, with the necessary modifications, to the registration of a co-operative union or federation; which shall be co-operative societies for the purposes of this Act.

Use of word "co-operative"

78. The Registrar may exempt a co-operative union or a federation from the requirement that the word "co-operative" shall form part of the name of that union or federation, if it is clear to the public that they are co-operative societies.

Incorporation and functions of unions and federations

79. (1) A co-operative union or a federation, registered under this Act, shall be a body corporate with perpetual succession, a common seal and limited liability, and shall, subject to the other provisions of this Act and its by-laws, have power to do all such acts and things as a body co-operate may by law do or perform.

(2) Subject to subsection (3) a co-operative union or a federation shall perform such functions as may be specified in its by-laws.

(3) Notwithstanding subsection (2), a co-operative union or federation, shall not *interfere* in the general operations of a co-operative society which is a member of the union or federation.

PART XI

WINDING-UP AND CANCELLATION

80. A co-operative society shall be wound up only in accordance with this Part.

Winding up of co-operative societies

81. (1) Subject to subsection (2), the Registrar shall cancel the registration of a co-operative society if the Registrar is satisfied that—

Cancellation of registration of co-operative society

- (a) the registration was obtained by fraud or mistake;
- (b) the co-operative society exists for an illegal purpose;
- (c) the co-operative society, after notice having been given to that effect by the Registrar, willfully continues to contravene any of the provisions of this Act or its by-laws;
- (d) the number of members of the co-operative society has fallen below the minimum required by this Act;
- (e) a special resolution has been passed in accordance with subsection (3); or
- (f) the co-operative society is no longer in business or operation.

(2) The Registrar shall, before cancelling the registration of any co-operative society—

- (a) give notice in writing, of at least fourteen days, to that co-operative society, excluding a co-operative society to which subsection (3) applies, of the Registrar's intention to cancel its registration and giving reasons for such cancellation; and
- (b) publish in the Gazette and in a newspaper of general circulation in the area where the registered office of the co-operative society is situated, the notice referred to in paragraph (a).

(3) A co-operative society may, by special resolution, resolve to wind up the affairs of the co-operative society and shall request the Registrar to cancel the registration of that co-operative society.

(4) Where the Registrar cancels the registration of a co-operative society under this section, the Registrar may give directives for the safe custody of the books and documents and the protection of the

assets of the co-operative society; and such directives shall remain effective until a liquidator is appointed in accordance with section *eighty-two*.

(5) Any member of a co-operative society, may, within thirty days from the date of the cancellation, appeal to the Minister.

(6) When the registration of a co-operative society is cancelled under this section, the co-operative society shall cease to carry on any business, make any transaction or do any act affecting its property or its members.

(7) Where the registration of a co-operative society is cancelled under this section, a floating charge on the undertaking or property of that co-operative society created within a period of twelve months prior to the date of cancellation shall, unless it is proved that the co-operative society, immediately after the creation of the charge, was solvent, be invalid except to the amount of any cash paid to the co-operative society at the time of, or subsequent to, the creation of, and in consideration for, the charge, together with interest on that amount at a rate not exceeding the current lending rate as determined by the Bank of Zambia.

Winding up  
after  
cancellation  
of registra-  
tion

**82.** (1) Where the Registrar cancels the registration of a co-operative society under section *eighty-one*, the Registrar shall appoint, in writing, a liquidator of the co-operative society, on such terms and conditions as the Registrar shall determine.

(2) Where the Registrar appoints a liquidator for a co-operative society the assets and liabilities of the co-operative society shall vest in the liquidator, with effect from the date of appointment of the liquidator.

(3) Subject to the other provisions of this Act, the Companies Act shall apply, with the necessary modifications, to any winding up under this Act.

## PART XII

### MISCELLANEOUS

Regulations

**83.** (1) The Minister may, by statutory instrument, make regulations for the better carrying out of the purposes of this Act.

(2) Without prejudice to the generality of subsection (1), the Minister may make regulations prescribing—

(a) the forms to be used, the information to be furnished, the procedure to be followed and the conditions to be complied with, in the making of an application for the registration of a co-operative society under this Act;



- (b) the fees to be paid under this Act;
- (c) the form of yearly or other financial returns and reports to be filed by co-operative societies with the Registrar; or
- (d) anything required to be prescribed or done under this Act.

84. Any person who contravenes any of the provisions of this Act, where no penalty is specifically provided, shall be liable on conviction, to a fine not exceeding six hundred penalty units, or to imprisonment for a term not exceeding six months, or to both.

General  
penalty

85. (1) The Co-operative Societies Act, 1970 is hereby repealed.

Repeal of  
Co-operative  
Societies  
Act, 1970  
and savings

(2) Notwithstanding the provisions of subsection (1)—

- (a) every co-operative society and the by-laws registered under the repealed Act shall be deemed to have been registered under this Act;
- (b) any register kept pursuant to the repealed Act shall be deemed to be part of a register to be kept under this Act;
- (c) any documents referring to a provision of the repealed Act shall be construed as referring to a corresponding provision of this Act; and
- (d) any orders, rules and directions, appointments and other acts, lawfully made or done under the repealed Act and in force immediately before the commencement of this Act, shall be deemed to have been made or done under this Act, and shall continue to have effect in so far as they are not inconsistent with the provisions of this Act.

(3) The registration of an existing co-operative society not complying with this Act shall be cancelled unless the members, by special resolution, resolve, within one year, to re-constitute the co-operative society in accordance with this Act; except that such re-constitution shall not affect any right or claim for the time being subsisting for or against that co-operative society.

## SCHEDULE

(Section 19)

1. The by-laws of every co-operative society shall deal with the following matters:

- (a) the name of the co-operative society;
- (b) the place and postal address of the registered office of the co-operative society;
- (c) the objects for which the co-operative society is established;
- (d) the value of each share if the co-operative society is to be divided into shares, and whether the shares are to be of equal amount, and whether, if unequal, the maximum amount shall not exceed one-fifth of the share capital;
- (e) the qualifications for membership;
- (f) the minimum number of shares to be subscribed for by a member as a condition of being admitted to membership, the amount of the sum payable on application on each share so subscribed, which shall not be less than ten per centum of its value, the amount of the sum, if any, remaining unpaid on shares so subscribed, and the method of allotment of additional shares;
- (g) if there is no share capital, the terms of membership, and the manner in which the interest of the member in the co-operative society is to be determined;
- (h) the entrance fee, if any;
- (i) the annual membership fee, if any;
- (j) the purpose to which funds may be applied;
- (k) the composition of the board of directors;
- (l) the manner of distributing the net surplus or of covering a loss;
- (m) the conditions under which a member may withdraw from membership;
- (n) the geographical area of operation of the co-operative society;
- (o) the term of office of the board of directors;
- (p) the holding of annual general meetings, notices, agenda, voting, etc.
- (q) the remuneration, if any, to be paid to the officers of the co-operative society;
- (r) the constitution of the reserve fund;
- (s) the dates of the financial year of the co-operative society;
- (t) the extent to which the co-operative society may have non-member business; and
- (v) such other matters concerning the administration and operation of the co-operative society as the Registrar may require.

11. The by-laws of a co-operative society may, *inter-alia*, deal with the following matters:

- (a) the liability of members, whether limited by shares, guarantee or unlimited;
- (b) plural voting rights;
- (c) the constitution of additional funds, in particular, a fund for education and training;
- (d) the issuing of investment shares including preferred investment shares to members or non-members;
- (e) the constitution of committees; and
- (f) the honorarium, if any, to be paid to the officers of the co-operative society.