Co-operative Associations Act

CHAPTER 98 OF THE REVISED STATUTES, 1989

as amended by

2001, c. 41, ss. 1-23; 2008, c. 50; 2011, c. 5, s. 363;
2014, c. 34, s. 5

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Published by Authority of the Speaker of the House of Assembly
Halifax

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CHAPTER 98 OF THE REVISED STATUTES, 1989
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2014, c. 34, s. 5

An Act to Amend, Revise and Consolidate the Law Respecting Co-operative Associations

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SHORT TITLE

Short title

1 This Act may be cited as the *Co-operative Associations Act*. R.S., c. 98, s. 1.

INTERPRETATION

Interpretation

2 In this Act,

(a) "association" means an association incorporated under this Act and an association to which this Act applies;

(b) "board" means the board of directors of an association;

(c) "by-laws" means the by-laws made by an association;

(d) "co-operative basis" means the carrying on of an enterprise organized, operated and administered in accordance with the following principles and methods:

(i) each member or delegate has only one vote,

(ii) no member or delegate may vote by proxy,

(iii) interest or dividends on share or loan capital is limited to the percentage fixed in the articles of incorporation, or by-laws of the association,

(iv) the enterprise is operated as nearly as possible at cost after providing for reasonable reserves and the payment or crediting of interest or dividends on share or loan capital, and any surplus funds arising from the business of the organization, after providing for such reasonable reserves or dividends, unless used to maintain or improve services of the organization for its members or donated for community welfare or the propagation of co-operative principles, are distributed in whole or in part among the members or the members and patrons of the organization in proportion to the volume of business they have done with or through the organization, and

(v) the shares in the capital stock of a co-operative association except for those referred to in Section 20, do not have attached any special preferences, rights, conditions, restrictions, limitations or prohibitions either by the articles of incorporation, amalgamation agreement, certificate of incorporation or of amalgamation, by-laws or otherwise, and shall not be redeemed at more than par value or purchased by the association at less than par value without the approval of the Inspector;

(e) "housing association" means an association that has as its primary purpose the provision of housing accommodation for occupancy by its members as nearly as possible at cost or that is operated in such a manner;

(f) "immediate family", when used to indicate a relationship with any person, means

(i) any spouse or child of the person,

(ii) any relative of the person, or

(iii) any relative of the spouse of the person,

if that spouse, child or relative is living in the same home as the person;

(g) "Inspector" means the Inspector of co-operative associations and includes any person authorized by the Minister to perform the duties of the Inspector in his absence or incapacity or when the office of Inspector is vacant;

(h) "loan capital" includes a sum contributed to an association by a member, in his capacity as a member,

(i) by way of contributions to capital otherwise than by the purchase of shares or the making of loans under Section 35, or

(ii) by allocation or payment pursuant to Section 38 or pursuant to an enactment, of net earnings or other sums available for distribution to members;

(i) "member" means a person, association, society, partnership, corporation or institution that pursuant to the by-laws of an association is a member of the association and, in any case, includes a person who has subscribed to the articles of incorporation;

(j) "Minister" means the Minister of Service Nova Scotia or other member of the Executive Council who has the general administration of this Act;

(k) "officer" includes a president, chairman, secretary, treasurer, member of a board of directors or other person empowered under this Act, the regulations or the by-laws to give directions relating to the business of the association;

(l) "Registrar" means the Registrar of Joint Stock Companies and includes the Deputy Registrar or such person as the Governor in Council may from time to time authorize to perform the duties of the Registrar;

(m) "regulations" means regulations made by the Governor in Council pursuant to this Act;

(n) "special resolution" means a resolution passed, at a special or annual meeting of the association in respect of which notice specifying the intention to propose the resolution as a special resolution has been given in the manner provided by the by-laws of the association, by

(i) not less than two thirds of the votes cast by such members of the association entitled to vote as are present in person at the meeting, or

(ii) such greater proportion of the votes cast as the by-laws require,

and approved by the Inspector and filed with the Registrar. R.S., c. 98, s. 2; 2001, c. 41, s. 1; 2014, c. 34, s. 5.

PURPOSE OF ACT

Purpose of Act

3 The purpose of this Act is to provide for the incorporation, inspection, examination and supervision of associations whose primary purpose is to provide service to its members and which belong to the people who use the services, the control of which rests equally with all the members, and the gains from which are distributed among the members in proportion to the use they make of the services. R.S., c. 98, s. 3.

APPLICATION OF ACT

Application of Act

4 **(1)** This Act applies to all associations incorporated under this Act and to all associations to which Chapter 57 of the Revised Statutes, 1967, the *Co-operative Associations Act,* applied before the first day of August, 1977.

(2) The *Companies Act* does not apply to an association. R.S., c. 98, s. 4.

ADMINISTRATION

Inspector

5 **(1)** The Governor in Council may appoint such inspectors of co-operatives as are necessary for the administration of this Act.

(2) The Inspector

(a) shall examine the articles of incorporation and by-laws of all proposed associations desiring to be incorporated under this Act, inquire into the conditions under which any proposed association is intended to operate and approve or refuse to approve any articles and by-laws;

(b) may on the Inspector's own motion, and shall, upon requisition in writing signed by

(i) fifty per cent of the members where there are ten or fewer members of the association, or

(ii) six members or ten per cent of the members, whichever is the greater number, where there are more than ten members of the association,

each of whom must have been a member of the association for at least twelve months preceding the date of the requisition, investigate, inspect, inquire and examine into the affairs and business of any association and report thereon to the board or to the members, or to both, whichever in the Inspector's opinion is appropriate;

(c) shall receive and file all returns and reports made by each association pursuant to this Act;

(d) shall prepare and deliver to the Minister each year in such form as he may require a report showing the number of associations operating in the Province and the financial standing of each association;

(e) shall report annually to the Minister respecting associations in the Province;

(f) shall perform such other duties as may be required under this Act and as the Minister may from time to time direct.

(3) The Inspector may examine on oath the officers, agents and servants of any association in relation to its affairs and business and it shall be the duty of such officers, agents and servants to produce to the Inspector at his request any or all of the books and documents in their custody and power.

(4) Failure of a person to produce upon request of an Inspector any book or document or failure to answer any question relating to the affairs or business of the association shall constitute an offence against this Act and a person found guilty shall be liable on summary conviction to a penalty not exceeding one hundred dollars in respect of each offence. R.S., c. 98, s. 5; 2001, c. 41, s. 2.

INCORPORATION

Formation of association

6 Any three or more persons of the age of majority or any two or more associations may, by subscribing their names to articles of incorporation in the form contained in the Schedule to this Act and otherwise complying with the requirements of this Act respecting incorporation, form an association for the purpose of establishing and carrying on, on a co-operative basis, any lawful business, enterprise or service, other than that of a banking, a loan, a trust or an insurance company, either with or without capital divided into shares, that is to say either

(a) an association with capital divided into shares having the liability of its members limited by the articles of incorporation to the amount, if any, unpaid on the shares respectively held by them, in this Act termed as "an association limited by shares"; or

(b) an association without capital divided into shares having the liability of its members limited by the articles of incorporation to the amount, if any, unpaid on the membership fee which each member undertakes to contribute to the association, in this Act termed "an association limited by membership". R.S., c. 98, s. 6.

Association limited by shares

7 In the case of an association limited by shares,

(a) the articles of incorporation shall state

(i) the name of the association with the word "Co-operative" as a part of its name and with "Limited" as the last word in its name,

(ii) the objects of the association,

(iii) that the liability of the members is limited, and

(iv) the par value of the shares;

(b) no subscriber to the articles of incorporation may subscribe for less than one share; and

(c) each subscriber shall write opposite his name the number of shares he subscribes for and his address. R.S., c. 98, s. 7.

Association limited by membership

8 In the case of an association limited by membership,

(a) the articles of incorporation shall state

(i) the name of the association with the word "Co-operative" as a part of its name and with "Limited" as the last word in its name,

(ii) the objects of the association,

(iii) that the liability of the members is limited, and

(iv) that amount of annual or other periodic membership fee as is prescribed by the by-laws;

(b) each subscriber shall write his address opposite his name. R.S., c. 98, s. 8.

9 *repealed 2001, c. 41, s. 3.*

Signing of articles of association

10 The articles of incorporation shall be signed by each subscriber in the presence of at least one witness, each of whom shall sign his name and write his address. R.S., c. 98, s. 10.

Names

11 **(1)** Notwithstanding Sections 7 and 8, an association

(a) may have the word "Co-opérative" or "co-opérative" as part of its name in place of the word "Co-operative";

(b) may have the word "Limitée" or the contraction "Ltd" or the contraction "Ltée" as the last word in its name in place of the word "Limited".

(2) No person doing business in the Province shall use the word "co-operative" or any abbreviation or derivation thereof as part of its name with respect to its services or its method of conducting business or hold itself out to the public in advertisements, literature, signs, announcements or in any other manner to be co-operative unless

(a) incorporated under or subject to this Act;

(b) incorporated by or under the *Canada Cooperative Associations Act*;

(c) incorporated by or under an Act of the legislature of a province that authorizes either expressly or by implication the use of the word "co-operative"; or

(d) incorporated by or under an Act of the Legislature that authorizes either expressly or by implication the use of the word "co-operative". R.S., c. 98, s. 11.

Approval of articles of incorporation

12 (1) Two copies of the articles of incorporation, together with a deposit of the fees payable to the Registrar, set out in the Schedule to this Act and two copies of the by-laws signed by the subscribers to the articles of incorporation shall be submitted to the Inspector, who on approval thereof shall endorse thereon a certificate to that effect, dated and signed by him, and shall thereupon transmit to the Registrar one copy of the articles of incorporation and one copy of the by-laws.

(2) If the Inspector does not approve the articles of incorporation and by-laws he shall return them together with the deposit to the proposed association with a statement of his reasons for not approving them.

(3) A subscriber who is dissatisfied with the refusal of the Inspector to approve articles of incorporation and by-laws may, within thirty days of the refusal, appeal to the Minister who may confirm, vary or reverse the decision of the Inspector. R.S., c. 98, s. 12.

Registration of articles of incorporation

13 (1) Subject to subsection (2), on receipt of articles of incorporation and by-laws duly approved by the Inspector or the Minister in case of appeal, the Registrar shall register them.

(2) The Registrar shall not register articles of incorporation and by-laws of an association

(a) whose name is identical with that of any other subsisting association or company incorporated or otherwise, or so nearly resembling the same as to be calculated to deceive except where such subsisting association or company is in the course of being dissolved and testifies its consent in such manner as the Registrar requires;

(b) without the consent of the Governor in Council whose name contains the words "Royal" or "Imperial" or which in the opinion of the Registrar suggests or is calculated to suggest the patronage of Her Majesty or any member of the Royal Family or connection with Her Majesty's Government or any department or agency thereof; or

(c) whose name is otherwise objectionable. R.S., c. 98, s. 13.

Certificate of incorporation

14 **(1)** On registration of articles of incorporation and by-laws the Registrar shall certify under his hand that the association is incorporated under this Act.

(2) A certificate of incorporation given by the Registrar in respect of any association shall be conclusive evidence that all the requirements of this Act respecting incorporation have been complied with and that the association is incorporated under this Act.

(3) From the date of incorporation mentioned in the certificate of incorporation the subscribers to the articles of incorporation together with such other persons as may from time to time become members of the association shall be a body corporate by the name mentioned in the certificate of incorporation, capable forthwith of exercising all the functions of an incorporated association and having perpetual succession and a common seal with power to hold lands, but with such liability on the part of the members to contribute to the assets of the association in the event of its being wound up as is mentioned in this Act. R.S., c. 98, s. 14.

Articles and by-laws bind association and members

15 The articles of incorporation and by-laws bind the association and the members thereof to the same extent as if they respectively had been signed and sealed by each member, his heirs, executors and administrators, to observe all the provisions of the articles and of the by-laws subject to this Act. R.S., c. 98, s. 15.

Powers of association

16 Every association shall have, in addition to the acts and things included in the objects set out in its articles of incorporation, all power and capacity, as if the same were included among the purposes and objects set out in its articles of incorporation, necessary to enable it to

(a) buy, sell, grow, produce, manufacture, repair, alter, exchange, store, and deal in all articles or things within the scope of its objects as set forth in its articles of incorporation;

(b) purchase, take on lease or in exchange, hire or otherwise acquire or hold any real or personal property which the association may deem necessary or convenient for the purpose of its business;

(c) subject to the approval of the Inspector or with the sanction of ~~an~~ [a] special resolution, sell, mortgage, lease or otherwise dispose of the property or undertakings of the association or any part thereof;

(d) subject to the approval of the Inspector or the sanction of ~~an~~ [a] special resolution, guarantee the performance of obligations or contracts of any other person and, as security for such guarantee, charge the whole or any part of the property of the association;

(e) construct, improve, maintain, develop, work, manage, carry out or control any roads, ways, sidings, factories, warehouses, tanks, shops,

stores and other works and conveniences which may seem calculated directly or indirectly to advance the interests of the association, and contribute to, subsidize or otherwise assist or take part in the construction, improvement, maintenance, working management, carrying out or control thereof;

(f) undertake and carry on all kinds of businesses or operations with the marketing, buying, selling, preserving, harvesting, drying, processing, manufacturing, canning, packing, grading, storing, handling or utilizing of any product, or the manufacturing or marketing of the by-products thereof;

(g) acquire or hire supplies, machinery or equipment, and make provision for the sale or hire, or for the extension of the use of the same to its members or patrons;

(h) with the sanction of ~~an~~ [a] special resolution, acquire or undertake the whole or any part of the business, property, liabilities and undertaking of any other association, person, company or society, carrying on any business which the association is authorized to carry on, or possessed of property suitable for the purpose of the association;

(i) with the sanction of ~~an~~ [a] special resolution, take or otherwise acquire and hold shares, stock, debentures or take securities of or acquire and hold membership in any other company, association or society incorporated under any Act of any province of Canada or under any Act of the Province or of Canada having objects wholly or in part similar to those of the association, and sell or otherwise deal with the same;

(j) subject to the approval of the Inspector, enter into any agreement for co-operation, joint adventure, reciprocal concession or otherwise with any other association, with any person or company, having objects wholly or in part similar to the objects of the association or engaged in any business or enterprise capable of being conducted so as directly or indirectly to benefit the association;

(k) enter into arrangements with any authorities, governmental, municipal, local or otherwise, that may seem conducive to the attainment of the association's objects, or any of them, and obtain from such authority any rights, privileges and concessions which the association may have capacity to receive and may think desirable to obtain, and carry out, exercise and comply with any such arrangements, rights, privileges and concessions;

(l) establish and support or aid in the establishment and support of associations, institutions, funds, trusts and conveniences calculated to benefit employees or ex-employees of the association or its predecessors in business, or the dependents or relatives of such persons, and grant pensions and allowances, and make payments towards insurance, and subscribe or guarantee money for charitable or benevolent objects, or for any public, general or useful object;

(m) draw, make, accept, endorse, discount, execute and issue promissory notes, bills of exchange, bills of lading, warrants and other negotiable or transferable instruments;

(n) borrow and secure the payment of money in accordance with the provisions set forth in the by-laws and upon such terms and conditions as the board of directors may from time to time determine;

(o) invest the money of the association not immediately required in the business of the association in such manner as may from time to time be determined by the board of directors acting honestly and in good faith with a view to the best interest of the association and exercising the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances;

(p) take or hold mortgages, hypothecs, liens and charges to secure payment of the price of any part of the property of the association of whatever kind sold by the association or any money due to the association from purchasers and others and assign or otherwise dispose of the said mortgages, hypothecs, liens and charges;

(q) carry on, encourage and assist educational and advisory work relating to co-operative activities;

(r) enlarge the area of its operations by the establishment of branches or other means subject to this Act with respect to the establishment of branches;

(s) accept money on deposit from its members for future purchase of goods or services by the members, provided that an association accepting deposit money from its members shall keep such money available to the member or at his demand;

(t) generally carry on or undertake any business which may seem capable of being conveniently carried on or undertaken in connection with the business of the association, or calculated directly or indirectly to enhance the value of or render profitable any property or rights of the association;

(u) do all or any of the above things as principal, agent, contractor or otherwise and by or through trustees, agents or otherwise and either alone or in conjunction with others;

(v) do all other things which are incidental or conducive to the attainment of the objects and the exercise of the powers of the association;

(w) with the authority of ~~an~~ [a] special resolution and with the approval of the Minister, apply for a certificate of continuation which will permit the co-operative to continue as a corporation to which an Act of the Parliament of Canada applies. R.S., c. 98, s. 16; 2001, c. 41, s. 23.

Powers of natural person

16A Subject to this Act, an association has the capacity, rights, powers and privileges of a natural person. 2001, c. 41, s. 4.

Articles of incorporation

16B The articles of incorporation of an association incorporated on or after the thirteenth day of November, 2001, shall state whether or not the association is a non-profit association within the meaning of Section 61A. 2001, c. 41, s. 4.

17 *repealed 2011, c. 5, s. 363.*

AMENDMENT OF ARTICLES

Amendment of articles of incorporation

18 (1) An association, with the sanction of ~~an~~ [a] special resolution, may alter or amend its articles of incorporation with respect to the objects of the association so far as may be required to enable it to

(a) carry on some business which under existing conditions may conveniently or advantageously be combined with the business of the association;

(b) restrict or abandon any of the objects or powers in the articles or in Section 16; or

(c) enlarge or change the area of its operations.

(2) An association, with the sanction of ~~an~~ [a] special resolution, may alter or amend its articles of incorporation with respect to the qualifications for admission of members.

(3) A certificate of the Registrar that a certified copy of such special resolution has been filed together with a copy of the articles as altered shall be conclusive evidence that all the requirements of this Act with respect to the alteration of the articles have been complied with and thenceforth the articles as altered shall be the articles of the association. R.S., c. 98, s. 18; 2001, c. 41, ss. 5, 23.

Change of name

19 (1) Subject to the provisions of Section 13 and with the approval of the Registrar, an association may, by special resolution, change its name and in the special resolution fix the date on which the change of name will become effective, and, if such approval is given, the Registrar shall on the date on which the change of name becomes effective enter the new name on the register in place of the former name and shall issue a certificate of incorporation altered to meet the circumstances of the case.

(2) If an association through inadvertence or otherwise is or has been ~~registerd~~ [registered] by a name

(a) identical with that of any other subsisting association or company incorporated or unincorporated, or which the Registrar deems so nearly to resemble the same as to be calculated to deceive,

or contains any words prohibited under Section 13 except in a case in which such consent as aforesaid has been given; or

(b) which the Registrar deems to be otherwise objectionable by reason of this Section or otherwise,

the association shall, upon the direction of the Registrar, change its name, and if any association fails to change its name within two months after being so directed, the Registrar may change its name to any name he deems to be unobjectionable and upon the change being made the Registrar shall issue a new certificate of incorporation altered to meet the circumstances of the case.

(3) No alteration of the name of an association shall affect the rights or obligations of the association or render defective any legal proceedings instituted or to be instituted by or against the association and any legal proceedings may be continued or commenced against the association by its new name that might have been continued or commenced against the association by the former name. R.S., c. 98, s. 19; 2001, c. 41, s. 23.

PREFERENCE SHARES

Preference shares

20 (1) An association may issue one or more classes of non-voting preference shares.

(1A) The classes of preference shares referred to in subsection (1) are subject to the terms and conditions provided for in the by-laws of the association.

(1B) The holder of preference shares may dissent if the association

(a) amends its by-laws to add, change or remove the rights, privileges, restrictions or conditions attached to preference shares;

(b) amends its articles of incorporation or by-laws to add, change or remove any restrictions on the business or businesses that the association carries on;

(c) amalgamates with another association;

(d) continues under the laws of another jurisdiction; or

(e) sells, leases or exchanges all or substantially all of its property other than in the ordinary course of business.

(1C) Notwithstanding subsection (2) of Section 4, the Third Schedule of the *Companies Act* applies *mutatis mutandis* to dissent procedures for associations and preference shareholders.

(2) No preference shares shall be redeemed or purchased by an association if there are reasonable grounds to believe that

(a) the association is, or would be after the payment, unable to pay its liabilities as they become due; or

(b) the realizable value of the association's assets after the payment would be less than the total of the par value of all its issued shares and liabilities.

(3) There shall be included in every balance sheet of an association which has issued preference shares a statement specifying what part of the capital of the association consists of such shares.

(4) Where an association has issued preference shares which by the provisions attaching thereto may be redeemed or purchased by the association, the association may, subject to this Section, redeem or purchase such shares on such terms and in such manner as may be provided by the by-laws of the association and by the provisions attaching to the said shares and in accordance with any price or formula set out in its articles, by-laws or provisions attached to the said shares or, if none so provides, at fair market value.

(5) Where any such preference shares have been redeemed or purchased by the association, it shall, within one month after so doing, give notice thereof to the Inspector, specifying the number and value of shares so redeemed or purchased and in the amount at which each share was so redeemed or purchased. R.S., c. 98, s. 20; 2008, c. 50, s. 1.

REGULATIONS AND BY-LAWS

Regulations and by-laws

21 (1) The Governor in Council may make regulations not inconsistent with this Act and such regulations shall apply to every association.

(2) An association may make by-laws not inconsistent with this Act or the regulations.

(3) The by-laws when approved by the Inspector and filed with the Registrar bind the members of the association to the same extent as if they had been signed and sealed by each member and contain covenants on the part of each member, his heirs, executors, administrators and successors to observe the by-laws subject to this Act. R.S., c. 98, s. 21.

REGISTERED OFFICE

Registered office

22 Every association shall have a registered office in the Province, to which all communication and notices may be addressed. R.S., c. 98, s. 22.

Notice to Inspector and Registrar

23 An association shall give to the Inspector and the Registrar notice of the place of the registered office and of any changes therein within twenty-eight days after the date of the incorporation of the association or of the change, as the case may be. R.S., c. 98, s. 23.

MEMBERSHIP, SHARES AND LOANS

Register

24 **(1)** Every association shall keep a register of members and enter therein the following particulars in respect of each member:

(a) the names and addresses of members;

(b) the date at which each person became a member;

(c) the date at which each person ceased to be a member; and

(d) the name and address of each person nominated by a member as his beneficiary and the date of the nominations.

(2) Every association having share capital shall keep a share register and enter therein a statement of the shares held by each member and of the amount paid and agreed to be considered as paid by the member.

(2A) Every association that has loan capital or that borrows from its members shall keep a loan register and maintain in the register a current statement of the loan capital of each member and the amount outstanding of any money borrowed from each member.

(3) The register of members shall be kept at the registered office of the association and shall, subject to such reasonable restrictions as the association may in general meeting impose, be open to the inspection of any member free of charge.

(4) The share register shall be kept at the registered office of the association and, subject to such reasonable restrictions as the association may in general meeting impose, a shareholder may inspect the portion of the register in which particulars of his share holdings are entered.

(4A) The loan register shall be kept at the registered office of the association and, subject to such reasonable restrictions as the association may in general meeting impose, a member may inspect the portion of the register in which particulars of the member's loan capital or the amount borrowed from the member are entered.

(5) The register of members, the share register and the loan register shall be *prima facie* evidence of the facts set forth therein. R.S., c. 98, s. 24; 2001, c. 41, s. 7.

Application for membership

25 Application for membership in any association shall be made in writing to the board of directors and no application for membership shall be accepted and no allotment, assignment or transfer of a share or membership shall be valid unless and until approved by the board of directors in accordance with the provisions set forth by the by-laws of the association. R.S., c. 98, s. 25.

Money payable as debt due

26 (1) All money payable by a member to an association shall be a debt due from the member to the association and is recoverable as such.

(2) An association has a charge upon the shares or interest in the capital and on the deposits of a member or past member, and upon any dividend, bonus or accumulated funds payable to a member or past member, in respect of any debt due from that member or past member to the association, and may set off any sum credited or payable to the member or past member in or toward payment of any such debt. R.S., c. 98, s. 26.

Shares paid for by instalment

27 Any share may be paid for by instalments at such times and in such manner as may be provided by the by-laws, but no member shall be entitled to draw from surplus anything based on more than the paid-up portion of his shares. R.S., c. 98, s. 27.

DESIGNATION OF BENEFICIARY

Designation of beneficiary

28 (1) A member of an association who has attained the age of majority may, by writing under his hand, delivered at or sent to the registered office of the association nominate any person to whom his shares, loan capital, deposits or other interest in the association shall be transferred at his decease and may from time to time revoke or vary the nomination by writing under his hand similarly delivered or sent.

(2) Subject to approval of the board, the shares affected by the nomination shall be transferable to the nominee although the by-laws of the association declare its shares to be generally not transferable.

(3) Upon receiving satisfactory proof of the death of a member

(a) who had filed a nomination pursuant to subsection (1); and

(b) whose shares, loan capital, deposits and other interest do not at the date of his death exceed in value a total of two thousand dollars,

if no executor or administrator of the estate of such member is appointed within six months from the date of his death, the directors may either transfer such shares, loan

capital, deposits and other interest in the manner directed by the nomination or, at their option, pay to the person entitled thereunder the full value of the same.

(4) If a member of an association entitled at his death to an interest in the association of a total value of not more than two thousand dollars in respect of shares, loan capital, deposits and other interest dies intestate and without having made a nomination under this Act which remains unrevoked at his death and if no administrator of the estate of such member is appointed within six months of his death the directors may transfer such shares, loan capital, deposits and other interest or, at their option, pay the value thereof to or among the persons who appear to a majority of the directors, upon such evidence as they may deem satisfactory, to be entitled by law to receive the same.

(5) Where a member who had made a nomination under subsection (1) subsequently makes a will that is inconsistent with the nomination and is unrevoked at the time of his death the will operates as a revocation of the nomination. R.S., c. 98, s. 28; 2001, c. 41, s. 8.

WITHDRAWAL OR EXCLUSION OF MEMBER

Withdrawal or exclusion of members

29 (1) A member may, in the manner prescribed by the by-laws and with the approval of the board of directors, withdraw from membership in the association, whereupon he shall, subject to the regulations and the by-laws, be entitled to a refund of any amount held to his credit in share capital or otherwise in the association and upon which the association has no charge or other lawful claim but

(a) the board of directors may require notice not exceeding six months of any proposed withdrawal of a member's capital or other equity;

(b) if the value of the shares as determined by the directors and approved by the Inspector is less than par, the board of directors shall have the right to refund to a withdrawing member only such proportion of the par value of his shares as may appear to it to be just and reasonable;

(c) the association shall not be required to permit the withdrawal of a member's capital or other interest at any time when in the opinion of the board of directors such withdrawal would impair the financial stability of the association.

(2) A member who fails in the observance of any of the regulations or the by-laws of the association may, by resolution of the board of directors, be excluded from membership in the association whereupon he shall be entitled to a refund of any amount held to his credit in share capital or loan capital and deposits and upon which the association has no lien or other lawful claim but

(a) notice shall be sent by the board of directors by registered mail to such member to his last known address setting forth a

date not sooner than one month after the date of mailing the notice upon which he is to be excluded from membership in the association and stating the reasons therefor;

(b) the member so notified, if he is not satisfied with the decision of the board, may at any time before the date upon which it is proposed that he is to be excluded from membership in the association request the board to place the matter on the agenda for consideration by the membership during the next special or general meeting of the members; and

(c) the member who has been notified that he is to be excluded from the association shall have the right to appear personally before the meeting to give reasons why he should not be excluded after which the question shall be submitted to a vote of the meeting and the decision of the meeting thereon shall be final. R.S., c. 98, s. 29.

MEETINGS OF MEMBERS

Meetings

30 **(1)** Every association shall hold an organizational meeting within four months from the date of incorporation, and thereafter an annual meeting of every association shall be held not later than four months after the end of each fiscal year.

(2) When default has been made in holding an organizational meeting or an annual meeting of the association in accordance with this Section, the Inspector may call, or direct the calling of, a special meeting of the association.

(3) A special meeting may be called at any time in the manner set forth in the by-laws of the association.

(4) The notice calling an annual or special meeting of the association shall be in such form and given in such manner as may be set forth in the by-laws. R.S., c. 98, s. 30.

Voting, delegates and books

31 **(1)** At all meetings of an association a member shall have one vote only on any question regardless of the number of shares held by him and, excepting where provision is made for representation by delegates, no member may vote by proxy.

(2) Whenever by virtue of the by-laws of an association provision has been made for the nomination and appointment of delegates to an annual or special meeting, the members who have so nominated or appointed delegates shall not thereafter so long as such nomination or appointment remains in force exercise the power of membership at any annual or special meeting and any reference in this Act

to members shall with respect to the exercise of such power be deemed to be a reference to delegates.

(3) Whenever by virtue of the by-laws of an association provision is made for the election of directors of the association by members or delegates voting by districts, directors so chosen shall be deemed elected by all the members or delegates attending the said meeting to the same extent as if all the members or delegates had been present at such meeting.

(4) An association, if it is a member of another association formed under this Act or of an association to which this Act applies, or if not inconsistent with the *Canada Cooperative Associations Act* or an association formed or incorporated under that Act, may, in accordance with the provisions of its by-laws, authorize such person as it thinks fit to act as its delegate at any meeting of such association or company, and a person so authorized shall be entitled to exercise the same powers on behalf of the association which it represents as that association could exercise if it were an individual member.

(5) Every association shall cause minutes of all proceedings of annual or special meetings to be entered in a book kept for that purpose and any such minutes if purporting to be signed by the chairman of the meeting at which the proceedings were had, or by the chairman of the next succeeding meeting, shall be evidence of the proceedings.

(6) The books containing the minutes of proceedings of any annual or special meeting of an association shall be kept at the registered office of the association and shall, during at least two hours in each business day, be open to the inspection of any member without charge. R.S., c. 98, s. 31.

Filing of special resolution

32 (1) A copy of every special resolution duly certified by the secretary of the association shall, within fifteen days from the passing thereof, be forwarded to the Inspector, who upon approval thereof shall transmit the resolution to the Registrar who shall file the same.

(2) If the Inspector does not approve the special resolution, he shall return the same to the association with a statement of his reasons for not approving thereof.

(3) ~~An~~ [A] special resolution shall not be valid unless and until it is filed with the Registrar. R.S., c. 98, s. 32; 2001, c. 41, s. 23.

BOARD OF DIRECTORS

Board of directors

33 (1) The articles of incorporation of an association shall include or be accompanied by a list of the names and addresses of not fewer than three and not more than seven persons to be first directors of the association and the persons so

named shall hold office until a board of directors is elected pursuant to subsection (2).

(2) The members of every association shall within four months after the date of its incorporation elect a board of directors of such number of members and in such manner and for such term as are provided in the regulations, but in no case shall the board of directors be fewer than three duly qualified members.

(3) Subject to the regulations and by-laws, the affairs of an association shall be managed by the board of directors.

(4) The qualifications, powers and duties of the directors shall be as set forth in the regulations and by-laws.

(5) If a director fails to qualify himself for the office of director in accordance with the regulations and by-laws within two months after the date of his election or if he fails in the discharge of any of the duties of his office, the board of directors may declare his office vacant and the vacancy so created shall be filled by appointment by the remaining directors until the date of the next annual meeting or until such other date as may be fixed by the by-laws.

(6) At any annual meeting or at a special meeting called for the purpose the members of the association by a vote of not less than two thirds of the members who are present and entitled to vote may remove a director from office before his term of office has expired.

(7) If a vacancy occurs in the board of directors by reason of death or resignation or other cause the vacancy so created shall be filled by appointment by the remaining directors until the date of the next annual meeting or until such other date as may be fixed by the by-laws.

(8) No act of the board shall be invalid by reason only of a defect in the appointment or qualification of any director or directors.

(9) The board of directors shall cause minutes of all proceedings of directors' meetings to be entered in a book kept for that purpose and any such minutes if purporting to be signed by the chairman of the meeting at which the proceedings were had or by the chairman of the next succeeding meeting shall be *prima facie* evidence of the proceedings.

(10) The books containing the minutes of directors' meetings shall be kept in the custody of such officer of the association as is designated in the by-laws and shall at least during two hours in each business day be open to the inspection of any director without charge. R.S., c. 98, s. 33; 2001, c. 41, s. 9.

CONTRACTS

Contracts

34 **(1)** Contracts on behalf of an association may be made as follows:

(a) any contract, which if made between private persons would be by law required to be in writing and to be under seal, may be made on behalf of the association in writing under the common seal of the association 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 and signed by the parties thereto, may be made on behalf of the association in writing signed by any person acting under its authority, express or implied, and may in the same manner be varied or discharged;

(c) any contract, which if made between private persons would by law be valid, although made by parol only and not reduced into writing, may be made by parol on behalf of the association by any person acting under its authority, express or implied, and may in the same manner be varied or discharged.

(2) The association may make marketing contracts with any of its members or any group or class of its members requiring them to sell for a period of time not over five years all or any part of their products specified in the contracts, exclusively to or through the association or any agency created or indicated by the association.

(3) Where a member of an association having entered into a marketing contract with the association does not within twelve months of the date of a contract make delivery of the products or commodities which he is required by the contract to deliver, he may be excluded from membership in the association in accordance with subsection (2) of Section 29.

(4) The board of directors shall have power from time to time by resolution to pay over to the members of the association such part of the price of the commodity or commodities so sold as it shall deem advisable, but such resolution shall not be deemed to create a debt due or payable by the association to the members or any of them. R.S., c. 98, s. 34.

BORROWING FROM MEMBERS

Borrowing from members

35 An association may, by by-law, authorize the borrowing of money from its members for definite periods of time and at specific rates of interest. R.S., c. 98, s. 35.

DISTRIBUTION OF EARNINGS OR ASSETS

Distribution of savings

36 **(1)** Subject to the other provisions of this Section and Sections 37 and 38, the net savings of the association or other amounts available for distribution by the association at the close of each fiscal year shall be paid or allocated in the manner set forth in the regulations and by-laws.

(2) An association

(a) shall set aside reserves in accordance with the regulations;

(b) may provide for payment of interest to shareholders at a rate not exceeding a rate specified in the by-law.

(3) An association shall not allocate or pay a patronage rebate which will create or increase a deficit.

(4) Subject to the other provisions of this Section and to the by-laws, the net savings arising from the business of an association in each fiscal year of the association shall be allocated, credited or paid to the members in proportion to the business done by each member with or through the association, at a rate in relation to the quantity, quality or value of the goods or products acquired, marketed, handled, dealt in or sold, or services rendered by the member or the association, from or on behalf of or to the member or to the association whether as principal or as agent of the member or otherwise, with appropriate differences in the rate for different classes, grades or qualities thereof.

(5) An association may, by by-law, provide that part of the savings referred to in subsection (1) may be allocated, credited or paid to patrons of the association at the same or at lesser rates than to members.

(6) An association may, by by-law, provide that where the value or quantity of the goods or products acquired, marketed, handled, dealt in or sold, or services rendered by the association from or on behalf of or to any member or patron in any year does not exceed such amount as is specified in the by-law, no patronage rebate shall be allocated, credited or paid to such member or patron. R.S., c. 98, s. 36; 2001, c. 41, s. 10.

INVESTMENT OF PATRONAGE REBATES

Investment of patronage rebate

37 **(1)** An association may, by by-law, provide that the whole, or such part as the directors may determine, of the patronage rebate of each member in respect of each fiscal year shall be applied to the purchase for the member of shares in the capital stock of the association, and any such by-law shall provide for the giving of notice to each member of the number of shares to be purchased for him thereunder, for the manner of issuance or transfer of shares thereunder and the payment

therefor out of the patronage rebates of members and for the issuance and forwarding of certificates to members representing shares so issued or transferred.

(2) No member shall be required under this Section to purchase shares in the capital stock of an association at a price in excess of the par value thereof. R.S., c. 98, s. 37.

Lending of patronage rebate

38 (1) An association may enact by-laws requiring its members to lend to it the whole or such part as the directors may determine of the patronage rebates to which they may become entitled in each fiscal year upon such terms and at such rate of interest as the directors may determine but not exceeding such rate of interest as is provided in any such by-law.

(2) Where an association is insolvent, no member shall be required under this Section to lend its patronage rebate to the association and no member shall be required under Section 37 to purchase shares in the capital stock of the association.

(3) Section 37 and this Section shall not prevent a member of an association from receiving that portion of his patronage rebates that has not been appropriated to loans to the association or to the purchase of shares of the association in accordance with its by-laws. R.S., c. 98, s. 38.

Distribution of gains

39 (1) Notwithstanding any public or private Act, the allocation or payment by a co-operative association of its net savings or any other amount available for distribution or any part of the savings or other amount to or among its patrons does not constitute

(a) a payment or distribution of a premium, discount, fund, refund, rebate, interest or dividend;

(b) a failure to charge a fixed or prescribed price for any commodity; or

(c) a failure to maintain the price for any commodity,

but does constitute the gains which are distributed among the members or patrons in proportion to the use they make of the co-operative services in their association.

(2) Where members of an association are required by a marketing plan established under an Act of the Legislature or the Parliament of Canada to sell or deliver goods or render services to or for a marketing board for the purpose of distributing the net savings of the association to the members thereof in accordance with this Act, the members shall be deemed to have sold, delivered or rendered those goods or services to the association. R.S., c. 98, s. 39.

AUDITS AND FINANCIAL RECORDS

Appointment, removal and report of auditor

40 (1) Unless in a financial year at least two thirds of the members of the association consent in writing not to appoint an auditor in respect of that year, the members or shareholders of every association shall, at each annual meeting, appoint an auditor or auditors to hold office until the next annual meeting.

(2) If an appointment of an auditor is not made at an annual meeting or if a vacancy occurs in the office of auditor the directors of the association shall appoint an auditor of the association to hold office until the next annual membership meeting.

(3) The first auditor or auditors of the association may be appointed by the board of directors at any time before the first annual membership meeting and auditors so appointed shall hold office until that meeting.

(4) The shareholders may, by resolution passed by a majority of the votes cast at a special meeting duly called for the purpose, remove an auditor before the expiration of his term of office, and shall by a majority of the votes cast at that meeting appoint another auditor in his stead for the remainder of his term.

(5) Before calling a special meeting for the purpose specified in subsection (4), the association shall, fifteen days or more before the mailing of the notice of the meeting, give to the auditor

(a) written notice of the intention to call the meeting specifying therein the date on which the notice of the meeting is proposed to be mailed; and

(b) a copy of all material proposed to be sent to shareholders in connection with the meeting.

(6) The auditor has the right to make to the association, three days or more before the mailing of the notice of the meeting, representations in writing concerning

(a) his proposed removal as auditor;

(b) the appointment or election of another person to fill the office of auditor; or

(c) his resignation as auditor,

and the association, at its expense, shall forward with the notice of the meeting a copy of such representations to each shareholder entitled to receive notice of the meeting.

(7) None of the following persons shall be qualified for appointment as auditor of an association:

(a) a director, officer or employee of the same association;

(b) a person who is a partner of or in the employment of an officer or director of the association;

(c) the immediate families of those mentioned in clauses (a) and (b).

(8) An auditor who has any financial interest in an association shall disclose this interest to the Inspector before accepting engagement as auditor of an association.

(9) The auditor or auditors shall make a report to the members on the accounts examined by them and on every set of financial statements laid before the association in annual membership meeting during their tenure of office, and the report shall state

(a) whether or not they reviewed the accounting procedures and performed such tests of accounting records and other supporting evidence as was necessary in the circumstances to justify the expression of an opinion on the financial statements; and

(b) whether in their opinion the financial statements present fairly the financial position of the association and the results of its operations and the changes in its financial position for the period reported on, in accordance with generally accepted accounting principles applied on a basis consistent with that of the preceding period.

(10) Every auditor of an association shall have a right of access at all times to the books and accounts and vouchers of the association, and shall be entitled to require from the directors and officers of the association such information and explanation as may be necessary for the performance of the duties of the auditors, and they shall be entitled to attend any annual or special membership meeting of the association at which any accounts which have been examined or reported on by them are to be laid before the association and to make any statement or explanation they desire with respect to the accounts.

(11) The auditor shall make such examination as will enable him to report to the members as required by subsection (9) and shall also report any event, action or happening not in accordance with law to the association and the Inspector.

(12) Every auditor who wilfully fails to report on the accounts of an association as required by subsection (9) shall be liable to a penalty not exceeding one hundred dollars for each failure.

(13) The Inspector may at any time appoint an auditor to make an audit of the financial affairs of an association and to submit a report of the audit to the Inspector.

(14) An auditor appointed under subsection (13) has all the powers and privileges of an auditor appointed by the association or by the directors and may

be paid by the Minister such fees and expenses as the Minister determines. R.S., c. 98, s. 40; 2001, c. 41, s. 11.

Books of account and audited financial statements

41 (1) Every association shall cause to be kept at its registered office, or at such other place as the board of directors may direct, proper books of account with respect to

(a) all sums of money received and expended by the association and the matters in respect of which the receipt and expenditure takes place;

(b) all sales and purchases of goods and services by the association;

(c) the assets and liabilities of the association;

(d) all other transactions affecting the financial position of the association; and

(e) such other matters as the by-laws may set forth.

(2) The board of directors shall lay before the association at each annual meeting and at such other times as the by-laws may provide the audited financial statements and accompanying auditor's report for each fiscal year and such other periods as may be set forth in the by-laws. R.S., c. 98, s. 41.

Statement sent to Inspector

42 Every association shall, within two weeks after the annual meeting, send to the Inspector a general statement in such form and including such details as he may require of the affairs of the association. R.S., c. 98, s. 42; 2001, c. 41, s. 12.

AMALGAMATION

Amalgamation

43 (1) Any two or more associations incorporated under this Act or to which this Act applies may amalgamate and continue as one association.

(2) The associations proposing to amalgamate may enter into an amalgamation agreement, which shall prescribe the terms and conditions of the amalgamation and the mode of carrying the amalgamation into effect.

(3) The amalgamation agreement shall further set out

(a) the name of the amalgamated association determined in accordance with this Act;

(b) the objects for which the amalgamated association is to be established;

(c) whether the amalgamated association is an association limited by shares or limited by membership and

(i) where the amalgamated association proposed to be established is an association limited by shares, the par value of the shares, or

(ii) the amount of membership fee which each member of the amalgamated association has contributed or undertakes to contribute to the association; and

(d) such other details as may be necessary to perfect the amalgamation and to provide for the subsequent management and working of the amalgamated company.

(4) The amalgamation agreement shall be submitted to the Inspector and the members of each amalgamating association at special meetings thereof called for the purpose of considering the agreement and, if the amalgamation agreement is approved by ~~an~~ [a] special resolution of each association and by the Inspector,

(a) the secretary of each amalgamating association shall certify this fact under the seal of the association; and

(b) the amalgamating agreement shall be deemed to have been adopted by each of the amalgamating associations.

(5) On receipt of the amalgamation agreement, and the approving documents required, the Registrar shall issue a certificate of amalgamation certifying that the amalgamating associations have amalgamated.

(6) On and from the date of the certificate of amalgamation the amalgamating associations are amalgamated and are continued as one association, hereinafter called the "amalgamated association" under the name and having the objects and share capital or membership fees specified in the amalgamation agreement.

(7) The amalgamated association thereafter possesses all the property, rights, privileges and franchises, and is subject to all the liabilities, contracts and debts of each of the amalgamating associations, and all the provisions of the amalgamation agreement respecting the name of the amalgamated association, its objects and share capital or membership fees shall be deemed to constitute the articles of incorporation of the amalgamated association.

8) Subject to the right to make by-laws, the by-laws of the amalgamated association shall be the regulations. R.S., c. 98, s. 43; 2001, c. 41, s. 23.

WINDING UP AND DISSOLUTION

Dissolution of association

44 (1) Subject to the approval of the Inspector, an association may be dissolved by special resolution.

(2) The special resolution shall set forth in detail the assets, liabilities and members' equity as shown by the records of the association and an estimate of the realizable value of the assets and the claims of the creditors and members.

(3) A statutory declaration shall be made by the president and secretary of the association that this Act has been complied with, and shall be sent to the Inspector with a copy of the resolution certified by the president and secretary to be a true copy.

(4) The Inspector, if he approves the resolution, shall cause a notice of dissolution to be filed with the Registrar and advertised at the expense of the association in the Royal Gazette and in a newspaper circulating in the district in which the head office of the association is situated.

(5) Before approving of dissolution, the Inspector may require evidence that those voting for the resolution represent at least twenty-five per cent of the members' total equity in the association.

(6) Where the Inspector does not approve of the resolution on the ground that it did not receive the approval of those representing at least twenty-five per cent of the members' equity or on such other grounds as may to him appear reasonable, he may request the directors to call a special meeting of the members to reconsider the resolution.

(7) Distribution of the assets of the association shall not be made until six weeks after publication of the latest advertisement of dissolution and if, in the meantime, any new valid claims have been discovered, the amount of those claims shall be deducted from the amount of undistributed surplus set forth in the resolution and if new claims discovered amount to more than the amount of undistributed surplus, the whole matter shall then be referred to the Inspector who may refuse dissolution proceedings under this Section.

(8) The Inspector may require annual or other returns showing progress of dissolution, the distribution of any surplus or the progress of the administration of any trust in accordance with this Section.

(9) When the holder or holders of any claims against the association, whether for debt, share capital invested or otherwise, cannot be discovered after reasonable investigation, the directors may deposit the amount of those claims in a chartered bank or credit union and, unless claimed by the holder or holders within a period of three years after the deposit, the directors may, with the approval of the Inspector, pay such amounts with any interest accrued thereon to such organizations or associations or for such purposes as are prescribed by the regulations.

(10) Where the affairs of an association have been wound up, a statutory declaration to that effect shall be made by the liquidator or liquidators of the association and forwarded to the Inspector and the Registrar and the declaration shall state that the affairs of the association have been wound up and that the provi-

sions of this Act with respect to the dissolution of the association and the winding up of its affairs have been complied with.

(11) Where an association is dissolved by ~~an~~ [a] special resolution of the members, the members may appoint one or more liquidators approved by the Inspector to wind up the affairs of the association in accordance with the resolution and this Act, and the costs and expenses incurred in connection with the winding up shall be paid out of the funds of the association.

(12) If the members of an association do not appoint a liquidator or liquidators at the time the special resolution to dissolve the association is passed, the Inspector shall, upon approving the resolution, appoint a liquidator or liquidators to wind up the affairs of the association in accordance with the resolution and this Act, and the costs and expenses incurred in connection with the winding up shall be paid out of the funds of the association.

(13) Any amount remaining after providing for all claims of creditors and members shall be paid out in accordance with Section 61 or 61G. R.S., c. 98, s. 44; 2001, c. 41, ss. 13, 23.

Association not in business

45 (1) Where the Inspector has reasonable cause to believe that an association is not carrying on business or is not in operation, he shall send to the secretary of the association, by post, a letter inquiring whether the association is carrying on business or is in operation.

(2) If the Inspector does not within one month of sending the letter receive an answer thereto, he shall within fourteen days after the expiration of the month send to the secretary of the association by post, a registered letter, referring to the first letter and stating that no answer thereto has been received and that if an answer is not received to the second letter within one month from the date thereof, a notice will be published in the Royal Gazette with a view to striking the name of the association off the register.

(3) If the Inspector receives an answer from the association to the effect that it is not carrying on business or in operation, or does not within one month after sending the second letter receive an answer thereto, the Inspector may publish in the Royal Gazette that at the expiration of one month from the date of that notice the name of the association mentioned therein will, unless cause is shown to the contrary, be struck off the register and the association dissolved.

(4) At the expiration of the time mentioned in the notice, the Inspector may, unless cause to the contrary is previously shown by the association, notify the Registrar who shall strike the name of the association off the register, whereupon the association shall be dissolved.

(5) In case of dissolution under this Section, subsections (9) and (10) of Section 44 apply.

(6) Where an association is dissolved under this Section, Section 61 or 61G applies to the distribution of any undistributed surplus that remains after the claims of creditors, if any, and equities of members, including amounts paid on shares or membership certificates or loaned to the association through the retention of patronage refunds or otherwise, have been satisfied. R.S., c. 98, s. 45; 2001, c. 41, s. 14.

Dissolution by Registrar

46 (1) The Registrar may direct the Inspector to dissolve by order an association to which this Act applies if the Registrar is satisfied that

(a) the incorporation was obtained by fraud or mistake;

(b) the association exists for an illegal purpose;

(c) the association has wilfully, after notice by the Inspector, violated any of the provisions of this Act or the regulations;

(d) the association is no longer operating on a co-operative basis; or

(e) the number of members of the association has been reduced below the minimum number required by this Act for the incorporation of the association.

(2) The Inspector shall give the association not less than three months' notice of the proposed dissolution, specifying the reason therefor and stating that unless cause is shown to the contrary within the said period the name of the association shall be struck off the register and the association dissolved.

(3) At the expiration of the time mentioned in the notice, the Inspector may, unless cause is shown to the contrary, notify the Registrar who shall strike the name of the association off the register, and in such case the Registrar shall publish notice thereof in the Royal Gazette, whereupon the association shall be dissolved. R.S., c. 98, s. 46; 2001, c. 41, s. 15.

Compliance with Sections 41 and 42

47 (1) If an association fails to maintain the books of account referred to in Section 41, or to lay before the members the audited financial statement in accordance with that Section or to send to the Inspector the audited financial statement required by Section 42, the Inspector may, unless the association furnishes satisfactory reasons for delaying the preparation of the financial statement and its presentation to an annual meeting for an additional period not exceeding three months, require the directors to call a special meeting of the association for the purpose of considering the business transacted during the preceding fiscal year and arrangements for furnishing to the members and to the Inspector the information specified in Sections 41 and 42.

(2) If the directors fail to call a special meeting of the association, the Inspector may call a special meeting to review the financial position of the asso-

ciation and the members' interests therein, and to ascertain whether the members desire to continue the association in operation and comply with Sections 41 and 42.

(3) If a quorum of members is not present at a special meeting called under subsection (2), or if the members fail to pass a resolution to the effect that the association shall carry on business with an accounting to the members as provided in Section 41, the Inspector may notify the directors by registered mail that unless the said Section is complied with within one month from the date of the notice, the association will be struck off the register and dissolved.

(4) The Inspector may, in his discretion, extend the period mentioned in subsection (3), but if the default is not remedied in accordance with the notice or within the extended time, as the case may be, the Inspector shall notify the Registrar who shall strike the name of the association off the register, and, in such case, the Inspector shall publish notice thereof in the Royal Gazette, whereupon the association shall be dissolved.

(5) If an association that has been struck off the register in accordance with this Section subsequently complies with Section 41 by furnishing to the members the information prescribed for the period of default and the members pass a resolution requesting that the association be restored to the register, the Inspector shall, if he receives a satisfactory return for the period of default, request the Registrar to restore the association to the register upon payment of the fees prescribed for that purpose and publish in the Royal Gazette a notice that the name of the association has been restored to the register and thereupon the association shall be deemed to have continued in existence, and the association and all persons shall be in the same position as if the name of the association had never been struck off.

(6) Where an association is dissolved under this Section and has not been restored to the register pursuant to subsection (5), then subsections (8), (9) and (10) of Section 44 and subsection (6) of Section 45 apply. R.S., c. 98, s. 47.

Appointment of liquidator

48 Where

(a) an association is dissolved pursuant to subsection (4) of Section 45 or subsection (3) of Section 46; or

(b) an association is dissolved pursuant to subsection (4) of Section 47 and the association is not within a reasonable time restored to the register pursuant to subsection (5) of that Section,

the Inspector may appoint a liquidator to wind up the affairs of the association in accordance with this Act and the costs and expenses incurred in connection with the winding up shall be paid out of the funds of the association. R.S., c. 98, s. 48.

Commencement of winding up

49 A winding up shall be deemed to commence at the time the special resolution for dissolution of the association is approved by the Inspector under Sec-

tion 44, or at the time the name of the association is struck off the register under Section 45, 46 or 47, as the case may be. R.S., c. 98, s. 49; 2001, c. 41, s. 23.

Association ceases to carry on business

50 An association shall, from the date of the commencement of the winding up, cease to carry on its business except in so far as may be required for the beneficial winding up thereof and any transfers of shares except transfers made to or with the sanction of the liquidator or liquidators, or any alteration in the status of the members of the association after the commencement of the winding up shall be void. R.S., c. 98, s. 50.

Appointment of two or more liquidators

51 (1) If two or more liquidators are appointed all the provisions herein in reference to a liquidator shall apply to the liquidators.

(2) Upon the appointment of a liquidator under subsection (11) or (12) of Section 44 or Section 48, all the powers of the directors shall cease except in so far as the liquidator sanctions the continuance of those powers.

(3) Where several liquidators are appointed, every power hereby given may be exercised by such one or more of them as may be determined at the time of their appointment or, in default of such determination, by any number of the liquidators not less than two.

(4) The members of an association may, at the time they appoint a liquidator or at a subsequent special meeting, pass a resolution or order directing the liquidator how to dispose of the property, real or personal, of the association, and in default of their so doing the liquidator shall be subject to the directions, orders and instructions of the Inspector with regard to the mode, terms and conditions by which he may dispose of the whole or any part of the property of the association.

(5) If a vacancy in the office of liquidators occurs by reason of death, resignation or otherwise, the Inspector may appoint another person to fill the vacancy.

(6) In all proceedings connected with the association, the liquidator shall be described as the liquidator of the (name of association) and not by his individual name only. R.S., c. 98, s. 51.

Duties and powers of liquidator

52 (1) The liquidator, upon his appointment, shall take into his custody or under his control all the real and personal property, effects and choses in action to which the association is or appears to be entitled.

(2) The liquidator shall, within sixty days after his appointment, prepare a statement of the assets, liabilities and members' equity as shown by the

records of the association and an estimate of the realizable assets and the claims of the creditors and members, and shall forthwith send a copy thereof to the Inspector.

(3) The liquidator may

(a) bring or defend any action or other legal proceeding in the name and on behalf of the association;

(b) carry on the business of the association so far as may be necessary for the beneficial winding up thereof;

(ba) borrow money on the security of the property of the association;

(c) sell the real and personal property and choses in action of the association by public auction or private contract, and transfer the whole thereof to any person or sell the same in parcels;

(d) employ an agent to do any business that the liquidator is unable to do himself;

(e) make any compromise or arrangement with any creditor or class of creditors, or any person claiming to be a creditor or having or alleging to have any claim, present or future, certain or contingent, ascertained or sounding only in damages against the association or whereby the association may be rendered liable;

(f) make any compromise or arrangement in respect of calls and liabilities and calls, debts and liabilities capable of resulting in debts, and all claims, present or future, certain or contingent, ascertained or sounding only in damages, subsisting or supposed to subsist between the association and a contributory, or alleged contributory, or other debtor or person possibly involving liability to the association, and all questions in any way relating to or affecting the assets or the winding up of the association, on such terms as may be agreed upon, and may take any security for the discharge of such call, debt, liability or claim and give a complete discharge in respect thereof;

(g) do all acts and execute, in the name and on behalf of the association, all deeds, receipts and other documents, and for that purpose use, when necessary, the seal of the association;

(h) draw, accept, make and endorse any bill of exchange or promissory note in the name and on behalf of the association with the same effect with respect to the liability of the association as if the bill or note had been drawn, accepted, made or endorsed by or on behalf of the association in the course of its business;

(i) do such other things as are necessary for winding up the affairs of the association and distributing its assets.

(4) The liquidator may retain lawyers, accountants, engineers, appraisers and other professional advisers.

(5) The liquidator shall not purchase directly or indirectly any part of the stock-in-trade, debts or assets of any description of the association.

(6) The liquidator shall deposit in a chartered bank or credit union all sums of money that he has in his hands belonging to the association whenever those sums amount to one hundred dollars or more.

(7) Such deposits shall not be made in the name of the liquidator generally but a separate deposit account shall be kept for the association of the money belonging to the association in the name of the liquidator of the association.

(8) The liquidator shall furnish to the Inspector such annual or other returns as he may require showing the progress of the winding up, the distribution of any surplus and any other information the Inspector may require. R.S., c. 98, s. 52; 2001, c. 41, s. 16.

Date for sending in claims

53 (1) The liquidator may fix a certain day on or before which creditors of the association and others having claims thereon are to send in their claims.

(2) Such day shall be not less than two months from the first publication of the notice thereof.

(3) Where the liquidator has given notice of such day by publication in an issue of a newspaper published at or nearest to the chief place of business of the association, once in the first week and once in the fourth week of the said period of two months, the liquidator shall, at the expiration of the time named for sending in such claims, be at liberty to distribute the assets of the association, or any part thereof among the parties entitled thereto, having regard to the claims of which the liquidator then has notice, and the liquidator shall not be liable for the assets or any part thereof so distributed to any person of whose claim the liquidator had not notice at the time of distribution, but nothing in this Act shall prejudice the right of any creditor or claimant to follow assets into the hands of any person who has received them. R.S., c. 98, s. 53; 2001, c. 41, s. 17.

Payment of wages takes priority

54 In distributing the assets of an association the liquidator shall pay, in priority to the claims of the ordinary or general creditors of the association, the wages or salary of all persons, other than directors, in the employment of the association at the time of the commencement of the winding up or within one month before, not exceeding three months' wages or salary, and those persons shall be entitled to rank as ordinary or general creditors of the association for the residue, if any, of their claims. R.S., c. 98, s. 54.

Payment of costs

55 All costs, charges and expenses properly incurred in the winding up of an association, including the remuneration of the liquidator, shall be payable out of the assets of the association in priority to all other claims. R.S., c. 98, s. 55.

Remuneration of liquidator

56 (1) Where there is no agreement or provision fixing the remuneration of the liquidator, he shall be entitled to a commission on the amount realized on the disposition of the assets of the association less any expenses incurred on their dispositions, such commission to be five per cent on any amount realized not exceeding five thousand dollars, the further sum of two and a half per cent on any amount realized in excess of five thousand dollars and not exceeding ten thousand dollars, and a further sum of one and one quarter per cent on any amount realized in excess of ten thousand dollars, which commission shall be in lieu of all fees and charges for his services.

(2) Upon application to the Inspector by the liquidator, the Inspector may increase the fees and commissions set out in subsection (1). R.S., c. 98, s. 56; 2001, c. 41, s. 18.

Statutory declaration after winding up

57 (1) When the affairs of an association have been wound up a statutory declaration to that effect shall be made by the liquidator and forwarded to the Inspector.

(2) The declaration shall state that the affairs of the association have been wound up and that the provisions of this Act with respect to the winding up of the association have been met.

(3) The liquidator shall prepare and file with the Inspector together with the said declaration a detailed statement showing all receipts and disbursements and such other information as the Inspector may require. R.S., c. 98, s. 57.

Association may still be sued

58 In the case of a dissolution of an association under this Act, the association shall nevertheless be considered as subsisting and be in all respects subject to this Act, so long and so far as any matter relating to it remains unsettled, to the intent that the association may do all things necessary to the winding up of the concerns thereof and may sue and be sued under this Act in respect of all unsettled matters. R.S., c. 98, s. 58.

Limitation on responsibility for records

59 After the lapse of five years from the date of dissolution, no responsibility shall rest on the association or liquidators or anyone to whom the custody of such books, accounts and documents has been committed, by reason that the same or any of them are not forthcoming to any party claiming to be interested in them. R.S., c. 98, s. 59.

Effects of winding up

60 In the event of an association being wound up

(a) no contribution shall be required from a member of an association limited by shares, exceeding the amount, if any, unpaid on the shares for which he has subscribed;

(b) no contributions shall be required from a member of an association limited by membership, exceeding the amount, if any, unpaid on the membership for which he has applied;

(c) nothing in this Act shall invalidate any provision contained in any contract whereby the liability of the individual members of the contract is restricted, or whereby the funds of the association are alone made liable in respect of the contract;

(d) a sum due to any member of an association, in his capacity as a member, by way of an allocation or payment of his net earnings, or any other amount available for distribution or otherwise, shall not be deemed to be a debt of the association payable to that member in a case of competition between himself and any other creditor not a member of the association;

(e) after the claims of all creditors have been settled, any remaining sum may be taken into account for the purpose of the final adjustment of the rights of the contributories among themselves;

(f) the claims of all creditors shall be settled before any distribution of loan capital or share capital, and loan capital shall and the share capital shall be considered one;

(g) every shareholder shall have equal rights with every other shareholder, notwithstanding the fact that shares may be acquired by different means. R.S., c. 98, s. 60.

Payment of balance by liquidator

61 (1) When an association, other than a non-profit association referred to in Section 61A, is dissolved or wound up and

(a) all debts payable by the association; and

(b) all expenses of or incidental to the winding up and the realization of the assets of the association,

are paid and there is any balance remaining, the balance shall, subject to subsections (2), (3) and (4) be paid by the liquidator in accordance with any provisions respecting the paying out of the remaining balance set out in the articles or by-laws of the association.

(2) Where an association to which subsection (1) applies is an association that, on the thirteenth day of November, 2001, had provisions respecting the paying out of the remaining balance set out in the articles or by-laws of the association, the remaining balance shall be paid out in accordance with those provisions.

(3) Where an association to which subsection (1) applies is an association that, on the thirteenth day of November, 2001, did not have provisions respecting the paying out of the remaining balance set out in the articles or by-laws of the association or, where it has become impracticable for an association to which subsection (2) applies to comply with the provisions referred to in subsection (2), the association may, before being dissolved or wound up

(a) apply to the Inspector in accordance with the regulations for approval of the manner in which the remaining balance is to be paid; or

(b) by special resolution provide that the remaining balance is to be paid to a fraternal, charitable, community or developmental organization not having the purpose of carrying on any trade, industry or business and carrying on without purpose of gain to any member or to a non-profit association referred to in Section 61A,

and the balance shall be paid by the liquidator in the manner approved by the Inspector pursuant to clause (a) or to such organization or organizations as are provided for pursuant to clause (b).

(4) Where

(a) an association referred to in subsection (3) does not act pursuant to either clause (a) or (b) of subsection (3) before being dissolved or wound up; or

(b) the Inspector does not approve an application made pursuant to clause (a) of subsection (3),

the balance shall be paid by the liquidator to a fraternal, charitable, community or developmental organization or other organization not having the purpose of carrying on any trade, industry or business and carrying on without purpose of gain to any member or to a non-profit association referred to in Section 61A, in the manner and proportions set out in the regulations.

(5) Notwithstanding subsection (2), an association referred to in subsection (2) may, before being dissolved or wound up, provide by unanimous resolution of the members that the remaining balance is to be paid to a fraternal, charitable, community or developmental organization not having the purpose of carrying on any trade, industry or business and carrying on without purpose of gain to any member or to a non-profit association referred to in Section 61A, and the balance shall be paid by the liquidator to such organization or organizations as are provided for in the resolution. 2001, c. 41, s. 19.

NON-PROFIT ASSOCIATIONS

Non-profit association

61A For the purpose of this Act, an association is a non-profit association if

(a) its articles or by-laws specify that it is a non-profit association;

(b) it is an association that, on the thirteenth day of November, 2001,

(i) had articles or by-laws that provided it was to be operated on a non-profit basis or that it was to carry on its activities without purpose of gain to any of the members, or

(ii) had articles or by-laws that provided that upon dissolution the property of the association, after satisfaction of its debts, liabilities and expenses, was not to be disposed of or distributed among the members or was to be paid to a non-profit association or a fraternal, charitable, community, developmental or other such organization that is carried on without purpose of gain to any of the members;

(c) it is a housing association that has received from the Government of Canada or the Province, or an agency of either of them, a subsidy or assistance that assisted with or reduced housing costs;

(d) it is a housing association that operated under an agreement with Canada Mortgage and Housing Corporation that provided it was to be operated on a non-profit basis or that upon dissolution or wind up the property of the association, after satisfaction of its debts, liabilities and expenses, was not to be disposed of or distributed among the members or was to be paid to a similar association or a fraternal, charitable, community, developmental or other such organization that is carried on without purpose of gain to any of the members;

(e) it files income tax returns as a not-for-profit corporation; or

(f) it is an association or in a class of associations that are prescribed to be non-profit in the regulations. 2001, c. 41, s. 20.

Prohibition

61B Notwithstanding any enactment, no non-profit association may be converted into or continued as any other kind of association or corporation. 2001, c. 41, s. 20.

Prohibition

61C No non-profit association may pay any dividends on share capital or interest on share capital to its members. 2001, c. 41, s. 20.

Profit

61D (1) A profit resulting from revaluation or sale of real or personal property of a non-profit association shall

(a) be set aside as a reserve fund for unforeseen operating losses or other contingencies, or for the maintenance or further development of the services provided by the association; or

(b) where the members authorize by special resolution at an annual meeting, be donated by the association to one or more local organizations, associations or groups with objectives of a benevolent or charitable nature or non-profit housing associations with similar objectives.

(2) A reserve fund established under this Section shall be invested in the manner prescribed by regulation. 2001, c. 41, s. 20.

Prohibition

61E No member of a housing association that is a non-profit association shall be entitled to a profit or capital gain because of the occupancy, transfer or surrender of a unit of housing of the association or because of a transfer or termination of membership in the association. 2001, c. 41, s. 20.

Non-profit association

61F (1) A non-profit association shall operate without profit for its members and any profit or other revenues received by the association shall be used to promote its objects.

(2) No part of the income or property of a non-profit association shall be paid to or otherwise made available for personal benefit to a member of that association.

(3) Nothing in this Section prohibits a non-profit association from

(a) paying a reasonable amount to a member for services provided to the association if the provision of the services and the amount to be paid for them were approved by the board in advance of the services being provided; or

(b) where the association is a housing association, paying reasonable compensation to a member for improvements to a housing unit if the improvements and the amount to be paid for them were approved by the board in advance of the improvements being made. 2001, c. 41, s. 20.

Distribution of property upon dissolution

61G (1) When a non-profit association is dissolved or wound up, any property of the association remaining after payment of all debts payable by the association and all expenses of or incidental to the dissolution or winding up and the realization of the assets shall be distributed to a fraternal, charitable, community, developmental or other non-profit organization including another non-profit association.

(2) The articles or by-laws of a non-profit association may designate the organizations to which the property of the association is to be distributed pursuant to subsection (1).

(3) Where the articles or by-laws of a non-profit association do not designate any organization pursuant to subsection (2) or where a designated organization has ceased to exist or be eligible pursuant to subsection (1), the property of the association shall be distributed to organizations eligible to receive it pursuant to subsection (1) in the manner and proportions set out in the regulations. 2001, c. 41, s. 20.

OFFENCES

Offence and penalty

62 **(1)** It shall be an offence against this Act if any association

(a) fails to give notice, send any return or document, or do or allow to be done any act or thing, which the association 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 Inspector or Registrar, or other person authorized under this Act, or does any act or thing forbidden by this Act;

(c) wilfully makes any false return or wilfully furnishes any false information.

(2) Every person who, or association which, violates any provision of this Act shall be guilty of an offence against this Act.

(3) Every director or officer of an association who, having knowledge of the facts, moves, seconds, puts or supports by his vote any motion, resolution or proposal which if carried out would constitute an offence against this Act shall be guilty of an offence against this Act and every act or default constituting an offence under this Act shall, if continued, constitute a new offence in every week during which it continues.

(4) Every association or other corporation guilty of an offence against this Act for which no penalty has been specifically provided shall be liable on summary conviction to a penalty of not more than five thousand dollars. R.S., c. 98, s. 62.

FEES

Fees

63 The services of the Inspector and the Registrar for which fees are payable and the amount of the fees shall be determined by the Governor in Council by regulation. R.S., c. 98, s. 63.

REGULATIONS

Regulations

64 **(1)** The Governor in Council may make regulations

(a) defining expressions not already defined in the Act;

(b) prescribing procedure and the fixing of a quorum;

(c) respecting membership in an association including requirements respecting qualifications for admission of members that are to be included in the by-laws of an association;

(ca) respecting the making of by-laws by associations and the amendment or repeal of by-laws;

(cb) respecting minimum requirements of matters to be included in the by-laws of associations;

(cc) respecting applications made pursuant to clause (a) of subsection (3) of Section 61;

(cd) respecting the manner and proportions in which the balance remaining after dissolution or wind-up of an association is to be paid pursuant to Section 61;

(ce) respecting matters that the Inspector shall consider or conditions that apply to the exercise of the Inspector's discretion when the Inspector decides on applications made pursuant to subsection (3) of Section 61;

(cf) prescribing associations or classes of associations that are non-profit associations for the purpose of Section 61A;

(cg) respecting the manner and proportions in which the property remaining after dissolution of a non-profit association is to be distributed pursuant to Section 61G;

(ch) respecting circumstances in which associations are deemed to be non-profit associations or to have been carrying on business as non-profit associations;

(d) respecting the qualifications, powers, duties and election of directors;

(e) prescribing director zones;

(f) providing for vacancies in offices of associations;

(g) respecting meetings of directors;

(h) respecting annual and special meetings;

(i) respecting shares and the disposition or transfer of shares;

(j) respecting the maintaining of reserves and the disposition of net earnings;

(ja) prescribing the manner in which a reserve fund established pursuant to Section 61D shall be invested;

(k) prescribing notices, and publication of them;

(l) respecting borrowing;

(m) defining fiscal year;

(n) respecting the corporate seal;

(o) providing for the withdrawal and expulsion of members;

(p) defining the scope of business activities;

(q) determining the services to be provided by the Inspector and the Registrar;

(r) determining the fees to be charged for services rendered by the Inspector and the Registrar;

(s) generally for the better administration of this Act and the management and conduct of the affairs of associations.

(2) Regulations made pursuant to subsection (1) shall be regulations within the meaning of the *Regulations Act*. R.S., c. 98, s. 64; 2001, c. 41, s. 21.

SCHEDULE

ARTICLES OF INCORPORATION OF AN ASSOCIATION LIMITED BY MEMBERSHIP

PROVINCE OF NOVA SCOTIA

THE CO-OPERATIVE ASSOCIATIONS ACT

ARTICLES OF INCORPORATION

of the . . . . . Limited

1. The name of the association is . . . . . Limited

2. The objects for which the association is established are to carry on on a co-operative basis . . . . . including the acts and things set forth under Section 16 of the *Co-operative Associations Act*.

3. The liability of the members is limited to . . . . . .

4. The membership fee is . . . . . .

Names Addresses

Dated the . . . . . day of . . . . . , 19. . . . .

Witness the above signatures . . . . . .

Address . . . . . .

Note: Add or attach list of first directors.

ARTICLES OF INCORPORATION OF AN
ASSOCIATION LIMITED BY SHARES

PROVINCE OF NOVA SCOTIA

THE CO-OPERATIVE ASSOCIATIONS ACT

ARTICLES OF INCORPORATION

of the . . . . . .Limited

1. The name of the association is . . . . Limited

2. The objects for which the association is established are to carry on on a co-operative basis . . . . . .
including the acts and things set forth under Section 16 of the *Co-operative Associations Act*.

3. The liability of the members is limited.

4. The par value of the shares is . . . . dollars each.

Names Addresses Occupation No. shares taken by each

Dated the . . . . . day of . . . . . ., 19. . . . .

Witness the above signatures . . . . . .

Address . . . . . .

Occupation . . . . . .

Note: Add or attach list of first directors.

R.S., c. 98, Sch.; 2001, c. 41, s. 22.