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Co-operative Societies Act [Cap 152]

LAWS OF THE REPUBLIC OF VANUATU Consolidated Edition 2006

Commencement: 20 July 1987

CHAPTER 152 CO-OPERATIVE SOCIETIES

Act 24 of 1982

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CO-OPERATIVE SOCIETIES

To make provision for the formation, registration and regulation of co-operative societies and for other matters connected therewith.

PART 1 – PRELIMINARY

1. Interpretation

In this Act, unless the context otherwise requires –

"by-laws" means the registered by-laws of a society;

"committee" means the governing body, by whatever name called, of a registered society to whom the management of its affairs is entrusted;

"dividend" means a share of the profits of a registered society divided among its members in proportion to the share capital held by them;

"member" includes a person or registered society joining in the application for the registration of a society, and a person or registered society admitted to membership after registration in accordance with the by-laws;

"officer" includes a chairman, secretary, treasurer, member of committee, or other person empowered under the by-laws to give directions in regard to the business of a registered society;

"registered society" means a co-operative society registered under this Act;

"registrar" means the Registrar of Co-operative Societies appointed under section 2 of this Act.

PART 2 – REGISTRATION

2. Appointment of registrar and assistant registrars

The Minister may appoint a person to be Registrar of Co-operative Societies and may appoint persons to assist the registrar, and may, by order, confer on any such person all or any of the powers of the registrar under this Act.

3. Societies which may be registered

Subject to this Act any society for carrying on any industry, business or trade in accordance with co-operative principles may be registered under this Act.

4. Conditions of registration and name of registered society

(1) No society shall be registered unless –

(a) it consists of not less than seven persons each of whom is qualified to be a member in accordance with section 23; or

(b) at least one of its members is a registered society.

(2) The word "co-operative" shall form part of the name of every registered society.

(3) The word "limited" shall be the last word in the name of a registered society.

(4) No society shall be registered under a name which in the opinion of the registrar is undesirable.

(5) When for the purposes of this Act a question arises as to the qualification of any person to be a member of a registered society, such question shall be decided by the registrar whose decision shall be final.

5. Application for registration

(1) For the purposes of registration an application shall be made to the registrar.

(2) The application shall be made in a prescribed form and shall be signed –

(a) in the case of a society of which no member is a registered society by at least seven persons qualified to be members in accordance with section 23 of this Act; and

(b) in the case of a society of which all members are registered societies, by a duly authorised person on behalf of every such registered society;

(c) in the case of a society whose membership consists of one or more registered societies and other members, by a duly authorised person on behalf of every such registered society and by seven such other members, or where there are less than seven by all of them.

(3) The application shall be accompanied by copies of the proposed by-laws of the society, and the persons by whom or on whose behalf such application is made shall furnish such information in regard to the society as the registrar may require. The by-laws of a society shall contain provision in respect of the matters specified in the Schedule to this Act.

6. Probationary societies

(1) If the Registrar does not see fit to register a society he may, by notice in writing (hereinafter referred to as a notice of deferment), defer registration of that society subject to its compliance with such conditions as shall be specified by the registrar in that notice.

(2) The registrar shall transmit the notice of deferment to the persons by whom or on whose behalf application for registration is made.

(3) A notice of deferment shall, subject to this section and to any conditions specified in the notice, entitle the society in respect of which it is issued to operate as a registered society.

(4) A society entitled to operate as a registered society under subsection (3) above shall be termed a probationary society and shall, while entitled to operate as such, be deemed to be a body corporate with perpetual succession, and with power to hold property, to enter into contracts, to institute and defend suits and other legal proceedings and to do all things necessary for the purposes of its constitution. The liability of a probationary society shall be limited.

(5) Upon the registration of a probationary society under section 7, its certificate of registration shall supersede its notice of deferment which thereafter shall cease to have effect and the society shall be deemed for all purposes to have been registered from the date on which its notice of deferment was issued by the registrar.

(6) The registrar may, in his discretion, cancel a notice of deferment in writing addressed to the probationary society concerned and shall so cancel a notice of deferment on the expiry of 2 years from the date thereof if the society is not by then qualified for registration; such cancellation shall, from the date thereof, operate as a refusal to register the society for the purposes of section 7:

Provided that such cancellation shall not affect the validity of any transaction entered into or with the society while its notice of deferment was in force.

(7) Where the notice of deferment of a probationary society is cancelled under subsection (6) the registrar may appoint a person to be liquidator of the society.

(8) Sections 10(3) and 10(5) and 39 to 42 (inclusive) shall not apply to a probationary society.

(9) Subject to subsection (8), any reference in any law, including this Act, to a registered society within the meaning of this Act shall, unless the context otherwise requires, include a reference to a probationary society.

(10) The last 4 words in the name of every probationary society shall be "probationary co-operative society limited."

7. Registration

If the registrar is satisfied that a society has complied with the provisions of this Act and that its proposed by-laws are not contrary to this Act or any other law, he shall register the society and its by-laws. An appeal shall lie in a prescribed manner to the Minister against the refusal of the registrar to register a society within 1 month from the date of such refusal.

8. Societies to be bodies corporate

On registration a society shall become a body corporate by the name under which it is registered, with perpetual succession and with power to hold property, to enter into contracts, to institute and defend suits and other legal proceedings, and to do all things necessary for the purposes of its constitution.

9. Evidence of registration

A certificate of registration signed by the registrar shall be conclusive evidence that the society and its by-laws therein mentioned are duly registered, unless it is proved that the registration of the society has been cancelled.

PART 3 – DUTIES AND PRIVILEGES OF SOCIETIES

10. Amendment of by-laws

(1) Subject to this Act any registered society may amend its by-laws, including the by-law which declares the name of the society.

(2) No amendment of the by-laws of a registered society shall be valid until the amendment has been registered under this Act.

(3) If the registrar is satisfied that any amendment of the by-laws is not contrary to this Act or any other law he shall register the amendment. A registered society may appeal in a prescribed manner to the Minister against the refusal of the registrar to register any amendment of its by-laws.

(4) A change in the name of a society shall not affect any rights or obligations of the society or of any of its members or past members and any legal proceedings pending may be continued by or against the society under its new name.

(5) When the registrar registers an amendment of the by-laws, he shall issue to the society a copy of the amendment certified by him, which shall be conclusive evidence of the fact that the amendment has been registered.

(6) In this section "amendment" includes the making of a new by-law and the variation or repeal of a by-law.

11. Address of society

Every registered society shall have an address, registered in accordance with the rules, to which all

notices and communications may be sent, and shall send to the registrar notice of every change of that address.

12. Copy of Act, rules, by-laws, etc., to be open to inspection

Every registered society shall keep a copy of this Act and of the rules and of its by-laws and a list of its members open to inspection, free of charge, at all reasonable times at the registered address of the society.

13. Disposal of produce to or through a registered society

(1) A registered society which has as one of its objects the disposal of any article produced or obtained by the work or industry of its members, whether the produce of agriculture, animal husbandry, forestry, fisheries, handicrafts or otherwise, may provide in its by-laws or may otherwise contract with its members –

- (a) that every member who produces any such article dispose of the whole or any specified amount, proportion or description thereof to or through the society; and
- (b) that any member who is proved, in such manner as may be prescribed, to have committed a breach of the by-laws or contract shall pay to the society as liquidated damages a sum assessed in such manner as may be prescribed.

(2) No contract referred to in subsection (1) shall be contested in any court on the ground only that it constitutes a contract in restraint of trade.

14. Creation of charges in favour of registered societies

Subject to any prior claim of the Government on the property of the debtor and to the lien of a landlord in respect of rent or any money recoverable as rent and in the case of immovable property to any prior registered charge thereon –

- (a) any debt payable to a registered society by a member or past member shall be a first charge on all agricultural produce, felled timber or other forest produce, marine produce, fish, livestock, fodder, agricultural, industrial and fishing implements, plant, machinery, boats, tackle and nets, raw materials, stock-in-trade and generally all produce of labour and things used in connection with production raised, purchased or produced in whole or in part from any loan whether in money or in goods given to him by the society:

Provided that nothing herein contained shall affect the claim of any *bona fide* purchaser or transferee without notice;

- (b) any debt payable to a registered housing society by a member or past member in respect of rent, shares, loans or purchase money or any other rights or amount payable to such society shall be a first charge upon his interest in the immovable property of the society;
- (c) any outstanding demands not exceeding in the aggregate VT 10,000 per annum payable to a registered society for the purchase of shares in that society by a member or past member shall be a first charge on all produce and other articles mentioned in paragraph (a) of that member or past member:

Provided that any outstanding demand for the purchase of such shares shall be deemed to constitute a share of the member under section 15.

15. Charge and set-off in respect of shares or interest of members

(1) A registered society shall have a charge upon the shares or interest in the capital and on the deposits, dividend, bonus or profits payable to any member in respect of any debt due from him to the society and may set-off any moneys credited or payable to a member in or towards payment of any such debt.

(2) In subsection (1) the reference to "member" includes a reference to a past member and the estate of a deceased member.

16. Shares or interest not liable to attachment or sale

Subject to section 15 the share or interest of a member in the capital of a registered society shall not be liable to attachment or sale under any decree or order of a court in respect of any debt or liability incurred by such member, and neither his assignee in insolvency nor trustee in bankruptcy shall be entitled to, or have any claim on, such share or interest;

Provided that where a society is dissolved the share and interest of any member who has been adjudicated a bankrupt shall be vested in the trustee in bankruptcy.

17. Transfer of interest on death of member

(1) On the death of a member there shall be no transfer by inheritance of the shares or interest of the deceased member in a registered society; but the society may transfer his share or interest to a person nominated in accordance with the rules made in this behalf, or, if there is no person so nominated, to such person as shall appear to the committee to be the legal representative of the deceased, or may pay to such nominee or legal representative, as the case may be, a sum representing the value of such member's share or interest, as ascertained in accordance with the rules or by-laws:

Provided that the society may transfer the share or interest of the deceased member to such nominee or legal representative, as the case may be, being qualified in accordance with rules and by-laws for membership of the society, or on his application within 6 months of the death of the deceased member to any person specified in the application who is so qualified.

(2) A registered society shall pay all other moneys due to the deceased member from the society to such nominee or legal representative as the case may be.

(3) All transfers and payments made by a registered society in accordance with this section shall be valid and effectual against any demand made upon the society by any other person.

18. Deposits by or on behalf of minors

(1) A registered society may receive deposits from or for the benefit of minors. Any deposits made by a minor may, together with interest, be paid to that minor; and any deposit made on behalf of a minor may, together with interest be paid to the guardian of that minor for the use of the minor.

(2) The receipt of any minor or guardian for money paid to him in accordance with this section shall be a sufficient discharge of the liability of the society in respect of that money.

19. Register of members

Any register or list of members kept by a registered society shall be *prima facie* evidence of any of the following particulars entered therein –

- (a) the date at which the name of any person was entered in such register or list as a member;
- (b) the date at which any such person ceased to be a member.

20. Proof of entries in books of society

(1) A copy of any entry in a book of a registered society regularly kept in the course of business shall, if certified in a prescribed manner, be received in any legal proceedings, civil or criminal, as *prima facie* evidence of such entry and shall be admitted as evidence of the matters, transactions and accounts therein recorded in every case where, and to the same extent as, the original entry is admissible.

(2) No officer of a registered society shall, in any legal proceedings to which the society is not a party, be compelled to produce any of the society's books, the contents of which can be proved under subsection (1), or to appear as a witness to prove any matters, transactions or accounts therein recorded, unless the court for special reasons so directs.

21. Amalgamation or transfer of societies

(1) Any 2 or more registered societies may, with the approval of the registrar, by a resolution passed by a three-fourths majority of the members present at a special general meeting of each such society held for the purpose, amalgamate as a single society; provided that each member has had clear 15 days' written notice of the resolution and the date of the meeting. Such an amalgamation may be effected without a dissolution, or a division of the funds, of the amalgamating societies. The resolutions of the societies concerned shall on such amalgamation be a sufficient conveyance to vest the assets and liabilities of the amalgamating societies in the amalgamated society.

(2) Any registered society may by a resolution passed in accordance with the procedure laid down in subsection (1) transfer its assets and liabilities to any other registered society which is prepared to accept them:

Provided that –

- (a) where any such amalgamation or transfer of assets and liabilities involves the transfer of the liabilities of a society to any other society, it will not be made without giving 3 months' notice in writing to the creditor of both or all such societies; and
- (b) if a creditor of any of the societies concerned objects to such amalgamation or transfer, and gives written notice to that effect to the society concerned 1 month before the date fixed for such amalgamation or transfer, the amalgamation or transfer shall not be made until the dues of such creditor have been satisfied.

22. Division of societies

(1) Any registered society may, with the approval of the registrar, by a resolution passed by a three-fourths majority of the members present at a special general meeting of the society held for the purpose, divide itself into 2 or more societies, provided that each member has had clear 15 days' written notice of the resolution and the date of the meeting. The resolution (hereinafter in this section referred to as a preliminary resolution) shall contain proposals for the division of the assets and liabilities of the society among the new societies in which it is proposed to divide it and may prescribe the area of operation of, and specify the members who will constitute, each of the new societies.

(2) A copy of the preliminary resolution shall be sent to all the members and creditors of the society. A notice of the resolution shall also be given to all other persons whose interests will be affected by the division of the society.

(3) Any member of the society may, notwithstanding any by-law to the contrary, by notice given to the society within 3 months of his receipt of a copy of the resolution, intimate his intention not to become a member of any of the new societies.

(4) Any creditor of the society may, notwithstanding any agreement to the contrary, by notice given to the society within the said period intimate his intention to demand a return of any amount due to him.

(5) Any other person whose interest will be affected by the division may by notice given to the society object to the division unless his claim is satisfied.

(6) After the expiry of 3 months from the receipt of the preliminary resolution by all the members and

creditors of the society and of the notice by other persons mentioned in subsection (2) another special general meeting of the society, of which at least clear 15 days' notice shall be given to members, shall be convened for considering the preliminary resolution. If, at such meeting the preliminary resolution is confirmed by a resolution passed by a majority of not less than two-thirds of the members present, either without changes or with such changes as in the opinion of the registrar are not material, the registrar may, subject to subsection (9) and to section 7 register the new societies and the by-laws thereof. On such registration the registration of the old society shall be deemed to have been cancelled and the society shall be deemed to be dissolved from the date of such cancellation.

(7) The opinion of the registrar as to whether the changes made in the preliminary resolution are or are not material shall be final and no appeal shall lie therefrom.

(8) At the special general meeting referred to in subsection (6) provision shall be made by another resolution for –

- (a) repayment of the share capital of all the members who have given notice under subsection (3);
- (b) satisfaction of the claims of all the creditors who have given notice under subsection (4);
- (c) satisfaction of the claims of such of the other persons who have given notice mentioned in subsection (5) as the registrar decides or securing their claims in such manner as the registrar directs:

Provided that no such member or creditor or other person shall be entitled to such repayment or satisfaction until the preliminary resolution is confirmed as provided in subsection (6).

(9) If within such time as the registrar considers reasonable, the share capital of the members referred to in subsection (8) is not repaid or the claims of the creditors referred to in that subsection are not satisfied, or the claims of the other persons are not satisfied or secured as provided in subsection (8) (c), the registrar may refuse to register the new societies.

(10) The registration of the new societies shall be a sufficient conveyance to vest the assets and liabilities of the original society in the new societies in the manner specified in the preliminary resolution as confirmed under subsection (6).

PART 4 – QUALIFICATION AND RIGHTS OF MEMBERS

23. Qualification for membership

In order to be qualified for membership of a registered society a person, other than a registered society, must be 18 years of age.

24. Members not to exercise rights until due payment made

No member of a registered society shall exercise the rights of a member unless or until he has made such payment to the society in respect of membership or acquired such interest in the society, as may be prescribed by the rules or by-laws.

25. Restriction of membership

Except with the sanction of the registrar, no person shall be a member of more than one registered society whose principal object is to grant loans to its members.

26. Votes of members

No member of a registered society shall have more than one vote in the conduct of the affairs of the society:

Provided that –

- (a) in the case of an equality of votes the chairman shall have a casting vote;
- (b) in the case of societies of which a registered society is a member that society may have such voting powers as are provided in the by-laws of the society of which it is a member.

27. Representation by proxy

A registered society which is a member of any other registered society may appoint any one of its members as its proxy for the purpose of voting in the conduct of the affairs of such other registered society.

28. No individual to hold more than one-fifth of share capital of any society

No member, other than a registered society, shall hold more than one-fifth of the share capital of any registered society.

29. Restriction on transfer of share or interest

The transfer or charge of the share or interest of a member or past or deceased member in the capital of a registered society shall be subject to section 28.

PART 5 – PROPERTY AND FUNDS OF REGISTERED SOCIETIES

30. Loans made by a registered society

(1) A registered society shall not, except as provided in section 32, make any loan to any person other than a member:

Provided that, with the consent of the registrar, a registered society may make loans to another registered society.

(2) Except with the permission of the registrar, a society shall not lend money on the security of any movable property other than produce or goods in which the society is authorised to deal.

(3) The Minister may, by general or special order, prohibit or restrict the lending of money on mortgage of any description of immovable property by any registered society.

31. Deposits and loans received by a registered society

A registered society may receive deposits and loans from persons who are not members only to such extent and under such conditions as may be prescribed.

32. Restrictions on other transactions with non-members

Without prejudice to sections 30 and 31, the transactions of a registered society with persons other than members shall be subject to such prohibitions and restrictions as may be prescribed.

33. Investment of funds

A registered society may invest or deposit its funds –

- (a) with any bank or person carrying on the business of banking approved for this purpose by the registrar; or
- (b) in any securities issued or guaranteed by the Government; or
- (c) with any other registered society approved for this purpose by the registrar; or
- (d) in any other mode approved by the registrar.

34. Disposal of profits

(1) Not less than one-fourth, or such other part as the registrar may approve, of the net profits of a registered society made during every year and audited under section 36, shall be carried to a fund called the statutory reserve fund.

(2) The statutory reserve fund may only be appropriated by a registered society in such manner, to such purpose and subject to such conditions as may be prescribed.

(3) The remainder of the profits mentioned in subsection (1) and any profits of past years available for distribution may be divided among the members by way of dividend or bonus, or allocated to any funds constituted by the society, to such extent or under such conditions as may be prescribed or as are provided for in the by-laws of the society.

(4) Any registered society may with the approval of the registrar, after the appropriate part of the net profits has been carried to the statutory reserve fund, contribute an amount not exceeding 10 per cent of the remainder of the net profits to any charitable purpose or to a common-good fund.

PART 6 – ANNUAL RETURNS, AUDIT AND INQUIRY

35. Annual returns

(1) Every registered society shall, within 3 months of the end of its financial year, send to the registrar a return in a prescribed form containing such particulars relating to its affairs for that year as may be prescribed together with a copy of its balance sheet and profit and loss account for that year.

(2) Every registered society shall supply free of charge to every member or other person having interest in the funds of the society who applies for it a copy of the latest return together with a copy of its balance sheet and profit and loss account.

36. Audit

(1) The registrar shall audit or cause to be audited by a person authorised by him in writing the accounts of every registered society at least once in every year.

(2) The audit shall include an examination of overdue debts, if any, and a valuation of the assets and liabilities of the registered society.

(3) The registrar and every other person appointed to audit the accounts of a society shall have power when necessary –

(a) to summon in the course of the audit any officer, agent, servant or member of the society who he has reason to believe can give material information concerning any transaction of the society or the management of its affairs; and

(b) to require the production of any book or document relating to the affairs of, or any cash or securities belonging to, the society by the officer, agent, servant or member in possession of such book, document, cash or security.

37. Power of registrar to inspect societies' books, etc.

The registrar, or any person authorised by him in writing, shall at all times have access to all the books, accounts, papers and securities of a registered society, and shall be entitled to inspect the cash in hand; and every officer of the society shall furnish such information concerning the transactions and working of the society as the person making such inspection may require.

38. Inquiry and inspection

- (1) The registrar may, when he thinks fit to do so, hold an inquiry or direct some person authorised by him in writing to hold an inquiry into the constitution, working and financial condition of a registered society; and all officers and members of the society shall furnish such information concerning the affairs of the society and produce the cash in hand and such books, accounts, papers and securities of the society as the registrar or the person holding the inquiry may require.
- (2) The registrar shall hold or direct to be held the inquiry mentioned in subsection (1) whenever he is requested to do so by a majority of the members of the committee or by not less than one-third of the members of the registered society.
- (3) The registrar shall, on the application of a creditor of a registered society, inspect or direct some person authorised by him in writing to inspect the books of the society, if the applicant—
 - (a) proves that an ascertained sum of money is then due to him and that he has demanded payment thereof and has not received satisfaction within a reasonable time; and
 - (b) deposits with the registrar such sum as security for the costs of the proposed inspection as the registrar may require.
- (4) The registrar shall communicate the results of any such inspection to the creditor and to the society into whose affairs inquiry has been made.
- (5) Where an inquiry is held under subsection (1) or an inspection is made under subsection (3) the registrar may apportion the costs or such part of the costs as he shall think right, between the registered society, the members demanding an inquiry, the officers or former officers of the society, and the creditor, if any, on whose application the inquiry was held.
- (6) Any sum awarded by way of costs against any society or person under this section may be recovered, on application to the Magistrates' Court having jurisdiction in the place where the registered office of the society is situated or the person resides or carries on business for the time being, in like manner as a fine imposed by the court.

PART 7 – DISSOLUTION OF A REGISTERED SOCIETY

39. Cancellation of registration of society

- (1) The registrar may by order in writing cancel the registration of any registered society—
 - (a) if at any time it is proved to his satisfaction that the number of members of the society has been reduced, in the case of a society for the time being consisting solely of registered societies, to less than 2 or, in any other case, to less than 7; or
 - (b) that the registration was obtained by fraud or mistake; or
 - (c) that the society has ceased to exist; or
 - (d) at the request of not less than three-fourths of the members of the society; or
 - (e) with the approval of the Minister –
 - (i) if after an inquiry or inspection under section 38 he is satisfied that the society ought to be dissolved; or
 - (ii) on proof to his satisfaction that the society exists for an illegal purpose, or has wilfully and after notice from the registrar violated any provisions of this Act.

- (2) Not less than 2 months' notice in writing specifying briefly the ground of the proposed cancellation shall be given by the registrar to a society before its registration is cancelled otherwise than under subsection (1)(d).

(3) If before the expiry of the period of such notice the society lodges an appeal under section 40 then the registration shall not be cancelled before the date of the determination or abandonment of the appeal.

(4) Where the registrar makes an order for the cancellation of the registration of a society under this section he may make such further order as he may think fit for the custody of the books and documents and the protection of the assets of the society until the order cancelling registration takes effect.

40. Appeal against order to cancel registration

A registered society may appeal against an order under section 39 to the Supreme Court in such manner and within such period of time as may be prescribed by Order by the Judicial Committee.

41. Effect of cancellation

Where the registration of a society is cancelled by an order under section 39 the society shall cease to exist as a corporate body from the date on which the order takes effect:

Provided that where a liquidator of a registered society has been appointed under section 42—

- (a) the society shall continue in existence as a corporate body until there has been lodged with the registrar a certificate signed by the liquidator that the affairs of the society have been completely wound-up and that all the property of the society has been duly conveyed or transferred to the persons entitled thereto; and
- (b) any rights conferred on the society by or under section 14, 15 or 16 shall be vested in the liquidator.

42. Liquidation of society

Where the registrar makes an order for the cancellation of the registration under section 39 he may appoint a person to be the liquidator of the society.

43. Liquidator's powers

(1) A liquidator appointed under section 42 shall, subject to any limitations imposed by the registrar under section 44, have power to —

- (a) determine from time to time the contribution to be made by members and past members or by the estates of deceased members of the society to its assets;
- (b) appoint a day by notice before which creditors whose claims are not already recorded in the books of the society shall state their claims for admission or be excluded from any distribution made before they have proved them;
- (c) decide any question of priority which arises between creditors;
- (d) institute and defend suits and other legal proceedings on behalf of the society by his name or office;
- (e) decide by what persons and in what proportions the costs of liquidation are to be borne;
- (f) give such directions in regard to the collection and distribution of assets as may be necessary in the course of winding-up the society;
- (g) subject to the approval of the registrar compromise any claim by or against the society;
- (h) call such general meetings of members as may be necessary for the proper conduct of the liquidation;
- (i) take possession of the books, documents and assets of the society;
- (j) sell the property of the society;
- (k) decide any question concerning the liability of the present or past members or the estates of the deceased members to contribute for the payment of debts and liabilities of the society and the expenses of winding-up as provided in section 47;
- (l) carry on the business of the society so far as may be necessary for winding it up

beneficially:

Provided that nothing herein contained shall entitle the liquidator to make any loan; and
(m) arrange for the distribution of the assets of the society in a convenient manner when a scheme of distribution has been approved by the registrar.

(2) Subject to such rules as may be made in this behalf, a liquidator appointed under this Act shall, in so far as it may be necessary for carrying out his functions, have power to summon and enforce the attendance of parties and witnesses and to compel the production of documents by the same means and (so far as may be) in the same manner as provided in the case of the Magistrates' Court.

44. Power of registrar to control liquidation

A liquidator shall exercise his powers subject to the guidance and control of the registrar, who may—

- (a) rescind or vary any order made by a liquidator and make whatever new order is required;
- (b) remove a liquidator from office;
- (c) call for books, documents and assets of the society;
- (d) by order in writing limit the powers of a liquidator under section 43;
- (e) require accounts to be rendered to him by the liquidator;
- (f) procure the auditing of the liquidator's accounts and authorise the distribution of the assets of the society;
- (g) make an order for the remuneration of the liquidator.

45. Enforcement of order

An order made by a liquidator or by the registrar under section 43 or 44 shall be enforced by any court having jurisdiction over the place where the registered office of the society is situated in like manner as a decree of that court.

46. Closure of liquidation

(1) In the liquidation of a society whose registration has been cancelled the funds, including the reserve fund, shall be applied first to the costs of liquidation, then to the discharge of the liabilities of the society, then to the payment of the share capital and then, provided the by-laws of the society permit, to the payment of dividend at a rate not exceeding 10 per cent per annum for any period for which no disposal of profits was made.

(2) When the liquidation of a society has been closed and any creditor of that society has not claimed or has received what is due to him under the scheme of distribution, notice of the closing of the liquidation shall be published in the Gazette; and, all claims against the funds of the society shall lapse after 2 years from the date of the publication of the notice.

(3) Any surplus remaining after the application of the funds to the purposes specified in subsection (1) shall not be divided among the members but shall be devoted to any object described in the by-laws of the society whose registration has been cancelled, and, where no such object is so described, shall be deposited by the registrar in a bank or with a registered society, until such time as another society operating in the same area shall have been registered when such surplus shall be transferred to such new society for the purpose of forming its reserve fund:

Provided that if no society operating in the same area is registered within a period of 3 years from the date of the publication of the notice under subsection (2), the said surplus may be used by the registrar for any co-operative purpose at his discretion.

47. Liability of members on dissolution

(1) Where a registered society is wound-up in pursuance of section 39 the liability of a present or

past member to contribute for payment of the debts and liabilities of the society, the expenses of winding-up, and the adjustment of the rights of the contributories among themselves, shall be qualified as follows –

- (a) no person who has ceased to be a member 2 or more years before the date of the order of the registrar under section 39 shall be liable to contribute;
- (b) no person shall be liable to contribute in respect of any debt or liability contracted after he ceased to be a member;
- (c) no person who is not a member shall be liable to contribute unless it appears to the registrar that the contributions of the present members are insufficient to satisfy the just demands on the society;
- (d) no contribution shall be required from any person exceeding the amount, if any, unpaid on the shares in respect of which he is liable as a past or present member.

(2) Subsection (1) shall apply in relation to the estate of a deceased member or of a person who at the time of his death was a past member as it applies to a present or past member as the case may be.

PART 8 – SURCHARGE AND ATTACHMENT

48. Registrar may order repayment or restoration of property due to a society

(1) Where, in the course of an audit, inquiry or inspection or the winding-up of a registered society, it appears that any money or other property is due to the society from any person who has taken part in the setting up or management of the society or from any past or present officer of the society, the registrar may, of his own motion or upon the application of the committee or the liquidator or any creditor or contributory of the society, examine the conduct of any such person and make an order requiring him –

- (a) to repay such money or part thereof with such interest as the registrar thinks just;
- (b) to restore such other property or part thereof; or
- (c) to pay to the society such sum as the registrar thinks just by way of compensation.

Before making any such order against any person the registrar shall give that person an opportunity of being heard and of showing cause why such order should not be made.

(2) Where an order under subsection (1) has not been complied with, any money or property mentioned therein may be recovered by the society on application to the Magistrates' Court having jurisdiction in the area in which the registered office of the society is situated or in which the person against whom the order was made resides or carries on business, as though it were a fine imposed by such court.

(3) Nothing done in pursuance of subsections (1) or (2) shall bar the institution or maintenance of a prosecution of any person in respect of any offence.

49. Attachment of property

Where the registrar is satisfied that any person, with intent to avoid or delay the execution of any order made against him under section 43 or 48 or of any decision given in a dispute referred to the registrar or to any arbitrators under this Act, is about to dispose of the whole or any part of his property, the registrar may, unless adequate security is furnished, order the conditional attachment of such property, and such attachment shall have the same effect as if made by the court.

50. Appeal against order under section 49

Any person aggrieved by any order of the registrar made under section 49 may appeal within 21 days from the date of such order to the court of competent jurisdiction:

Provided that, unless the court otherwise decides, the making of such appeal shall not prevent the

enforcement of the order pending the determination of the appeal by the court.

PART 9 – DETERMINATION OF DISPUTES

51. Determination of disputes

(1) If any dispute touching the business of a registered society arises –

- (a) among members, past members and persons claiming through members, past members and deceased members;
 - (b) between any person mentioned in paragraph (a) and the society, its committee, or any officer of the society;
 - (c) between the society or its committee and any officer of the society; or
 - (d) between the society and any other registered society;
- such dispute shall be referred to the registrar for decision.

(2) A claim by a registered society for any debt or demand due to it from a member, past member or the nominee or legal representative of a deceased member, shall be deemed to be a dispute touching the business of the society within the meaning of this subsection.

(3) A decision of the registrar under subsection (1), shall be final, and shall be enforceable in like manner as a judgment of the court.

52. Case stated on question of law

Notwithstanding anything contained in section 51, the registrar, at any time when proceeding to a decision under this Act, or the Minister, at any time when an appeal is made to him against any decision of the registrar under this Act, may refer any question of law arising out of such decision for the opinion of the Supreme Court. The opinion of the Supreme Court given on such question shall be final.

PART 10 – RULES

53. Rules

(1) The Minister may by order make such rules as may be necessary for the purpose of carrying out or giving effect to the principles and provisions of this Act.

(2) In particular, and without prejudice to the generality of the power conferred by subsection (1), such rules may –

- (a) prescribe the forms to be used, the fees to be paid and conditions to be complied with in applying for the registration of a society and the procedure in the matter of such application;
- (b) prescribe the conditions to be complied with by persons applying for admission or admitted as members, and provide for the election and admission of members from time to time, and the payment to be made and interest to be acquired before exercising rights of membership;
- (c) prescribe the extent to which a registered society may limit the number of its members;
- (d) provide for the withdrawal and expulsion of members and for the payments to be made to members who withdraw or are expelled, and for the liabilities of past members;
- (e) provide for general meetings of members and for the procedure at such meetings and the powers to be exercised by such meetings;
- (f) provide for the appointment, suspension and removal of the members of the committee and other officers, and for the procedure at meetings of the committee, and for the powers to be exercised and the duties to be performed by the committee and other officers;
- (g) regulate the manner in which funds may be raised by means of shares or debentures or otherwise;
- (h) prescribe the conditions to be observed by a registered society applying for financial assistance from the Government;

- (i) prescribe the payments to be made, the conditions to be complied with, the forms of the bonds, instruments or other documents to be executed by members applying for loans or cash credits, the period for which loans may be made or credits granted, and the maximum amount which may be lent and the maximum credit which may be allowed to individual members with or without the consent of the registrar;
- (j) provide for the mode in which the value of the interest of a deceased member or a member who has become of unsound mind and incapable of managing his affairs shall be ascertained and for the nomination of a person to whom such interest may be paid or transferred;
- (k) provide for the formation and the maintenance of reserve funds, and the objects to which such funds may be applied and for the investment of any funds under the control of a registered society;
- (l) prescribe the conditions under which profits may be distributed to the members of the society and the maximum rate of dividend which may be paid by societies;
- (m) prescribe the accounts and books to be kept by a registered society, and for the periodical publication of a balance sheet of a registered society;
- (n) provide for the audit of accounts of registered societies and for the charges, if any, to be made for such audit and provide for the levy of contributions from all or any registered societies to a fund to be used for the audit and supervision of societies and for the promotion of the co-operative movement and provide for the administration of such a fund;
- (o) provide for the formation and maintenance of a register of members and of a register of shares;
- (p) provide for the inspection of documents and registers at the registrar's office and the issue of copies of such documents or registers and the fees therefore.

(3) The Judicial Committee shall by order prescribe the forms to be used, the fees to be paid, the procedure to be observed and all other matters connected with or incidental to the presentation, hearing and disposal of appeals under this Act.

PART 11 – MISCELLANEOUS

54. Powers to exempt any society from requirements as to registration

Notwithstanding anything contained in this Act, the Minister may, by special order in each case, and subject to such conditions as he may impose, exempt any society from any of the requirements of this Act as to registration.

55. Power to exempt societies from provisions of the Act

The Minister may by general or special order exempt any registered society or class of societies from any of the provisions of this Act, or may direct that such provisions shall apply to any society or class of societies with effect from such date or with such modifications as may be specified in the order.

56. Power to exempt from stamp duty and registration fees

56. The Minister may by order exempt any registered society or class of registered societies –
- (a) from any stamp duty with which instruments executed by or on behalf of a registered society, or by an officer or member, and relating to the business of such society, or any class of such instruments are chargeable;
 - (b) from any fee payable on the registration under this Act.

57. Provision for school co-operatives

- (1) Notwithstanding anything contained in this Act –

- (a) no school co-operative society shall be registered except with the written consent of the Minister acting after consultation with the Minister responsible for education;
- (b) section 23 which prescribes the age qualification for membership of a registered society shall not apply in relation to a school co-operative society.

(2) In subsection (1) the expression "school co-operative society" means a society trading in accordance with co-operative principles established within a school for general education or similar educational institution whose membership is restricted to pupils and members of the staff of such school or institution.

58. Dissolution of committee

(1) If the registrar is satisfied that the committee of a registered society is not performing its functions in a proper and businesslike manner and, that in the circumstances of the case, it is fit for him to do so he may by order in writing –

- (a) dissolve the committee; and
- (b) direct that the affairs of the society shall be administered by a person appointed by him for that purpose.

(2) Before the making of an order under subsection (1) the registrar shall –

- (a) notify the committee of his intention to make such an order and give the committee an adequate opportunity to state its case; and
- (b) if not satisfied with any objections made by the committee to the making of such order, summon a general meeting of the members of the society to hear any views expressed thereat concerning the making of such order.

(3) Any member of the committee aggrieved by the order made under subsection (1) may appeal within 21 days from the date of that order to the Minister whose decision shall be final.

(4) Every direction referred to in subsection (1)(b) shall have effect for such period not exceeding 2 years as shall be specified in the order containing such direction:

Provided that the registrar may from time to time by order extend that period, so however, that the aggregate period during which the direction shall have effect shall not exceed 4 years.

(5) Subject to the general supervision of the registrar the person appointed to administer the affairs of the society shall have all the powers and functions conferred on the committee under this Act and under the by-laws of the society, and shall, in so far as it shall be practicable, arrange for the election or appointment of a new committee of the society before the expiry of the order referred to in subsection (1).

(6) The registrar may fix the remuneration payable to the person appointed as aforesaid and such remuneration together with any expenses properly incurred by such person in the management of the affairs of the society shall be paid out of the funds of the society.

(7) If a registered society is indebted to a bank no order under this section shall be made by the registrar without the bank being consulted on all particulars of the intended order.

(8) Nothing in this section shall affect the power of the registrar to cancel the registration of the society under section 39 or to hold an inquiry or inspection under section 37 or 38.

59. Special committee members of national and secondary societies

(1) The Minister may appoint a person to be a special member of the committee of a national society or of a secondary society if such society is in receipt of financial assistance from the Government or if the Minister considers such appointment to be justified in the interest of the

national economy.

(2) For the purpose of subsection (1) a society shall be deemed to be in receipt of financial assistance from the Government –

- (a) if within the 3 years immediately preceding the making of such appointment the society has received any grant of money from the Government;
- (b) if any money has been lent to the society by the Government and has not been repaid;
- (c) if any loan made to the society has been guaranteed by the Government and either the guarantee is still outstanding or the guarantee has been honoured by the Government and the society has not paid to the Government all sums, including any interest thereon, paid by the Government under the terms of the guarantee.

(3) The number of special members appointed under subsection (1) shall not exceed one-third of the number of other members (including the chairman and vice chairman, if any) of the committee; where the number of the members is not divisible by 3 "one-third" shall mean the nearest integer below one-third.

(4) An appointment made under subsection (1) shall continue in force until it is determined by the Minister.

(5) A special member appointed under subsection (1) may require that any decision taken by the committee of which he is a member or by the general meeting of the national or secondary society concerned shall not have effect until it has been approved by the Minister and any decision in respect of which such requirement has been made shall be of no force or effect and shall not be acted upon until the Minister has signified his approval thereof.

(6) In addition to the power referred to in subsection (5) a special member shall have the same powers, rights and functions as any other member of the committee to which he has been appointed.

(7) In this section –

- (a) "national society" means a registered society of which all members are secondary societies with similar objects and which has been formed by such secondary societies to represent them on a national level;
- (b) "secondary society" means a registered society of which all members are registered societies and which has been formed to facilitate the operations of the member societies in accordance with co-operative principles.

60. General offences by societies, etc.

If any registered society, or any officer or member thereof, or any other person –

- (a) fails to give any notice, send any return or other document, do anything or allow anything to be done which that society, officer, member or other person is by this Act required to give, send, do or allow to be done, as the case may be; or
- (b) wilfully neglects or refuses to do any act, or to furnish any information, required for the purposes of this Act by the registrar or by any other person authorised under this Act, or does anything forbidden by this Act; or
- (c) makes a return required for the purposes of this Act, or wilfully furnishes information so required which is in any respect false or insufficient, that society, officer, member or other person, as the case may be, shall be liable to a fine not exceeding VT 10,000.

61. Offences by societies to be also offences by officers, etc.

Every offence committed by a registered society under this Act shall be deemed to have been also committed by every officer of that society bound by the society's by-laws to fulfil the duty of which that

offence is a breach or if there is no such officer, by every member of the committee who is not proved to have been ignorant, or to have attempted to prevent, the commission of that offence.

62. Punishment of fraud or misappropriation

(1) Subject to subsection (2), any person who obtains possession by false representation of any property of a registered society or, having any such property in his possession, withholds or misapplies it to purposes which are not authorised by the society's by-laws or which are not in accordance with this Act, shall be liable –

- (a) to a fine not exceeding VT 20,000; and
- (b) to be ordered to deliver up that property or to repay all moneys improperly applied;

and, in default of such delivery or repayment or of the payment of any such fine, to imprisonment for a term not exceeding 3 months.

(2) If on proceedings under subsection (1) it is not proved that the person charged acted with any fraudulent intent, he may be ordered to deliver up any property belonging to the society or to repay any money improperly applied but shall not be liable to conviction under that subsection.

63. Restriction of the use of the word "co-operative"

(1) No person other than a registered society shall trade or carry on business under a name or title which includes the word "co-operative" or any word derived therefrom.

(2) Any person contravening section (1) shall be liable to a fine not exceeding VT 10,000.

64. Continuing offences

Every act or default under this Act constituting an offence shall constitute a new offence in every week during which it continues.

SCHEDULE

(section 5(3))

MATTERS TO BE PROVIDED FOR IN SOCIETY'S BY-LAWS

1. The name of the society which shall comply with the requirements of section 4.
2. The objects of the society.
3. The place which is to be the registered office of the society to which all communications and notices to the society may be addressed.
4. The terms of admission of members.
5. The mode of holding meetings, the right of voting and the mode of amending the by-laws.
6. The appointment and removal of the committee and of managers and other officers and their respective powers and remuneration.
7. Determination whether the society may contract loans or receive moneys on deposit subject to sections 30 and 31; and, if so, under what conditions, under what security, and to what limits of amount.
8. Determination whether the shares or any of them shall be transferable, and provision for the form of transfer and registration of the shares, and for the consent of the committee thereto; determination whether the shares or any of them shall be withdrawable, and provision for the mode of withdrawal and for payment of the balance due thereon on withdrawing from the society.

9. Determination whether and, if so, how members may withdraw from the society.

10. The mode of application of the profits of the society.

11. Determination whether and, if so, by what authority, and in what manner, any part of the society's funds may be invested.

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