

ANTIGUA AND BARBUDA

1997, No. 2

THE CO-OPERATIVE SOCIETIES ACT 1997

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[L.S.]



I Assent,

Joseph Myers,
Governor-General's Deputy.

11th March, 1997.

ANTIGUA AND BARBUDA

1997, No. 2

An Act to make new provision with respect to the registration, supervision and management of certain societies, the members of which have a common bond of philosophy and socio-economic objectives and for related purposes.

[8th May 1997]

ENACTED by the Parliament of Antigua and Barbuda as follows:

PART I

PRELIMINARY

1. This Act may be cited as the Co-operative Societies Act, 1997. Short title.

2. (1) In this Act, unless the context requires, Interpretation.

“articles” means the articles of association of a society that are submitted to the Registrar with an application for the registration of the society;

“board” means the Board of Directors or other directing body (by whatever name called) to whom the management of the affairs of a society is entrusted;

“bonus” means a share of the profits of a registered society divided among its members in proportion to the volume of

business done with the society by them from which the profits of the society were derived;

"by-laws" means the registered by-laws made by a society pursuant to this Act and includes a registered amendment of such by-laws;

"co-operative" or "co-operative society" means a body corporate registered under this Act which consists of a group of people, small or large, with a commitment to joint action on the basis of democracy and self-help in order to secure a service or economic arrangement that is both socially desirable and beneficial to all taking part;

"Court" means the High Court of Justice;

"Credit Union" means a registered society whose objects and services include the promotion of thrift and the creation of a source of credit for its members for provident and productive purposes;

"Director", means a member of the board who is elected in accordance with section 69;

"dividend" means a share of the profits of 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 this Act and the by-laws;

"Minister" means the Minister to whom the responsibility of Co-operative Societies has been assigned;

"minor" means an individual under the age of fourteen years,

"national league" or National Council" means the apex body for registered societies established for the purposes of section 214;

"officer" includes a director, secretary, treasurer, or other person empowered under this Act or the regulations or by-laws made under this Act to give directions in regard to the business of a registered society;

“registered society” or “society” means a co-operative society registered under this Act;

(2) This Act applies to societies which are registered under this Act or deemed, by virtue of section 241, to be registered under this Act.

3. For the purposes of this Act, a society conforms to co-operative principles if — Co-operative principles.

- (a) no member or delegate, other than a secondary or tertiary society, has more than one vote;
- (b) no member or delegate is entitled to vote by proxy;
- (c) its business is carried on primarily for the benefit of its members;
- (d) its membership is voluntary and available without any artificial restriction or any unlawful basis of discrimination, to any person who cause its services and is willing to accept the responsibility of membership;
- (e) the rate of dividends on share capital that it pays does not exceed the rate prescribed in the regulations;
- (f) any surplus or savings arising out of its operation is —
 - (i) used to develop its business;
 - (ii) used to provide or improve common services to members;
 - (iii) used for the payment of dividends on share capital;
 - (iv) distributed among members in proportion to their patronage with the society;
 - (v) used to educate its members, officers, employees or the general public in the principles and

techniques of economic and democratic co-operation;

(vi) distributed for non-profit, charitable, benevolent or cultural purposes.

(g) cooperation with other societies is pursued;

(h) it provides for continuing education.

Conformity to co-operative principles.

4. A society registered under this Act shall, conform to the principles set out in section 3.

PART II

ADMINISTRATION

Registrar of co-operative societies.

5. (1) There shall be a Registrar of co-operative societies who shall have such *professional, administrative and other staff as are necessary to assist him in the execution of his duties and exercising his powers under this Act.*

(2) The Registrar shall perform the following functions:

(a) the registration of all societies;

(b) the supervision of all societies;

(c) liaise with all societies;

(d) stimulate community awareness;

(e) the initiation and encouragement of organised activities for the development of societies.

(3) The Registrar may, by writing, delegate any of his functions specified in subsection (2) to a suitable qualified member of his staff or to any other person or body of persons convicted with co-operations and any function so delegated shall be performed in such manner as the Registrar directs.

(4) *Nothing in subsection (2) shall authorise the Registrar to delegate the power of delegation that is conferred on him by that subsection.*

6. (1) The Registrar may issue a person with a certificate stating that —

- (a) a document required to be sent to the Registrar has or has not been received by him;
- (b) a name, whether that of a society or not, was or was not on the register;
- (c) a name, whether that of a society or not, was or was not on the register on a stated date.

Certificate of Registrar.

(2) The Registrar or any officer authorised by him in writing shall sign any certificate issued under this section.

(3) The signature required pursuant to subsection (2) may be printed or mechanically reproduced on the certificate.

(4) A certificate or certification mentioned in subsection (2) is admissible in evidence as conclusive proof of the facts stated in the certificate or certification without proof to the office or signature of the person purporting to have signed the certificate or certification.

7. (1) The Registrar may refuse to receive, file or register any document that in his opinion —

Power to refuse documents.

- (a) contains any matter contrary to law;
- (b) has not, by reason of any omission or error in description, been properly completed;
- (c) does not comply with the requirements of this Act;
- (d) contains any error, alteration or erasure;
- (e) is not legible; or
- (f) is not durable.

(2) The Registrar may request in respect of a document refused pursuant to subsection (1) —

- (a) that it be amended or completed and resubmitted, or

(b) that a new document be submitted in its place.

Verification of documents.

8. The Registrar may require that a document or information contained in a document required by this Act or the regulations to be sent to him be verified by affidavit or otherwise.

Application for registration.

9. (1) No society may commence or continue business unless it is registered in accordance with this Act.

(2) Subject to subsection (3) an application for registration under this Act must be submitted to the Registrar in the prescribed form and in such manner as he determines.

(3) An application for registration under this Act must be signed —

- (a) in the case of a society of which no member is a registered society, by at least one-third of the members specified in paragraph (c) of section 12(1) for such a society;
- (b) in the case of a society where all members of the society are not registered societies, by at least three quarters of the total membership of the society; and
- (c) in the case of a society where all the members are registered societies, on behalf of at least two such societies.

(4) An application must be accompanied by —

- (a) three copies of the proposed by-laws of the society;
- (b) the prescribed application fee; and
- (c) such other information in respect of the society as the Registrar requires.

Content of by-laws.

10. (1) A registered society shall include in its by-laws provisions —

- (a) respecting conditions of membership, including —

- (i) the rights of joint members, if any,
 - (ii) the qualification for membership and the withdrawal of members and transfer of membership;
 - (iii) the amount of the membership fee and the annual fee, if any, to be paid by members,
 - (iv) the conditions on which membership ceases or may be terminated, the disposition that may be made on cessation or termination of a member's interest and the determination of the value of the member's interest, and
 - (v) the minimum value of shares that may be held by each member;
- (b) respecting, subject to this Act, voting rights and the rights of making, amending and repealing by-laws, the right of a member to vote by ballot and the manner, form and effect of votes at meetings;
- (c) respecting directors, officers and members of the committees of directors,
- (i) their qualifications, terms of office and removal,
 - (ii) the filling of vacancies, and
 - (iii) their powers and duties;
- (d) respecting the address of the registered society;
- (e) respecting the distribution of the property of the society on dissolution thereof;
- (f) respecting the borrowing powers of the society and the procedure for exercising those powers; and
- (g) respecting any matters, in addition to those set out in paragraphs (a) to (f) that the members consider necessary or desirable.

(2) Subject to subsection (3), where the by-laws require a greater number of votes of directors or members than that required by this Act to effect any action, the by-laws shall prevail.

(3) The by-laws may not require a greater number of votes of members to remove a director than the number required for a special resolution.

Effect of by-laws.

11. The by-laws of a society when registered bind the society and its members to the same extent as if they —

- (a) had been signed and sealed by the society and by every member; and
- (b) contained covenants on the part of each member and the legal representative of each member to observe the by-laws.

Conditions for registration.

12. (1) No society may be registered, or having been registered, continue to be registered under this Act —

- (a) unless its membership consists —
 - (i) in the case of financial co-operatives, of not less than fifty members, and
 - (ii) in the case of any other co-operative of not less than ten members;
- (b) unless it is considered to be economically viable by the Registrar and has provision for equity capital expansion and continuous business growth;
- (c) unless subject to subsection (2), its membership consists solely of members of a school, club, or cultural organisation who are all under the age of fourteen years;
- (d) unless there is conformity among its membership, none of whom is another society, with all the co-operative principles as set out in section 4;
- (e) unless the word “co-operative” or “Credit Union” forms part of the name of each such society, and a

society whose membership falls within the description contained in paragraph (c) the words "junior co-operative" forms part of the name of such society;

- (f) unless the word "limited" is the last word of the name of a society to be registered with limited liability;
- (g) if the name of the society is identical with that of another registered society or which so nearly resembles that name as to be likely to mislead the members of the public as to its identity;
- (h) unless it has and maintains an address to which all notices and communications may be sent;
- (i) unless its by-laws are in conformity with this Act;
- (j) unless, within a reasonable time after the issue of the certificate of registration, the society paints or affixes its registered name in letters that are easily legible in a conspicuous position on the outside of the place where the business of the society is carried on, and in the case of a society registered under section 15, its registered name bears the words "Probationary Society".

(2) Notwithstanding anything contained in paragraph (c) of subsection (1), the Registrar may register as a junior co-operative a society the substantial majority of whose members are under the age of fourteen years.

(3) In the determination of the viability of a society the Registrar may have regard to the following;

- (a) the demand for the proposed services,
- (b) the capital base of the society, and
- (c) the membership size and potential of the society.

13. When the Registrar is satisfied that the application is made in accordance with this Act, he shall, within three months of the receipt of the application, register the society and its by-laws and issue that society with a certificate of registration in the prescribed form.

Registration of societies.

(2) The name under which a society is registered under this Act —

- (a) shall be published in the *Gazette*; and
- (b) shall be noted in the register to be known as the “Register of Societies” and which shall be kept at the office of the Registrar.

(3) Where the Registrar refuses to register a society he shall give the applicant reasons in writing for the refusal.

(4) The names of all societies that are contained under this Act shall be entered in the Register of Societies.

Effect of
certificate of
registration.

14. (1) Except for a society that is deemed to be registered under this Act, a society comes into existence on the date shown in its certificate of registration.

(2) A certificate of registration issued by the Registrar to a society is conclusive proof that the society named in the certificate is registered under this Act and has complied with all the requirements of registration under this Act.

Probationary
societies.

15. (1) If the Registrar is satisfied that a society which has submitted an application for registration should not be registered as a registered society, he may register such society for a period not exceeding twelve months.

(2) A society registered under subsection (1) shall be termed a “probationary society” and shall be subject to such conditions as the Registrar may impose.

(3) If the Registrar is satisfied that a probationary society has made sufficient progress in complying with the conditions imposed on the society, he may register the probationary society as a registered society.

(4) If the Registrar is not satisfied that a probationary society has made sufficient progress in complying with the conditions imposed on that society, he may extend the probationary period for a further period not exceeding twelve months, or cancel the registration.

(5) If at the end of the second year the Registrar is satisfied that a probationary society has made sufficient progress in complying with the conditions imposed on that society, he may register that society as a registered society; otherwise he shall cancel the registration.

16. (1) The registration of a society renders it a body corporate, and subject to this Act and its by-laws it has the capacity, rights, powers and privileges of an individual. Capacity and powers.

(2) A society shall not carry on any business or exercise any power that is restricted by its by-laws or any written law from carrying on or exercising nor shall a society exercise any of its powers in a manner contrary to its by-laws.

(3) No person is affected by, or presumed to have notice or knowledge of, the contents of a document concerning a society by reason only that the document has been filed with the Registrar or is available for inspection at any office of the society.

(4) Subject to the approval of the Registrar and unless the societies have agreed in writing thereto, no person shall be a member of more than one registered society whose primary object is to grant loans to its members.

17. (1) A society must at all times establish and maintain a registered office and the address of such office must be specified in the by-laws. Registered office.

(2) The directors of a society may change the address of the registered office.

(3) The Registrar must be informed of any such change of address within one month of such change.

18. (1) Every society shall have its certificate of registration permanently displayed at its registered office. Maintenance of mandatory records.

(2) With prejudice to subsection (1), there shall be made available at all reasonable times at the registered office of the society ---

- (a) a copy of this Act and any regulations made thereunder;

- (b) a copy of the by-laws of the society;
- (c) the register of members;
- (d) all minutes of meetings of members and resolutions of members;
- (e) copies of all notices of directors and notices of change of directors;
- (f) a register of its directors setting out the names, addresses and occupations of all persons who are or have been directors of the society with the dates on which each person became or ceased to be a director;
- (g) a copy of every certificate issued to it by the Registrar; and
- (h) a copy of every order of the Registrar relating to the society;
- (i) all minutes of meetings of directors and committees.

Access to records.

19. (1) The Registrar may, during the normal business hours of the society, examine any of the records specified in subsection 18 (2).

(2) Members of a society, their agents and their legal representatives may, during the normal business hours of the society, examine any of the records specified in section 18 (2) (a) to (h).

(3) A society shall give to any person specified in subsections (1) and (2) access to any record specified in section 18 (2), during *normal office hours of the society*.

Suspension and
cancellation of
registration.

20. (1) Subject to this Act, the Registrar may by order in writing suspend the registration of a society if he is satisfied that —

- (a) the society is in breach of any condition of registration;
- (b) the society is in breach of any requirement of section 4 or 14 of this Act;

- (c) the society or any officer thereof has failed or refused to comply with any obligation imposed by, or any requirement of, this Act, the regulations or by-laws;
- (d) he does not receive any return notice or other document or fee required by this Act or the regulations to be sent to him.

(2) The Registrar may by order in writing cancel the registration of any registered society if —

- (a) at any time it is proved that the number of members has been reduced to less than the number required for the registration of the society;
- (b) it is proved that the registration has been obtained by fraud or mistake;

but a cancellation under paragraph (a) shall not apply to a society which includes among its members one or more registered societies.

(3) An order under subsection (1) or (2) shall take effect from the date of the order.

(4) No suspension or cancellation may be made by the Registrar until he has given the society a chance to be heard; and a suspension may not exceed twelve months.

(5) Where after a period of suspension a society has not rectified the circumstances leading to its suspension, the Registrar may cancel the registration of that society.

(6) Where the registration of a society is cancelled by order under this section or any other section the society shall, except for the purpose of winding up, cease to exist as a body corporate from the date on which the order takes effect.

21. (1) The Board may by resolution --

Seal.

- (a) adopt a corporate seal, and
- (b) change the corporate seal adopted pursuant to paragraph (a).

(2) An instrument of agreement executed on behalf of a society by a director, an officer or an agent of the society is not invalid merely because a corporate seal is not affixed to it.

Pre-registration
contracts.

22. (1) Except as provided in this section, a person who enters into a written contract in the name of or on behalf of a society before it comes into existence is personally bound by the contract and is entitled to the benefits of the contract.

(2) Within a reasonable time after a society comes into existence, it may, by any action or conduct signifying its intention to be bound thereby, adapt a written contract made in its name or on its behalf, before it came into existence.

(3) Where a society adopts a contract under subsection (2)

- (a) the society is bound by the contract and is entitled to the benefits thereof as if the society had been in existence at the date of the contract and had been a party to it; and
- (b) a person who purported to act in the name of the society or on its behalf ceases except as provided in subsection (4) to be bound by or entitled to the benefits of the contract.

(4) Except as provided in subsection (5), whether or not a written contract made before the coming into existence of a society is adopted by the society, a party to the contract may apply to a court for an order fixing the obligations under the contract as joint or joint and several, or apportioning liability between or among the society and a person who purported to act in the name of the society or on its behalf; and the court may upon the application make any order it thinks fit.

(5) If expressly so provided in the written contract, a person who purported to act for or on behalf of the society before it came into existence is not in any event bound by the contract or entitled to the benefits of the contract.

PART III

MEMBERSHIP AND MEETINGS

23. (1) An application for membership of a society must be submitted to the Board in such form as the Board approves.

Application and qualification for membership.

(2) In order to qualify for the membership of a society, a person, other than a registered society,

- (a) must be a citizen or resident of Antigua and Barbuda; or
- (b) must not be an undischarged bankrupt;
- (c) must not be of unsound mind; and
- (d) must be fourteen years of age or over.

(3) The Board shall cause each applicant for membership to be notified in writing that his application has been approved or disapproved.

(4) No society may without permission of the Registrar register as a member a person who is a member of another society whose primary object is to grant loans to its members, neither may a registered society become a member of another registered society of the same type.

24. Subject to the by-laws, where individuals have separate and independent membership in a society, joint accounts may be held.

Joint accounts.

25. (1) No person may exercise the rights of membership of a society unless and until he has paid the prescribed membership fee and has satisfied any other requirement which may be prescribed by the by-laws.

Membership fees and membership register.

(2) A registered society shall keep a register of members in which shall be recorded —

- (a) the names and addresses of members; and
- (b) the date on which each member became a member and the date, if any, on which he ceased to be a member.

Liability of
past and present
members.

26. (1) Subject to this Act, the liability of a current member of a society is limited to the unpaid amount of his subscription for shares.

(2) The liability of a past member or the estate of a deceased member for debts of a society as they existed on the date on which such member ceased to be a member or died shall continue for a period of two years after the cessation of membership or death.

Withdrawal of
membership.

27. (1) A member of a society may at any time withdraw from membership of such a society in such a manner as may be prescribed by the by-laws or regulations.

(2) Withdrawal of membership from a society may be by written notice addressed to the Board.

(3) Withdrawal of membership of a society does not affect any existing liability of the member to the society.

Termination of
membership by
Board.

28. (1) Subject to the by-laws, the Board may, by at least two-thirds vote of the directors present at a meeting called for the purpose, order the termination of membership of a member of a society.

(2) Where the Board terminates the membership of a member pursuant to this section —

(a) the Board shall

- (i) within a period of one year, purchase from the member at par value all shares in the society held by the member, and
- (ii) pay to the member all amounts held to his credit, together with any interest accrued on those amounts and the amount outstanding on loans made to the society by the member with any interest accrued on those amounts;

(b) the secretary of the society shall, within ten days from the date on which the order is made, notify the member of the order.

- (c) the member may appeal from the order to the next general meeting of the society by giving written notice of his intention to appeal to the secretary within thirty days from the date he received notice of the order pursuant to paragraph (b); and
- (d) where the member appeals pursuant to paragraph (c) a majority, or any greater percentage that may be specified in the by-laws, of the members present at the general meeting shall confirm or rescind the order.

(3) Where the address of a member the termination of whose membership is ordered pursuant to subsection (1) is unknown to the society after all reasonable efforts have been made to ascertain his address for the purpose of making payment to him of all amounts held to his credit, the society shall transfer those amounts to its Reserve Fund.

(4) Where any amounts are transferred pursuant to subsection (3), the society shall pay those amounts to the person entitled to them on proof of his claim that is satisfactory to the society.

(5) Where a society transfers amounts held to the credit of a member pursuant to subsection (3), it shall immediately submit to the Registrar a return showing —

- (a) the member's name;
- (b) the member's last known address; and
- (c) the amounts transferred.

29. Members may terminate the membership of a member where,

Termination of membership by members.

- (a) the member has received at least ten days' notice of the general meeting at which his membership is to be considered; and
- (b) the termination is approved by a majority of at least two-thirds of the members who
 - (i) are present at the general meeting, and

(ii) cast votes on the resolution.

Suspension of
membership.

30. The Board of a registered society may by notice in writing suspend a member for a period not exceeding three months if they are satisfied that he is guilty of misconduct.

Appeal.

31. (1) Subject to subsection (2), where a person's membership is terminated pursuant to section 28 or 29, he may appeal the termination to the Registrar in the prescribed manner, and the Registrar shall confirm or set aside the resolution terminating the membership.

(2) No person whose membership is terminated for failure to pay fees, assessments, rent or occupancy charges or to fulfil other financial obligations to the society is eligible to appeal the termination to the Registrar pursuant to subsection (1).

(3) Where a person appeals the termination of his membership pursuant to section 28 (2) (c) or this section, notwithstanding the resolution terminating his membership, he continues to be a member until the termination of his membership is confirmed by the meeting of members pursuant to section 28 (2) (d) or by the Registrar pursuant to this section, as the case may be.

Re-admittance.

32. A person whose membership is terminated pursuant to section 28 or 29, may be re-admitted to membership only by a two-thirds majority vote of members present and voting at a general meeting.

Voting rights.

33. (1) A society that is a member of another society shall exercise its voting rights in that other society through one of its members duly appointed in that behalf.

(2) Delegates elected in accordance with the by-laws of a society may, unless otherwise provided in the by-laws, exercise at annual and special meetings of the society all the powers of members, and in such cases all references in this Act to the exercise of powers by members shall be deemed to include the exercise of powers by delegates.

Representatives of
member who is not
an individual.

34.(1) Where a registered society is a member of another registered society, the latter society shall recognise any individual authorised by a resolution of the directors of the former society to represent it at meetings of the latter society.

(2) An individual authorised pursuant to subsection (1) may exercise, on behalf of the society, all the powers of that society as if it were an individual member.

35. (1) Subject to the by-laws, members shall vote

Voting procedure.

- (a) by a show of hands, or
- (b) where the majority of the members entitled to vote at a meeting so demands, by secret ballot.

(2) The chairman of the meeting has the right to vote, and in the event of a tie he is entitled to a second or casting vote.

(3) Subject to this Act and by-laws, a majority of the members who are present and cast votes at a meeting shall decide all questions.

36. General meetings of members must be held in Antigua and Barbuda,

Place of meetings.

- (a) at the place provided in the by-laws, or
- (b) where the by-laws contain no provision, at the place determined by the Board.

37. No member of a registered society shall exercise the rights of a member unless he has made such payment to the society in respect of membership or acquired such interest in the society as are prescribed by the regulations or by-laws.

Members not to exercise rights until due payment.

38. (1) This section does not apply to a society if it is continued pursuant to this Act.

First general meeting.

(2) Within two months of the date of its registration, a society shall hold a general meeting at which all members are entitled to be present and to vote.

(3) Notwithstanding subsection (2), where the Board applies to the Registrar, he may extend the time for holding the general meeting.

(4) The business at the general meeting mentioned in subsection (2) must include,

- (a) at the adoption of the by-laws;
- (b) the adaption of forms of share certificates and records of the society;
- (c) the authorising of the issue of shares;
- (d) the appointment of an auditor to hold office until the next annual general meeting;
- (e) the making of banking arrangements; and
- (f) the transaction of any other business.

Annual general meetings.

39. (1) A society shall hold an annual meeting in each year not later than three months after the end of the financial year of the society.

(2) Notwithstanding subsection (1) and notwithstanding that the time for holding a general meeting as required by this section has expired, where the Registrar receives a written request from the Board, he may authorise the society to hold the annual general meeting at any date not later than six months after the end of the financial year of the society that he considers appropriate.

(3) The by-laws may provide for holding semi-annual or other periodic meetings.

Special meetings.

40. (1) The Board may call a special meeting of members at any time.

(2) Subject to subsection (3), the Board shall call a special meeting of the members on receipt of a written request, specifying the purpose of the meeting, from such number of members as may be specified in the by-laws.

(3) The Board shall call the special meeting mentioned in subsection (2) within twenty days of their receipt of the request and the special meeting is required to dispose of the specific business outlined in the request.

(4) The Registrar may call a special meeting of the society —

- (a) for the purpose of reporting to the members the results of any audit, examination or other investigation of the society's affairs ordered or made by him, or
- (b) where the society fails to hold an annual general meeting in accordance with section 38(1) or (2), for the purpose of enabling members to secure any information regarding the affairs of the society that they are entitled to receive pursuant to this Act and to deal with any matters affecting the society.

41. (1) Where

Meeting called
by Registrar.

- (a) in the opinion of the directors it is impracticable —
 - (i) to call a general meeting of members in the manner in which meetings of members may be called, or
 - (ii) to conduct a general meeting of members in the manner prescribed in this Act or in the by-laws; or
- (b) for any reason, in addition to those described in paragraph (a), the Registrar considers appropriate,

the Registrar on his own initiative may if he is satisfied that such a meeting is warranted in the circumstances order a general meeting to be called, held and conducted in any manner that he directs.

(2) Without restricting the generality of subsection (1), the Registrar may order that the quorum required in this Act or the by-laws be varied or dispensed with at a general meeting called pursuant to this section.

(3) A general meeting called pursuant to this section is deemed to be a valid meeting.

42. (1) Except where a written statement is submitted by an auditor pursuant to section 136

Resolution in lieu of
meeting.

- (a) a resolution in writing signed by such number of members as are entitled to vote on that resolution at a

general meeting of members as may be specified in the by-laws is as valid as if it had been passed at a general meeting of the members; and

(b) a resolution in writing dealing with any matter required by this Act to be dealt with at a general meeting of members and signed by all the members entitled to vote at that meeting,

(i) satisfies all the requirements of this Act relating to meetings of members, and

(ii) subject to subsection (2), is effective from the date specified in the resolution.

(2) The effective date of a resolution described in subsection (1) (b) (ii) must not be earlier than the date on which the first member signed the resolution.

(3) A copy of every resolution described in subsection (1) must be kept with the minutes of the meetings of members.

Notice of meetings.

43. (1) A society shall give at least ten days' notice of any annual or special meeting to its members

(a) by sending the notice by mail to the members, at the addresses given in the register of members, or

(b) by inserting the notice in not less than two issues of a newspaper circulating in Antigua and Barbuda and posting the notice in a place that, in the opinion of the directors, is prominent and accessible to members.

(2) Notwithstanding any other provision of this Act, where a society is required to send a statement, agreement, proposal or other document to its members with a notice of a meeting and decides to insert the notice of a meeting in a newspaper pursuant to paragraph (1) (b), the society shall,

(a) in the notice, inform the members of the document, giving a description of the document that, in the opinion to the director, is adequate to describe its nature, and

- (b) make a copy of the document available to any member or delegate who requests it.

(3) The notice of any special meeting must specify the purpose for which the meeting is being called.

(4) The proceedings or the business transacted at a general meeting are deemed not to be invalidated by reason only of the non-receipt by a member of notice of the meeting.

44. (1) Subject to subsection (2), for the purpose of determining members

Fixing record date.

- (a) entitled to receive payment of a bonus or dividend,
- (b) entitled to participate in a distribution on liquidation, or
- (c) for any purpose in addition to that described in paragraph (a) or (b), except the right to receive notice of or to vote at a general meeting,

the Board may fix in advance a date as the record date for the determination of members.

(2) The record date mentioned in subsection (1) is not to precede by more than fifty days the particular action to be taken.

(3) Subject to subsection (4), for the purpose of determining members entitled to receive notice of a general meeting, the Board may fix in advance a date as the record date for the determination of members.

(4) The record date mentioned in subsection (3) is not to precede by more than fifty days nor by less than eleven days the date on which the meeting is to be held.

(5) Where the Board does not fix a record date,

- (a) the record date for the determination of members entitled to receive notice of a general meeting is

- (i) the close of business on the day immediately preceding the day on which the notice is given, or
 - (ii) if no notice is given, the day on which the meeting is held, and
- (b) the record date for the determination of members for any purpose other than that described in paragraph (a) is deemed to be at close of business on the day on which the Board passes a resolution relating to that purpose.

45. (1) Subject to subsection (2), the quorum at any annual general or special meeting of members is that fixed in the by-laws.

(2) Except where all the members are directors, the number of members present at an annual, general or special meeting must not be less than the number of directors plus three.

(3) Subject to the by-laws, where a quorum is present at the opening of a general meeting of members the members present may proceed with the business of the meeting.

(4) Where a quorum is not present one hour after the time fixed for the commencement of a general meeting of members, the members present may adjourn the meeting to a time and place to be determined by the Board but not later than thirty days after the date of the adjourned meeting but may not transact any other business.

(5) If at the adjourned meeting there is no quorum the members present constitute a quorum and may proceed with the meeting.

Delegates.

46. (1) Where the by-laws of a society provide for the nomination and appointment of delegates to a general meeting

- (a) the delegates shall exercise the powers of membership at any annual or special meeting; and
- (b) and reference in this Act with respect to the exercise of any power mentioned in paragraph (a) shall be construed as a reference to delegates.

(2) The members who elect delegates may, at a special meeting called for the purpose or at any annual meeting,

- (a) remove the delegates in any manner provided for in the by-laws;
- (b) notwithstanding subsection (1), amend the by-laws to eliminate the nomination and appointment of delegates.

47. (1) A member who is entitled to vote at an annual meeting of members may Proposals.

- (a) submit to the society notice of any matter that he proposes to raise at the meeting; and
- (b) discuss at the meeting any matter with respect to which he would have been entitled to submit a proposal.

(2) Where a member submits a proposal and request the directors of the society to send the proposal with the notice of the meeting at which the proposal is to be presented or make the proposal available to all members entitled to attend and vote at that meeting, the society shall comply.

(3) Where a member submits a proposal and requests the society to include in or attach to the notice,

- (a) a statement by the member of not more than two hundred words in support of the proposal, and
- (b) the name and address of the member,

the society shall comply.

(4) A society is not required to comply with subsections (2) and (3) where

- (a) the proposal is not submitted to the society at least forty-five days before the anniversary date of the previous annual general meeting of members;
- (b) in the opinion of the directors, the proposal is submitted by the member primarily for the purpose of
 - (i) enforcing a personal claim or redressing a personal grievance,

- (ii) promoting general economic, political, racial, religious, social or similar causes;
- (c) the society, at the member's request, included a proposal in a notice of a meeting of members held within two years preceding the receipt of the proposal submitted pursuant to subsection (1), and the member failed to present the proposal at the meeting;
- (d) substantially the same proposal was submitted to members in the notice of a meeting of members held within two years preceding the receipt of the members request, and the proposal was defeated;
- (e) in the opinion of the directors, the rights conferred by this section are being abused to secure publicity.

(5) The member who request that the proposal and any statement be sent with the notice of the meeting at which the proposal is to be presented shall pay the cost of sending the proposal and statement, unless the members present at the meeting provide otherwise by a majority vote.

(6) No society and no person acting on behalf of a society shall incur any liability by reasons only of circulating a proposal or statement in compliance with this section.

(7) Where a society refuses to include a proposal in a notice of a meeting, the society shall, within thirty days after receiving the proposal,

- (a) notify the member submitting the proposal of its intention to omit the proposal from the notice of the meeting, and
- (b) send to the member a statement of the reasons for the refusal.

(8) Where a member claiming to be aggrieved by refusal pursuant to subsection (7) applies to the Registrar, the Registrar may suspend the holding of the meeting to which the proposal is sought to be presented and give any directions he considers appropriate.

(9) *The society or a person claiming to be aggrieved by a proposal may apply for permission for the society to omit the notice of the meeting and, where the Registrar is satisfied that subsection (5) applies, he may give permission.*

(10) In this section "proposal" means a notice submitted to a society pursuant to subsection (10) (a).

48. (1) Subject to this Act and the by-laws, the members of a society may, at any annual meeting or any special meeting called for the purpose, make, amend, repeal, replace or confirm any by-laws, where written notice of the proposed making, amendment, repeal replacement or confirmation Power to make by-laws.

(a) is forwarded to each member of the society with the notice of the meeting at which the making, amendment, repeal, replacement or confirmation is to be considered by a majority of members present and voting at that meeting; or

(b) is not forwarded to each member of the society with the notice described in paragraph (a) by a three-fourths majority of members present and voting at the meeting.

(2) A member may make a proposal, in the manner provided in section 47, to make, amend, repeal, replace or confirm any by-law.

49. (1) No by-law has any force or effect until three copies of the by-laws, certified to be true copies by the president and secretary of the society, are filed with the Registrar and approved by him. Effective date of by-law.

(2) *Subject to subsection (3), where a proposed by-law is certified pursuant subsection (1) and receives the members' approval required in section 48(1), the by-law has immediate force and effect.*

(3) A by-law described in subsection (2) ceases to have any force or effect on the expiration of sixty days after the date of the general meeting in which it is approved by the members, unless, within that sixty day period, the by-law filed with the Registrar is pursuant to subsection (1).

(4) Where the Registrar approves a by-law, he shall return to the society one copy of the by-law with his approval stamped on the by-law.

PART IV

MANAGEMENT

Board of directors. **50.** (1) Every society shall be managed by a Board of directors which shall be constituted in accordance with this act and the by-laws of the society.

(2) The Board shall be constituted by not less than five or not more than thirteen directors, as specified in the by-laws.

(3) The members of a society may amend the by-laws to vary the number of directors, but no amendment to decrease the number of directors affects an incumbent director.

(4) A person who

- (a) has been sentenced by a court in an country for an offence involving dishonesty and has not received a free pardon for that offence;
- (b) is in default of debt owed to the society or compounds with his creditors;
- (c) is of unsound mind and has been so found by a court in Antigua and Barbuda;
- (d) is or becomes bankrupt;
- (e) is under the age of eighteen years;
- (f) is not a member of the society or a duly appointed representative of a member society, or
- (g) is already part of the management of another society of the same type,

may not constitute part of the management of a society, until his disability is removed, but he shall retain his membership of the society during the period of such disability.

(5) For the purposes of this Part "management" includes

- (a) a person who holds membership of any committee established by a society; and
- (b) a person who is employed by the Board.

51. (1) Every society

Officers.

- (a) is required to have a president, treasurer and a secretary, and
- (b) may have any officers in addition to those mentioned in paragraph (a) that are provided for in the by-laws.

(2) Subject to the by-laws,

- (a) the Board may designate the offices of the society, appoint persons as officers, specify the officers' duties and delegate powers to manage the business and affairs of the society to them; and
- (b) a director may be appointed to any office of the society.

(3) Subject to the by-laws no person shall be president or vice-president of a society unless he is a director of the society.

(4) No committee of the Board may —

- (a) fill a vacancy among the directors;
- (b) declare a bonus or dividend;
- (c) approve any financial statement of the society;
- (d) submit to the members any question or matter requiring the approval of members; or
- (e) make decisions where the Act or the by-laws require a two-thirds majority or unanimous vote of the Board.

52. (1) On the registration of a society, the individuals whose names appear in the application for registration as having been appointed and have consented to act as provisional directors

Provisional directors
and elected directors.

- (a) shall have all the powers and perform the duties of directors; and
- (b) shall hold office until the first general meeting.

(2) At the first general meeting and at every annual general meeting the directors must be elected in accordance with this Act, the regulations and the by-laws.

Powers of Board.

53. Subject to this Act, the regulations and the by-laws, the Board shall

- (a) exercise the powers of the society directly, or indirectly through the employees and agents of the society;
- (b) direct the management of the business and affairs of the society.

Committees
generally.

54. (1) Without prejudice to anything contained in sections 50 and 51, the members of the society shall elect a Supervisory Committee which shall perform such duties as are prescribed by the by-laws.

(2) Without prejudice to subsection (1), the Board may establish committees for the more efficient management of various aspects of the business or affairs of the Society.

(3) A Committee for the purposes of subsection (2) may consist of members of the Board and other members of the society.

(4) No committee of the Board may —

- (a) fill vacancy among the directors;
- (b) declare a bonus or a dividend;
- (c) approve any financial statement of the society;
- (d) submit to the members any question or matter requiring the approval of members; or
- (e) make decisions where the Act or the by-laws require a two-thirds majority or unanimous vote of the Board.

55. (1) Committees appointed pursuant to section 54(2) shall hold office for a period not exceeding one year.

Tenure of committees generally.

(2) A member of a committee appointed pursuant to section 54(2) may be removed by resolution of the society or of the Board, as the case may be.

(3) The removal of a member of a committee who is a director shall not affect his office as a director.

(4) A committee shall

- (a) fix its quorum at not less than a majority of its members;
- (b) keep minutes of its proceedings;
- (c) submit to the Board at each meeting of the Board or to the annual general meeting of the society, as the case may be, the minutes of the committee's proceedings since the most recent meeting of the Board or of the society.

56. (1) Every credit union shall have a credit committee which shall be elected by its members at the annual general meeting.

Credit committee.

(2) The members of a credit committee hold office for such term as the by-laws provide and until their successors are elected.

(3) The credit committee shall consist of the number of members fixed by the by-laws, which shall be no fewer than three.

(4) No person who is a member of the Board or of the supervisory committee or who is an employee of the credit union shall be a member of the credit committee.

(5) A majority of the credit committee, not including the secretary or treasurer, constitutes a quorum.

(6) A member entitled to vote at an election of members of the credit committee, if he votes, shall cast there at a number of votes equal to, or less than, the number of members of the credit committee to be elected, and the member shall distribute the votes among the candidates in such manner as he sees fit, but no candidate shall receive more than one vote from each member.

(7) Where a vacancy occurs in the credit committee, the Board may fill the vacancy until the next annual meeting of the credit union.

(8) The by-laws of the credit union may provide for the election and retirement of members of the Credit Committee in rotation so that no member of the credit committee shall be elected for a term of more than three years but no person may serve as a member of the Credit Committee of a society for more than two consecutive terms or an aggregate of six successive years.

Duties of credit committee.

57. The credit committee shall consider all applications for loans and make recommendations to the Board in respect of the applications and perform such duties as are prescribed by this Act, the regulations and the by-laws of the credit union.

Approval of loans.

58. (1) The Board may, upon such terms and conditions as it specifies, authorise the credit committee to approve loans to members.

(2) The credit committee may upon such terms and conditions as the Board specifies, authorise the treasurer, manager other employees of the credit union to approve loans to members.

(3) Any person authorised by the Board to approve loans under subsection (1) or (2) shall submit a written monthly report to the Credit committee stating the number of loan applications received, the number of loans granted and the security, if any, obtained for such loans.

(4) The responsibilities and duties of any person authorised to approve loans under subsection (1) are concurrent with the responsibilities and duties of the credit committee.

Credit committee reports.

59. (1) The credit committee shall

- (a) meet at least once every month;
- (b) keep minutes of its meetings;
- (c) submit a report to the Board stating
 - (i) the number of loan applications received;
 - (ii) the number and category of loans granted,

- (iii) the security obtained for such loans granted,
 - (iv) applications denied, and delinquent loans; and
- (d) submit an annual report on the matters referred to in paragraph (c) to the annual meeting of the credit union.

(2) The members of a society may, by special resolution in a special meeting called for the purpose, remove a credit committee which fails to comply with paragraph (c) of subsection (1).

60. (1) The members may, by resolution passed by two-thirds of the votes cast at a general meeting called for the purpose, remove a member of the credit committee before the expiration of his term of office, and shall at that meeting elect another member in place of the first mentioned member for the unexpired portion of his term.

Removal of member of credit committee.

(2) The notice calling the meeting of members referred to in subsection (1) shall specifically state that the purpose of the meeting is to remove the member of the credit committee who is named in the notice.

(3) The member of the credit committee removed under this section has the right to make such representations to the members regarding the resolution for his removal as he thinks fit, and may be represented by an attorney-at-law or an agent.

61. When a member of the credit committee fails to attend three consecutive meetings without, in the opinion of the Board, having reasonable cause therefor or fails to perform any of the duties allotted to him as a member of the committee, his position on the committee may be declared vacant by the Board who may then appoint a qualified person to fill the vacancy until the next annual meeting of the credit union.

Removal of member of credit committee by Board.

62. (1) Every credit union shall have and where thought advisable a society may have a supervisory committee who shall be elected by its members at the annual general meeting.

Supervisory committee.

(2) The members of a supervisory committee shall hold office for such term as the by-laws provide and until their successors are elected.

(3) The supervisory committee shall consist of the number of members fixed by the by-laws, which shall be not fewer than three.

(4) No person who is a member of the board or credit committee or who is an employee of the credit union or other society shall be a member of the supervisory committee.

(5) A majority of the supervisory committee constitutes a quorum.

(6) A member entitled to vote at an election of members of the supervisory committee; if he votes, shall cast thereat a number of votes equal to or less than the number of the members of the supervisory committee to be elected, and the member shall distribute the votes amongst the candidates in such manner as he sees fit, but no candidate shall receive more than one vote from each member.

(7) Where a vacancy occurs in the supervisory committee, the supervisory committee may fill such vacancy until the next annual meeting of the credit union or society.

(8) The by laws of the credit union or other society may provide for the election and retirement of members of the supervisory committee in rotation, but in that case no member shall be elected for a term of more than three years, and no person may serve as a member of the Supervisory Committee of a society for more than two consecutive terms or an aggregate of six successive years.

Duties of supervisory committee.

63. The supervisory committee shall examine the books of the credit union or other security, confirm the cash instruments, property and securities of the credit union or other society and confirm the deposits of the members and perform such other duties as are prescribed by this Act, the regulation and the by-laws of the credit union or other society.

Removal of member of supervisory committee.

64. When a member of the supervisory committee fails to attend three consecutive meetings of the committee without, in the opinion of the supervisory committee, having a reasonable cause therefor, or fails to perform any of the duties allotted to him as a member of the committee, his position on the committee may be declared vacant by the remaining members of the committee who may appoint a qualified person to fill the vacancy until the next annual meeting of the credit union or other society.

Clerks.

65. The Board may appoint such person as it considers necessary to assist the supervisory committee in its duties, and pay those person such remuneration as it thinks fit.

66. (1) When the supervisory committee is of the opinion that the funds, securities or other property of the credit union or other society have been misappropriated or misdirected, or in the event that the by-laws of the credit union, or other society, this Act or the regulation have been contravened by the Board, the credit committee or a member thereof or an officer or employee engaged by the Board the supervisory committee shall forthwith inform the Registrar in writing.

Misappropriation
etc.

(2) The Supervisory Committee shall with the approval of the Board appoint an auditor or some other body to assist in determining whether any of the funds, securities or other property of the credit union other society have been misappropriated or misdirected and the remuneration of any auditor or other body to be appointed shall be determined by the supervisory committee and paid by the credit union or other society.

(3) In the event of a misappropriation or misdirection- or a suspected misappropriation or suspected misdirection as referred to in subsection (1), the supervisory committee may suspend any member of the Board.

(4) The Supervisory Committee shall forthwith request the Board to summon a general meeting of the members to be held within fourteen days after the suspension referred to in subsection (3); and where the Board fails to summon such a meeting the supervisory committee shall summon the meeting within seven days after the expiry of the period of fourteen days.

(5) The supervisory committee shall report to the general meeting all the circumstances of any misappropriation or misdirection of funds, securities or other property and the reasons for any suspension.

(6) The members of the credit union or other society may, by resolution, dismiss from office any person suspended under subsection (3), and, when the members of the credit union or other society do not dismiss from office any a person so suspended, that person shall be reinstated forthwith.

67. (1) The supervisory committee shall meet at least once every month, and shall at each such meeting examine the affairs of the credit union or other society.

Meetings.

(2) The supervisory committee shall keep minutes of its meetings and shall,

- (a) within seven days of each meeting report the results thereof in writing to the Board; and
- (b) submit a written report to the annual meeting of the members of the credit union or other society.

Removal of members of supervisory committee.

68. (1) The members may, by resolution passed by two-thirds of the votes cast at a general meeting duly called for that purpose, remove a member of the supervisory committee before the expiration of his term of office, and shall by vote cast at the meeting elect another member in his stead for the unexpired portion of his term.

(2) The notice calling the meeting of members referred to in subsection (1) shall state that the purpose of the meeting is to remove the member of the supervisory committee who is named in the notice.

(3) The member of the supervisory committee removed under this section has the right to make such representations to the members regarding the resolution for his removal as he thinks fit, and may be represented by an attorney-at-law or an agent.

Election of directors.

69. (1) Subject to section 70 and subject to the regulations and the by-laws

- (a) the election of directors must take place annually at the annual general meeting;
- (b) the directors hold office until the conclusion of the meeting at which their successors are elected, and are eligible for re-election;
- (c) where the number of nominees exceeds the number of directors to be elected, the election of directors must be by secret ballot;
- (d) every member has the right to vote for the number of directors to be elected and any ballot that contains the names of more than the number to be elected is void;
- (e) where there are vacancies on the Board but the remaining directors constitute a quorum, they shall call a

special meeting for the purpose of electing members to fill any such vacancy;

- (f) where there is a vacancy on the Board and there is not a quorum of directors, the remaining directors shall call a special meeting for the purpose of electing members to fill any vacancy;

(2) Where an election of directors required by this Act, the regulations or the by-laws does not take place at the proper time, the directors then in office shall continue in office until their successor are elected.

(3) Subject to the by-laws of a society, not more than one-third of the directors may be employees of a society.

(4) Unless a reasonable excuse is received by the meeting, no person may be elected a director if he is not present at the meeting at which the election is being conducted.

70. (1) Subject to subsection (2) the directors of a society shall be elected for a term of three years, but no person may serve as a director of a society for more than two consecutive terms or an aggregate of six years. Tenure of directors.

(2) After the commencement of this Act, the Boards of all societies shall resign at their next annual general meeting and new Boards shall be elected on a rotational basis as follows:

- (a) at least one-third of the directors to serve for 1 year,
(b) at least one-third of the directors to serve for 2 years,
(c) the remainder of the directors to serve for 3 years.

thereafter, each elected director shall serve for a term of three years.

71. (1) Subject to the by-laws, the Board may without authorisation of the members of a society Borrowing powers of Board.

- (a) borrow money on the credit of the society;
(b) issue, re-issue, sell or pledge debt obligations of the society;

- (c) give a guarantee on behalf of the society to secure performance of an obligation of any person; and
- (d) mortgage, charge, hypothecate, pledge or otherwise create a security interest in all or any property of the society, owed or subsequently acquired, to secure any debt obligation of the society.

(2) A sale, lease or exchange of all or substantially all of the property of a society, other than in the ordinary course of business of the society, must be approved by the members in a manner provided in subsection (3) to (7).

(3) The directors shall send, in the manner provided in section 43, a notice of a special meeting to consider the sale, lease or exchange mentioned in subsection (2) to each member.

(4) The notice mentioned in subsection (3) must include or must be accompanied by a copy or summary of the agreement of sale, lease or exchange mentioned in subsection (2).

(5) At a special meeting held pursuant to this section, the members may, by special resolution,

- (a) authorise the sale, lease or exchange mentioned in subsection (2), and
- (b) fix or authorise the directors to fix, any terms and conditions of sale, lease or exchange;

(6) Each member of the society has the right to vote with respect to sale, lease or exchange mentioned in subsection (2).

(7) A sale, lease or exchange mentioned in subsection (2) is adopted when the members of the society have approved the sale, lease or exchange by a special resolution.

Validity of acts
of directors, and
officers.

72. The act of a director or officer is valid notwithstanding an irregularity in his election or a defect in his appointment or qualification.

Indemnification of
directors.

73. (1) Subject to subsections (2) and (3), a society may indemnify —

- (a) a director or officer of the society;
- (b) a former director or officer of the society;
- (c) a person who acts or has acted at the request of the society as a director or officer of a body corporate of which the society is or was a member or a creditor,

against costs, charges and expenses, including an amount paid to settle an action or satisfy a judgement, reasonably incurred by that person with respect to a civil, criminal or administrative action or proceeding to which that person is made a party by reason of his being or having been a director or officer of the society or body corporate.

(2) *A society may indemnify a director, officer, or other person only where that person*

- (a) acted honestly and in good faith with a view to the best interest of the society;
- (b) in the case of a criminal, civil or administrative action or proceeding that is enforced by a monetary penalty, had reasonable grounds for believing that the conduct was lawful.

(3) *No society shall indemnify a director, officer or other person mentioned in subsection (1) with respect to an action by or on behalf of the society to obtain a judgement in its favour to which that person is made a party by reason of his being or having been a director or an officer of the society, against costs, charges and expenses reasonably incurred by that person in connection with the action unless*

- (a) the society has the approval of the court; and
- (b) *that person fulfils the conditions described in subsection (2).*

(4) *Notwithstanding subsections (1) to (3), a society shall indemnify a director, officer or other person mentioned in subsection (1) who has been substantially successful in the defence of a civil, criminal or administrative action or proceeding to which that person is made a party by reason of his being or have been a director*

or officer of the society or body corporate against costs, charges and expenses reasonably incurred by that person with respect to the action or proceedings.

(5) A society or a director, officer or other person mentioned in subsection (1), may apply to the court for an order approving the indemnity and the court may make the order.

(6) On an application pursuant to subsection (5) the court may order notice to be given to an interested person, and that interested person is entitled to appear and be heard in person or by an attorney-at-law.

Duty of care of
directors and
officers.

74. Every director and officer of a society in exercising his powers and discharging his duties shall

- (a) act honestly and in good faith with a view to the best interests of the society; and
- (b) exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.

Ambit of duty.

75. The provisions of a contract, the by-laws or the circumstances of his appointment do not relieve a director from

- (a) the duty to act in accordance with this Act and the regulations; and
- (b) liability that by virtue of a rule of law would otherwise attach him with respect to negligence, default, breach of duty or breach of trust of which he may be guilty in relation to the society.

Liability of
directors.

76. (1) Where directors vote for, consent to a resolution authorising or approve by any other means

- (a) the purchase of shares of another society contrary to section 94;
- (b) the payment of a dividend on shares contrary to section 123;
- (c) the payment of a bonus contrary to section 123;

- (d) a loan or guarantee or the giving of financial assistance contrary to section 115;
- (e) a payment of an indemnity described in section 73 to director or a former director, without the approval of the court required by subsection (3) of that section; or
- (f) an act not consistent with the purpose of the society as set out in its by-laws and with respect to which the society has paid compensation to a person;

they are jointly and severally liable to make good any loss or damage suffered by the society.

(2) On the application of a director, the court may declare whether or not, having regard to any of the circumstances the court consider appropriate,

- (a) the society is insolvent; or
- (b) the payment of a bonus or dividend or the lending of money would make the society insolvent.

(3) The liability imposed by subsection (1) is in addition to and not in derogation from a liability imposed on a director by any other enactment or law.

(4) For the purpose of this section, a director who is present at a meeting of directors or of a committee is deemed to have cast an affirmative vote given consent to a resolution or given the approval mentioned in subsection (1), unless,

- (a) the director's dissent is entered in the minutes of the meeting; or
- (b) the director's written dissent is
 - (i) delivered to the secretary of the meeting before its adjournment, or
 - (ii) delivered or sent by registered mail to the registered office of the society immediately after the adjournment of the meeting.

(5) A director who votes for a resolution mentioned in subsection (1) is not entitled to dissent under subsection (4).

(6) Where a director is not present at a meeting of directors or of a committee at which a vote, resolution or approval mentioned in subsection (1) is cast or given, he is deemed to have cast an affirmative vote, consented to the resolution or given approval, unless, within fourteen days after becoming aware of the proceedings, the director delivers or sends by registered mail his written dissent to the registered office of the society.

(7) On receipt of a written dissent, the secretary of the society shall

- (a) certify on the written dissent the date, time and place it is received, and
- (b) keep the written dissent in the minutes of the meeting at which the resolution was passed.

(8) No action to enforce a liability imposed in subsection (1) is to be commenced after two years from the date of the meeting at which the vote, resolution or approval was taken or given.

(9) In an action to enforce a liability imposed in subsection (1), the Court may, on the application of the society or a defendant,

- (a) join as a defendant a person who received a benefit as a result of the resolution complained of; and
- (b) make the person mentioned in paragraph (a) liable to the society jointly and severally with the directors to the extent of the amount paid to him.

(10) A director is not liable under subsection (1) where he

- (a) proves that he did not know or could not reasonably have known that the act authorised by the resolution was contrary to this Act;
- (b) relies and acts in good faith
 - (i) on statements of facts represented to him by an officer of the society to be correct, or

- (ii) on statements contained in a written report or opinion of the auditor of the society or a professional person engaged by the society who is competent to give advice in respect to the matter.

(11) A director who is found liable pursuant to subsection (1) is entitled to apply to a court for an order compelling a member or other recipient to pay or deliver to the director any money or property that was paid or distributed to the member, or other recipient contrary to section 94, 115 or 173.

(12) In connection with an application pursuant to subsection (11) and where the court is satisfied that it is equitable to do so, it may,

- (a) order a member or other recipient to pay or deliver to a director any money or property that was paid or distributed to the member or other recipient contrary to section 93, 115 or 123; or
- (b) make an order, other than that described in paragraph (a), that it considers appropriate.

77. A director or officer, or an associate of a director or officer, who, in connection with a transaction relating to shares of a society or a debt obligation of a society, makes use of confidential information for the benefit or advantage of himself or an associate that, if generally known, might reasonably be expected to affect materially the value of the share or the debt obligation

Misuse of
confidential
information.

- (a) is liable to compensate any person for a direct loss suffered by the person as a result of the transaction, unless the information was known or reasonably should have been known to the person at the time of the transaction; and
- (b) is accountable to the society for any direct benefit or advantage received or receivable by him or his associate, as the case may be, as a result of the transaction.

78. (1) Subject to subsection (10), a director or officer of a society who

Material
contracts.

- (a) is a party to a material contract or proposed material contract with the society, or
- (b) is a director or officer of, or has a material interest in, a person who is party to a material contract or proposed material contract with the society,

shall disclose in writing to the society, or request to have entered in the minutes of meetings of directors, the nature and extent of his interest.

(2) The disclosure required by subsection (1) must be made in the case of a director

- (a) at the meeting at which a proposed contract is first considered;
- (b) if the director was not then interested in the proposed contract at the first meeting after he becomes so interested;
- (c) if the director becomes interested after a contract is made, at the first meeting after he becomes so interested; or
- (d) if a person who is so interested in a contract becomes a director, at the first meeting after he becomes a director.

(3) A disclosure required by subsection (1) must be made in the case of an officer who is not a director

- (a) immediately after he becomes aware that the contract or proposed contract is to be considered or has been considered at a meeting of the Board;
- (b) if the officer becomes interested after a contract is made, immediately after he becomes so interested; or
- (c) where he has an interest in a contract before becoming an officer, immediately after he becomes an officer.

(4) If a material contract or proposed material contract is one that in the ordinary course of the society's business would not

require approval by the directors or members, a director or officer shall disclose in writing to the society or request to have entered in the minutes of meetings of the Board the nature and extent of his interest after he becomes aware of the contract or proposed contract.

(5) A director referred to in subsection (1) may take part in discussions to consider, or vote on a resolution to approve a contract that he has an interest in, if the contract

- (a) is an arrangement by way of security for money lent by him to the society or obligations undertaken by him for the benefit of the society or a member of the society;
- (b) is a contract that relates principally to his remuneration as a director, officer, employee or agent of the society or a member of the society;
- (c) is a contract for indemnity or insurance pursuant to section 73; or
- (d) is a contract with an affiliate.

(6) Where a director is not entitled to vote at a meeting pursuant to subsection (5) and his presence is required to constitute a quorum at a meeting of directors, a decision of the directors is deemed not to be invalid only by reason of the absence of the director.

(7) For the purposes of this section, a general notice to the directors by a director or officer declaring that he is to be regarded as interested in any contract made with that person is a sufficient declaration of interest in relation to any contract made with that person.

(8) Where

- (a) a director or officer discloses his interest in accordance with this section, and
- (b) the contract in which the director or officer has a material interest
 - (i) is approved by the directors or members, and

- (ii) is reasonable and fair to the society at the time it was approved,

the material contract is neither void nor voidable by reason only of that relationship or by reason only that a director with an interest in the contract is present at or is counted to determine the presence of a quorum at a meeting of the Board or committee that authorised the contract.

(9) Where a director or officer of a society fails to disclose his interest in a material contract in accordance with this section a court may, on the application of a society or a member of the society, set aside the contract on any terms that the court considers appropriate.

Meetings of
directors generally.

79. (1) Subject to the by-laws, the directors may meet at any place, and on any notice that they consider appropriate.

(2) The president

- (a) may call a meeting of directors at any time; and
- (b) on the written request of at least two directors, shall call a meeting within fourteen days of the receipt of the request.

(3) A majority of the directors constitute a quorum at any meeting of directors.

(4) Subject to the by-laws, a notice of a meeting of directors need not specify the purpose of or other business to be transacted at the meeting.

(5) A director may in any manner waive a notice of a meeting of directors.

(6) For the purpose of subsection (5), attendance of a director at a meeting of directors is deemed to be a waiver of notice of the meeting, unless the director attends the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called.

(7) Where the time and place of an adjourned meeting is announced at the original meeting, notice of an adjourned meeting of directors is not required to be given.

80. (1) Subject to the by-laws, where all the directors consent, a meeting of directors or of a committee may be held by means of

Meetings by tele-
phone etc.

- (a) a telephone system; and
- (b) a communication facility other than a telephone,

that permits all persons participating in the meeting to hear and speak to each other, and a person so participating is deemed to be present at that meeting.

(2) Unless this Act, the regulations or the by-laws require a meeting, a resolution of the directors may be passed without a meeting where

- (a) all the directors consent to the resolution in writing; and
- (b) the consent is filed with the minutes of the proceedings of the directors.

81. (1) A director of a society is entitled to receive notice of and to attend and be heard at every general meeting of members

Attendance at
meetings.

(2) Where a director

- (a) resigns,
- (b) receives a notice of or otherwise learns of a meeting of members called for the purpose of removing him from office, or
- (c) receives a notice or otherwise learns of a meeting of directors or members at which another person is to be appointed or elected to fill his office, whether because of his resignation or removal or because his term of office has expired or is about to expire,

he is entitled to submit to the society a written statement giving the reason for his resignation or the reasons he opposes any proposed action or resolution.

(3) A society shall immediately send a copy of the statement mentioned in subsection (2) to the Registrar and shall make available a copy of the statement to every member.

(4) No society or person acting on its behalf incurs any liability by reason only of circulating a director's statement sent in compliance with subsection (3).

Organisational
meeting of
directors.

82. (1) Subject to subsection (5), the directors will hold a meeting as soon as possible after the issue of the society's certificate of registration.

(2) The directors may, at the meeting mentioned in subsection (1)

- (a) pass resolutions establishing policies of the society;
- (b) adopt forms of corporate records;
- (c) appoint officers;
- (d) authorise the issue of securities;
- (e) appoint an auditor to hold office until the first general meeting of the members;
- (f) make banking or other financial arrangements;
- (g) appoint authorised signing officers;
- (h) adopt operating policies; and
- (i) transact any other business.

(3) A director may call the meeting of directors mentioned in subsection (1) by giving not less than five days' notice of the meeting to each director, stating the time and place of the meeting.

(4) The notice mentioned in subsection (3) may be waived where all directors are in attendance at that meeting of directors.

(5) This section does not apply to a society that is deemed to have been registered under this section.

Director ceasing
to hold office.

83. (1) A director ceases to hold office when he

- (a) dies or resigns,
- (b) is removed in accordance with section 84, or

(c) is no longer qualified in accordance with this Act.

(2) A resignation of a director becomes effective on

- (a) the date when the resignation was received; or
- (b) the date specified in the resignation.

84. (1) Subject to the regulations and by-laws, the members of a society may, by special resolution, remove any director from office. Removal of directors.

(2) A vacancy created by the removal of a director may be filled at the meeting of the members at which the director is removed or where not so filled, may be filled pursuant to section 69 (1) (e).

85. (1) Within thirty days after a change is made in its directors, a society shall send to the Registrar a notice in the prescribed form setting out the change and the Registrar shall file the notice. Notice of change of directors.

(2) Notwithstanding subsection (1), where a society sends the annual return in accordance with section 141, within thirty days after a change is made in its directors, it is not required to send the notice required by this section.

86. A society may by resolution passed by a majority of the members at an annual or special meeting require all directors and officers to sign annually or at any other time that may be specified in the resolution a declaration relating to Declaration by directors and officers.

- (a) faithful performance of duties;
- (b) secrecy of transactions with members, and
- (c) faithful and loyal support of the society.

87. The directors may require that every person appointed to an office who receives, manages or handles goods or merchandise or manages or handles the expenditure of money on behalf of the society shall give to the directors, before entering on his duties as an officer, security or a bond in the prescribed amount. Bonding.

88. (1) No director and no member of a committee is entitled to be paid any remuneration in connection with his duties as a director or committee member on behalf of a society or his attendance at meetings. Remuneration of directors.

(2) Directors and members of committees may be reimbursed for expenses incurred by reason of the performance of their duties and functions as directors or members of committees.

(3) A society may purchase and maintain insurance for the benefit of a director, member of a committee, officer or employee against a liability, loss and damage incurred by that person while serving the society as a director, member of committee, officer or employee.

Remuneration of
officers and
employees.

89. Subject to section 88 and the by laws, the directors shall fix the salary of any officers appointed by them and shall approve a scale of remuneration for any employees of a society.

PART V

FINANCING

Shares.

90. (1) A society may sell shares to its members only, but the shares must have par value fixed by the by-laws.

(2) Unless a society is required by this Act or any other enactment to limit its number of shares it shall have an unlimited number of shares.

(3) A share in a registered society is personal property and a shareholder is entitled to an annual statement showing the number of shares that he owns.

Share capital.

91. (1) A society shall express its share capital in its by-laws as

- (a) an amount of money divided into a specified number of shares set out in the by laws; or
- (b) an amount comprising an unlimited number of shares with a specified par value.

(2) This section does not apply to credit unions.

Issue of shares.

92. (1) Subject to subsection (2), a society may issue shares at any time and for any consideration that the directors consider appropriate.

(2) Subject to the by-laws, a society shall sell its shares at their par value.

(3) No member is liable to the society or its creditors beyond the sum remaining unpaid on the member's subscription for shares.

(4) No society shall issue a share until it is fully paid

(a) in money; or

(b) in property that, in the opinion of the directors, is the fair equivalent of the money that the society would have received if the share had been issued for money.

(5) For the purposes of subsection (4) (b), when determining whether property is the fair equivalent of a money consideration, the directors may take into account reasonable charges and expenses of organisation and reorganisation and payment for property reasonably expected to benefit the society.

(6) For the purposes of this section "property" does not include a promissory note or a promise to pay.

93. (1) A society may, by special resolution, amend its by-laws to increase or decrease its capital and, for that purpose, may

Alteration of
authorised capital.

(a) subdivide any shares;

(b) consolidate shares into shares of a larger par value, but the par value of consolidated shares must not be greater than one hundred dollars;

(c) cancel any shares that at the date of registration of the by-laws, have not been subscribed for or agreed to be issued and diminish the amount of its capital by the amount of the par value of the shares so cancelled;

(d) extinguish or reduce the liability on any of its shares with respect to capital not paid up;

(e) with or without extinguishing or reducing liability on any of its shares, cancel any paid up capital that is lost or unrepresented by available assets; and

- (f) with or without extinguishing or reducing liability on any of its shares and either with or without reducing the number of such shares, pay off and paid-up capital that is greater than the requirements of the society.

(2) The Registrar may approve a by-law mentioned in subsection (1) where he is satisfied that

- (a) the by-law has been made in accordance with this Act;
- (b) the holders of all shares of the society affected by the by-law have approved the by-law by a special resolution passed by the members at a general meeting called for the purpose; and
- (c) in the case of a by-law providing for a reduction in the capital of the society
 - (i) all creditors who are liable to be affected have been notified of the by-law and have signified their approval; or
 - (ii) appropriate steps have been taken by the society to adequately safeguard the interest of its creditors.

Limitation on
purchase of
shares.

94. (1) Subject to the approval of the Registrar, only a registered society may purchase more than one-fifth of the shares of another society where

- (a) it is insolvent;
- (b) the proposed purchase or acquisition would not render the purchasing society insolvent; or
- (c) subject to subsection (2), the proposed purchase or acquisition would not, in the opinion of the Board, be detrimental to the financial stability of the society.

Transfer of shares
generally.

95. (1) A share may be transferred with the approval of the Board to any other member at the option of the transferor, but if the transferee is not a member, he must be approved as a member by the Board, or the general meeting according to the by-laws relating to

the admission of members before the transfer can be registered; and if the by-laws require a member to hold more than one share, the transferee must acquire by the transfer, or by the transfer and allotment, the number so required to be held before the transfer can be registered.

(2) A transfer of shares shall be effected in such form as the Registrar determines.

(3) No transfer of a share shall be valid and effective unless and until such transfer has been registered by the Secretary on the direction of the Board.

(4) No transfer of a share shall be registered if made by a member indebted to the registered society without the written permission of the Board, and until the transfer of a share is registered by the transferee, nor shall any claim of the society upon the transferor be affected thereby.

96. (1) Where a member or person claiming through a registered society has become of unsound mind or incapable of managing his affairs and no committee, receiver or guardian has been appointed, the society may subject to this section and section 93 transfer the share or interest of such member to any person nominated by such member for the purposes of section 100 or may pay to the person nominated a sum representing the value of the share or interest of such member ascertained in accordance with subsection (5).

Transfer of shares of a member of unsound mind.

(2) Subject to subsection (3), if no nominee has been appointed, the society may pay a sum representing the value of the member's share or interest to the Registrar of the Supreme Court.

(3) If the value of the share or interest does not exceed one hundred dollars the Board may, subject to any conditions it thinks fit, pay the whole or any portion of such sum to the person who appears to have the care of such member or the management of his affairs.

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

(5) For the purposes of this section and section 94, the value of any share or interest shall be represented by the sum actually paid

for that share or interest by the member holding it unless the by-laws of the society otherwise provide; and where the benefits group insurance have accrued on such share or interest, the value of such benefits shall be the amount actually received by the society on the account received by the society on the account of such deceased member.

Transfer of share
or interest on death
of member.

97. (1) Where a person has been nominated as beneficiary by a member in accordance with the by-laws of a society and such nominee is admitted to membership in the society, the society shall within one year of the death of the member by whom the nomination was made, transfer the shares or interest of such deceased member to the limit specified in subsection (2) to the nominee.

(2) Where no such nominee is admitted to membership in the society or where the deceased member made no such nomination the society shall within one year of the death of such deceased member pay to the nominee or legal person representative of the deceased member as the case may be, such sum, not exceeding the said limit, representing the value or part thereof of the deceased member's share or interest in the society.

(3) Nothing in this section shall be construed as prohibiting a nominee who has been admitted to membership from electing to receive payment representing the value of the deceased member's shares or interest instead of accepting a transfer.

Restriction on
transfer of shares.

98. (1) Subject to this section, the transfer of the shares or interest of a member or deceased member in the capital of a society shall be subject to such conditions as may be prescribed by or under this Act.

(2) No shares or interest or any part thereof in the capital of a society may be transferred unless the transfer is made to a member thereof or to a person whose application for membership has been accepted.

Conditions for
the validity of
transfer of shares.

99. (1) Subject to the by-laws, no transfer of shares in a society is valid for any purpose unless

(a) a written application for membership by the transferee is approved and the transfer is authorised by

(i) a resolution of the directors; or

(ii) a person authorised by a resolution of the directors to approve applications and transfers of that kind, and

(b) notification of any approval given pursuant to paragraph (a) is sent to the transferee and his name has been entered on the register of members.

(2) Notwithstanding subsection (1), a transfer of a share is valid for the purpose of evidencing the rights of the parties to the transfer between the transferor and the transferee.

100. (1) Subject to subsection (2), a member of a society may, by instrument in writing signed by such member in the presence of two attesting witnesses and delivered at or sent to the registered office of the society during the lifetime of such member or made in any book kept at the registered office, nominate any person to or among whom there shall be transferred at his death such property in the society of which he is the owner at the time of his death, or as may have accrued thereon, whether in shares, loans or deposits, or so much thereof as is specified in such nomination if the nomination does not comprise the whole.

Power of nomination.

(2) A member of the society may nominate more than one person only if he holds more than one share.

(3) A nomination made pursuant to subsection (1) may be revoked or varied by a subsequent nomination signed, attested and delivered or sent or made as aforesaid, or by any similar document in the nature of a revocation or variation signed by the nominator in the presence of two attesting witnesses and delivered, sent or made as aforesaid; but any such nomination may not be revoked or varied by the will of the nominator or by an act of God thereto.

(4) All nominations and all revocations or variations thereof delivered or sent to a society shall be recorded in a book kept at the registered office of the society.

PART VI

BUSINESS OF SOCIETY

101. (1) A registered society which has as one of its objects the marketing of any article of produce obtained by the work or

Marketing of produce through the society.

industry of its members may by its by-laws or otherwise, contract with its members

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

(2) A contract entered into under this section shall not be questioned in any court on the ground only that it is a contract in restraint of trade.

Creation of charge
in favour of the
society.

102. (1) A person to whom money has been lent by a society or who is otherwise indebted to the society may be required to create a charge in favour of the society in such form as may be prescribed in the regulations.

(2) A charge shall so long as it continues in force confer on the society the following rights and impose on the society the following obligations, that is to say -

- (a) the right upon the happening of any event specified in the charge as being an event authorising the chargee to seize the property subject to the charge and take possession of any such property so subject;
- (b) after an interval of five clear days or such less time as may be specified in the charge from the date of taking possession of any property subject to the charge, to sell such property either by auction or if the charge so provides by private treaty, either for a lump sum or payment by installments;
- (c) to apply the proceeds of sale in or towards discharge of the debt secured by the charge and the costs of seizure and sale and to pay any surplus of such proceeds to the member whose property was sold.

(3) A charge shall, so long as it continues in force, impose on the member the obligation to pay to the society towards the discharge of his indebtedness the proceeds of sale of any property comprised the charge or any money received under any policy of insurance or by way of compensation in respect of any such property, except in so far as the charge otherwise allows.

(4) For the avoidance of doubt, it is hereby declared that a charge under this section is not a bill of sale within the meaning of the *Bill of Sale Act*.

103. (1) A charge created under section 102 shall be duly executed if signed by the person in *quintuplicate* in the presence of

Execution and registration of charge.

(a) the chairman or president of the society; and

(b) the secretary of the society.

(2) The secretary shall

(a) file one copy of the charge at the registered office of the society and deliver one copy each to the Registrar of the Supreme Court, the Registrar of Co-operative Societies and the National League or National Council; and

(b) deliver one copy to the member

(3) The Registrar of the Supreme Court shall keep a book known as the "Co-operative Societies Charges Book" in which he shall register every charge delivered to him by the secretary of a society, and issue to the society a certified copy of the registration.

(4) The registration of a charge under subsection (3) shall constitute a first charge and security in favour of the society and shall be deemed to affect with notice any person dealing with the property comprised in the charge.

(5) Where a loan or other indebtedness in respect of which a charge was created is discharged, the secretary of the society shall —

(a) cause a document to that effect to be prepared in quintuplicate, and signed by the chairman or president

and secretary of the society indicating that the charge has been discharged; and

- (b) file one copy of such document, deliver one copy each to the Registrar of Co-operative Societies, the National League or National Council and the Registrar of the Supreme Court who shall forthwith make an entry of satisfaction in the Co-operative Societies Charges Book; and
- (c) deliver one copy to the member.

(6) Any person may, on payment of the fee prescribed in the regulations, inspect the Registered Societies Charge Book and take extracts therefrom.

(7) Notwithstanding anything contained in this section, every charge subsisting at the commencement of this Act in favour of a registered society shall be deemed to be registered in the Co-operative Societies Charges Book, and any such charge shall, without prejudice to anything contained therein, have the same force and effect on a charge created under this Act.

Claims unaffected
by charge.

104. Nothing in section 102 shall affect —

- (a) any claim of the Government in respect of taxes or money recoverable as such or of a landlord in respect of rent or money recoverable as rent; or
- (b) the rights of any prior charges or encumbrances.

Prior claims
in favour of
society.

105. (1) Subject to any claim in respect of debt due to the Crown or to a landlord in respect of rent or any money recoverable as rent, any debt or outstanding demand owing to a registered society by a member or past member shall, notwithstanding anything contained in section 103, be a first charge —

- (a) upon the crops or other agricultural produce whether standing or severed, raised in whole or in part with the loan from the society by such member or past member; and
- (b) upon any cattle, fodder for cattle, agricultural or industrial machinery or implements, or raw materials

for use in manufacture or handicraft, or building used for the purpose of agriculture or industry, fishing or fish processing equipment to or purchased by such member or past member in goods or money granted him by the society.

(2) Any person dealing with any of the property specified in subsection (1) shall be deemed to have notice of such first charge and all such dealing shall be subject to the charge and priority created by this Act.

106. (1) A society may enforce a charge by applying to the Magistrate of the District in which the member resides or carried on business or where the property subject to the charges is situate for a warrant of distress by certifying under seal to the Magistrate the amount due and particulars of the property so charged and the Magistrate shall issue a warrant of distress and may offer the sale of the property by public auction or private treaty.

Enforcement
of charge.

(2) Notwithstanding anything contained in any other statute, a Magistrate shall have jurisdiction under subsection (12) even though the amount due exceeds the monetary limit of a Magistrate.

107. (1) A society may borrow from any other society or from any bank approved by the Registrar on the security of any charge executed and registered in accordance with section 103 and may for this purpose assign any such charge to the other society or bank.

Assignment
of charge.

(2) An assignment of a charge under this section shall be registered in the same manner as a charge and section 103 shall apply, *mutatis mutandis*, to an assignment so registered.

(3) An assignment of a charge when registered shall operate as a first charge in favour of the assignee subject to section 104.

(4) Where any charge is assigned to a registered society established with the object of facilitating the operation of other societies, such society may borrow from any bank approved by the registrar and for this purpose may re-assign any such charge to such bank and subsections (2) and (3) shall apply, *mutatis mutandis*, to such re-assignment.

108. (1) A registered society may require a member or officer to give a bond with or without sureties as additional security for the

Bond as additional
security for loan.

repayment of any loan and condition thereby imposed on the member or officer relating to the payment of capital and interest shall be strictly observed and performed and on breach of any such condition the bond shall be forfeited forthwith.

(2) Section 107 relating to the assignment of charges shall apply *mutatis mutandis* to the assignment of bonds.

Lien on shares.

109. (1) A registered society has a lien on a share or any amount outstanding to the credit of a member or his legal representative for a debt due by that member to the society.

(2) A registered society may enforce a lien mentioned in subsection (1) in the manner set out in its by-laws.

(3) The Board may, in default of payment by any member indebted to a registered society, apply the sum paid up for the time being on any shares held by that member in or towards the discharge of the debt so due and of any expenses in or about the same, and the defaulting member shall cease to have any further claim in respect of such shares.

Deductions applied to loans and shares.

110. The by-laws of a society may provide that the society

- (a) deduct an amount from the moneys it receives for the goods, products or services it has marketed, handled, or dealt in, for or on behalf of a member or non-member patron, and
- (b) apply the amount prescribed in paragraph (a) as a loan or to the purchase of shares on such terms as the Board determines.

Purchase of shares.

111. (1) Subject to this section, a society may purchase or otherwise acquire any of its shares that

- (a) are available for compulsory purchase pursuant to section 113; or
- (b) are offered for sale.

(2) Subject to subsection (4), a society shall pay in cash, within one year of the date of purchase, for any shares purchased pursuant to subsection (1).

(3) Subject to subsection (4), a society shall pay a purchase price for a share purchased pursuant to this section equal to the par value of the share together with any dividends declared but unpaid with respect to the share.

(4) Subject to subsection (5), where a society purchases or otherwise acquires shares issued by it, those shares are deemed to be cancelled.

(5) Where the by-laws of a society limit the number of shares, any shares of the society purchased or otherwise acquired by the society may be treated as unissued shares.

112. (1) Notwithstanding section 111, no society shall purchase or otherwise acquire its shares where Prohibition on purchase shares.

- (a) it is insolvent,
- (b) the proposed purchase or acquisition would render it insolvent; or
- (c) subject to subsection (2), the proposed purchase or acquisition would, in the opinion of the Board, be detrimental to the financial stability of the society.

(2) Subject to subsection (3), where a purchase or other acquisition of shares pursuant to section 111 or 113, would in the opinion of the Board, impair the financial stability of the society or would be contrary to the interest of the remaining members the Board may suspend the purchasing or acquisition of shares.

(3) The Board may not suspend the purchase of shares pursuant to subsection (2) for a period longer than one year unless the suspension is approved,

- (a) by a Registrar; or
- (b) by a special resolution of the members.

113. Where Compulsory sale of shares.

- (a) winding-up proceedings have commenced with respect to a body corporate that is a member of a society, or

- (b) a member of a society has, during a period of two years, failed to transact any business with the society.

the society may, by written notice to the member, require him to sell his shares to the society.

PART VII

PROPERTY AND FUNDS OF SOCIETY

Investment of
funds.

114. (1) A society may invest or deposit its funds

- (a) in any registered society or bank approved by the Registrar;
- (b) in any securities issued or guaranteed by the Government;
- (c) in the shares or on the security of any society with limited liability; or
- (d) in any other manner permitted by the Registrar.

(2) Except with the approval of the general membership and of the Registrar, a society may not invest its funds for the purpose of a mortgage or real property.

Loan by society.

115. (1) A society may give loans, guarantees, advances and other forms of financial assistance to its members.

(2) Except for a loan to another society, no loan may be made to a person who is not a member of that society.

(3) No loan may be made to a member of the Board or to an officer of a society of a sum in excess of the value of his shares, deposits and accumulated dividend and interest thereon unless adequate security is provided for the amount of the loan in excess of the value of his shares, deposits and accumulated dividends and interest thereon.

(4) No officer of a society shall be present at or participate in a meeting when his application for a loan is being considered.

(5) A loan made in contravention of subsection (4) is void and shall be repaid to the society immediately.

(3) Subject to subsection (4), a society shall pay a purchase price for a share purchased pursuant to this section equal to the par value of the share together with any dividends declared but unpaid with respect to the share.

(4) Subject to subsection (5), where a society purchases or otherwise acquires shares issued by it, those shares are deemed to be cancelled.

(5) Where the by-laws of a society limit the number of shares, any shares of the society purchased or otherwise acquired by the society may be treated as unissued shares.

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- (b) the proposed purchase or acquisition would render it insolvent; or
- (c) subject to subsection (2), the proposed purchase or acquisition would, in the opinion of the Board, be detrimental to the financial stability of the society.

(2) Subject to subsection (3), where a purchase or other acquisition of shares pursuant to section 111 or 113, would in the opinion of the Board, impair the financial stability of the society or would be contrary to the interest of the remaining members the Board may suspend the purchasing or acquisition of shares.

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- (d) in any other manner permitted by the Registrar.

(2) Except with the approval of the general membership and of the Registrar, a society may not invest its funds for the purpose of a mortgage or real property.

Loan by society.

115. (1) A society may give loans, guarantees, advances and other forms of financial assistance to its members.

(2) Except for a loan to another society, no loan may be made to a person who is not a member of that society.

(3) No loan may be made to a member of the Board or to an officer of a society of a sum in excess of the value of his shares, deposits and accumulated dividend and interest thereon unless adequate security is provided for the amount of the loan in excess of the value of his shares, deposits and accumulated dividends and interest thereon.

(4) No officer of a society shall be present at or participate in a meeting when his application for a loan is being considered.

(5) A loan made in contravention of subsection (4) is void and shall be repaid to the society immediately.

116. (1) Subject to this Act, no society and no member society shall, directly or indirectly, give a loan, guarantee or other means of financial assistance, Prohibited loans.

- (a) to a member, director, officer or employee of the society or member society or an associate of any such person for any purpose; or
- (b) to any person for the purpose of or in connection with, the acquisition of membership of the society or the purchase of a share issued or to be issued by the society or member,

where there are reasonable grounds to believe that the society is insolvent or would, after giving the financial assistance, be insolvent.

117. (1) Subject to the provisions of any by-law of a society made for the purpose, a society may receive deposits and loans from persons who are not members of the society for the purpose of the meeting of any obligation or discharging any of its functions under this Act. Receipt of loans and deposits.

(2) A society may by mortgage or in any other manner it deems appropriate, guarantee the repayment of any sums received by it pursuant to subsection (1).

118. (1) A society may receive deposits from a minor and pay to such minor such deposit together with the interest accrued thereon. Receipt of deposits from minors.

(2) Any deposit made on behalf of a minor may, together with any interest accrued thereon, be paid to the parent of the minor or, where the minor is under the care of a guardian, to such guardian for the use of the minor.

(3) For the purposes of this section the mother of a minor born out of wedlock is the guardian of such minor, except

- (a) there is subsisting a court order depriving her of the custody of such minor, in which case the guardian shall be the person named in the court order; or

(b) the minor customarily resides with some person other than the mother in which case that person shall be guardian.

(4) In paragraph (b) of subsection (3) "customarily resides with" includes "is under the care of".

(5) The receipt of a minor or his parent or guardian, as the case may be, for money received under this section shall be a good and sufficient discharge of the liability of the society in respect of that money.

(6) Where a person under a legal disability, other than minority, is entitled to receive money from a society such money may be paid by the society to the Registrar of the Supreme Court to the credit of such person under such disability; and the receipt of the Registrar of the Supreme Court or of the person under disability, as the case may be, shall be good and sufficient discharge of the liability of the society to pay that money.

(7) The Registrar of the Supreme Court may retain out of any money so paid to him a sum not exceeding one per cent thereof for fees of office and shall pay or apply the remainder to or for the care, maintenance, education or benefit or such person under disability.

Reserve Fund
liquidity and
adequacy of
capital.

119. (1) Where a society realises a surplus from its transactions that society shall establish and maintain reserve, a Reserve Fund which shall be administered by the National League or National Council in such manner as maybe prescribed.

(2) Where the annual audit of a society indicates a net surplus, at least 25% of that surplus, shall be credited to the Reserve Fund; and such reserve fund may, subject to the approval of the Registrar, be used in the business of the society, including unforeseen losses, unexpected shortfalls in liquid cash, capital retention, repair and maintenance and the avoidance of external borrowing.

(3) Every society shall ensure

(a) that no less than 20% of its members' shares and deposits are kept in a liquidity reserve, and

(b) that its statutory and other reserves are, at no stage, less than 20% of its total liabilities.

(4) The Registrar shall, on the application of a society or on his own account, grant a period of time as considered reasonable to enable management to make good any deficiency in the adequacy of its capital base.

(5) Subsections (1) and (3) apply to credit unions only.

120. (1) Every society shall establish and maintain a Development Fund. Development Fund.

(2) Every registered society that realises a surplus from its operations as ascertained by the annual audit shall make such annual contribution as may be determined by the National League or National Council not exceeding ten per cent of that surplus of such fund to be used for the development of registered societies.

(3) subject to subsection (4), the Development Fund shall be administered by the National League or National Council in such manner as may be prescribed.

(4) Where a National League or National Council has not been established or is not functioning as such, the Development Fund shall be administered by such person or body of persons as the Registrar determines.

(5) The Development Fund shall be administered by the National League or National Council in such a manner as may be prescribed.

121. (1) A society may establish a contributory Pension Fund for its servants and employees and may contribute to such fund. Pension Fund.

(2) A Pension Fund established under subsection (1) shall not be considered part of the assets of the society but may be invested in such manner as may be prescribed by the by-laws.

122. After making the prescribed payments to its Reserve and Development Fund a society may, with the approval of the Registrar, contribute to any non-profit, charitable, benevolent or cultural purpose. Charitable contributions.

Dividend or
bonus.

123. (1) Subject to this section and sections 119 and 120, any surplus may be distributed by way of dividend or bonus amongst its members in proportion to their patronage with the society at such rate as may be prescribed.

(2) No registered society shall

- (a) pay a dividend or bonus or distribute any part of its accumulated funds before the balance sheet has been certified by an auditor approved or appointed by the Registrar; or
- (b) pay a dividend or make any payment on account out of profits until the Reserve Fund has reached a proportion of not less than 10% of the total liabilities of the society.

(3) A bonus based on wages or on the value of the products of a member or a bonus or rebate patronage calculated in proportion to the amount of the business done by each member with the registered society may be distributed periodically to the members from surplus funds after the deduction of all expenditure and after making provision for bad and doubtful debts, making allocation for the reserve Fund.

PART VIII

FINANCIAL DISCLOSURE AND AUDIT

Annual financial
statements.

124. (1) The directors of a society must place before the members at every annual meeting of members of the society:

- (a) comparative financial statements, as prescribed, relating separately to
 - (i) the period that began on the date the society came into existence and ended not more than twelve months after that date, or, if the society has completed a financial year, the period that began immediately after the end of the last period for which financial statement were prepared and ended not more than twelve months after the beginning of that period, and
 - (ii) the immediately preceding financial year;

- (b) the report of the auditor; and
- (c) any further information respecting the financial position of the society and the results of its operations required by the by-laws.

(2) The financial statements mentioned in sub-paragraph (ii) of paragraph (a) of subsection (1) may be omitted if the reason for the omission is set out in the financial statement to be placed before the members or in a note attached thereto.

125. (1) The directors of a society must approve the financial statements referred to in section 124, and the approval must be evidenced by the signature of two or more directors. Approval of financial statements

(2) A society shall not issue, publish or circulate copies of the financial statements referred to in section 124 unless the financial statements are

- (a) approved and signed in accordance with subsection (1), and
- (b) accompanied by a report of the auditor, if any, of the society.

126. (1) Not less than ten days before each annual meeting of members, a society must make available to each member a copy of the financial statements and report of the auditor referred to in section 124. Furnishing financial statements.

(2) Where a society applies to the Registrar and he is satisfied that there are reasonable grounds, he may excuse the society from complying with subsection (1).

127. (1) Subject to section 128, only individuals who qualify under subsection (2) are qualified for appointment as auditors of a society. Auditor's qualifications.

(2) An individual qualifies for appointment as auditor, if

- (a) he is a member of the Institute of Chartered Accountants of Antigua and Barbuda in this section called the "Institute", and holds a practising certificate of the Institute, or

- (b) he satisfies the Registrar that he was in practice in Antigua and Barbuda as an auditor of societies on the day immediately preceding the commencement of this Act.

(3) Notwithstanding subsections (1) and (2), the Registrar may, in any special case, audit the accounts, or appoint any person whether or not qualified in accordance with subsection (2) to audit the accounts, of any registered society.

**Disqualifying
auditor.**

128. (1) Subject to subsection (7), an individual is not qualified to be an auditor of a society if he is not independent of the society and its member societies, and of the directors and officers of the society and its member societies.

(2) For the purposes of this section whether or not an individual is independent is a question of fact to be determined having regard to all the circumstances.

(3) An individual is presumed not to be independent of a society if he or his business partner

- (a) is a member, a director, an officer or an employee of the society or any of its member societies or a business partner or employee of any director, officer, member or employee of any such society, or its member societies;
- (b) is a member of a Credit Committee or any other committee of the society or any of its member societies; or
- (c) transacts a substantial amount of business with the society or a member society thereof.

(4) The provisions of professional advice by or on behalf of an individual or his business partner does not by itself deprive an individual or his business partner of his independence for the purposes of this section.

(5) An auditor who becomes disqualified under this section must, subject to subsection (7), resign forthwith after he becomes aware of his disqualification.

(6) A member of a society may apply to the Registrar for an order or the Registrar may, upon his own motion, make an order declaring

an auditor disqualified under this section and the office of auditor vacant.

(7) A member of a society may apply to the Registrar for an order or the Registrar may, upon his own motion, make an order exempting an auditor from disqualification under this section; and the Registrar may, if he is satisfied that an exemption would not adversely affect the members, exempt the auditor on such terms as he thinks fit.

129. (1) Subject to subsection (4), the members of a society shall Appointment of auditor.

- (a) at the first general meeting, appoint an auditor to hold office until the close of the first annual general meeting, and
- (b) at each annual meeting, appoint an auditor to hold office until the close of the next annual general meeting.

(2) Notwithstanding subsection (1) (b), if an auditor is not appointed at an annual meeting, the incumbent auditor continues in office until his successor is appointed at a subsequent meeting.

(3) The remuneration of an auditor shall be fixed by the directors.

(4) An auditor shall be deemed not to have assumed office unless he has, in writing to the society, confirmed his willingness to serve as auditor.

130. (1) An auditor of a society ceases to hold office when Cessation of office.

- (a) he dies or resigns, or
- (b) he is removed pursuant to section 131.

(2) The resignation of an auditor becomes effective at the time a written resignation is sent to the society, or at the time specified in the resignation, whichever is the later date.

131. (1) The members of a society may, by ordinary resolution Removal of auditor.
at a special meeting remove an auditor other than an auditor appointed by the Registrar under section 133.

Filling vacancy
of auditor.

132. (1) Subject to subsection (4), the directors must forthwith fill a vacancy in the office of auditor.

(2) If there is not a quorum of directors, the directors then in office must, within twenty-one days after the vacancy in the office of auditor occurs, call a special meeting of members to fill the vacancy; and if they fail to call a meeting, or if there are no directors, the meeting may be called by any member.

(3) Where the directors fail to call a meeting pursuant to subsection (2) or where there are no directors, a meeting for the purpose of filling a vacancy in the office of auditor may be called by any member.

(4) The by-laws of a society may provide that a vacancy in the office of auditor be filled only by vote of the members.

(5) An auditor appointed to fill vacancy holds office for the unexpired term of his predecessor.

Registrar appointed
auditor

133. If a society does not have an auditor, the Registrar may, upon his own motion, and shall, upon the application of a member, appoint and fix the remuneration of an auditor, and the auditor holds office until an auditor is appointed in accordance with section 129.

Auditor's
right to notice

134. The auditor of a society is entitled to receive notice of every meeting of the members of the society, and at the expense of the society, to attend and be heard at the meeting on matters relating to his duties as auditor.

Required
notice.

135. If a member of a society who is entitled to vote at a meeting of members, or a director of a society gives written notice to the auditor or a former auditor of the society, not less than ten days before a meeting of members of the society, to attend the meeting, the auditor or former auditor, as the case may be, shall attend the meeting at the expense of the society and answer questions relating to his duties as an auditor or former auditor.

Auditor's right to
comment.

136. (1) An auditor who

(a) resigns,

- (b) receives a notice or otherwise learns of a meeting of members called for the purpose of removing him from office,
- (c) receives a notice or otherwise learns of a meeting of members or directors at which another person is to be appointed to fill the office of auditor, whether because of the resignation or removal of the incumbent auditor or because his term of office has expired or is about to expire,

may submit to the society a written statement giving the reason for his resignation or the reasons why he opposes any proposed action.

(2) When it receives a statement referred to in subsection (1), the society must forthwith send a copy of the statement to every member entitled to receive notice of any meeting of members and to the Registrar.

(3) No individual may accept appointment, consent to be appointed or be appointed as auditor of a society if he is replacing an auditor who has resigned, been removed or whose term of office has expired or is about to expire, until the individual has requested or received from the former auditor a written statement of the circumstances and reasons why, in the auditor's opinion, he is to be replaced.

(4) Notwithstanding subsection (3), an individual otherwise qualified may accept appointment or consent to be appointed as auditor of a society if, within fifteen days of making the request referred to in that subsection, he does not receive a reply to it.

137. An auditor of a society shall make the examination that is in his opinion necessary to enable him to report in the prescribed manner on the financial statements required by this Act to be placed before the members, except such financial statements or parts thereof that relate to the immediately preceding financial year referred to in subparagraph (ii) of paragraph (a) of subsection (1) of section 124.

Examination by auditor

138. (1) Upon the demand of an auditor of a society the present or former directors, officers, employees or agents of the society shall furnish to the auditor

Auditor's right to inspect.

- (a) *such information and explanations, and*
- (b) *such access to records, documents, books, accounts and vouchers of the society,*

as are in the opinion of the auditor, necessary to enable him to make the examination and report required under section 137 and that the directors, officers, employees or agents are reasonably able to furnish.

(2) Upon the demand of the auditor of a society, the directors of the society must

- (a) obtain from the present or former directors, officers, employees or agents of any member of the society that is a registered society, the information and explanations that the directors, officers, employees and agents are reasonably able to furnish and that are, in the opinion of the auditor, necessary to enable him to make the examination and report required under section 137; and
- (b) furnish the information and explanations so obtained to the auditor.

(3) Where a former director, officer, employee or agent of a member fails to comply with subsection (2), he is guilty of an offence and is liable on summary conviction to a fine of \$500 and to imprisonment for three months or both and to a further fine of \$50 for every day he fails to comply with that subsection after a conviction is first obtained.

Error or
misstatement.

139. (1) A director or an officer of a society shall forthwith notify the society's auditor of any error or misstatement of which the director or officer becomes aware in a financial statement that the auditor or former auditor has reported upon.

(2) *When the auditor or a former auditor of a society is notified or becomes aware of an error or mis-statement in a financial statement upon which he has reported to the society and in his opinion, the error or misstatement is material, he shall inform each director of the society accordingly.*

(3) When under subsection (2) the auditor or a former auditor of a society informs the directors of an error or misstatement in a financial statement of the society, the directors shall

- (a) prepare and issue revised financial statements, or
- (b) otherwise inform the members and the Registrar of the error or misstatement.

140. An auditor is not liable to any person in an action for defamation based on any act done or not done, or any statement made by him in good faith in connection with any matter he is authorised or required to do under this Act. Privilege of auditor.

141. (1) Within thirty days, or such longer period as the Registrar allows, of the date of its annual meeting a society shall Annual and special returns.

- (a) file with the Registrar an annual return for the previous year, on the form provided by the Registrar, and
- (b) furnish the Registrar with a copy of the financial statement placed before its members at its last annual meeting.

(2) Within thirty days, or such longer period as the Registrar allows, of the date of its reporting period at the end of each month every society shall file a monthly return with the Registrar.

(3) The Registrar may, by notice in writing, require a society, director or officer of a society to make a special return on any subject connected with the business and affairs of the society and, when he requests a special return, he shall specify in the notice a time within which the special return is to be made.

PART IX

RECONSTRUCTION OF SOCIETIES

142. (1) The reconstruction of a registered society may be effected by any of the following methods: Methods of reconstruction.

- (a) the amalgamation of one society with another society to form a single society;

- (b) the transfer of the assets and liabilities of one society to another society; or
- (c) the division of a society into two or more societies.

(2) Sections 145 to 148 shall have effect with respect to the procedure that must be followed in relation to paragraphs (a) to (c) of subsection (1).

Conversion.

143. (1) A company registered under the *Companies Act* or a registered industrial, provident or friendly society may, by special resolution, determine to convert itself into a registered society.

(2) Any such resolution for conversion into a registered society shall appoint ten persons, members of a company, industrial, provident or friendly society, as the case may be, who together with the secretary, shall sign the rules and who may, by resolution, be given such powers to act on behalf of the company, industrial, provident or friendly society, as may be specified in such resolution.

(3) A copy of the special resolution referred to in subsection (1) with three copies of the by-laws shall be sent to the Registrar who may, upon receipt thereof, register the society and issue a certificate in accordance with section 13.

Effect of certificate of registration.

144. On the date shown in the certificate of registration issued pursuant to section 243,

- (a) the incorporation or registration under any other enactment of the company, industrial, provident or friendly society, as the case may be, ceases and shall be cancelled by the proper officer;
- (b) the conversion of the company, industrial, provident or friendly society, as the case may be, is effective;
- (c) the property of any body mentioned in paragraph (a) becomes the property of the registered society;
- (d) the registered society is liable for the obligations of the company, industrial, provident or friendly society, as the case may be;

- (e) an existing cause of action, claim or liability or prosecution against the company, industrial or provident society or for friendly society is not affected;
- (f) a civil, criminal or administrative action pending against a converted company, industrial or provident society or friendly society may be continued against the registered society; and
- (g) a conviction against or a ruling, order or judgement in favour of or against a body mentioned in paragraph (e) may be enforced by or against the registered society.

(2) Every right or claim and the liability for every penalty mentioned in subsection (1) have priority as against the property of the registered society over all other rights or claims against, or liabilities of the registered society.

145. (1) Any two or more societies may, by a resolution passed by not less than three fourths of all the members of each society present and voting at a special general meeting called for the purpose, amalgamate as one society.

Amalgamation
of societies.

(2) Where the resolution referred to in subsection (1) is passed, each such society shall apply to the Registrar for cancellation of its registration and the societies shall jointly make application for the registration of the amalgamated society.

(3) The registration of the amalgamated society shall be deemed to be sufficient to vest the assets and liabilities of the amalgamating societies in the amalgamated society.

146. (1) Any society may, by resolution passed by not less than three-fourths of all the members present and voting at a special general meeting called for the purpose, agree to transfer its assets and liabilities to any other society which has agreed to accept them.

Transfer of assets of
societies.

(2) The acceptance of that other society shall be evidenced by a resolution passed by not less than three fourths of the members of that other society present and voting at a special general meeting called for the purpose.

(3) On the passing of the resolutions referred to in subsections (1) and (2), the transferor society shall apply to the Registrar for

cancellation of its registration and the transferee society shall submit to the Registrar a copy of its resolution agreeing to the transfer.

(4) Subject to subsection (5), the cancellation of registration and the submission of the resolution agreeing to accept the transfer is hereby deemed to be sufficient to vest the assets and liabilities of the transferor in the transferee.

(5) Where the vesting of the assets of a society involves real property, a copy of the resolution referred in subsection (1), certified as such by the Registrar, the resolution shall be recorded at the Registration Office, the Land Registry or such other government department in which dealings in real property are recorded or registered, as the case may be.

Claims of objecting
creditors.

147. Notwithstanding sections 145 and 146 no amalgamation or transfer shall be effected unless the creditors of the societies concerned are given three months written notice of the proposal and have signified that they have no objections.

Division of society.

148. (1) Any society may, by resolution in this section referred to as a "preliminary resolution" passed by three-fourths of the members present and voting at a special general meeting called for the purpose, resolve to divide itself into two or more societies.

(2) A preliminary resolution

- (a) shall contain proposals for the division of the assets and liabilities of the society among the new societies into which it is proposed to divide the society; and
- (b) may specify the area of operation of, and the members who will constitute, each of the new societies.

(3) A copy of the preliminary resolution shall be sent to the Registrar and all members and creditors of the society that is being divided.

(4) At least ten days notice of the preliminary resolution shall be given to any person whose interests will be affected by the division of the society, and the notice shall be published at least once in the *Gazette* and in a newspaper circulating in Antigua and Barbuda.

(5) Any member of a society may, notwithstanding any by-law to the contrary, by notice given to the society within a period of three months from his receipt of the preliminary resolution, state his intention not to become a member of any of the new societies.

(6) Any creditor of the society may, notwithstanding any agreement to the contrary, by notice given to the society within a period of three months from his receipt of the preliminary resolution, state his intention to demand the payment of moneys due him.

(7) Any person, other than a member or creditor, whose interest may be affected by the division of a society may, by notice given to the society, object to the division unless his claim is satisfied.

(8) After the expiry of three months from the receipt of the preliminary resolution by all the members and creditors of the society and of the notice to other person given under subsection (4), another special general meeting of the society, of which at least fifteen days notice shall be given to its members, shall be convened for the consideration of the preliminary resolution.

(9) If at the special general meeting referred to in subsection (8) the preliminary resolution is confirmed by a special resolution either without changes or with such changes as in the opinion of the Registrar are not material, the Registrar may, subject to subsection (11) and section 13, register the new societies; and upon registration, the original society shall be deemed to be dissolved and its registration cancelled.

(10) The decision of the Registrar as to whether any changes made in the preliminary resolution are material shall be final and not subject to any appeal.

(11) At the special general meeting referred to in subsections (8) and (9) provision shall be made by another resolution for

- (a) repayment of the share capital of all the members who have given notice under sub-section (5);
- (b) satisfaction of the claims of all the creditors who have given notice under subsection (6);
- (c) satisfaction of the claims of such of the other persons who have given notice under subsection (7);

but no member or creditor or other person shall be entitled to such repayment or satisfaction until the preliminary resolution is confirmed in accordance with subsection (9).

(12) Where within such time as the Registrar considers reasonable

- (a) the share capital of the members referred to in subsection (11) (a) is not repaid,
- (b) the claims of the creditors referred to in that subsection are not satisfied, or
- (c) the claims of the other persons mentioned in subsection (11) (c) are not satisfied or secured,

the Registrar may refuse to register the new societies.

Effect of registration of new societies.

149. The registration of new societies established pursuant to section 148 is sufficient to vest the assets and liabilities of the original society in the manner specified in the preliminary resolution as confirmed in accordance with subsections (8) and (9) of that section.

PART X

RECEIVERS AND RECEIVER-MANAGERS

Receiver appointed by Registrar.

150. Where, in the opinion of the Registrar, based on the results of an examination undertaken pursuant to section 180, it is necessary to appoint a receiver-manager to protect the equity of the members, the Registrar may, subject to the approval of the Minister, appoint a receiver-manager.

Functions of receiver.

151. (1) Subject to the rights of secured creditors, a receiver of any property of a society may

- (a) receive the income from the property and pay the liabilities connected with the property; and
- (b) realise the security interest of those on whose behalf he is appointed.

(2) Notwithstanding subsection (1) and subject to any order that the Court may make pursuant to section 155, a receiver who is not appointed manager of a society shall not carry on the business of the society.

152. Notwithstanding section 150, where a receiver of a society is also appointed manager of the society, he may carry on any business of the society to protect the security interest of those on whose behalf he is appointed.

Functions
of receiver-
manager.

153. Where a receiver or receiver-manager is appointed by a Court or the Registrar or pursuant to an instrument, no directors of the society shall exercise the directors' powers that the receiver or receiver-manager is authorised to exercise until the receiver or receiver-manager is discharged.

Cessation
of Board's
powers.

154. (1) A receiver or receiver-manager appointed by a Court shall act in accordance with any directions of the Court.

Receiver's duty.

(2) A receiver-manager appointed by the Registrar shall act in accordance with any directions of the Registrar.

(3) A receiver or receiver-manager appointed pursuant to an instrument shall act in accordance with that instrument and any direction that the Court may make pursuant to section 155.

(4) A receiver or receiver-manager shall

- (a) act honestly and in good faith, and
- (b) deal with any property of the society in his possession or control in a commercially reasonable manner.

155. Upon an application by a receiver-manager of a society, whether appointed by the Court or under an instrument upon an application by an interested person, including the Registrar, the Court may make any order it thinks fit, on any matter including, an order

Directions by court.

- (a) appointing, replacing or discharging a receiver or receiver-manager and approving his accounts;
- (b) determining the notice to be given to any person or dispensing with notice to any person;

- (c) *fixing the remuneration of the receiver or receiver-manager;*
- (d) *requiring the receiver or receiver-manager, or a person by or on behalf of whom he is appointed,*
 - (i) *to make good any default in connection with the receiver's or receiver-manager's custody or management of the property and business of the society, and*
 - (ii) *to relieve a receiver or a receiver-manager, or a person by or on behalf of whom a receiver or receiver-manager is appointed from any default on any terms that the court considers appropriate;*
- (e) *confirming any act of the receiver or receiver-manager; and*
- (f) *giving directions on any other matter relating to the duties of the receiver or receiver manager.*

Directions by
Registrar.

156. (1) Where a receiver-manager is appointed by the Registrar, the receiver-manager for any interested person may apply to the Registrar for directions on any matter relating to the duties of the receiver or receiver-manager.

(2) Where the Registrar receives an application pursuant to subsection (1), he may make any order he considers appropriate, including any other similar to an order described in sections 155 (c) to (f).

Required actions of
receiver.

157. A receiver or receiver-manager shall

- (a) *in the case of a receiver or receiver-manager appointed by the Court or pursuant to an instrument, immediately notify the Registrar of his appointment or discharge;*
- (b) *take into his custody and control the property of the society in accordance with the Court order, order of the Registrar or instrument pursuant to which he is appointed.*

- (c) open and maintain a bank account in his name as receiver or receiver-manager of the society for the moneys of the society coming under his control;
- (d) keep detailed accounts of all transactions carried out by him as receiver or receiver-manager;
- (e) keep accounts of his administration that he shall cause to be available during usual business hours for inspection by the directors of the society, the Registrar or any person authorised by the Registrar.
- (f) prepare at least once in every six-month period after the date of his appointment financial statements of his administration, as far as is practicable in the form required in section 124;
- (g) on completion of his duties, render a final account of his administration in the form he has adopted for preparation of interim accounts pursuant to paragraph (f); and
- (h) file with the Registrar a copy of any financial statement mentioned in paragraph (f) and any final account mentioned in paragraph (g) within fifteen days of the preparation of the financial statement or rendering of the final account, as the case may be.

PART XI

DISSOLUTION

158. (1) Subject to the approval of the Registrar, the members of a society may authorise the dissolution of the society.

Dissolution by members.

(2) The Board shall cause a notice of a special meeting of members to be sent in the manner prescribed in section 43 to each member for the purpose of authorising dissolution.

(3) Each member of the society has the right to vote with respect to dissolution.

(4) For the purpose of subsection (1) dissolution is authorised when the members approved the dissolution by a special resolution of the membership.

(5) Where the Registrar

- (a) receives notice, in a form satisfactory to him, of an *authorisation to dissolve a society; and*
- (b) is satisfied that it is in the best interest of the society and its members;

he shall approve the dissolution.

(6) The *authorisation approved* pursuant to subsection (4) must set out

- (a) the assets and liabilities of the society;
- (b) the claims of any creditors;
- (c) the number of members; and
- (d) the nature and extent of the members' interest in the society.

(7) Subject to subsection (9), where a society has an unallocated surplus and the *authorisation approved* pursuant to subsection (4) states that it is not to be paid out at the time of the society's dissolution, the unallocated surplus must be paid to one or more trustees who are

- (a) named in the special resolution; or
- (b) where not named in the special resolution, appointed by the Registrar.

(8) The trustees named or appointed pursuant to subsection (7) shall

- (a) deposit the money in a special trust account
 - (i) *in a registered society, or*
 - (ii) a bank registered under the Banking Act, 1991;
- (b) invest the money in any manner authorised by law.

(9) Where a trust is created pursuant to subsection (7), the income and principal of the trust is required to be expended within a period of twenty years from the date that the trust was established for any cooperative purpose the Registrar considers fit.

(10) In this section,

- (a) "interest" includes the interest of a member in a society and includes member loans and obligations of any kind that
 - (i) arise by virtue of the by-laws of the society, and
 - (ii) are owed by the society to the members;
- (b) "unallocated surplus" includes any net proceeds from the sale of assets on dissolution of the society after the liabilities of the society and the claims of creditors and members have been satisfied.

159. (1) When the Registrar approves a special resolution passed pursuant to section 158 he shall, at the expense of the society, cause a notice of the special resolution to be published once a week for two weeks

Notice of dissolution by members.

- (a) in the *Gazette*, and
- (b) in a newspaper circulating in Antigua and Barbuda.

(2) Notwithstanding subsection (1), where the Registrar receives an affidavit from the officers of a society stating that the society has no assets and no liabilities and he is satisfied that it is appropriate, he may

- (a) exempt the society from subsection (1); and
- (b) cause, at the expense of the Registrar, a notice of the special resolution passed pursuant to section 158(1) to be published in the *Gazette*.

(3) The Registrar shall require from a society, liquidator or trustee appointed by a society or any other person who is required to furnish information, an annual or other return showing

- (a) the progress of dissolution;
- (b) the distribution of any undistributed surplus or reserve;
- (c) the progress of the administration of a trust established in accordance with this section; and
- (d) any other information that he may require.

Dissolution
by Registrar.

160. (1) Where the Registrar has reasonable cause to believe that a society

- (a) has not commended business within two years after the date shown on its certificate of registration; or
- (b) has not carried on business for two consecutive years,

he shall send to the secretary of the society a letter inquiring whether the society is carrying on business, is in operation or is submitting an annual return.

(2) Where the Registrar does not, within one month of the date he sent a letter pursuant to subsection (1), receive an answer to the letter, he shall, within fourteen days after the expiry of the month, send to the secretary of the society a letter referring to the letter sent pursuant to subsection (1) and stating that

- (a) no answer to that letter has been received by him; and
- (b) if an answer is not received to the letter sent pursuant to this subsection within one month from the date it is sent, a notice will be published in the *Gazette* to strike the name of the society off the register and to dissolve the society.

(3) Where the Registrar

- (a) receives an answer from a society that it is not carrying on business or is not in operation or will not be submitting an annual return; or
- (b) does not, within one month after the date that he sent a letter pursuant to subsection (2), receive an answer to that letter.

he may publish in the *Gazette* and send to the society a notice that, at the expiry of one month from the date of that notice, the society will, unless cause is shown to the contrary, be struck off the register and the society will be dissolved.

(4) At the expiry of the period mentioned in a notice sent pursuant to subsection (3), the Registrar may, unless cause to the contrary is previously shown by the society

- (a) where he is satisfied that the society has no assets or liabilities, issue a certificate of dissolution in the prescribed form; or
- (b) appoint a liquidator to dissolve the society.

161. (1) Where a society fails to furnish a copy of the annual financial statements to its members at an annual or special meeting called for that purpose or within a period of twelve months after the close of its financial year, the Registrar

Dissolution for failure to account for business transacted.

- (a) may require the directors to call a special meeting of the society for the purpose of considering the business transacted during the preceding financial year and for the furnishing to the members and to the Registrar a copy of the annual financial statement; and
- (b) shall, where he requires a special meeting to be called pursuant to paragraph (a), determine a time period within which the special meeting is to be called.

(2) Where the directors fail to call a special meeting within the time period set out in subsection (1), the Registrar may call the special meeting

- (a) to review the financial position of the society and the members' interests in the society; and
- (b) the members fail to pass a resolution to the effect that the society is to carry on business and to comply with section 124 and 126;

(3) Where

- (a) a quorum of members is not present at a special meeting called pursuant to subsection (2); or

- (b) the members fail to pass a resolution to the effect that the society is to carry on business and to comply with section 124 and 126;

the Registrar may notify the directors that, unless sections 124 and 126 are complied with within one month from the date of the notice, the society will be struck off the register and dissolved.

(4) Notwithstanding subsection (3), the Registrar may extend the period for compliance with sections 124 and 126.

(5) Where a society does not comply with sections 124 and 126 within the period mentioned in subsection (3) or set by the Registrar pursuant to subsection (4) the Registrar may,

- (a) where he is satisfied that the society has no assets or liabilities, issue a certificate of dissolution in the prescribed form; or
- (b) appoint a liquidator to dissolve the society.

Dissolution by
Court.

162. (1) The Registrar or an interested person may, after giving the society three months notice of the proposed application, apply to the Court for an order dissolving a society, if the society

- (a) obtained its registration by fraud or mistake;
- (b) exists for an illegal purpose;
- (c) has wilfully, after notice by the Registrar, violated any of the provisions of this Act or its by-laws;
- (d) is no longer operating on co-operative principles; or
- (e) has the number of its members reduced below the minimum number required by this Act for the society.

(2) Where an interested person applies pursuant to this section, he shall give the Registrar notice of his application and the Registrar is entitled to appear and be heard in person or by an attorney-at-law.

(3) Where the Court receives an application pursuant to this section, it may order that the society be dissolved or liquidated and dissolved under the supervision of the Registrar.

(4) Where the Registrar receives an order made pursuant to subsection (3), he shall,

- (a) where the order is to dissolve the society, issue a certificate of dissolution in the prescribed form; or
- (b) where the order is to liquidate and dissolve the society under the supervision of the Registrar, publish a notice in the *Gazette*.

163. (1) Where a society has been dissolved pursuant to this Part, any interested person may apply to the Registrar to have the society revived by sending him an application for revival in the prescribed form.

Revival of dissolved society.

(2) Where the Registrar receives an application for revival pursuant to subsection (1) and he is satisfied that the society is in compliance with this Act, he may

- (a) issue a certificate of revival in the prescribed form and publish notice of the revival in the *Gazette*; and
- (b) impose any conditions on the society that he considers reasonable with respect to the society.

(3) A society is revived on the date shown in the certificate of revival.

(4) Where a society is revived pursuant to this section, it

- (a) has all the rights and privileges, and
- (b) is liable for the obligations,

that it would have had if it had not been dissolved, subject to any terms that may be imposed by the Registrar and to any rights acquired by any person after its dissolution.

164. (1) Where

Appointment of liquidator.

- (a) a society is to be dissolved pursuant to this Part; or
- (b) no liquidator is appointed by the members or the Court;

the Registrar may appoint a liquidator to wind up the affairs of the society.

(2) Notwithstanding subsection (1) where the Registrar is satisfied that the society has no assets and liabilities, he may issue a certificate of dissolution in the prescribed form.

Commencement

165. The liquidation of a society commences where

- (a) a special resolution for dissolution of the society is approved by the Registrar pursuant to section 158;
- (b) the Registrar appoints a liquidator pursuant to section 160 or 161;
- (c) the Court makes an order to dissolve pursuant to section 162.

Cessation
of business.

166. (1) From the date of the commencement of its liquidation

- (a) a society continues in existence, but shall cease to carry on its business, except insofar as may be required, in the opinion of the liquidator, for an orderly liquidation; and
- (b) any transfer of shares, other than a transfer made to or with the approval of the liquidator, and any alteration in the status of the members made after commencement of the liquidation are void.

General provisions
respecting
liquidators.

167. (1) Where two or more liquidators are appointed, all the provisions in this section with respect to a liquidator apply to all of the liquidators.

(2) On the appointment of a liquidator pursuant to this Part, all the powers of the directors vest in the liquidator.

(3) A liquidator may delegate any of the powers vested in him pursuant to subsection (2) to the directors or members.

(4) Where the members of a society appoint a liquidator, they may, at that time or at a subsequent general meeting, pass a

resolution giving direction to the liquidator with respect to the disposal of the property of the society.

(5) Where

- (a) the members appoint a liquidator and do not issue direction pursuant to subsection (4); or
- (b) a liquidator is not appointed by the members,

the liquidator is subject to the directions, orders and instructions of the Registrar with respect to the mode and terms and conditions on which he may dispose of the whole or any part of the property of the society.

(6) Where a vacancy in the office of liquidator occurs, the Registrar may appoint another person to fill the vacancy.

(7) In all proceedings connected with the society, the liquidator is to be described as the liquidator of the society and not by his individual name only.

168. On his appointment, a liquidator shall

Duties of
liquidator.

- (a) immediately give notice of his appointment,
 - (i) in the case of a liquidator not appointed by the Registrar, to the Registrar, and
 - (ii) to each claimant and creditor known to the liquidator.
- (b) immediately publish notice of his appointment in the *Gazette* and once a week for two consecutive weeks in a newspaper printed and published in Antigua and Barbuda.
- (c) set out in the notice mentioned in paragraphs (a) and (b) a provision requiring any person
 - (i) indebted to the society, to render an account and pay to the liquidator at the time and place specified,

- (ii) possessing property of the society, to deliver it to the liquidator at the time and place specified, and
 - (iii) having a claim against the society, whether liquidated, unliquidated, future or contingent, to present particulars of the claim in writing to the liquidator not later than two months after the first publication of the notice;
- (d) take into his custody and control the property of the society;
 - (e) open and maintain a trust account for the moneys of the society;
 - (f) maintain separate lists of the members, creditors and other person having claims against the society;
 - (g) where at any time he determines that the society is unable to pay or adequately provide for the discharge of its obligations, apply to the Registrar for directions; and
 - (h) deliver to the Registrar and the society, at least once in every twelve-month period after his appointment or more often as the Registrar may require, financial statements of the society in the form required in section 124 or in any form that the liquidator considers proper or that the Registrar may require.

Powers of liquidator.

169. (1) The liquidator may

- (a) retain attorneys-at-law, accountants, engineers, appraisers and other professional advisors;
- (b) bring, defend or take part in any civil, criminal or administrative action or proceeding in the name and on behalf of the society;
- (c) carry on the business of the society as required for an orderly liquidation;

- (d) sell by public auction or private sale any property of the society;
- (e) do all acts and execute any documents in the name and on behalf of the society;
- (f) borrow money on the security of the property of the society;
- (g) settle or compromise any claims by or against the society; and
- (h) do all other things that he considers necessary for the obligation of the society and distribution of its property.

(2) Where a liquidator has reason to believe that any person has in his possession or under his control or has concealed, withheld or misappropriated any property of the society, he may apply to the Court for an order requiring that person to appear before the Court at the time and place designated in the order and to be examined.

(3) Where the examination mentioned in subsection (2) discloses that a person has concealed, withheld or misappropriated property of the society, the court may order that person to restore the property or pay compensation to the liquidator on behalf of the society.

(4) Subject to the approval of the Registrar, no liquidator shall purchase, directly or indirectly, any part of the stock-in-trade, debts or assets of the society.

170. (1) A liquidator is not liable where he relies in good faith on Limitation on liability of liquidator.

- (a) financial statements of the society represented to him
 - (i) by an officer of the society, or
 - (ii) by the auditor of the society in a written report that state that the financial statements reflect fairly the financial condition of the society; or

- (b) an opinion, a report or a statement of an attorney-at-law, an accountant, an engineer, an appraiser or other professional advisor retained by the liquidator.

Costs of
liquidation.

171. (1) A liquidator shall pay the costs of liquidation out of the property of the society and shall pay or make adequate provision for all claims against the society.

(2) After the date specified by the liquidator for distribution pursuant to section 168 (c) (iii), he may distribute all or any part of the assets of the society among the parties entitled to the assets having regard to the claims of which the liquidator has notice.

(3) The liquidator is not liable for any part of the assets of the society distributed pursuant of subsection (2) to any person notice of whose claims the liquidator did not have at the time of distribution.

(4) When distributing the assets of a society pursuant to this section, the liquidator shall pay, in priority to the claims of the creditors of the society, the wages or salaries of all persons, other than directors, employed by the society at the time of the commencement of the obligation or within one month before, not greater than *three months' wages or salary, and those persons are entitled to rank as creditors of the society for any residue of the claims.*

Closure of
liquidation.

172. (1) In the liquidation of a registered society the funds, including the Reserve Fund, shall be applied as follows:

- (a) firstly to the costs of liquidation;
- (b) secondly to the discharge of the liabilities of the society;
- (c) thirdly to the payment of share capital;
- (d) fourthly, if the by-laws of the society permit, to the payment of a dividend at a rate not exceeding ten per cent per annum for any period during which no distribution of profits has been made.

(2) Any surplus remaining after the application of the funds to the purposes specified in subsection (1) may, at the discretion of the Registrar, be used for any cooperative purpose he considers fit.

(3) Where the liquidation is closed pursuant to subsection (1), the Registrar shall

- (a) issue directions with respect to the custody or disposal of the documents and records of the society; and
- (b) discharge the liquidator.

(4) Where the Registrar discharges a liquidator pursuant to subsection (3), he shall issue a certificate of dissolution in the prescribed manner.

(5) The society ceases to exist on the date shown in the certificate of dissolution.

173. A person who has been granted custody of the documents and records of a dissolved society remains liable to produce those documents and records for six years following the date of its dissolution or until the expiry of any other shorter period that the Registrar may set.

Custody of records.

174. (1) Where there is no agreement or provision fixing the remuneration of a liquidator, he is entitled to a commission based on the net proceeds of the estate of the society realised after deducting his expenses and disbursements.

Remuneration of liquidator.

(2) The amount of the commission mentioned in subsection (1) is equal to

- (a) [5%] on the first \$1,000 realised;
- (b) [2.5%] on the next \$4,000 realised; and
- (c) [1.25%] on any sum greater than \$5,000 realised.

(3) Where a liquidator applies to the Registrar, he may increase the amount of commissions set out in subsection (2).

(4) No liquidator is entitled to any fee or charge for his services in addition to the commission allowed pursuant to this section.

175. (1) Notwithstanding the dissolution of a society pursuant to this Act,

Continuation of actions.

- (a) a civil, criminal or administrative action or proceeding commenced by or against, the society before its dissolution may be continued as if the society had not been dissolved; and
- (b) a civil, criminal or administrative action or proceeding may be brought against the society within two years after its dissolution as if the society had not been dissolved; and
- (c) any property that would have been available to satisfy any judgement or order if the society had not been dissolved remains available for that purpose.

(2) Service of a document on a society after its dissolution may be effected by serving the document on a person shown on the records of the Registrar as one of the last directors of the society.

(3) Notwithstanding the dissolution of a society, a person to whom any of its property has been distributed is liable to any person claiming pursuant to subsection (1) to the extent of the amount received by that person on the distribution with respect to any share of the society that that person held, and an action to enforce such liability may be brought within two years after the date of dissolution of the society.

Unknown
claimants
or members.

176. (1) On the dissolution of a society, the liquidator shall convert into money the portion of the property distributable to a creditor or member who cannot be found after a reasonable investigation and shall deposit the money in a registered society or with trustees appointed by the Registrar.

(2) A payment pursuant to subsection (1) is deemed to be in satisfaction of a debt or claim of such creditor or member.

(3) Where a creditor establishes within three years after the dissolution of a society that he is entitled to any money paid, pursuant to subsection (1), to a registered society or to trustees appointed by the Registrar, the society or the Registrar, as the case may be, shall pay the amount of the claim out the moneys deposited.

(4) Where moneys deposited pursuant to this section are not distributed within three years after the dissolution of a society then, subject to the approval of the Registrar, the society or the trustees

appointed by the Registrar shall distribute those moneys in accordance with section 171 (1) or the by-laws.

177. (1) Where, in the course of the dissolution of a society it appears that any person who has taken part in the organisation or management of such society or any part or present officer of the society has misapplied or retained or become liable or accountable for any money or property of such society or has been guilty of misfeasance or breach of trust in relation to such society, the Registrar may, on the application of the liquidator or of any creditor or contributory, carry out an examination into the conduct of such person and make an order requiring him to repay or restore the money or rate as the Registrar thinks just or to contribute such sum to the assets of such society by way of compensation in regard to the misapplication, retainer, dishonesty or breach of trust as the Registrar thinks just.

Power of
Registrar to
surcharge.

(2) This section shall apply notwithstanding that the act is one for which the offender may be criminally responsible.

178. Any person aggrieved by any order of the Registrar made under section 177 may appeal to the Cooperative Societies Appeal Tribunal within twenty-one days from the date of such order and the decision of the Tribunal shall be final on any question of fact.

Appeal against
surcharge.

179. (1) This part does not apply to a society that is bankrupt within the meaning of the *Bankruptcy Act*.

Application of
Part XI.

(2) Where a society is at any time found in proceedings pursuant to the *Bankruptcy Act*, to be bankrupt within the meaning of that Act, any proceedings taken pursuant to this Part to dissolve or to liquidate and dissolve the society are stayed.

PART XII

INVESTIGATIONS

180. (1) The Registrar may

Examination.

- (a) on his own motion, or
- (b) on the application of the lesser of twenty-five members and 10% of the members, appoint a person as examiner who shall make an examination of the books of the

society and examine the affairs of the society and shall make available his report to the Registrar.

(2) Subject to subsection (3), the Registrar may direct that the expenses incidental to an examination under taken pursuant to this section are to be defrayed.

- (a) by the members applying for the examination;
- (b) by the society or its officers; or
- (c) by any combination of the members, the society or its officers.

(3) Where an examination undertaken pursuant to this section reveals substantial irregularities in the business of the society, the Registrar shall not direct any members on whose motion the examination was commenced to defray the expenses.

(4) Where the Registrar appoints an examiner pursuant to subsection (1), the society and its officers, members, agents or employees shall furnish the examiner with any books, accounts, securities or other documents the examiner requires to perform the examination.

Investigations.

181. (1) A member, the Registrar or any interested person may apply *ex parte*, or on any notice that the Court may require, to the Court for an order directing an investigation to be made of the society and any of its member societies or corporations.

(2) On an application pursuant to subsection (1), the Court may order an investigation of a society or of any of its affiliates where it appears to the Court that

- (a) the society is not fulfilling the purpose stated in its by-laws;
- (b) the society is not carrying on business in accordance with this Act, the regulations or the by-laws;
- (c) the society is not organised or being operated on co-operative principles;

- (d) the business of the society or any of its member societies is or has been carried out with intent to defraud any person;
- (e) the business or affairs of the society or any of its member societies are or have been carried on or conducted, or the powers of the directors are or have been exercised, in a manner that is oppressive or unfairly prejudicial to or unfairly disregarded the interest of a member of security holder.
- (f) the society or any of its member societies was formed for a fraudulent or unlawful purpose or is to be dissolved for a fraudulent or unlawful purpose; or
- (g) persons concerned with the formation, business or affairs of the society or any of its member societies have acted fraudulently or dishonestly, in connection with the society.

(3) an applicant for an order pursuant to this section is not required to give security for costs.

(4) An *ex parte* application pursuant to this section shall be heard *in camera*.

(5) No person may publish anything relating to *ex parte* proceedings conducted pursuant to this section other than with the authorisation of the Court or the written consent of the society being investigated.

182. In connection with an investigation pursuant to section 181, the Court may make any order it considers appropriate, including an order Court order.

- (a) to investigate;
- (b) appointing an inspector, who may be the Registrar, fixing the remuneration of an inspector and replacing an inspector;
- (c) determining the notice to be given to any interested person or dispensing with notice to that person;

- (d) authorising an inspector to enter any premises in which the Court is satisfied there might be relevant information, and to examine anything and make copies of any document or record found on the premises;
- (e) requiring any person to produce documents or records to the inspector;
- (f) authorising an inspector to conduct a hearing, administer oaths and examine any person on oath, and prescribing rules for the conduct of the hearing;
- (g) requiring any person to attend a hearing conducted by an inspector and to give evidence on oath;
- (h) giving directives to an inspector or any interested person on any matter arising in the investigation;
- (i) requiring an inspector to make an interim or final report to the Court and to the Registrar;
- (j) determine whether a report of an inspector made pursuant to paragraph (i) should be published and, where published, ordering the Registrar to publish the report in whole or in part or to send copies to any person the court designates;
- (k) requiring an inspector to discontinue an investigation;
- (l) requiring the society or a person who applied pursuant to section 162 for an order to pay the costs of the investigation.

Powers of
inspector.

183. (1) An inspector appointed pursuant to section 182 (b) has the powers set out in the order appointing him.

(2) In addition to the powers set out in the order appointing him, an inspector may furnish to, or exchange information and otherwise co-operate with, any public official in Antigua and Barbuda or elsewhere who

- (a) is authorised to exercise investigatory powers; and

(b) is investigating, with respect to the society, an allegation of improper conduct that is the same as or similar to the conduct described in section 176 (2).

184. (1) Any interested person may apply to the Court for an order that a hearing conducted by an inspector appointed pursuant to section 182 be heard *in camera* and for directions on any matter arising in the investigation. Hearing in camera.

(2) A person whose conduct is being investigated or who is being examined at a hearing conducted by an inspector appointed pursuant to section 182 has a right to be represented by an attorney-at-law.

(3) A person whose conduct is being investigated or who is being examined at a hearing conducted by an inspector appointed pursuant to section 182 (b) has a right to be represented by an attorney-at-law.

185. (1) No person is excused from attending and giving evidence and producing documents and records to an inspector appointed pursuant to section 182 (b) by reason only that the evidence tends to incriminate him or subject him to any proceedings or penalty. Incriminating statements.

(2) No evidence described in subsection (1) may be used or received against any person in any proceeding instituted against him, other than a prosecution for perjury in giving evidence.

186. (1) Any oral or written statement or report made by an inspector or any other person in an investigation undertaken pursuant to this Part has absolute privilege. Absolute privilege respecting statements.

(2) Nothing in this Part affects the privilege that exists in respect of an attorney-at-law and his client.

PART XIII

DISPUTES

187. (1) Where any dispute that relates to the business of a society arises Settlement of disputes.

- (a) among members, former members and person claiming through members or deceased members;
- (b) between a member, former member or person claiming through a member or a deceased member, and the society, its board, or any officer of the society;
- (c) between a member and the society arising out of or under any by-law relating to the disposal of the produce of agricultural or animal husbandry, or under any contract made pursuant to this Act;
- (d) *between the society and any other society;*

any party to the dispute may refer it to the Registrar for decision.

(2) The Registrar may, before proceeding to hear or determine a dispute, make or cause to be made a preliminary investigation

- (a) to ascertain the cause,
- (b) to define the issues,
- (c) to bring about a voluntary settlement between the parties to the dispute.

(3) For the purpose of hearing any dispute the Registrar or arbitrator, as the case may be,

- (a) may administer oaths, and
- (b) may require
 - (i) the attendance of all parties concerned and witnesses, and
 - (ii) the production of all books, documents and things relating to the dispute.

(4) The Registrar or arbitrator, as the case may be, may order the expenses of determining any dispute, including fees to an attorney-at-law to be paid by the society or the parties to the dispute.

(5) A party aggrieved by a decision of the Registrar or an arbitrator may appeal to the Co-operative Societies Appeals Tribunal within such time and in such manner as may be prescribed.

(6) Notwithstanding anything in this section, a registered society may exercise any rights arising by law under any charges, mortgages, bills of sale or other securities duly executed in accordance with this Act or any other law without recourse to arbitration.

(7) For the purposes of subsection (1), a claim by a society for any debt or demand due to it from a member, former member or the personal representative of a deceased member is a dispute that relates to the business of a society within the meaning of subsection (1).

188. (1) There shall be a Co-operative Societies Appeals Tribunal which shall consist of three persons, one of whom shall be an attorney-at-law of at least five years standing.

Cooperative
Societies Appeals
Tribunal

(2) The members of the Tribunal shall be appointed by the Minister after consultation with the National League or National Council for a period of not more than three years, and are eligible for re-appointment.

(3) The Tribunal shall have jurisdiction to hear appeals against a decision of the Registrar or an arbitrator.

(4) The members of the Tribunal shall receive such remuneration as the Minister determines.

189. (1) Notwithstanding anything contained in sections 187 and 188 the Registrar or an arbitrator may in the course of or on making a determination in a dispute refer a question of law arising therefrom to the Court, by way of case stated for the opinion of that Court.

Case stated
on question of
law.

(2) A judge may consider and determine any question of law so referred and the opinion given on such question shall be final and binding.

190. (1) An award by the Registrar or an arbitrator may, by leave of the Court, be enforced in like manner as a judgement or order to

Enforcement of
award and recovery
of loans.

“liquid assets” means assets maintained by a credit union to ensure that it can meet its commitments with respect to loans and withdrawal of deposits.

192. (1) No credit union shall carry on any business that is contrary to this Act, the regulations or its by-laws. Restrictions.

(2) No credit union shall

- (a) underwrite insurance or the issue of securities by another person;
- (b) act as agent for any insurance company or for any person in the placing of insurance; or
- (c) subject to subsection (3), require, directly or indirectly, that a borrower place insurance for the society of the credit union in any particular insurance agency.

(3) Nothing in paragraph (c) of subsection (2) prevents a credit union from requiring insurance for the security of the credit union.

(4) No act of a credit union, including the transfer of property to or by a credit union is contrary to this Act or the regulations.

(5) Without prejudice to the generality of paragraph (a) of subsection (2), a credit union may, with the permission of the Registrar, do all other acts and things as are incidental or conducive to or consequential upon the attainment of its objects.

193. (1) Every credit union shall maintain liquid assets in the amount specified in section 119 and in the form prescribed. Liquid assets.

(2) Any credit union which fails to maintain the liquid assets required by this section may be placed under a receiver pursuant to Part X by the Registrar.

194. (1) Every credit union shall make an allowance for doubtful loans in accordance with the requirements set out in the regulations. Allowances.

195. (1) Subject to this Act and the regulations, every loan must be approved in accordance with the policies established by the directors before any funds are advanced. Loan approval.

(2) A loan to a director, a credit committee member or an *employee of a credit union or any person connected with one of them* must be approved in the manner prescribed in the regulations.

(3) Any person who knowingly approves or grants a loan in contravention of this Act or the regulations shall be held liable for any losses resulting to the credit union in connection with that loan.

Security for loans.

196. Subject to any restrictions that may be prescribed in the regulations, the credit union may take any security for loans that it considers advisable and in keeping with sound business practices.

Loan limits.

197. (1) Loans may be made only to members and to other registered societies.

(2) The by-laws shall provide for limits on the amounts of loans to any one member or on any type of loans.

Reporting loans.

198. (1) Where a credit union is reporting loans on the balance sheet in its annual financial statements, it shall report the loans at their net estimate value after deducting the allowance for doubtful loans pursuant to section 193(1).

(2) Any advance given by way of overdraft or line of credit is deemed to be a loan for the purposes of the balance sheet and must be reported as a loan.

Interest on loans.

199. (1) The maximum intervals at which interest on loan must be paid may be prescribed in the regulations.

(2) Where a borrower has not paid the interest on this loan for a period determined in the regulations, the credit union shall not include that interest in income.

Deposits.

200. (1) Subject to section 16, a credit union may, without the authority, aid, assistance or intervention of any other person or official,

- (a) receive deposit from any person, whatever his age, status or condition in life whether or not that person is qualified by the law to enter into ordinary contracts; and

- (b) pay any or all of the deposit and any or all of the interest on the deposit to or to the order of that person unless, before payment, the money so deposited is claimed by some other person
- (i) in any action or proceeding to which the credit union is a party and in respect of which service of a writ or other process originating such action or proceeding has been made on the credit union, or
- (ii) in any other action or proceeding pursuant to which an injunction or order made by the Court requiring the credit union not to make payment of the money or to make payment of it to a person other than the depositor has been served on the credit union;

and in that case the money so deposited may be paid to the depositor with the consent of the claimant or to the claimant with the consent of the depositor.

(2) Deposits may be accepted in the manner and form and on any condition that may be prescribed in the regulations.

201. (1) A credit union is not bound to see to the execution of any trust, whether express, implied or constructive, pursuant to which any deposit or share is subject.

Credit union and
trusts.

(2) Where any deposit or share is subject to a trust of which the credit union has notice, the receipt or order

- (a) of the trustee in whose name the deposit or share stands, or
- (b) if the deposit or share stands in the names of two or more trustees, all those trustees or any of them who, pursuant to the document creating the trust, may be entitled to receive the deposit or share,

is, notwithstanding any trust to which the deposit or share is subject, a sufficient discharge for the payment of any money payable in respect of the deposit or share, and the credit union is not bound to see to the application of any money paid on the receipt or order.

(3) Notwithstanding any neglect or omission on the part of a credit union to enter a proper description in its books, no executor, administrator, guardian, committee or trustee who is entered on the books of the credit union as a member, or who is described as representing a named estate, trust or trust beneficiary in such capacity is personally liable to the credit union with respect to the share that he represents.

(4) The estate or trust beneficiary represented by a person described in subsection (3) continues to be liable to the credit union in the same manner and to the same extent as if the testator, minor, ward, person of unsound mind, beneficial trust or their trust beneficiary were entered on the records of the credit union as the holder of the shares.

Consumers' Societies and Housing Societies

Restrictions
on directorship.

202. (1) Subject to subsection (2), no employee of a consumers' society or housing society may be a director of the society.

(2) A society may provide in its by-laws that no more than one-third of its directors may be employees.

Relationship with
members.

203. The relationship between a housing society and its members is not a relationship between a landlord and his tenants.

By-laws.

204. The by-laws of a housing society must, in addition to the matters required to be set out therein by section 10, include the following:

- (a) the manner in which each member may be required to *furnish capital for the purposes of the society*;
- (b) the manner in which a member may be required to pay for housing charges or other reserves;
- (c) the basis for fixing the amount of housing charges;
- (d) subject to section 27, the manner of withdrawal by a *member and the repayment of a member's interests in the society*; and
- (e) the rules governing any leases of housing units by members to non-members.

205. Where the by-laws of a society provide that it is a housing society or that this Part applies to the society, the society may not repeal or amend that provision of the by-laws without the consent of the Registrar.

Amendment of
by-laws.

206. Where a housing society has a share capital the society shall not pay any dividend on the share capital to its members.

No interest on share
capital.

207. (1) Where a person's membership in a housing society is terminated, any right of that person to possess or to occupy residential premises acquired by virtue of membership in the society is terminated.

Right to possession
terminated.

(2) Where a person's membership in a housing society is terminated and the member does not give up possession of the housing unit he occupies, the housing society may apply to the Court to recover possession or to recover any arrears of housing charges.

208. (1) Where a member

Abandoned goods.

(a) has his membership terminated or has vacated or abandoned the housing unit formerly occupied by him, and

(b) has left property in the housing unit,

the housing society may apply to the Magistrate's Court for the District where the housing unit is situate for an order authorising it to remove the property for the housing unit and sell or otherwise dispose of it.

(2) The Magistrate may make an order pursuant to subsection (1) where he is satisfied that the housing society has made a reasonable effort to locate the former member.

(3) Where a housing society sells or otherwise disposes of property pursuant to an order made under subsection (2), it shall pay into the Magistrate's Court, to the credit of the former member, any remaining proceeds of the disposition after deducting

(a) any amount with respect to costs incurred by it relating to the disposition that it would be authorised to retain

if the property were goods sold pursuant to distress for housing charges, and

- (b) any arrears of housing charges and damages that the Magistrate allows.

(4) Where a former member does not claim the remaining proceeds described in subsection (3) within three months after the date the money was paid into the Magistrate's Court, the money shall be paid into the Consolidated Fund.

(5) Where a housing society removes, sells or otherwise disposes of property pursuant to an order made under subsection (2), the housing society is not liable in any action taken by the former member with respect to the removal, sale or disposition.

Industrial Societies

Membership.

209. (1) In an industrial society, 75% of all employees must be members of the society.

(2) Subject to subsection (3), no workers' society shall sub-contract out more than 50% of its work.

(3) Where a workers' society applies to the Registrar, he may allow the workers' society to sub-contract out more than 50% of its work.

By-laws.

210. In addition to the matters required to be set out in the by-laws pursuant to section 10, the by-laws of a society must include

- (a) conditions of admission, expulsion or suspension of its members;
- (b) a procedure for laying off members when there is a lack of work and a procedure of recall to work,
- (c) remuneration of workers involved in the day to day work of the society; and
- (d) allocation of bonus among members.

- 211.** No industrial society may be registered where the acquisition of goods for sale to the public is one of its principal objects stated in its by-laws. Restriction on registration.
- 212.** When allotting among creditors or paying a bonus based to the members of an industrial society the directors may take into account the labour contribution of each member. Bonus based on labour.
- 213.** Notwithstanding any other provision of this Act, the majority of directors of an industrial society may be employees of the society. Employees may be directors.

PART XV

APEX BODY

- 214.** Registered societies may establish an apex body which may be called the National League or National Council and which shall be composed of such member representative of all societies which may exist in Antigua and Barbuda.. Establishment and constitution of apex body.
- 215.** (1) The National League or National Council shall co-ordinate, assist and promote all registered societies and shall perform such functions as may be determined by its constituent members. Functions.
- (2) Without prejudice to subsection (1), the National League or National Council shall have responsibility for the administration and management of the Development Fund as establish by section 120.
- 216.** (1) The officers of the National League or National Council shall be elected at the first meeting of that body and shall hold office for a period of one year and thereafter the election of such officers shall be in accordance with the by-laws of the National League or National Council. Officers.
- (2) The National League or National Council shall regulate its own procedure.
- 217.** The Registrar shall, from time to time, consult the National League or National Council with respect to matters relating to development of registered societies. Consultation by Registrar.

PART XVI

Offences

Corrupt practices and
bribery.

218. (1) Where

- (a) any member, agent or employee of a society corruptly accepts, agrees to accept, obtains or attempts to obtain whether for himself or another, any gift or consideration as an inducement reward for
 - (i) doing or forbearing to do any act relating to the business of the society, or
 - (ii) for showing favour or disfavour to any person in relation to the business of the society; or
- (b) any person corruptly gives, agrees to give, or offers such gift or consideration to any member, agent or employee of a society as inducement or reward for any purpose mentioned in paragraph (a).

he is guilty of an offence and is liable

- (i) in the case of an offence under paragraph (a), on summary conviction to a fine of \$5000 and to imprisonment for two years or both such fine and imprisonment and on indictment to imprisonment for three years,
- (ii) in the case of an offence under paragraph (b), on indictment to imprisonment for five years.

(2) In this section "consideration" includes valuable consideration of any kind.

Falsely obtaining
property of society.

219. (1) Any person who

- (a) obtains possession of any property or is granted any loan by a society by false representation or other corrupt means,
- (b) wrongfully withholds or misapplies any such property or loan, or

- (c) wilfully applies any part of the property or loan to purposes other than those directed or expressed in the by-laws of the society or authorised in this Act or the regulations,

is guilty of an offence and is liable on summary conviction to a fine of \$1,000 or to imprisonment for one year and on conviction on indictment to a fine of \$10,000 or to imprisonment for five years.

(2) In any proceedings under this section the person accused may, in addition to any penalty imposed, be ordered

- (a) to deliver up any property or repay any sum of money to which the proceedings relate, and
- (b) pay the cost of the proceedings.

220. (1) A society or any officer or member thereof or any other person

Failure to comply with Act.

- (a) who fails without reasonable cause or wilfully neglects or refuses to comply with an requirement of this Act or the regulations or to furnish any information, or
- (b) who purporting to comply with any such requirement, knowingly furnishes false information

is guilty of an offence.

(2) Any person who wilfully or without reasonable cause disobeys any summons, order or direction lawfully issued under this Act or the regulations is guilty of an offence.

(3) Any officer or member of a society who wilfully contravenes the by-laws of the society relation to his duties or functions as such officer or member is guilty of an offence.

(4) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding \$5,000 or imprisonment of six months or both and to a further fine of \$50 for each day for which the contravention continues after a conviction is obtained.

221. (1) Any person who

Dealing in property subject to charge.

- (a) fraudulently or clandestinely removes any property comprised in a charge created in favour of a society from the place where such property was situate at the time of the execution of the charge, or
- (b) knowingly disposes of, or deals with or attempts to dispose of or deal with such property without first obtaining in writing leave of the society,

is guilty of an offence and is liable on summary conviction to a fine of \$5000 and to imprisonment for six months or both.

(2) The Court may in addition to any penalty imposed on a person pursuant to subsection (1) require that person to repay such amount of the loan with interest as has not been repaid at the date of the conviction; and the payment of that amount shall discharge the liability of the borrower to repay the loan.

Offences with
respect to reports.

222. (1) A person guilty of an offence, who makes or assists in making a report, return, notice or other document, required in this Act or the regulations to be sent to the Registrar to any other person, that

- (a) contains an untrue statement of a material fact; or
- (b) omits to state a material fact required in the report or necessary to make a statement contained in the report not misleading in the light of the circumstances in which it was made.

(2) A person guilty of an offence under subsection (1) is liable on summary conviction

- (a) in the case of an individual, to a fine of \$2000 and to imprisonment for a term of one year or both.
- (b) in the case of a person other than an individual, to a fine of \$10,000.

(3) Where the person guilty of an offence under subsection (1) is a body corporate and whether or not the body corporate has been prosecuted or convicted, any director or officer for the body corporate who knowingly authorises, permits or acquiesces in the

offence is also guilty of an offence and liable on summary conviction to a fine of \$2000 and to imprisonment for a term of one year or both.

(4) No person is guilty of an offence under subsection (1) or (3) where the untrue statement or omission

- (a) was unknown to him, and
- (b) in the exercise of reasonable diligence, could not have been known to him.

223. Every person who

Contravention of Act.

- (a) without reasonable cause, contravenes a provision of this Act or the regulations for which no penalty is otherwise provided, or
- (b) fails to give any notice, send any return or document that is required for the purpose of this Act,

is guilty of an offence and is liable on summary conviction to a fine of \$2000 and to a further fine of \$100 for each day for which the contravention continues after a conviction is obtained.

224. (1) No person doing business in Antigua and Barbuda shall use the words "credit union" or "co-operative" or any or abbreviation or derivation thereof as part of its name, or with respect to its goods, wares, merchandise or services or its method of conducting its business, or hold itself out to be registered society unless it is registered under this Act.

Use of words "credit union" "co-operative".

(2) A person who contravenes this section is guilty of an offence and liable on summary conviction to a fine of \$2000 and to a further fine of \$100 for each day for which the contravention continues after a conviction is obtained.

225. Where a person is convicted of an offence under this Act or the regulations, the court may, in addition to any punishment imposed, order the person to comply with the provision of this Act or the regulations for the contravention of which he has been convicted.

Order to comply.

226. The effluxion of time is no bar to prosecution for an offence under this Act.

Limitation.

Preservation of
civil remedy.

227. No civil remedy for an act or omission under this Act is suspended or affected by reason that the act or omission is an offence under this Act.

PART XVII

MISCELLANEOUS

Interpretation.

228. In this Part,

- (a) "duplicate originals" means the two copies of the by-laws or statements required in section 229;
- (b) "statement" means a special resolution stating an intent to dissolve mentioned in section 158.

Execution and
filing.

229. (1) Where this Act requires that by-laws or a statement relating to a society shall be sent to the Registrar, unless otherwise specifically provided, the society shall send three copies of the by-laws or statement signed by a director or an officer of the society.

(2) Subject to the other provisions of this Act, where the Registrar receives duplicate originals of any by-laws or statement pursuant to subsection (1) and they are accompanied by any other required documents and the prescribed fees, the Registrar shall

- (a) endorse on each of the duplicate originals the word "Registered" and the date of the registration;
- (b) issue in duplicate the appropriate certificate and attach to each certificate one of the duplicate originals of the by-laws or statements;
- (c) file a copy of the certificate and attached by-laws or statement;
- (d) send to the society the original certificate and attached by-laws or statement; and
- (e) publish in the *Gazette* notice of the issue of the certificate.

(3) The Registrar may date a certificate mentioned in subsection (2) as of the day he receives the by-laws or statement issued pursuant

to which the certificate is issued or as of any later day specified by the person who signed the by-laws or statement.

(4) A signature required on a certificate mentioned in subsection (2) may be printed or otherwise mechanically produced on the certificate.

230. Where a notice or document is required by this Act or the regulations to be sent, the sending of the notice or document may be waived or the time for sending the notice or document may be waived or abridged at any time with the consent in writing of the person entitled to receive the notice or document. Waiver of notice.

231. (1) A director or officer of a society may Certificate of society.

(a) sign a certificate stating any fact set out in, or

(b) certify a copy of the whole or any part of,

the by-laws, or any other contract to which the society is party or the minutes of a meeting of the directors, a committee of directors or the members.

(2) A certificate or certified copy described in subsection (1) is admissible in evidence as *prima facie* proof of the facts contained in the certificate or certified copy without proof of the signature or official character of the person appearing to have signed the certificate or the certification.

232. Where a notice or document is required to be sent to the Registrar pursuant to this Act, the Registrar may accept a photo-static or photographic copy of the notice or document. Copies of documents.

233. Where the Registrar is authorised by the person who sent a notice or document or his representative, the Registrar may alter the notice or document, but he may not alter an affidavit or statutory declaration. Alteration.

234. (1) Where a certificate containing an error is issued to a society by the Registrar, the directors or members of the society shall, on the request of the Registrar Corrections.

(a) pass the resolutions and send to him the document required to comply with this Act; and

(b) take any other steps that he may require;

and the Registrar may demand the surrender of the certificate and issue a corrected certificate.

(2) A certificate corrected pursuant to subsection (1) must bear the date of the certificate it replaces.

Exemption from stamp duty and other taxes.

235. (1) Every society registered under this Act is exempt from any stamp duty, taxes and fees with which, under any law for the time being in force, instruments executed by or on behalf of such society or by an officer or member and relating to the business of such society, or any class of such instruments, are respectively chargeable.

(2) Notwithstanding anything contained in any enactment, every registered society shall be exempt from the payment of income tax, corporation tax and any other tax on the incomes of such societies.

Limitation jurisdiction.

236. Except as is expressly provided in this Act, no civil court shall have any jurisdiction in respect of any matter concerned with the dissolution of a society under this Act.

Proof of entries in books and other documents.

237. (1) A copy of any entry in a book or other document that is required to be kept by this Act shall, if certified by the Registrar be received in any legal proceedings, civil or criminal, as *prima facie* evidence of the existence 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 itself is admissible.

(2) No officer of any such 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 content of which can be proved under subsection (2), or to appear as a witness to prove any matters, transactions or accounts therein recorded, unless the Court for special reasons so directs.

Regulations.

238. For the purpose of carrying out this Act, the Minister may make regulations

(a) defining, enlarging or restricting the meaning of any word used but not defined in this Act;

- (b) requiring the payment of and prescribing the amount of any fee with respect to
 - (i) the filing, examination or copying of any document, or
 - (ii) any action that the Registrar is required or authorised to take pursuant to this Act;
- (c) prescribing the procedure for appeals to the Registrar;
- (d) prescribing business in which societies or any class of societies may not engage without the prior approval of the Registrar;
- (e) exempting any society or class of societies from any provision of this Act; and
- (f) prescribing any other matter or thing required or authorised to be prescribed by this Act.

PART XVIII

TRANSITIONAL

239. In this Part "the former Act" means the *Co-operative Societies Act*. Interpretation
Cap. 103.

240. (1) The existing directors and officers shall continue to hold office in accordance with the former Act and the by-laws of the Society. Existing directors
and officers.

(2) Where new directors of a society are to be elected after the commencement of the Act, such directors shall be elected in accordance with this Act.

241. All societies which prior to the commencement of this Act were duly registered under the former Act shall be deemed to be registered under this Act. Existing societies.

242. (1) Subject to subsection (2), the *Co-operative Societies Act* is repealed. Repeal and savings.
Cap. 103.

(2) All rules, regulations and by-laws made pursuant to the former Act shall continue in force until such time as new rules and regulations and by-laws are made.

(3) Notwithstanding subsection (1), where a society is being dissolved or liquidated pursuant to the former Act, that Act continues to apply to that society.

Commencement. **243.** This Act shall come into operation on a date to be appointed by the Minister.

Passed the House of Representatives this
14th day of January, 1997.

B. Harris,
Speaker.

S. Walker,
Clerk to the House of Representatives.

Passed the Senate this 17th day of
February, 1997.

M. Percival,
President.

S. Walker,
Clerk to the Senate.