

CO-OPERATIVE SOCIETIES ACT

ARRANGEMENT OF SECTIONS

SECTION

PART I

Preliminary

1. Short title
2. Interpretation

PART II

Director for Co-operative Development

3. Appointment of Director and other officers
4. Duties of the Director
5. Minister to foster and encourage co-operative movement

PART III

Registration of Co-operative Societies

6. Register of co-operative societies
7. Form of register
8. Societies which may be registered
9. Statement of co-operative principles
10. Application for registration
11. Requirements for registration
12. Name of society
13. Provisions of Bye-laws
14. Registration of society
15. Refusal of registration
16. Provisional registration

PART IV

Rights and Duties of Societies

17. Societies to be bodies corporate
18. Society to have registered address
19. Society to display its name
20. Amendment of registered Bye-laws

21. Registers to be kept by society
22. Extract from the register to be proof of information therein
23. Produce to be disposed of through the society
24. Charge, etc. from member's interest
25. Transfer of interest upon death

PART V

Rights and Liabilities of Members

26. Membership of a society
27. Qualification for membership of a society
28. Consent of parent, etc. to membership
29. Restrictions on members
30. Voting rights of a member
31. Liability of past members
32. Withdrawal, removal and expulsion from membership
33. Nomination of person to whom interest may pass

PART VI

Management and Administration of Societies

34. General meetings
35. Management Board
36. Authentication of documents

PART VII

Property and Funds of Societies

37. Funds and sources of capital
38. Investment of funds
39. Loans made by a society
40. Capital expenditure
41. Statutory Reserve Fund
42. Distribution of net surplus
43. Director to approve payments

PART VIII

Accounts and Audit

44. Accounting records
45. Records to be kept at registered address
46. Accounts to be audited
47. Co-operative Central Fund

PART IX

Amalgamation, Division and Strategic Partnership

48. Resolution for amalgamation of societies
49. Special General Meeting for amalgamation
50. Registration of amalgamated societies
51. Division of existing society

PART X

Settlement of Disputes

52. Settlement of disputes

PART XI

Liquidation and Judicial Management of a Society

53. Liquidation of a society
54. Liquidation due to lack of members
55. Appointment of liquidators
56. Powers of liquidators
57. Powers of the Director in liquidation
58. Appeal against liquidation's order
59. Application of funds of a society at liquidation
60. Cancellation of registration
61. Judicial management of a society
62. Appointment of judicial manager
63. Winding-up society under management

PART XII

General Powers of the Director

64. Power to provide assistance
65. Power to convene meetings
66. Power to remove Board
67. Provision of technical advice, supervision and training

PART XIII

Miscellaneous Provisions

68. Prohibition of use of "co-operative"•
69. Use of Setswana
70. Enforcement to make returns
71. Offence relating to property of a society
72. Exemption from Liability
73. General offences and penalty
74. Regulations and amendment of Schedule
75. Repeal and savings of Cap. 42:04

Schedule 1

Schedule 2

Schedule 3

Act 5, 1989,
Act 19, 2013,
S.I. 12, 2014.

An Act to provide for the registration of co-operative societies, the effective and proper management of the affairs of societies in accordance with acceptable business operational standards, the development of skills and for other matters connected with the above.

[Date of Commencement: 1st February, 2014]

PART I

Preliminary (ss 1-2)

1. Short title

This Act may be cited as the Co-operative Societies Act.

2. Interpretation

In this Act unless the context otherwise requires-

"Arbitration Committee" means a committee which is to hear and preside over cases of conflict and dispute in accordance with section 52;

"Board" means the Board of management of a society;

"bonus" means the share in the net surplus of a society divided amongst its members in proportion to the volume of business done or use made of the society's facilities; from which the surplus was derived by each member in accordance with section 42;

"Bye-laws" means registered Bye-laws made by a society in exercise of powers conferred upon it under this Act;

"Co-operative Central Fund" means the Fund established under section 47;

"Director" means the Director for Co-operative Development appointed under section 3 and includes any person to whom any of the powers of the Director have been conferred in accordance with this Act;

"dividend" means the share in the net surplus of a society divided amongst its members in proportion to the share capital held by them;

"**honorarium**" means a share in the net surplus of a society divided amongst some or all the members of the Board, chairperson, the secretary or the treasurer in consideration of their services which would not otherwise be remunerated;

"legal personal representative" in relation to a person who is dead, means the person who, in law or customary law, whichever may be applicable, represents the estate of the deceased;

"officer" includes the chairperson, vice-chairperson, secretary, treasurer, member of the Board or of any supervisory board, manager of a society, employee or other person empowered under this Act, regulations or Bye-laws of the society to give directions in regard to, or to supervise the business of a society;

"primary society" means a society whose membership is restricted to individuals;

"producer society" means a society one of whose objects is the provision of paid work for its members;

"school society" means a society whose membership is restricted to pupils and staff of a school;

"secondary society" means a society formed and mandated by primary co-operative societies to broaden and expand their economic interests or to share resources and reduce costs;

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

"**society with limited liability**" means a society in which the liability of its members is limited to the amount-

(a) unpaid on the shares held by them;

(b) undertaken to contribute to the assets of the society in the event of being liquidated;

"society with unlimited liability" means a society the members of which are jointly and severally liable-

(a) for all its obligations; and

(b) to contribute to any deficit in its assets in the event of its liquidation; and

"special resolution" means a resolution passed by a majority of not less than three-fourths of the members present and voting at a general meeting of which due notice was given for the intention of proposing the resolution and at which not less than one-half of the total membership was present.

PART II

Director for Co-operative Development (ss 3-5)

3. Appointment of Director and other officers

Subject to the laws governing the public service, there shall be appointed a Director for Co-operative Development and such other officers as may be deemed necessary.

4. Duties of the Director

(1) The Director shall be responsible for providing and administering the services required by societies for their formation, organisation, registration, operation and advancement and for the carrying out of the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the Director shall-

(a) register co-operative societies and ensure compliance with this Act;

(b) give guidance to societies in order to facilitate proper organisation, administration and efficient operations of co-operative societies;

(c) provide advice and promote training for members, officers, and employees of co-operative societies;

(d) encourage the formation of co-operative societies by providing information on co-operative principles and practices; and

(e) carry out such other duties as may be assigned by the Minister or under this Act.

(3) The Director shall prepare and present to the Minister, an annual report on the carrying out of the provisions of the Act and the operations of the registered societies.

(4) The Director may, for the purposes of ensuring efficient co-operative development, establish consultative procedures with the co-operative movement in Botswana.

(5) Any of the duties and powers of the Director under this Act may be exercised or performed by the Deputy Director if, the Director-

(a) is unable to exercise or perform the duties or powers owing to illness or absence; or

(b) authorises the Deputy Director, in writing, to perform or exercise the power or duty.

(6) The Director may delegate any of the duties and powers of the Director to any of the assistant directors or other officers.

5. Minister to foster and encourage co-operative movement

The Minister shall, in consultation with the Director, take such measures as may be necessary for the encouragement and development of a self-reliant co-operative movement which provides for the economic interests and welfare of its members, within the frame work of the national development policy.

PART III

Registration of Co-operative Societies (ss 6-16)

6. Register of co-operative societies

The Director shall keep or cause to be kept at his or her office a register of co-operative societies in which shall be entered particulars relating to the registration of societies and their Bye-laws, and which shall be open to inspection by the public at all reasonable times at no charge.

7. Form of register

(1) The Director shall maintain such other registers as may be necessary to carry out the provisions of this Act.

(2) The Minister may by regulations prescribe the form in which a register of co-operatives referred to in section 6 and any other register kept under this Act shall be maintained.

8. Societies which may be registered

The Director shall register a society which has as its principal object the promotion of the economic interests of its members in accordance with co-operative principles, or a society established with the object of facilitating the operations of such a society, with or without limited liability.

9. Statement of co-operative principles

For the purposes of this Act "co-operative principles" include-

- (a) voluntary membership open to all persons wishing to use the services of the society;
- (b) that a society is democratically administered and controlled;
- (c) members' economic participation;
- (d) that a society's activities are carried on with autonomy and independence;
- (e) promotion of education and training of societies' members on co-operatives matters and operation;
- (f) co-operation between co-operative societies at local, national and international levels; and
- (g) members' concern for community consideration.

10. Application for registration

(1) An application to register a society shall be submitted to the Director in the prescribed form and shall be signed-

- (a) in the case of a primary society, except a savings and credit co-operative society, by at least ten persons qualified for membership under section 27;
- (b) in case of a primary society that has as its object the promotion of thrift and the acceptance of saving from and the making of loans to its members for productive and provident purposes, by at least 20 persons qualified for membership under section 27; or
- (c) in the case of a secondary society by one authorised officer of at least two societies.

(2) An application referred to in subsection (1) shall be accompanied by-

- (a) three copies of the society's Bye-laws written in English or Setswana;
- (b) a report on the viability of the proposed society, presented in the prescribed form or as near thereto as circumstances may permit;
- (c) proof of the availability of the prescribed minimum capital contributed or raised by the applicants;
- (d) in the case of an application relating to a secondary society, copies of the resolutions authorising the participation of the primary society; and
- (e) the prescribed fee.

11. Requirements for Registration

(1) Before registering any society, the Director shall be satisfied that-

- (a) the application is for a *bona fide* co-operative society;
- (b) the name and Bye-laws of the proposed society comply with sections 12 and 13;
- (c) there is reasonable expectation of benefit to the members of the proposed society;
- (d) the economic and other requirements for establishing a society are met; and
- (e) the application generally complies with the provisions of this Act.

(2) The Director may request any additional information that may be required or necessary for the registration of the society.

12. Name of Society

(1) No society shall be registered by a name which-

- (a) is identical with a registered society;
- (b) so closely resembles the name of a registered society which may mislead the public as to its identity; or
- (c) is, in the opinion of the Director, undesirable.

(2) The word "co-operative" shall form part of the name of a society and the word "limited" shall be the last word in the name of a society registered with limited liability.

13. Provisions of Bye-laws

Bye-laws of a society shall be adequate for the efficient running of a society and shall include the provisions set out in Schedule 1.

14. Registration of society

(1) The Director shall upon registration of a society, issue a certificate of registration and a certified copy of its Bye-laws to the registered society.

(2) A certificate of registration signed by the Director shall be conclusive evidence that a society is registered unless it is proved that the registration of the society has been cancelled.

(3) On registration of a society the Director shall, in addition to the certificate and the Bye-laws, provide to the society a copy of this Act and regulations made thereunder at the cost of the society.

15. Refusal of registration

(1) The Director shall, where the application to register a society does not meet the requirements for registration, regret the application.

(2) Where the Director refuses to register a society he or she shall give notice and reasons for the refusal of registration, in writing.

(3) The applicant may, where the Director refuses to register a society, appeal to the Minister within one month of receipt of a notice referred to under subsection (1).

(4) The Minister shall consider an appeal lodged under subsection (3) of the lodging of the appeal and make a decision within 90 days of the lodging of the appeal.

16. Provisional registration

(1) Where, in the opinion of the Director, the proposed society has not fulfilled all the requirements for registration but can take steps to fulfil those requirements within a reasonable period, the Director may provisionally register the society for a period not exceeding two years subject to such conditions as may be specified in the certificate of registration.

(2) A provisionally registered society shall, subject to the conditions imposed by the Director, operate as and have all the powers of a society registered under this Act.

(3) A provisionally registered society shall-

- (a) state in all documents issued by it; and
- (b) display, at its head office and all other places where its name is displayed, that the society is provisionally registered.

(4) The Director may cancel a provisional certificate of registration of a society by notice in writing addressed to the society which cancellation shall serve as a refusal to register the society under section 15 and, from the date of the notice, the society shall cease to be a society under this Act.

(5) If, upon the expiry of the period for provisional registration a society has not been registered, the society shall cease to be a society under the Act.

(6) Where a society ceases to be a society under subsection (5) or (6)-

- (a) the provisions of Part XI shall apply for the settlement of the society's affairs;
- (b) the society shall surrender the provisional certificate of registration issued to it under subsection (1) to the Director for cancellation; and
- (c) the validity of any transaction by or with the society shall not be affected by the cancellation.

(7) The Director shall, where he or she is satisfied that a provisionally registered society meets all the requirements for full registration, register the society.

PART IV

Rights and Duties of Societies (ss 17-25)

17. Societies to be bodies corporate

A society shall, from the date of issue of a certificate of registration, be a body corporate under the name by which it is registered, having perpetual succession with a common seal and be capable of suing and be sued in its corporate name and subject to the provisions of this Act, of doing or performing all such acts or things as bodies corporate may, by law, do or perform.

18. Society to have registered address

A society shall have a head office and a registered address in accordance with this Act, to which all notices and communication may be addressed and, in the case of any change of the address, the secretary of the society shall promptly inform the Director who shall update the register accordingly.

19. Society to display its name

(1) A society shall display its name, in legible letters, outside every place or office in which it carries on its business.

(2) A society shall include its name in all its business letter heads, notices, publications, other official documents and in its common seal.

(3) A society shall give access to its members and the public and open for inspection, free of charge-

- (a) this Act and regulations made thereunder;
- (b) its Bye-laws; and
- (c) its members register.

20. Amendment of registered Bye-laws

(1) A society may amend its Bye-laws, including the changing of its name, by a special resolution of the members, passed at the general meeting of the society convened for that purpose.

(2) The secretary of a society shall, within 14 days of the passing of the resolution for amendments of the Bye-laws, forward three copies to the Director in the prescribed form for their registration by the Director.

(3) The Director may refuse to register the amendments forwarded to him or her under subsection (2) if, in his or her opinion, the amendments are contrary to the provisions of this Act or any regulation made thereunder.

(4) Upon registration of the amendment of Bye-laws of a society the Director shall issue a certified copy of the amendment to the society and where he or she refuses to register, the Director shall, by notice in writing, give reasons for his or her refusal to the society.

(5) A society may, within one month of receipt of a notice of refusal to register amendments to its Bye-laws, appeal to the Minister who shall promptly make his or her decision on the matter.

(6) The change of the registered address of a society shall not, where the address forms part of the Bye-laws, amount to an amendment of the Bye-laws.

(7) An amendment changing the name of a society shall not affect the rights or obligations of the society or any right of its members or past members and, any legal proceedings pending against or for a society shall continue under the new name of the society.

21. Registers to be kept by society

(1) A society shall keep a register of its members, a register of its officers and any other register or books that the Director may prescribe.

(2) A society shall include in the register-

- (a) of its members-
 - (i) the name, address and occupation of the member,

(ii) the date when a person became a member and, where applicable, the date the person ceased to be a member,

- (iii) the shares held by each member including their paid up shares, and
- (iv) the person nominated under section 33 to whom the member's interests may be transferred;

(b) of its officers, the office held by each officer and the date of appointment of each officer and where applicable, the date of termination of employment.

22. Extract from the register to be proof of information therein

(1) A register of members kept in accordance with section 21 shall be proof of any information or matter provided therein.

(2) A copy of any entry in the register or a book of a society kept in the course of business of the society shall, if certified in the manner prescribed under subsection (3), be received and accepted in any legal proceedings as a true entry in the register or relevant book without further proof, unless the court directs otherwise, and shall be treated to the same extent as the original entry.

(3) A copy of an entry in a register or a book of a society shall be certified by a declaration in writing, at the foot of the copy, that it is a true copy of the entry in the register or book kept by and which is in the custody of the society and is available for inspection, signed by one member of the Board and the secretary of the society.

(4) No officer or employee of a society shall, in any legal proceedings to which the society is not a party, be compelled-

(a) to produce a register or any book of that society the content of which can be proved by a certified copy made under this section; or

(b) to appear as a witness to prove any matter recorded in a register or any book kept by that society, unless the court, for special reasons, so directs.

23. Produce to be disposed of through the society

(1) A society which has as one of its objects the disposal of any article or produce of agriculture, animal husbandry, fisheries, forestry, handcraft, or other manufactured goods, produced by it or its members may provide in its Bye-laws or a contract made with its members to the effect that-

(a) every member producing or obtaining the article or produce shall dispose of it or a specified proportion of it through the society; and

(b) a member who acts in breach of the Bye-laws or the contract shall pay liquidated damages calculated in the manner provided in the Bye-laws or contract.

(2) It shall not be a breach of the Bye-laws or a contract under sub-section (1) where failure to meet the requirements of the Bye-laws or contract is due to the fact that there was in existence a subsisting contract to deliver an article or produce to a particular person before becoming a member or signing the contract under subsection (1) and that the existing contract was disclosed to the society when applying for membership or at the time of signing the contract.

(3) Bye-laws made or contract entered into under subsection (1) shall not be contested in any court on the ground only that it constitutes a restraint of trade on the part of the member.

24. Charge, etc. from member's interest

A society shall have a charge and be entitled to set-off any debt due from a member, past member or deceased member against any share in the society's capital or any deposit made by or dividend due to the member.

25. Transfer of interest upon death

(1) On the death of a member, a society may-

(a) transfer the membership and shares or interest in the capital of the society to a person nominated by the deceased member under section 33; or

(b) pay to the person nominated by the deceased member under section 33, or if there is no person nominated, the legal representative of the deceased member, a sum representing the value of the member's share or other interest in the capital of the society, calculated in accordance with the Bye-laws of that society or regulations made under this Act.

(2) A society with limited liability shall not transfer shares or interest under subsection (1) (a) unless the nominee or other legal beneficiary of the deceased member is qualified to be a member of a society under this Act and Bye-laws of the society.

(3) A society shall pay all other monies due to the deceased member to his or her personal representative.

(4) A society may, on demand by any person having interest, off set any debt or pay off any interest due to the person from a deceased member's share or interest in the capital of the society, where proof of the debt or interest is produced to the satisfaction of the Board.

PART V

Rights and Liabilities of Members (ss 26-33)

26. Membership of a society

(1) The first members of a society shall be the persons who sign the application for registration and shall become members upon the registration of the society.

(2) Any person who has the qualification provided under section 27 may apply to become a member of a society and shall become a member when his or her application is accepted by the Board.

(3) A member of a society shall not exercise the rights of a member until he or she has paid the membership fee and acquired shares in the capital of the society as may be set out in the society's Bye-laws.

27. Qualification for membership of a society

(1) A person shall not become a member of a primary society unless the person-

- (a) as attained the age of-
 - (i) five years, in the case of a school society,
 - (ii) 18 years in the case of any other society; or

(b) is a resident, employed within or is in occupation of land within the society's area of operation as may be prescribed in its Bye-laws; or

(2) A society registered under this Act may become a member of a secondary society.

(3) The procedure for application and signing of a membership register and other qualifications, if any, shall be as provided by the Bye-laws of a society.

28. Consent of parent, etc. to membership

No pupil shall register as a member of a society without the prior written consent of his or her parent or guardian and the head of the school and when registered the pupil shall be deemed to be of full legal capacity for purposes of contracting with the society for his or her membership.

29. Restrictions on members

(1) No person shall be a member of more than one society which has one of its objects the granting of loans to its members, without the written consent of the Director.

(2) No member of a primary society shall hold more than one-fifth of the share capital of the society and any transfer of shares by a member, past member or for a deceased member shall take into account the maximum holding.

(3) In the case of a society registered without limited liability, a member shall not transfer any share held in the society unless-

- (a) the member has held the share for at least one year;
- (b) the transfer is made to the society or another member of the society; or
- (c) the transfer is made to a person whose application for membership has been accepted by

the society.

30. Voting rights of a member

(1) Each member of a primary society shall have one vote in the deciding of any matter in the affairs of the society and shall vote in person and not by proxy.

(2) Each member of a secondary society shall have such voting rights and may appoint such number of delegates not exceeding the number of votes allocated, as may be prescribed in the society's Bye-laws.

31. Liability of past members

The liability of a past member or the estate of a deceased member is limited to the liability which existed at the date of termination of membership or at the death of the member and shall cease after one year from the date of termination of the membership or death.

32. Withdrawal, removal and expulsion from membership

(1) A member may withdraw from a society by giving notice to the Board as may be prescribed by the society's Bye-laws.

(2) The name of a member who ceases to qualify for membership shall be struck from a register of members following a resolution of the Board to that effect and after the resolution the member shall cease to be a member.

(3) Bye-laws made by a society shall provide the procedure for the expulsion of a member by a special resolution of the members to that effect for persistent contravention of this Act, regulations made thereunder or Bye-laws of the society.

(4) Any complaint against a member for persistently contravening the Act, regulations or Bye-laws shall be made to the Board in writing and the Board may, after considering the complaint and hearing the member, recommend to the general meeting of that society for the member to be expelled.

(5) A notice of at least 14 days before a general meeting at which the expulsion of a member is to be considered shall be given to the member concerned, specifying-

- (a) the time, date and place of the general meeting;
- (b) the complaint against that member and the recommendation made by the Board; and
- (c) details of member's rights, including attending the meeting and presenting his or her defence before the meeting.

33. Nomination of person to whom interest may pass

(1) On being registered as a member of a society, the member may nominate persons who shall be beneficiaries to whom his or her membership and shares or other interest in the capital of the society may be transferred in case of death of the member or if the member becomes incapacitated beyond recovery.

(2) A member may, at any time, cancel, change or substitute the nomination made under subsection (1).

(3) A nomination, cancelling or change in the nomination made under this section shall be in writing and signed by a member in the presence of two attesting witnesses; and shall be recorded in the register of members.

(4) The procedure to determine incapacitation beyond recovery shall be as prescribed by Bye-laws of a society.

PART VI

Management and Administration of Societies (ss 34-36)

34. General meetings

(1) The authority of a society shall vest in a general meeting of members of a society as joint owners of the society and, subject to section 26 (3), every member shall have a right to attend and participate in the activities of the general meeting.

(2) Subject to this Act a general meeting of a society shall make its policy decisions to be followed and implemented by the Board and the Board shall implement policy decisions.

(3) The procedure to be followed in a general meeting shall be as provided in Schedule 2 and the Bye-laws of a society.

35. Management Board

(1) A society shall have a Board of management consisting of, in the case of-

- (a) a primary society, at least three members; or
 - (b) a secondary society and a savings and credit society, at least five members,
- as may be provided in the Bye-laws of the society.

(2) The Board of a society shall be responsible for the general management, direction and supervision of the business of the society subject to this Act, regulations made thereunder, the Bye-laws of that society and the general direction of a general meeting.

(3) The procedure for meetings of the Board and the elections of members of a Board as well as the qualification of the members of a Board shall be as provided in the Bye-laws of a society.

36. Authentication of documents

The authentication of any document requiring authentication by a society shall be by the signature of a member of the Board authorised to do so by the Board and the secretary of the society or as may be provided in the Bye-laws of that society.

PART VII

Property and Funds of Societies (ss 37-43)

37. Funds and sources of capital

(1) The capital and funds of a society may be raised from-

- (a) membership fees;
- (b) payment of shares;
- (c) savings deposits from members;
- (d) surplus carried to reserve funds;
- (e) loans or deposits from non-members; and
- (f) grants and donations.

(2) The funds of a society shall be devoted to-

- (a) the carrying out of the objects of the society;
- (b) the administration of the society; and
- (c) any other purpose authorised by this Act, regulations made thereunder or the Bye-laws of the society.

(3) Notwithstanding the generality of subsection (1)-

- (a) a society shall not refund members except where the application for registration is refused;
- (b) a society shall not redeem shares except in accordance with the Bye-laws of the society and subject to the minimum shareholding specified in the Bye-laws;
- (c) savings deposits of a society shall be made and may be withdrawn in accordance with the Bye-laws of the society;
- (d) loans and deposits of a society shall be in accordance with the Bye-laws of the society.

38. Investment of funds

A society may invest or deposit its funds with any bank authorised to operate as such under the Banking Act (Cap. 46:04) or in any other manner as its Board may determine.

39. Loans made by a society

(1) Except with specific permission of the Director, a society shall not-

- (a) give a loan to any person who is not a member of the society or member of another society; or
- (b) lend money on the security of any movable property other than produce or goods in which the society is authorised to deal.

(2) The Minister may, by regulation prohibit or restrict the lending of money on a mortgage on any particular description of immovable property by any society.

40. Capital expenditure

A society may utilise its funds for capital expenditure, including the acquisition of land, buildings, vehicles, plant or machinery as may be determined by its Board subject to section 37 (2).

41. Statutory Reserve Fund

(1) Every society shall establish a Statutory Reserve Fund which shall be indivisible and in which no member shall be entitled to claim a specified share.

(2) A society shall pay into the Statutory Reserve Fund at the end of each financial year at least 25 percent of the net surplus shown in the audited annual accounts.

(3) The Director may, by written order in the case of a society with limited liability, grant exemption, wholly or partly, from contributions to the Statutory Reserve Fund and may revoke the exemption at any time.

(4) The Statutory Reserve Fund may be-

(a) invested in the manner provided in section 42; and

(b) utilised in the business of a society or for capital expenditure as the Board may deem necessary.

(5) On the liquidation of a society the Statutory Reserve Fund shall be applied in the discharge of liabilities of the society in the manner authorised by section 62.

42. Distribution of net surplus

(1) Subject to section 41(1) the net surplus of a society together with any unallocated surplus remaining from past years which is available for distribution may be-

(a) allocated to other funds of the society;

(b) divided amongst the members by dividend or bonus; or

(c) used to pay honorarium to officers of the society as may be authorised by the Bye-laws of that society.

(2) Bye-laws of a society may establish a fund for the redemption of bonus certificates or shares, a share transfer fund, an education and training fund or any other fund for the efficient operation of the society.

(3) No society shall pay dividend on shares-

(a) in excess of 10 percent of the paid up value of the shares or such other figure as may be specified by regulations; and

(b) while any claim due to a creditor from the society remains unsatisfied.

(4) No society with unlimited liability which receives loans, deposits or goods on credit from its members shall distribute its surplus until 10 years from the date of its registration have elapsed, but the society shall deposit such surplus to its Statutory Reserve Fund.

(5) Bye-laws of a society may provide for the distribution of any part of the free net surplus in the form of bonus certificates or bonus shares.

(6) A bonus certificate shall entitle the holder to claim payment of the sum for which the certificate is issued out of the society's funds on a date specified in the certificate, which date shall not be earlier than five years from the date of issue of the certificate and no interest or dividend shall be paid on a bonus certificate.

(7) A bonus share may not be withdrawn or transferred before the expiry of 10 years from the date of issue unless the holder has ceased to be a member.

43. Director to approve payments

(1) No society shall pay any dividend or bonus in cash or by bonus certificate or shares unless the scheme of division has been approved by the Director.

(2) The Director shall approve the scheme of division prepared by the Board before it is submitted to a general meeting and if the general meeting decides to alter the scheme, it shall be resubmitted to the Director for approval before payments are made.

(3) The Director shall not approve payment of dividend by a society with unlimited liability unless its share capital and reserve are paid up and are sufficient to cover its liabilities to non-member.

PART VIII

Accounts and Audit (ss 44-47)

44. Accounting records

(1) A society shall maintain the prescribed accounting records, which records shall be sufficient to show and explain the society's transaction and-

(a) disclose with reasonable accuracy, at any given time, the financial position of that society;
and

(b) enable the Board to ensure that the statement of comprehensive income and the statement of financial position required by the Act are complied with.

(2) The accounting records referred to in subsection (1) shall contain-

(a) entries from the day-to-day statement of comprehensive income of the society and matters in respect of which they are made;

(b) a record of assets and liabilities of a society; and

(c) a society's business involves dealing in goods, a statement of stock of goods held by the society at regular intervals.

45. Records to be kept at registered address

The records of accounts of a society shall be kept at the registered address of the society or such other place that the Board may decide and shall be open for inspection by members.

46. Accounts to be audited

(1) The accounts of every society shall be audited at least once every year by an auditor or auditors-

(a) authorised by the Director to audit the accounts of well established societies generally;

(b) appointed by the Director to audit the accounts and give guidance to start-up and newly established societies; or

(c) authorised or appointed by the Director to audit the accounts of a specified society.

(2) A report on the audited accounts of a society shall be presented to the Director and the Annual general meeting within three months of being presented to the Board.

(3) The details on the audit report and other matters relating to auditing of accounts of a society shall be as prescribed by regulations and Bye- laws of a society.

47. Co-operative Central Fund

(1) There shall be a Co-operative Central Fund (in this section referred to as the Fund) which shall be used for the co-operative movement in Botswana, to develop and maintain co-operative education, training, audit and in any other way that the Director may consider beneficial to the co-operative industry.

(2) Every society shall make an annual contribution to the Fund as may be determined by the Director.

(3) The Director may determine different amounts of contribution for different classes of societies but in any case the contribution of a society shall not be less than P100 and not more than 10 percent of the gross annual turnover of the society, whichever is greater.

(4) The Director shall administer the Fund and shall annually, report to the Minister on the total amount of the Fund, including the total contribution received, expenditure made and the purpose for which expenditure was made.

(5) Where a secondary society is to conduct or is conducting an educational or training programme under this Act, it may apply to the Director to be allocated a portion of the fund to assist the secondary society in the execution of the programme.

(6) The annual contribution of a society to the Fund may be levied at a lower rate or dispensed with where the society's accounts are audited by a secondary society.

PART IX

Amalgamation, Division and Strategic Partnership (ss 48-51)

48. Resolution for amalgamation of societies

(1) Two or more societies may, by a special preliminary resolution of each intending society and with the approval of the Director, resolve to amalgamate and form one society.

(2) A notice detailing the rights of its members under subsections (3), (4) and (5), together with a copy of the special preliminary resolution passed under subsection (1) shall, within seven days from the meeting at which the resolution was passed, be sent by each society to-

(a) all its members and creditors; and

(b) all other persons whose known interests in the society will be affected by the amalgamation.

(3) A member of any of the amalgamating societies may, within two months from the date of the passing of a preliminary resolution under subsection (1), by notice in writing to his or her society, express his or her intention not to become a member of the amalgamated society, notwithstanding any bye-law to the contrary.

(4) A creditor of any of the amalgamating societies may, within two months from the date of the passing of a preliminary resolution under subsection (1), by notice in writing given to the relevant society, express his or her intention to demand the payment of the money or other interest due to him or her notwithstanding any bye-law to the contrary.

(5) Any other person whose interests is or will be affected by the amalgamation societies may, within two months from the date of the passing of the preliminary resolution under subsection (1), by notice in writing given to the relevant society, object to the amalgamation unless his or her claim is satisfied.

49. Special General Meeting for amalgamation

(1) Each society intending to amalgamate shall, not less than three months after the passing of a preliminary resolution under subsection (1), hold a Special General Meeting to consider the preliminary resolution and any notice received under section 48.

(2) At a Special General Meeting held under subsection (1), a second resolution shall be made by the society in relation to-

- (a) the repayment of the share capital of any member who has given notice under subsection 48(3);
- (b) the satisfaction of claims by creditors who have given notice under subsection 48(4);
- (c) the satisfaction or securing of claims of other persons who have given notice under subsection 48 (5) as the Director may determine or direct; and
- (d) the confirmation of the preliminary resolution.

(3) No member, creditor or other person having interest in a society shall be paid for his or her shares or interest until a preliminary resolution is confirmed by the society at a Special General Meeting.

50. Registration of amalgamated societies

(1) If, within such time as the Director may consider reasonable, he or she is satisfied that the provisions of the second resolution of each amalgamating society and the provisions of this section have been complied with, and the certificates of registration of the amalgamating societies have been returned, the Director may register the amalgamated society and its Bye-laws in accordance with section 14 and thereafter-

- (a) the registration of the amalgamating societies shall be cancelled and the amalgamating societies shall stand dissolved;
- (b) all assets and liabilities of the amalgamating societies shall vest in the amalgamated society;
- (c) the remaining members of the amalgamating societies shall become members of the amalgamated society and subject to its Bye-laws; and
- (d) any creditor of any of the amalgamating societies whose claim was not satisfied in accordance with the second resolution may pursue such claim or cause of action against the amalgamated society.

(2) Any person aggrieved by a decision of the Director not to register an amalgamating society may appeal to the Minister.

51. Division of existing society

(1) An existing society may, by a special preliminary resolution and with the approval of the Director, resolve to divide itself into two or more new societies.

(2) A preliminary resolution under subsection (1) resolution shall state the proposed names and type of societies into which the existing society will be divided and may specify the area of operation of, and the members who will constitute each of the new societies.

(3) A notice detailing the rights of its members under subsections (4), (5) and (6), together with a copy of a special preliminary resolution passed under subsection (1) shall, within seven days from a meeting at which the resolution was passed, be sent by a society to-

- (a) all its members and creditors; and
- (b) all other persons whose known interests in the society will be affected by the division.

(4) A member of an existing society may, within two months from the date of the passing of a preliminary resolution under subsection (1), by notice in writing to his or her society, express his or her intention not to become a member of the new society.

(5) A creditor of an existing society may, within two months from the date of the passing of a preliminary resolution under subsection (1), by notice in writing given to the society, express his or her intention to demand the payment of the money or other interest due to him or her.

(6) Any other persons whose interests is or will be affected by the division of the society may, within two months from the date of the passing of the preliminary resolution under subsection (1), by notice in writing given to an existing society, object to the division unless his or her claim is satisfied.

(7) The provisions of section 50 shall apply to the division of a society with such modification as may be appropriate for the dividing of a society.

PART X

Settlement of Disputes (s 52)

52. Settlement of disputes

(1) If any dispute concerning the business of a society arises-

- (a) among members, past members and persons claiming through members, past members or deceased members;
 - (b) between members, past members and persons claiming through members, past members or deceased members, and the society, its board or any officer or employee; or
 - (c) between the society and any other society,
- the dispute shall be referred, in a prescribed form, to an Arbitration Committee appointed under subsection (2).

(2) The Arbitration Committee referred to under subsection (1) shall consist of three members appointed by the Director, one of whom shall be a member of a society.

(3) A claim by a society for any debt, demand or damages, other than debts or demand arising from the business transacted in the normal course of business, due to the society from-

- (a) a member, past member or nominee or legal representative of a deceased member;
- (b) an officer or employee of the society, past or present; or
- (c) any heir or legal representative of a deceased officer,

whether such debt, demand or damages be admitted or not, shall be deemed to be a dispute between the person referred to in paragraph (a), (b) or (c) and the society within the meaning of this section.

(4) This section shall not apply to any dispute between a society and its employee arising out of the employee's contract of service.

(5) The Arbitration Committee shall, hear and decide the dispute referred to it under subsection (1).

(6) Any party aggrieved by an award made by the Arbitration Committee under subsection (5) may appeal to the Director in accordance with the provisions of Schedule 3.

(7) The procedure of the Arbitration Committee shall be as provided in Schedule 3.

PART XI

Liquidation and Judicial Management of a Society (ss 53-63)

53. Liquidation of a society

(1) The Director may-

- (a) after inspection or investigation as may be provided by regulations; or
- (b) on application by three-fourths of the members of a society, make an order for the liquidation of the society, if he or she is satisfied that the society ought to be dissolved.

(2) Any member of a society may, within six weeks from the date an order is made under subsection (1), appeal to the Minister against the order.

(3) Where no appeal is made under subsection (2), the order shall take effect on the expiry of the period of six weeks referred to under subsection (2) and where an appeal is made the order shall not take effect until confirmed by the Minister.

(4) No society shall be liquidated save by order of the Director in terms of this Part.

54. Liquidation due to lack of members

The Director may, in writing, order the liquidation of a society if at any time it is proved to his or her satisfaction that the number of members has been reduced to less than the minimum number of members required by section 10 and an order made under this section shall take effect on the date it is made.

55. Appointment of liquidators

(1) Where an order for the liquidation of a society is made, the Director may either before or after the order takes effect, appoint one or more persons, to be liquidator or liquidators of the society.

(2) From the date of appointment of a liquidator or liquidators, all movable and immovable property, rights and liabilities of a society shall vest in the liquidator or liquidators.

(3) Where an appeal made under section 53(2) is upheld by the Minister an order for liquidation is set aside, the appointment of the liquidator or liquidators shall cease and the property, rights and liabilities shall revert to a society but without prejudice to the validity of any acts lawfully performed by the liquidator or liquidators.

56. Powers of liquidators

(1) A liquidator shall, subject to the direction of the Director, have powers to-

- (a) take possession of the books, documents and assets of a society;
- (b) appoint a day, by notice in the *Gazette*, before which creditors whose claims are not yet recorded in the books of a society shall state their claims for admission and after the deadline, any claim which is not stated shall be excluded from any distribution made in the process of winding-up;
- (c) call such general meeting of members and creditors of a society as may be necessary for the proper conduct of the liquidation;
- (d) carry on the business of a society so far as may be necessary for winding-up beneficially, but the liquidator shall not be entitled to grant any loan;
- (e) give such directions in regard to the collection and distribution of assets of a society as may be necessary in the course of winding-up the society;
- (f) sell the property of a society;
- (g) decide in accordance with the law relating to insolvency, and subject to the provisions of section 59, any question of priority which arises between creditors of a society;
- (h) refer a dispute to arbitration and institute and defend suits and other legal proceedings on behalf of a society;
- (i) compromise any claim by or against a society with the approval of the Director;
- (j) determine from time to time the contribution to be made by members and past members or by the estate of a deceased member to the assets of a society;
- (k) decide by which persons and in what proportions the costs of liquidation of a society are to be borne; or
- (l) arrange for the distribution of assets of a society in a convenient manner when a scheme or distribution has been approved by the Director.

(2) A liquidator appointed under this Act may, in so far as such powers are necessary for the carrying out of his or her functions-

- (a) summon and enforce the attendance of parties and witnesses;
- (b) examine witnesses on oath; or
- (c) compel the production of documents required for its cause under this Act.

57. Powers of the Director in liquidation

The Director may-

(a) rescind or vary any order made by a liquidator or liquidators and make such other order as may be required;

(b) remove a liquidator from office;

(c) call for all books, documents and assets of any society;

(d) by order in writing limit the powers of a liquidator or liquidators;

(e) require accounts of a society to be submitted to him or her by the liquidator;

(f) procure the auditing of the liquidator's accounts and authorise the distribution of the assets of a society;

(g) make an order for the remuneration of the liquidator; or

(h) refer any matter in dispute, between the liquidator and any third party to arbitration, if that party consented in writing to be bound by the decision of the arbitrator.

58. Appeal against liquidator's order

(1) An appeal against an order of a liquidator shall be made to the Director and any appeal against a decision of the Director shall be made to the Minister.

(2) Any order made under section 54 or 55 shall be enforced as if it were a judgment or an order of court.

59. Application of funds of a society at liquidation

(1) The application of the society's assets, including the Statutory Reserve Fund at the closure of liquidation, shall be as may be provided in regulations made under this Act.

(2) Any surplus remaining after the application of the funds for the purposes specified by regulations under subsection (1) and the payment of any outstanding claims for which action is instituted within the period specified in regulations, shall not be divided among the members but shall be transferred to the Co-operative Central Fund.

(3) If within two years from the time the Co-operative Central Fund was credited with funds from a liquidated society a new society is registered, operating in substantially the same area as the dissolved society, the Director shall credit all or part of the funds to the new society.

60. Cancellation of registration

When the winding-up of a society is completed under this Act the Director shall cancel the registration of the society and, by notice, publish the cancellation in the *Gazette*.

61. Judicial management of a society

(1) The Court may on application-

(a) by the Director, after inspection or investigation as may be provided by regulations; or

(b) by the members of a society, where a special resolution of the members has been passed at a general meeting,

make an order for judicial management of the society, if it is satisfied that the society ought to be under judicial management.

(2) Any member of a society may, within six weeks from the date an order was made under subsection (1), appeal against the order.

(3) Where no appeal is made under subsection (2), the order shall take effect on the expiry of the six weeks and where an appeal is made the order shall not take effect until the appeal is discharged.

62. Appointment of judicial manager

(1) Where an order for the judicial management of a society is made, the court may either before or after the order takes effect, appoint a judicial manager of the society.

(2) From the date of appointment of the judicial manager of a society, all movable and immovable property, rights and liabilities of the society shall vest in the judicial manager.

(3) Where an appeal made under section 61 (2) is upheld and the order for judicial management is set aside, the appointment of the judicial manager of a society shall cease and the property, rights and liabilities shall revert to the society but without prejudice to the validity of any acts lawfully performed by the judicial manager.

(4) A judicial manager of a society shall, subject to the direction of the Director, have powers to-

(a) take possession of the books, documents and assets of the society;

(b) appoint a day, by notice in the *Gazette*, before which creditors whose claims are not yet recorded in the books of the society shall state their claims for admission and after the deadline, any claim which is not stated shall be excluded from any distribution made in the process of judicial management;

(c) call such general meeting of members and creditors of a society as may be necessary for the proper conduct of the judicial management;

(d) carry on the business of the society so far as may be necessary but the judicial manager shall not be entitled to grant any loan;

(e) give such directions in regard to the collection of assets of a society as may be necessary in the management of the society;

(f) refer a dispute to arbitration and institute and defend suits and other legal proceedings on behalf of the society;

(g) compromise any claim by or against the society with the approval of the Director; and

(h) determine from time to time the contribution to be made by members and past members or by the estate of a deceased member to the assets of the society.

63. Winding-up society under management

The provisions of this Part shall apply in the case of winding-up of a society under judicial management.

PART XII

General Powers of the Director (ss 64-67)

64. Power to provide assistance

The Director or a secondary society authorised by the Director, one of whose objects is the provision of advisory services, shall provide or cause to be provided such technical information and advice regarding the conduct of the affairs of a society as may be necessary to assist its officers and members in complying with this Act and achieving its objects.

65. Power to convene meetings

(1) The Director may call a general meeting of a society if the society fails to hold an annual general meeting in a year and may at any time call a special general meeting at a date, time and place that shall be specified in the notice calling the meeting including the matters to be discussed.

(2) A notice of a meeting called under subsection (1) may give less days than what may be specified in the Bye-laws of a society in relation to notice of meetings.

(3) The Director or a person nominated by the Director shall preside at a meeting held under this section.

(4) Notwithstanding any other provision of this Act, any regulations or bye laws, a meeting held under this section shall have all the powers of a general meeting of a society and its *quorum* shall be the number of members or delegates that attend the meeting.

(5) Where, on receipt of a report on a society after any inspection or any investigation the Director is satisfied that there are operations or activities of the society which are improper, unlawful or inefficient, the Director or a person authorised by the Director may cause a meeting of the society or its Board to be convened during which he or she shall point out the irregularities and give the necessary guidance to the society or the Board.

66. Power to remove Board

(1) Where, after an investigation into a society, it is disclosed that the Board of the society has failed in its functions or has acted in a way which is detrimental to the interests of the members or creditors of the society and the society has thereby been significantly prejudiced, the Director may make a recommendation to the Minister to remove all or some of the members believed to be responsible for the failure of the Board.

(2) If the Minister finds the recommendation of the Director made under subsection (1) reasonable, he or she shall inform the concerned members of the recommendation and their right to make written submission, within 14 days, as to why the recommendation should not be accepted.

(3) The Minister may, after due consideration of any submission made by the concerned members, order that all or some members cease to be members of the Board.

(4) The Director shall within one month of the removal of the members of the Board under subsection (3) convene a special general meeting to replace the members who have been removed.

67. Provision of technical advice, supervision and training

(1) Subject to subsection (2) the Director or a person authorised by him or her shall inspect, monitor and where necessary offer technical advice, guidance, support supervision and training to enable a society to achieve the required targets.

(2) Action may be taken under subsection (1) if-

- (a) a society is provisionally registered under section 16;
- (b) it is necessary to assist a society to achieve its objects or protect the interest of its members;
- (c) a society has, directly or indirectly, received a grant or loan from the Government or a Government agency; or
- (d) a loan made to a society has been guaranteed by the Government or Government agency and the guarantee is still outstanding.

PART XIII

Miscellaneous Provisions (ss 68-75)

68. Prohibition of use of "co-operative"•

No person, association or organisation shall trade or carry on business under any name or title part of which is the term "co-operative" or "tshwaragano", without the written consent of the Director.

69. Use of Setswana

(1) The Director may, where it is desirable, cause the Bye-laws of a society or any model Bye-laws prepared under his or her authority to be translated into Setswana.

(2) Any forms or returns prescribed under this Act or regulations made thereunder or Bye-laws of a society may be issued in English or Setswana but, in case of any conflict between the English and Setswana versions, the English version shall prevail.

70. Enforcement to make returns

If a society has failed to comply with-

- (a) any provision of this Act requiring it or its officer to file or submit any return, accounts or document or to give notice to the Director; or
- (b) any notice within 14 days after the notice has been served to it by the Director, the Director or any member of the society may apply to court for an order directing that society or officer concerned to make good the default specified in the order within a specified period.

71. Offence relating to property of a society

Any officer or member of a society or any other person who-

- (a) by false representation or theft, obtains possession of any property belonging to the society;
- (b) has in possession any property belonging to the society and unlawfully withholds that property; or
- (c) willfully applies any property of the society for any unlawful purpose, commits an offence and is liable to a fine not exceeding P10 000, or to imprisonment for a term not exceeding one year, or to both.

72. Exemption from Liability

No matter or thing done or omitted by the Director, officer, clerk, Government officer or any person lawfully acting on behalf of the Director shall, if the matter or thing is done *bona fide* in the course of his or her duties, render that person personally liable to an action, claim or demand.

73. General offences and penalty

(1) Any person who-

- (a) fails to do or cause to be done any act or thing which is required by this Act or any regulations made thereunder;
- (b) does any act prohibited by this Act or any regulations;
- (c) wilfully neglects or refuses to do any act or to furnish any information required to be given to the Director under this Act;

(d) willfully makes false return or furnishes wrong information to the Director; or
(e) willfully performs any act requiring the consent of the Director without obtaining that consent,
commits an offence and is liable to a fine not exceeding P10 000, or to imprisonment for a term not exceeding one year, or to both.

(2) Any person who-

(a) acts or purports to act as an officer of a society when he or she is not an officer of that society; or
(b) willfully and without reasonable excuse disobeys any order, summons or requirement issued under this Act,
commits an offence and is liable to a fine not exceeding P10 000, or to imprisonment for a term not exceeding one year, or to both.

74. Regulations and amendment of Schedule

(1) The Minister may make regulations prescribing anything which is to be prescribed under this Act or which is necessary for the better carrying out the objects of this Act or to give effect to its provisions.

(2) The Minister may, by Order published in the *Gazette*, amend the Schedules to this Act.

75. Repeal and savings of Cap. 42:04

(1) The Co-operative Societies Act (hereinafter referred to as "the repealed Act") is hereby repealed.

(2) Notwithstanding the repeal under subsection (1) all subsidiary legislation and Bye-laws of any society made under the repealed Act shall, so far as they are not inconsistent with this Act, continue in force as if made under this Act and-

(a) any society registered under the repealed Act shall be deemed to have been registered under this Act;
(b) any register kept under the repealed Act shall be part of the register kept under this Act;
(c) any document referring to a provision of the repealed Act shall be construed as referring to the corresponding provision of this Act; and
(d) any order, direction, appointment or other act lawfully carried out under the repealed Act and in force immediately before the commencement of this Act shall be deemed to have been carried out under the corresponding provision of this Act.

SCHEDULE 1 PROVISIONS TO BE INCLUDED IN THE BYE-LAWS

(section 13)

1. The following provisions shall be included in the Bye-laws of every society-

(a) the name of the society;
(b) the place and postal address of the registered office;
(c) the objects for which the society is established, including the purpose for which its funds may be applied;
(d) the common bond;
(e) the qualification for membership and the terms of admission and withdrawal of members;
(f) the value of each share and the term of issue, cancellation, withdrawal or transfer as the case may be;
(g) the minimum share qualification for each member, the minimum amount payable on application and the method of payment of any amount remaining unpaid on the minimum share qualification;
(h) the manner of raising funds and the maximum rate of interest on deposits;
(i) the nature and extent of the liability of members;
(j) the entry and membership fees if any;
(k) the procedure for summoning general meetings and the procedure and powers of such meetings;
(l) the offices, the procedure for election, the term of office and the procedure for removal of members of the Board of management;
(m) the procedure for the appointment, the term of office and the removal of officers of the society and provisions defining the powers of the officers;
(n) the powers and duties of the Board of management;

(o) the procedure for authorisation of an officer or officers to sign documents on behalf of the society;

(p) provisions governing the disposal of accumulated funds and the distribution of the annual net surplus or profits; and

(q) restrictions on transactions with non-members.

2. Where the objects of a society include the creation of funds to be lent to members, the following provisions shall be included in the Bye-laws as requirements for processing a loan-

(a) the place of work, occupation or residence of applicant; and

(b) the conditions upon which a loan may be made to a member, including-

(i) the rate of interest,

(ii) the maximum amount that may be given to a member,

(iii) the purpose of the loan,

(iv) the extension of the term or renewal of a loan, and

(v) the maximum period for which a loan can be made, and the security for repayment.

3. In the case of a secondary society, the Bye-laws shall provide for the method of representation of members at general meetings, the appointment of delegates and the manner of voting.

4. Bye-laws shall provide for the *quorum* at meetings, business at general meetings and procedure in general meetings.

SCHEDULE 2 PROCEEDINGS AT GENERAL MEETINGS

(section 34)

1. (1) A written notice of at least 14 days shall be given to members in respect of each general meeting.

(2) The notice referred to under paragraph (1) shall specify the place, day and time of the meeting and in case of any special business to be discussed, the general nature of the business.

2. The fact that a person entitled to receive notice of a general meeting did not receive the notice shall not invalidate the proceedings of that meeting as long as the dispatch of the notice is established to the satisfaction of the Board.

3. The chairperson of the society or the vice chairperson shall preside at a general meeting and in their absence a member elected by the members present shall preside.

4. Each member of a society shall have one vote which shall be exercised personally and not by proxy.

5. The secretary of a society or a person delegated by the secretary shall take the minutes of the meetings of a society.

SCHEDULE 3 PROCEDURE OF THE ARBITRATION COMMITTEE

(section 52 (6))

1. Reference of a dispute to the Arbitration Committee under section 54 shall be made by-

(a) the Board;

(b) the society in accordance with a resolution of a general meeting;

(c) any party to the dispute; or

(d) where the dispute concerns a member of the Board, any member of the society.

2. A reference to the Arbitration Committee shall be made in writing addressed to the committee and shall-

(a) state the date the reference is made;

(b) the matter of dispute including the full particulars of the dispute; and

(c) be signed by the party making the reference.

3. (1) The proceedings before the Arbitration Committee shall, as nearly as possible, be conducted in the same way as proceedings before a court of law but no legal practitioner shall be allowed to represent either party.

(2) Notice of at least 10 days stating the time and place of the proceeding shall be given to the parties to the dispute.

(3) Without prejudice to subparagraph (1), during the proceedings the Arbitration Committee shall have power to-

- (a) administer oaths;
- (b) require the attendance of the parties and witnesses by summons delivered orally, by person or sent by post under registered cover or through the nearest civil court having jurisdiction in the area in which the society carries on business;
- (c) require the production of all necessary books and documents from any person in the manner specified under (b);
- (d) to order the expenses incurred in determining the dispute to be paid out of the funds of the society or by any or all parties to the dispute as it may deem fit;
- (e) where any party to the dispute who was duly summoned fails to attend, hear and decide the dispute *ex parte*;

(4) A record of evidence adduced at the hearing shall be marked, cited and initialed by the chairperson of the Arbitration Committee and shall be attached to the file of the proceedings.

(5) The Arbitration Committee shall hear the evidence of the parties and their witnesses and after consideration of the oral and any documentary evidence produced, shall give its decision which shall be announced to the parties and be reduced in writing.

4. Any award of the arbitration shall-

- (a) be in writing;
- (b) be dated and signed by the chairperson or other authorised member of the Arbitration Committee; and
- (c) state the amount of cost and expenses of arbitration, if any, and by which party or parties the same are to be paid.

5. Upon the completion of the proceedings, the Arbitration Committee shall forward to the Director-

- (a) the file of proceedings; and
- (b) the award.

6. (1) Any appeal to the Director shall be made within 30 days from the date of the decision of the Arbitration Committee, in writing stating the grounds of appeal.

(2) The appeal shall be accompanied by a deposit of money prescribed by the Director for the purpose, which deposit shall be refunded to the appellant after the disposal of the appeal unless the Director is of the opinion that the appellant had no reasonable ground for the appeal, in which case the money shall be deposited to the Co-operative Central Fund.