Co-operative Societies Act.

PART I – PRELIMINARY

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1. Short title

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

2. Interpretation

In this Act –

"Applicant" means a body of persons which has made an applications under Section 6;

"arbitrator" means a person appointed under section 62 (2) (b);

"associate member" means a member referred to in section 18;

"audit" means an audit under section 53;

"bonus" means a share of the surplus derived by a society from a business which is divided among its members in proportion to the part of that business done by each of them with the society;

"class" means a class of society specified in the first column of the Schedule;

"Committee" means the controlling body of a society by whatever name called;

"Credit Union" means a society whose objects are to promote thrift among, and provide credit to, its members;

"determination" means a decision or an order under section 7 (3), 9 (7) or (9), 11 (2) or (4), 15 (1), 17 (7), 39 (3) or (4), 40 (1) or (4), 43 (6), 49 (1) or (4), 57, 59 (3) or (4), 61, 64, 67, 69 or 70;

"dispute" means a dispute referred to the Registrar under section 62 (1);

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

"federal society" means a society of which not less than three fourths of the members are societies;

"financing bank" means a society the objects of which include the creation of funds to be lent to other societies or to the members of other societies;

"Fund" means the Co-operatives Assistance Fund established under the Finance and Audit Act;

"Inquiry" means an inquiry under section 56;

"Inspection" means an inspection under section 55;

"limited", in relation to the liability of a society, means limited by shares or limited by guarantee;

"liquidator" means a person appointed under section 68;

"member" means a person –

- who has subscribed or has authorised a person to subscribe the rules of a body of persons which intends to apply for registration; or admitted to membership of a society;

"members' register" means the register required to be kept

under section 23 (1) (d);

"Officer" –

- means a person elected or appointed by a society to any office
- of the society; and

includes a chairman, vice-chairman, managing director, manager, secretary, treasurer, member of a committee and any other person empowered by this Act to give directions in regard to the business of the society;

"Primary society" means a society made up of individuals and bodies corporate other than a society;

"Provident fund" means a fund established under section 41;

"register" means the register required to be kept under section 5 (1);

"registered" means registered under this Act;

"Registrar" means the Registrar, Co-operative Societies;

"rules" means the rules of a society;

"Schools society" means a society the membership of which is restricted to the pupils and staff of a school;

"Society" means a registered co-operative society;

"Society with limited liability" means a society in which the liability of the members is limited by its rules to –

- the amount unpaid on the shares held by them; or such amount as they may undertake to contribute to the assets of the society in the event of its being wound up;

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

- for and in respect of all its obligations; and
- to contribute to any deficit in the assets of the society in the event of its being wound up;

"Tribunal" means the Co-operative Tribunal established under secion 75.

[Amended 15/95]

3. Act to bind the state

This Act shall bind the State.

[Amended 48/91]

PART II – REGISTRATION

4. Registration of Co-operative Societies

subject to the other provisions of this Act, any body of persons which -

- has as its object the promotion of the economic interest or the
- welfare of its members in accordance with co-operative principles; or
- is organised with the object of facilitating the operations of a society, may be registered.

1. No body of persons other than one to which 2 or more societies belong shall be registered unless it consists of at least 10 members.
2. No body of persons whose objects include the creation of funds to be lent to its members shall be registered as a society, unless all the members reside on or are in occupation of land within the proposed area of operation of the society which they wish to register.
3. No body of persons shall be registered as a society unless the rules make provision for such matters as may be prescribed.
4. A society registered under this Act shall comply with the requirements of this Act notwithstanding that it is licensed under the Banking Act.

[Amended 38/92]

5. Register of societies

1. The Registrar shall keep a register in the prescribed form in which shall be entered the particulars of all societies.
2. Any interested person may, on written application to the Registrar, at all reasonable times inspect the register.
3. (a) Every society whose objects are of a kind of the specified in any item of the second column of the Schedule shall be registered in the corresponding class specified in the first column of the Schedule.

(b) The Minister may, by regulations, amend the Schedule.

6. Application for registration

1. A body of persons which wishes to be registered shall make an application to the Registrar in the prescribed form.
2. Every application under subsection (1) shall be accompanied by 3 copies of the rules of the proposed society.
3. The Registrar may, by written notice, require an applicant to provide any further information he may reasonably require for the purpose of considering the application.
4. The application shall be signed –

in the case of an applicant of which no society is a member, by

   a. at least 10 members; and
   b. in the case of an applicant of which a society is a member, by a person authorised by the society; and

i. by 10 other members; or
ii. where the body comprises of less than 10 other members, by all of them.

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7. Registration

1. Subject to subsection (2), on receipt of an application under section 6, the Registrar shall, where he is satisfied that the applicant has complied with the requirements of this Act, register the applicant and its rules.
2. The Registrar shall not register an applicant where he is of the opinion that -

a. it is likely to be economically unsound or to have an adverse
b. effect upon any other society or the co-operative movement at
c. large; or
d. its name is the same as that of a society or so resembles that of a society that the public may be deceived or misled.

1. Where the proposed amendment or change is likely to affect rules he shall give written notice of the refusal and the ground of such refusal to the first signatory of the application.
2. The Registrar shall, on registering a society, issue a certificate of registration to the society.
3. The rules shall, when registered, bind the society and its members.

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8. Liability of society

1. Subject to subsection (2), a society may be registered with limited or unlimited liability.
2. Subject to subsection (3), the liability of a federal society shall, unless the Registrar otherwise directs, be limited.
3. Where the Government has contributed to the share capital of a society, the liability of the Government shall be limited to the amount of the shares held by it.
4. Every society with limited liability shall have the word "Limited" as the last word of its name.

9. Amendment of rules or change of name

1. A society may by a resolution approved by at least three fourths of the members voting at a special general meeting held for the purpose and attended by not less than half of all its members resolve to amend its rules or change its name.
2. The society shall, not less than 21 days before a special general meeting is to be held under subsection (1), forward to the Registrar a copy of the proposed resolution.
3. Where the Registrar refuses to register an applicant or its rules affects the interests of any person, the Registrar may direct the society to give written notice of the proposed amendment or change to that person, and the society shall comply with the direction of the Registrar not less than 7 days before the special general meeting.
4. Every person to whom notice has been given under subsection (3) may, not less than one month after the issue of the notice, lodge a written objection with the society and the Registrar.
5. No resolution approved under subsection (1) shall –

a. **be registered –**

i. where it is inconsistent with this Act;
ii. unless an objection made under subsection (4) has been disposed of ;

a. **have effect unless it is registered.**

1. Where the Registrar registers a resolution approved under subsection (1), he shall issue to the society a certificate giving effect to the resolution.
2. Where the Registrar refuses to register a resolution approved under subsection (1), he shall give written notice of his refusal and the ground of the refusal to the society
3. Where the Registrar is of opinion that an amendment of the rules or a change of the name of a society is necessary or desirable in the interest of the members of the society or in the public interest, he may, by written notice, direct the society to amend its rules or change its name within such time as may be specified in the notice.
4. Where a society fails to comply with a notice under subsection (8), the Registrar may, after giving the society an opportunity to state any objection, register the amendment of the rules or change of name of the society and issue to the society a certificate to that effect which shall be binding on the society and its members.
5. On the issue of a certificate of the change of the name of the society under subsection (6) or (9), the Registrar shall amend the register accordingly.

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10. Alteration of liability of society

1. Where a resolution under section 9 (1) relates to the change of a society's liability from limited to unlimited or from unlimited to limited, the Registrar shall not register the change unless the society has, not less than 15 days before the special general meeting to be held under section 9 (1), published a notice of the proposed resolution in the **Gazette** and in 2 daily newspapers.

2. Any person who wishes to object to the proposed alteration shall, not less than one month after the issue of the notice under section 9 (3) or the last publication of the notice under subsection (1), lodge a written objection with the society and the Registrar.
3. Where the objector is –

a. a member, he may demand the repayment of his share or
b. interests in the society;
c. a creditor of the society, the society shall pay or give security for the payment of his debt.

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11. Re-organisation of society

A resolution under section 9 (1) may provide for the reorganisation of the society including –

i. the amalgamation of the society with another society;
ii. the transfer of the assets and liabilities of the society to another
iii. society;
iv. the division of the society into 2 or more societies; or
v. the conversion of the society into a society of another class.

Subject to subsection (3), where the Registrar is of opinion that it is in the interest of the members or in the public interest that a society should reorganise itself, he may, by written notice, direct the society to reorganise itself in the manner specified in the notice.

Before giving a direction under subsection (2), the Registrar shall afford the society such time as he considers reasonable to submit its opinion on the proposed reorganisation.

Where a society fails to comply with a notice under subsection (2), the Registrar may, after giving the society an opportunity to state any objection, register the reorganisation specified in the notice and issue to the society a certificate to that effect which shall be binding on the society and, subject to subsection (5), on its members.

Any member of a society which has –

- resolved to reorganise itself in accordance with subsection (1);

or

- been organised under subsection (4),may, not less than one month section 9(3) or of the certificate under subsection after the issue of the notice under (4), demand the repayment of his share or interest in the society.

1. No reorganisation under subsection (1) shall be registered unless -

(a) every person, other than a member, whose interest is likely to be affected -

(i) has given his assent; or

(ii) has failed to lodge an objection under section 9(4); and

(b) the claims of -

(i) every member who has demanded the repayment of his share or interest in the society; and

(ii) the creditors of the society, have been met or secured in full.

(7) Subject to this Part, every society resulting from a reorganisation shall have such rules, constitution, property, powers, rights, obligations and duties of the society which is reorganised as may be specified in the resolution for reorganisation and every such resolution may contain such conditions as may, in the opinion of the Registrar, be necessary to give effect to the resolution.

8. Notwithstanding any other enactment -

a. the certificate of the registration of the resolution of a society to reorganise itself in accordance with subsection (1); or

(b) the certificate issued by the Registrar under subsection (4) to a society, shall have the effect of vesting the assets and liabilities of the society in accordance with the resolution under subsection (1) or the notice under subsection (2).

8. Where, by the effect of -

(a) the registration of a resolution of a society to reorganise itself in accordance with subsection (1); or

(b) the certificate issued by the Registrar under subsection (4),

any society has ceased to exist or has changed its name, the Registrar shall amend the register accordingly.

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12 Commencement of business

1. No society shall commence business until it has obtained a certificate of registration.
2. Where a society has altered its rules or changed its name or been reorganised, the society shall not give effect to the altered rules, or act under the new name or in the reorganised state, unless the alteration, change or reorganisation, as the case may be, has been registered.
3. Any person or group of persons who contravenes subsection (1) or (2) shall be severally liable for any liability incurred by the society as a result of any business carried on in pursuance of the contravention.

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13. **Effect of amendment or alteration**

(1) Where a society has-

(a)amended its rules or changed its name under section 9;

(b) altered the liability of the members under section 10; or

(c) reorganised itself under section 11,the amendment, change, alteration or reorganisation, as the case may be, shall not affect any right, obligation and duties of the society or of any of its members, present, past or deceased, nor render defective any legal proceedings by or against the society.

1. Any legal proceedings commenced by or against a society before it has -

(a) amended its rules or changed its name under section 9;

(b) altered the liability of the members under section 10; or

(c) reorganised itself under section 11, and pending at the time of the registration of the amendment, change, alteration or reorganisation, as the case may be, continued by or against the society.

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14. Conclusiveness of certificates

A certificate of registration issued under section 7(4), 9(6), 9(9) or 11(4) shall, unless it is proved that the registration of the society has been subsequently cancelled, be conclusive evidence that the society is registered.

15 Compromise or composition

(1) No compromise or composition made between -

(a) a society and its creditors; or

(b) a society and its members, shall be valid unless it is approved by the Registrar

(2) The Registrar shall, before approving a compromise or composition under subsection (1), call a meeting of the members and, in the case of a compromise or composition under subsection (1)(a), a meeting of the creditors.

(3) The Registrar shall not approve a compromise or composition unless-

(a) he is satisfied that all the members or creditors, as the case may be, whose interests are affected by the compromise or composition, had notice of the meeting; and

(b) not less than -

(i) three fourths in number of the members; and

(ii) in the case of a compromise or composition under subsection (1) (a), a majority in number, representing three fourths in value, of the creditors, present and voting at a meeting convened under subsection (2), agree to the compromise or composition.

(4) A compromise or composition approved by the Registrar shall be binding on the society and its members, and -

(a) in the case of a compromise or composition under subsection (1) (a), its creditors; and

(b) in the case of a society which is being wound up, the liquidator.

(5) (a) Where proceedings are instituted against a society by one of its creditors, the Registrar may, where he has received notice that a compromise or composition has been made, move the court to stay proceedings against the society and the court shall stay proceedings against the society .

(b) Where the compromise or composition is not approved by the Registrar, he shall give written notice of that fact to the court and the proceedings against the society shall continue.

(c) Where a compromise or composition between a society and its creditors is approved by the Registrar, the proceedings shall abate and no creditor shall institute proceedings against the society in respect of any liability to which the compromise or composition relates.

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16. Cancellation of registration

Where a society has been wound up, the Registrar shall cancel the registration of the society.

PART IV - DUTIES, PRIVILEGES, PROPERTY AND FUNDS OF SOCIETIES

26 Status and property of society

(1) Subject to subsection (2), every society shall be a body corporate

(2) Except with the approval of the Minister, no immovable property, or any class of movable property as may be prescribed, belonging to a society shall be sold or otherwise alienated, pledged, mortgaged or charged.

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27 Registered office

Every society shall -

(a) have a registered office;
(b) give written notice to the Registrar of the address, and of any change in address, of its registered office.

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28 Evidence in relation to society's books

(1) Notwithstanding any other enactment, a copy of an entry in any book of a society shall be prima facie evidence of the entry and of the matter, transaction or account recorded where -

(a) the book was, at the time the entry was made, one of the ordinary books of the society;
(b) the entry was made in the usual course of the society's business;
(c) the book is in the custody of the society; and
(d) the copy of the entry has been compared with, and is a correct copy of, the original entry.

(2) Except by order of a court or of the Registrar, of an arbitrator or of the Tribunal, no officer or liquidator of a society shall, in any proceedings to which the society is not a party, be compellable -

(a) to produce any book of the society, the contents of which can be proved under subsection (1); or
(b) to appear as a witness to prove the matters, transactions and accounts recorded in a book specified in paragraph (a).

29 Exemption from duty

The Minister of Finance may, in case of a society or class of societies, by public notice remit -

(a) any tax payable under the Income Tax Act;
(b) any customs duty payable in respect of imported industrial or agricultural requisites;
(c) the duty payable in respect of a licence issued under any enactment other that the Excise Act;
(d) any stamp duty chargeable -

(i) to the society or a society of that class;
(ii) on an instrument executed by an officer relating to the business of the society or a society of that class; or
(iii) to a member on an instrument executed by him in relation to business transacted with the society or a society of that class, in accordance with its rules;

(e) any fee payable under any enactment relating to registration dues, transcription or inscription fees.

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30 Restriction on certain transactions

(1) A society may receive a deposit or a loan under such conditions as -

(a) the Registrar may, for the society or a class of societies, impose; or
(b) may be specified in its rules.

(2) Subject to subsections (3) and (4), no society shall make a loan to -
(a) a person, other than a member or an associate member; or
(b) a member or associate member on the security of its own shares.

(3) A society may, with the Registrar’s written consent, make a loan to another society.

(4) A society may make a loan to a depositor on the security of his deposit.

(5) The Registrar may prohibit or restrict the lending of money on the security of movable property or on the mortgage or charge of immovable property by any society or class of societies.

(6) Subject to sections 35 and 40, no society shall transact any business, other than the making of loans, with a person who is not a member except in such manner as may be prescribed.

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31 Contract with members to dispose of produce

(1) A society, having as one of its objects the disposal of any produce of agriculture, animal husbandry or handicrafts, may enter into a contract with its members for the disposal of their produce.

(2) A contract entered into under subsection (1) may provide for the payment of liquidated damages in case of any breach of its terms.

(3) Every person applying for membership of a society shall disclose to the society particulars of any contract ended into by him for the disposal of any produce specified in subsection(1).

32 [Repealed 15/95]

33 Charge and set off

(1) Subject to subsection (3), a society shall have a charge on any dividend or bonus payable to a member, in respect of any debt of the member to the society.

(2) A society may set off any sum accruing to a member against payment of his debt.

(3) No financing bank shall have a charge on any sum invested in the bank -

(a) by a society as a reserve fund if the bank is not the sole creditor of the society; or

(b) from any provident fund.

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34 Priority of claims of society

(1) Subject to subsection (2), a society shall in respect of a loan made by the society to a member have a privilege -

(a) on the crops or other agricultural produce of that member;

(b) on any livestock, fodder, seed, fertiliser or agricultural or industrial machinery or raw materials, supplied to that member, or purchased, produced, or otherwise acquired by him with the loan.

(2) The priviledge shall rank immediately after the privilege of the Treasury in respect of taxes or of a landlord in respect of rent.

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36 Soliciting violation of contract

Any person who, having knowledge or notice of the existence of -

(a) a contract referred to in section 31; or

(b) an obligation on producers under section 35, solicits or persuades a member to sell or deliver produce in violation of that contract or obligation, shall commit an offence.

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37. Deduction from salary to meet claim

(1) A member may execute an agreement in favour of a society requesting his employer to deduct such amount not exceeding one third from his salary as may be specified by him and to pay the amount so deducted to the society.

(2) Where an employer fails to comply with a request made under subsection (1) -

(a) the society may recover the amount from the employer as a debt due by him to the society;

(b) he shall commit an offence.

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38 Funds and Surplus

(1) Subject to subsections (2) and (3) and the rules, no funds of a society other than its surplus shall be distributed by way of bonus or dividend or otherwise among its members.

(2) A society may pay such remuneration as it thinks fit to a member for any services rendered by him to the society.

(3) No society shall pay a dividend or bonus or distribute any part of its accumulated funds unless -

(a) the annual balance sheet has been certified by the Registrar or by an auditor approved by the Registrar; and

(b) the payment has been approved by the Registrar on the recommendation of the general meeting of the society.

(4) The maximum rate of dividend shall be prescribed and shall not in any case exceed 10 per cent.

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39 Reserve Fund and Share Transfer Fund

(1) Every society which has a surplus from its transactions in any year shall establish a reserve fund and a share transfer fund.

(2) A society shall, in every year -

(a) unless exempted by the Registrar, transfer not less than 25 per cent of it surplus to the reserve fund;

(b) pay not more than 5 per cent of its surplus into the share transfer fund.

(3) Except with the written approval of the Registrar, no society with unlimited liability which advances money or goods to any member in excess of money or goods deposited by him shall pay to that member a dividend before the expiry of 10 years from the date of its registration.

(4) Subject to the written approval of the Registrar, every society shall pay to a cooperative organisation as may be prescribed such percentage of its surplus, not exceeding 2 per cent, as may be fixed by the Registrar, for the purpose of the cooperative education of its members.

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40 Investment of Funds

(1) Subject to subsections (2), (3) and (4), a society may invest or deposit its funds in the Mauritius Cooperative Central Bank Ltd or, with the approval of the Registrar, in -

(a) a Government Savings Bank;

(b) any Government security;

(c) the federal society of which it is a member or in the purchase of the shares of that federal society;

(d) a society with limited liability or in the purchase of the shares or securities or debentures of a society with limited liability;

(e) a bank; or

(f) such other manner as may be prescribed.

(2) The approval of the Registrar shall not be necessary under subsection (1) (d) where the society is required to purchase shares to become a member of the other society.

(3) A society shall invest its reserve fund on such terms and conditions as may be prescribed.

(4) No society shall invest its funds in immovable property without the approval of the Registrar.

(5) Subject to subsection (6), a society accepting deposits shall hold such liquid resources as may be specified by the Registrar.

(6) A financing bank shall hold the liquid resources specified in the Banking Act 1988.

40A Control of Societies Engaged in Financing Activities

(1) No society shall, without the approval of the Registrar, grant a loan to an associate member in excess of one million rupees or such other sum as may be prescribed.

(2) (a) Every society shall submit to the Registrar, not later than 30 days following the close of a quarter, a return showing all loans falling in arrears by more than 3 months in that quarter.

(b) Separate returns shall be submitted to the Registrar in respect of members and associate members and such returns shall be duly certified and signed by the Secretary of the society.

(3) No society shall cancel or write off any debt without the sanction of the general meeting and the approval of the Registrar.

[Added 38/92]

40B Opening or Closing or Freezing of Accounts

The Registrar -

(a) may authorise a society to open or close one or more accounts in one or more banks;

(b) shall certify to the banks concerned the persons who are entitled from time to time to sign cheques and other documents on behalf of the society;

(c) may freeze the account in any bank of a society where according to him such measure is necessary to prevent losses or misuse of funds.

[Added 38/92]

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41 Employees's Provident Fund

(1) A society may establish a contributory provident fund for the benefit of its employees, to which shall be credited all contributions made by the employees and the society in accordance with its rules.

(2) A provident fund shall be registered under the Registration of Associations Act.

(3) The funds of the provident fund shall -
(a) not be used in the business of the society;

(b) not form part of the assets of the society;

(c) not be liable to be charged, seized or attached by any creditor of the society or of an employee who contributes to the fund; and

(d) be administered in such manner as may be prescribed.

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42 Co-operative Assistance Fund

(1) There is set up for the purpose of this Act a Co-operative Assistance Fund which shall be administered by a Board consisting of not less than 5 persons appointed by the Minister.

(2) Any society which is in need of financial assistance from the Fund may make a written application to the Registrar stating the reasons for such assistance.

(3) Upon receipt of an application under subsection (2), the Registrar shall, with reasonable diligence, forward it to the Board with such comments as he considers necessary.

(4) The Board shall consider the application and shall, where it is satisfied that assistance is necessary, provide such assistance from the Fund in such terms and conditions as appropriate.

(5) No assistance from the Fund shall be given for any purpose other than the promotion of the co-operative movement.

[Amended 38/92]

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29 Exemption from duty

The Minister of Finance may, in case of a society or class of societies, by public notice remit -

(a) any tax payable under the Income Tax Act;
(b) any customs duty payable in respect of imported industrial or agricultural requisites;
(c) the duty payable in respect of a licence issued under any enactment other that the Excise Act;
(d) any stamp duty chargeable -

(i) to the society or a society of that class;
(ii) on an instrument executed by an officer relating to the business of the society or a society of that class; or
(iii) to a member on an instrument executed by him in relation to business transacted with the society or a society of that class, in accordance with its rules;

(e) any fee payable under any enactment relating to registration dues, transcription or inscription fees.

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30 Restriction on certain transactions

(1) A society may receive a deposit or a loan under such conditions as -

(a) the Registrar may, for the society or a class of societies, impose; or
(b) may be specified in its rules.

(2) Subject to subsections (3) and (4), no society shall make a loan to -
(a) a person, other than a member or an associate member; or
(b) a member or associate member on the security of its own shares.

(3) A society may, with the Registrar's written consent, make a loan to another society.

(4) A society may make a loan to a depositor on the security of his deposit.

(5) The Registrar may prohibit or restrict the lending of money on the security of movable property or on the mortgage or charge of immovable property by any society or class of societies.

(6) Subject to sections 35 and 40, no society shall transact any business, other than the making of loans, with a person who is not a member except in such manner as may be prescribed.

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31 Contract with members to dispose of produce

(1) A society, having as one of its objects the disposal of any produce of agriculture, animal husbandry or handicrafts, may enter into a contract with its members for the disposal of their produce.

(2) A contract entered into under subsection (1) may provide for the payment of liquidated damages in case of any breach of its terms.

(3) Every person applying for membership of a society shall disclose to the society particulars of any contract ended into by him for the disposal of any produce specified in subsection(1).

32 [Repealed 15/95]

33 Charge and set off

(1) Subject to subsection (3), a society shall have a charge on any dividend or bonus payable to a member, in respect of any debt of the member to the society.

(2) A society may set off any sum accruing to a member against payment of his debt.

(3) No financing bank shall have a charge on any sum invested in the bank -

(a) by a society as a reserve fund if the bank is not the sole creditor of the society; or

(b) from any provident fund.

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34 Priority of claims of society

(1) Subject to subsection (2), a society shall in respect of a loan made by the society to a member have a privilege -

(a) on the crops or other agricultural produce of that member;

(b) on any livestock, fodder, seed, fertiliser or agricultural or industrial machinery or raw materials, supplied to that member, or purchased, produced, or otherwise acquired by him with the loan.

(2) The priviledge shall rank immediately after the privilege of the Treasury in respect of taxes or of a landlord in respect of rent.

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36 Soliciting violation of contract

Any person who, having knowledge or notice of the existence of -

(a) a contract referred to in section 31; or

(b) an obligation on producers under section 35, solicits or persuades a member to sell or deliver produce in violation of that contract or obligation, shall commit an offence.

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37. Deduction from salary to meet claim

(1) A member may execute an agreement in favour of a society requesting his employer to deduct such amount not exceeding one third from his salary as may be specified by him and to pay the amount so deducted to the society.

(2) Where an employer fails to comply with a request made under subsection (1) -

(a) the society may recover the amount from the employer as a debt due by him to the society;

(b) he shall commit an offence.

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38 Funds and Surplus

(1) Subject to subsections (2) and (3) and the rules, no funds of a society other than its surplus shall be distributed by way of bonus or dividend or otherwise among its members.

(2) A society may pay such remuneration as it thinks fit to a member for any services rendered by him to the society.

(3) No society shall pay a dividend or bonus or distribute any part of its accumulated funds unless -

(a) the annual balance sheet has been certified by the Registrar or by an auditor approved by the Registrar; and

(b) the payment has been approved by the Registrar on the recommendation of the general meeting of the society.

(4) The maximum rate of dividend shall be prescribed and shall not in any case exceed 10 per cent.

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39 Reserve Fund and Share Transfer Fund

(1) Every society which has a surplus from its transactions in any year shall establish a reserve fund and a share transfer fund.

(2) A society shall, in every year -

(a) unless exempted by the Registrar, transfer not less than 25 per cent of it surplus to the reserve fund;

(b) pay not more than 5 per cent of its surplus into the share transfer fund.

(3) Except with the written approval of the Registrar, no society with unlimited liability which advances money or goods to any member in excess of money or goods deposited by him shall pay to that member a dividend before the expiry of 10 years from the date of its registration.

(4) Subject to the written approval of the Registrar, every society shall pay to a cooperative organisation as may be prescribed such percentage of its surplus, not exceeding 2 per cent, as may be fixed by the Registrar, for the purpose of the cooperative education of its members.

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40 Investment of Funds

(1) Subject to subsections (2), (3) and (4), a society may invest or deposit its funds in the Mauritius Cooperative Central Bank Ltd or, with the approval of the Registrar, in -

(a) a Government Savings Bank;

(b) any Government security;

(c) the federal society of which it is a member or in the purchase of the shares of that federal society;

(d) a society with limited liability or in the purchase of the shares or securities or debentures of a society with limited liability;

(e) a bank; or

(f) such other manner as may be prescribed.

(2) The approval of the Registrar shall not be necessary under subsection (1) (d) where the society is required to purchase shares to become a member of the other society.

(3) A society shall invest its reserve fund on such terms and conditions as may be prescribed.

(4) No society shall invest its funds in immovable property without the approval of the Registrar.

(5) Subject to subsection (6), a society accepting deposits shall hold such liquid resources as may be specified by the Registrar.

(6) A financing bank shall hold the liquid resources specified in the Banking Act 1988.

40A Control of Societies Engaged in Financing Activities

(1) No society shall, without the approval of the Registrar, grant a loan to an associate member in excess of one million rupees or such other sum as may be prescribed.

(2) (a) Every society shall submit to the Registrar, not later than 30 days following the close of a quarter, a return showing all loans falling in arrears by more than 3 months in that quarter.

(b) Separate returns shall be submitted to the Registrar in respect of members and associate members and such returns shall be duly certified and signed by the Secretary of the society.

(3) No society shall cancel or write off any debt without the sanction of the general meeting and the approval of the Registrar.

[Added 38/92]

40B Opening or Closing or Freezing of Accounts

The Registrar -

(a) may authorise a society to open or close one or more accounts in one or more banks;

(b) shall certify to the banks concerned the persons who are entitled from time to time to sign cheques and other documents on behalf of the society;

(c) may freeze the account in any bank of a society where according to him such measure is necessary to prevent losses or misuse of funds.

[Added 38/92]

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41 Employees's Provident Fund

(1) A society may establish a contributory provident fund for the benefit of its employees, to which shall be credited all contributions made by the employees and the society in accordance with its rules.

(2) A provident fund shall be registered under the Registration of Associations Act.

(3) The funds of the provident fund shall -
(a) not be used in the business of the society;

(b) not form part of the assets of the society;

(c) not be liable to be charged, seized or attached by any creditor of the society or of an employee who contributes to the fund; and

(d) be administered in such manner as may be prescribed.

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42 Co-operative Assistance Fund

(1) There is set up for the purpose of this Act a Co-operative Assistance Fund which shall be administered by a Board consisting of not less than 5 persons appointed by the Minister.

(2) Any society which is in need of financial assistance from the Fund may make a written application to the Registrar stating the reasons for such assistance.

(3) Upon receipt of an application under subsection (2), the Registrar shall, with reasonable diligence, forward it to the Board with such comments as he considers necessary.

(4) The Board shall consider the application and shall, where it is satisfied that assistance is necessary, provide such assistance from the Fund in such terms and conditions as appropriate.

(5) No assistance from the Fund shall be given for any purpose other than the promotion of the co-operative movement.

[Amended 38/92]

PART V - MANAGEMENT OF SOCIETIES

43 Annual General Meeting

(1) Every society shall hold an annual general meeting at such times as may be prescribed.

(2) A society shall at its annual general meeting -

(a) approve the programme of the activities of the society prepared by the committee for the coming year;

(b) subject to section 48, elect the members of the committee;

(c) elect delegates of the society to the federal society to which the society is affiliated;

(d) consider -

(i) the financial statement of the society for the preceding year duly audited and approved by the Registrar;

(ii) a report of the committee on the activities of the preceding year; and

(iii) the manner of disposing of the surplus, if any; and

(e) consider any other matter which may be raised under the rules.

(3) Notice of every annual general meeting shall be given to the Registrar not less than 14 days before the date of the meeting.

(4) The Registrar may -

(a) attend the meeting; and
(b) address the meeting in respect of any matter concerning the society.

(5) The rules of every society shall specify -
(a) the officer responsible for convening the annual general meeting; and

(b) the pecuniary penalty to be recovered from the officer where he fails to convene the meeting.

(6) Where the annual general meeting of a society is not called within the prescribed time or the officer responsible for convening the annual general meeting infringes any rule for calling the annual

general meeting, the Registrar may, subject to subsection (7) -

(a) by written order, disqualify the officer from holding any office in the society for a period not exceeding 3 years; and

(b) recover from him, on behalf of the society, the penalty provided under subsection (5) (b).

(7) No order under subsection (6) shall be made unless the officer has been given a reasonable opportunity of showing cause against the making of the proposed order.

(8) Subject to any subsidiary enactment made under this Act or to the rules, the annual general meeting shall regulate its proceedings in such manner as it thinks fit.

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44 Special General Meeting

(1) Every committee shall, at the request of -

(a) the Registrar; or

(b) at lease 25 members or one fifth of the number of members of the society, whichever is less, call a special general meeting within 15 days from the date of the request.

(2) Where a special general meeting is not called pursuant to a request under subsection (1), the Registrar may call the meeting.

(3) A meeting called under subsection (2) shall be deemed to have been called by the committee.

(4) A society may, at a special general meeting, also conduct any business that may be conducted at an annual general meeting.

(5) Section 43 (3) and (4) shall apply to a special general meeting as it applies to an annual general meeting.

44A Notice of Meeting

Every society shall, not less than fourteen days before the date of any general meeting -

(a) give to the Registrar notice of the meeting;

(b) submit to the Registrar a copy of the agenda as well as a certified copy of the minutes of proceedings of the previous general meeting;

(c) submit to the Registrar a list of members and their addresses.

[Added 38/92]

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45 Committee

(1) Subject to this Part and to any subsidiary enactment made under this Act, every society shall be managed and its affairs controlled by a committee to be elected or appointed in accordance with its rules.

(2) Subject to any subsidiary enactment made under this Act, the committee shall regulate its meetings in such manner as it thinks fit.

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46 Subcommittees

(1) Subject to any subsidiary enactment made under this Act, a committee may -

(a) appoint such subcommittees of its own members as it may determine;

(b) delegate to a subcommittee any of its powers and functions.

(2) Every subcommittee appointed under subsection (1) shall, subject to any subsidiary enactment made under this Act or any directions given to it by the committee, regulate its meetings in such manner as it thinks fit.

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47 Government Nominees

(1) Where the Government -

(a) has guaranteed the repayment of debentures issued by, or loan advances or overdrafts made to, a society; or

(b) has given financial assistance in any form to a society, the Minister may appoint not more than five persons to sit on the managing committee of the society.

(2) Any member appointed under subsection (1) shall sit on the committee on such terms and conditions as may be determined by the Minister and shall be eligible for reappointment.

(3) Notwithstanding section 19, a person appointed to be a member of a committee under subsection (1) shall have the same rights as any other member of the committee.

(4) No person appointed under subsection (1) shall be disqualified from forming part of any committee or sub-committee on the ground that the membership of the committee or sub-committee is limited.

[Amended 38/92]

48 Restrictions on Number of Offices Held

No person shall, at the same time, hold the office of Chairman in more than-

(a) one federal society; and

(b) one primary society.

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49 Removal of Committee

(1) Subject to subsection (3), where the Registrar is of opinion that a committee -

(a) has persistently failed to perform, or is negligent in the performance of, its duties;

(b) has committed, is actually committing or is about to commit an act which is prejudicial to the interests of the society or its members; or

(c) is otherwise not functioning properly, he may, by written order, remove the committee and appoint a person to manage the affairs of the society on such terms and conditions as he may determine.

(2) The Registrar may, before making an order under subsection (1), take such steps as he thinks necessary to safeguard the interests of the society.

(3) No order under subsection (1) shall be made unless the committee has been given a reasonable opportunity of showing cause against the making of the proposed order.

(4) Subject to the control and directions of the Registrar, a person appointed under subsection (1) shall -

(a) have all the powers of the committee or of any officer;

(b) take such action as may be necessary in the interest of the society.

(5) The remuneration of a person appointed under subsection (1) and the costs, if any, incurred in the management of the society, shall be paid out of the funds of the society.

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50 Appointment of Officers

(1) No society shall appoint a manager, secretary, accountant or any paid officer unless he holds such qualifications as the Registrar may determine.

(2) Subject to subsection (3), no person shall hold the office of chairman of a primary society for a continuous period of more than 3 years.

(3) Where an officer of a society has vacated office he shall not be qualified to be appointed to an office in the society at any time during a period of 12 months preceding the next annual general meeting of the society.

(4) The Registrar may issue a written order to a society requiring it to employ such number of officers on such terms and conditions as may be prescribed.

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51 Keeping of books and records

(1) Every society shall keep such records, registers and books of accounts, and shall furnish to the Registrar such information and returns, as he may require.

(2) Where a society fails to keep records, registers and books under subsection (1), the Registrar may appoint any person he thinks fit to perform the work.

(3) The remuneration of the person appointed under subsection (2) and the costs, if any, incurred in the performance of the work, shall be paid out of the funds of the society.

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52 Control where committee is changed

(1) Where -

a committee is reconstituted at a general meeting;

(b) a committee is removed by the Registrar under section 49; or

(c) a society is order to be wound up under section 67, and an outgoing member of the committee refuses to hand over any document or property of the society, the Registrar may, by written order, direct a person specified in the order to take possession of the document or property.

(2) Where an order is made under subsection (1), every officer who has the custody of any document or property shall deliver it to the person specified in the order.

PART VI - AUDIT, INQUIRY, INSPECTION AND SUPERVISION

53 Audit

(1) Every society shall, within a period of four months after the closing of the financial year, submit to the Registrar the final accounts and balance sheet of the society together with all relevant documents as well as such statistical returns as may be required by the Registrar.

(2) The Registrar -

shall audit the accounts of every society at least once every

year;

(b) may cause the accounts of a society to be audited at least once every year by such person or body as may be designated by him in writing.

(3) Any person or body designated under subsection (2), shall submit a report on the audit carried out to the president of the society with a copy to the Registrar.

(4) For the purposes of this section -

(a) the Registrar or any person authorised by him shall at all times have access to the documents and other property belonging to, or in the custody, of a society;

(b) every past or present officer or member or any heir, successor or agent of the past officer or member shall, where he is summoned by the Registrar, furnish such information regarding the transactions of the society or the management of its affairs.

(5) Notwithstanding any other enactment, no society shall appoint any person as auditor without the written approval of the Registrar.

[Amended 38/92]

53A Audit and Development Account

(1) There is constituted for the purposes of this Act an account known as the Audit and Development Account which shall be administered by the Registrar.

(2) Every society shall, subject to subsection (3), make to the Audit and Development Account an annual contribution of 500 rupees, or 5% of the net surplus, whichever is the higher, but in no case exceeding 5000 rupees.

(3) The Registrar may exempt, where he thinks necessary, a society from payment of any fee for carrying out an audit.

(4) Any moneys in the Audit and Development Account may, with the approval of the Minister, be used for the payment of fee for audit carried out by a person or body other than the Registrar for promotion of the co-operative movement.

[Added 38/92]

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54 Supervision

(1) The Registrar shall have general powers of supervision over the activities of every society.

(2) The Registrar may -

(a) call for and preside over a meeting of any society at such time and such place as he may decide;

(b) attend any meeting of a society.

[Amended 38/92]

55 Inspection of books of society

(1) Subject to subsection (2), the Registrar may -

(a) where he thinks fit; or

(b) on the application of a creditor of a society, inspect or, by written order, direct any person to inspect, the books of a society.

(2) No inspection shall be made on the application of a creditor unless he -

(a) satisfies the Registrar that -

(i) the debt is due and demandable;

(ii) he has demanded payment of the debt; and

(iii) he has not received satisfaction within a reasonable

time; and

(b) deposits with the Registrar such sum as security for the costs of the proposed inspection as the Registrar may require.

(3) The Registrar shall communicate the results of the inspection where the inspection is made -

(a) under subsection (1) (a), to the society; and

(b) under subsection (1) (b), to the creditor and the society.

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56 Inquiry

(1) The Registrar -

(a) shall, on the application of -

(i) any other society of which the society is a member;

(ii) a majority of the members of the committee;

(iii) not les than one third of the members; or

(b) may, where he thinks fit, hold an inquiry into the constitution, working or financial condition of the society.

(2) Every present or past officer or member or any heir, successor or agent of a past officer or member shall -

(a) produce such cash, and documents of the society, in his possession or custody; and

(b) furnish such information in regard to the affairs of the society, as the Registrar may require.

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57 Rectification of defects

Where an audit, inquiry or inspection discloses any defect in the constitution, working or financial conditions or the books of a society, the Registrar may -

(a) bring the defect to the notice of the society;

(b) direct the society or its officers to take such action within such time as may be specified in the order to remedy the defect.

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58 Costs of inquiry

Subject to subsection (2), where, on the application of a creditor, an inquiry is held into the affairs of the society, the Registrar may apportion the costs of the inquiry between -

(a) the society;

(b) the members of the society;

(c) the creditor at whose instance the inquiry is held; and

(d) the officers or former officers of the society.

(2) No order of apportionment of the costs shall be made under subsection (1) unless the society or the person sought to be made liable to pay the costs has had a reasonable opportunity of showing cause against the making of the proposed order.

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59 Surcharge

(1) Where, in the course of an audit, inquiry or inspection or the winding up of a society, it is found that any officer or past officer of the society has -

(a) made any payment contrary to this Act or to any subsidiary enactment made under this Act or to the rules;

(b) caused any deficiency or loss by gross negligence or misconduct; or

(c) misappropriated or fraudulently retained any property of the society, the Registrar may, on his own motion or on the application of an interested party, cause an investigation to be made into the conduct of that person.

(2) No investigation under subsection (1) shall be made except within -

(a) 10 years of the date on which the act occurred; or

(b) one year of the date on which the act comes to the notice of the Registrar, whichever period first elapses.

(3) The Registrar may, after an investigation under subsection (1), where he is satisfied that there are good grounds for doing so, make a written order requiring a person specified in that subsection or, where the person is dead, his legal representative, to repay or restore the property with interest at such rate, or to pay contribution and costs or compensation to such extent, as the Registrar thinks fit.

(4) The Registrar may, on an audit, inquiry or inspection, require any officer or any person having under his control or in his custody any money or other property mentioned in subsection (1) of a society, in his capacity of member or legal representative of a deceased officer or member, to deliver to him the money or property.

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60 Property to be accounted for

Every officer shall, in accordance with the rules of the society, hand over to the society any balance which on any audit appears to be due from him and all bonds, books, papers and other property of the society in his possession, under his control or entrusted to his custody.

61 Seizure of property

(1) The Registrar may, where he has reasonable ground to believe that -

(a) any documents relating to a society is likely to be suppressed, tampered with or destroyed; or

(b) the property of a society is likely to be misappropriated or destroyed; apply to the Magistrate of the district in which the society has its registered office for a search warrant.
The Magistrate may, on an application under subsection (1), issue a warrant authorising any police officer -to enter any premises where any document or property mentioned in subsection (1) is to be found; and

(c) to seize any such document or property and deliver it to the Registrar for safe custody.

PART VII - DISPUTES AND ARBITRATION

62 Disputes

1. Notwithstanding any other enactment, where -
2. (a) a dispute touching the constitution, management, business or liquidation of a society arises -

(i) among members, past members or persons claiming through members, past members or deceased members;

(ii) between a member, past member or person claiming through a member, past member or deceased member and a society, its committee or any officer or the legal representative of a deceased officer;

(iii) between a surety of a member or past or deceased member or a surety of an employee of a society whether past or deceased and the society;

(iv) between the society or its committee and any officer of the society;

(v) between the society and another society or liquidator of a society; or

(vi) between the society and a creditor of the society; or

(b) a member on whom a fine has been imposed contests the decision of the society, the dispute may be referred to the Registrar by both parties jointly or by either party.

(2) Where a dispute is referred to the Registrar, he may -

(a) hear and determine the dispute; or

(b) refer it to an arbitrator appointed by him for hearing and determining the dispute.

(3) Any party aggrieved by the determination or award of the Registrar

or arbitrator may within 30 days appeal against the decision to the Tribunal.

[Amended 38/92]

63 Limitation of right to refer disputes

(1) Subject to subsection (3), no dispute shall be referred to the Registrar where the right which is the subject matter of the dispute is barred by prescription.

1. Notwithstanding any other enactment, the period of prescription shall, in respect of a claim -

(a) by a society for the recovery of any sum, including interest, due by a past member, be 5 years from the date of the death, or cessation of membership, of the past member;

(b) (i) by a society against an officer or member;

(ii) by an officer or member in relation to an act of a society or its committee, be 5 years from the date of the act.

(3) A dispute in respect of any matter touching the constitution, management or business of a society which has been ordered to be wound up under section 67 or in respect of which an officer has been appointed under section 49, may be referred to the Registrar within 5 years from the date on which the winding up was ordered or the appointment made.

64 Procedure on arbitration

(1) The Registrar or an arbitrator or the Tribunal may, in relation to a dispute, make an interlocutory order, including the grant of a temporary injunction.

(2) The Registrar or an arbitrator or the Tribunal shall record a brief note of the evidence of the parties and witnesses who attend before him and, on the evidence produced by either side, give a written decision or award, as the case may be.

(3) Where a party who has been served with a summons to attend before the Registrar or arbitrator or Tribunal, in the manner prescribed by section 66, fails to do so, the dispute may be adjudicated upon in his absence.

65. Attachment before Award

Where the Registrar or an arbitrator or the Tribunal is satisfied, on affidavit or otherwise, that a party to a dispute is, with intent to delay or obstruct the execution of any decision or award that may be made, about to dispose of his property, the Registrar or the arbitrator or Tribunal may, unless adequate security is furnished by the party, direct the provisional attachment of his property and such attachment shall be valid and effective as a court order for a provisional attachment.

66. Authorised officer

1. The Minister may designate a public officer for the purpose of performing duties under subsection (2).
2. In any proceedings under this Act before a District Court, an arbitrator, the Tribunal, a liquidator or the Registrar, an officer designated under subsection (1) shall have the powers and privileges, and may perform the duties of an usher, in the service or execution, as the case may be, of any notice, summons, warrant or order relating to those proceedings.

PART VIII – LIQUIDATION

◁BACK

67 Winding up of societies

Subject to subsection (2), where the Registrar –

1. after an inquiry; or
2. on receipt of an application made by not less than three fourths of the members, is of opinion that a society ought to be wound up, he may, where the society –
3.

i. has not started operations within a reasonable time of its registration or has ceased to operate;
ii. has been working mainly for promoting the interest of any individual or group of individuals and not of the members generally; or
iii. has ceased to comply with any condition as to registration or management imposed by this Act, by a subsidiary enactment made under this Act or by the rules, make an order directing that it be wound up.

4. No order under subsection (1) shall be made unless the society concerned has been given a reasonable opportunity of showing cause against the making of the proposed order.
5. Where the Registrar is of opinion that a society in respect of which an order under subsection (1) has been made should continue to exist, he may, at any time before the cancellation of its registration, revoke the order.

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68. Appointment of liquidator

Where the Registrar has made an order for the winding up of a society, he may appoint a liquidator on such terms and conditions as he thinks fit.

A liquidator shall, on appointment-

a. take under his control all the assets of the society; and
b. take such steps, as he thinks necessary to prevent loss or deterioration of, or damage to, the assets.

(3) Where an appeal is made against an order for the winding up of a society-

(a) all proceedings under the order shall be stayed until the appeal is determined;

(b) The property of the society shall remain under the control of the liquidator.

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69. **Powers of liquidator**

A liquidator may, subject to Section 73, sue and be sued in the name and on behalf of the society and may, subject to such direction as he may receive from the Registrar –

a. subject to subsection (2), determine the contribution, including debts due, to be made or remaining to be made by the members to the assets of the society;
b. appoint a day before which creditors whose claims are not recorded in the books of the society shall state their claims for admission, failing which, such claims shall be excluded from any distribution made before the claims were admitted;
c. investigate all claims against the society;
d. pay the debts of the society;
e. refer any matter which under section 62 may be the subject matter of a dispute, to the registrar for arbitration under that section;
f. determine by what persons and in what proportions the costs of the liquidation are to be borne;
g. determine whether any person is a member, past member or nominee of a deceased member;
h. give such directions in relation to the collection and distribution of the assets of the society as may be necessary for winding up the affairs of the society;
i. call such general meetings of members as may be necessary for the proper conduct of the liquidation;
j. subject to section 26(2), sell the assets of the society;
k. carry on the business of the society so far as may be necessary for the beneficial winding up of its affairs;
l. make any compromise or composition with creditors of the society; and
m. do all such other things as may be necessary for winding up the society and distributing its assets.

(2) The liquidator shall not determine the contribution of any member under subsection (1) (a) unless that member has been given a reasonable opportunity of showing cause against the proposed determination.

(3) Where a society has been wound up, the liquidator shall make a report to the Registrar and deposit the records of the society in such place as the Registrar may direct.

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69. **Control of liquidation**

1. The Registrar may-

a. rescind or vary any order made by a liquidator and make a new order;
b. call for all documents and assets of the society;
c. require the liquidator to render accounts;
d. order the liquidator to repay any money or restore any property which belongs to the society;
e. order the auditing of the liquidator's accounts and authorise the distribution of the assets of the society;
f. with the consent of the third party, refer any difference between a liquidator and that third party to an arbitration by an arbitrator.

(2) The decision of an arbitrator on any matter referred to him under subsection (1) (f) shall be binding on the parties and shall not be subject to an appeal to the Registrar.

71. **Final liquidation**

Where a society is wound up, its assets shall be applied to the payment, in the following order of priority, of-

1. the costs of the liquidation;
2. the debts of the society;
3. a dividend to its members.

(2) Where the liquidation of a society has been closed, the liquidator shall give notice of the closing of the liquidation in the Gazette and in 2 daily newspapers approved by the Registrar.

(3) Notwithstanding any other enactment, any claim against a society shall be barred after 2 years from the date of the last publication of the notice under subsection (2).

Any surplus of the assets of a society in liquidation shall be paid into the Fund.

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72. **Imprisonment for fraud**

(1) Where a society, against which an order for winding up under section 67 or an order of the liquidator under section 69 or a decision of the arbitrator under section 70 has been made, disposes of its property with intent to defraud or delay the execution of the order or decision, the person in whose favour the order or decision has been made may make an affidavit of the facts and apply to the District Court having jurisdiction in the area where the registered office of the society is situated for an order calling upon the society to be examined before the court.

(2) The court may, on an application under subsection (1), issue an order directing the officer responsible for the management of the society to appear before the court.

(3) (a) An officer against whom an order is issued under subsection (2) shall be examined, but not on oath, before the court in relation to his property.

b. After an examination under paragraph (a) witnesses may, with the leave of the court, be heard on both sides.

(4) Where an officer against whom an order is issued under subsection (2)-

(a) does not attend court, the court may issue a warrant ordering that the officer be arrested and brought before it;

(b) (i) attends court but willfully refuses to make such disclosures as may be required of him by the court; or

ii. is found, after his examination, to have-

A. caused the society to incur its debts fraudulently; or
B. secreted or disposed of property of the society in fraud of the rights of creditors of the society, the courts may order the officer to be imprisoned unless he pays any claim against him or furnishes security in such sum as the court may determine.

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73. Protection of liquidator

Where a society is in the course of winding up, no action shall be instituted against the liquidator, the society or its members except by leave of the Registrar and subject to such terms and conditions as he thinks fit.

PART IX –MISCELLANEOUS

74 Appeals

(1) Any person who is aggrieved by a determination may, within 60 days of the date of the determination, or such extended period as may have been approved by the Minister, on good cause shown, appeal to the Minister and, on appeal, the Minister shall make such order as he thinks fit.

(2) The Minister may delegate his functions under subsection (1) to such person or authority as may be prescribed by him.

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75. Cooperative Tribunal

1. There is established a Cooperative Tribunal which shall-

(a) consist of a chairman and 2 other members who shall be appointed by the Minister;

(b) hear and determine any appeal under section 62.

(2) The members of the Tribunal shall be appointed by the Minister on such terms and conditions as he thinks fit.

(3) The chairman and one member shall constitute a quorum and in the event of an equality of votes the Chairman shall have a casting vote.

(4) Subject to subsection (3) and to any subsidiary enactment made under this Act, the Tribunal shall regulate its meetings in such manner as it thinks fit.

The Chairman and members shall be paid such fees as the Minister may determine.

{Amended 38/92}

76. Cooperative Development Council

(1) The Minister may for the purposes of this Act establish a Cooperative Development Council.

(2) The Council shall consist of a chairman and not more than 6 other members, at least one of whom shall be a woman.

(3) The members of the Council shall be appointed by the Minister on such terms and conditions as he thinks fit.

(4) The Council shall advise the Minister on any matter relating to the cooperative movement as may be referred to it by the Minister.

77 Directions by Minister

The Minister may, after consultation with the Cooperative Development Council, direct-

a. a society to participate in farm guidance activities on such terms and conditions as the Minister thinks fit;
b. that every society, other than a federal society, shall be affiliated to such federal society as may be prescribed;
c. a federal society to undertake in Rodrigues coordinated cooperative activities allowed under its rules;
d. federal societies, either jointly or individually, to maintain cadres of officers as may be prescribed;
e. a society to take specific steps with a view to secure effective and increased participation of women in the cooperative movement.

78 Execution of orders

1. where-

a. an order made by the Registrar under section 58(1), 59(3) or 70(1);
b. an award or decision made under section 62 or 70 (2);
c. an order made by a liquidator under section 69, in respect of a society, is not implemented, the Registrar shall lodge with the clerk of the court of the district where the registered office of the society is situated a certified copy of the order, award or decision together with an application for the execution of the order, award or decision.

1. On application under subsection (1)-

(a) any sum of money which is the subject of an order, award or decision shall be recovered in the same manner as a small State debt is recovered under the Recovery of State Debts Act;

(b) any other order, award or decision shall be executed as a judgment of the court.

(Amended 48/91)

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79. Service of notices

Every notice issued or order made this Act or every notice issued under the rules, may be served-

a. subject to section 66, by an usher of the District Court; or by post.

80. Powers of Registrar, arbitrator and Tribunal

(1) In the exercise of his or its powers under this Act, the Registrar, an arbitrator or the Tribunal may-

a. summon witnesses and examine them on oath;
b. order the production of any document believed to contain any relevant matter for the determination of a case; or
c. require proof of facts by affidavit.

(2) For the purposes of subsection (1), the Registrar, an arbitrator or the Tribunal may administer an oath or receive an affidavit.

81. Exclusion of certain laws

The Companies Act 1984, the Registration of Associations Act and part II of the Industrial Relations Act, shall not apply to a society.

82 Exemption from this Act

The Minister may by regulations subject to such conditions, as he thinks fit, exempt any society or class of societies from any provision of this Act.

(Amended 38/92)

83. Prohibition of the word "Cooperative"

No person, other than a society, shall, without the written consent of the Minister, trade or carry on business under any name or title of which the word "Cooperative " or its abbreviation or its equivalent in any other language forms part.

84. Reports

1. The Minister shall once in each year lay before the Assembly a report upon the operation of this Act in the previous year.

85. Offences

86. Regulations

(1) The Minister may make such regulations as he thinks fit for the purposes of this Act

(2) Any regulations made under subsection (1) may provide for the taking of fees and charges.