

CHAPTER 11.21

CO-OPERATIVE SOCIETIES ACT

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CHAPTER 11.21

CO-OPERATIVE SOCIETIES ACT

(Act 27 of 1959)

Commencement

[21 April 1960]

PART I

PRELIMINARY

Short title

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

Interpretation

2. In this Act—

“**bonus**” means a share of the profits of a registered society divided among its members in proportion to the volume of business done with the society by them from which the profits of the society were derived;

“**by-laws**” means the registered by-laws made by a society in the exercise of any power conferred by this Act, and includes a registered amendment of the by-laws;

“**committee**” means the governing body of a registered society to whom the management of its affairs is entrusted;

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

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

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

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

“**Registrar**” means the Registrar of Co-operative Societies appointed under section 3 and includes any person when exercising such powers of

the Registrar as may have been conferred upon him under that section;

“rules” means rules made under this Act.

PART II

REGISTRATION

Appointment of Registrar and Assistant Registrars

3. The Governor may appoint a person to be Registrar of Co-operative Societies for Montserrat and may appoint persons to assist such Registrar, and may, by general or special order published in the *Gazette*, confer on any such persons all or any of the powers of a Registrar under this Act.

Societies which may be registered

4. Subject to the provisions hereinafter contained, a society which has as its 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, may be registered under this Act with or without limited liability as the Registrar may decide:

Provided that the liability of a society which includes at least one registered society among its members shall be limited.

Conditions of registration

5. (1) No society, other than a society of which a member is a registered society, shall be registered under this Act, which does not consist of at least ten persons each of whom is qualified under section 23 for membership under this Act.

(2) The word “co-operative” shall form part of the name of every society registered under this Act.

(3) The word “limited” shall be the last word in the name of every society with limited liability registered under this Act.

(4) When for the purposes of this section any question arises as to age, residence, or occupation of land constituting the qualification of any person, that question shall be decided by the Registrar whose decision shall be final.

Application for registration

6. (1) For the purposes of registration, an application shall be made to the Registrar.

(2) The application shall be signed—

- (a) in the case of a society of which no member is a registered society, by at least ten persons qualified in accordance with the requirements of section 5(1); and
 - (b) in the case of a society of which a member is a registered society, by a duly authorized person on behalf of every such registered society, and, where all the members of the society are not registered societies, by ten other members, or, when there are less than ten other members, by all of them.
- (3) The application shall be accompanied by three copies of the proposed by-laws of the society, and the persons by whom or on whose behalf such application is made shall furnish such information in regard to the society as the Registrar may require.

Registration

7. (1) If the Registrar is satisfied that a society has complied with the provisions of this Act and the rules, and that its proposed by-laws are not contrary to this Act or to the rules, he may, if he thinks fit, register the society and its by-laws. An appeal shall lie to the Governor in Council against the refusal of the Registrar to register any society within one month from the date of such refusal.

(2) On registration the society shall pay such fee as may be required by the rules.

Societies to be bodies corporate

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

Evidence of registration

9. A certificate of registration signed by the Registrar shall be conclusive evidence that the society therein mentioned is duly registered, unless it is proved that the registration of the society has been cancelled.

PART III

DUTIES AND PRIVILEGES OF SOCIETIES

Power of registered society to make by-laws

10. (1) Any registered society may, subject to this Act and the Rules, make its by-laws.

(2) By-laws made under subsection (1) shall bind the society and every member thereof and every person claiming through such member to the same extent as if every such member had subscribed his name and affixed his seal thereto and there were contained in such by-laws a covenant on the part of such member, his heirs, executors, administrators and assigns to be bound thereby.

Amendment of the by-laws of a registered society

11. (1) Any registered society may, subject to this Act and the rules, amend its by-laws, including the by-laws which declare the name of the society.

(2) No amendment of the by-laws of a registered society shall be valid until that amendment has been registered under this Act, for which purpose three copies of the amendment shall be forwarded to the Registrar.

(3) If the Registrar is satisfied that any amendment of the by-laws is not contrary to this Act or to the rules, he may, if he thinks fit, register the amendment. An appeal shall lie to the Governor in Council against the refusal of the Registrar to register any amendment of any by-law.

(4) An amendment which changes the name of a society shall not affect any right or obligation of the society or of any of its members or past members, and any legal proceedings pending may be continued by or against the society under its new name.

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

(6) In this section, “**amendment**” includes the making of a new by-law and the variation or rescission of a by-law.

Address of society

12. Every registered society shall have an address, registered in accordance with the rules, to which all notices and communications may be sent, and shall send to the Registrar notice of every change of that address.

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

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

Disposal of produce to or through a registered society

14. (1) A registered society which has as one of its objects the disposal of any article produced or obtained by the work or industry of its members whether the produce of agriculture, animal husbandry, fisheries, handicrafts

or otherwise may provide in its by-laws or may otherwise contract with its members—

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

(2) No contract entered into under the provisions of this section shall be contested in any court on the ground only that it constitutes a contract in restraint of trade.

Creation of charges in favour of registered societies

15. (1) Subject to any prior claim of the Crown on the property of the debtor and to the lien or claim of a landlord in respect of rent or any money recoverable as rent and in the case of immovable property to any prior registered charge thereon—

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

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

- (b) any outstanding demands or dues payable to a registered housing society by any member or past member in respect of rent, shares, loans or purchase money or any other rights or amounts payable to such society shall be a first charge upon his interest in the immovable property of the society.

Charge and set off in respect of shares or interest of members

16. A registered society shall have a charge upon the shares or interests in the capital and on the deposits of a member or past member or deceased member and upon any dividend, bonus, or profits payable to a member or past member or to the estate of a deceased member in respect of any debt due to the society from such member or past member or estate, and may set off any sum credited or payable to a member or past member or estate of a deceased member in or towards payment of any such debt.

Shares or interest not liable to attachment or sale

17. Subject to the provisions of section 16, the share or interest of a member in the capital of a registered society shall not be liable to attachment or sale under any decree or order of a court in respect of any debt or liability incurred by such member, and neither his assignee in insolvency nor a receiver duly appointed shall be entitled to, or have any claim on, such share or interest.

Power of nomination

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

Provided that no member of a registered society with share capital shall be entitled to nominate more than one person unless such member holds more than one share.

(2) A nomination so made may be revoked or varied by a subsequent nomination signed, attested and delivered, or sent or made as aforesaid, or by any similar document in the nature of a revocation or variation signed by the nominator in the presence of two attesting witnesses and delivered, sent or made as aforesaid, but shall not be revocable or variable by the will of the nominator or by any codicil thereto.

(3) The society shall keep a book wherein the names of all persons so nominated and all revocations or variations, if any, of such nominations shall be recorded.

Transfer or payment of value of interest on death of member

19. (1) On the death of a member, a registered society shall, subject to the provisions of subsections (2) and (3)—

- (a) transfer to any person nominated in accordance with the provisions of section 18 the property of the deceased member or such property as may have accrued thereon, comprised in the nomination in manner directed by the nomination, or pay to every person entitled thereunder the full value of the property given to him;
- (b) transfer to the personal representatives of the deceased member any property of the deceased member in the society, or such property as may have accrued thereon, not comprised in any nomination, or pay to the personal representatives the full value of such property.

(2) Any person entitled, under paragraph (a) or (b) of subsection (1), to receive property or payment of the value thereof from a society with unlimited liability may require payment by the society of the value of such property.

(3) Any share or interest of a deceased member of a society with limited liability may be transferred by the society to—

(a) the person entitled thereto under paragraph (a) or (b) of subsection (1), if such person is qualified to be a member of the society; or

(b) any other person qualified to be a member of the society and specified, within six months of the death of the deceased member, in an application by the person entitled thereto under paragraph (a) or (b) of subsection (1).

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

Deposits by or on behalf of minors

20. (1) A registered society may receive deposits from or for the benefit of minors and it shall be lawful for a registered society to pay such minors the interest which may become due on such deposits. Any deposits made by a minor may, together with the interest accrued thereon, be paid to that minor; and any deposit made on behalf of a minor may, together with the interest accrued thereon, be paid to the guardian of that minor for the use of the minor.

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

Register of members

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

(a) the date at which the name of any person was entered in such register or list as a member;

(b) the date at which any such person ceased to be a member.

Evidence of documents and of entries in books

22. (1) A copy of any entry in a book of a registered society regularly kept in the course of business shall, if certified in such manner as may be prescribed by the rules, be received in any legal proceeding, civil or criminal, as *prima facie* evidence of the existence of such entry and shall be admitted as evidence of the matters, transactions and accounts therein

recorded in every case where, and to the same extent as, the original entry itself is admissible.

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

(3) Every copy of by-laws or other instruments or documents, and every extract of an instrument or document, bearing the seal or signature of the Registrar, shall be received in evidence without further proof; and every document purporting to be signed by the Registrar under this Act shall, in the absence of any evidence to the contrary, be received in evidence without further proof of the signature.

PART IV

RIGHTS AND LIABILITIES OF MEMBERS

Qualification for membership

23. In order to be qualified for membership of a co-operative society a person, other than a registered society, must—

- (a) have attained the age of 17 years;
- (b) be resident within or in occupation of land within the society's area of operations as described by the by-laws.

Members not to exercise rights till due payment made

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

Restriction of membership in society

25. Except with the sanction of the Registrar, no person shall be a member of more than one registered society with unlimited liability whose primary object is to grant loans to its members.

Votes of members

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

Provided that in the case of an equality of votes the Chairman shall have a casting vote:

Provided further that in the case of societies of which a registered society is a member that society may have such voting powers as are provided in the rules.

Representation by proxy

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

Contracts with society of members who are minors

28. The minority or nonage of any person duly admitted as a member of any registered society shall not debar that person from executing any instrument or giving any acquittance necessary to be executed or given under this Act or the rules and shall not be a ground for invalidating or avoiding any contract entered into by any such person with the society; and any such contract entered into by any such person with the society, whether as principal or as surety, shall be enforceable at law or against such person notwithstanding his minority or nonage.

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

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

Restrictions on transfer of share or interest

30. (1) The transfer or charge of the share or interest of a member or past member or deceased member in the capital of a registered society shall be subject to such conditions as to maximum holding as may be prescribed by this Act or by the rules.

(2) In the case of a society registered with unlimited liability, a member shall not transfer any share held by him or his interest in the capital of the society or any part thereof, unless—

- (a) he has held such share or interest for not less than one year; and
- (b) the transfer or charge is made to the society, or to a member of the society, or to a person whose application for membership has been accepted by the committee.

Liability of past member and estate of deceased member for debts of society

31. (1) The liability of a past member for the debts of a registered society as they existed on the date on which he ceased to be a member shall not continue for a period of more than two years reckoned from that date.

(2) The estate of a deceased member shall not be liable for the debts of the society as they existed on the date of his decease for a period of more than two years reckoned from the date of his decease.

PART V

PROPERTY AND FUNDS OF REGISTERED SOCIETIES

Loans made by a registered society

32. (1) A registered society shall not, except as provided in section 35, make any loan to any person other than a member:

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

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

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

Deposits and loans received by a registered society

33. A registered society shall receive deposits and loans from persons who are not members only to such extent and under such conditions as may be prescribed by the rules or by-laws.

Restrictions on other transactions with non-members

34. Save as provided in sections 32 and 33, the transactions of a registered society with persons other than members shall be subject to such prohibitions and restrictions as may be prescribed by the rules.

Investment of funds

35. A registered society may invest or deposit its funds—

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

Disposal of profits

36. (1) At least one-fourth of the net profits of every registered society, as ascertained by the audit prescribed by section 37, shall be carried to a fund to be called the reserve fund, which shall be employed as prescribed by the rules. The remainder of such profits and any profits of past years available for distribution may be divided among the members by way of dividend or bonus, or allocated to any funds constituted by the society, to such extent or under such conditions as may be prescribed by the rules or by-laws:

Provided that in the case of a society with unlimited liability, no distribution of profits shall be made without the general or special order of the Governor in Council.

(2) Any registered society may, with the sanction of the Registrar, after one-fourth of the net profits in any year has been carried to a reserve fund, contribute an amount not exceeding ten per centum of the remaining net profits to any charitable purpose or to a common-good fund.

PART VI

AUDIT, INSPECTION AND INQUIRY

Audit

37. (1) The Registrar shall audit or cause to be audited by some person authorized by him by general or special order in writing the accounts of every registered society once at least in every year.

(2) The audit under subsection (1) shall include an examination of overdue debts, if any, and a valuation of the assets and liabilities of the registered society.

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

- (a)* to summon at the time of his audit any officer, agent, servant or member of the society who he has reason to believe can give material information in regard to any transactions of the society or the management of its affairs; or
- (b)* to require the production of any book or document relating to the affairs of, or any cash or securities belonging to, the society by the officer, agent, servant or member in possession of such book, document, cash or securities.

Power of Registrar to inspect societies' books, etc

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

Inquiry and inspection

39. (1) The Registrar may of his own motion, and shall on the application of a majority of the committee, or of not less than one-third of the members of a registered society, hold an inquiry or direct some person authorized by him by order in writing in this behalf to hold an inquiry into the constitution, working, and financial condition of a registered society; and all officers and members of the society shall furnish such information in regard to the affairs of the society and produce the cash in hand and such books, accounts, papers and securities of the society as the Registrar or the person authorized by him may require.

(2) The Registrar shall, on the application of a creditor of the registered society, inspect or direct some person authorized by him in writing in this behalf to inspect the books of the society, if the applicant—

- (a)** proves that an ascertained sum of money is then due to him and that he has demanded payment thereof and has not received satisfaction within a reasonable time; and
- (b)** deposits with the Registrar such sum as security for the costs of the proposed inspection as the Registrar may require.

(3) The Registrar shall communicate the results of any such inspection to the creditor and to the society into whose affairs inquiry has been made.

(4) Where an inquiry is held under subsection (1) or an inspection is made under subsection (2), the Registrar may apportion the costs or such part of the costs, as he may think right, between the registered society, the members demanding an inquiry, the officers or former officers of the society, and the creditor, if any, on whose application the inquiry was made.

(5) Any sum awarded by way of costs against any society or person under this section may be recovered, on application to a Magistrate's Court having jurisdiction in the place where the registered office of the society is situated or the person resides or carries on business for the time being, in like manner as a fine imposed by the Court.

PART VII

DISSOLUTION

Dissolution

40. (1) If the Registrar, after holding an inquiry or making an inspection under section 39 or on receipt of an application made by three-fourths of the members of a registered society, is of opinion that the society ought to be dissolved, he may make an order for the cancellation of the registration of the society.

(2) Any member of a registered society may, within two months from the date of an order under subsection (1), appeal from such order to the Governor in Council.

(3) Where no appeal is presented within two months from the making of an order cancelling the registration of a society, the order shall take effect on the expiry of that period. Where an appeal is presented within two months, the order shall not take effect until it is confirmed.

(4) Where the Registrar makes an order for the cancellation of the registration of a society under subsection (1), he may make such further order as he may think fit for the custody of the books and documents and the protection of the assets of the society until the order cancelling registration takes effect.

(5) No registered society shall be wound up save by an order of the Registrar.

Cancellation of registration of a society due to lack of membership

41. The Registrar may, by order in writing, cancel the registration of any registered society other than a society which includes among its members one or more registered societies, if at any time it is proved to his satisfaction that the number of the members has been reduced to less than ten. Every such order shall take effect from the date thereof.

Effect of cancellation of registration of society

42. Where the registration of a society is cancelled by an order under section 40 or under section 41 the society shall cease to exist as a corporate body from the date on which the order takes effect, hereinafter referred to as the date of dissolution:

Provided that any privileges conferred on the society by or under sections 15, 16, 17, 18 and 19 shall be deemed to be vested in any liquidator appointed for that society by the Registrar.

Liquidation after cancellation of registration of society

43. Where the registration of a society is cancelled under section 40 or section 41 the Registrar may appoint one or more persons to be, subject to his direction and control, the liquidator or liquidators of the society.

Liquidator's powers

44. (1) A liquidator appointed under section 43 shall, subject to the guidance and control of the Registrar and to any limitations imposed by the Registrar by order under section 45, have power to—

- (a) determine from time to time the contribution to be made by members and past members and by the estates of deceased members of the society respectively to its assets;
- (b) appoint a day by notice before which creditors whose claims are not already recorded in the books of the society shall state their claims for admission or be excluded from any distribution made before they have proved them;
- (c) decide any question of priority which arises between creditors;
- (d) refer disputes to arbitration and institute and defend suits and other legal proceedings on behalf of the society by his name or office;
- (e) decide by what persons and in what proportions the costs of liquidation are to be borne;
- (f) give such directions in regard to the collection and distribution of assets as may be necessary in the course of winding up the society;
- (g) compromise any claim by or against the society provided the sanction of the Registrar has first been obtained;
- (h) call such general meetings of members as may be necessary for the proper conduct of the liquidation;
- (i) take possession of the books, documents and assets of the society;
- (j) sell the property of the society;
- (k) carry on the business of the society so far as may be necessary for winding it up beneficially: Provided that nothing herein contained shall entitle the liquidator of a credit society to issue any loan; and
- (l) arrange for the distribution of the assets of the society in a convenient manner when a scheme of distribution has been approved by the Registrar.

(2) Subject to such rules as may be made in this behalf, any liquidator appointed under this Act shall in so far as such powers are necessary for carrying out the purposes of this section, have power to summon and enforce the attendance of parties and witnesses and to compel the production of documents by the same means and (so far as may be) in the manner as is provided in the case of a civil court.

Power of Registrar to control liquidation

45. A liquidator shall exercise his powers subject to the control and revision of the Registrar, who may—

- (a) rescind or vary any order made by a liquidator and make whatever new order is required;
- (b) remove a liquidator from office;
- (c) call for all books, documents and assets of the society;
- (d) by order in writing limit the powers of a liquidator under section 44;
- (e) require accounts to be rendered to him by the liquidator;
- (f) procure the auditing of the liquidator's accounts and authorize the distribution of the assets of the society;
- (g) make an order for the remuneration of the liquidator; or
- (h) refer any subject of dispute between a liquidator and any third party to arbitration if that party shall have consented in writing to be bound by the decision of the arbitrator.

Enforcement of order

46. (1) The decision of an arbitrator on any matter referred to him under section 45 shall be binding upon the parties, and shall be enforceable in like manner as an order made by the Registrar under that section.

(2) An order made by a liquidator or by the Registrar under section 44 or section 45 shall be enforced by any civil court having jurisdiction over the place where the registered office of the society is situated in like manner as a decree of that court.

Limitation of the jurisdiction of the civil court

47. Save in so far as is hereinbefore expressly provided, no civil court shall have any jurisdiction in respect of any matter concerned with the dissolution of a registered society under this Act.

Closure of liquidation

48. (1) In the liquidation of a society whose registration has been cancelled, the funds, including the reserve fund, shall be applied first to the costs of liquidation, then to the discharge of the liabilities of the society,

then to the payment of the share capital and then, provided the by-laws of the society permit, to the payment of a dividend at a rate not exceeding ten per centum per annum for any period for which no disposal of profits was made.

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

(3) Any surplus remaining after the application of the funds to the purposes specified in subsection (1) and the payment of any claims for which an action is instituted under subsection (2) shall be available for use by the Registrar for any co-operative purposes at his discretion.

PART VIII

SURCHARGE AND ATTACHMENT

Power of Registrar to surcharge officers, etc., of a registered society

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

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

Appeal to the Governor in Council

50. Any person aggrieved by any order of the Registrar made under section 49 may appeal to the Governor in Council within twenty-one days from the date of such order and the decision of the Governor in Council shall be final and conclusive.

PART IX

DISPUTES

Settlement of disputes

51. (1) If any dispute touching the business of a registered society arises—

- (a) among members, past members and persons claiming through members, past members and deceased members; or
- (b) between a member, past member, or person claiming through a member, past member or deceased member, and the society, its committee, or any officer of the society; or
- (c) between the society or its committee and any officer of the society; or
- (d) between the society and any other registered society,

such dispute shall be referred to the Registrar for decision.

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

(2) The Registrar may, on receipt of a reference under subsection (1)—

- (a) decide the dispute himself; or
- (b) refer it for disposal to an arbitrator or arbitrators.

(3) Any party aggrieved by the award of the arbitrator or arbitrators may appeal therefrom to the Registrar within such period and in such manner as may be prescribed.

(4) A decision of the Registrar under subsection (2) or an appeal under subsection (3) shall be final and shall not be called in question in any civil court.

(5) The award of the arbitrator or arbitrators under subsection (2) shall, if no appeal is preferred to the Registrar under subsection (3), or if any such appeal is abandoned or withdrawn, be final and shall not be called in question in any civil court and shall be enforced in the same manner as if the award had been a judgment of a civil court.

Case stated on question of law

52. (1) Notwithstanding anything contained in the last foregoing section, the Registrar at any time when proceeding to a decision under this Act, or the Governor in Council at any time when an appeal has been preferred to

him against any decision of the Registrar under this Act, may refer any question of law arising out of such decision for the opinion of the High Court.

(2) Any judge, or judges, of the High Court as the Chief Justice may direct, may consider and determine any question of law so referred and the opinion given on such question shall be final and conclusive.

PART X

RULES

Rules

53. (1) The Governor in Council may make all such rules as may be necessary for the purpose of carrying out or giving effect to the principles and provisions of this Act.

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

- (a) prescribe the forms to be used and the conditions to be complied with in applying for the registration of a society and the procedure in the matter of such applications;
- (b) prescribe the conditions to be complied with by persons applying for admission or admitted as members, and provide for the election and admission of members from time to time, and the payment to be made and interests to be acquired before exercising rights of membership;
- (c) subject to the provisions of section 29 prescribe the maximum number of shares or portion of the capital of a registered society which may be held by a member;
- (d) prescribe the extent to which a registered society may limit the number of its members;
- (e) provide for the withdrawal and expulsion of members and for the payments to be made to members who withdraw or are expelled, and for the liabilities of past members;
- (f) provide for general meetings of the members and for the procedure at such meetings and the powers to be exercised by such meetings;
- (g) provide for the appointment, suspension and removal of the members of the committee and other officers, and for the procedure at meetings of the committee, and for the powers to be exercised and the duties to be performed by the committee and other officers;

- (h) prescribe the matters in respect of which a society may or shall make by-laws and for the procedure to be followed in making, altering and rescinding by-laws, and the conditions to be satisfied prior to such making, alteration or rescission;
- (i) regulate the manner in which funds may be raised by means of shares or debentures or otherwise;
- (j) prescribe the conditions to be observed by a registered society applying for financial assistance from Government;
- (k) prescribe the payments to be made, the conditions to be complied with, and the forms of the bonds, instruments or other documents to be executed, by members applying for loans or cash credits, the period for which loans may be made or credits granted, and the maximum amount which may be lent and the maximum credit which may be allowed to individual members with or without the consent of the Registrar;
- (l) provide for the mode in which the value of a deceased member's interest shall be ascertained;
- (m) provide for the mode in which the value of the interest of a member who has become of unsound mind and incapable of managing himself or his affairs shall be ascertained and for the nomination of any person to whom such interest may be paid or transferred;
- (n) provide for the formation and the maintenance of reserve funds, and the objects to which such funds may be applied, and for the investment of any funds under the control of any registered society;
- (o) prescribe the conditions under which profits may be distributed to the members of a society with unlimited liability and the maximum rate of dividend which may be paid by societies;
- (p) prescribe the accounts and books to be kept by a registered society, and for the periodical publication of a balance sheet showing the assets and liabilities of a registered society;
- (q) provide for the audit of the accounts of registered societies and for the charges, if any, to be made for such audit and provide for the levy of contributions from all or any registered societies to a fund to be used for the audit and supervision of existing societies and co-operative propaganda and prescribe for the administration of such a fund;
- (r) prescribe the returns to be submitted by registered societies to the Registrar, and the persons by whom and the form in which the same are to be made;

- (s) provide for the persons by whom, and the form in which, copies of entries in books of registered societies may be certified;
- (t) provide for the formation and maintenance of a register of members, and, where the liability of members is limited by shares, of a register of shares;
- (u) provide for the inspection of documents and registers at the Registrar's Office and the fees to be paid therefor and for the issue of copies of such documents or registers;
- (v) prescribe the manner in which any question as to the breach of any by-law or contract relating to the disposal of produce to or through a society, may be determined, and the manner in which the liquidated damages for any such breach may be ascertained or assessed;
- (w) prescribe the mode of appointing an arbitrator or arbitrators and the procedure to be followed in proceedings before the Registrar or such arbitrator or arbitrators;
- (x) prescribe the procedure to be followed by a liquidator appointed under section 43 and the cases in which appeals shall lie from the orders of such liquidator;
- (y) prescribe the forms to be used, the fees to be paid, the procedure to be observed and all other matters connected with or incidental to the presentation, hearing and disposal of appeals under this Act or the rules.

PART XI

MISCELLANEOUS

Recovery of sums due to Government

54. (1) All sums due from a registered society or from an officer or member or past member of a registered society as such to the Government may be recovered in the manner provided for the recovery of debts due to the Government under the law for the time being in force.

(2) Sums due from a registered society to the Government and recoverable under subsection (1) may be recovered first, from the property of the society; secondly, in the case of a society of which the liability of members is limited, from the members subject to the limit of their liability; and thirdly, in the case of other societies, from the members.

Special powers of Governor in Council to exempt any society from requirements as to registration

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

Special power of Governor in Council to exempt societies from provisions of Act

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

Power to exempt from stamp duty and registration fees

57. (1) The Governor in Council by notification in the *Gazette* may, in the case of any registered society or class of registered societies, remit—

- (a) the stamp duty with which, under any law for the time being in force, instruments executed by or on behalf of a registered society, or by an officer or member, and relating to the business of such society, or any class of such instruments are respectively chargeable; or
- (b) any fee payable under the law of registration for the time being in force.

(2) A notification exempting any registered society from the fees referred to in paragraph (b) of subsection (1) may provide for the withdrawal of such exemption.

Prohibition of the use of the word “co-operative”

58. (1) No person other than a registered society shall trade or carry on business under any name or title of which the word “co-operative” is part without the sanction of the Governor in Council:

Provided that nothing in this section shall apply to the use by any person or his successor in interest of any name or title under which he traded or carried on business at the commencement of this Act.

(2) Any person who contravenes the provisions of this section shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding \$24, and in the case of a continuing offence to a further fine not exceeding \$4.80 for each day during which the offence continues.

Penalty for non-compliance with Act

59. (1) (a) Any registered society or an officer or a member thereof, wilfully neglecting or refusing to do any act or to furnish any information required for the purposes of this Act by the Registrar or other person duly authorized by him in this behalf; or

(b) any person wilfully or without any reasonable excuse disobeying any summons, requisition or lawful written order issued under the provisions of this Act, or failing to furnish any information lawfully required from him by a person authorized to do so under the provisions of this Act, shall be guilty of an offence under this Act.

(2) Every offence referred to in subsection (1) shall on summary conviction be punishable with a fine not exceeding \$240.

Punishment of fraud or misappropriation

60. If any person obtains possession by false representation or imposition of any property of a registered society, or having the same in his possession withholds or misapplies the same, or wilfully applies any part thereof to purposes other than those expressed or directed in the rules of the society, and authorized by this Act, he shall, on the complaint of the society, or of any member authorized by the society, or of the committee thereof, or of the Registrar, be liable on summary conviction to a fine not exceeding \$240, and to be ordered to deliver up all such property or to repay all moneys applied improperly, and, in default of such delivery or repayment, or of the payment of such fine, to be imprisoned for a term not exceeding six months; but nothing in this section shall prevent any such person from being proceeded against by way of indictment, if not previously convicted of the same offence under this Act.
