CHAPTER 378A

CO-OPERATIVE SOCIETIES

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SCHEDULE

CHAPTER 378A

CO-OPERATIVE SOCIETIES

An Act respecting the registration, supervision, and management of certain societies the members of which have a common bond of philosophy and social and economic objectives, and for related purposes. 1990-23. 1993-2. 2007-39.

[15th March, 1993] Commencement. 1993/21.

Citation

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

Interpretation

2. (1) In this Act, Definitions.

"affairs" means the relationship among a society, its members, directors and officers, but does not include the business carried on by the society;

"auditor" includes a partnership of auditors;

"board" means the board of directors or other directing body (by whatever name called) of a registered society;

"business" includes the undertaking carried on by a society;

"bonus" means a share of the surplus of a registered society divided among its members in proportion to the business done by each member with the society; 2007-39.

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

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2007-39. "Caribbean Community" means the Caribbean Community established by the Treaty;

“debt obligation” means a bond, debenture, member loan, note, savings certificate or other evidence of indebtedness or guarantee of a society, whether secured or unsecured;

“director” means an individual occupying a position of director of a society, by whatever name called;

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

“legal representative”, in relation to a society, member or other person, means a person who stands in place of and represents the society, member or other person and, without limiting the generality of the foregoing, includes, as the circumstances require, a trustee, executor, administrator, assignee, or receiver of the society, member or other person;

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

“membership fee” means any amount paid by a member to a society as a condition of his becoming or remaining a member,but does not include an amount paid by a member to a society for

(i) goods, services or accommodation that the society provides to the member, or

(ii) shares, loans or other securities of the society;

"member society” means a registered society or other body corporate or partnership, association or firm that is a member of another registered society;

"minor" has the meaning assigned to it by the *Minors Act;* Cap.215.

"officer" includes a president, secretary, treasurer, director or other person empowered under the regulations or by-laws to give directions respecting the business of a registered society;

"qualifying shares" means the minimum number of shares required for membership in a registered society, such minimum to be prescribed by bye-laws in accordance with section 10(1)*(a)*(v); 2007-39.

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

"Registrar" means the Registrar of Co-operative Societies and includes a Deputy Registrar and any other person exercising such powers of the Registrar as may be conferred' upon him under this Act;

"secondary society" means a registered society which comprises mainly primary societies;

"security"

(i) means a share or a debt obligation of a society, and

(ii) includes a certificate evidencing the share or debt obligation;

"security interest" means an interest in or charge on the property of a society by way of mortgage, charge, hypothec, pledge or other obligation taken by a creditor to secure payment of a debt of the society;

"special resolution" means a resolution

(i) at least 10 days' notice of which has been given, specifying the intention to propose the resolution as a special resolution, that is passed by a majority of at least three-fourths of the members or delegates of a society who voted at a general meeting with respect to that resolution,

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(ii) at least 10 days' notice of which has been given, that is approved by written affirmative vote of at least three-fourths of the members of the society who

(A) voted on that resolution within the prescribed time and in the prescribed manner; or

(B) cast a written vote in the manner and within the time specified in the notice; or

(iii) that is consented to in writing by all of the members or delegates of the society who are entitled to vote at a general meeting on that resolution;

2007-39. "Treaty" means the Revised Treaty of Chaguaramas Establishing the Caribbean Community, including the CARICOM Single Market and Economy,

(a) that was signed in the Bahamas on the 5th day of July, 2001; and

(b) to which Barbados is a party,

as amended by the Protocol signed at Paramaribo, Suriname on 17th February, 2005.

Application of Act. 1993-2. **3.** (1) This Act applies to societies which are registered under this Act or continued pursuant to section 241.

(2) Subsections 2 11 to 2 17 shall apply to all societies referred to in subsection (1), and shall apply with such exceptions, adaptations and modifications as the circumstances require.

Co-operative principles. **4.** For the purposes of this Act, a society conforms to co-operative principles if

(a) no member or delegate has more than one vote;

(b) no member or delegate is entitled to vote by proxy;

(c) its business is carried on primarily for the benefit of its members;

(d) its membership is voluntary and available, without any artificial restriction or any unlawful basis of discrimination, to any person who can use its services and is willing to accept the responsibilities of membership;

(e) the rate of dividends on share capital that it pays does not exceed the rate prescribed in the regulations made under this Act;

(f) any surplus or savings arising out of its operation is

(i) used to develop its business,

(ii) used to provide or improve common services to members,

(iii) used for the payment of dividends on share capital,

(iv) distributed among members in proportion to the business done by each member with the society, 2007-39.

(v) used to educate its members, officers or employees or the general public in the principles and techniques of economic and democratic co-operation,

(vi) distributed to non-profit charitable or benevolent organisations;

(g) co-operation with other societies is pursued;

(h) it provides for continuing education.

Societies to conform to co-perative principles.

5. A society registered under this Act shall, while it is so registered, conform to the co-operative principles set out in section 4.

PART I

Registration

Application for registration.

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

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

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

(a) in the case of a society of which no member is a registered society, by at least 10 members who satisfy the requirements for membership;

(b) in the case of a society of which a member is a registered society, by a duly authorised person on behalf of every such registered society, and, where all the members of the society are not registered societies, by 10 other members, or where there are less than 10 other members, by all of them; and

(c) in the case of a society of which all the members are registered societies, on behalf of at least 2 such societies.

(4) An application must be accompanied by

(a) 3 copies of the proposed by-laws of the society,

(b) the prescribed application fee, and

(c) such other information in respect of the society as the Registrar requires.

Conditions for registration.

7. (1) No society may be registered, or having been registered, may continue to be so registered

(a) unless it conforms to the co-operative principles set out in section 4;

(b) unless, subject to paragraph *(c)* and subsection (3), its membership consists of at least 10 persons, other than corporate bodies, who have attained the age of 16 years;

(c) subject to subsections (3) and (4), if its membership consists solely of members of a school, club, social or cultural organisation, who are all under the age of 18 years, without the approval of the Registrar;

(d) unless there is conformity among membership, none of whom is another society, with all the co-operative principles as set out in section 4;

(e) unless the word "co-operative" or "credit union" forms part of the name of the society;

(f) unless the word "limited" is the last word of the name of a society to be registered with limited liability;

(g) if the name of the society is identical with that of another registered society or so nearly resembles that name as to be likely to mislead;

(h) unless it has and maintains an address to which all notices and communications may be sent;

(i) unless its by-laws are in conformity with this Act;

(j) unless, within a reasonable time after the issue of the certificate of registration, the society paints or affixes its registered name in letters easily legible in a conspicuous position on the outside of every office or place in which the business of the society is carried on.

(2) With respect to paragraph *(b)* of subsection (1) different scales of fees may be prescribed for different classes of registered societies. 1993-2.

(3) A society referred to in paragraph *(c)* of subsection (1) shall be known as a "Junior Co-operative Society". 1993-2.

(4) For the purposes of this Act, a member of a Junior Co-operative Society, other than a member referred to in subsection (5), may sue or be sued only through his next friend.

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(5) The Registrar may in any special case permit a child who has attained the age of 18 years to continue as a member of a junior co-operative society until he attains the age of 19 years.

(6) A society registered or continued under this Act may have its registration cancelled by the Registrar if it is not financially viable.

Registration of societies.

8. (1) When the Registrar is satisfied that the application is made in accordance with this Act, he may

(a) register the society and its by-laws and issue a certificate of registration in the prescribed form; and

(b) send to the society at its registered office one copy of its by-laws, certified by him as having been registered.

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

(a) shall be published in the *Gazette;* and

(b) shall be noted in the register.

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

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

Effect of certificate of registration.

9. (1) A society comes into existence on the date shown in its certificate of registration.

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

By-laws.

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

(a) respecting conditions of membership, including

(i) the rights of joint members, if any,

(ii) the qualification for membership and the withdrawal of members and transfer of membership,

(iii) the amount of the membership fee and of the annual fee, if any, to be paid by members,

(iv) the conditions on which membership ceases or may be terminated, the disposition that may be made on cessation or termination of a member's interest and the determination of the value of the member's interest, and

(v) the qualifying shares that must be held by each member, the minimum value being not less than such amount as may be prescribed in the regulations; 2007-39.

(b) respecting, subject to this Act, voting rights and the rights of making, amending and repealing by-laws, the rights of members to vote by ballot and the manner, form and effect of votes at meetings;

(c) respecting directors, officers and members of committees of directors,

(i) their qualifications, terms of office and removal,

(ii) the filling of vacancies, and

(iii) their powers, duties and remuneration;

(d) respecting the address of the registered office;

(e) respecting the distribution of the property of the society on the dissolution of the society;

(f) respecting the borrowing powers of the society and the procedure for exercising those powers; and

(g) respecting any matters, in addition to those set out in paragraphs *(a)* to *(f)*, that the members consider necessary or desirable.

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

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

Amendment of by-laws. 2007-39.

10A. (1) Subject to this Act and the by-laws, the members of a society may at any annual general meeting or any special meeting amend by special resolution the by-laws, including the by-law which declares the name of the society, if notice of the proposed amendment together with notice of the meeting

(a) is given to each member by mail; or

(b) is given to members by the publication of a notice in not less than two issues of at least one newspaper published and circulated in Barbados.

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

(3) For the purposes of subsection (2), three copies of the amendment and a copy of the resolution shall be forwarded to the Registrar, and the amendment shall be certified to be true by the secretary and the president.

(4) Where the Registrar is satisfied that any amendment of the by-laws is not contrary to this Act, the regulations or the guidelines, and that the amendment is not likely to affect the financial soundness of the society, he shall register the amendment.

(5) Where 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) Where the Registrar refuses to register an amendment,

(a) the Registrar shall notify the society in writing of that fact as well as the reasons for the refusal, and shall also notify the society of its right to appeal under paragraph *(b)*; and

(b) the society may within 21 days of the notice of refusal appeal to the Co-operative Societies Appeals Tribunal.

(7) It is the duty of the board to submit an amendment of the by-laws to the Registrar for registration.

(8) For the purposes of this Act, the expression "amendment" includes the making of a new by-law and the alteration, substitution or revocation of a by-law.

By-laws binding.

11. The by-laws of a society bind the society and it members to the same extent as if they

(a) had been signed and sealed by the society and by every member; and

(b) contained covenants on the part of each member and the legal representative of each member to observe the by-laws.

Reservation.

12. Where the Registrar receives a written request and the prescribed fee he may reserve for 90 days a name for a proposed society or for a society proposing to change its name.

Required name.

13. (1) Subject to subsection (3), a society shall have

(a) the word “co-operative” or the abbreviation “Co-op.” or the words “credit union” as part of its name, or any abbreviation thereof, and

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(b) the word "Limited" or the abbreviation "Ltd." as the last word in its name.

(2) Subject to subsection (3), no person, other than a society registered pursuant to this Act shall

(a) carry on business under a name that includes the word "co-operative", or "credit union" or an abbreviation thereof, and

(b) adopt a name that includes the word "co-operative" or the words "credit union" or an abbreviation thereof.

(3) The Registrar may exempt any person from subsections (1) and (2) where special circumstances require.

Prohibited name.

14. (1) No society shall have a name

(a) that, subject to subsection (2), is similar to the name of another society, corporation, association, partnership or firm, where the use of that name, in the opinion of the Registrar, would be likely to confuse or mislead the public;

(b) that is identical to the name of a society registered or continued under this Act;

(c) that suggests or implies a connection with a statutory board;

(d) that suggests or implies a connection with a political party or the leader of a political party;

(e) that suggests or implies a connection with a university, and educational institution or professional association recognised by the laws of Barbados unless the university, educational institution or professional association concerned consents in writing to the use of the proposed name; or

(f) that is prohibited by the regulations.

(2) Subject to the approval of the Registrar, a society may use the same name as or a name similar to the name of a corporation, association, partnership or firm where the corporation, association, partnership or firm

(a) consents in writing to the use of the name in whole or in part; and

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(b) where required by the Registrar, undertakes to dissolve or change its name to a dissimilar name within 6 months after the application for registration by the society that is acquiring the name.

Deceptive or inaccurate name.

15. The Registrar may refuse to register a society or to register by-laws amending the name of a society where, in his opinion, the proposed name

(a) is deceptively inaccurate in describing

(i) the business, goods or services in association with which it is proposed to be used,

(ii) the conditions under which the goods or services will be produced or supplied,

(iii) the persons to be employed in the production or supply of the goods or services, or

(iv) the place of origin of those goods or services;

(b) is likely to be confused with the name of a society that was dissolved; or

(c) is for any reason objectionable.

Name on amalgamation.

16. Where 2 or more societies amalgamate, the amalgamated society may have

(a) the name of 1 of the amalgamating societies;

(b) a distinctive combination of the names of the amalgamating societies that is not, in the opinion of the Registrar, confusing; or

(c) a distinctive new name that is not, in the opinion of the Registrar, confusing.

Undertaking not carried out.

17. (1) Where a society is granted a name subject to an undertaking given pursuant to section 14 (2) and the undertaking is not carried out within the time specified in the undertaking, the Registrar may direct the society to which the name is granted to change its name to a name that complies with this Act.

(2) Where a society

(a) comes into existence or is continued with a name, or

(b) on an application to change its name is granted a name,

that contravenes section 14 or 15, the Registrar may direct the society to change its name.

(3) Where a society is directed pursuant to subsection (1) or (2) to change its name and fails within 60 days from the service of the directive to change its name to a name that complies with this Act, the Registrar shall suspend its registration for a period not exceeding 12 months.

(4) Where a society has not changed its name during the period of suspension the Registrar shall cancel its registration.

(5) Where the Registrar receives a copy of a resolution to change the name of a society and he approves the new name he shall

(a) enter the new name in the register in place of the former name,

(b) issue a certificate showing the change of name, and

(c) inform the society in writing of the change of name.

(6) The Registrar shall cause the cancellation of the registration of a society and the change of name of a society to be published in the *Gazette*.

Use of name.

18. (1) Every society shall display its name in legible characters in a conspicuous position

(a) at every office or place at which it carries on business,

(b) in all notices and other official publications,

(c) on all its contracts, business letters, orders for goods, invoices, statements of account, receipts and letters of credit, and

(d) on all bills of exchange, promissory notes, endorsements, cheques and orders for money it signs or that are signed on its behalf.

(2) Where a society has a corporate seal, it shall display its name in legible characters on its corporate seal.

(3) The Registrar may exempt a society from any requirement of subsection (1).

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Seal

Seal.

19. (1) The directors may by resolution

(a) adopt a corporate seal, and

(b) change the corporate seal adopted pursuant to paragraph *(a)*.

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

Pre-registration contracts

Personal liability.

20. (1) Subject to subsections (2) to (6), a person who enters into a written contract in the name of or on behalf of a society before it comes into existence is personally bound by the contract and is entitled to the benefits of the contract.

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

(3) Where a society adopts a contract pursuant to subsection (2),

(a) it is bound by the contract and is entitled to the benefits of the contract as if the society had been in existence at the date of the contract and had been a party to the contract; and

(b) subject to subsection (4), the person who purported to act in the name of or on behalf of the society ceases to be bound by or entitled to the benefits of the contract.

(4) Subject to subsection (6), whether or not a written contract made before the coming into existence of a society is adopted by the society, a party to the contract may apply to a court for an order fixing the obligations under the contract as joint and several or apportioning liability between the society and any person who purported to act in the name of or on behalf of the society.

(5) Where the court receives an application pursuant to subsection (4), it may make any order that it considers appropriate.

(6) Where a written contract expressly provides that a person who purported to act in the name of or on behalf of the society before it came into existence is not bound by the contract or entitled to the benefits of the contract, the person is deemed not to be bound by the contract nor to be entitled to the benefits of the contract.

PART II

Capacity and Powers

Capacity of a society.

21. (1) A society registered under this Act

(a) is a body corporate; and

(b) has the capacity and, subject to this Act and its by-laws, the rights, powers and privileges of an individual.

(2) A society has the capacity to carry on its business, conduct its affairs and exercise its powers in any jurisdiction outside Barbados to the extent that the laws of Barbados and of that jurisdiction permit.

(3) This section does not authorise any society to carry on any business activity in breach of

(a) any enactment prohibiting or restricting the carrying on of the business or activity, or

(b) any provision requiring any permission or licence for the carrying on of the business or activity.

Restrictions on business.

22. (1) No society shall

(a) carry on business that is restricted from carrying on in its by-laws or in the regulations, or

(b) exercise any of its powers in a manner contrary to its by-laws.

(2) No act of a society, including any transfer of property to or by a society, is invalid by reason only that the act or transfer is contrary to its by-laws.

(3) Where a Registrar considers it appropriate, he may require that the by-laws of the society contain a provision

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(a) restricting the business of the society to a business he may specify, or

(b) restricting the society from carrying on a business he may specify.

No constructive notice.

23. (1) Subject to subsection (2), no person is affected by or deemed to have notice or knowledge of

(a) the contents of a document or record of a society, or

(b) an order of the Registrar with respect to the society,

by reason only that the document, record or order has been filed with the Registrar or is available for inspection at an office of the society or the Registrar.

(2) A member of a society is deemed to have notice and knowledge of the contents of the by-laws of the society.

Authority of directors, officers and agents.

24. (1) Subject to subsection (2), no society and no guarantor of an obligation of the society shall assert against a person dealing with the society or with another person who has acquired rights from the society that

(a) the by-laws have not been complied with;

(b) the person named in the most recent notice sent to the Registrar under this Act are not the directors of the society;

(c) the place named in the most recent notice sent to the Registrar under this Act is not the registered office of the society;

(d) a person held out by the society as a director, an officer or an agent of the society has not been duly appointed or has no authority to exercise the powers or perform the duties that are customary in the business of the society or are usual for that director, officer or agent;

(e) a document issued by any director, officer or agent of the society with actual or usual authority to issue the document is not valid or not genuine ; or

(f) any financial assistance to members or directors or any sale, lease or exchange of all or substantially all of the property of the society was not authorised.

(2) Subsection (1) does not apply where a person dealing with a society or with another person who has acquired rights from the society has or ought to have by virtue of his position with or relationship to the society, knowledge to the contrary.

PART III

Registered Office and Records

Registered office.

25. (1) A society must at all times have a registered office in Barbados specified in its by-laws.

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

Corporate records.

26. (1) A society shall prepare and maintain at its registered office or at a place in Barbados, other than its registered office, designated by the directors, records containing

(a) a copy of this Act and the regulations;

(b) its by-laws and all amendments thereto;

(c) minutes of meetings of members and resolutions of members;

(d) copies of all notices of directors and notices of change of directors;

(e) a register of its directors setting out the names, addresses and occupations of all persons who are or have been directors of the society with the dates on which each person became or ceased to be a director;

(f) a register of members setting out their names arranged in alphabetical or numerical order and their latest addresses known to the society;

(g) a copy of every certificate issued to it by the Registrar; and

(h) a copy of every order of the Registrar relating to the society.

(2) In addition to the records described in subsection (1), a society shall prepare and maintain

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(a) a register of members stating the shares held by each member;

(b) adequate accounting records; and

(c) records containing minutes of meetings and resolutions of the directors and any committee of directors.

(3) Where a society is continued under this Act, "records" includes records similar to those described in subsection (2) that were required by the former Act to be maintained by the society before it was continued.

Access to corporate records. 1993-2.

27. (1) Members, their agents and legal representatives may examine the records mentioned in section 26 (1) during the usual business hours of the society and may take extracts from those records.

(2) On request, a member is entitled without charge to 1 copy of the by-laws.

(3) A society shall provide access to its register of members mentioned in section 26 (1) *(f)* at any general meeting of members, and members may examine the register.

Members basic list.

28. (1) In this section, "basic list" means the list of members described in subsection (2).

(2) On payment of a reasonable fee and on sending to a society or its agent the affidavit mentioned in subsection (5), any 5 members of a society, their agents and legal representatives may require the society or its agent to furnish, within 21 days from the receipt of the affidavit, a list made up to a date not more than 1 month before the date of receipt of the affidavit setting out, in alphabetical order, the names of members and their latest addresses known to the society.

(3) On payment of a reasonable fee, any 5 members requiring a society to supply a basic list may, where they state in their affidavit mentioned in subsection (5) that they require a supplemental list for the purpose of updating a basic list, require the society or its agent to furnish a supplemental list to the basic list setting out changes to the names or addresses of the members from the date the basic list was made up to.

(4) The society or its agent shall furnish a supplemental list required pursuant to subsection (3)

(a) on the date the basic list is furnished, where the information relates to changes that took place prior to that date, and

(b) on the business day following the day to which the supplemental list relates, where the information relates to changes that take place on or after the date the basic list is furnished.

(5) The affidavit mentioned in subsection (2) must contain

(a) the name and address of the applicants,

(b) where an applicant is a body corporate, the name and address for service of the body corporate, and

(c) a declaration that the basic list and any supplemental list obtained pursuant to subsection (3) will not be used for any purpose other than in connection with an effort

(i) to influence the voting of members of the society, or

(ii) to make a petition pursuant to section 87 to call a special meeting.

(6) Where an applicant is a body corporate, the affidavit is required to be made by a director or officer of the body corporate.

Form of records.

29. (1) A society may

(a) prepare and maintain any register or other records that are required by this Act

(i) in a bound or looseleaf form,

(ii) in a photographic film form, or

(b) enter or record the register and records mentioned in paragraph *(a)*

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(i) by any system of mechanical or electronic data processing, or

(ii) by any other information storage device that is capable of reproducing any required information in intelligible, written form within a reasonable time.

(2) A society and its agent shall take reasonable precautions to

(a) prevent loss or destruction of,

(b) prevent falsification of entries in, and

(c) facilitate detection and correction of inaccuracies in,

the records and registers that it is required by this Act and the regulations to prepare and maintain.

PART IV

Finance

Shares.

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

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

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(3) A society may pay a dividend or any other return on shares as it sees fit.

Share capital.

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

(a) an amount of money divided into a specified number of shares set out in the by-laws, or

(b) an amount composed of an unlimited number of shares with a specified par value.

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

Issue of Shares.

32. (1) In this section, "property" does not include a promissory note or a promise to pay.

(2) Subject to subsection (3), a society may issue shares at any time and for any consideration that the directors consider appropriate.

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

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

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

(a) in money, or

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

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

Limited share-holding.

33. Subject to the approval of the Registrar, only a registered society may hold more than one-fifth of the shares of another registered society.

Allocation of surplus.

34. (1) Where a society has a surplus in a financial year before it allocates among or credits to members the surplus pursuant to sub-section (3), the directors

(a) shall use any part of the surplus that the society will require to retire all or any part of a deficit it has previously incurred;

(b) shall establish and maintain a reserve fund in accordance with section 197; 2007-39.

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(c) may provide, out of any surplus of remaining after paragraphs *(a)* and *(b)* have been complied with, in the manner set out in its by-laws, for payment out of the surplus dividends on shares at a rate not greater than the prescribed rate.

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(2) *Repealed by 2007-39.*

(3) Subject to this Act, the directors may allocate among, and credit or pay to, the members, as a bonus, any part of the surplus

(a) arising from the operations of the society in a financial year; and

(b) remaining after making provision for the matters described in subsection (l),

in proportion to the business done by the members with or through the society in the financial year, computed in the manner described in subsection (5) at a rate set by the directors.

(4) Subject to the by-laws, where the members approve by ordinary resolution, the directors may allocate among, and credit or pay to, the members as a bonus

(a) any reserves, other than reserves the society is required to maintain pursuant to this Act; and

(b) any unallocated earnings from previous years,

in proportion to the business done by the members with or through the society, computed in the manner described in subsection (5) at a rate set by the directors.

(5) For the purposes of subsections (3) and (4), the directors may compute the amount of the business done by each member with a society in a financial year in the manner prescribed by the regulations.

(6) For the purposes of subsection (5), "business" includes interest paid on loans by a member but does not include business relating to shares.

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(7) The by-laws may provide that a society may, in each financial year, allocate among, and credit or pay to, patrons of the society who are not members a share of any surplus at a rate that is equal to or less than the rate at which the surplus is distributable to members.

(8) Where a society allocates among, and credits or pays to, non-member patrons a share of any surplus, the directors shall compute the business done by the non-member patrons in the manner described in subsection (5).

(9) Subsections (7) and (8) do not apply in the case of credit unions.

Investment of funds. 2007-39.

34A. (1) The funds of a society, including the reserve, may

(a) be deposited in

(i) a bank licensed under the *Financial Institutions Act*; Cap. 324A.

(ii) a society registered under this Act; or

(b) be invested in

(i) securities issued by the Government of Barbados;

(ii) securities, the payment of interest on which is guaranteed by the Government of Barbados;

(iii) subject to subsection (2), securities issued in Barbados by a company incorporated in Barbados and listed by the Barbados Stock Exchange, if the company has paid a dividend on its shares for the preceding 5 consecutive years;

(iv) subject to subsection (2), securities issued in a member state of the Caribbean Community by a company incorporated in that member state and listed by the Stock Exchange of a member state of the Community, if the company has paid a dividend on its shares for the preceding 5 consecutive years;

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(v) subject to subsection (2), securities issued in a member state of the Caribbean Community by a credit union that is registered in a member state of the Caribbean Community in accordance with the laws of that state;

(vi) real property, but subject to the provisions of section 196A where the society is a credit union;

(vii) subject to subsection (2), any other manner approved by the Registrar.

(2) The investments referred to in sub-paragraphs (iii), (iv) and (v) of subsection (1) shall not exceed in aggregate 10 per cent of the statutory reserve of any credit union.

(3) Where the funds of a society are invested in a manner that is not in accordance with subsections (1) and (2), no action shall be taken against that society for a period of one year after the commencement of this Act.

Payment of dividend. 1993-2.

35. (1) Where members, by ordinary resolution, approve the payment of a dividend, the dividend paid on shares pursuant to section 34 (1)*(c)* or a bonus paid pursuant to subsection (3) or (4) of that section may be paid in cash or property, including fully paid shares or member loans outstanding to the society or to a member society, that are not greater in value than the amount of the dividend.

(2) Where a dividend is paid pursuant to subsection (1) in shares, the directors are required to rateably distribute the shares among all persons entitled to the dividend in accordance with the rate approved by ordinary resolution of the members.

(3) No society shall declare or pay a dividend on shares or a bonus where

(a) it is insolvent; or

(b) there are reasonable grounds for believing that it would become insolvent as a result of declaring or paying the dividend or bonus.

Application of bonus or dividend declared by society. 2007-39.

36. The by-laws may provide that in each year, all or any part of the bonus or dividend declared pursuant to section 34 that the directors consider reasonable is to

(a) be applied to the purchase of shares of the society from the society by a member; or

(b) be lent to or retained by the society on any terms and for any period of time that the directors may determine.

Deductions applied to loans and shares.

37. The by-laws may provide that the society

(a) deduct an amount from the moneys it receives for the goods, products or services it has marketed, handled, or dealt in, for or on behalf of a member or non-member patron, and

(b) apply the amount described in paragraph *(a)* as a loan or to the purchase of shares in the same manner and subject to the same restrictions as provided in section 36 for the allocation of a bonus.

Non-payment of small dividends or bonus. 2007-39.

38. The by-laws may provide that where the bonus or dividend that would otherwise be payable or allocatable to any person with respect to the operations of a society in a financial year is less than or equal to $10 or any smaller amount that may be specified in the by-laws, the society shall credit the amount to the person's account.

Purchase of shares.

39. (1) A society may purchase or otherwise acquire any of its shares that

(a) are available for compulsory purchase pursuant to section 100, or

(b) are offered for sale.

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

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

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

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

Limitations on purchase.

40. (1) Notwithstanding section 39, no society shall purchase or otherwise acquire its shares where

(a) it is insolvent;

(b) the proposed purchase or acquisition would render it insolvent; or

(c) subject to subsection (2), the proposed purchase or acquisition would, in the opinion of its directors, be detrimental to the financial stability of the society.

(2) Subject to subsection (3), where a purchase or other acquisition of shares pursuant to section 39 or 100 would, in the opinion of the directors, impair the financial stability of the society or would be contrary to the interests of the remaining members, the directors may suspend the purchase or acquisition of shares.

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

(a) by the Registrar, or

(b) by a special resolution of the members.

(4) Notwithstanding subsection (l), a society may purchase or otherwise acquire its own shares to comply with an order under section 177.

Alteration of authorised capital.

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

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(a) subdivide any shares;

(b) consolidate shares into shares of a larger par value, but the par value of consolidated shares must not be greater than $100;

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

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

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

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

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

(a) the by-law has been made in accordance with this Act,

(b) the holders of all shares of the society affected by the by-law have approved the by-law by a special resolution passed by the members at a general meeting called for the purpose, and

(c) in the case of a by-law providing for a reduction in the capital of the society,

(i) all creditors who are liable to be affected have been notified of the by-law and have signified their approval, or

(ii) appropriate steps have been taken by the society to adequately safeguard the interest of its creditors.

42. (1) Subject to subsection (2), no society and no member society shall, directly or indirectly, give a loan, guarantee or other means of financial assistance, *Prohibited loans and guarantees.*

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(a) to a member, director, officer or employee of the society or member society or an associate of any such person for any purpose, or

(b) to any person for the purpose of or in connection with, the acquisition of membership of the society or the purchase of a share issued or to be issued by the society or member,

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

(2) A society may give a loan, guarantee or other means of financial assistance

(a) to a person in the ordinary course of business, where the lending of money is part of the ordinary business of the society;

(b) to a person on account of expenditures incurred or to be incurred on behalf of the society;

(c) to a member society or a member of a member society;

(d) to employees of the society or any of its member societies to enable or assist them to purchase or erect living accommodation for their own occupation.

(3) Notwithstanding subsection (2), a contract made by a society in contravention of this section may be enforced by

(a) the society, or

(b) a *bona fide* lender for value without notice of the contravention.

Money owing a debt.

43. All money owing by any member to the society pursuant to the by-laws are a debt due from him to the society.

Lien on member's interest.

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

(2) A society may

(a) enforce a lien mentioned in subsection (1) in the manner set out in its by-laws, or

(b) apply any moneys standing to the credit of the member towards payment of any debt due by the member to the society.

PART V

Certificates, Memberships and Transfers

Personal property.

45. Subject to any conditions or restrictions contained in this Act, the regulations or the by-laws of a society, shares and membership in the society are personal property and are transferable in any manner.

Financial certificate.

46. (1) Subject to subsections (2) and (5), every member of a society is, on request and on payment of the appropriate fee, entitled to a certificate, in this Act called a "financial certificate", signed by the proper officers of the society, stating the extent of his financial interest in the society.

(2) With respect to joint membership, the society is not required to issue more than 1 certificate; and delivery of a financial certificate to 1 joint member is sufficient delivery to all.

(3) A society may by by-law provide that the signatures of the officers designated to sign financial certificates be engraved, lithographed or otherwise mechanically reproduced on the financial certificates and, in that event, financial certificates so signed are deemed to have been manually signed by those officers and are as valid as if they had been manually signed.

(4) A financial certificate is evidence of the title of the member to the extent of the financial interest mentioned in the certificate.

(5) The by-laws may provide that a society is not required to issue share certificates and in that case,

(a) the register of members kept by the society pursuant to section 26 (2) is evidence of the extent of the number of shares held by each member, and

(b) where requested in writing by a member, the society shall provide a statement to the member showing the extent of the financial interest of the member in the society.

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Membership certificate.

47. Every member of a society is entitled, on request and without charge, to a certificate signed by the proper officer of the society stating that he is a member.

Transfer of shares.

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

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

(i) a resolution of the directors, or

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

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

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

Dealings with registered holder.

49. (1) Before the transfer of a share or other security is presented for registration in registered form, a society may treat the registered holder in whose name the security is registered in a register of members or register of securities as if he had full legal capacity and authority to exercise all rights of ownership without taking into account

(a) any knowledge or notice to the contrary, other than that obtained in a document demanded by the society, or

(b) any description in the society's records or on the security certificate indicating

(i) a pledge or a representative or fiduciary relationship,

(ii) a reference to an instrument, other than its records or the security certificate, or

(iii) the rights of any other person.

(2) Notwithstanding subsection (1), a society shall treat a person, other than the registered holder of a security described in subsection (1), as the registered holder entitled to exercise all the

rights of the security holder he represents, where that person furnishes evidence satisfactory to the society that he is

(a) the legal representative of the estate of a deceased registered holder,

(b) a guardian, committee, trustee or curator representing a registered holder who is a minor, an incompetent person or a missing person, or

(c) a liquidator of, or a trustee in bankruptcy for, a registered holder.

(3) Where a person on whom the ownership of a security devolves by operation of law, other than a person described in subsection (2) furnishes evidence satisfactory to the society of his authority to exercise rights or privileges with respect to a security of the society that is not registered in his name, the society shall treat that person as entitled to exercise those rights or privileges.

(4) A society is not required to enquire into the existence of, or see to the performance or observance of, any duty owed to a third person by a registered holder of any of its securities or by anyone whom it treats, as permitted or required in this section, as the owner or registered holder of the security.

(5) Where a minor exercises any rights of ownership in the securities of a society, no subsequent repudiation or avoidance is effective against the society.

(6) Where a society receives proof satisfactory to it of the death of any of the joint holders of a security, the society may treat as the owners of the security the survivors of the deceased joint holders.

(7) A person described in subsection (2)*(a)* is entitled to become a registered holder or to designate a registered holder, when he deposits with the society or its agent the original grant of probate or letters of administration or a copy of the grant of probate or letters of administration, certified to be a true copy by the Registrar of the Supreme Court with

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(a) an affidavit or declaration of transmission made by the person, stating particulars of the transmission, and

(b) the security certificate, if any, that was owned by the deceased holder, endorsed by the person and accompanied by any assurance the society may require that the endorsement is genuine and effective.

(8) When documents required in subsection (7) are deposited with a society or its transfer agent, the society or its transfer agent may

(a) record in a register of members or securities the transmission of a security from the deceased holder to a person described in subsection (2)*(a)* or to any person that the person mentioned in that subsection may designate, and

(b) treat the person who becomes a registered holder pursuant to paragraph *(a)* as the owner of the security.

Joint membership.

50. (1) Subject to the by-laws, where membership in a society is held jointly,

(a) subject to paragraph *(b)*, each of the joint members is entitled to exercise full rights and responsibilities of membership, but joint members are entitled only to one vote;

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(b) subject to subsection (3), only one joint member of a society may be a director at any one time; and

(c) each joint member has an interest in the society equal to that of other joint members.

(2) Where in addition to joint membership an individual is a member in his own right he may exercise only one vote, that is to say, he may vote only in his right as an individual member or as a joint member, but not as both.

(3) Where a joint member also holds a membership in his name, he may be a director, notwithstanding the fact that another joint member is also a director.

(4) Where membership in a society is held jointly,

(a) it may be held as a joint tenancy or a tenancy in common, but, where the members do not specify to the society how the membership is to be held, the membership is deemed to be held as a joint tenancy; and

(b) the joint members are jointly and severally liable for all assessments, levies, dues, fees, payments and other charges imposed or payable with respect to the membership.

(5) Where one joint member is obliged to, and does, pay more than his proportionate share of an assessment, levy, due, payment, fee or other charge with respect to a joint membership by reason of the default of another of the joint members, in the absence of an agreement to the contrary, the member who paid the amount in excess of his proportionate share has a lien on the interest of, and may recover the amount from, the person who made the default.

Variation of joint membership.

51. An application of a joint membership

(a) to withdraw from membership in a society; or

(b) to vary the composition of the joint membership,

must be signed by all the persons comprising the joint membership.

Multiple membership. 2007-39.

52. (1) No person shall be a member of more than one credit union unless the credit unions have agreed in writing thereto.

(2) Where a person becomes a member of more than one credit union, the second or any subsequent credit union shall so inform the Registrar within 14 days of the grant of membership.

PART VI

Directors, Officers and By-Laws

First directors.

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

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(a) are deemed to have all the powers and duties of directors; and

(b) shall hold office until the first general meeting.

(2) After the first general meeting, the directors must be appointed in accordance with the Act, the regulations and the by-laws.

Directors' powers.

54. (1) Subject to this Act, the regulations and the by-laws, the board of directors, however designated, shall

(a) exercise the powers of the society directly or indirectly through the employees and agents of the society; and

(b) direct the management of the business and affairs of the society.

(2) All of the directors must be citizens or residents of Barbados.

Committees.

55. (1) The board of directors may from time to time

(a) appoint from among its number any committee it considers necessary; and

(b) by resolution, delegate to any committee any powers that it considers necessary for the efficient conduct of the affairs and business of the society.

(2) A committee of directors that has powers delegated to it pursuant to subsection (1)*(b)* must consist of at least 3 directors.

(3) A member of a committee holds office until

(a) his removal by resolution of the board of directors; or

(b) he ceases to be a member of the board of directors.

(4) A committee may exercise any powers of the board of directors that are delegated to it by resolution of the board, subject to any restrictions contained in the resolution.

(5) Notwithstanding subsection (4), no committee of directors may

(a) fill a vacancy among the directors;

(b) declare a bonus or dividend;

(c) approve any financial statements of the society;

(d) submit to the members any question or matter requiring the approval of members; or

(e) make decisions where this Act or the by-laws require a two-thirds majority or unanimous vote of the board of directors.

(6) A committee shall

(a) fix its quorum at not less than a majority of its members;

(b) keep minutes of its proceedings; and

(c) submit to the board of directors, at each meeting of the board, the minutes of the committee's proceedings during the period since the most recent meeting of the board.

Election of directors.

56. (1) Subject to the regulations and the by-laws,

(a) the election of directors must take place annually at the annual general meeting;

(b) the directors hold office until the conclusion of the meeting at which their successors are elected, and are eligible for re-election;

(c) where the number of nominees exceeds the number of directors to be elected, the election of directors is required to be by secret ballot;

(d) every member has the right to vote for the number of directors to be elected, and any ballot that contains the names of more than the number to be elected is void; 1993-2.

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(e) where there is a vacancy on the board of directors, and

(i) there is a quorum of directors, the remaining directors

(A) may exercise all powers of the directors, or

(B) may fill the vacancy until the next annual meeting,

(ii) there is not a quorum of directors, the remaining directors shall call a general meeting for the purpose of electing members to fill any vacancies;

(f) where there are no directors remaining, such number of members as may be specified in the by-laws may in writing appoint directors solely for the purpose of calling a general meeting to elect members to fill the vacant directorships.

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

1993-2. (3) The by-laws of a society shall provide for the rotation of directors, but in that case no director shall be elected for more than 2 consecutive terms.

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

Qualifications of directors and officers. 2007-39.

57. An individual is not eligible to be a director if he

(a) is less than 18 years of age or, in the case of a junior co-operative, he is less than 10 years of age;

(b) is of unsound mind and has been so found by a court in Barbados;

(c) is not a member of the society or a duly appointed representative of a member society;

(d) is convicted of an offence involving fraud or dishonesty;

(e) is convicted of an offence under this Act;

(f) is the auditor of the society;

(g) is convicted on indictment of an offence in connection with the promotion, formation or management of a body corporate;

(h) makes an arrangement with his creditors;

(i) becomes bankrupt; or

(j) is not in good financial standing with a registered society.

Additional powers of directors. 2007-39.

58. (1) Subject to the by-laws and the regulations, directors of a society may, without the authorisation of the members,

(a) borrow money on the credit of the society;

(b) issue, re-issue, sell or pledge debt obligations of the society;

(c) subject to section 42, give a guarantee on behalf of the society to secure performance of an obligation of any person; and

(d) mortgage, charge, hypothecate, pledge or otherwise create a security interest in all or any property of the society, owned or subsequently acquired, to secure any debt obligation of the society.

(2) A sale, lease or exchange of all or substantially all of the property of a society, other than in the ordinary course of business of the society, must be approved by the members in the manner provided in subsections (3) to (8).

(3) The directors shall send, in the manner provided in section 88, a notice of a special meeting to consider the sale, lease or exchange mentioned in subsection (2) to each member.

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

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

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(a) authorise the sale, lease or exchange mentioned in subsection (2); and

(b) fix, or authorise the directors to fix, any terms and conditions of sale, lease or exchange.

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

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

(8) A sale, lease or exchange may be abandoned by the directors where they are so authorised in a special resolution.

Meeting by telephone etc.

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

(a) a telephone system, or

(b) a communications facility other than telephone,

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

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

(a) all the directors consent to the resolution in writing; and

(b) the consent is filed with the minutes of the proceedings of the directors.

Minutes of directors.

60. (1) The directors shall cause minutes to be kept of

(a) all appointments of officers and committee members made by them;

(b) all the names of the directors present at each meeting of the directors; and

(c) all resolutions and proceedings at meetings of the society or the directors.

(2) Every committee of the society shall cause minutes to be kept of

(a) the names of the committee members present at meetings of the committee; and

(b) all proceedings and resolutions of the committee.

(3) The directors shall cause true accounts to be kept of

(a) all sums of money received and expended, and the matters with respect to which the receipts and expenditures take place;

(b) the assets and liabilities of the society; and

(c) every other transaction affecting the position of the society.

Ceasing to hold office. 2007-39.

61. (1) A director or an officer of a society ceases to hold office when he

(a) dies or resigns;

(b) is removed in accordance with this Act; or

(c) is no longer qualified pursuant to section 57.

(2) A resignation of a director or an officer becomes effective

(a) with immediate effect where that person indicates to the members present at an annual general meeting that he is resigning;

(b) at the time specified in a written resignation; or

(c) where no time is specified in a written resignation, at the time the resignation is received by the society.

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Removal of directors.

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

(2) A vacancy created by the removal of a director may be filled at the meeting of the members at which the director is removed or, where not so filled, may be filled pursuant to section 56 (1)*(e)*.

Attendance at meeting.

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

(2) Where a director

(a) resigns,

(b) receives a notice or otherwise learns of a meeting of members called for the purpose of removing him from office, or

(c) receives a notice or otherwise learns of a meeting of directors or members at which another person is to be appointed or elected to fill his office, whether because of his resignation or removal or because his term of office has expired or is about to expire,

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

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

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

Number of directors.

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

Notice of change of directors.

65. (1) Within 30 days after a change is made in its directors, a society shall send to the Registrar a notice in the prescribed form setting out the change, and the Registrar shall file the notice.

(2) Notwithstanding subsection (l), where a society sends the annual return required pursuant to section 127 within 30 days after a change is made in its directors, it is not required to send the notice required in this section.

Meeting of directors.

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

(2) The president

(a) may call a meeting of directors at any time, and

(b) on the written request of at least 2 directors, shall call a meeting within 14 days of the receipt of the request.

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

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

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

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

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

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Validity of acts of directors and officers.

67. An act of a director or officer is valid notwithstanding an irregularity in his election or a defect in his qualification.

Remuneration of directors.

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

(a) in the by-laws, or

(b) by the members by resolution at a general meeting.

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

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

2007-39.

(4) For the purposes of this section, remuneration includes any honorarium or any other payment, however designated.

Remuneration of officers and employees.

69. Subject to section 68 and the by-laws, the directors shall fix the salary of any officers appointed by them, and shall approve a scale of remuneration for any employees of a society.

Duty of care of directors and officers.

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

(a) act honestly and in good faith with a view to the best interest of the society, and

(b) exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.

Misuse of confidential information. 2007-39.

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

(a) is liable to compensate any person for a direct loss suffered by the person as a result of the transaction, unless the information was known or reasonably should have been known to the person at the time of the transaction; and

(b) is accountable to the society for any direct benefit or advantage received or receivable by him or his associate, as the case may be, as a result of the transaction.

2007-39.

(2) A person who has acquired confidential information concerning a credit union or a member of a credit union

(a) as a director, officer, employee or auditor of the credit union;

(b) as a liquidator, receiver or manager of the credit union; or

(c) as an officer referred to in section 183,

shall not disclose that information except as permitted under subsection (3), or use that information for any personal benefit not related to the duties through which the information was acquired.

2007-39.

(3) Subsection (2) does not apply to the giving of confidential information where that information is

(a) given in the course of that person's duty;

(b) a general credit rating of a person that is supplied by a director, officer or employee of the credit union following a *bona fide* business request;

(c) given with the written authorisation of a member of a credit union or his legal representative or with the written authorisation of a credit union;

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(d) required to be disclosed by law or by an order of the High Court.

2007-39. (4) Any person who contravenes subsection (2) is guilty of an offence

Liability of directors.

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

(a) the purchase of shares contrary to section 40;

(b) the payment of a dividend on shares contrary to section 35;

(c) the payment of a bonus contrary to section 35;

(d) a loan or guarantee or the giving of financial assistance contrary to section 42;

(e) a payment of an indemnity described in section 73 to a director or a former director, without the approval of the court required by subsection (3) of that section; or

(f) an act not consistent with the purpose of the society as set out in its by-laws and with respect to which the society has paid compensation to a person;

2007-39. *(g)* a transaction which is contrary to section 70;

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

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

(a) the society is insolvent; or

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

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

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

(a) the director's dissent is entered in the minutes of the meeting, or

(b) the director's written dissent is

(i) delivered to the secretary of the meeting before its adjournment, or

(ii) delivered or sent by registered mail to the registered office of the society immediately after the adjournment of the meeting.

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

(6) Where a director is not present at a meeting of directors or of a committee of directors at which a vote, resolution or approval mentioned in subsection (1) is cast or given, he is deemed to have cast an affirmative vote, consented to the resolution or given approval, unless, within 14 days after becoming aware of the proceedings, the director delivers or sends by registered mail his written dissent to the registered office of the society.

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

(a) certify on the written dissent the date, time and place it is received, and

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(b) keep the written dissent with the minutes of the meeting at which the resolution was passed.

(8) No action to enforce a liability imposed in subsection (1) is to be commenced after 2 years from the date of the meeting at which the vote, resolution, or approval was taken or given.

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

(a) join as a defendant a person who received a benefit as a result of the resolution complained of; and

(b) make the person mentioned in paragraph *(a)* liable to the society jointly and severally with the directors to the extent of the amount paid to him.

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

(a) proves that he did not know or could not reasonably have known that the act authorised by the resolution was contrary to this Act, or

(b) relies and acts in good faith,

(i) on statements of fact represented to him by an officer of the society to be correct, or

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

(11) A director who is found liable pursuant to subsection (1) is entitled to apply to a court for an order compelling a member or other recipient to pay or deliver to the director any money or property that was paid or distributed to the member, or other recipient contrary to section 35, 40, 42 or 73.

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

(a) order a member or other recipient to pay or deliver to a director any money or property that was paid or distributed to the member or other recipient contrary to section 35, 40, 42 or 73, or

(b) make any order, other than that described in paragraph *(a)*, that it considers appropriate.

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Indemnification of directors.

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

(a) a director or officer of the society,

(b) a former director or officer of the society, or

(c) a person who acts or has acted at the request of the society as a director or officer of a body corporate of which the society is or was a member or a creditor, against costs, charges, and expenses, including an amount paid to settle an action or satisfy a judgment, reasonably incurred by that person with respect to a civil, criminal or administrative action or proceeding to which that person is made a party by reason of his being or having been a director or officer of the society or body corporate.

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

(a) acted honestly and in good faith with a view to the best interests of the society, and

(b) in the case of a criminal, civil or administrative action or proceeding that is enforced by a monetary penalty, had reasonable grounds for believing that the conduct was lawful.

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

(a) the society has the approval of the court, and

(b) that person fulfills the conditions described in subsection (2).

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

against costs, charges and expenses reasonably incurred by that person with respect to the action or proceedings.

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

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

Duty of director not to be limited.

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

(a) the duty to act in accordance with this Act and the regulations, and

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

Material contracts.

75. (1) This section does not require the disclosure of an interest in a contract or transaction that is of a type available to and customarily entered into between the society and its members.

(2) A director or officer of a society who

(a) is a party to a material contract or proposed material contract with the society, or

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

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

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

(a) at the meeting at which a proposed contract is first considered;

(b) if the director was not then interested in a proposed contract at the first meeting after he becomes so interested;

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(c) if the director becomes interested after a contract is made, at the first meeting after he becomes so interested; or

(d) if a person who is so interested in a contract becomes a director, at the first meeting after he becomes a director.

(4) The disclosure required by subsection (2) must be made in the case of an officer who is not a director

(a) forthwith after he becomes aware that the contract or proposed contract is to be considered or has been considered at a meeting of directors;

(b) if the officer becomes interested after a contract is made, forthwith after he becomes so interested; or

(c) where he has an interest in a contract before becoming an officer, immediately after he becomes an officer.

(5) If a material contract or proposed material contract is one that in the ordinary course of the society's business would not require approval by the directors or members, a director or officer shall disclose in writing to the society or request to have entered in the minutes of meetings of directors the nature and extent of his interest after he becomes aware of the contract or proposed contract.

(6) A director referred to in subsection (2) may take part in discussions to consider, or vote on a resolution to approve, a contract that he has an interest in, if the contract

(a) is an arrangement by way of security for money lent by him to the society or obligations undertaken by him for the benefit of the society or a member society of the society;

(b) is a contract that relates primarily to his remuneration as a director, officer, employee or agent of the society or a member society of the society;

(c) is a contract for indemnity or insurance pursuant to section 73; or

(d) is a contract with an affiliate.

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

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

(9) Where

(a) a director or officer discloses his interest in accordance with this section, and

(b) the contract in which the director or officer has a material interest

(i) is approved by the directors or members, and

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

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

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

Officers.

76. (1) A society

(a) is required to have a president, treasurer and a secretary, and

(b) may have any officers in addition to those mentioned in paragraph *(a)* that are provided for in the by-laws.

(2) Subject to the by-laws

(a) the directors may designate the offices of the society, appoint persons as officers, specify the officers' duties and delegate powers to manage the business and affairs of the society to them; and

(b) a director may be appointed to any office of the society.

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

Bonding.

77. The directors of a society

(a) shall, in the case of a society that is organised and operated as a consumers' society as defined in section 218; and

(b) may, in the case of any other society,

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

Declaration by directors and officers.

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

(a) faithful performance of duties,

(b) secrecy of transactions with members, and

(c) faithful and loyal support of the society.

Organisation meeting.

79. (1) This section does not apply to a society that is continued pursuant to this Act.

(2) The directors shall hold a meeting as soon as possible after the issue of the society's certificate of registration.

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

(a) pass resolutions establishing policies of the society;

(b) adopt forms of corporate records;

(c) authorise the issue of securities;

(d) appoint officers;

(e) appoint an auditor to hold office until the first general meeting of the members;

(f) make banking or other financial arrangements;

(g) appoint authorised signing officers;

(h) adopt operating policies; and

(i) transact any business in addition to that described in paragraphs *(a)* to *(h)*.

(4) A director may call the meeting of directors mentioned in subsection (2) by giving not less than 5 days' notice of the meeting to each director, stating the time and place of the meeting.

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

PART VII

Members

By-laws to govern.

80. Subject to this Act, the by-laws govern membership in a society.

Eligibility.

81. (1) Every person who has paid a membership fee, if any, is deemed to have agreed to become a member of the society and, upon registration of the society, shall have his name entered on the society's register of members.

(2) Subject to the by-laws, no person other than one described in subsection (l) is eligible to become a member of a society until his written application for membership is approved by resolution of the directors or members, or the directors and confirmed by the members and recorded in the society's register of members.

(3) Where an application for membership is approved within 6 months after the date on which the application for membership is received by the society, the directors may make the membership effective as at the date of the application.

(4) The directors shall cause each applicant for membership to be notified in writing that this application has been approved or not approved.

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Eligible age for membership.

82. (1) Subject to this Act and the by-laws, an individual is eligible to become a member of a society if

(a) he has attained the age of 16 years,

(b) he is of sound mind, and

(c) he is not a bankrupt.

2007-39.

(2) A member who is under the age of 18 years but has attained the age of 16 years is competent to enter into a contract with the society, other than a junior co-operative society and, with respect to the contract, is *sui juris.*

(3) Subject to the approval of the Registrar, a body corporate may be a member of a society.

Membership of minors. 2007-39.

82A. (1) Where the society is a credit union, an individual who has not yet attained the age of 16 years may be admitted as a member and, subject to subsection (3), may enjoy all the rights of membership and be subject to all the liabilities of membership.

(2) Where a member referred to in subsection (1) is required to execute any instrument or give any receipt, he may only do so by his parent or guardian.

(3) A member who has not attained the age of 16 years is not entitled

(a) to obtain credit from a society; or

(b) to vote except in the case of a junior co-operative society.

Place of meetings.

83. General meetings of members must be held in Barbados,

(a) at the place provided in the by-laws, or

(b) where the by-laws contain no provision, at the place determined by the directors.

Members not to exercise rights until due payment.

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

First general meeting.

85. (1) This section does not apply to a society that is continued pursuant to this Act.

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

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

(4) The business at the general meeting mentioned in sub-section (2) must include,

(a) the adoption of the by-laws,

(b) the election of directors, and

(c) in accordance with section 114, the appointment of an auditor.

Annual meetings.

86. (1) A society shall hold an annual general meeting in each year not later than 3 months after the end of the financial year of the society.

(2) Notwithstanding subsection (1) and notwithstanding that the time for holding a general meeting as required by this section

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has expired, where the Registrar receives a written request from the directors, he may authorise the society to hold the annual general meeting at any date not later than 6 months after the end of the financial year of the society that he considers appropriate.

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

Special meetings.

87. (1) The directors may call a special meeting of members at any time.

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

(3) The directors shall call the special meeting mentioned in subsection (2) within 20 days of their receipt of the request and the special meeting is required to dispose of the specific business outlined in the request.

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

(a) for the purpose of reporting to the members the results of any audit, examination or other investigation of the society's affairs ordered or made by him, or

(b) where the society fails to hold an annual general meeting in accordance with section 86 (1) or (2), for the purpose of enabling members to secure any information regarding the affairs of the society that they are entitled to receive pursuant to this Act and to deal with any matters affecting the society.

Notice of meetings.

88. (1) A society shall give at least 10 days' notice of any annual or special meeting to its members

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

(b) by inserting the notice in not less than 2 issues of a newspaper circulated in Barbados and posting the notice in a place that, in the opinion of the directors, is prominent and accessible to members.

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

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

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

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

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

Fixing record date.

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

(a) entitled to receive payment of a bonus or dividend,

(b) entitled to participate in a distribution on liquidation, or

(c) for any purpose in addition to that described in paragraph *(a)* or *(b)*, except the right to receive notice of or to vote at a general meeting,

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

(2) The record date mentioned in subsection (1) is not to precede by more than 50 days the particular action to be taken.

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

(4) The record date mentioned in subsection (3) is not to precede by more than 50 days nor by less than 11 days the date on which the meeting is to be held.

(5) Where the directors do not fix a record date,

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

(i) the close of business on the day immediately preceding the day on which the notice is given, or

(ii) if no notice is given, the day on which the meeting is held, and

(b) the record date for the determination of members for any purpose other than that described in paragraph *(a)* is deemed to be at the close of business on the day on which the directors pass a resolution relating to that purpose. 1993-2.

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

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

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

(4) Where a quorum is not present 1 hour after the time fixed for the commencement of a general meeting of members, the members present may adjourn the meeting to a time and place to be determined by the board but not later than 30 days after the date of the adjourned meeting but may not transact any other business.

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

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

(a) the delegates shall exercise the powers of membership at any annual or special meeting; and

(b) any reference in this Act with respect to the exercise of any power mentioned in paragraph *(a)* shall be construed as a reference to delegates.

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

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(a) remove the delegates in any manner provided for in the by-laws; or

(b) notwithstanding subsection (1), amend the by-laws to eliminate the nomination and appointment of delegates.

Voting rights.

92. (1) There shall be no voting by proxy.

(2) Subject to subsection (3), no member is entitled to more than 1 vote.

(3) Notwithstanding section 4 (1) *(a)* where, the membership of a society is composed entirely of other registered societies, it may provide in its by-laws for voting based on the number of members in its member societies.

Proposals.

93. (1) In this section, "proposal" means a notice submitted to a society pursuant to subsection (2) *(a)*.

(2) A member who is entitled to vote at an annual meeting of members may

(a) submit to the society notice of any matter that he proposes to raise at the meeting; and

(b) discuss at the meeting any matter with respect to which he would have been entitled to submit a proposal.

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

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

(a) a statement by the member of not more than 200 words in support of the proposal; and

(b) the name and address of the member,

the society shall comply.

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

(a) a proposal is not submitted to the society at least 45 days before the anniversary date of the previous annual meeting of members;

(b) in the opinion of the directors, the proposal is submitted by the member primarily for the purpose of

(i) enforcing a personal claim or redressing a personal grievance against the society or its directors, officers, members or other security holders, or

(ii) promoting general economic, political, racial, religious, social or similar causes;

(c) the society, at the member's request, included a proposal in a notice of a meeting of members held within 2 years preceding the receipt of the proposal submitted pursuant to sub-section (2) and the member failed to present the proposal at the meeting;

(d) substantially the same proposal was submitted to members in the notice of a meeting of members held within 2 years preceding the receipt of the member's request and the proposal was defeated; or

(e) in the opinion of the directors, the rights conferred by this section are being abused to secure publicity.

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

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

(8) Where a society refuses to include a proposal in a notice of a meeting, the society shall, within 30 days after receiving the proposal,

(a) notify the member submitting the proposal of its intention to omit the proposal from the notice of the meeting; and

(b) send to the member a statement of the reasons for the refusal.

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

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

2007-39.

94. *Repealed by 2007-39.*

95. *Repealed by 2007-39.*

Representative of member who is not an individual.

96. (1) Where a body corporate, partnership, firm or association is a member of a society, the society shall recognise any individual authorised by a resolution of the directors or governing body of the body corporate, partnership, firm or association to represent it at meetings of the society.

(2) An individual authorised pursuant to subsection (1) may exercise, on behalf of the body corporate, partnership, firm or association he represents, all the powers the body corporate, partnership, firm or association could exercise if it were an individual member.

Voting procedure.

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

(a) by a show of hands, or

(b) where any member entitled to vote at a meeting so demands, by secret ballot.

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

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

Resolution in lieu of meeting.

98. (1) Except where a written statement is submitted by an auditor pursuant to section 122

(a) a resolution in writing signed by such number of members as are entitled to vote on that resolution at a general meeting of members as may be specified in the by-laws is as valid as if it had been passed at a general meeting of the members; and

(b) a resolution in writing dealing with any matter required by this Act to be dealt with at a general meeting of members

and signed by all the members entitled to vote at that meeting,

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

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

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

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

Meeting called by the Registrar.

99. (1) Where,

(a) in the opinion of the directors it is impracticable

(i) to call a general meeting of members in the manner in which meetings of members may be called, or

(ii) to conduct a general meeting of members in the manner prescribed in this Act or in the by-laws; or

(b) for any reason, in addition to those described in paragraph *(a)*, the Registrar considers appropriate,

the Registrar, on the application of a director or a member or on his own initiative, may order a general meeting to be called, held and conducted in any manner that he directs.

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

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

Compulsory sale of shares.

100. Where

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

(b) a member of a society has, during a period of 2 years, failed to transact any business with the society,

the society may, by written notice to the member, require him to sell his shares to the society in accordance with section 39, and the member shall sell the shares.

Withdrawal of members.

101. (1) In this section, "member loan" includes final payments, allocated earnings and loans but does not include equities which may be held on a term basis and which are due on a fixed date or any bonds, debentures, stock or similar securities purchased by a member from the society.

(2) A member may withdraw from a society on any terms and conditions provided in the by-laws.

(3) Subject to section 40, the by-laws must contain conditions on which a society may purchase a member's shares or repay a member's loans when

(a) a member withdraws pursuant to subsection (2),

(b) a membership is terminated pursuant to section 102 or 103, or

(c) a membership ceases for a reason other than one described in paragraph *(a)* or *(b)*.

(4) The time for purchase of a member's share or for repayment of a member's loan, other than allocated earnings, must not be longer than 5 years.

Termination of membership by directors.

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

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

(a) the society shall

(i) within a period of 1 year, purchase from the member at par value all shares in the society held by the member, and

(ii) pay to the member all amounts held to his credit, together with any interest accrued on those amounts and the amount outstanding on loans made to the society by the member with any interest accrued on those amounts;

(b) the secretary of the society shall, within 10 days from the date on which the order is made, notify the member of the order;

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(c) the member may appeal from the order to the next general meeting of the society by giving written notice of his intention to appeal to the secretary within 30 days from the date he received notice of the order pursuant to paragraph *(b)*; and

(d) where the member appeals pursuant to paragraph *(c)*, a majority, or any greater percentage that may be specified in the by-laws, of the members present at the general meeting shall confirm or rescind the order.

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

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

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

(a) the member's name;

(b) the member's last known address; and

(c) the amounts transferred.

Termination of membership by members.

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

(a) the member has received at least 10 days' notice of the general meeting at which his membership is to be considered, and

(b) the termination is approved by a majority of at least two-thirds of the members who

(i) are present at the general meeting, and

(ii) cast votes on the resolution.

Suspension of membership.

104. The board of a registered society may by notice in writing suspend a member for a period not exceeding 3 months if they are satisfied that he is guilty of misconduct.

Appeal.

105. (1) Subject to subsection (2), where a person's membership is terminated pursuant to section 102 or 103, he may appeal the termination to the Registrar in the prescribed manner, and the Registrar shall confirm or set aside the resolution terminating the membership.

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

(3) Where a person appeals the termination of his membership pursuant to section 102 (2) or this section, notwithstanding the resolution terminating his membership, he continues to be a member until the termination of his membership is confirmed by the meeting of members pursuant to section 102 (2) or by the Registrar pursuant to this section, as the case may be.

Re-admittance.

106. A person whose membership is terminated pursuant to section 102 or 103, may be re-admitted to membership only by a two-thirds majority vote of members present and voting at a general meeting.

Payment of interest of deceased members.

107. (1) Where

(a) evidence is presented to a society showing that

(i) a member is deceased leaving an estate in Barbados, not including his interest in the society, of not more than $1,000, and

(ii) no personal representative for the member mentioned, in subparagraph (i) has been appointed in Barbados during a period of 6 months following his death; and

(b) the society has not received notice of a transfer or assignment of or a charge against the member's interest in the society,

the directors may pay any or all of the moneys payable with respect to the interest of a deceased member to the persons who appear to be entitled to the moneys under the *Succession Act.* Cap. 249.

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(2) A receipt for payment made pursuant to subsection (1) from the person to whom the payment is made is a binding and an effectual discharge of the society given by a duly appointed personal representative of the deceased member in Barbados.

(3) Where a deceased member leaves a will naming an executor for the administration of his estate in Barbados and, notwithstanding the fact that the executor has not applied for probate in Barbados, the society may pay the value of the deceased member's interest in the society to that executor.

(4) Where an executor receives a payment pursuant to subsection (3), he shall distribute the moneys received in accordance with the terms of the will.

(5) A receipt for payment made pursuant to subsection (3) from the executor is deemed to be a binding and an effectual discharge of the society given by a duly appointed personal representative of the deceased.

(6) Where evidence is presented to the society that probate has been granted or letters of administration have been issued in the estate of a deceased member prior to the payment of any portion of the interest of the deceased member in the society to any person pursuant to subsection (1) or (3), the society shall make all subsequent payments to the executor or administrator.

(7) Where, at the time of his death, a person had ceased to be a member of the society and there remains unpaid a sum of money payable to him with respect to the purchase by the society of his interest in the society, this section applies to that person as if

(a) he were a member at the time of his death, and

(b) that sum of money was his interest in the society.

Contracts.

108. (1) Subject to the by-laws, a society may

(a) enter into a contract or arrangement with its members or patrons for, or incidental to, dealing with commodities of the kinds the society may lawfully deal in, and

(b) advance money to its members or patrons as part payment for commodities delivered or agreed to be delivered to it pursuant to a contract or arrangement made under paragraph *(a)*.

(2) Where a member breaches a material provision of a contract described in subsection (l), the society is entitled to an injunction to prevent any further breach of the contract and to any equitable relief, in addition to an injunction, that may be provided in the terms of the contract.

PART VIII

Financial Disclosure and Audit
Financial Statements

Annual financial statements.

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

(a) comparative financial statements, as prescribed, relating separately to

(i) the period that began on the date the society came into existence and ended not more than 12 months after that date, or, if the society has completed a financial year, the period that began immediately after the end of the last period for which financial statements were prepared and ended not more than 12 months after the beginning of that period, and

(ii) the immediately preceding financial year;

(b) the report of the auditor; and

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

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

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Approval of financial statements.

110. (1) The directors of a society must approve the financial statements referred to in section 109, and the approval must be evidenced by the signature of 2 or more directors.

(2) A society shall not issue, publish or circulate copies of the financial statements referred to in section 109 unless the financial statements are

(a) aproved and signed in accordance with subsection (l), and

2007-39.

(b) accompanied by a report of the auditor of the society.

Furnishing financial statements.

111. (1) Not less than 10 days before each annual meeting of members, a society must make available to each member a copy of the financial statements and report of the auditor referred to in section 109.

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

Annual budget. 2007-39.

111A. (1) The directors of a credit union shall

(a) prepare a budget in respect of each financial year; and

(b) on the request of a member, provide him with a copy of the budget prepared under paragraph *(a)*.

(2) The directors of a credit union shall submit a copy of the budget referred to in subsection (1) to the Registrar not later than 30 days after the annual general meeting.

Auditor's qualifications. 2007-39.

112. (1) Subject to section 113, only individuals who qualify under subsection (2) and subsection (4) are qualified for appointment as auditors of a society.

(2) An individual qualifies for appointment as auditor if

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

(b) that individual, 2007-39.

(i) is in good standing as a member of an association of chartered or public accountants or other similar body; and

(ii) is authorised to practise in Barbados,

(c) he was appointed as an auditor of companies pursuant to subsection (3) of section 153 of *the Companies Act*, or 2007-39. Cap. 308.

(d) he satisfies the Registrar that he was in practice in Barbados as an auditor of societies on the day immediately preceding the commencement of this Act. 2007-39.

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

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

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

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

(a) is a member, a director, an officer or an employee of the society or any of its member societies, or a business partner or employee of any director, officer, member or employee of any such society, or its member societies,

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(b) is a member of a credit committee or any other committee of the society or any of its member societies, or

(c) transacts a substantial amount of business with the society or a member society thereof.

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

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

(6) A member of a society may apply to the Registrar for an order, or the Registrar may, upon his own motion, make an order, declaring an auditor disqualified under this section and the office of auditor vacant.

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

Appointment of auditor.

114. (1) The members of a society shall,

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

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

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

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

Willingness to serve as auditor.

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

Cessation of office.

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

(a) he dies or resigns, or

(b) he is removed pursuant to section 117.

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

Removal of auditor.

117. (1) The members of a society may by ordinary resolution at a special meeting remove an auditor other than an auditor appointed by the Registrar under section 118.

(2) A vacancy created by the removal of an auditor may be filled at the meeting at which the auditor is removed or, if the vacancy is not so filled, it may be filled under section 119. 2007-39.

Filling vacancy of auditor.

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

(2) If there is not a quorum of directors, the directors then in office must, within 21 days after a vacancy in the office of auditor occurs, call a special meeting of members to fill the vacancy; and if they fail to call a meeting, or if there are no directors, the meeting may be called by any member.

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

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

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

Registrar appointed auditor.

119. If a society does not have an auditor the Registrar may, upon his own motion, and shall, upon the application of a member, appoint and fix the remuneration of an auditor, and the auditor holds office until an auditor is appointed in accordance with section 114.

Auditor's rights to notice.

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

Required attendance.

121. If a member of a society who is entitled to vote at a meeting of members, or a director of a society gives written notice to the auditor or a former auditor of the society, not less than 10 days before a meeting of members of the society, to attend the meeting, the auditor or former auditor, as the case may be, shall attend the meeting at the expense of the society and answer questions relating to his duties as auditor or former auditor.

Auditor's right to comment.

122. (1) An auditor who

(a) resigns,

(b) receives a notice or otherwise learns of a meeting of members called for the purpose of removing him from office,

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

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

(2) When it receives a statement referred to in subsection (1), the society must forthwith send a copy of the statement to every

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member entitled to receive notice of any meeting of members and to the Registrar.

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

(4) Notwithstanding subsection (3), an individual otherwise qualified may accept appointment or consent to be appointed as auditor of a society if, within 15 days of making the request referred to in that subsection, he does not receive a reply to it.

Examination by auditor.

123. An auditor of a society shall make the examination that is in his opinion necessary to enable him to report in the prescribed manner on the financial statements required by this Act to be placed before the members, except such financial statements or parts thereof that relate to the immediately preceding financial year referred to in sub-paragraph (ii) of paragraph *(a)* of subsection (1) of section 109.

Right to inspect.

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

(a) such information and explanations, and

(b) such access to records, documents, books, accounts and voucher of the society,

as are in the opinion of the auditor, necessary to enable him to make the examination and report required under section 123 and that the directors, officers, employees or agents are reasonably able to furnish.

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

(a) obtain from the present or former directors, officers, employees or agents of any member of the society that is a registered society the information and explanations that the directors, officers, employees and agents are reasonably able to furnish and that are, in the opinion of the auditor,

necessary to enable him to make the examination and report required under section 123; and

(b) furnish the information and explanations so obtained to the auditor.

(3) Where a former director, officer, employee or agent of a member fails to comply with subsection (2), he is guilty of an offence and is liable, on summary conviction to a fine of $1 000 or to imprisonment for 6 months or both and to a further fine of $50 for every day he fails to comply with that subsection after a conviction is first obtained.

Error of mis-statement.

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

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

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

(a) prepare and issue revised financial statements, or

(b) otherwise inform the members and the Registrar of the error or mis-statement.

Privilege of auditor.

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

PART IX

Annual and Special Returns

Annual and special returns.

127. (1) Within 30 days, or such longer period as the Registrar allows, of the date of its annual meeting a society shall

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(a) file with the Registrar an annual return for the previous year, on the form provided by the Registrar, and

(b) furnish the Registrar with a copy of the financial statement placed before its members at its last annual meeting.

(2) Within 30 days, or such longer period as the Registrar allows, of the date of its reporting period at the end of each month every society shall file a monthly return with the Registrar.

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

(4) Any society that contravenes this section is liable to pay to the Registrar the special filing fee prescribed.

PART X

Fundamental Changes
Reorganisation

Methods of reorganisation.

128. Reorganisation of a society may be effected by any of the following methods:

(a) by amalgamation with one or more societies to form a single society;

(b) by the transfer of the assets and liabilities of one society to another society; or

(c) by the division of a society into 2 or more societies.

Conversion

Conversion.
Cap. 308.
Cap. 380.
Cap. 379.

129. (1) A company registered under the *Companies Act,* an industrial or provident society registered under the *Industrial and Provident Societies Act* or a friendly society registered under the *Friendly Societies Act* may by special resolution determine to convert itself into a registered society.

1993-2.

(2) In the resolution referred to in subsection (1) there shall be appointed 10 persons, members of the company, industrial and provident society, or friendly society, as the case may be,

(a) who, with the secretary thereof, shall sign the application for registration; and

(b) who may, by the resolution, be given such powers to act on behalf of the company, industrial and provident society, or friendly society, as the case may be, specified in the resolution.

(3) A copy of the special resolution referred to in subsection (1), with 3 copies of the by-laws shall be sent to the Registrar who may, upon receipt thereof, register the society and issue a certificate in accordance with section 8.

Effect of certificate.

130. (1) On the date shown in the certificate issued pursuant to section 129

(a) the incorporation or registration under any other enactment of the company, industrial and provident society or friendly society, as the case may be, ceases and shall be cancelled by the proper officer; 1993-2.

(b) the conversion of the company, industrial and provident society or friendly society, as the case may be, is effective; 1993-2.

(c) the property of any body mentioned in paragraph *(a)* becomes the property of the registered society;

(d) the registered society is liable for the obligations of the company, industrial and provident society or friendly society, as the case may be; 1993-2.

(e) an existing cause of action, claim or liability to prosecution against the company, industrial and provident society or friendly society is not affected; 1993-2.

(f) a civil, criminal or administrative action pending against a converted company, industrial and provident society or friendly society may be continued against the registered society; and 1993-2.

(g) a conviction against or a ruling, order or judgment in favour of or against a body mentioned in paragraph *(e)* may be enforced by or against the registered society.

(2) Every right or claim and the liability for every penalty mentioned in subsection (1) have priority as against the property

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of the registered society over all other rights or claims against, or liabilities of the registered society.

Amalgamation

Amalgamation of societies.

131. (1) Any 2 or more societies may, by a special resolution passed at a special general meeting called for the purpose, amalgamate as 1 society.

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

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

Transfer of Assets

Transfer of assets of societies.

132. (1) Any society may, by a special resolution passed at a special general meeting called for the purpose, transfer its assets and liabilities to any other society which has agreed to accept them.

(2) The acceptance of that other society shall be evidenced by a special resolution passed at a special general meeting called for the purpose.

(3) On the passing of the resolutions referred to in subsections (1) and (2), the transferor society shall apply to the Registrar for cancellation of its registration and the transferee society shall submit to the Registrar a copy of its resolution agreeing to the transfer.

(4) The cancellation of registration and the submission of the resolution agreeing to accept the transfer shall be deemed to be sufficient to vest the assets and liabilities of the transferor in the transferee.

Claims of objecting creditors.

133. Notwithstanding sections 131 and 132, no amalgamation or transfer shall be effected

(a) unless, the creditors of the societies concerned are given 3 months written notice of the proposals; and

(b) unless, where any creditor objects in writing to the proposal, his claims against the society are first satisfied.

Division of society into two or more societies.

134. (1) Any society may, by resolution in this section referred to as a "preliminary resolution" passed by three-fourths of the members present and voting at a special general meeting called for the purpose, resolve to divide itself into 2 or more societies.

(2) A preliminary resolution

(a) shall contain proposals for the division of the assets and liabilities of the society among the new societies into which it is proposed to divide the society; and

(b) may specify the area of operation of, and the members who will constitute, each of the new societies.

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

(4) At least 10 days' notice of the preliminary resolution shall be given to any person whose interests will be affected by the division of the society, and the notice shall be published at least once in the *Gazette* and in a newspaper circulated in Barbados.

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

(6) Any creditor of the society may, notwithstanding any agreement to the contrary, by notice given to the society within a period of 3 months from his receipt of the preliminary resolution, state his intention to demand the payment of moneys due to him.

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

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(8) After the expiry of 3 months from the receipt of the preliminary resolution by all the members and creditors of the society and of the notice to other persons given under subsection (4), another special general meeting of the society, of which at least 15 days' notice shall be given to its members, shall be convened for the consideration of the preliminary resolution.

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

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

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

(a) repayment of the share capital of all the members who have given notice under subsection (5);

(b) satisfaction of the claims of all the creditors who have given notice under subsection (6);

(c) satisfaction of the claims of such of the other persons who have given notice under subsection (7);

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

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

(a) the share capital of the members referred to in subsection (11) *(a)* is not repaid,

(b) the claim of creditors referred to in that subsection are not satisfied, or

(c) the claims of the other persons mentioned in subsection (11) *(c)* are not satisfied or secured,

the Registrar may refuse to register the new societies.

Effect of registration of new societies.

135. The registration of new societies established pursuant to section 134 is sufficient to vest the assets and liabilities of the original society in the manner specified in the preliminary resolution as confirmed in accordance with subsections (8) and (9) of that section.

PART XI

Receivers and Receiver-Managers

Appointment by Registrar.

136. Where, in the opinion of the Registrar, based on the results of an examination undertaken pursuant to section 164, it is necessary to appoint a receiver-manager to protect the equity of the members, the Registrar may, subject to the approval of the Minister, appoint a receiver-manager.

Functions of receiver.

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

(a) receive the income from the property and pay the liabilities connected with the property; and

(b) realise the security interest of those on whose behalf he is appointed.

(2) Notwithstanding subsection (1) and subject to any order that the court may make pursuant to section 141, a receiver who is not appointed manager of the society shall not carry on the business of the society.

Functions of receiver-manager.

138. Notwithstanding section 137, where a receiver of a society is also appointed manager of the society, he may carry on any business of the society to protect the security interest of those on whose behalf he is appointed.

Directors' powers cease.

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

Receiver's duty.

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

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

(3) A receiver or receiver-manager appointed pursuant to an instrument shall act in accordance with that instrument and any direction that the court may make pursuant to section 141.

(4) A receiver or receiver-manager shall

(a) act honestly and in good faith, and

(b) deal with any property of the society in his possession or control in a commercially reasonable manner.

Directions by court.

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

(a) appointing, replacing or discharging a receiver or receiver-manager and approving his accounts;

(b) determining the notice to be given to any person or dispensing with notice to any person;

(c) fixing the remuneration of the receiver or receiver-manager;

(d) requiring the receiver or receiver-manager, or a person by or on behalf of whom he is appointed,

(i) to make good any default in connection with the receiver's or receiver-manager's custody or management of the property and business of the society, and

(ii) to relieve a receiver or a receiver-manager, or a person by or on behalf of whom a receiver or receiver-manager is appointed, from any default on any terms that the court considers appropriate;

(e) confirming any act of the receiver or receiver-manager, and

(f) giving directions on any other matter relating to the duties of the receiver or receiver-manager.

Directions by Registrar

142. (1) Where a receiver-manager is appointed by the Registrar, the receiver-manager or any interested person may

apply to the Registrar for directions on any matter relating to the duties of the receiver or receiver-manager.

(2) Where the Registrar receives an application pursuant to subsection (1), he may make any order he considers appropriate, including any order similar to an order described in section 141*(c)* to *(f)*.

Required actions of receiver.

143. A receiver or receiver-manager shall

(a) in the case of a receiver or receiver-manager appointed by the court or pursuant to an instrument, immediately notify the Registrar of his appointment or discharge;

(b) take into his custody and control the property of the society in accordance with the court order, order of the Registrar or instrument pursuant to which he is appointed;

(c) open and maintain a bank account in his name as receiver or receiver-manager of the society for the moneys of the society coming under his control;

(d) keep detailed accounts of all transactions carried out by him as receiver or receiver-manager;

(e) keep accounts of his administration that he shall cause to be available during usual business hours for inspection by the directors of the society, the Registrar or any person authorised by the Registrar;

(f) prepare at least once in every 6-month period after the date of his appointment financial statements of his administration, as far as is practicable, in the form required in section 109;

(g) on completion of his duties, render a final account of his administration in the form he has adopted for preparation of interim accounts pursuant to paragraph *(f)*; and

(h) file with the Registrar a copy of any financial statement mentioned in paragraph *(f)* and any final account mentioned in paragraph *(g)* within 15 days of the preparation of the financial statement or rendering of the final account, as the case may be.

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PART XII

Dissolution

Application of Part. Cap. 303.

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

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

Dissolution by members.

145. (1) In this section,

(a) "interest" means the interest of a member in a society and includes member loans and obligations of any kind that

(i) arise by virtue of the by-laws of the society, and

(ii) are owed by the society to the members;

(b) "unallocated surplus" includes any net proceeds from the sale of assets on dissolution of the society after the liabilities of the society and the claims of creditors and members have been satisfied.

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

(3) The directors shall cause a notice of a general meeting of members to be sent in the manner prescribed in section 88 to each member for the purpose of authorising dissolution.

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

(5) For the purpose of subsection (2), dissolution is authorised when the members approve the dissolution by a special resolution of the membership.

(6) Where the Registrar

(a) receives notice, in a form satisfactory to him, of an authorisation to dissolve a society; and

(b) is satisfied that it is in the best interests of the society and its members;

he shall approve the dissolution.

(7) The authorisation approved pursuant to subsection (5) must set out

(a) the assets and liabilities of the society;

(b) the claims of any creditors;

(c) the number of members; and

(d) the nature and extent of the members' interest in the society.

(8) Subject to subsection (10), where a society has an unallocated surplus and the authorisation approved pursuant to subsection (5) states that it is not to be paid out at the time of the society's dissolution, the unallocated surplus must be paid to one or more trustees who are

(a) named in the special resolution; or

(b) where not named in the special resolution, appointed by the Registrar.

(9) The trustees named or appointed pursuant to subsection (8) 2007-39
shall

(a) deposit the money in

(i) a bank licensed under the *Financial Institutions Act*; or Cap 324A.

(ii) a society registered under this Act; or

(b) invest the money in

(i) securities issued by the Government of Barbados;

(ii) securities the payment of interest on which is guaranteed by the Government of Barbados; or

(iii) any other manner approved by the Registrar.

(10) Where a trust is created pursuant to subsection (8), the income and principal of the trust are required to be expended within a period of 20 years from the date that the trust was established for any co-operative purpose the Registrar considers fit.

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Notice of dissolution by members.

146. (1) When the Registrar approves a special resolution passed pursuant to section 145, he shall, at the expense of the society, cause a notice of the special resolution to be published once a week for 2 weeks

(a) in the *Gazette*, and

(b) in a newspaper circulated in Barbados.

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

(a) exempt the society from subsection (1); and

(b) cause, at the expense of the Registrar, a notice of the special resolution passed pursuant to section 145(5) to be published in the *Gazette*.

2007-39.

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

(a) the progress of dissolution;

(b) the distribution of any undistributed surplus or reserve;

(c) the progress of the administration of a trust established in accordance with this section; and

(d) any other information that he may require.

Dissolution by Registrar.

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

(a) has not commenced business within 2 years after the date shown on its certificate of registration; or

(b) has not carried on business for 2 consecutive years;

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

(2) Where the Registrar does not, within one month of the date he sent a letter pursuant to subsection (1), receive an answer to the letter, he shall, within 14 days after the expiry of the month, send to the secretary of the society a letter referring to the letter sent pursuant to subsection (1) and stating that

(a) no answer to that letter has been received by him; and

(b) if an answer is not received to the letter sent pursuant to this subsection within one month from the date it is sent, a notice will be published in the *Gazette* to strike the name of the society off the registrar and to dissolve the society.

(3) Where the Registrar

(a) receives an answer from a society that it is not carrying on business or is not in operation or will not be submitting an annual return; or

(b) does not, within one month after the date that he sent a letter pursuant to subsection (2), receive an answer to that letter,

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

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

(a) where he is satisfied that the society has no assets or liabilities, issue a certificate of dissolution in the prescribed form; or

(b) appoint a liquidator to dissolve the society.

Dissolution for failure to account for business transacted.

148. (1) Where a society fails to furnish a copy of the annual financial statements to its members at an annual or special meeting called for that purpose or within a period of 12 months after the close of its financial year, the Registrar

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(a) may require the directors to call a special meeting of the society for the purpose of considering the business transacted during the preceding financial year and for the furnishing to the members and to the Registrar a copy of the annual financial statement; and

(b) shall, where he requires a special meeting to be called pursuant to paragraph *(a)*, determine a time period within which the special meeting is to be called.

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

(a) to review the financial position of the society and the members' interests in the society; and

(b) to ascertain whether the members desire to continue the society and to comply with sections 109 and 111.

(3) Where

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

(b) the members fail to pass a resolution to the effect that the society is to carry on business and to comply with sections 109 and 111;

the Registrar may notify the directors that, unless sections 109 and 111 are complied with within one month from the date of the notice, the society will be struck off the register and dissolved.

(4) Notwithstanding subsection (3), the Registrar may extend the period for compliance with sections 109 and 111.

(5) Where a society does not comply with sections 109 and 111 within the period mentioned in subsection (3) or set by the Registrar pursuant to subsection (4), the Registrar may,

(a) where he is satisfied that the society has no assets or liabilities, issue a certificate of dissolution in the prescribed form; or

(b) appoint a liquidator to dissolve the society.

Dissolution by court order.

149. (1) The Registrar or an interested person may, after giving the society 3 months notice of the proposed application, apply to the court for an order dissolving a society, if the society

(a) obtained its registration by fraud or mistake;

(b) exists for an illegal purpose;

(c) has wilfully, after notice by the Registrar, violated any of the provisions of this Act or its by-laws;

(d) is no longer operating on co-operative principles; or

(e) has the number of its members reduced below the minimum number required by this Act for the registration of the society.

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

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

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

(a) where the order is to dissolve the society, issue a certificate of dissolution in the prescribed form; or

(b) where the order is to liquidate and dissolve the society under the supervision of the Registrar, publish a notice in the *Gazette*.

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Revival of dissolved society. 2007-39.

150. (1) Where a society has been dissolved pursuant to this Part, any interested person may apply to the Registrar to have the society revived by submitting to the Registrar

(a) an application for revival in such form as the Registrar approves; and

(b) such other information as the Registrar requires.

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

(a) issue a certificate of revival in the prescribed form and publish notice of the revival in the *Gazette*; and

(b) impose any conditions on the society that he considers reasonable with respect to the society.

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

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

(a) has all the rights and privileges, and

(b) is liable for the obligations,

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

Appointment of liquidator.

151. (1) Where

(a) a society is to be dissolved pursuant to this Part; or

(b) no liquidator is appointed by the members or the court;

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

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

Commencement of liquidation.

152. The liquidation of a society commences where

(a) a special resolution for dissolution of the society is approved by the Registrar pursuant to section 145;

(b) the Registrar appoints a liquidator pursuant to section 147 or 148;

(c) the court makes an order to dissolve pursuant to section 149 or 177; 2007-39.

(d) the registration of a society is cancelled by the Registrar under this Act. 2007-39.

Cessation of business.

153. From the date of the commencement of its liquidation

(a) a society continues in existence, but shall cease to carry on its business except insofar as may be required, in the opinion of the liquidator, for an orderly liquidation; and

(b) any transfer of shares, other than a transfer made to or with the approval of the liquidator, and any alteration in the status of the members made after the commencement of the liquidation, are void.

General provisions respecting liquidators.

154. (1) Where 2 or more liquidators are appointed, all the provisions in this section with respect to a liquidator apply to all of the liquidators.

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

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

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(4) Where the members of a society appoint a liquidator, they may, at that time or at a subsequent general meeting, pass a resolution giving directions to the liquidator with respect to the disposal of the property of the society.

(5) Where

(a) the members appoint a liquidator and do not issue directions pursuant to subsection (4); or

(b) a liquidator is not appointed by the members;

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

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

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

Duties of liquidator.

155. On his appointment, a liquidator shall

(a) immediately give notice of his appointment,

(i) in the case of a liquidator not appointed by the Registrar, to the Registrar, and

(ii) to each claimant and creditor known to the liquidator;

(b) immediately publish notice of his appointment in the *Gazette* and once a week for 2 consecutive weeks in a newspaper circulated in Barbados;

(c) set out in the notice mentioned in paragraphs *(a)* and *(b)* a provision requiring any person

(i) indebted to the society, to render an account and pay to the liquidator at the time and place specified,

(ii) possessing property of the society, to deliver it to the liquidator at the time and place specified, and

(iii) having a claim against the society, whether liquidated, unliquidated, future or contingent, to present particulars of the claim in writing to the liquidator not later than 2 months after the first publication of the notice;

(d) take into his custody and control the property of the society;

(e) open and maintain a trust account for the moneys of the society;

(f) keep accounts of the moneys of the society received and paid out by him;

(g) maintain separate lists of the members, creditors and other persons having claims against the society;

(h) where at any time he determines that the society is unable to pay or adequately provide for the discharge of its obligations, apply to the Registrar for directions; and

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(i) deliver to the Registrar and the society, at least once in every 12-month period after his appointment or more often as the Registrar may require, financial statements of the society in the form required in section 109 or in any other form that the liquidator considers proper or that the Registrar may require.

Powers of liquidator.

156. (1) The liquidator may

(a) retain attorneys-at-law, accountants, engineers, appraisers and other professional advisors;

(b) bring, defend or take part in any civil, criminal or administrative action or proceeding in the name and on behalf of the society;

(c) carry on the business of the society as required for an orderly liquidation;

(d) sell by public auction or private sale any property of the society;

(e) do all acts and execute any documents in the name and on behalf of the society;

(f) borrow money on the security of the property of the society;

(g) settle or compromise any claims by or against the society; and

(h) do all other things that he considers necessary for the liquidation of the society and distribution of its property.

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

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

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

Limitation on liability of liquidator.

157. A liquidator is not liable where he relies in good faith on

(a) financial statements of the society represented to him

(i) by an officer of the society, or

(ii) by the auditor of the society in a written report that states that the financial statements reflect fairly the financial condition of the society; or

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

Costs of liquidation.

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

(2) After the date specified by the liquidator for distribution pursuant to section 155 *(c)*(iii), he may distribute all or any part of the assets of the society among the parties entitled to the assets having regard to the claims of which the liquidator has notice.

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

(4) When distributing the assets of a society pursuant to this section, the liquidator shall pay, in priority to the claims of the creditors of the society, the wages or salaries of all persons, other than directors, employed by the society at the time of the commencement of the liquidation or within 1 month before, not greater than 3 months' wages or salary, and those persons are entitled to rank as creditors of the society for any residue of their claims.

Closure of liquidation.

159. (1) In the liquidation of a registered society the funds, including the reserve fund, shall be applied as follows:

(a) firstly to the costs of liquidation;

(b) secondly to the discharge of the liabilities of the society;

(c) thirdly to the payment of share capital;

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(d) fourthly, if the by-laws of the society permit, to the payment of a dividend at a rate not exceeding 10 per cent per annum for any period during which no distribution of profits has been made.

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

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

(a) issue directions with respect to the custody or disposal of the documents and records of the society; and

(b) discharge the liquidator.

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

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

Custody of records.

160. A person who has been granted custody of the documents and records of a dissolved society remains liable to produce those documents and records for 6 years following the date of its dissolution or until the expiry of any other shorter period that the Registrar may set pursuant to section 159(3)*(a)*.

Remuneration of liquidator.

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

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

(a) 5% on the first $1,000 realised;

(b) 2.5% on the next $4,000 realised; and

(c) 1.25% on any sum greater than $5,000 realised.

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

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

Continuation of actions.

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

(a) a civil, criminal or administrative action or proceeding commenced by or against the society before its dissolution may be continued as if the society had not been dissolved;

(b) a civil, criminal or administrative action or proceeding may be brought against the society within 2 years after its dissolution as if the society had not been dissolved; and

(c) any property that would have been available to satisfy any judgment or order if the society had not been dissolved remains available for that purpose.

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

(3) Notwithstanding the dissolution of a society, a person to whom any of its property has been distributed is liable to any person claiming pursuant to subsection (1) to the extent of the amount received by that person on the distribution with respect to any share of the society that person held, and an action to enforce such liability may be brought within 2 years after the date of dissolution of the society.

Unknown claimants or members.

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

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

(3) Where a creditor establishes within 3 years after the dissolution of a society that he is entitled to any moneys paid, pursuant to subsection (1), to a registered society or to trustees appointed by the

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Registrar, the society or the Registrar, as the case may be, shall pay the amount of the claim out of the moneys deposited.

(4) Where moneys deposited pursuant to this section are not distributed within 3 years after the dissolution of a society then, the society or the trustees appointed by the Registrar shall dispose of those moneys in accordance with section 159(2) or the by-laws.

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PART XIII

Investigations

Examination.

164. (1) The Registrar may

(a) on his own motion, or

(b) on the application of the lesser of 25 members and 10 per cent of the members,

appoint a person as examiner who shall make an examination of the books of the society and examine the affairs of the society and shall make available his report to the Registrar.

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

(a) by the members applying for examination;

(b) by the society or its officers; or

(c) by any combination of the members, the society or its officers.

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

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

Power of Registrar to inspect societies' books. 1993-2.

164A. (1) The Registrar or any person appointed by the Registrar for the purpose 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.

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(2) Every officer, employee or agent of a registered society shall furnish, at such time as the Registrar fixes, such information in regard to the transactions and workings of the society as the person making such inspection may require.

(3) Any person who contravenes subsection (2) is guilty of an offence.

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(4) A director, officer, employee or agent of a society who

(a) with intent to deceive, makes any false or misleading statement or entry in a book, account, record, report or statement of the society or omits a statement or entry that should be made therein;

(b) obstructs any person who is carrying out an examination under this Act; or

(c) obstructs the examination of a society undertaken under this Act,

is guilty of an offence and is liable on conviction

(i) on indictment to a fine of $25 000 or imprisonment for 5 years, or to both;

(ii) by a court of summary jurisdiction to a fine of $5 000 or imprisonment for 2 years, or to both.

Investigations.

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

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

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(a) the society is not fulfilling the purpose stated in its by-laws;

(b) the society is not carrying on business in accordance with this Act, the regulations or the by-laws;

(c) the society is not organized or being operated on co-operative principles;

(d) the business of the society or any of its member societies is or has been carried on with intent to defraud any person;

(e) the business or affairs of the society or any of its member societies are or have been carried on or conducted, or the powers of the directors are or have been exercised, in a manner that is oppressive or unfairly prejudicial to or that unfairly disregards the interest of a member or security holder;

(f) the society or any of its member societies was formed for a fraudulent or unlawful purpose or is to be dissolved for a fraudulent or unlawful purpose; or

(g) persons concerned with the formation, business or affairs of the society or any of its member societies have acted fraudulently or dishonestly, in connection with the society.

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

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

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

Court order.

166. In connection with an investigation pursuant to section 165, the court may make any order it considers appropriate, including an order

(a) to investigate;

(b) appointing an inspector, who may be the Registrar, fixing the remuneration of an inspector and replacing an inspector;

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(c) determining the notice to be given to any interested person or dispensing with notice to that person;

(d) authorising an inspector to enter any premises in which the court is satisfied there might be relevant information, and to examine anything and make copies of any document or record found on the premises;

(e) requiring any person to produce documents or records to the inspector;

(f) authorising an inspector to conduct a hearing, administer oaths, and prescribing rules for the conduct of the hearing;

(g) requiring any person to attend a hearing conducted by an inspector and to give evidence on oath;

(h) giving directives to an inspector or any interested person on any matter arising in the investigation;

(i) requiring an inspector to make an interim or final report to the court and to the Registrar;

(j) determining whether a report of an inspector made pursuant to paragraph *(i)* should be published and, where published, ordering the Registrar to publish the report in whole or in part or to send copies to any person the court designates;

(k) requiring an inspector to discontinue an investigation; or

(l) requiring the society or a person who applied pursuant to section 165 for an order to pay the costs of the investigation.

Powers of inspector.

167. (1) An inspector appointed pursuant to section 166*(b)* has the powers set out in the order appointing him.

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

(a) is authorised to exercise investigatory powers; and

(b) is investigating, with respect to the society, an allegation of improper conduct that is the same as or similar to the conduct described in section 165(2).

Hearing in camera.

168. (1) Any interested person may apply to the court for an order that a hearing conducted by an inspector appointed pursuant to section 166 be heard *in camera* and for directions on any matter arising in the investigation.

(2) A person whose conduct is being investigated or who is being examined at a hearing conducted by an inspector appointed pursuant to section 166*(b)* has a right to be represented by an attorney-at-law.

Incriminating statements.

169. (1) No person is excused from attending and giving evidence and producing documents and records to an inspector appointed pursuant to section 166 by reason only that the evidence tends to incriminate him or subject him to any proceedings or penalty.

(2) No evidence described in subsection (1) may be used or received against any person in any proceeding instituted against him, other than a prosecution for perjury in giving the evidence, or a prosecution under section 4 or 7 of the *Perjury Act* in respect of the evidence. Cap. 142.

Absolute privilege defamation.

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

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

PART XIV

Disputes

Settlement of disputes.

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

(a) among members, former members and persons claiming through members or deceased members;

(b) between a member, former member or person claiming through a member or a deceased member, and the society, its board, or any officer of the society;

(c) between a member and the society arising out of or under any by-law relating to the disposal of the produce of

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agricultural or animal husbandry, or under any contract made under section 108;

(d) between the society and any other society;

(e) between the society or its board and any officer of the society;

any party to the dispute may refer it to the Registrar for decision.

(2) The Registrar may, before proceeding to hear or determine a dispute, make or cause to be made a preliminary investigation

(a) to ascertain the causes,

(b) to define the issues, and

(c) to bring about a voluntary settlement between the parties to the dispute.

(3) Where a dispute is referred to the Registrar under subsection (1) he may

(a) decide the dispute himself; or

(b) appoint an arbitrator to hear and determine the dispute.

(4) For the purpose of hearing any dispute the Registrar or arbitrator, as the case may be,

(a) may administer oaths, and

(b) may require

(i) the attendance of all parties concerned and witnesses, and

(ii) the production of all books, documents and things relating to the dispute.

(5) The Registrar or the arbitrator, as the case may be, may order the expenses of determining any dispute, including fees to an attorney-at-law to be paid by the society or the parties to the dispute.

(6) A party aggrieved by a decision of the Registrar or an arbitrator may appeal to the *Co-operative Societies Appeals Tribunal* within such time and in such manner as may be prescribed.

(7) A claim by a society for any debt or demand due to it from a member, former member or the personal representative of a

deceased member is a dispute that relates to the business of a society within the meaning of subsection (1).

(8) Notwithstanding anything in this section, a registered society may exercise any rights arising by law under any charges, mortgages, bills of sale or other securities duly executed in accordance with this Act or any other law without recourse to arbitration.

Co-operative Socities Appeals Tribunal.

172. (1) There shall be a Co-operative Societies Appeals Tribunal which shall consist of 3 persons, one of whom shall be an attorney-at-law of at least 10 years standing.

(2) The members of the Tribunal shall be appointed by the Minister for a period of not more than 3 years, and are eligible for re-appointment.

(3) The Tribunal shall have jurisdiction to hear appeals against a decision of the Registrar or an arbitrator.

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(3A) Any person who is aggrieved by any decision of the Registrar under this Act or the regulations may appeal to the Co-operative Societies Appeals Tribunal.

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(3B) Where the Registrar makes a decision

(a) against any person; or

(b) which affects the interest of any person,

the Registrar shall, on giving his decision, inform that person of his right to appeal under this Act.

2007-39. Schedule.

(4) The *Schedule* shall have effect with respect to the jurisdiction and procedure of the Tribunal and otherwise in relation thereto.

(5) The members of the Tribunal shall receive such remuneration as the Minister determines.

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Case stated on questions of law.

173. (1) Notwithstanding anything contained in sections 171 and 172, the Registrar or an arbitrator may in the course of or on making a determination in a dispute refer a question of law arising therefrom to the High Court, by way of case stated for the opinion of that court.

(2) A judge of the High Court may consider and determine any question of law so referred, and the opinion given on such question shall be final and binding.

Enforcement of award.

174. An award by the Registrar or an arbitrator may by leave of the court be enforced in like manner as a judgment or order to the same effect and, where leave is so given, judgment may be entered in terms of the award.

PART XV

Civil Remedies

Interpretation.

175. In this Part

(a) "action" means an action pursuant to this Act;

(b) "complainant" means

(i) a member or a former member of a society,

(ii) a director or an officer, or a former director or officer, of a society or of any of its member societies,

(iii) the Registrar, or

(iv) any other person who, in the opinion of the court, is a proper person to make an application pursuant to this Part;

(c) "court" means the High Court.

Derivative action.

176. (1) Subject to subsection (2), a complainant may apply to the court for leave

(a) to bring an action in the name and on behalf of a society or any of its member societies; or

(b) to intervene in an action to which the society or any of its member societies is a party,

for the purpose of prosecuting, defending or discontinuing the action on behalf of the society or a member society.

(2) No person may bring an action and no person may intervene in an action brought pursuant to subsection (1) unless the court is satisfied that

(a) where the directors of the society or its member society do not bring, diligently prosecute, defend or discontinue the action, the complainant has given reasonable notice to the directors of the society or its member society of his intention to apply to the court pursuant to subsection (1);

(b) the complainant is acting in good faith; and

(c) the interests of the society or its member society are served by the bringing, prosecuting, defending or discontinuing of the action.

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(3) In an action brought or intervened in pursuant to this section, the court may make any order it considers appropriate, including an order

(a) authorising the complainant or any other person to control the conduct of the action; or

(b) giving directions for the conduct of the action.

Oppression.

177. (1) A complainant may apply to the court for an order under this section.

(2) Where the court receives an application pursuant to subsection (1) and is satisfied that, with respect to the society,

(a) an act or omission of the society effects a result;

(b) the business or affairs of the society are or have been carried on or conducted in a manner; or

(c) the powers of the directors of the society are or have been exercised in a manner;

that is oppressive or unfairly prejudicial or that unfairly disregards the interests of a member or other security holder, creditor, director or officer of the society, the court may make an order to rectify the matters complained of.

(3) For the purpose of subsection (2), the court may make any order that it considers appropriate, including an order

(a) restraining the conduct complained of;

(b) appointing a receiver or receiver-manager;

(c) regulating the affairs of a society by amending its by-laws;

(d) directing an issue or exchange of securities;

(e) directing changes in the directors;

(f) subject to subsection (5), directing a society or any other person to purchase securities of a security holder;

(g) subject to subsection (5), directing a society or any other person to pay to a security holder any part of the moneys paid by him for securities;

(h) directing a society to repay member loans;

(i) varying or setting aside a transaction or contract to which a society is a party and compensating the society or any other party to the transaction or contract;

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(j) compensating an aggrieved person;

(k) directing rectification of the registers or other records of a society pursuant to section 179;

(l) liquidating and dissolving the society under the supervision of the Registrar;

(m) directing an examination pursuant to section 164 or an investigation pursuant to section 165; or

(n) requiring the trial of an issue.

(4) Where an order made pursuant to this section directs amendment of the by-laws of a society, the directors shall reorganise their by-laws in the prescribed form and send them to the Registrar.

(5) No society shall make a payment to a member pursuant to subsection (3)*(f)*, *(g)* or *(h)* where there are reasonable grounds to believe that the society is, or would after that payment be, insolvent.

Evidence of member approval not decisive.

178. (1) No application made and no action brought or intervened in pursuant to this Part is to be stayed or dismissed by reason only that it is shown that an alleged breach of a right or duty owed to the society or any of its member societies has been or may be approved by the members, but evidence of approval by the members shall be taken into account by the court in making an order pursuant to this Part.

(2) No application made and no action brought or intervened in pursuant to this Part is to be stayed, discontinued, settled or dismissed for want of prosecution without the approval of the court given on any terms that the court considers appropriate.

(3) Where the court determines that the interests of any complainant may be substantially affected by a stay, discontinuance, settlement or dismissal mentioned in subsection (2), the court may order any party to the application or action to give notice of the application or action to the complainant.

(4) No complainant is required to give security for costs in an application made or action brought or intervened in pursuant to this Part.

(5) In an application made or an action brought or intervened in pursuant to this Part, the court may at any time order the society

or its member society to pay to the complainant interim costs, including legal fees and disbursements, but the complainant may be held accountable for any interim costs so paid on final disposition of the application or action.

Rectification of records.

179. (1) Where the name of a person is alleged to be or to have been wrongly entered or retained in or wrongly deleted or omitted from the registers or other records of a society, the society, a member or other security holder of the society or any aggrieved person may apply to the court for an order that the registers or records be rectified.

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

(3) On an application made pursuant to this section, the court may make any order it considers appropriate, including an order

(a) requiring the registers or records of the society to be rectified;

(b) restraining the society from calling or holding a meeting of members or allocating or paying a dividend or bonus before rectification of the registers or records;

(c) determining the right of a party to the proceedings to have his name entered or retained in or deleted or omitted from the registers or records of the society, whether the issue arises between 2 or more members or security holders, or between the society and any members or security holders or alleged members or security holders;

(d) compensating a party who has incurred a loss by reason of the wrongful entry, retention, deletion or omission.

Compliance or injunction.

180. Where a society or any director, officer, employee, agent, auditor, trustee, receiver, receiver-manager or liquidator of a society does not comply with or is acting contrary to a provision of this Act or the regulations or the by-laws of the society, a complainant or creditor of the society may, in addition to any other remedy he has, apply to the court for an order to restrain the person from acting contrary to the provision, and, on the application, the court may make the order and any further order it considers appropriate.

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Summary application.

181. (1) Where this Part provides for an application to the court, the application may be made in a summary manner by originating notice of motion or in any other manner that the rules of the court may provide.

(2) An application made pursuant to this Part is subject to any order of the court respecting

(a) notice to interested parties,

(b) costs, or

(c) any matter in addition to those described in paragraphs *(a)* and *(b)* that the court considers appropriate.

Appeal.

182. An appeal lies to the Court of Appeal from any order made by the court pursuant to this Part.

PART XVI

Administration

Registrar and staff.

183. (1) The Registrar shall be charged with the general duty of organising, carrying out and encouraging measures for the development of co-operative societies and shall exercise the powers and duties conferred or imposed on him by this Act.

(2) The Registrar shall have such professional, administrative and other staff as are necessary to assist him in carrying out his duties and exercising his powers under this Act.

(3) The Registrar is a notary public, and shall have and exercise such rights of a notary public as are vested in the Registrar of the Supreme Court.

Service of documents.

184. A document may be served on the Registrar by leaving it at the office of the Registrar or by mailing it to the Registrar at that office.

Documents under former Act.

185. Every document kept, filed or registered by the Registrar pursuant to the former Act is deemed to be a document sent to the Registrar as required by this Act.

Right to inspect and obtain copies.

186. On payment of the prescribed fee any person may

(a) examine with respect to a society

(i) its by-laws,

(ii) any amendment to its by-laws,

(iii) any certificate issued to it by the Registrar,

(iv) a list of its directors,

(v) the address of its registered office, and

(vi) the address of its attorney-at-law for service, if any;

(b) require a copy or extract of any document mentioned in paragraph *(a)* to be made; and

(c) require the copy or extract made pursuant to paragraph *(b)* to be certified by the Registrar as a true copy.

Form of copies.

187. (1) Where records referred to in section 29(1) are prepared and maintained in a form mentioned in that subsection, the Registrar may furnish, in written or photographic film form, any copy required to be furnished by section 186.

(2) The Registrar does not have to produce any document, other than a certificate and any statement attached to the certificate filed pursuant to section 259, after 6 years from the date on which the name of the society was last on the Register.

Certificate of Registrar.

188. (1) The Registrar may furnish a person with a certificate stating that

(a) a document required to be sent to the Registrar has or has not been received by him;

(b) a name, whether that of a society or not, is or is not on the register;

(c) a name, whether that of a society or not, was or was not on the register on a stated date.

(2) When this Act requires or authorises the Registrar to issue a certificate or to certify any fact, the Registrar or a Deputy Registrar shall sign the certificate or the certification.

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

(4) A certificate or certification mentioned in subsection (2) is admissible in evidence as conclusive proof of the facts stated in

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the certificate or certification without proof of the office or signature of the person purporting to have signed the certificate of certification.

Power to refuse document.

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

(a) contains any matter contrary to law;

(b) has not, by reason of any omission or error in description been properly completed;

(c) does not comply with the requirements of this Act;

(d) contains any error, alteration or erasure;

(e) is not legible; or

(f) is not durable.

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

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

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

Form of documents filed.

190. (1) Every document sent to the Registrar must be typed or printed.

(2) The Registrar may exempt a society from subsection (1) where he considers it necessary to do so.

Proof required by Registrar.

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

Register.

192. (1) The Registrar shall maintain a register of societies, in this Act called the "register" in which he must record the name of every society that

(a) is registered under this Act,

(b) is, immediately before the commencement of this Act, registered in accordance with the former Act,

(c) is continued as a society in accordance with section 241, or

(d) is revived in accordance with section 150.

(2) A society whose name appears on the register mentioned in subsection (1) is deemed to be registered pursuant to this Act, and any society whose name does not appear on the register is deemed not to be registered pursuant to this Act.

Rectification and corrections. 2007-39.

192A. (1) Where there is an error in the by-laws, a notice, a certificate or any other document, the directors or members must, on the request of the Registrar,

(a) pass any necessary resolutions;

(b) send to the Registrar the relevant documents required to comply with this Act; and

(c) take any other steps that the Registrar may reasonably require,

in order that the Registrar may correct the by-laws, notice, certificate or document.

(2) Before proceeding under subsection (1), the Registrar must be satisfied that the correction will not prejudice any of the members or creditors of the society.

(3) The Registrar may, at the request of a society or of any other interested person, accept a correction to any of the documents referred to in subsection (1) if

(a) the correction is approved by the directors of the society or the members, as the case may be; and

(b) the Registrar is satisfied that the correction will not prejudice any of the members or creditors of the society.

(4) If in the view of

(a) the Registrar;

(b) the society; or

(c) any interested person who wishes a correction,

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a correction to any of the documents referred to in subsection (1) will prejudice any of the members or creditors of a society, the Registrar, the society or the person, as the case may be, may apply to the court for an order that the document be corrected and for an order determining the rights of the members or creditors.

(5) An applicant under subsection (4) must give the Registrar notice of the application, and the Registrar is entitled to appear and to be heard in person or by counsel.

(6) A corrected document must bear the date of the document it replaces.

(7) If a corrected certificate materially amends the terms of the original certificate, the Registrar must without delay give notice of the correction in the *Gazette* and in a newspaper published and circulated in Barbados.

(8) The Registrar may on his own initiative correct any

(a) linguistic error;

(b) error of transcription;

(c) clerical error; or

(d) mistake where the error is made by the Registrar or where the error is not substantive in nature.

Registrar may give directives. 2007-39

192B. (1) Where

(a) after an examination of a credit union or on the receipt of any other information, the Registrar is of the opinion that the funds of the credit union are not being properly managed or protected;

(b) the Registrar has reason to believe that a credit union is likely to take any action that would affect the financial soundness of the credit union,

the Registrar may,

(i) by notice in writing, direct the board within such period as the Registrar specifies to cease engaging in any behaviour or practice or to take such measures as the Registrar considers necessary to protect the funds of the credit union or the interest of the members of the credit union, as the case requires;

(ii) with the approval of the Minister, appoint a person who in the opinion of the Registrar has the necessary experience and training to advise the credit union on the action to be taken to remedy the situation.

(2) A person appointed under subsection (1) shall be paid such remuneration as the Registrar may determine, and the remuneration shall be charged to the credit union concerned.

(3) Notwithstanding sections 250 and 266, where it appears to the Registrar that a requirement in this Act, the regulations or the by-laws is being contravened but the circumstances are not such as to justify the taking of action under section 250 or the suspension of registration under section 266, the Registrar may give such directives to the society or the person, as the case may be, as seems appropriate.

(4) A credit union or a person that is required to take any action under this section may, within 21 days of the service of the notice by the Registrar, make representations in writing to the Registrar as to why the action required should not be taken.

Immunity. 2007-39.

192C. Neither the Registrar nor any member of his staff shall be liable in damages for anything done or omitted in the discharge or purported discharge of that officer's respective functions under this Act, unless it is shown that the act or omission was in bad faith.

Guidelines. 2007-39

192D. (1) The Registrar may, with the approval of the Minister and after consultation with registered societies, issue guidelines in respect of

(a) prudential standards to be observed by societies to ensure the safety and soundness of the funds of societies;

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(b) the management and investment of the funds of societies;

(c) the calculation and management of doubtful loans; and

(d) self-insurance arrangements.

(2) Where the Registrar intends to make any substantive modification to the guidelines, the Registrar shall consult with registered societies.

(3) The Registrar shall

(a) make the guidelines and all amendments thereto available for inspection by the public; and

(b) on payment of any prescribed fee, provide copies of the guidelines and all amendments thereto to the public.

(4) The Registrar shall at such intervals as the Registrar determines review any guidelines for the time being in force.

(5) The guidelines and any substantive amendment to the guidelines shall be published in the *Gazette*.

(6) For the purposes of this Act, "guidelines" means the guidelines made under this section.

PART XVII

Credit Unions

General

Interpretation.
2007-39.

193. In this Part,

(a) "credit union" means a society established for promoting thrift among its members, and providing a source of credit for its members for provident and productive purposes;

(b) "liquid assets" means assets maintained by a credit union to ensure that it can meet its commitments with respect to loans and withdrawals of deposits.

194. This Part applies to every registered society that is organised and operated as a credit union. Application of this Part.

195. (1) No credit union shall carry on any business that is contrary to this Act, the regulations or its by-laws. Restrictions.

(2) Notwithstanding sections 22(3) and 269*(d)*, no credit union shall 2007-39.

(a) engage in any business other than a business appertaining to a credit union;

(b) underwrite insurance or the issue of securities by another person;

(c) subject to section 260, act as agent for any insurance company or for any person in the placing of insurance; or

(d) subject to subsection (3), require, directly or indirectly, that a borrower place insurance for the security of the credit union in any particular insurance agency.

(3) Nothing in paragraph *(c)* of subsection (2) prevents a credit union from requiring insurance for the security of the credit union.

(4) No act of a credit union, including the transfer of property to or by a credit union, is invalid by reason only that the act is contrary to this Act or to the regulations. 1993-2.

(5) Without prejudice to the generality of paragraph *(a)* of subsection (2), a credit union may, with the permission of the Registrar, do all other acts and things as are incidental or conducive to or consequential upon the attainment of its objects.

196. (1) Every credit union shall maintain liquid assets in the amount and in the form prescribed. Liquid assets.

(2) Any credit union which fails to maintain the liquid assets required by this section may be placed under a receiver pursuant to Part XI by the Registrar.

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Real property in relation to credit unions. 2007-39.

196A. (1) Subject to subsection (2), a credit union may not acquire or hold real property where the market value of the property to be acquired will cause the aggregate value of the real property in which the credit union holds a fee simple or leasehold interest to exceed 6 per cent of the stated assets of the credit union.

(2) Notwithstanding subsection (1), the Registrar may, if satisfied that the circumstances require it, grant approval to a credit union to purchase real property in excess of the value specified in subsection (1).

(3) Subsection (1) does not apply where the credit union exercises its legal right in respect of any property which is the security for any debt, but in that case, the property shall not be retained for a period in excess of 5 years without the permission of the Registrar.

(4) For the purposes of this section, "acquire", in relation to property, means to purchase, lease or otherwise acquire such property.

(5) Nothing in subsection (1) shall be interpreted as requiring a credit union

(a) to dispose of any real property that was acquired or held by the credit union before 6th December, 2007;

(b) to terminate any agreement to acquire or hold any real property where the agreement was entered into before 6th December, 2007,

by reason of the fact that the ownership or other interest in the real property would cause the credit union to be in contravention of that subsection.

Reservers and allowances.

197. (1) Every credit union shall make an allowance for doubtful loans in accordance with the requirements set out in the regulations.

2007-39.

(2) Every society shall be required to establish and maintain reserves consisting of the greater of one half of one per cent of assets or 25 per cent of surplus until the capital of the society equals 10 per cent of the total assets of the society.

(3) Where the Registrar is satisfied that a society will not be able to comply with subsection (2), the Registrar may fix such amount as is appropriate in the particular circumstances. 2007-39.

(4) Where arising from an examination or the receipt of any other information the Registrar is satisfied that it is necessary to increase the amount referred to in subsection (2), the Registrar may by notice in writing, fix such amount of the surplus, not exceeding 40 per cent or 1% of the total assets of the society, that must be paid into the fund; and the notice shall specify the time in which the sum is payable. 2007-39

(5) For the purposes of subsection (2), "capital" means the share capital and reserves of the society. 2007-39.

198. (1) Subject to this Act and the regulations, every loan must be approved in accordance with the policies established by the directors before any funds are advanced. Loan approval.

(2) A loan to a director, a credit committee member or an employee of a credit union or any person connected with one of them must be approved in the manner prescribed in the regulations.

(3) Any person who knowingly approves or grants a loan in contravention of this Act or the regulations shall be held liable for any losses resulting to the credit union in connection with that loan.

199. Subject to any restrictions that may be prescribed in the regulations, the credit union make take any security for loans that it considers advisable and in keeping with sound business practices. Security for loans.

200. (1) Loans may be made only to members. Loan limits.

(2) The by-laws shall provide for limits on the amounts of loans to any one member or on any types of loans.

201. (1) Where a credit union is reporting loans on the balance sheet in its annual financial statements, it shall report the loans at their net estimated value after deducting the allowance for doubtful loans pursuant to section 197(1). Reporting loans.

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(2) Any advance given by way of overdraft or line of credit is deemed to be a loan for the purposes of the balance sheet, and must be reported as a loan.

Interest on loans.

202. (1) The maximum intervals at which interest on loans must be paid may be prescribed in the regulations.

(2) Where a borrower has not paid the interest on his loan for a period determined in the regulations, the credit union shall not include that interest in income.

Acceptance of deposits. 2007-39.

203. (1) A credit union shall not on or after 6th December, 2008 accept a deposit from a non-member except as provided under subsection (2).

(2) A credit union may accept deposits

(a) from co-operative societies; and

(b) with the approval of the Registrar, from bodies corporate,

that are not members of the credit union.

(3) The Registrar may in any special case extend the period granted under subsection (1).

(4) Deposits may be accepted in the manner and form and on any condition that may be prescribed in the regulations.

Credit union not bound to see to trust.

204. (1) A credit union is not bound to see to the execution of any trust, whether express, implied or constructive, pursuant to which any deposit or share is subject.

(2) Where any deposit or share is subject to a trust of which the credit union has notice, the receipt or order

(a) of the trustee in whose name the deposit or share stands, or

(b) if the deposit or share stands in the names of 2 or more trustees, of all those trustees or any of them who, pursuant to the document creating the trust, may be entitled to receive the deposit or share,

is, notwithstanding any trust to which the deposit or share is subject, a sufficient discharge for the payment of any money payable in respect of the deposit or share; and the credit union is not bound to see to the application of any money paid on the receipt or order.

(3) Notwithstanding any neglect or omission on the part of a credit union to enter a proper description in its books, no executor, administrator, guardian, committee or trustee who is entered on the books of the credit union as a member, or who is described as representing a named estate, trust or trust beneficiary in any such capacity, is personally liable to the credit union with respect to the share that he represents.

(4) The estate or trust beneficiary represented by a person described in subsection (3) continues to be liable to the credit union in the same manner and to the same extent as if the testator, minor, ward, person of unsound mind, beneficial trust or other trust beneficiary were entered on the records of the credit union as the holder of the shares.

Credit Committee

Credit committee.

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

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

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

(4) No person who is a member of the board of directors or of the supervisory committee or who is an officer of the credit union shall be a member of the credit committee, except that the secretary or treasurer may be a member of the credit committee if he is so authorised by the by-laws.

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(5) No member shall be a member of the credit committee unless he has attained the age of 18 years.

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

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

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

(9) The by-laws of the credit union may provide for the election and retirement of members of the credit committee in rotation, but in that case no member of the credit committee shall be elected for a term of more than 3 years.

Duties of the credit committee. 2007-39.

206. The credit committee shall

(a) consider all applications for loans which are not considered pursuant to section 208(2);

(b) make recommendations to the board in respect of the loan policy of the credit union; and

(c) perform such duties as are prescribed under this Act, the regulations and the by-laws of the credit union.

Removal of member of credit committee.

207. When a member of the credit committee fails to attend 3 consecutive meetings without, in the opinion of the board, having a reasonable cause therefor, or fails to perform any of the duties allotted to him as a member of the committee, his position on the committee may be declared vacant by the board, who may then appoint a qualified person to fill the vacancy until the next annual meeting of the credit union.

Officer to approve loan. 2007-39.

208. (1) The board shall determine the terms and conditions upon which the credit committee shall approve loans to members.

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

2007-39.

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

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(4) The responsibilities and duties of any person authorised to approve loans under subsection (2) are concurrent with the responsibilities and duties of the credit committee.

Credit committee reports.

209. (1) The credit committee shall

(a) meet at least once every month;

(b) keep minutes of its meetings;

(c) submit a report to the board of directors stating

(i) the number of loan applications received,

(ii) the number and categories of loans granted,

(iii) the security obtained for such loans,

(iv) applications denied, and delinquent loans; and

(d) submit an annual report on the matters referred to in paragraph *(c)* to the annual meeting of the credit union.

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

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Removal of member.

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

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

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

Supervisory Committee

Supervisory committee.

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

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

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

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

(5) No member shall be a member of the supervisory committee unless he has attained the age of 18 years.

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

(7) A member entitled to vote at an election of members of the supervisory committee, if he votes, shall cast thereat a number of votes equal to or less than the number of members of the supervisory committee to be elected, and the member shall distribute the votes among the candidates in such manner as he sees fit, but no candidate shall receive more than 1 vote from each member.

(8) Where a vacancy occurs in the supervisory committee, the supervisory committee may fill all vacancies until the next annual meeting of the credit union.

(9) The by-laws of the credit union may provide for the election and retirement of members of the supervisory committee in rotation, but in that case no member shall be elected for a term of more than 3 years.

Duties.

212. The supervisory committee shall examine the books of the credit union, confirm the cash instruments, property and securities

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of the credit union and confirm the deposits of the members and perform such other duties as are prescribed by this Act, the regulations and the by-laws of the credit union.

Removal of member.

213. When a member of the supervisory committee fails to attend 3 consecutive meetings of the committee without, in the opinion of the supervisory committee, having a reasonable cause therefor, or fails to perform any of the duties allotted to him as a member of the committee, his position on the committee may be declared vacant by the remaining members of the committee who may appoint a qualified person to fill the vacancy until the next annual meeting of the credit union.

Clerks.

214. The board of directors may appoint such persons as it considers necessary to assist the supervisory committee in its duties, and pay those persons such remuneration as it thinks fit.

Misappropriation etc.

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

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

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

(4) The supervisory committee shall forthwith request the board to summon a general meeting of the members to be held within 14 days after the suspension referred to in subsection (3); and where the board fails to summon such a meeting the

supervisory committee shall summon the meeting within 7 days after the expiry of the period of 14 days.

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

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

Meetings.

216. (1) The supervisory committee shall meet at least once every 3 months, and, where no auditor has been appointed pursuant to section 215(2), shall meet at least every month, and shall at each such meeting examine the affairs of the credit union.

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

(a) within 7 days of each meeting report the results thereof in writing to the board of directors; and

(b) submit a written report to the annual meeting of the members of the credit union.

Removal of members.

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

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

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

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PART XVIII

Consumers' Societies

Interpretation.

218. In this Part, "consumers' society" means a registered society whose primary purpose is to purchase, procure, process, manufacture, exchange, hire or deal in goods or services for sale at retail to its members who are to be the ultimate users or consumers of those goods and services.

Application of this Part.

219. This Part applies to every society that is organised or operated as a consumers' society.

Restrictions on directorship.

220. (1) Subject to subsection (2), no employee of a consumers' society may be a director of the society.

(2) A society may provide in its by-laws that no more than one-third of its directors may be employees.

Reserve.

221. (1) The directors of a consumers' society shall set aside not less than 25% of any surplus in a reserve before paying a dividend.

(2) A consumers' society shall put into its reserve at the end of each financial year any increase in the value of assets resulting from revaluation of its assets in that financial year.

(3) When the amount of the reserves as required by subsection (1) equals or is more than 25% of the total assets of the society as shown in its audited financial statement for the financial year, the directors need not set aside any part of the surplus in a reserve.

(4) The Registrar may exempt a consumers' society from subsections (1) and (2) where he considers it appropriate to do so.

(5) A consumers' society may charge against its reserve required by subsections (1) and (2)

(a) net losses resulting from its business operations, and

(b) any losses resulting from revaluation or sale of its assets.

PART XIX

Housing Societies

Interpretation.

222. In this Part,

(a) "housing society" means a registered society whose primary purpose is to provide housing units for occupancy by its members as nearly as possible at cost;

(b) "housing charges" means the fee charged by a housing society to its members to cover its costs of providing housing accommodations;

(c) "housing unit" means housing accommodations intended for individual or family use.

Application of this Part.

223. This Part applies to every housing society.

Relationship with members.

224. The relationship between a housing society and its members is not a relationship between a landlord and his tenants.

By-laws not to be amended without consent of Registrar.

225. Where the by-laws of a society provide that it is a housing society or that this Part applies to the society, the society may not repeal or amend that provision of the by-laws without the consent of the Registrar.

By-laws.

226. The by-laws of a housing society must, in addition to the matters required to be set out therein by section 10, include the following:

(a) the manner in which each member may be required to furnish capital for the purposes of the society;

(b) the manner in which a member may be required to pay for housing charges or other reserves;

(c) the basis for fixing the amount of housing charges;

(d) subject to section 101, the manner of withdrawal by a member and the repayment of the member's interest in the society; and

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(e) the rules governing any leases of housing units by members to non-members.

No interest on share capital.

227. Where a housing society has a share capital, the society shall not pay any dividend on the share capital to its members.

Reserves.

228. (1) The directors of a housing society shall set aside not less than 25% of any surplus in a reserve.

(2) When the amount required to be set aside pursuant to subsection (1) is equal to or is more than 25 per cent of the total assets of the society as shown in the audited financial statement for the financial year, the directors need not set aside any part of the surplus in a reserve.

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(3) Section 34A shall apply to housing societies.

(4) A housing society shall use its reserve required pursuant to subsection (1) to cover

(a) operating losses; or

(b) any contingencies that the directors consider are necessary to the operation of the society.

(5) Any gains resulting from the sale of real property

(a) must be set aside as a reserve fund for unforeseen operating losses or other contingencies, or for the maintenance or further development of the services provided by the society; or

(b) must, where the members authorise at an annual meeting, be donated by the directors to one or more organisations, associations or groups with objectives of a benevolent or charitable nature or housing society with similar objectives.

Non-application of *Landlord and Tenant Act*. Cap. 230. 1993-2.

229. Subject to section 230 (2), the *Landlord and Tenant Act* does not apply to the relationship between

(a) the housing society, and

(b) its members and any person whose membership in the housing society has been terminated.

Right to possession terminated.

230. (1) Where a person's membership in a housing society is terminated, any right of that person to possess or to occupy residential premises acquired by virtue of membership in the society is terminated.

(2) Where a person's membership in a housing society is terminated and the member does not give up possession of the housing unit he occupies, the housing society may apply to the court to recover possession or to recover any arrears of housing charges.

Abandoned goods.

231. (1) Where a member

(a) has his membership terminated or has vacated or abandoned the housing unit formerly occupied by him, and

(b) has left property in the housing unit,

the housing society may apply to the Magistrate's Court for the District where the housing unit is situate for an order authorising it to remove the property from the housing unit and sell or otherwise dispose of it.

(2) The Magistrate may make an order pursuant to subsection (1) where he is satisfied that the housing society has made a reasonable effort to locate the former member.

(3) Where a housing society sells or otherwise disposes of property pursuant to an order made under subsection (2), it shall pay into the Magistrate's Court, to the credit of the former member, any remaining proceeds of the disposition after deducting

(a) any amount with respect to costs incurred by it relating to the disposition that it would be authorised to retain if the property were goods sold pursuant to distress for housing charges, and

(b) any arrears of housing charges and damages that the Magistrate allows.

(4) Where a former member does not claim the remaining proceeds described in subsection (3) within 3 months after the

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date the money was paid into the Magistrate's Court, the money shall be paid into the Consolidated Fund.

(5) Where a housing society removes, sells or otherwise disposes of property pursuant to an order made under subsection (2), the housing society is not liable in any action taken by the former member with respect to the removal, sale or disposition.

PART XX

Workers' Societies

Interpretation.

232. In this Part, "workers' society" means a society whose primary purpose is to operate an enterprise in which its members are the workers necessary for the operation.

Application of Part.

233. This Part applies to every registered society that is organised or operated as a worker's society.

Member employee.

234. (1) In a workers' society, 75% of all employees must be members of the society and 75% of the employees of a member society must be members of the member society.

(2) Subject to subsection (3), no workers' society shall sub-contract out more than 50% of its work.

(3) Where a workers' society applies to the Registrar, he may allow the workers' society to sub-contract out more than 50% of its work.

Worker by-laws.

235. In addition to the matters required to be set out in the by-laws pursuant to section 10, the by-laws of a workers' society must include

(a) conditions of admission, expulsion or suspension of its members;

(b) a procedure for laying off members when there is a lack of work and a procedure of recall to work;

(c) remuneration of workers involved in the day to day work of the society; and

(d) allocation of bonus among members.

Restriction on registration.

236. No workers' society may be registered where the acquisition of goods for resale to the public is one of its principal objects stated in its by-laws.

Bonus based on labour.

237. Notwithstanding section 34, when allocating among, crediting or paying a bonus to the members of a workers' society the directors may take into account the labour contribution of each member.

Employees may be directors.

238. Notwithstanding any other provision of this Act, the majority of directors of a workers' society may be employees of the society.

PART XXI

Former-Act Societies

Former-Act society.

239. (1) Upon the commencement of this Act,

(a) all corporate instruments of a former-Act society, and

(b) all cancellations, suspensions, proceedings, acts, registrations and things,

lawfully done under any provision of the former Act are presumed to have been lawfully done under this Act, and continue in effect under this Act as though they had been lawfully done under this Act.

(2) For the purposes of this section, "lawfully done" means to have been lawfully granted, issued, imposed, taken, done, commenced, filed, or passed, as the circumstances require.

(3) For the purposes of this Act,

(a) "former Act" means the *Co-operative Societies Act* in force immediately before the commencement of, and repealed by, this Act,

(b) "former-Act society" means a society registered pursuant to the former Act.

Effect of corporate instrument.

240. (1) Notwithstanding any other provision of this Act, but subject to subsection (2), if any provision of a corporate instrument of a former-Act society lawfully in force immediately before the commencement of this Act is inconsistent with,

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repugnant to, or not in compliance with this Act, that provision is not illegal or invalid only by reason of that inconsistency, repugnancy or non-compliance.

(2) Any act, matter or proceeding or thing done or taken by the former-Act society or any director, member or officer of the society under a provision mentioned in subsection (1) is not illegal or invalid by reason only of the inconsistency, repugnancy or non-compliance mentioned in that subsection, or by reason of being prohibited, or not authorised by the law as it is after the commencement of this Act.

Continuation as society.

241. (1) Every former-Act society must, within 1 year after the commencement of this Act, apply to the Registrar for a certificate of continuance under this Act.

(2) A fee to defray administration costs may be prescribed in respect of an application and certificate of continuance under this Part.

Amending instrument.

242. Within the period referred to in section 241 (1) any amendments to, or replacement of, the by-laws of a former-Act society must be made as nearly as possible in accordance with this Act.

By-law continuance.

243. By-laws of continuance may, without so stating in the by-laws, effect any amendments to the by-laws of a former-Act society if the amendment is an amendment that a society registered under this Act can make in its by-laws.

Certificate of Continuance.

244. (1) Upon receipt of an application under this Part, the Registrar may, and, if the applicant complies with all reasonable requirements of the Registrar to have the continued society accord with the requirements of this Act, the Registrar must issue a certificate of continuance to the former-Act society, in accordance with section 241.

(2) On the date shown in the certificate of continuance

(a) the former-Act society becomes a society to which this Act applies as if it had been registered under this Act;

(b) the by-laws of continuance are the by-laws of registration of the continued society; and

(c) except for the purposes of subsection (1) of section 79, the certificate of continuance is the certificate of registration of the continued society.

Preservation of society.

245. When a former-Act society is continued as a society under this Act

(a) the property of the former-Act society continues to be the property of the society;

(b) the society continues to be liable for the obligations of the former-Act society;

(c) an existing cause of action, claim or liability to prosecute is unaffected;

(d) a civil, criminal or administrative action or proceeding pending by or against the former-Act society may be continued by or against the society; and

(e) a conviction against, or ruling, order or judgment in favour of or against, the former-Act society may be enforced by or against the society.

Non-continuance disability.

246. When a former-Act society fails to apply to the Registrar for a certificate of continuance within the time limited therefor under section 241, then after the expiration of that period

(a) the former-Act society may not, without leave, sue in any court, but may be made a defendant to a suit;

(b) no bonus or dividend shall be paid to any member of the former-Act society; and

(c) every director of the former-Act society is liable to a penalty of $100 a day for each day during which the former-Act society carries on its undertaking thereafter.

Effect of earlier references.

247. (1) A reference in any by-law of any society to the former Act or any procedure under the former Act is, in relation to any former-Act society continued under this Act, to be construed as a reference to the provisions of this Act or procedure thereunder that is the equivalent provision or procedure under this Act.

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Cap. 1.

(2) Without affecting the operation of the *Interpretation Act*, when there is no equivalent provision in this Act to the provision or procedure in or under the former Act referred to in the by-laws, the provision or procedure of the former Act is to be applied, and stands repealed to the extent necessary to give effect to that reference in the by-laws.

PART XXII

Offences

Corrupt practices and bribery.

248. (1) Where

(a) any member, agent or employee of a society corruptly accepts, agrees to accept, obtains or attempts to obtain whether for himself or another, any gift or consideration as an inducement or reward for

(i) doing or forbearing to do any act relating to the business of the society, or

(ii) for showing favour or disfavour to any person in relation to the business of the society; and

(b) any person corruptly gives, agrees to give, or offers such gift or consideration to any member, agent or employee of a society as inducement or reward for any purpose mentioned in paragraph *(a)*,

he is guilty of an offence and is liable on summary conviction to a fine of $5,000 or to imprisonment for 2 years and on conviction on indictment to imprisonment for 5 years.

(2) In this section "consideration" includes valuable consideration of any kind.

Falsely obtaining property of society.

249. (1) Any person who

(a) obtains possession of any property or is granted any loan by a society by false representation or other corrupt means,

(b) wrongfully withholds or misapplies any such property or loan, or

(c) wilfully applies any part of the property or loan to purposes other than those directed or expressed in the by-laws of the society or authorised in this Act or the regulations,

is guilty of an offence and is liable on summary conviction to a fine of $5 000 or to imprisonment for one year, and on conviction on indictment to a fine of $50 000 or to imprisonment for 5 years.

(2) In any proceedings under this section, the person accused may, in addition to any penalty imposed, be ordered

(a) to deliver up any property or repay any sum of money to which the proceedings relate, and

(b) pay the costs of the proceedings.

Failure to comply with this Act etc.

250. (1) A society or any officer or member thereof or any other person

(a) who fails without reasonable cause or wilfully neglects or refuses to comply with any requirement of this Act or to furnish any information; or 2007-39.

(b) who, purporting to comply with any such requirement, knowingly furnishes false information

is guilty of an offence.

(2) Any person who wilfully or without reasonable cause disobeys any summons, order or direction lawfully issued under this Act is guilty of an offence. 2007-39.

(3) Any officer or member of a society who wilfully contravenes the by-laws of the society relating to his duties or functions as such officer or member is guilty of an offence.

(4) A person guilty of an offence under this section is liable to a fine of $2 000 or imprisonment for 6 months or to both.

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Offences relating to sections 57 and 68. 2007-39.

250A. (1) Any person who contravenes paragraph *(c), (d), (e), (f)* or *(g)* of section 57 is guilty of an offence and is liable on summary conviction to a fine of $10 000 or to imprisonment for 2 years, or to both.

(2) Any person who contravenes section 68 is guilty of an offence and is liable on conviction

(a) on indictment to a fine of $25 000 or to imprisonment for 5 years, or to both;

(b) by a court of summary jurisdiction to a fine of $5 000 or to imprisonment for 2 years, or to both.

Dealing in property subject to charge.

251. (1) Any person who

(a) fraudulently or clandestinely removes any property comprised in a charge created in favour of a society from the place where such property was situate at the time of the execution of the charge; or

(b) knowingly disposes of, or deals with, or attempts to dispose of or deal with, such property without first obtaining in writing leave of the society,

is guilty of an offence and liable on summary conviction to a fine of $2 000 or to imprisonment for 6 months or both.

(2) The court may in addition to any penalty imposed on a person pursuant to subsection (1) require that person to repay such amount of the loan with interest as has not been repaid at the date of the conviction; and the payment of that amount shall discharge the liability of the borrower to repay the loan.

Offences with respect to reports.

252. (1) A person is guilty of an offence who makes or assists in making a report, return, notice or other document, required in this Act or the regulations to be sent to the Registrar or to any other person, that

(a) contains an untrue statement of a material fact; or

(b) omits to state a material fact required in the report or necessary to make a statement contained in the report not misleading in the light of the circumstances in which it was made.

(2) A person guilty of an offence under subsection (1) is liable on summary conviction,

(a) in the case of an individual, to a fine of $5 000 or to imprisonment for a term of one year or both;

(b) in the case of a person other than an individual, to a fine of $50 000.

(3) Where the person guilty of an offence under subsection (1) is a body corporate and whether or not the body corporate has been prosecuted or convicted, any director or officer of the body corporate who knowingly authorises, permits or acquiesces in the offence is also guilty of an offence and liable on summary conviction to a fine of $5 000 or to imprisonment for a term of one year or both.

(4) No person is guilty of an offence under subsection (1) or (3) where the untrue statement or omission

(a) was unknown to him; and

(b) in the exercise of reasonable diligence, could not have been known to him.

General penalty etc. 2007-39.

253. (1) Every person who

(a) is found guilty of an offence under this Act for which no penalty is specifically provided; or

(b) fails to give any notice or fails to send any return or document that is required for the purposes of this Act

is guilty of an offence and is liable on summary conviction to a fine of $5 000.

(2) Regulations made under this Act may annex to an offence created thereunder a punishment by way of a fine of $2 000.

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(3) An offence referred to in subsection (2) shall be punishable by way of summary conviction.

Use of expression "credit union" or "co-operative".

254. (1) No person doing business in Barbados shall use the words "credit union" or "co-operative" or any abbreviation or derivation thereof as part of its name, or with respect to its goods, wares, merchandise or services or its method of conducting its business, or hold itself out to be a registered society unless it is registered under this Act.

(2) A person who contravenes section 13(2) or this section is guilty of an offence and liable on summary conviction to a fine of $5 000.

Order to comply.

255. Where a person is convicted of an offence under this Act or the regulations, the court may, in addition to any punishment imposed, order the person to comply with the provisions of this Act or the regulations for the contravention of which he has been convicted.

No time limit for proceedings.

256. The effluxion of time is no bar to a prosecution for an offence under this Act.

Civil remedy not affected.

257. No civil remedy for an act or omission under this Act is suspended or affected by reason that the act or omission is an offence under this Act.

PART XXIII

Miscellaneous

Interpretation.

258. In this Part,

(a) "duplicate originals" means the 2 copies of the by-laws or statements required in section 259;

(b) "statement" means a special resolution stating an intent to dissolve mentioned in section 145.

Execution and filing.

259. (1) Where this Act requires that by-laws or a statement relating to a society shall be sent to the Registrar, unless otherwise specifically provided, the society shall send 3 copies of the by-laws or statement signed by a director or an officer of the society.

(2) Subject to the other provisions of this Act, where the Registrar receives duplicate originals of any by-laws or statement pursuant to subsection (1) and they are accompanied by any other required documents and the prescribed fees, the Registrar shall

(a) endorse on each of the duplicate originals the word "Registered" and the date of the registration;

(b) issue in duplicate the appropriate certificate, and attach to each certificate one of the duplicate originals of the by-laws or statement;

(c) file a copy of the certificate and attached by-laws or statement;

(d) send to the society the original certificate and attached by-law or statement; and

(e) publish in the *Gazette* notice of the issue of the certificate.

(3) The Registrar may date a certificate mentioned in subsection (2) as of the day he receives the by-laws or statement issued pursuant to which the certificate is issued, or as of any later day specified by the person who signed the by-laws or statement.

(4) A signature required on a certificate mentioned in subsection (2) may be printed or otherwise mechanically produced on the certificate.

Approval of Supervisor of Insurance. Cap.310.

260. (1) No society that is an insurer within the meaning of the *Insurance Act* shall be registered pursuant to this Act without the written approval of the Supervisor of Insurance.

(2) An applicant for registration under subsection (1) shall advise the Supervisor of Insurance of its intention to make an application for the written approval required pursuant to this section at least one month before the application is made.

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(3) The by-laws of a society mentioned in subsection (1) must set out any restrictions on the business or powers of the society that the Supervisor of Insurance may require.

(4) After registration of a society mentioned in subsection (1), no by-laws may be registered by the Registrar unless the by-laws are first approved by the Supervisor of Insurance.

Waiver of notice.

261. Where a notice or document is required by this Act or the regulations to be sent, the sending of the notice or document may be waived, or the time for sending the notice or document may be waived or abridged, at any time with the consent in writing of the person entitled to receive the notice or document.

Certificate of society.

262. (1) A director or officer of a society may

(a) sign a certificate stating any fact set out in; or

(b) certify a copy of the whole or any part of,

the by-laws, or any other contract to which the society is party or the minutes of a meeting of the directors, a committee of directors or the members.

(2) A certificate or certified copy described in subsection (1) is admissible in evidence as *prima facie* proof of the facts contained in the certificate or certified copy without proof of the signature or official character of the person appearing to have signed the certificate or the certification.

Copies of documents.

263. Where a notice or document is required to be sent to the Registrar pursuant to this Act, the Registrar may accept a photostatic or photographic copy of the notice or document.

Application of sections 211 to 217 to all societies. 2007-39

263A. Sections 211 to 217, which relate to the supervisory committee, shall apply to all registered societies.

264. *Repealed by 2007-39.*

265. *Repealed by 2007-39.*

Suspension and cancellation of registration.

266. (1) Subject to this Act, the Registrar may by notice in writing suspend the registration of a society for a period not exceeding 12 months if he is satisfied that

(a) the society is in breach of any condition of registration;

(b) the society is in breach of co-operative principles;

(c) the society or any officer thereof has failed or refused to comply with any obligation imposed by, or any requirement of, this Act, the regulations or by-laws; 2007-39.

(d) he does not receive any return, notice or other document or fee required by this Act or the regulations to be sent to him; or 2007-39.

(e) the society has failed to comply with any direction given by the Registrar under section 192B. 2007-39.

(2) The Registrar shall cancel the registration of a society if

(a) the membership of the society has fallen to less than 10;

(b) the registration has been obtained by fraud or mistake;

(c) the society has not, within the period of suspension referred to in subsection (1), rectified the cause of its suspension;

(d) the society gives notice to him that it has ceased to carry on business;

(e) the society is dissolved;

(f) the society is amalgamated with one or more other societies or bodies corporate; or

(g) the society is bankrupt within the meaning of the *Bankruptcy and Insolvency Act.* Cap. 303.

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(3) Where the registration of a society is cancelled under this Act the society ceases, except for the purpose of dissolution, to exist as a body corporate with effect from the date of cancellation of its registration.

(4) Paragraph *(a)* of subsection (2) does not apply to a society that has one or more registered societies among its members.

(5) Where the registration of a society is cancelled pursuant to this Act, the Registrar may, on receipt of an application in the prescribed form and on payment of the prescribed fee,

(a) restore the name of the society to the register;

(b) issue a certificate noting the date of restoration to the society; and

(c) publish a notice in the *Gazette* to the effect that the society has been restored to the register.

Exemption from stamp duties and other fees.

267. Every society registered under this Act is exempt from any stamp duty with which, under any law for the time being in force, instruments executed by or on behalf of such society or by an officer or member and relating to the business of such society, or any class of such instruments, are respectively chargeable.

Non-application of certain Acts. Cap.308. Cap.361. Cap.379. Cap.380.

268. The *Companies Act*, the *Trades Union Act*, the *Friendly Societies Act* and the *Industrial and Provident Societies Act* do not apply to societies registered under this Act.

Regulations.

269. For the purpose of carrying out this Act according to its intent, the Minister may make regulations

(a) defining, enlarging or restricting the meaning of any word used but not defined in this Act;

(b) requiring the payment of, and prescribing the amount of, any fee with respect to

(i) the filing, examination or copying of any document; or

(ii) any action that the Registrar is required or authorised to take pursuant to this Act;

(c) prescribing the procedure for appeals to the Registrar pursuant to section 105;

(d) subject to sections 22(3) and 195(2), prescribing businesses in which societies, or any class of societies, may not engage without the prior approval of the Registrar; 2007-39.

(e) exempting any society or class of societies from any provision of this Act; 2007-39.

(f) prescribing any other matter or thing required or authorised to be prescribed by this Act; and 2007-39.

(g) generally for giving effect to, and for the efficient operation of, this Act. 2007-39.

270. (1) The *Co-operative Societies Act* is repealed. Repeal. 1949-58.

(2) Notwithstanding subsection (1), where a society is being dissolved or liquidated and dissolved pursuant to the former Act, that Act continues to apply to that society.

SCHEDULE 2007-39.

(Section 172(4))

Co-operative Societies Appeal Tribunal

1. The Minister may appoint a member as Chairman.

2. A member may at any time resign his membership by notice in writing addressed to the Minister.

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3. (1) If the Minister is satisfied that a member

(a) is incapacitated by physical or mental illness; or

(b) is otherwise unable or unfit to discharge the functions of a member,

the Minister may by notice published in the *Gazette* declare the office of the member to be vacant, and thereupon the office shall become vacant.

(2) In case of the temporary absence or inability of a member to act, the Minister may by notice published in the *Gazette* appoint a suitable person to act in that member's place.

4. The Minister shall publish in the *Gazette* notice of the appointment and cessation of appointment of a member.

5. The Tribunal may, at the discretion of the Chairman, sit in private where it appears expedient that the Tribunal should do so.

6. The validity of any proceedings of the Tribunal shall not be affected by any vacancy among the members or by any defect in the appointment of a member.

7. (1) In the hearing and determination of any matter before it, the Tribunal may act without regard to technicalities and legal form, and shall not be bound to follow the rules of evidence stipulated in the *Evidence Act*; but the Tribunal may inform itself on any matter in such manner as it thinks just and may take into account opinion evidence and such facts as it considers relevant and material, but in any such case, the parties to the proceedings shall be given the opportunity, if they so desire, of adducing evidence.

Cap. 131.

(2) The parties to the proceedings shall be entitled to appear in person or may be assisted in the preparation of their respective cases by counsel or by a duly authorised representative; but the Tribunal shall not award costs to any party to a proceeding before the Tribunal other than sums in respect of the reasonable costs incurred in any one or more of the following:

(a) the filing of documents;

(b) the obtaining of any expert report;

(c) the enforcement of an award of the Tribunal;

and any such award of costs shall be in the discretion of the Tribunal.

8. Subject to this *Schedule*, the Tribunal shall regulate its own procedure and may make rules for that purpose.

9. Without prejudice to the generality of paragraph 8, the Tribunal, as respecting the attendance and examination of witnesses, the production and inspection of documents and all other matters necessary for the exercise of its jurisdiction, shall have all such powers as are vested in a magistrate's court in an action in that court.

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