

## CHAPTER 211

# THE CO-OPERATIVE SOCIETIES ACT

[PRINCIPAL LEGISLATION]

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## CHAPTER 211

### THE COOPERATIVE SOCIETIES ACT

An Act to provide for the establishment of the Tanzania Cooperative Development Commission; for the formation, constitution, registration and operation of cooperative societies; for promotion of cooperative development and for other matters incidental to or connected thereto.

Acts Nos.  
6 of 2013  
10 of 2018

#### PART I PRELIMINARY PROVISIONS

- Short title      1. This Act may be cited as the Cooperative Societies Act.
- Interpretation      2. In this Act, unless the context otherwise requires-
- “agricultural inputs” means resources that are used in farm production, such as seeds, fertilizers, pesticides, veterinary drugs, equipment, animal feed, energy and processing plants or machineries;
  - “agricultural produce” means the produce of farms, gardens, orchards, greenhouses, forests, poultry, beekeeping, dairy and fishing and includes animal and fish products;
  - “agricultural society” means a society whose principal object is the business of supplying inputs for crop production, purchasing, processing, marketing and distribution of agricultural produce;
  - “annual net balance” means a portion of the net surplus for any year as remains after deductions have been made from it in respect of the reserve fund, the share transfer fund and other appropriations as it may be necessary or desirable to make for the proper conduct of the society’s business, and after a dividend has been paid on the share capital;

“annual net surplus” means a portion of the total income received or accrued during any year as remains after deductions have been made from it in respect of recurrent expenditure incurred during that year and after adequate provisions have been made for bad debts, depreciation, taxation and losses;

“Assistant Registrar” means an Assistant Registrar appointed under section 12 to perform the functions of the Commission;

“bank” means a cooperative bank registered at the secondary or tertiary society level;

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“Bank” means the Bank of Tanzania established under the Bank of Tanzania Act;

“basic units” means localities within the area of operation of a society from which delegates to the general meeting can be drawn;

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

“bonus” means a portion of the annual net balance as may be distributed to members in consideration and on the basis of their patronage of the society’s business or their participation in the business;

“Chairperson” means a chairperson of the Commission appointed under section 7;

“Commission” means the Tanzania Cooperative Development Commission established under section 6;

“Commissioner” means a Chairman and other members of the Commission;

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“company” means a company registered under the Companies Act;

“cooperative financial institution” means a society registered to render financial and insurance service;

“cooperative inspector” means a cooperative officer employed by the Commission to perform regulatory functions of the Commission;

“cooperative officer” means a public officer entrusted with matters pertaining to the development of cooperatives;

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“cooperative promotion officer” means a cooperative officer employed to perform promotion functions of the Commission;

“cooperative society” means a society registered under this Act and includes a primary society, a secondary society, apex and the federation;

“Corporation” means the Cooperative Audit and Supervision Corporation established under the Cooperative Audit and Supervision Act;

“delegate” means:

(a) in the case of a primary society in which the general meeting of members is substituted by a meeting of delegates, the representative of a specified number of individual members who is elected or appointed to attend and vote at a meeting of delegates; and

(b) in the case of a society which is itself a member of another society, the representative of the former elected or appointed to attend and vote at a meeting of the latter society;

“Deputy Registrar” means the Deputy Registrar appointed under section 11(1);

“dividend” means the sum paid on the share capital invested in a society;

“economic viability of a society” means the ability of a society to conduct its affairs as provided for in the by-law made under this Act;

“federation” means cooperative society whose members are primary and secondary cooperative societies;

“financial cooperative society” means a non bank financial institution whose primary activity is to furnish secured or unsecured loans to households, small holder producers and small and micro-enterprises of rural and urban sectors;

“fund” means the Inspection Fund established under section 74;

“industrial society” means a registered society whose principal objectives are manufacturing or making or

servicing or assembling of industrial goods and whose members are respectively manufacturers, craftsmen, artisans, industrial workers and apprentices;

“joint enterprise” means an association of two or more societies which join together for a purpose of operating an economic enterprise;

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

“Minister” means the Minister responsible for cooperatives;

“officer” means an officer of a society and includes chairman, vice-chairman, secretary, treasurer, member of the Board, general manager, chief accountant, or any other person empowered under the regulations or by-laws made under this Act to act on behalf of registered society;

“pre-cooperative societies” means organisations of an economic and social nature set up voluntarily by individuals having common interests and working together as a society;

“primary society” means a registered society whose members are individual persons or an association of the individual persons and any cooperative body other than a body registered under the Companies Act;

“probationary societies” means the cooperative society which has not fulfilled the compliance of registration as specified under section 36;

“promotion” means provision of services to the general public and cooperative members that contribute or lead to the formation, growth and prosperity of cooperative societies;

“prosecutor” means a government officer entrusted with duties of prosecuting cases originating from cooperative societies;

“register” means the register of cooperative societies established by the Registrar in terms of this Act;

- “registered society” means a cooperative society registered or deemed to have been registered under this Act and includes a probationary society;
- “Registrar” means a person appointed under section 10 to perform functions of the Commission in terms of this Act;
- “regulatory function” means functions geared towards ensuring compliance to the laid down laws, rules, regulations, guidelines and includes registration, deregistration, inspection and supervision of cooperatives;
- “savings and credit cooperative society” or in its acronym “SACCOS” means a registered society whose principal objects are to encourage thrift among its members and create a source of credit to its members;
- “school society” means a society of which the membership is restricted to the pupils of a school;
- “secondary society” means a registered society whose membership is open only to primary societies which are its members;
- “specialised skills” means an expertise possessed by a person in a particular field as may be described in the regulations.

## PART II

### THE OBJECTS OF COOPERATIVE SOCIETIES

Objects of  
Cooperative  
Societies

**3.** (1) The objects of the cooperative societies shall be based in the promotion of the economic and social interests of its members by means of common undertaking based upon mutual aid and which conforms to the cooperative principles of a society which is established for the purpose of facilitating operations of societies.

(2) Except as otherwise provided in this Act, cooperative principles and methods used in the operation and administration of a society shall be as follows:

- (a) accept the responsibilities of membership without gender, social, racial, political or religious discrimination;

- (b) is a democratic organisations controlled by their members who actively participate in setting their policies and making decisions, men and women serving as elected representatives and accountable to the membership;
- (c) members contribute equitably to, and democratically control the capital of their cooperative;
- (d) autonomous self help organisations controlled by their members and where they enter into agreement with other organisations, including government, or raise capital from external sources, they do so on terms that ensure democratic control by their members and maintain their cooperative autonomy;
- (e) the organisations which provide education and training for their members, elected representatives, managers and employees so that they can contribute effectively to the development of their cooperatives;
- (f) organisations which inform the general public, particularly young people and opinion leaders about the nature and benefits of cooperation;
- (g) organisations which serve their members most effectively and strengthen the cooperative movement by working through local, national and international structures; and
- (h) organisations which work for the sustainable development of their communities through policies approved by their members.

Obligation of Government to cooperative societies

**4.** The Government shall provide and create conducive social, economic and legal environment for the development and prosperity of cooperative societies.

Minister to encourage cooperative societies development

**5.-(1)** The Minister shall, upon consultation with the Commission, take relevant measures for enhancing development of self-sustaining cooperative societies movement.

- (2) For the purposes of fostering cooperative societies development, the Minister shall have a duty to-
- (a) facilitate the creation of a conducive environment through the formulation and review the policy and regulatory frameworks for cooperative societies development;
  - (b) ensure that, the Commission and the Board perform their functions in accordance with the provisions of this Act;
  - (c) encourage educational institutions to teach, conduct research, offer consultancy services and perform other relevant duties pertaining to cooperative societies development in the country; and
  - (d) perform any other duty necessary for the attainment of the objectives of this Act.

### PART III

## THE TANZANIA COOPERATIVES DEVELOPMENT COMMISSION

Establishment of  
Commission

**6.**-(1) There is established a Commission to be known as the Tanzania Cooperatives Development Commission.

(2) The Commission established under subsection (1), shall be an independent department of the Government under the Ministry responsible for cooperative development.

(3) The Commission shall be a body corporate with perpetual succession and a common seal and in its own corporate name, be capable of-

- (a) suing and be sued;
- (b) acquiring and disposing movable or immovable property;
- (c) borrowing money and entering into contracts or other transactions; and
- (d) do other things for proper performance of its duties and discharge its functions under this Act.

(4) Notwithstanding the preceding provisions of this section, the Attorney General shall have the right to intervene in any suit or matter instituted by or against the Commission.

(5) Where the Attorney General intervenes in any suit or matter in pursuance of subsection (4), the provisions of the Government Proceedings Act shall apply in relation to the proceedings of that suit or matter as if it had been instituted by or against the Government.

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Composition of  
Commission

7.-(1) The Commission shall consist of-

- (a) a Chairperson who shall be appointed by the President;
- (b) ten other members to be appointed by the Minister from public and private sectors as follows-
  - (i) one member representing higher learning institutions providing cooperative education or training;
  - (ii) one member of the rank of Senior State Attorney or above, nominated by the Attorney General amongst state attorneys;
  - (iii) five members of whom, one member shall be nominated from financial cooperative societies and four members from an umbrella organisations of non financial cooperative societies;
  - (iv) one member nominated by the Minister responsible for local government authorities;
  - (v) one member from the Ministry responsible for cooperatives; and
  - (vi) one member nominated from amongst associations of private sector institutions engaged in cooperative matters.

(2) The appointment made by the Minister under subsection (1) shall take into consideration the names proposed by the umbrella organisation.

(3) A Commissioner while discharging his duties shall act honestly, diligently and in the best interests of the Commission.

(4) The Registrar shall be the secretary to the Commission.

(5) The First Schedule shall have effect regarding the proceedings and other matters of the Commission.

(6) The Minister may amend or vary the provisions of the First Schedule.

(7) In nominating members of the Commission, the Minister shall-

- (a) ensure that, the nominated person has adequate knowledge and competence of his respective profession;
- (b) nominate a principal officer; and
- (c) take into account gender balance.

Functions of  
Commission

**8.**-(1) The functions of the Commission shall be generally to regulate and promote development of the cooperative societies sector.

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

- (a) for the purposes of regulating cooperative societies-
  - (i) register and de-register cooperative societies;
  - (ii) inspect and supervise cooperative societies;
  - (iii) keep and maintain the register of cooperative societies;
  - (iv) ensure publication of the names of registered or de-registered society in the *Gazette*;
  - (v) determine disputes and complaints arising from cooperative societies;
  - (vi) collaborate with Regional Administrative Secretaries on the implementation of regulatory functions of cooperative development; and
  - (vii) supervise the performance of other regulatory functions as may be required in accordance with the provisions of this Act; and
- (b) for the purposes of promoting development of cooperative sector-
  - (i) supervise, coordinate and collaborate with sectoral ministries, local government authorities and other stakeholders undertaking cooperative promotional responsibilities;

- (ii) encourage and promote the development of viable and sustainable cooperative societies;
- (iii) raise awareness to the general public, youth and other groups on the nature and benefits of cooperative societies;
- (iv) facilitate the formation of cooperative societies which are accountable to their members and communities;
- (v) provide education and training to members and staff of cooperative societies pertaining to cooperative management;
- (vi) advise the Minister on matters relating to cooperative development and management;
- (vii) provide services designed to assist in the formation, management, organisation and operation of societies;
- (viii) coordinate the economic plans of cooperative society plan for the incorporation in the national plan;
- (ix) implement or cause to be implemented policies on the cooperative society development;
- (x) create conducive environment for the cooperative society movement networking in the areas of production, processing, marketing, financing and investment;
- (xi) maintain and disseminate or cause to be disseminated the information relating to cooperatives and cooperative development to stakeholders;
- (xii) conduct research as may be necessary for the development of cooperative societies;
- (xiii) advise primary societies, secondary societies or other categories of cooperative societies on the formation of federation of cooperative societies; and

- (xiv) ensure that, the federation formed provides, organises and supervises effective centralised services for the members.

Powers of  
Commission

**9.** The Commission shall-

- (a) establish a number of divisions, sections, units and offices as it may consider necessary for proper discharge of its functions; and
- (b) appoint agents or employ a number of staff to manage, administer or perform the functions of the Commission under this Act.

Registrar

**10.**-(1) There shall be the Registrar of Cooperative Societies who shall be appointed by the President.

(2) A person shall be eligible for appointment as a Registrar where the person-

- (a) has held a senior position in the public service for at least seven years;
- (b) has a proven knowledge and experience in matters relating to cooperatives; and
- (c) is of high proven integrity and probity.

(3) The Registrar shall be the Chief Executive Officer of the Commission and subject to section 8, be the overall in charge of the operations of the Commission and responsible for-

- (a) administration and management of the affairs of the Commission;
- (b) management of the funds, property and business of the Commission;
- (c) keeping custody of the seal of the Commission or other device as may be approved by the Commission;
- (d) maintaining records of activities of the Commission;
- (e) establishing, keeping and maintaining the register of cooperative societies;
- (f) implementing resolutions of the Commission; and
- (g) performing any other functions as may be directed by the Commission.

(4) The Registrar shall be the custodian of the seal of the Commission.

Deputy Registrar **11.**-(1) There shall be the Deputy Registrar in charge of regulatory functions and the Deputy Registrar in charge of promotional functions to be appointed by the President.

(2) A person shall be eligible for appointment as Deputy Registrar if that person-

- (a) has held a senior position in the public service for at least five years;
- (b) has a proven knowledge and experience in matters relating to cooperatives and administration; and
- (c) is of high integrity and probity.

(3) A Deputy Registrar appointed under subsection (1) shall-

- (a) in the case of regulatory functions, undertake the functions stipulated under section 8(2)(a); and
- (b) in the case of promotional functions, undertake the functions stipulated under section 8(2)(b).

(4) The Deputy Registrar shall, in the performance of his functions under this Act, report to the Registrar.

Appointment  
of Assistant  
Registrars

**12.**-(1) The Commission shall appoint a number of Assistant Registrars from amongst qualified Cooperative Officers as may be necessary for efficient discharge of the functions of the Commission.

(2) An Assistant Registrar appointed in accordance with the requirement of subsection (1), shall carry out duties as may be assigned to him by the Deputy Registrar in charge of regulatory functions, or as the case may be, the Registrar.

Staff of  
Commission

**13.**-(1) The Commission may appoint or employ a number of staff in various categories as the Commission considers necessary for the discharge of its functions under this Act.

(2) The staff of the Commission shall, subject to terms and conditions of services, receive salaries, allowances or benefits as may be prescribed by the Commission.

Cooperative development office under sectoral ministries, regional and local government authorities

**14.–(1)** A sectoral ministry, regional secretariat and local government authority shall facilitate the establishment of a cooperative development office in their respective areas and ensure that, the offices are allocated with resources for the effective discharge of their functions under this Act.

(2) The Commission may, for the purpose of facilitating the performance of functions under subsection (1), issue general or specific directives to the cooperative officers referred to under this section, and the officers shall comply with the directives.

(3) The cooperative officers employed or appointed under sectoral ministries, regional secretariat or local government authorities shall, when executing their functions specified under section 8(2)(b), be deemed to be performing functions of the Commission.

Cooperative development plan

**15.–(1)** For the purpose of the promotion of cooperative societies, a sectoral ministry and local government authority shall formulate cooperative development plan in accordance with the guidelines issued by the Commission.

(2) The Commission shall develop mechanism for monitoring the implementation of the cooperative development plans prepared in accordance with subsection (1).

Commission may call for information

**16.–(1)** The Commission may, in writing, require a person who undertakes or engages in any activity affecting or relating to cooperative matters to furnish to the Commission any information as the Commission may specify.

(2) A person who refuses or fails to furnish information as required under subsection (1), commits an offence.

Powers of Minister to give directives and require information

**17.–(1)** The Minister may issue to the Commission general or specific directives relating to cooperative development.

(2) The Commission shall, upon receipt of directives of the Minister, furnish to him returns, statistics, accounts, documentations or information with respect to the performance of any of its functions or exercising of its duties under this Act.

Commission  
to maintain  
collaboration

**18.** For the purposes of better performance of its functions, the Commission shall establish and maintain a system of collaboration, consultation and co-operation with other institutions or persons, who are within or outside the United Republic, as the Commission considers necessary for the effective and efficient discharge of its function.

#### PART IV

### FORMATION AND ORGANISATION OF COOPERATIVE SOCIETIES

Structure of  
cooperative  
societies

**19.**-(1) The structure of cooperatives shall be made up of primary societies at the grass root level and the federation at the top level.

(2) Subject to the wishes of members constituting a particular society, the structure may be comprised of middle level societies and secondary societies.

Formation of  
primary societies

**20.**-(1) A primary society may be formed by-

- (a) twenty to thirty persons for agricultural societies;
- (b) twenty or more persons for savings and credit cooperative societies;
- (c) ten or more persons for specialised skills societies; or
- (d) ten or more persons for other types of cooperative societies.

(2) A person may not be a member of a primary society unless he has the following qualifications-

- (a) he has attained the minimum age of eighteen years and is of sound mind;
- (b) he undertakes a trade or occupation relevant to the society's object as defined in the by-laws;
- (c) he has a common need which the society seeks to satisfy; and
- (d) he is capable of paying fees and acquiring shares.

(3) Notwithstanding the provisions of subsection (2), a person who has the minimum age of fifteen years referred to

as a minor may become a member of agricultural cooperative society:

Provided that, a person shall not be eligible to be a member of the Board unless he has attained the age of eighteen.

(4) A person who has not attained the age of fifteen but is attending school may be a member of a school society established for the school.

Societies may  
affiliate

**21.**—(1) Subject to the provisions of this Act, primary societies may form secondary societies and secondary societies may form a federation.

(2) Where a primary society is unable to join into a secondary society due to its nature and desire of its members, it may be allowed to become a member of a federation.

(3) A financial cooperative society may be formed by savings and credit societies and other types of cooperative societies.

Registrar may  
advise societies

**22.** Where the Registrar considers that, a secondary society in relation to any area is economically viable, he may advise the primary society or secondary society or category of cooperative societies operating within that area, to join the secondary society by notice in writing served on the society or category of cooperative societies as the case may be.

Objects of  
primary society

**23.** The objects of a primary society shall be—

- (a) to strive to raise the standard of living of its members;
- (b) to facilitate the operations of the individual members;
- (c) to provide services to its members, including supplying agricultural inputs, collecting, processing and marketing of the products of its members;
- (d) to provide relevant information of its undertakings; and
- (e) to do any other thing which in its opinion is connected with or is ancillary to the objects set out in paragraphs (a) to (c).

Objects of  
secondary  
societies

**24.** The objects of secondary societies shall be-

- (a) to facilitate the operation of member of primary societies;
- (b) to provide services to primary societies as may be provided for in the by-laws of the secondary societies;
- (c) to collect, process and sell products of member' societies;
- (d) to provide consultancy services to member societies;
- (e) to provide relevant information of its undertakings; and
- (f) to do any other thing which in its opinion is connected with or is ancillary to objects set out in paragraphs (c) to (d).

Objects of  
federation

**25.**-(1) Where the federation is formed and registered, shall provide, organise and supervise effective centralised services for the member societies and cooperative education, training and other services as may be necessary or expedient for its members.

(2) Without prejudice to the generality of subsection (1), the federation may perform any of the following functions:

- (a) render services designed to ensure efficiency and uniformity in the business of its member societies;
- (b) print, publish and circulate any newspaper or other publication designed to foster or increase interest in cooperative enterprises, principles and practices;
- (c) provide relevant information of its undertakings;
- (d) coordinate the economic plans of the member societies and forward them to the Commission for the incorporation in the national plan;
- (e) carry on, encourage and assist educational and advisory work relating to cooperative enterprises, and without limiting the generality of the foregoing, to advise the Commission on cooperative education and operating methods, and for that purpose, may prepare and provide correspondence courses regarding cooperative

principles and operating methods and disseminate information on cooperative development, principles and practices;

- (f) represent its member societies in national and international *fora* relating to cooperative matters; and
- (g) do any other thing which in its opinion is connected with or is ancillary to the above enumerated objects.

Societies may form joint enterprise or enter into joint ventures

**26.**—(1) Where it is necessary or desirable for the efficient operation of a business or economic enterprise that need to be operated by two or more societies, the societies may form a joint enterprise subject to the approval and limitations as the Registrar may generally impose, for the purpose of operating and carrying on a business and the Registrar may register the body under this Act.

(2) The societies which form a joint enterprise as provided for under subsection (1), may form a joint Board for the purpose of managing that joint enterprise:

Provided that, an association shall have no right of separate representation either in the secondary society or the federation.

(3) A cooperative society may join with private or public company to form a joint venture:

Provided that, the Registrar shall, in writing, signify the approval of the joint venture.

Types of societies

**27.** The Registrar may register the following types of societies-

- (a) agricultural cooperatives which are designed to deal with crop production, collecting, processing, marketing, distribution, and any activities as may be provided for in the Regulations and by-laws;
- (b) cooperative financial institutions;
- (c) consumer cooperatives designed to deal with wholesale and retail business amongst members;
- (d) industrial cooperatives for production, manufacturing and sale of goods;
- (e) housing cooperatives designed to deal with building, construction and housing programmes for members;

- (f) livestock cooperative societies designed to deal with the needs of members in animal husbandry, livestock keeping and dairy farming;
- (g) fisheries cooperative societies designed to deal with fishing, processing and marketing of fish and other sea products;
- (h) producers cooperatives for agricultural, forestry or other natural products;
- (i) mining cooperatives designed to deal with mining operations and mineral marketing; and
- (j) other cooperatives as may be established.

Public education and awareness in formation of cooperatives

**28.** For the purpose of facilitating formation of cooperative societies, cooperative officers shall provide public education and awareness on the-

- (a) significance of cooperative societies;
- (b) benefits of cooperative societies to individual members and the community as a whole;
- (c) types of cooperative societies and the procedures for the formation of cooperatives;
- (d) sustainability and management of cooperative societies;
- (e) operations and the role of cooperative societies in community development; and
- (f) other matters relevant for the formation and development of cooperative societies.

## PART V

### REGISTRATION OF COOPERATIVE SOCIETIES

Conditions for registration of societies

**29.**-(1) A society shall not be registered under this Act unless it consists of at least the minimum number of persons each of whom is qualified for membership as provided for under section 20.

(2) A secondary society that intend to deal with agriculture and marketing or financial services shall not be registered under this Act unless it has twenty members as registered societies.

(3) Notwithstanding the provision of subsection (2), secondary society for specialised cooperative society may be registered with five members as registered societies.

(4) A federation shall not be registered under this Act unless it has ten members who are registered societies.

(5) A savings and credit cooperative society shall not be registered under this Act unless its paid-up shares or minimum capital meets the amount prescribed by the Minister in the Regulations.

(6) Notwithstanding the provisions of this Act, the regulations and operation of Savings and Credit Cooperative Societies shall be subject to the relevant financial laws.

(7) For the purposes of this section, “specialised cooperative society” means a registered society whose membership consists of specialised skills.

Application for  
registration

**30.**—(1) Application for registration shall be made to the Registrar in the prescribed form and accompanied by-

- (a) four copies of the proposed by-laws of the society signed by the applicants;
- (b) a report of a feasibility study or project write up indicating the viability of the society; and
- (c) other information in regard to the society as the Registrar may require.

(2) The application form shall-

- (a) if the application is for the primary society, be signed by a number of persons who are qualified in accordance with the requirements of section 20;
- (b) if the application is for registration of secondary society other than secondary society for specialised cooperative society, be signed by authorised persons of at least twenty registered primary societies; and
- (c) if the application is for federation registration, be signed by at least ten registered secondary societies or specialised primary societies.

Consideration of application

**31.**—(1) The Registrar shall, after receiving applications under section 30, consider the contents of application for registration within sixty days from the date of the application.

(2) For the purposes of subsection (1), the Registrar may—

- (a) register the society and issue a certificate of registration;
- (b) require further information from applicants prior to registration;
- (c) refuse the application and inform the applicants in writing, stating the reasons for refusal; or
- (d) defer registration of the society pending compliance with the directions or requirements.

(3) The Registrar may, prior to effecting registration to any society or its by-laws, require the society to amend the by-laws so as to conform with the directions as he may give in that behalf.

(4) The society shall, upon registration, pay registration fees as may be prescribed by the Commission.

(5) A society shall not be registered unless the Registrar is satisfied that—

- (a) the volume of business from members of the society is sufficient to cover its costs; and
- (b) proper provision has been made for the financing of the society.

Refusal of registration

**32.**—(1) The Registrar may, if he is satisfied that, an applicant has failed to meet the prescribed requirements for registration, refuse to register the applicant.

(2) A person who is aggrieved by the decision of the Registrar in terms of the provisions under subsection (1) shall, within sixty days from the date of notification of the decision of the Registrar, appeal to the Minister.

(3) The Minister shall, within thirty days from the date of appeal, make a decision.

Certificate of registration

**33.** Where the Registrar effects registration, he shall issue a certificate of registration to the society together with a copy of the by-laws certified by him as having been approved and registered.

Evidence of registration

**34.** A certificate of registration signed by the Registrar shall be conclusive evidence that, the society mentioned in that certificate is duly registered unless it is proved that, the registration of the society is cancelled.

Societies to be body corporate

**35.**—(1) The registration of a society shall render it a body corporate by the name under which it is registered, with perpetual succession and a common seal, power to own property, enter into contracts, institute and defend suits and other legal proceedings, and to do things necessary for the purposes laid down in its by-laws.

(2) The records or papers of the society, and seal shall not be removed from the premises of the society except in accordance with the provisions of this Act.

(3) The Registrar shall, after registration of the societies, prepare and submit reports of registered societies to the Commission.

Probationary society

**36.**—(1) Where the Registrar is unable to register a society by reason of non-compliance with any provision of this Act, Regulations or any direction given by him, but is satisfied that, measures can be taken by the applicant to comply with the provision or direction given, he may by notice in writing-

(a) defer the registration of that society pending compliance with the provision or direction; and

(b) transmit the notice of deferment to the persons by whom or on whose behalf application of registration is made.

(2) A notice of deferment shall, subject to the provisions of this section and any condition specified in that notice, entitle the society in respect of which it is issued to operate as a registered society.

(3) A society entitled to operate as a registered society under subsection (2) shall be termed as probationary society and while entitled to operate, be deemed to be a body corporate with perpetual succession and common seal, and with power to hold movable and immovable property of every description,

to enter into contracts, to institute and defend suits and other legal proceedings and to do things necessary for the purpose for which it is constituted:

Provided that, a probationary society shall be entitled to operate as a society for a period exceeding two years and after that period, the Registrar is satisfied that, a society registered under this section has failed to comply with any provision of this Act or any direction given under subsection (1), he shall cancel a notice of deferment of the probationary society.

(4) Where a probationary society is duly registered under the Act, its certificate of registration shall supersede its notice of deferment and thereafter cease to have effect and the society shall be deemed to have been registered from the date on which the notice of deferment in respect thereof was issued by the Registrar.

Cancellation  
of notice of  
deferment

**37.**—(1) The Registrar may cancel a notice of deferment by notice in writing to be addressed to the probationary society concerned and the notice of cancellation shall, from the date thereof, operate as a refusal to register the society for the purpose of section 32:

Provided that, the cancellation shall not affect the validity of any transaction entered into by or with the society while notice of deferment was in force.

(2) Where the notice of deferment of a probationary society is cancelled under subsection (1), the Registrar may appoint a competent person to be a liquidator of the society.

(3) The provisions of sections 27, 30, 33, 41(4), 52(2) and (3), 58, 65, 77, 94, 97, 98 and 100 shall not apply to a probationary Society.

(4) A probationary society shall cause the fact that, it is a probationary society to be stated in legible roman letters in bill heads, letter papers, notices, advertisements and other official publications of the society and on a signboard in a conspicuous position outside any premises in which it operates.

(5) The Registrar may, where there is a reasonable cause to believe that, a probationary society has contravened the provision of subsection (4), upon notice to that effect and by

order in writing, cancel the registration of the society and the cancellation shall be published in the *Gazette*.

Pre-cooperative societies

**38.**—(1) Pre-cooperative societies shall be formed by a declaration in writing during a constituent meeting of at least five persons, which shall be submitted to the Registrar.

(2) Pre-cooperative societies shall be the representatives to act for and on behalf of their members who shall have exclusive rights to their services.

(3) Pre-cooperative societies shall adopt their respective by-laws, which provide for-

- (a) objects, main activities, area of jurisdiction, name, head office and duration of the societies;
- (b) duties of its officials, duration of their term of office and mode of appointment;
- (c) conditions for the admission and withdrawal of members;
- (d) the organisation and functioning of the societies, in particular the appointment of officials, how decisions on loan applications are taken, investment decision, amendment of by-laws, the dissolution of the societies or its change of legal status;
- (e) the extent of members activities with the societies; and
- (f) the liability of a member in respect of the debts of the societies and the basis on which it is calculated.

Appointment for pre-cooperative groups

**39.**—(1) A pre-cooperative society shall appoint a delegate in charge to represent it in civil matters within the limits of the powers conferred on him by the regulations and discussions of the societies.

(2) Officials of pre-cooperative society shall keep simplified accounts to permit the periodic assessments of the reserves of the society and justify any changes, except that, the intervals between the assessments shall not exceed two years.

(3) Officials of pre-cooperative society shall keep a register of members and accounts of individual contributions to the reserves of the society.

Recognition and registration of pre-cooperative societies

**40.**—(1) The Registrar shall, upon being satisfied of the fulfillment of conditions under section 39, issue a letter of recognition of the cooperative society formation and register the pre-cooperative society for a term not exceeding three years.

(2) A pre-cooperative society may become a cooperative society after fulfilling conditions of registration of a cooperative society and where the pre-cooperative society fails to fulfill conditions of registration within three years, the letter of recognition shall be cancelled.

(3) For the purpose of this Act, Savings and Credit Associations (SACAS) may be recognised as pre-cooperative society.

## PART VI

### RIGHTS AND LIABILITIES OF MEMBERS

Restriction regarding members and societies liabilities

**41.**—(1) A person shall not exercise the rights of a member unless he has paid fifty percent or more of the required shares, entrance fees and any other dues.

(2) Without prejudice to the generality of subsection (1), the unpaid up shares shall be paid as may be prescribed in the by-laws of the society within a period of twenty four months from the date of payment of the initial shares.

(3) A person or a registered society shall not be a member of more than one registered society with similar objectives except with the sanction of the Registrar.

(4) The liability of a primary society, joint enterprises, secondary society and federation shall be limited.

Vote of member

**42.** A member of a registered society shall have one vote in the affairs of the society and be entitled to attend the general meeting of the society and record his vote in regard to any matter for decision in the meeting:

Provided that, by-laws of a secondary society or a federation may provide for the attendance at general meetings of delegates

from the member societies or other bodies who are members of the societies or federation and the member of the societies and other bodies shall be entitled to a number of votes and vote in a manner as may be prescribed by the Regulations and the by-laws of the societies or federation.

Rights of minors

**43.**—(1) A society may receive money on share account, or on deposit account, from or for the benefit of a minor, and it shall be lawful for the society to pay minor dividend or interest which may become due on the shares or deposits.

(2) A payment or deposit made by a minor or on behalf of a minor pursuant to subsection (1) together with any interest, may be paid to the minor or the guardian of the minor.

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

(4) The Minister may make Regulations prescribing the rights that a minor may have in a society.

Contract with minors

**44.** Notwithstanding the provisions of this Act or any other written law to the contrary, a person being a minor who has been admitted as a member of a society shall not be prevented from executing any instrument or giving any acquaintance necessary to be executed or given under this Act or the Regulations, and a contract entered into by the person with the society, whether as principal or surety, shall be enforceable at law as against the person.

Restriction regarding members' shares

**45.**—(1) A member other than a registered society shall not hold more than one fifth of the share capital of any cooperative society.

(2) A member of a registered society shall not transfer any share held by him or his interest in the capital of the society or any part thereof unless-

(a) a member has held the share or interest for not less than two years;

(b) the transfer is made to the society or a member of the society or a person whose application for membership has been accepted by the Board; and

(c) a person has ceased to have the qualifications laid down in section 20(2)(b) to (d).

(3) A transfer of a share or other interest shall be valid and effective unless-

(a) the transfer and the name of the transferee has been registered on the directions of the Board of the society; and

(b) the valuation thereof has been done.

(4) Notwithstanding the provisions of subsection (2) and (3), transfer of shares in Cooperative Financial institutions shall be in accordance with the prescribed procedures.

Liability of member

**46.**-(1) Except as provided in subsection (2), the liability of a member, if any, unpaid on the shares held by him, and his liability shall be known as liability limited by shares.

(2) Where in the by-laws of the society, the amount of liability of a member is expressed to be greater than the nominal value of the share held by him and the amount is expressly stated that, the liability of a member shall extend to greater amount, and be known as liability by guarantee.

(3) A registered cooperative society shall, after every three years of valuation done pursuant to section 45(3)(b), make revaluation of its assets and shares, and the revaluation shall be done by a valuer authorised by the Registrar.

(4) A registered cooperative society which, upon revaluation fails to retain value of share capital which is above twenty percent, the Board members of the society shall be held responsible for the fall of the value of share capital and automatically cease to be Board members of the society:

Provided that, a Board member shall not be held responsible for the fall of value of share capital caused by natural calamities.

Liability of past member

**47.** The liabilities of a member for the debt of a registered society as they existed at the time when he ceased to be a

member shall, notwithstanding the provisions of any written law to the contrary, continue for a period as the by-laws of the society shall provide from the date of his ceasing to be a member:

Provided that, in the case of a cooperative society with limited liability, where the first audit of the accounts of the society after ceasing to be a member discloses that, the society is solvent, the financial liability of the member shall cease forthwith.

Liability of  
deceased member

**48.**—(1) The estate of a deceased member shall, notwithstanding the provisions of any written law to the contrary, be liable for a period of one year from the time of his death for the debt of the registered society as they existed at the time of his death.

(2) Notwithstanding subsection (1), (the society is wound up immediately after a period of two years from the time of the death of a deceased member), the liability of the estate of the deceased or past member shall not continue until the liquidation proceedings of the society are completed but the liability shall extend to the debt of the society as at the time of his death or his ceasing to be a member.

Membership of  
company

Cap. 212

Cap. 212

**49.**—(1) A company incorporated or registered under the Companies Act and unincorporated or registered body of persons shall not be entitled to become a member of a registered society except with the written permission of the Registrar and subject to the Regulations as may be made under this Act.

(2) A company registered under the Companies Act may, by a special resolution as defined in that Act, and with the prior approval of the Registrar, determine to convert itself into a cooperative society.

Public education  
and awareness  
on rights and  
liabilities of  
members

**50.**—(1) The cooperative promotion officers shall, subject to this Act or any other written law and for the purpose of creating awareness to members, provide public education or awareness to members on their rights, obligations and liabilities as members of cooperative society.

(2) Procedures for providing public education may be prescribed in the Regulations.

## PART VII DUTIES AND PRIVILEGES OF REGISTERED SOCIETIES

### *(a) Duties of Registered Societies*

Duties of  
registered  
societies

**51.** A registered society shall-

- (a) have a registered address to which notices and communications shall be sent, and a notice of any change of the address shall be sent to the Registrar;
- (b) keep a copy of this Act, Regulations and its by-laws open for perusal free of charge at the registered address of the society; and
- (c) maintain a register of its members in a manner as may be prescribed by the Regulations and enter any particulars as prescribed by the Regulations.

Power to make  
by-laws

**52.**-(1) A registered society shall have power to make by-laws for any things as are necessary or desirable for the purpose for which a society is established.

(2) Without prejudice to the generality of subsection (1), registered society may make by-laws prescribing-

- (a) the name and registered address of the society;
- (b) the area of the operation of the society;
- (c) the objects for which the society is established;
- (d) the purpose to which the funds of the society may be applied, and the mode of their custody and investment;
- (e) the qualifications for membership of the society, the terms of admission of members, shares, the entrance fees and the mode of election;
- (f) the nature and extent of the liability of members;
- (g) the withdrawal and expulsion, suspension of members and the payment if any to be made to the members;

- (h) the transfer of shares or interest of members;
  - (i) the manner of conducting meetings of the society and the powers of the meetings;
  - (j) the appointment, suspension, removal of members of the Board and officers, the powers and duties of the Board and officers; and
  - (k) the authorisation of an officer to sign documents and use the seal on behalf of the society.
- (3) Where the objects of the registered society include the creation of funds to be lent to the members, additional by-laws shall be made in respect of-
- (a) conditions on which loans may be made to members which include-
    - (i) the rate of interest;
    - (ii) the maximum period which can be granted for the repayment of a loan;
    - (iii) the maximum amount which may be lent to a member;
    - (iv) the purpose of loans;
    - (v) security for payment; and
    - (vi) the consequences of default in payment of any sum due on account of shares, deposits or loans and the consequences of failure to use a loan for the purpose for which it was granted;
  - (b) the disposal of the annual net surplus; and
  - (c) other matters consonant with regulations pertaining to cooperative financial institutions.
- (4) A by-law made under this section may empower a registered society to impose a fine upon a member of the society for the breach of the by-law of which the fine shall be recoverable by the society as a civil debt:
- Provided that, a fine may not be imposed under the by-laws, on any member unless the member-
- (a) on whom the fine is intended to be imposed has been served with a notice in writing of the intention to impose the fine; and

- (b) has failed to show cause within the time prescribed in the notice as to why the fine may not be imposed on him.

Amendment  
of by-laws of a  
registered society

**53.**—(1) A registered society may, subject to the provisions of this section, amend its by-laws and submit the amendments to the Registrar for registration.

(2) The Registrar shall—

- (a) if he is satisfied that, the amendments of the by-laws are not contrary to this Act, register the amendments; or  
(b) refuse to register the amendments and notify the society accordingly.

(3) Where the Registrar registers an amendment of the by-laws of a registered society, he shall issue to the society a copy of the amendments certified and sealed by him, and the certified copy which is sealed shall be conclusive evidence of the fact that, the amendments have been duly registered.

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

(5) An amendment of the by-laws of a registered society shall not be valid until the amendment has been registered under this act.

(6) A society may, within two calendar months from the date of notification by the Registrar of his refusal to register an amendment of any by-laws, appeal to the Commission against the refusal.

By-laws of a  
registered society  
to bind members

**54.**—(1) The by-laws of a registered society shall, upon registration be binding upon the society and the members thereof to the same extent as if the by-laws were signed by each member of the society and contained covenant by each member to observe the provisions of the by-laws.

(2) A dispute arising out of the interpretation of a by-law of registered society shall be referred to the Registrar.

Accounts and  
Audit

55.-(1) A registered society shall, with the approval of the general meeting, employ an Internal Auditor or a number of Internal Auditors as are necessary for the efficient checking of the accounts of the society.

(2) The registered society shall keep proper accounts and other records in relation thereto and within three months prepare in respect of every financial year, a statement of accounts in a form which conforms to the best accounting standards.

(3) The accounts of a registered society except for cooperative banks shall be audited at least once in a year by the corporation or any competent and registered auditor appointed by the general meeting and approved by the Registrar.

(4) The accounts of cooperative banks shall be audited at least once a year by registered auditors appointed by the general meeting and approved by the Registrar upon consultation with the Bank.

(5) An auditor shall submit audited accounts of a cooperative society to members at a general meeting unless the audited accounts have been submitted to the Registrar in a form as may be prescribed.

(6) The Auditor shall submit the audited accounts to a general meeting within four months after the end of the accounting period which include his opinion as to whether or not the affairs of cooperative society have been conducted in accordance with-

- (a) the provisions of this Act and, whether the books of accounts kept by the cooperative society are in agreement therewith and give a true and fair view of the state of the affairs of the society; and
- (b) the objectives of cooperative society, by-laws and any other resolutions made by the society at a general meeting.

(7) The auditor's report referred to under subsections (3) and (4) shall include an examination of the balance sheet and related income statement and valuation of assets and liabilities of the registered society.

(8) As soon as the annual accounts of a registered society have been audited, the society shall cause to be submitted to the Registrar, a copy of the audited balance sheet and statement of income and expenditure prepared in respect of that year together with any report made by the auditors thereon.

(9) Where the accounts of a society have been audited and adopted by the general meeting of the society and approved in accordance with subsections (3) and (4), the accounts shall be conclusive, except as regards any error discovered therein within six months following the date of the approval and except as regards any allegation of fraud, and whenever any error is discovered, within that period the accounts shall forthwith be corrected with the approval of the Registrar and thereafter shall be conclusive.

(10) In the event a society fails to prepare a statement of accounts within a period of three months in respect of the business of its previous financial year, the members of the relevant Board of the society shall lose their membership of the Board and not be eligible for re-election to the Board for the next six years.

(11) The auditor appointed under this section shall have the right to-

- (a) attend a general meeting of the cooperative society and present matters of concern in respect of affairs of the cooperative society;
- (b) receive notices and communications relating to a general meeting of which one of its business is to receive and consider annual financial accounts; and
- (c) access, at all times, any accounting records, books or documents of the cooperative society as may be necessary for the purpose of carrying out his duties as an auditor and at the time of audit may-

- (i) summon any officer, agent or member of the cooperative society for the purpose of obtaining information on the transactions of the cooperative society or management of its affairs;
- (ii) require the production of any book, document, cash or securities relating or belonging to the cooperative society by any officer, agent, trustee or member having custody of the book, document, cash or securities; or
- (iii) demand other information or explanation from any officer of the cooperative society as may be necessary for the performance of his duties.

(12) Notwithstanding the provisions of subsections (3) and (4), where the government by way of cash guarantee or any other form has advanced financial assistance to a cooperative society and it is in the public interest to do so, the Minister may, in consultation with the Commission, request the Controller and Auditor-General to undertake auditing of the cooperative society.

(13) Without prejudice to the generality of subsections (1), (2), (3), (4), (7) and (8), the Board shall be held responsible for any loss occasioned to the society and an officer who is responsible for the loss, commits an offence and on conviction shall be liable to a fine not less than five million shillings and in addition, the court shall order that officer to compensate the loss occasioned.

Registrar may  
require bank  
to produce  
information

**56.** Notwithstanding anything in any other written law, the Registrar may, where he considers necessary to do so, require any bank-

- (a) to furnish any information regarding the transactions of any registered society with the bank;
- (b) to produce a copy showing the accounts of the society with the bank from the ledger kept by the bank; and
- (c) to produce any cheques paid to the credit of the society or endorsed by the society.

Communication of defects in the operations of registered Society

**57.**—(1) Where any audit, inquiry or inspection made under this Act discloses any defect in the working of a registered society, the Registrar shall bring the defect to the notice of the society and where the society is affiliated to another registered society, he shall bring the defect to the notice of the other society as well.

(2) The Registrar may, subject to subsection (1), make an order directing the society or its officers to take action as specified in the order and within the time as he may direct in the order as will remedy any defect disclosed in the audit, inquiry or inspection and the society shall forthwith comply without delay.

Returns to be made by registered societies

**58.**—(1) A registered society shall submit an annual return to the Registrar.

(2) The Registrar may require a registered society to submit the returns of that society, and prescribe forms in which the returns are to be submitted.

*(b) Privileges of Registered Societies*

Defect in the by-laws not to render act of registered society invalid

**59.** An act of a registered society or a persons purporting to act on behalf of the society in good faith, shall not be deemed to be invalid by reason of the existence of any defect in the by-laws of the registered society or a Board of registered society or in the appointment or election of an officer of the society on the ground that, the officer was disqualified for his appointment.

Disposal of produce to or through registered society

**60.**—(1) A registered society which one of its objectives is the disposal of any article which is the produce of agriculture or animal husbandry, shall provide in its by-laws that a member who-

- (a) produces any articles has entered into an implied contract to dispose of the whole or any specified amount, proportion or description thereof to or through the society; and

(b) is proved or adjudged to be guilty of breach of by-laws, shall pay to the society as liquidated damages, a sum ascertained or assessed in a manner as may be prescribed by the by-laws.

(2) A contract implied in the by-laws of a registered society under subsection (1)(a), shall create in favour of the registered society, a first charge upon articles as referred to under subsection (1), whether these articles have been produced or are about to be produced.

(3) In any legal proceedings arising out of a contract implied in the by-laws of a registered society under subsection (1)(a), it shall not be a defence that, the contract is in restraint of trade.

(4) A member of a registered society shall be deemed not to have contravened the by-laws of the society which requires him to deliver any produce to the society, where the failure to deliver the produce to the society was due to the fact that, he had, prior to becoming a member of the society, contracted to deliver the produce to some other person.

(5) A person who applied for membership of a registered society shall, if required so to do, disclose in his application, particulars of contracts made by him for the delivery of any produce to any other person.

Creation of  
charge in favour  
of registered  
societies

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

(a) any rent or outstanding demand payable to a registered society by any member or past member shall be a first charge on the produce of agriculture, animal husbandry, fisheries or any industry and generally the produce of labour and things used in connection with production raised, purchased or produced in whole or in part from any loan whether in money or in goods given to him by the society:

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

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

(2) A person shall transfer any property which is subject to a charge under subsection (1) except with the previous permission in writing of the cooperative society which holds the charge.

(3) Notwithstanding anything contained in any law for the time being in force, any transfer of property made in contravention of the provisions of subsection (2) shall be void.

Charges and set-off in respect of share or interest of members

**62.** A registered society shall have a charge upon the shares or interest in the capital and on the deposit of a member or past member and upon any dividend, bonus, or accumulated funds payable to or due from the member or past member to the society and may set off any sum credited or payable to a member or past member or towards payment of any debt.

Shares or interest not liable to attachment

**63.** Subject to the provisions of section 62, the share or interest of a member in the capital of a registered society shall not be liable to attachment or sale under any decree or order of a court in respect of any debt or liability incurred by the member, and the official receiver under the law relating to bankruptcy for the time being in force shall not be entitled to or have any claim on the share or interest.

Transfer of interest on death of member

**64.**—(1) On the death or declaration of permanent insanity of a member, a registered society may transfer the share or other interest of the member to the person nominated in accordance with the by-laws of the society or if there is no person nominated, to the person as may appear to the committee to be the heir or legal representative of the member or pay to the nominee, heir or legal representative as the case may be, a sum

representing the value of the member's share or interest, as ascertained in accordance with the Regulations or by-laws:

Provided that:

- (a) in the case of a registered society with unlimited liability, the nominee, heir, or legal representative, may require payment by the society of the value of the shares or interest of the deceased member ascertained as aforesaid; and
- (b) in the case of a society with limited liability, the society may transfer the share or interest of the member to the nominee, heir or legal representative, as the case may be, being qualified in accordance with the Regulations and by-laws for membership of the society, or on his application within six months of the date of the death or declaration of permanent insanity, to any person specified in the application who is qualified.

(2) A registered society shall pay other moneys due to the deceased member from the society to the nominee, heir or legal representative, as the case may be.

(3) The transfer and payment made by a registered society in accordance with the provisions of this section shall be valid and effective against any demand made upon the society by any other person.

(4) The Registrar shall be consulted for arbitration in case of misunderstanding between a member and a society under this section.

Proof of entries in societies' books

**65.**—(1) A copy of any entry in a book of a registered society regularly kept in the course of business shall, where certified, in a manner as may be prescribed in the Regulations, be received in any suit or legal proceedings, civil or criminal as *prima facie* evidence of the existence of the entry and be admitted as evidence of the matters, transactions and accounts therein recorded in every case where and to the same extent as, the original entry is admissible.

(2) An officer of a registered society, in any legal proceedings to which the registered society is not a party shall be compelled

to produce any of the society's books, the contents of which can be proved under subsection (1) or to appear as a witness to prove any matter, transaction or accounts therein recorded unless the court for special reasons directs.

Exemption from compulsory registration of instruments relating to shares of registered society

**66.** Subject to the provisions of Part IX, any written law requiring registration of instruments relating to shares and debentures shall not apply to-

- (a) any instrument relating to shares in a registered society, notwithstanding that, the assets of the society consist in relation to shares and whole or any part of immovable property;
- (b) any endorsement upon or transfer of any debentures issued by any society; or
- (c) any debentures issued by the society and not creating, declaring, assigning, limiting or extinguishing any right, title, or interest to or an immovable property except in so far as the instrument whereby the society has mortgaged, conveyed or otherwise transferred the whole or part of its immovable property or any interest therein, to trustees upon trust for the benefit of the holders of debentures.

Exemption from duty or tax

**67.**-(1) Notwithstanding the provisions of any law to the contrary, the Minister responsible for finance may, by notice in the *Gazette*, in the case of any registered society or class of registered societies reduce or remit-

- (a) the duty, tax or value added tax which under any laws for the time being in force may be payable in respect of the accumulated funds of the society or the dividends or other payments received by the members of the society on account of the accumulated funds; and
- (b) the stamp duty payable under the Stamp Duty Act, on instruments executed by or on behalf of a registered society or by an officer or member and relating to the business of the society of any class of instruments, are respectively chargeable.

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(2) Subsection (1) shall not be construed as restricting or limiting any power conferred on any authority to grant exemption from any tax, duty, stamp duty, value added tax or fee under any written law.

Management of registered society

**68.**—(1) Management of registered society shall be vested in the Board.

(2) Provisions relating to the management of the registered societies shall be as prescribed in the Third Schedule.

(3) The Minister may, in consultation with the Commission, amend or vary the provisions of the Third Schedule.

Public education and awareness on duties and privileges of societies

**69.** For the purpose of this Part, a cooperative promotion officer shall-

- (a) provide public education and awareness to members of registered societies on the duties and privileges of registered societies; and
- (b) the manner in which to access the privileges.

## PART VIII

### REVENUE AND FUNDS OF REGISTERED SOCIETIES

Revenue of Registered societies

**70.**—(1) The source of the funds of a registered society shall include-

- (a) monies derived from fees or charges specified by the by-laws of the society;
- (b) monies derived from payment of membership subscription where this is applicable;
- (c) monies derived from issuance of shares;
- (d) revenues accruing to the registered society from deposits and loans from persons who are not members as provided for under the by-laws;
- (e) revenues accruing to the registered society from savings and deposits made by its members;

- (f) monies derived from the sale of any produce of the registered society;
- (g) monies which a registered society may borrow from lending institutions or any other source under its general powers of raising money by borrowing; and
- (h) monies lawfully derived by a registered society from sources not mentioned specifically in subsection (1) shall form part of the revenue and funds of that registered society.

(2) The revenues of a registered society shall be paid into the general fund of the registered society:

Provided that, a receipt derived from any trade, industry, works, service or undertaking carried out or belonging to registered society may be paid either in whole or in part into a separate fund.

Management  
of revenues  
and funds  
of registered  
societies

**71.**—(1) A registered society shall, for the purpose of managing its revenues and funds ensure that—

- (a) an admission fee is not refundable except in the case where an application for membership has been rejected;
- (b) a regular obligatory deposit is made in accordance with the by-laws of the society and is not withdrawn except for purposes and in accordance with conditions specified in the Regulations, or on termination of membership, or for the purposes of securing a loan taken by or a guarantee given by a member, voluntary deposits may be withdrawn subject to any conditions or restriction specified in the by-laws of the registered society;
- (c) deposit or loans from persons who are not members of the registered society are subject to the provisions of this Act and the by-laws of the society; and
- (d) a share shall not be redeemed except in accordance with the provisions of by-laws of the society where the by-laws allow the redemption and in which case, the said by-laws shall also specify the minimum number of shares a member shall hold while is a member.

(2) A society shall not issue bonds or debentures without the authority of the Registrar and in any issue comply with any conditions prescribed by the general meeting.

(3) A registered society which under this Act is required to maintain a reserve fund shall maintain the fund in accordance with the provisions of this Act and by-laws of a registered society.

Restriction on  
loans

**72.**—(1) A registered society shall not give a loan to any person other than to its member.

(2) A registered society may, with the approval of the Registrar and in accordance with any conditions which the Registrar may prescribe, allow normal business credit to persons to whom goods have been sold or services rendered by the registered bona fide society.

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

(4) The Registrar may, by a general or special order, prohibit or restrict the lending of money by any society or class of societies on the security of immovable property.

(5) A registered society whose main object is to supply commodities to its members shall not make any loan nor allow any credit without the sanction of the Registrar who may impose limits on loans or credit as he thinks fit.

(6) A registered society which markets agricultural produce, handicrafts or mineral products of its members may make advances up to a limit not exceeding 75 *per centum* of the local value as estimated by the committee of agricultural products or handicrafts or mineral products delivered to the society for marketing.

(7) A registered society may with the approval of the general meeting, make loans to another registered body.

Restriction on borrowing from non-members

**73.** A registered society shall receive deposits and loans from persons who are not members to the extent and under the conditions as may be prescribed by the Rules, Regulations or by this Act.

Investment of funds

**74.**—(1) A registered society may invest its funds—

- (a) in interest bearing deposit in a cooperative financial institution, or any financial institution as may be approved by the Commission;
- (b) in the shares of any other registered society;
- (c) in government bonds and other securities; or
- (d) in other investments as the Registrar may, with approval of the Commission by order published in the *Gazette*, declare to be authorised investments for the purpose of this section.

(2) The Commission may advise any registered society to invest its funds or any portion of its funds in any one or more of the investments authorised by or under subsection (1).

(3) Where there is any loss occasioned, in respect of the funds invested, an officer who is a part to the loss commits an offence and on conviction shall be liable to a fine of not less than two million shillings and in addition required to compensate the loss occasioned.

Inspection and supervision of cooperative fund

**75.**—(1) A society shall contribute to a fund established by the Government and be administered by the Commission for the purpose of meeting the expenses of inspection and promotion of cooperative.

(2) The Commission shall prescribe in the Regulations the manner in which the society shall contribute to the fund.

Financial provisions

**76.**—(1) The by-laws of a registered society shall provide for the raising of funds to finance its activities either by the issuance of shares or by imposing cess or levy on agricultural or other produce or handicraft marketed through the society or by other means as may be approved by the Commission.

- (2) A registered society shall, where its funds to finance its activities are obtained by the issuance of shares, ensure that-
- (a) the share capital shall not be reduced without the consent of the Commission;
  - (b) unless the Commission otherwise in writing directs, a fund which known as the share transfer fund shall be formed and maintained to meet expenditure which may be incurred by the society in purchasing the share of members whose membership has been terminated with the consent of the Board;
  - (c) a payment from the share transfer funds shall not be made for the purchase of the share of any member who has terminated his membership without the consent of the Board;
  - (d) a purchase of the shares of a member whose membership has not been terminated by reason of any causes other than death shall be made except with monies available in the share transfer fund;
  - (e) the amount standing to the credit of a share transfer fund shall not exceed ten *per centum* of the subscribed share capital;
  - (f) where the share of a member is purchased by the society under the foregoing provisions, the amount paid therefore shall not exceed the par value of the share, and shall be lawful for the society to pay less sum than the par value as it considers reasonable, regard being made to the financial position of the society at the time of purchase; and
  - (g) the shares of members purchased as aforesaid shall be re-issued before any new allocation of shares is made.

Dividend and  
bonus

77.-(1) A society shall not pay a dividend, bonus or distribute any part of its accumulated funds before the balance sheet has been audited by a duly authorised auditor and approved by the general meeting of a relevant cooperative society.

(2) A society with unlimited liability which advances money or goods to any member in excess of the money or the value

of the goods deposited by him shall pay a dividend during the period of ten years from the date of its registration.

Reserve fund **78.**—(1) A society which derives a profit from its transactions shall maintain a reserve fund.

(2) A society with unlimited liability, which advances money or goods to any member in excess of the money or the value of goods deposited by him, shall contribute one fourth of the annual net surplus to the reserve fund and other societies shall contribute a portion or annual net surplus as may be prescribed by the Regulations and by-laws.

Distribution of balances **79.** Subject to the provisions of this Act and any Regulations made there under, a registered society may apply the annual net balance together with any sum available for distribution from previous years to payment of bonus and any staff incentive bonus scheme in a manner and proportion as may be prescribed by the Regulations or its by-laws.

Contribution for charitable purposes **80.**—(1) A registered society may, by resolution in general meeting appropriate from its funds and expend on any charitable, educational or medical purposes or other objects.

(2) A cooperative society shall for the purpose of subsection (1) establish a special fund to be used in discharging cooperative social responsibilities as may be determined by the society.

## PART IX

### CREATION AND REGISTRATION OF CHARGES

Registration of charges **81.**—(1) A cooperative society may charge the whole or any part of its property, if its by-laws expressly empower it to do so, subject to approval by the general meeting.

(2) Subject to the provisions of this Part, a charge to which this section applies created by a registered society, shall so far as any security on the society's property is thereby conferred, be void against the liquidator and any creditor of the society unless the prescribed particulars of the charge, together

with the instrument if any, by which the charge is created or evidenced, or a copy thereof verified in the prescribed manner, are delivered to the Registrar for registration within thirty days after the date of the creation of the charge, but without prejudice to any contract or obligation for payment of the money thereby secured, and when the charge becomes void under this section, the money secured thereby shall immediately become payable.

(3) This section applies to the following charges-

- (a) a charge for the purpose of securing any issues of debentures;
- (b) a charge created or evidenced by an instrument which, if executed by an individual, would require registration under the Chattels Transfer Act;
- (c) a charge on immovable property, wherever situated, or any interest therein;
- (d) a charge on book debt of the society;
- (e) a floating charge on the property of the society; or
- (f) any other document which may be used as a security.

(4) Where a negotiable instrument has been given to secure the payment of any book debts of a registered society, the deposit of the instrument for the purpose of securing an advance to the society shall not, for the purposes of this section, be treated as a charge on those book debts.

(5) The holding of debentures entitling the holder to a charge on immovable property of a registered society shall not, for the purposes of this section, be deemed to be an interest in immovable property.

(6) Where a series of debentures containing or giving by reference to any other instrument, any charge to the benefit of which the debenture holders of the series are entitled *pari passu* is created by registered society, it shall, for the purposes of this section be sufficient if they are delivered to or received by the Registrar, within forty five days after the execution of the deed containing the charge, or, if there is no deed after the execution of any debentures of the series, the following particulars:

- (a) the total amount secured by the whole series;

- (b) the date of any resolution authorising the issue of the series and the date of the covering deed, if any, by which the security is created or defined;
- (c) a general description of the property charged; and
- (d) the names of the trustees, if any, of the debenture holders together with the deed containing the charge, or, if there is no deed, one of the debentures of the series:

Provided that, where more than one issue is made of debentures in the series, there shall be sent to the Registrar for entry in the register, particulars of the date and amount of each issue and an omission of entry shall not affect the validity of the debentures issued.

(7) For the purpose of the provisions of this Part-“charge” includes a mortgage and a letter of hypothecation, and references to the property and assets of a registered society include property and assets which the registered society is authorised to charge.

Duty of a society to register charges created by society

**82.**—(1) It shall be the duty of the registered society to submit to the Registrar, the particulars of a charge created by the society to which section 81 applies, however the registration of any charge may be effected upon the application of any person interested therein.

(2) Where registration is affected on the application of some person other than the society, the person shall be entitled to recover from the society, the amount of any fees properly paid by him to the Registrar on registration.

(3) Where a registered society defaults in submitting to the Registrar the particulars of any charge created by the society for registration to which section 81 applies, unless the registration has been effected by some other person, the society and an officer thereof who knowingly took part in the default on conviction shall be liable to a fine of not less than one hundred thousand shillings for every day during which the default continues.

Duty of a society to register charges on property acquired

**83.**—(1) Where a registered society acquires any property which is subject to a charge to which section 81 would apply if the charge had been created by the society after the acquisition of the property, the society shall cause the prescribed particulars of the charge together with a certified copy of the instrument if any, by which the charge was created or is evidenced, to be delivered to the Registrar for registration within forty-five days after the date of which the acquisition is completed.

(2) Where the default is made in complying with the provisions of this section, the society and an officer thereof who is knowingly a party to the default, commits an offence and on conviction shall be liable to a fine of not less than one hundred thousand shillings for every day during which the default continues.

Register of charges

**84.**—(1) The Registrar shall keep, with respect to each registered society, a register in the prescribed form, of charges requiring registration under the provisions of this Part, and on payment of the prescribed fee, enter in the register with respect to any charge the following particulars-

- (a) in the case of a charge to the benefit of which the holders of a series of debentures are entitled, the particulars as are specified in subsection (6) of section 81;
- (b) in the case of a charge to the benefit of which the holders of a series of debentures are entitled, the particulars as are specified in subsection (6) of section 82; and
- (c) in the case of any other charge-
  - (i) if the charge is a charge created by the society, the date of its creation, and if the charge was a charge existing on the property acquired by the society, the date of the acquisition of the property;
  - (ii) the amount secured by the charge;
  - (iii) short particulars of the report charged; and
  - (iv) the persons entitled to the charge.

(2) The Registrar shall issue a certificate of registration of any charge registered in pursuance of the provisions of this Part, stating the amount thereby secured, and the certificate

shall be conclusive evidence that, the requirements of this Part as to registration have been complied with.

(3) The register kept in pursuance of this section shall be open to inspection by any person on payment of the prescribed fee as may be determined by the Registrar.

(4) The Registrar shall keep a chronological index in the prescribed form and containing the prescribed particulars of the charges entered in the register.

Endorsement  
of certificate of  
registration of  
debentures

**85.**—(1) A registered society shall cause a copy of a certificate of registration given under section 84 to be endorsed on a debenture or certificate of debenture stock which is issued by the society, and the payment of which is secured by the charge registered:

Provided that, this subsection shall not be construed as requiring a society to cause a certificate of registration of any charge given to be endorsed on any debenture or certificate of debenture stock issued by the society before the charge was created.

(2) Where a person knowingly and willfully authorises or permits the delivery of any debenture or certificate of debenture stock which under the provisions of this section is required to have been endorsed on it, a copy of a certificate of registration without the copy being endorsed on it, commits an offence and without prejudice to any other liability, on conviction shall be liable to a fine of not less than one million shillings.

Entry of  
satisfaction and  
rectification of  
register

**86.**—(1) The Registrar upon satisfaction that—

- (a) the debt for which any registered charge was given has been paid or satisfied; and
- (b) a memorandum of satisfaction be entered on the register,

may furnish to the society the copy of the memorandum of satisfaction.

(2) The Registrar, on being satisfied that, the omission to register a charge within the time required by this Part, or the omission or misstatement of any particular matter with

respect to any charge or in a memorandum of satisfaction was accidental or due to inadvertence or some other sufficient cause, or is not of a nature to prejudice the position of creditors or members of the society or on other grounds, it is just and equitable to grant relief may, on the application of the registered society or any person interested and in terms and conditions as seen to him just and expedient, order that, the time for registration be extended or, as the case may be, that the omission or misstatement be rectified.

Enforcement of  
security

**87.**—(1) Where a person obtains an order for the appointment of a receiver or manager of the property of a registered society or appoints a receiver or manager under any power contained in any instrument, he shall, within seven days from the date of the order or the appointment under the said powers, give notice of the facts to the Registrar and the Registrar shall, on payment of the prescribed fee, enter the facts in the register of charges.

(2) Where a person is appointed as a receiver or manager of the property of a registered society under the powers contained in any instrument ceases to act as the receiver or manager, he shall on ceasing, give the Registrar notice to that effect, and the Registrar shall enter the notice in the register of charges.

(3) A person who defaults in complying with any of the requirements of this section commits an offence and on conviction shall be liable to a fine not exceeding five thousand shillings for every day during which the default continues.

Copies of  
instrument  
creating charges  
to be kept by  
society

**88.**—(1) A registered society shall cause to be kept at the registered address of the society, a copy of an instrument creating any charge requiring to be registered under the provisions of this Part.

(2) Where a registered society fails to comply with the provisions of subsection (1), the society and an officer thereof who is knowingly a party to the default on conviction shall be liable to a fine of not less than one hundred thousand shillings for every day during which the default continues.

Society's register  
of charges

**89.**—(1) A registered society shall keep at registered address of the society, a register of charges and enter therein charges specifically charges effecting property of the society and floating charges on the property or assets of the society giving in each case, a short description of the property charged, the amount of the charge and the names of the persons entitled thereto.

(2) Where an officer of the society knowingly and willfully authorises or permits the omission of any entry required to be made in pursuance of this section in any register commits an offence and on conviction shall be liable to a fine of not less than five million shillings.

Right to inspect  
copies of  
instruments  
creating  
mortgage, charges  
and society's  
register of charges

**90.**—(1) The copies of the instrument creating any charge required to be registered with the Registrar under the provisions of this Part and the registered society in pursuance of section 84, shall be open during business hours, subject to a reasonable meeting restrictions as the society in general meeting may impose for the inspection of any creditor or members of the society without fee, and the register of charges shall be open to inspection of any person on payment of fee as may be determined by the general meeting.

(2) Where inspection of the copies or register is refused, an officer of the society refusing inspection or who knowingly and willfully permits the refusals, commits an offence and on conviction shall be liable to a fine of not less than five hundred thousand shillings for every day during which the refusal continues and any court may by order, compel an immediate inspection of the copies or register.

## PART X

### INSPECTION OF AFFAIRS OF COOPERATIVE SOCIETIES

Inquiry by  
Registrar officers  
as inspectors

**91.**—(1) The Registrar may, on his own motion or on the application of the majority of the members of the Board of not less than one-third, direct and authorise some persons

in writing to hold an inquiry into the by-laws, activities and financial affairs of the registered society.

(2) The officers and members of the society shall produce books and documents of the society and furnish informations in regard to the affairs of the society, as the person authorised by the Registrar may require.

(3) The general meeting may decide to held an enquiry into the affairs of their registered society.

Designation  
of cooperative  
officer as  
cooperative  
inspectors

**92.**—(1) The Commission may, by order published in the *Gazette*, designate by name, a cooperative officer who shall perform the function of inspection of cooperative societies.

(2) The cooperative officers designated under subsection (1) shall be accountable to the Registrar.

(3) A cooperative inspector shall prepare and submit to the Registrar a report of registered cooperative society inspected and with regard to any other matters as the Registrar may require him to report upon.

Inspection

**93.**—(1) The Registrar shall make or cause to be made a continuous inspection on the by-laws, activities and financial affairs of a registered society.

(2) Without prejudice to the generality of subsection (1), the Registrar shall, on the application of a creditor of a registered society, inspect or direct some person authorised by him by order in writing in his behalf to inspect the books of the society:

Provided that, an inspection under this subsection shall not be carried out or directed unless-

- (a) the creditor satisfies the Registrar that, the debt is a sum then due, and he has demanded payment thereof and has not received satisfactory explanation within a reasonable time; and
- (b) the creditor deposits with the Registrar sum as security for costs for the purposes of inspection as the Registrar may require.

(3) The Registrar shall communicate the results of any inspection carried out under subsection (2) to the creditor.

Cost of inquiry **94.**—(1) Where an inquiry is held under section 91 or an inspection is made under section 93, the Registrar may, by a certificate under his hand and seal, make an award apportioning the costs, or part of the costs as he may think right, between the society, the members or creditor demanding an inquiry or inspection and the officer or former officers of the society.

Cap. 33 (2) The Registrar may lodge a certified copy of a certificate issued by him under subsection (1) in a court of a Resident Magistrate or a District Court and upon being lodged, the certificate shall be deemed to be a decree passed by the court for the payment by the person named in the certificate to the Registrar of the sum specified in the certificate and the sum may be recovered in any manner prescribed by the Civil Procedure Code for the enforcement of decrees and the provisions of that Act relating to executions of decrees shall apply, *mutatis mutandis*, to proceedings for the recovery of costs awarded under this Act.

Surcharge **95.**—(1) Where upon an inquiry under section 91 or upon an inspection under section 93 or upon audit under section 55, the Registrar is satisfied that, a past or present officer or member has made or authorised an unlawful payment or has by negligence or misconduct caused a deficiency or a loss or failure to bring to account or has by negligence or misconduct caused loss of or damage to any property of a registered society, the Registrar shall surcharge the person with the unlawful payment, deficiency or loss, or the sum which ought to have been brought to account or the value of the property lost or damaged or portion of unlawful payment, deficiency, loss, sum, value or cost as the Registrar may consider reasonable having regard to the circumstances of the case.

(2) The Registrar shall give notice in writing to a person surcharged under subsection (1) of the amount surcharged and the ground upon which the surcharge is made, and a person aggrieved by the decision of the Registrar may, not later than thirty days from the receipt of the notice, appeal to the Minister.

- (3) Where a person surcharged-
- (a) fails to pay the amount within thirty days after the service of the notice upon him in accordance with subsection (2); or
  - (b) has appealed to the Minister and fails to pay the amount of the surcharge, if any, decided upon by the Minister within fifteen days from the date of the decision of the Minister, the Registrar shall issue a certificate under his hand and seal specifying the name and address of the person who has been surcharged and the amount of the surcharge and the certificate or a certified copy thereof shall be lodged in a court of Resident Magistrate or a District Court.

(4) Where a certificate has been lodged in court in accordance with the provisions of subsection (3), the certificate shall be deemed to be a decree passed by the court for the payment by the person named in the certificate to the Registrar of the sum specified in the certificate, and the sum shall be recovered in a manner prescribed by the Civil Procedure Code, and the enforcement of decree and the provisions of that Act relating to execution of decrees shall apply, *mutatis mutandis* to proceedings for the recovery of the amount specified in the certificate.

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## PART XI

### AMALGAMATION AND DIVISION OF COOPERATIVE SOCIETIES

Amalgamation

**96.**—(1) Two or more registered societies may resolve, by a resolution approved at a general meeting of the societies at which not less than two-thirds of the members or delegates of the society are present and held after reasonable notice given of the place and time of the meeting and the intention to move the resolution thereto, to amalgamate as a single society.

(2) Where the Registrar is satisfied that-

- (a) two or more registered societies have resolved to amalgamate as a single society in accordance with the provisions of subsection (1);
- (b) the proposed by-laws of the proposed amalgamated society are unobjectionable; and
- (c) the proposed amalgamation is not against the interest of the members of the societies proposing to amalgamate or against public interest,

he may, by order published in the *Gazette*, amalgamate the societies.

(3) An order made under subsection (2), shall specify-

- (a) the date on which the societies shall amalgamate; and
- (b) the name of the amalgamating society and may contain directions as the Registrar may consider necessary for the purpose of giving effect to the amalgamation or safeguarding the interests of any person.

(4) Where an order is made under subsection (2)-

- (a) the assets and liabilities of the amalgamating societies shall, by virtue of an order and without further assurance, vest in the amalgamated society;
- (b) the Registrar shall cancel the registration of the amalgamating societies and the cancellation shall be effective as from the effective date; and
- (c) the Registrar shall, notwithstanding the provisions of sections 30 and 31, register the amalgamated society and the by-laws of the amalgamated society.

(5) Notwithstanding subsection (1), the Registrar may, by notice in writing, advise two or more societies to amalgamate where he is satisfied that, it is in the interest of the societies or public to do so.

(6) Where the society does not agree with the advice of the Registrar made in accordance with provisions of subsection (5), the Registrar may dissolve the society under section 99.

Defects or  
irregularity in the  
notice

**97.** An amalgamation of registered societies or division of a registered society shall not be invalid by reason of defect or irregularity in any notice or order required to be given or made under this Part.

Division of  
societies

**98.**—(1) An existing registered society may resolve by a resolution approved at a general meeting at which not less than two-thirds of the members or delegates of the society are present and held after reasonable notice given of the place and time of the meeting and the intention to move the resolution thereat, to divide itself into two or more proposed new societies.

(2) A resolution passed under subsection (1) shall contain proposals for the division of the assets and liabilities of the society among the proposed new societies, and may prescribe the area of operation of, and specify the members who shall constitute each of the proposed new societies.

(3) The Registrar may by notice in writing advise on voluntary division, where is satisfied that—

- (a) an existing society has resolved to divide itself into two or more new societies in accordance with subsection (1);
- (b) the resolution complies with the provisions of subsection (2);
- (c) the proposed new societies shall be economically viable when registered; and
- (d) the proposed division is not against the interests of the members of the existing society or the public.

(4) The Registrar may, by Order published in the *Gazette*, divide the existing society which has voluntarily passed the resolution for division under subsection (1).

(5) An order made under subsection (4) shall specify—

- (a) the date on which the existing society shall be divided into the new societies;
- (b) the name of the existing society and the names of the new societies into which it is divided;
- (c) the manner in which the assets and liabilities of the existing society shall be divided among the new societies;

- (d) where necessary, the area of operation of each of the new societies; and
- (e) other directions as the Registrar may consider necessary for the purpose of giving effect to the division or safeguarding the interests of any person.
- (6) Where an order is made under subsection (4)-
  - (a) the assets and liabilities of the existing society subsisting on the effective date shall, by virtue of an order and without further assurance, vest in the new societies in the manner specified in the order;
  - (b) the Registrar shall cancel the registration of the existing society and the cancellation shall be effective as from the effective date; and
  - (c) the Registrar shall, notwithstanding the provisions of sections 30 and 31, register the new societies and their respective by-laws:

Provided that, where the society does not agree with the advice of the Registrar on division, he may dissolve that society under section 99.

## PART XII

### DISSOLUTION OF COOPERATIVE SOCIETIES

Dissolution

**99.** Where the Registrar after an inquiry has been held under section 91 or an inspection has been made under section 93 or on receipt of an application made by three-fourths of the members of a registered society or failure to comply with the provisions of sections 96 and 98, is of the opinion that, the society ought to be dissolved he may, by order in writing and after notifying the general meeting of the federation if any, cancel the registration of the society.

Cancellation of registration of society

**100.**-(1) Where it is a condition of the registration of a society that, it should consist of at least a required minimum members, the Registrar may, by order in writing, cancel the registration of the society, where it is proved to his satisfaction that, the

number of the members has been reduced to less than the required minimum as per section 20.

(2) Where the Registrar has reasonable cause to believe that, a registered society has not commenced its business within six months of registration, or has ceased to carry on business, he may, after the expiry of three months from the date of publishing a notice to that effect in the *Gazette*, by order in writing, cancel the registration of the society and the cancellation shall be *Gazetted*.

(3) The Registrar shall cancel the registration of any savings and credit societies that fail to comply with the requirement to present audited accounts as required by section 47 of the Bank of Tanzania Act, unless sufficient evidence is given to the effect that, any savings and credit societies have established a technical and financial assistance linkage with a professionally managed financial services institution or program.

Cap. 197

Appeal against  
cancellation of  
registration

**101.**—(1) Where the registration of a society is cancelled under the provisions of section 100, a member of the society of which the registration is cancelled may, within thirty days from the date of the order canceling the registration, appeal against the order to the Minister.

(2) Where an appeal is presented within thirty days from the making of an order canceling the registration of a society, the order shall take effect on the expiry of that period.

(3) Where an appeal is presented within thirty days, the order shall not take effect until it is confirmed by the Minister.

(4) Where an appeal has been presented within thirty days, the Minister may proceed to consider the same and confirm the order notwithstanding that, thirty days have not elapsed, and an order is confirmed, a further appeal shall not be allowed against the order.

Effect of  
cancellation of  
registration

**102.**—(1) Where the registration of a society is cancelled, the cancellation shall take effect and except for the purposes of the winding up of its affairs, the society shall cease to exist as a

corporate body from the date when the order of cancellation takes effect.

(2) Where the Registrar cancels the registration of a society under any of the provisions of this Act, he shall make an order as he may deem fit respecting the custody of the books and documents and for the protection of the assets of the society until the order canceling the registration of the society takes effect.

Winding up

**103.**—(1) Where the registration of a society is cancelled under section 100 or the registered society is dissolved under section 99, the Registrar shall—

- (a) appoint by order in writing, a custodian of assets and liabilities of the society immediately after cancellation is effected; and
- (b) within forty days, appoint a competent person or persons to be liquidator of the society's assets and liabilities.

(2) The names of the persons appointed under subsection (1) shall be published in the *Gazette*.

(3) The Registrar shall specify the period limit within which the liquidation process shall be finalised.

Power of liquidator

**104.**—(1) A liquidator appointed under section 104 shall have the power, subject to the guidance and control of the Registrar, and any limitations imposed by the Registrar—

- (a) to institute and defend suits and other legal proceedings by his name or office, and appear in Court as a litigant in person on behalf of the society;
- (b) to refer disputes to arbitration;
- (c) to determine the contribution to be made by the members and past members and by the estates of deceased members of the society respectively to the assets of the society;
- (d) to investigate claims against the society, and subject to the provisions of this Act, decide questions of priority arising between claimants;

- (e) to determine by what persons and in what proportion, the costs of the liquidation are to be borne;
- (f) to examine and investigate any claim which the society may have against any person;
- (g) to take possession of the books, documents and assets of the society; and
- (h) to give directions in regard to the collection and distribution of the assets of the society and the disposal of the books and documents of the society as may appear to him to be necessary for winding up the affairs of the society.

(2) Subject to any Regulations made under section 141, a liquidator appointed under this section shall, in so far as the powers are necessary for carrying out the purpose of this section, have power to summon the attendance of witnesses and compel the production of documents in the same means and manner as is provided in the case of a Court under the Civil Procedure Code.

(3) The Regulations may provide for an appeal to a Court of a Resident Magistrate having jurisdiction over the area in which the headquarters of the society are situated from any decision made by a liquidator under this section and further appeal to the High Court.

Cap. 33

Power of  
Registrar  
to control  
liquidation

**105.**—(1) A liquidator shall exercise his powers subject to control and the revision by the Registrar, who may—

- (a) rescind or vary any order made by a liquidator and make new order as may be required;
- (b) remove a liquidator from office;
- (c) call for books, documents and assets of the society;
- (d) by order in writing, limit the powers of the liquidator under the provisions of the foregoing section;
- (e) require accounts to be rendered to him by the liquidator;
- (f) procure the auditing of the liquidator's accounts and authorise the distribution of the assets of the society;
- (g) make or order for the remuneration of the liquidator; and

(h) refer any subject of dispute between a liquidator and any third party to settlement, where the party have assented in writing to be bound by the decision to be given on the dispute.

(2) Decisions made under this section may be enforced as follows-

- (a) when made by a liquidator, by any Court of Resident Magistrate having jurisdiction in the same manner as the decree of the court; and
- (b) when made by High Court or a Court of Appeal, in the manner of any appeal as aforesaid as a decree of the Court in any suit pending therein.

Power to stay or restrain proceedings against society

**106.** At any time after the cancellation of a registered society takes effect, the liquidator, or any creditor member of the society, may, where any suit or proceedings against the society is pending in any court, apply to the court in which the suit or proceedings is pending for a stay of proceedings therein and the court to which the application is made, may stay the proceedings accordingly on the terms as it thinks fit.

Avoidance of disposition of property after cancellation

**107.** A disposition of the property including things in action of a registered society and any transfer of shares or alteration in the status of the members of the society made after the cancellation of the registered society takes effect shall, unless the disposition, transfer or alteration after is made by the liquidator, be void.

Avoidance of attachment

**108.** Where the registration of a society is cancelled, any attachment, distress or execution put in force against the assets of the society after the cancellation takes effect, shall be void.

Power of Registrar to assess damage

**109.**-(1) Where in the case of the winding up of a society, it appears that, a person who has taken part in the organisation or management of the society or any past or present chairman, secretary, member of the Board or other officer of the society

has disappplied or retained or become liable or accountable for any money or property of the society or has been guilty of misfeance or breach of trust in relation to the society, the Registrar may, on the application of the liquidator or of any creditor or contributor, investigate the conduct of the person and make an order requiring him to repay or restore the money or property or any part thereof as the case may be, with interest at the rate as the Registrar thinks just or contribute the sum to the assets of the society by way of compensation in regard to the misapplication, retainer, misfeance or breach of trust as the Registrar thinks just.

(2) Subject to subsection (1), the aggrieved person may appeal to the Commission within twenty one days.

(3) Where the Registrar has ordered payment of any money or delivery of any property under subsection (1), the money or property may be recovered on production of an order to the District Court or the Court of a Resident Magistrate having jurisdiction over the person from whom the money or property is claimable in the same manner as if the order were the decree of the Court.

Power to arrest  
absconding  
promoter

**110.**—(1) A Court of a Resident Magistrate may, on the application of the Registrar or of the liquidator and on proof of probable cause of the absconding of a promoter and upon believing that, the promoter is about to quit the United Republic of Tanzania or otherwise to abscond or remove any of his property for the purpose of evading calls or avoiding investigation of his conduct or examination by the liquidator or by the Registrar respecting the affairs of the society or compliance with any order made by the Registrar under subsection (1) of section 109, cause him to be arrested, and his books and papers and movable or immovable property to be detained until the time as the court may order.

(2) For the purpose of this section:  
“promoter” means a founder member of a cooperative society.

Debts of description may be proved

**111.** In a winding up of a registered society, the debts payable on a contingency, and claims against the society present or future, certain or contingent, ascertained or sounding in damages, shall be admissible to proof against the society, a just estimate being made so far as possible or the value of the debts or claims as may be subject to any contingency or sound in damages or for some other reason do not bear a certain value.

Where society is insolvent  
Cap. 25

**112.** In the winding up of a registered society which is insolvent, the procedure under the Bankruptcy Act with regard to the respective insolvent rights of secured and unsecured creditors and debts provable and the valuation of annuities and future and contingent liabilities shall apply with respect to the estates of persons adjudged bankrupt, and persons who in any case would be entitled to prove for and realise dividends out of the assets of the society, may come in under the winding up on and make claims against the society as they respectively are entitled to by virtue of this section.

Preferable payments

**113.**—(1) In the winding up of a registered society, there shall be paid payments in priority to other debts—

- (a) government taxes and local rates due from the society at the relevant date and having become due and payable within twelve months next before the date not exceeding in the whole one year's assessment;
- (b) government rents not more than one year in arrears;
- (c) wages or salary of services rendered to the society during four months next before the relevant date and wages of any workman or labourer in respect of services rendered; and
- (d) amounts due in respect of any compensation under any law for the time being in force in Tanzania relating to compensation of workman, being amounts which have accrued before the relevant date, unless the society has, immediately prior to the relevant date, under any contract with insurers, rights capable of being transferred to and vested in the workman.

(2) Notwithstanding anything in paragraph (c) of subsection (1), the sum to which priority is to be given under that paragraph shall not in the case of one claimant exceed one hundred thousand shillings.

(3) Where a claimant under paragraph (c) of subsection (1), is a labourer in husbandry who has entered into contract for the payment of a portion of his wages in a lump sum at the end of the year of hiring, he shall have priority in respect of the whole of the sum, a part thereof, as liquidator may decide to be due under the contract, proportionate to the time of service up to the relevant date.

(4) Where a compensation under any law for the time being in force in Tanzania relating to compensation of workmen is a weekly payment, the amount due in respect thereof shall for the purpose of paragraph (d) of subsection (1), be taken to be the amount of the lump sum for which the weekly payment could, if redeemable, be redeemed if the employer made an application for that purpose under the law.

(5) Where a payment has been made to any clerk, servant, workman or labourer in the employment of the society on account of wages or salary out of money advanced by some person for that purpose, the person by whom the money was advanced shall in a winding up have a right of priority in respect of the money advanced and paid up to the amount by which the sum in respect of which the clerk, servant, workman or labourer, would have been entitled to priority if the winding up has been diminished by a reason of the payment having been made.

(6) The debts referred to in subsection (1) shall-

- (a) rank equally among themselves and be paid in full unless the assets are insufficient to meet them in which case, they shall abate in equal proportions; and
- (b) so far as the assets of the society available for payment of general creditors are insufficient to meet them, have priority over the claims of holders of debentures under any floating charge created by society, and be

paid accordingly out of any property comprised in or subject to that charge.

(7) For the purposes of this section-

- (a) a remuneration in respect of a period of absence from work through sickness or other good cause shall be deemed to be wages in respect of services rendered to the society during the period; and
- (b) the expression “relevant date” means the date on which the cancellation of the registration of the society takes effects.

Fraudulent preference

**114.**-(1) A transfer, conveyance, mortgage, charge, delivery of good, payment, execution or other act relating to property made or done by or against a registered society within six months before the date on which the cancellation of its registration takes effect which had it been made or done by or against an individual within six months before presentation of bankruptcy petition on which he is adjudged bankrupt, would be deemed in his bankruptcy a fraudulent preference, shall in the event of the society being wound up be deemed fraudulent preference of its creditors and be void accordingly.

(2) A transfer, conveyance or assignment by a society of its property to trustees for the benefit of its creditors shall, if done under the circumstance stipulated under subsection (1), be void to its intents.

Liabilities and obligation of fraudulent preference

**115.**-(1) Where anything made or done is void under section 114 as a fraudulent preference of a person interested in property mortgaged or chartered to secure the society’s debt then without prejudice to any rights or liabilities arising apart from this provision the preferred persons shall be subject to the same liabilities, and have the same rights, as if he had undertaken to be personally liable as surety for the debt to the extent of the mortgage or charge on the property or the value of his interest, whichever is the less.

(2) The value of the said person’s interest shall be determined as at the date of the transaction constituting the fraudulent

preference, and determined as if the interest were free of encumbrances other than those to which the mortgage or charge for the society's debt was the subject.

(3) On an application made to the liquidator with respect to any payment on the ground that, the payment was a fraudulent preference of a surety or guarantor, the liquidator shall have jurisdiction to determine any questions with respect to the payment arising between the person to whom the payment was made and the surety or guarantor and grant relief in respect thereof, notwithstanding that, it is not necessary so to do for the purpose of the winding up.

(4) The provisions of subsection (3) shall apply, with the necessary modifications, in relation to transactions other than the payment of money as it applies in relation to the payments.

Effecting of  
floating charge

**116.** Where a registered society is being wound up, a floating charge on the undertaking or property of the society created within six months of the cancellation of the registration of the society taking effect shall, unless it is proved that, the society immediately after the creation of the charge, was solvent, be invalid, except to the amount of any cash paid to the society at the time of or subsequently the creation of, and in consideration for the charge, together with interest on that amount at the rate of six percent *per annum* or other rate as may be prescribed.

Disclaimer of  
property in case  
of society wound  
up

**117.**—(1) Where any part of the property of a registered society which is being wound up consists of land of any tenure burdened with onerous case of covenants of shares or stock in companies of profitable contracts or any property that is un saleable or not readily saleable by reason of its binding the possessor thereof to the performance of any onerous act or to payment of any sum of money, the liquidator, notwithstanding that he has endeavored to sell or has taken possession of the property or exercised any act of ownership in relation thereto, may, with the leave of the Registrar and subject to the provisions of this section, by writing signed by him, at any time within twelve months after the cancellation of the registration of the

society taking effect or extended period as may be allowed by the Registrar, disclaim the property.

(2) The disclaimer shall operate to determine, as from the date of disclaimer, the rights, interest and liabilities of the society in or in respect of the property disclaimed but shall not, except so far as is necessary for the purpose of releasing the society and the property of the society from liabilities of any other person affect the rights or the liabilities of any person.

(3) The Registrar before or on granting leave to disclaim, may require the notices to be given to persons interested, and impose terms as a condition of granting leave, and make other order in the matter as he thinks just.

(4) The liquidator shall not be entitled to disclaim any property under this section in any case, where an application in writing has been made to him by any person interested in the property requiring him to decide whether he will or will not disclaim and the liquidator has not, within a period of twenty eight days after the receipt of the application or further period as may be allowed by the Registrar, give notice to the applicant that, he intends to apply for leave to disclaim, and, in the case of a contract, if the liquidator, after an application or further period as may be allowed by the Registrar, give notice to the applicant that, he intends to apply for leave to disclaim, and, in the case of a contract, if the liquidator, after an application as aforesaid, does not within the said period or further period disclaim the contract, he shall be deemed to have adopted it.

(5) A person injured by the operation of a disclaimer under this section shall be deemed to be a creditor of the society to the amount of the injury, and may accordingly prove the amount as a debt in the winding up.

Restriction of rights of creditor in case of society being wound up

**118.**—(1) Where a creditor has issued execution against the movable or immovable property of registered society or has attached any debt creditor as due to the society, and the society is subsequently wound up, he shall not be entitled to retain the benefit of the execution or attachment against the liquidator in the winding up of the society unless he has completed

the execution or attachment before the date on which the cancellation of the registration of the society take effect:

Provided that-

- (a) a person who purchases in good faith under a sale by bailiff on an order of a court any movable property of a society of which an execution has been levied shall acquire a good title thereto against the liquidator; and
- (b) the rights conferred by this subsection on the liquidator may be set aside by the Registrar in favour of the creditor to the extent and subject to the terms as the Registrar may think fit.

(2) For the purpose of this section, the execution against movable property shall be taken to be completed by seizure and sale, and an attachment of a debt shall be deemed to be completed by receipt of the debt, and an execution against immovable property shall be deemed to be completed by seizure and, in the case of an equitable interest, by the appointment of a receiver.

(3) The right conferred upon the liquidator by this section may be enforced by him by a civil suit in any court of competent jurisdiction.

(4) In this Part, the expression "movable property" includes chattels personal, and the expression "bailiff" includes any officer charged with the execution of a writ or other process.

Duties of court in execution

**119.**-(1) Where a movable property of a registered society is taken in execution and, before the sale thereof or the completion of the execution by receipt of recovery of the full amount of the levy, notice is served taken in execution upon the court which issued the execution that, the registration of the society has been cancelled, the court shall require the bailiff to deliver the movable property including any money seized or received in part satisfaction of the execution to the liquidator and the bailiff shall forth-with comply with the requirement.

(2) Where the bailiff on being required by the court under subsection (1), delivers the movable property including the money, if any, seized or received by him, the costs of

the execution shall be a first charge on the goods or money delivered and the liquidator may sell the goods, or a sufficient part thereof, for the purpose of satisfying the charge.

Preservation  
of books and  
records

**120.** On the completion of the duties under section 119, the liquidator shall hand over to the Registrar the books and records of the society, and the Registrar may after the period of two years from the date of removal of the name of the society from the register cause the books and records to be preserved in an archive.

Court not to have  
jurisdiction in  
dissolution of  
societies

**121.** Save so far as is expressly provided for in this Act, a court shall not have any jurisdiction in respect of any matter connected with the dissolution of a registered society.

### PART XIII FINANCIAL PROVISIONS

Funds of  
Commission

**122.** The sources and funds of the Commission shall include:

- (a) amounts as may be appropriated by Parliament;
- (b) sums as may be payable to the Commission by way of donations, gifts or grants;
- (c) sums as may in any manner become payable to or vested in the Commission or acquired in the course of performing its functions under the Act; and
- (d) any other lawful source of funding.

Annual budget

**123.**—(1) The Commission shall prepare its income and expenditure estimates for the succeeding financial year and submit them to the Minister for scrutiny and submission to the National Assembly for approval.

(2) The annual estimates shall make provision for estimates for expenditure of the Commission for the financial year that shall include the cost of administration of the Commission, payment of salaries, allowances, pensions, gratuities and other charges payable to the officers, staff and members of the Commission.

Accounting and  
audit

**124.**—(1) The Commission shall cause to be kept and maintained in accordance with the International Accounting Standards, proper books of accounts with respect to-

- (a) sums of moneys received and expended;
- (b) the assets and liabilities of the Commission; and
- (c) the income and expenditure statement of the Commission.

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(2) Within six months of the close of every financial year, the Controller and Auditor-General in accordance with the Public Audit Act shall audit the accounts including the balance sheet of the Commission.

(3) An income and expenditure accounts and audited balance sheet shall be placed before a meeting of the Commission and, if adopted, it shall be endorsed with a certificate to that effect.

(4) As soon as the accounts of the Commission have been audited, and in any case not later than six months after the close of the financial year, the Commission shall submit to the Minister a copy of the audited statement of accounts together with a copy of the report on that statement made by the auditors.

(5) The Minister shall, as soon as practicable after receiving the report, lay before the National Assembly the audited accounts.

Financial year

**125.** The financial year of the Commission shall be the period of twelve months beginning from 1<sup>st</sup> day of July and ending at 30<sup>th</sup> day of June of the following year.

## PART XIV OFFENCES

Offences

**126.**—(1) A registered society, an officer, a member or any other person who-

- (a) willfully neglects or refuses to do an act or furnish any information required for the purposes of this Act;
- (b) willfully makes a false return or furnishes false information;

- (c) willfully or without any reasonable excuse disobeys any summons, requisition or lawful written order issued under the provisions of this Act or does not furnish any information lawfully required from him by a person authorised to do so under the provisions of this Act; or
- (d) without proper authority obstructs, assaults, interferes or hinders any officer or agent of the Commission from performing his duties;
- (e) acts or purports to act as a Board member when not entitled to do so;
- (f) willfully performs any act which requires the consent or approval of the Registrar without first having obtained consent or approval;
- (g) willfully omits to do or to cause to be done an act or thing which is required by or under this Act to be done; or
- (h) willfully does or causes to be done any act or thing prohibited by or under this Act,

commits an offence and on conviction shall be liable to a fine of not less than five million shillings and, where the offence has been committed by an individual, to imprisonment for a term of not less than two years in addition to or in *lieu* of the fine.

(2) In addition to any sanction or penalty which may be imposed under this Act, the court may order the offender to compensate any loss occasioned or confiscate the properties of the offender.

Offences by body  
corporate firm

**127.**—(1) A act which if done by an individual would be an offence against this Act or regulations or orders made under this Act shall, if done by a body corporate, be an offence by a Director and Secretary thereof unless he proves that, the offence was committed without his consent or connivance and he exercised due diligence to prevent the commission of the offence as the ought to have been exercised having regard to the nature of his functions in that capacity and the circumstances.

(2) Where an offence against this Act or any regulations or orders made under this Act has been committed by a partner

in a firm, a person who at the time of the commission of the offence was a partner in that firm, or was purporting to act in that capacity, shall be deemed to have committed the offence, unless he proves that, the offence was committed without his consent or connivance and he exercised due diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and the circumstances.

Offences by agents

**128.** Where an offence under this Act or any subsidiary legislation made under it is committed by a person as an agent or employee, the agent or employee, the principal or employer, commits an offence and on conviction shall be liable to be proceeded against and punished accordingly unless he proves to the satisfaction of the court that, he had no knowledge and could not by the exercise of reasonable diligence have had knowledge of the commission of the offence.

Penalty for soliciting violation of contracts

**129.**—(1) A person, firm or company having knowledge or notice of the existence of a registered society which has one of its objects, the disposal of any article as part of its business, who solicits or persuades or contracts any person to sell or deliver goods as service in violation of the by-laws of that cooperative society, on conviction shall be liable to a fine of not less than five million shillings for a person and not less than ten million shillings for a firm or company for each offence, and in addition pay to the society concerned the market price of the goods or service as the case may be, at the date of the commission of the offence.

(2) A person, firm or company as aforesaid shall be deemed to have knowledge or notice of the existence of cooperative society, where the said society has notified the existence of the cooperative society and the relevant by-laws thereof in the *Gazette* or a registered society which has one of its objects, the disposal of any article which is the product of agriculture or animal husbandry, in any newspaper circulating in Tanzania.

Offences by officers of societies being wound up

**130.** Where a person being a past or present officer or member of a registered society, the registration of which has been cancelled and in respect of which a liquidator has been appointed-

- (a) does not, to the best of his knowledge and belief, fully and truly disclose to the liquidator the property movable and immovable, of the society;
- (b) does not deliver to the liquidator, or as he directs a part of the movable or immovable property of the society as is in his custody or under his control;
- (c) does not deliver up to the liquidator or as he directs, books and papers belonging to the society; or
- (d) fraudulently, parts with, conceals, destroys, falsifies, mutilates or alter or is privy to the fraudulent parting with, concealment, destruction, falsification, mutilation or alteration, any book or paper relating to or affecting the property or affairs of the society,

commits an offence and on conviction shall be liable to imprisonment for a term of not less than five years.

Prohibition of use of the word "Cooperative"

**131.**-(1) A person other than a registered society shall not trade or carry on business under any name or title of which the word "Cooperative" or the word "Co-operative" its equivalent in any other language is part without the sanction of the Commission.

(2) A person other than a *bona fide* savings and credit society shall not trade or carry on business under any name or title of which the words "Saving and Credit Society" or their equivalent in any other language is part without the sanction of the Commission.

(3) A person who contravenes any of the provisions of this section, commits an offence and on conviction shall be liable to a fine of not less than two million shillings and in the case of a continuing offence, to further fine of one hundred thousand shillings for each day on which the offence is continued after conviction thereof.

Prohibition for interfering with management of Cooperative Societies

**132.**—(1) A member of a registered society who holds an appointed or elected political post or public office shall be deemed to have conflict of interest and not be eligible for being elected as a leader of a cooperative society or appointed as a member of the Board or any committee of the cooperative society.

(2) The provision of subsection (1), shall not apply to-

- (a) a public officer who serves in the management of a cooperative society which situates in the public officer's organisation; or
- (b) a political leader of a cooperative society established within a political party.

(3) A person who through his position or title, willfully and unreasonably interferes with the management or affairs of the cooperative society and as result thereof, the society suffers loss or fails to properly perform its functions, commits an offence and on conviction shall be liable to imprisonment for a term of not less than two years and the court may order the person to compensate any loss or damages occasioned to the society.

(4) For the purposes of this section:

“appointed or elected political post” means a position of Village Chairman, Village Council, Village Executive Officer, Ward Executive Officer, Councilor, District Commissioner, Regional Commissioner, a member of the parliament and any other person serving as a leader in a political party;

“interfere” means an act of interfering, hindering, obstructing, disturbing, blocking or impeding a cooperative society from proper performing its duties under this Act or as prescribed in its by-laws;

“public service office” shall carry the same meaning as ascribed to it under the Public Services Act.

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## PART XV

### MISCELLANEOUS PROVISIONS

- Appointment of prosecutors **133.** The Director of Public Prosecutions may, by notice published in the *Gazette* appoint Prosecutors who shall be responsible for the prosecution of cases involving cooperative societies.
- Code of conduct **134.**—(1) There shall be a code of conduct for management of cooperative societies as provided for in the Second Schedule.  
 (2) The Minister may, in consultation with the Commission amend or vary the provisions of the Third Schedule.  
 (3) The appointment and performance of duties by society executive staff and Board members shall be subject to the code of conduct.
- Immunity  
 Cap. 16 **135.** Without prejudice to the provisions of section 284A of the Penal Code, a matter done by a person exercising or purporting to exercise any function under this Act or under any subsidiary legislation made under this Act, if done in good faith shall not subject the person to any action, liability, claim or demand.
- Power to exempt societies from conditions of registration **136.** Notwithstanding anything contained in this Act, the Minister may, in the interest of members, by order published in the *Gazette* and subject to conditions, if any, as he may impose, exempt any society from any of the requirements of this Act as to registration.
- Appointment of special member to the Board **137.**—(1) Notwithstanding any other provisions of this Act, the Registrar may, subject to the provisions of this section, appoint special members to the Board of any registered society in receipt of financial assistance from the Government or if the Registrar considers the appointments to be necessary in the public interest or in the interest of the society.  
 (2) The number of special members appointed to a Board under this section shall not exceed one-third of the number

of ordinary members, including the Chairman and Vice Chairman of the Board.

(3) Special members appointed to the Board of a cooperative bank shall not exceed fifty percent of the number of ordinary members.

(4) For the purposes of this section-

(a) a society shall be deemed to be in receipt of financial assistance from the Government where-

(i) within the preceding two years, the society has received any grant of money from the Government;

(ii) any money has been lent to the society by the Government and the loan has not been repaid; or

(iii) any loan made to the society has been guaranteed by the Government and either the guarantee is still outstanding or the guarantee has been honoured by the Government and the society has not paid to the Government sums including interests, if any, thereon paid by the Government under the terms of the guarantee; and

(b) the expression "one-third" shall mean, where the number of members is not three or a multiple of three, the nearest whole number below one-third.

Terms of  
appointment and  
powers of special  
members

**138.**-(1) A special member of a Board appointed under section 137 shall remain a member of the Board until his appointment is determined by the Registrar.

(2) Where the Registrar has appointed special members to a Board, any special member may require that, any decision taken by the Board shall not have effect until the approval of the Registrar has been obtained and, any requirement is made in respect of any decisions, the decision shall be of no force or effect and shall not in any way be acted upon until the Registrar has signified approval thereof.

(3) In exercising powers conferred by subsection (2), a special member appointed to a Board shall, unless the Registrar otherwise directs, have the powers of an ordinary member of the Board.

Fees

**139.**—(1) Fees as may be prescribed under the Regulations shall be charged in respect of the following matters-

- (a) issue of registration certificate and by-laws;
- (b) the registration of amendments to by-laws;
- (c) a search in the registration register;
- (d) inspection of documents;
- (e) certified or uncertified copies of documents;
- (f) the registration of charges;
- (g) the inspection of register of charges; and
- (h) any other matter in respect of which a fee is chargeable under the provisions of this Act:

Provided that, the Registrar may, on the direction or approval of the Commission vary or waive any of the fees in the case of a primary society.

(2) Different fees may be prescribed for different types or kind of societies.

(3) The fee provided for under subsection (1) may be used by the Commission for regulatory purposes under the law for the time being in force.

Recovery of sums due to Government

**140.** The sums due from a registered society or an officer or member or past member of a registered society as to the Government due to and other recognised financial organisation, may be recovered in the manner provided for the recovery for debts due to the Government under the law for the time being in force.

Regulations  
Act No.  
10 of 2018 s. 68

**141.**—(1) The Minister may, after consultation with the Commission, make Regulations for better carrying on of the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the Minister may make Regulations-

- (a) prescribing the maximum number of shares or portion of the capital of a society which may be held by a member;
- (b) prescribing the various forms to be used under this Act, and the conditions to be complied with in the making

- of applications for the registration of society and the procedure in the matter of applications;
- (c) prescribing the matters in respect of which a society may or shall make by-laws and procedure to be followed in making, altering and abrogating by-laws, and the payment and interest to be made and the interest to be acquired before the exercise of the right of membership and provide for the termination of membership;
  - (d) prescribing the conditions to be complied with by persons applying for admission or admitted as members or provide for the election and admission of members;
  - (e) prescribing various fees payable under this Act;
  - (f) providing for the appointment, remuneration and terms of service of employees of a society;
  - (g) prescribing disciplinary procedures and other matters for employees and staff of the Commission;
  - (h) providing for the suspension and removal of members of society, Board members and supervisory committee and other relevant officers, and describe procedure of meetings of the Board and supervisory committee, and define the powers to be exercised and the duties to be performed by the Board and supervisory committee and other relevant officers, and provide for the delegation of the powers of the Board and supervisory committee;
  - (i) providing for procedures for dispute settlement;
  - (j) providing for the withdrawal and expulsion of members and for the payments, if any, to be made to members who withdraw or are expelled and for the liabilities of past members;
  - (k) providing for the mode in which the value of the interest of a deceased member shall be ascertained and nomination of any person to whom the interest may be paid or transferred;
  - (l) prescribing the payments to be made and the conditions to be complied with by members applying for loans,

the period for loans, and amount which may be lent, to an individual member and the manner in which the loans shall be repaid;

- (m) providing for the formation and maintenance of reserve funds, and the objects to which the funds may be applied, and the investment of any funds under the control of the society;
- (n) prescribing the extent to which a society may limit the number of its members;
- (o) prescribing the conditions under which accumulated funds may be distributed to the members of a society with unlimited liability and the maximum rate of dividend which may be paid by societies;
- (p) prescribing the conditions under which accumulated funds may be distributed to the members of a society with unlimited liability and the maximum rate of dividend which may be paid by societies;
- (q) providing for the powers to be exercised, the duties to be performed, the remunerations entitlement and other terms of service of a supervising manager;
- (r) providing for the audit of the accounts of registered societies and the charges, if any, to be made for the audit and provide for the levy of contributions from all or any registered societies to a fund to be used for the audit and supervision of existing societies and prescribe for the administration for such a fund; and
- (s) prescribing anything that may be, or is required to be prescribed under this Act.

Power of  
Commission to  
make rules

**142.** The Commission may make Rules prescribing-

- (a) the accounts and books to be kept by a society;
- (b) the returns to be submitted by a society to the Registrar and the persons by whom, the form and language in which the returns shall be submitted;
- (c) the maximum amount which a society may without the prior consent of the Registrar borrow either from members or from non-members;

- (d) the procedure for amalgamation and division of societies and conditions subject to which the amalgamation or division may be affected;
- (e) the submission of annual estimates for the approval of the Registrar;
- (f) the periodical publication of a balance sheet showing the assets and liabilities of a society;
- (g) the persons by whom and the form in which copies of entries in books of societies may be certified;
- (h) the form of the register of members and the particulars to be entered therein;
- (i) the manner in which funds may be raised by means of shares or debentures or otherwise and the form in which any application for financial assistance from Government, any bank or any financial institutions shall be made;
- (j) the procedure for general meetings of the members, powers to be exercised by the meetings, methods of summoning members to the meetings and giving notice to members for the meeting; and
- (k) anything for ensuring the proper administration of the affairs of registered societies.

Certain laws not to apply  
Cap. 212  
Cap. 208

**143.** The provisions of the Companies Act and the Business Names Registration Act, shall not apply to societies registered under this Act.

Repeal and transitional provisions  
Act No.  
20 of 2023

**144.**—(1) [Repeals the Cooperative Societies Act, 2003.]

(2) Notwithstanding the repealing of the Cooperatives Societies Act-

- (a) a society registered under the repealed Act shall be deemed to have been registered under this Act;
- (b) a board of a registered society lawfully constituted under the provisions of the repealed Act shall be deemed to have been constituted under this Act;

- (c) any document referring to the provisions of the repealed Act shall be construed as referring to the corresponding provisions of this Act;
- (d) any document referring to the provisions of the repealed Act shall be construed as referring to the corresponding provisions of this Act;
- (e) orders, directions, appointments and other acts and things lawfully made or done under any of the provisions of the repealed Act and are in force immediately before the commencement of this Act shall be deemed to have been made or done under the corresponding provisions of this Act and continue to have effect accordingly; and
- (f) Rules and Regulations made under the repealed Act and which are in force immediately prior to the date upon which this Act comes into operation, shall remain in force as if they had been made under this Act.

(3) Subject to this Act, where the registration of any society was cancelled, any immovable property which prior to the cancellation of the society vested in that society, and where subsequent to the cancellation of the society, another society with similar objects is formed in the area of operation of the society which is cancelled; the immovable property as has not been disposed off at the time when that other society is formed, shall vest in that other society.

(4) Where any property vested in that other society is subject of any mortgage, charge liability or any encumbrance whatsoever, then the liability to satisfy the mortgage, charge, liability or the encumbrance as the case may be, shall vest in that other society, and the name of that other society shall be substituted for that of the former society or for that of the liquidator in any contract or instrument where the property is the subject matter and the contract shall continue as if it has been entered into between that other society and the other party to the contract:

Provided that, any vesting of property under this subsection shall be subject to any directions that the Minister may give under this Act.

(5) The Minister may, by notice published in the *Gazette*, at any time before the expiry of twelve months from the commencement of this Act, make consequential, transitional or supplementary provisions as he may consider necessary consequent upon the enactment of this Act.

## FIRST SCHEDULE

(Made under section 7(5))

### PROVISIONS RELATING TO THE PROCEEDINGS OF THE COMMISSION

Meetings and  
procedure at  
meetings of  
Commission

1.-(1) The Commission shall meet quarterly in a calendar year and it may also convene an extra-ordinary meeting when the need arises.

(2) The Chairman or in his absence, the Vice Chairman may upon application in writing signed by not less than half of the members, convene a special meeting of the Commission within twenty one days upon receiving the written applications.

(3) The Secretary of the Commission shall give to each member adequate notice of the matters to be discussed time and place of meeting.

(4) The Commission may invite any person who is not a member to participate in the deliberations or its meetings but the person shall not be entitled to vote.

(5) At any meeting of the Commission in the absence of both the Chairman and the Vice Chairman, the members present shall elect one member from amongst themselves to preside at that meeting.

(6) Voting in elections shall be by secret ballot.

(7) The Chairman, Vice Chairman or a person presiding at any meeting of the Commission, in the event of equality of votes, shall have a casting vote.

Vice Chairman

2.-(1) There shall be Vice Chairman who shall be elected by the members of the Commission from amongst themselves in the first meeting.

(2) The tenure of Vice Chairman shall be one year and may be re-elected.

Quorum

3. At any meeting of the Commission, the quorum shall be not less than one half of the members.

Decisions of  
Commission

4.-(1) Subject to the provisions relating to vote cast, matters at a meeting of the Commission shall be determined by a majority of the votes of the members present.

(2) Notwithstanding subparagraph (1), a decision may be made by the Commission without a meeting by circulation of the relevant papers

	among the members, and the expression in writing of the views of the majority of the members shall be a decision of the Commission.
Minutes of meetings	<p><b>5.</b>—(1) The Commission shall cause to be recorded and kept minutes of business conducted or transacted at its meeting and the minutes of each meeting of the Commission signed by the Secretary shall be read and confirmed at the next meeting of the Commission and signed by the person presiding at the meeting.</p> <p>(2) Minutes purporting to be signed by the person presiding the meeting of the Commission shall in the absence of proof or error, be deemed to be a correct record of the meeting.</p>
Establishment of Committees	<b>6.</b> The Commission may establish Committees as it may consider necessary or expedient to assist it in the performance of its functions.
Vacancies, etc. not to invalidate acts	<b>7.</b> The validity of any act or proceeding of the Commission shall not be affected by any vacancy among its members or by any defect in the appointment of any of them.
Orders and directions	<p><b>8.</b> The orders, directions, notices or other documents made or issued on behalf of the Commission shall be signed by—</p> <p>(a) the Chairman of the Commission; or</p> <p>(b) the Secretary or any officer of the Commission authorised in writing in that behalf by the Secretary.</p>
Seal of the Commission	<b>9.</b> The seal of the Commission shall not be affixed to any instrument except in the presence of the Chairman or the Secretary and at least one member of the Commission.
Commission may regulate its own proceedings	<b>10.</b> Subject to the provisions of this Schedule, the Commission may regulate its own proceedings.
Tenure and conditions of service of Commissioners	<p><b>11.</b>—(1) A member of the Commission shall hold office for a period of three years from the date of his appointment and be eligible for re-appointment.</p> <p>(2) A member may resign from office by giving notice in writing to the appointing authority and the resignation shall take effect from the date specified in the notice, or if a date is not specified, from the date of the receipt of the notice by the appointing authority.</p>
Replacement of members	<b>12.</b> Where a member ceases to be a member for any reason before the expiration of his term of office, the appointing authority may appoint another person in his place, and the person appointed shall hold office for the remainder of the term of office of his predecessor.
Remuneration of commissioners	<b>13.</b> The Commission shall pay to its members an allowance to be determined by the Minister responsible for finance.

## SECOND SCHEDULE

(Made under section (134(1))

### CODE OF CONDUCT

#### PART I

#### PRELIMINARY PROVISIONS

- |                            |  |
|----------------------------|--|
| Title                      | <b>1.</b> This Code shall be known as “A Code of Conduct for Management of Cooperative Societies”.   |
| Interpretation<br>Cap. 211 | <p><b>2.</b> In this Code of Conduct unless the context otherwise requires:</p> <p>“Act” means the Cooperative Societies Act;</p> <p>“active member” means a member of the cooperative society who is fulfilling his or her obligations as a member as provided for in the Act, Regulations, Rules, By-laws and other cooperative guidelines as they may be issued by the cooperative general meeting;</p> <p>“Board” means the governing body of a registered society elected by members at the General Meeting to whom the management of its affairs is entrusted;</p> <p>“election supervising officer” means a cooperative officer or any other officer designated by the Registrar under paragraph 21 of this Code;</p> <p>“executive Staff” means officers of a society appointed by the Board and vested with powers to manage and supervise the day to day affairs of the society and include the general manager or secretary, accountant or treasurer heads of departments and cashier;</p> <p>“ICA” means International Cooperative Alliance;</p> <p>“Regulations” mean regulations made under the Act;</p> <p>“vetting” means conducting an investigation with a view of scrutinizing the integrity of applicants to a post in the management of Cooperative Societies in accordance to paragraph 16(3) of this Code of Conduct.</p> |

#### PART II

#### GENERAL PROVISIONS

- |                                   |  |
|-----------------------------------|--|
| Cooperative<br>society principles | <p><b>3.</b> Subject to the provisions of this Act, cooperative societies shall be managed according to the ICA cooperative principles which are-</p> <ol style="list-style-type: none"> <li>(a) voluntary and open membership;</li> <li>(b) democratic member control;</li> <li>(c) member economic participation;</li> <li>(d) autonomy and independence;</li> <li>(e) education training and information;</li> <li>(f) cooperation among cooperatives; and</li> <li>(g) concern for community.</li> </ol> |
|-----------------------------------|--|

Member of Board **4.** A cooperative society member aspiring to become a member of the Board or a person applying for a post in the executive staff shall have to prove to the satisfaction of the appointing or the electing body or authority, as the case may be, that, he understands and is prepared to enforce the Act and the rules.

Cooperative Society leadership **5.**—(1) A person applying for a post in the management of cooperative society shall be a person of high integrity, probity and good conduct, and the appointing authority shall ensure that—  
 (a) has attained at least secondary education sufficient to enable him to handle the relevant responsibilities;  
 (b) has ability to manage the affairs of the society;  
 (c) has a proven record of honesty;  
 (d) is active in the affairs of the society; and  
 (e) has never been convicted of an offence related to dishonest and sentenced to imprisonment for a term of not exceeding six months.

(2) Notwithstanding sub-paragraph (1)(a), member to be elected in the Board of a Cooperative Bank shall have qualification as may be prescribed by the Bank.

Board to ensure members attendance to general meeting **6.**—(1) The general meeting, being the highest decision making body of a cooperative society, shall be respected and given its appropriate importance.

(2) The cooperative Board shall make efforts to ensure that all members are informed of the General Meeting, as required by the Act, Regulations or by-law, and shall facilitate attendance of members to that meeting.

### PART III

#### BOARD OF COOPERATIVE SOCIETY

Board to be accountable to general meeting  
Election to Board **7.**—(1) The members of the Board shall be elected by the members at the general meeting.

**8.**—(1) Subject to the provisions of this Act and rules, the election of members to the Board shall be free and democratic and a member shall not be elected to the Board through illegal means.

(2) An election of the Board shall be made in the presence of the Election Supervising Officer.

(3) The Election Supervising Officer shall immediately report to the Registrar any irregularity or suspicion thereof in the manner of which members to the Board were elected.

(4) For the purpose of this section words—  
 “illegal means” means acts of corruption, coercion, intimidation or nepotism.

- Condition for members to fill forms **9.** A member aspiring to be elected to the Board shall have to fill a relevant form disclosing the following information-
- (a) personal details or personal history and experience in cooperative leadership;
  - (b) cooperative membership records indicating performance, records in fulfilling membership obligations provided in the Act, regulations and by-laws;
  - (c) anticipated contribution to the development of the cooperative society after becoming a cooperative leader;
  - (d) level of education;
  - (e) cooperative education already acquired;
  - (f) type of business or activities being undertaken by that member; and
  - (g) any other information deemed relevant for being elected as a Board member and shall submit forms to the Election Supervising Officer.
- Forms to indicate property owned **10.**-(1) A member of the Board shall, for each year fill relevant forms to be submitted to Registrar declaring property or business property he or she owns or controls.
- (2) The forms filled under sub-paragraph (1) of this paragraph shall be read at the annual general meeting by the Registrar or his representative.
- Conflict of interest by members **11.** Subject to the relevant provisions in this Act and Regulations, a member shall not be elected as a member to the Board if he owns, controls or influences businesses or activities like that of the cooperative society.
- Duplicity of roles **12.** Board members shall observe their roles and responsibilities provided in this rules and by-laws and Board member shall not interfere with responsibilities reserved for the executive staff of the cooperative society.
- Board members to attend seminar **13.** Before assuming the responsibilities of a Board, an elected Board member shall attend a seminar on cooperative management, which shall be organised by the cooperative society concerned.

#### PART IV

#### COOPERATIVE EXECUTIVE STAFF

- Executive staff to be appointed by Board **14.** Cooperative executive staff shall be appointed by the Board, and discharge their duties in accordance with the Act, Regulations and by-laws.
- Executive staff to be appointed on competence basis **15.**-(1) Executive staff of cooperatives shall be appointed on the basis of their competence in Executive running day to day activities of the cooperative society and an executive staff shall not be appointed staff to be for other reasons appointed on competence.

(2) The following reasons or grounds shall not be considered when appointing an executive staff.

- (a) relation with some of the members of the Board (nepotism);
- (b) colour or tribe;
- (c) wealth;
- (d) illegal means to induce a decision for appointment; and
- (e) any other reason which under the provisions of the Act, regulations or by-laws warrant such an appointment to be null and void.

Executive staff to be interviewed and vetted

**16.**—(1) Subject to provisions of paragraph 15(1), Regulations and by-laws, the vacancy for the executive staff shall be made known to the interviewed and vetted public thirty days before holding on interview.

(2) An appointment for filling any vacancy for executive staff shall be done on the basis of highest points or marks scored in any interview conducted for such purposes.

(3) In addition to an interview, officers seeking for appointments in management positions in cooperatives shall be vetted by the Registrar or any other person appointed on that behalf.

Conflict of interest

**17.** Subject to the relevant provisions in the Act, Regulations or by-laws, a person shall not be appointed as a member to the executive staff position if he or she owns, controls or commands influence of businesses or activities like that of the cooperative society.

Application forms

**18.** Application for an executive staff position shall be accompanied by relevant forms which indicate the following details forms:

A: Executive staff of the Primary Society-

- (i) level of education;
- (ii) understanding of both Kiswahili and English languages;
- (iii) capacity to be trained (trainability);
- (iv) names and addresses of at least two referees;
- (v) names and addresses of at least two guarantors;
- (vi) type of business or activities being undertaken by the applicant; and
- (vii) any other information deemed relevant.

B: Executive Staff of the Secondary and Upper Level Societies-

- (i) academic qualification relevant for the position applied for;
- (ii) knowledge and experience of cooperative society movement and its relevance to the members;
- (iii) knowledge and understanding of the culture and norms of the society or community of the members of the relevant cooperative society;
- (iv) names and addresses of at least two referees;
- (v) names and addresses of at least two guarantors;

- (vi) type of business or activities being undertaken by the applicant; and
- (vii) any other information deemed relevant.

Additional requirements to Executive staff of upper level societies

**19.**—(1) In addition to the information disclosed under paragraph 18, persons applying for an executive staff position at the secondary and Upper Level Societies shall, for each year of which they are in the executive staff position, fill relevant forms to declare property and business they own or control.

(2) The forms filled under subparagraph (1) of this paragraph shall be read at the Board meeting by the Registrar or his representative.

## PART V

### MISCELLANEOUS PROVISIONS

Honorarium or bonus

**20.**—(1) Subject to the relevant provisions in the Act or Regulations and in recognition of outstanding performance, cooperative society shall establish a system of reward, by way of honorarium or bonus, to members of the cooperative Board or executive staff whose performance in the cooperative management is of outstanding quality.

(2) The honorarium or bonus may be given on a group or individual basis.

(3) The honorarium or bonus rewarded under this paragraph shall be approved by the General meeting and sanctioned by the Registrar.

Registrar to designate election supervising officers

**21.** The Registrar shall appoint officer from the civil service or cooperative movement and designate them as election supervising officers.

Cease to hold leadership

**22.**—(1) A person may voluntarily cease to hold a leadership position of cooperative society.

(2) Where before ceasing to hold a relevant position as provided for under the provision of subparagraph (1), the person concerned, due to negligence or fraudulent behaviors, performed acts which as a result of his acts, the cooperative society suffered loss, that person together with his or her guarantors shall be liable and in respect of cooperative societies compensate full the cooperative society for the loss occasioned.

Automatic loss of positions in cooperative systems as result of breach of Code

**23.** In addition to the penalties provided for under section 126 of this Act, a person who contravenes the provisions of this Code, shall automatically lose leadership positions he is holding in the cooperative system before that contravention.

### THIRD SCHEDULE

(Made under section 68(2))

#### PROVISIONS RELATING TO THE MANAGEMENT OF REGISTERED SOCIETIES

- General meeting 1.-(1) The general meeting shall have the following functions-
- (a) the election, suspension or removal of members of the Board;
  - (b) the consideration and adoption of the annual balance sheet;
  - (c) the disposal of sums available for distribution;
  - (d) determining the amount of honoraria, if any, for unsalaried officers and Board members;
  - (e) receiving the report from the Board Committee; and
  - (f) the acquisition or disposal by the society of all immovable property and of movable property of such value as provided for in the regulations.
- (2) A society shall hold a general meeting at least once in a year.
- (3) The Registrar, or any other person authorised by him may-
- (a) summon a special general meeting of the society in such a manner and at such time and place as he may direct; and
  - (b) direct what matters shall be discussed at the meeting.
- (4) The meeting of the society shall have the powers and subject to the same regulations as meeting called in accordance with the by-laws of the society.
- (5) A Special General Meeting shall be held by a society where-
- (a) at least one third of members signify in writing their mention to hold such meeting; or
  - (b) the Board may cause to be convened a Special General Meeting:
- Provided that, where the procedure to hold a Special General Meeting under item (b) fails, an application to hold a meeting shall be lodged to the Registrar.
- (6) Notwithstanding the provisions of this Act, a registered society may owing to its size and scope provide in its by-laws for a constitution of a meeting of delegates in place of general meeting through the creation of basic units to attend general meeting of that society for and on behalf of members.
- (7) Where for the purpose of this Act, any question arises as to whether-
- (a) a person is following a relevant trade to the society;
  - (b) a person is a resident in the area of operation;
  - (c) two or more societies be considered to form a joint venture; or
  - (d) a person has attained the age of eighteen years; shall be decided by the members at a general meeting.

(8) A person aggrieved by a decision of the members at a general meeting as given under subparagraph (7), may in writing appeal to the Registrar.

(9) Where the party is not satisfied with the decision of the Registrar, he shall in writing appeal to the Commission, and the decision of the Commission shall be final.

Establishment of Board

2. A registered society shall establish a Board to manage its day to day activities.

#### Constitution of Board

3.–(1) A Board of a registered society shall consist of not less than five members and not more than nine members including the Board Chairman and Vice Chairman.

(2) Members of the Board shall be elected by the general meeting of the society and hold office for a period of up to three years but subject to re-election for another one term.

(3) Where a person is selected to the Board to fill a vacancy caused by death, resignation or removal of a member of the Board, the person shall hold office for the remainder of the term of office of his predecessor.

Powers of Board

4.–(1) The Board shall exercise powers necessary to ensure the proper administration of the society subject to the by-laws of the society, the regulations and any resolutions passed at the general meeting.

(2) The Board may, appoint a suitable person to administer and manage affairs of the society and employ a number of persons as the Board may think fit to assist the person in the discharge of his functions:

Provided that, the person shall not have a record of previous conviction on a criminal charge involving dishonesty or by a person who has in the past been dismissed from public service on ground of mismanagement or on any disciplinary ground.

(3) Where a person employed under subparagraph (2) is not performing his functions satisfactorily, the Board shall terminate the employment of the person subject to any law for the time being regulating termination of employment.

Restriction relating to members of Board

5.–(1) A member of the Board of a registered society shall hold an office of profit under the society.

(2) A member of the Board of a registered society may receive an honorarium from the society as determined and authorised by the general meeting, subject to the provisions of subparagraph (4).

(3) A member of the Board who is in the employment of a registered society other than the society to which he is a member and is in receipt of emoluments for such employment shall not be entitled to receive any honorarium as a member of the Board.

(4) The honorarium if any, may be paid only by Primary and Secondary societies.

(5) A member shall not be elected as a member to the Board if he controls or influences business or activities like that of the Cooperative society.

Suspension and election of new Board

**6.**—(1) Where the Registrar after giving consideration to the inspection and audit report or after giving an order under section 57 is of the opinion that, the Board of a registered society is not performing its duties properly, he shall cause to be held a Special General Meeting by notice in writing and advise it as appropriate.

(2) Where the Special General Meeting resolves to suspend member of the Board, it shall—

- (a) elect a caretaker Board from amongst the delegates to administer the affairs of the society; and
- (b) require the suspended members to state their objections if any in writing jointly and severally in the next general meeting.

(3) Where after giving an opportunity to the Board to state its objections, if any, of its suspension in the general meeting and the latter disapproves the objections, then a new Board shall be elected to that effect by the general meeting.

(4) Subject to subparagraph (1), where the special general meeting resolves to disagree with the advise of the Registrar on financial malpractices the effects of which the society is rendered unable to settle its liabilities, the members shall be liable for the payment or the debts.

Power of Registrar

**7.**—(1) Subject to the provisions of paragraph 6, where the Registrar is satisfied that, it is in the interest of the members, he shall remove the Board and appoint a caretaker Board which shall have the duty to manage the affairs of a registered society and to comply with the directions which the Special General Meeting may give and the appointed caretaker Board shall serve for the period of not exceeding one year.

(2) Where the Registrar removes the Board under subparagraph (1), the member of the Board removed may appeal to the Commission and the decision of the Commission shall be final.

Powers of persons appointed under paragraph 7

**8.** Subject to the general direction and control of the special general meeting, a person or persons appointed under paragraph 7 to assume the functions of the Board of any registered society shall have the powers, rights and privileges of a duly constituted Board of the Society.