

LAWS OF BRUNEI

CHAPTER 84

CO-OPERATIVE SOCIETIES

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CHAPTER 84
CO-OPERATIVE SOCIETIES
ARRANGEMENT OF SECTIONS

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CO-OPERATIVE SOCIETIES ACT

An Act to make provision for the establishment of Co-operative Societies

Commencement: 1st July 1975
[S 92/1975]

PART I PRELIMINARY

Citation.

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

Interpretation. *[S 61/2012]*

2. In this Act, unless the context otherwise requires —

“Board” has the same meaning as “committee members”;

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

“bonus shares” means the additional value of the shares as a result of the re-assessment of the society’s property;

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

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

“co-operative principles” includes —

- (a) voluntary and open membership;
- (b) member control;
- (c) member economic participations;
- (d) autonomy and independence;

- (e) education, training and information;
- (f) co-operation among co-operatives; and
- (g) concern for community;

“delegate” means —

(a) a representative of the individual members elected at a district meeting of members of a primary society in which the general meeting of members is replaced by a general meeting of delegates; or

(b) a representative of a registered society which is itself a member of another registered society, the meetings of which such representative has been elected or appointed to attend;

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

“inaugural general meeting” means the general meeting at which persons desirous of forming a co-operative society resolve to form a society, to adopt the by-laws proposed for the society and to apply for the registration of the society;

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

“Minister” means Minister responsible for co-operative societies’ matters;

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

“primary society” means a society registered under section 4;

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

“Registrar” means the Registrar of Co-operative Societies appointed under section 3 and includes any person when exercising such powers of the Registrar as may be conferred upon him under that section;

“rules” means rules made under this Act;

“secondary society” means a society registered under section 4;

“subsidiary” of a registered society means a company incorporated under the Companies Act (Chapter 39);

“tertiary society” means a society registered under section 4.

PART II

REGISTRATION

Appointment of Registrar.

3. (1) His Majesty the Sultan and Yang Di-Pertuan shall appoint a fit and proper person to be Registrar of Co-operative Societies for Brunei Darussalam and may appoint persons to assist such Registrar, and may, by general or special order published in the *Gazette*, confer on any such persons all or any of the powers of a Registrar under this Act.

(2) Any act or thing directed to be done by or to the Registrar may be done by or to any officer authorised by the Minister.

Societies which may be registered. [S 61/2012]

4. (1) A society which consists only of persons and which has as its object the promotion of the economic interest of its members in accordance with co-operative principles may be registered under this Act as a primary society.

(2) A society which consists only of primary societies and which has as its object the facilitation of the operations of such societies may be registered under this Act as a secondary society.

(3) A society which consist only of secondary societies, or of secondary and primary societies, and which has as its object the facilitation of the operations of such societies may be registered under this Act as a tertiary society.

Conditions of registration. [S 61/2012]

5. (1) No society shall be registered as a primary society unless —

(a) it consists of at least thirty persons; and

(b) every such person is qualified for membership under section 21.

(2) No society shall be registered as a secondary society unless it consists of at least two primary societies.

(3) No society shall be registered as a tertiary society unless it consists of at least two secondary societies and one primary society.

Application for registration. [S 61/2012]

6. (1) Every application for registration shall be submitted to the Registrar in the prescribed form and shall be signed —

(a) in the case of a primary society, by at least ten persons all of whom are qualified for membership;

(b) in the case of a secondary society or tertiary society, by a duly authorised person on behalf of each primary society or secondary society, as the case may be.

(2) The application for registration shall be accompanied by —

(a) copies of the proposed by-laws, signed by the applicants;

(b) minutes of the inaugural general meeting, signed by the applicants;

(c) one activity report in progress; and

(d) the prescribed registration fees.

Requirements before registration. [S 61/2012]

6A. The Registrar may require an applicant to furnish such additional information regarding the proposed society including —

(a) the economic or other needs for the formation of the proposed society;

(b) a statement regarding the viability of the activities of the proposed society;

(c) the availability of sufficient capital for the commencement of operations; and

(d) the availability of officers capable of directing and managing the affairs of the proposed society and of keeping such records and accounts of the society as he may require.

Registration. [S 61/2012]

7. (1) If the Registrar is satisfied that a society has complied with any provisions of this Act, that its proposed by-laws are not contrary to this Act and that the proposed undertaking of the society is likely to be viable, he shall register the society and its by-laws.

(2) The word “Co-operative” or its vernacular equivalent shall form part of the name of every society registered under this Act.

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

(4) In every case in which the Registrar refuses to register a society, he shall communicate his decision to the applicants without assigning any reason whatsoever.

(5) An appeal against the refusal of the Registrar to register a proposed society shall lie to the Minister within one month from the date of such refusal, and the decision of the Minister shall be final.

(6) On application for registration, the society shall pay such fees as may be prescribed by the rules.

Societies to be bodies corporate.

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

Evidence of registration.

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

PART III

DUTIES AND PRIVILEGES OF SOCIETIES

Amendment of by-laws of registered society.

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

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

(3) If the Registrar is satisfied that any amendment of the by-laws is not contrary to this Act or to the rules, he may, if he thinks fit, register the amendment. An appeal shall lie to the Minister against the refusal of the Registrar to register any amendment of any by-law within one month from the date of such refusal.

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

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

Formation of subsidiaries. [S 61/2012]

10A. (1) No registered society shall form, own, acquire or hold a subsidiary without the approval of the Registrar.

(2) The Registrar may approve a society to form a subsidiary if —

(a) the by-laws of the society make provision for such formation;

(b) the activity of such subsidiary is related to the society;

(c) the activity of the subsidiary is such that it can only be performed by the subsidiary;

(d) the formation of such subsidiary benefits all members of the society and is not prejudicial to the interest of the members of the society;

(e) the formation of such subsidiary does not pose a threat to the society;

(f) such subsidiary is approved by the general meeting;

(g) the society has been operating profitably for a least 2 years continuously and has a healthy cash balance;

(h) such subsidiary has a long term objective.

(3) For the purpose of subsection (1), the society must submit the following to the Registrar —

(a) current audited accounts;

(b) minutes of the last annual general meeting;

(c) current list of management personnel.

Address of society.

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

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

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

Disposal of produce to or through registered society.

13. (1) A registered society which has as one of its objects the disposal of any article produced or obtained by the work or industry of its members, whether the produce of agriculture, animal husbandry, forestry, fisheries, handicraft or otherwise, may provide in its by-laws or may otherwise contract with its members that —

(a) every such member who produces any such article shall dispose of the whole or any specified amount, proportion or description thereof to or through the society; and

(b) any member who is proved or adjudged, in such manner as may be prescribed by the rules, to be guilty of a breach of the by-laws or contract, pay to the society as liquidated damages a sum ascertained or assessed in such manner as may be prescribed by the rules or its by-laws.

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

Creation of charges in favour of registered societies.

14. Subject to any prior claim of the Government on the property of the debtor and to the *lien* or claim of a landlord in respect of rent or any money recoverable as rent and in the case of immovable property to any prior registered charge thereon —

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

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

(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 payable to such society shall be a first charge upon his interest in the immovable property of the society.

Charge and set-off in respect of shares or interests of members.

15. A registered society shall have a charge upon —

(a) the shares or interest in the capital;

(b) the deposits of a member or past member or deceased member; and

(c) any dividend, bonus or profits payable to a member or past member or to the estate of a deceased member,

in respect of any debt due to the society from such member or past member or estate and may set off any sum credited or payable to a member or estate of a deceased member in or towards payment of any such debt.

Shares or interest not liable to attachment or sale.

16. Subject to the provisions of section 15, the share or interest of a member in the capital of a registered society shall not be liable to attachment or sale under any decree or order of a court in respect of any debt or liability incurred by such member, and neither his assignee in insolvency nor a receiver duly appointed shall be entitled to, or have any claim on, such share or interest.

Power to deal with property and interest of deceased members.

[S 61/2012]

17. (1) On the death of a member, a registered society may transfer the share or interest of such member —

(a) in the case of a deceased member who was a Muslim, to the legal representative of such member or to such person as may appear to the committee members to be a person entitled to such share or interest pursuant to any distribution made under any law relating to the distribution of estates;

(b) in the case of a deceased member who was not a Muslim, to the person nominated in accordance with the rules on his behalf or, if there is no such person so nominated, to such person as may appear to the committee members to be the successor or legal representative of such member,

or may pay to such person, successor or legal representative, as the case may be, a sum representing the value of the deceased member's share or interest, as ascertained in accordance with the rules or its by-laws.

(2) If the deceased member was not a Muslim, and the successor or legal representative is not qualified for membership in accordance with this Act, the rules or the by-laws, the registered society may, on the application of the successor or legal representative within 6 months of the death of the member, transfer his share or interest to any person specified in the application who is so qualified.

(3) Notwithstanding subsection (1), if 6 months have elapsed since the death of a member who was a Muslim and —

(a) the registered society is unable to ascertain who is the legal representative of the member;

(b) no legal representative has been appointed or the estate of the member has not been distributed; or

(c) the estate of such member has been distributed but the registered society is unable to ascertain who is the person entitled to such share or interest pursuant to the distribution,

the registered society may pay to the Probate Officer a sum representing the value of the share or interest of such member, as ascertained in accordance with the rules or its by-laws.

(4) A registered society may pay all other moneys due to a deceased member from the registered society to the legal representative, Probate Officer, successor or other person, as the case may be, referred to in subsection (1) or (3).

Deposits by or on behalf of minors.

18. (1) A registered society may receive deposits from or for the benefit of minors and it shall be lawful for a registered society to pay such minors

the interest which may become due on such deposits. Any deposits made by a minor may, together with the interest accrued thereon, be paid to that minor; and any deposit made on behalf of a minor may, together with the interest accrued thereon, be paid to the guardian of that minor for the use of the minor.

(1A) Any deposit made by or for the benefit of the minor may, together with the bonus, be paid to the minor or to the guardian of that minor for the use of that minor.

[S 61/2012]

(2) 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.

Register of members.

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

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

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

Proof of entries in books of society.

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

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

PART IV

RIGHTS AND LIABILITIES OF MEMBERS

Qualifications for membership. [S 61/2012]

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

(a) be a citizen of Brunei Darussalam or a permanent resident;

(b) have attained the age of 18 years or, if he is a member of a school co-operative society, have attained the age of 12 years and be a registered student of that school; and

(c) meet such other requirements regarding residence, employment and occupation, as may be prescribed by the by-laws,

except that no person shall be admitted to membership who is legally or mentally disabled or who is a bankrupt or against whom a conviction stands for an offence punishable with imprisonment.

Members not to exercise rights till due payment made.

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

Restriction of membership in society.

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

Votes of members.

24. (1) Each member or delegate of members of a registered society shall have one vote only as a member, in the affairs of the registered society except that in case of an equality of votes the chairman shall have a casting vote in addition to his vote as a member.

[S 61/2012]

Provided that a registered society which is a member of any other registered society shall have as many votes as may be prescribed by the by-

laws of such other society, and may, subject to such by-laws, appoint any number of its members not exceeding the number of such votes, to exercise its voting power.

[S 61/2012]

(2) Notwithstanding subsection (1), a member of a secondary or a tertiary society may have such voting powers as are provided by the by-laws of the secondary or tertiary society.

[S 61/2012]

(3) Subject to sections 24A and 28A, no member shall vote through another member and no delegate shall vote through another delegate.

[S 61/2012]

Representation by proxy. *[S 61/2012]*

24A. A member of a secondary or a tertiary society may appoint any one of its delegates, who must be a member of its Board, as its proxy for the purpose of voting in the conduct of the affairs of the secondary or tertiary society.

Contracts with society of members who are minors.

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

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

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

Restrictions on transfer or charge of share or interest.

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

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

(a) he has held such share or interest for not less than one year; and

(b) the transfer or charge is made to the society, or to a member of the society, or to a person whose application for membership has been accepted by the committee members.

[S 61/2012]

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

28. (1) The liability of a past member for the debts of a registered society as they existed on the date on which he ceased to be a member shall not continue for a period of more than 2 years reckoned from that date.

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

General meetings. [S 61/2012]

28A. Subject to this Act, the rules and the by-laws, the ultimate authority of a registered society shall vest in the general meeting of its members, at which every member by himself or by delegate, or, in the case of a secondary society as tertiary society, by proxy, has a right to attend and vote.

First general meeting. [S 61/2012]

28B. (1) Every registered society shall, within 6 months after receipt of the certificate of registration, hold a first general meeting of members or delegates.

(2) The business of the first general meeting shall include the election of office bearers who shall serve until the first annual general meeting and who shall be eligible for re-election.

Annual general meeting. [S 61/2012]

28C. Every registered society shall hold an annual general meeting of members or delegates not later than 6 months after the close of each financial year.

Board of registered society. [S 61/2012]

28D. Subject to the rules, order or guidelines, a registered society shall have a Board, which shall consist of not less than seven and not more than fifteen members duly appointed at the annual general meeting.

Establishment of Internal Audit Committee. [S 61/2012]

28E. (1) The Board shall establish an Internal Audit Committee consisting of not less than two members appointed by the Board.

(2) The duties of the Committee shall be provided in the by-laws.

Eligibility for appointment to Board. [S 61/2012]

28F. (1) No person shall be appointed to the Board or remain as a member of the Board of a registered society if he has been —

(a) convicted for an offence against this Act;

(b) dismissed as an officer of a registered society.

(2) Notwithstanding subsection (1), a registered society shall, prior to the appointment of any person as a member of the Board, seek verification from the Registrar on whether such person satisfies the fit and proper criteria as may be specified by the Registrar.

(3) Upon verification that such person has satisfied the fit and proper criteria under subsection (2), the registered society may appoint or re-appoint such person as member of the Board.

(4) From the third year of registration of a society, no person shall be appointed to be a member of the Board of such registered society unless he has been a member of such registered society for a minimum period of 2 years.

Duties and powers of Board. [S 61/2012]

28G. The Board of a registered society shall —

(a) represent the registered society before all competent public authorities and in all dealings and transactions with third party;

(b) have power to institute or defend suits brought in the name of the registered society;

(c) in general, direct, manage and supervise the business, the funds and the property of the registered society; and

(d) exercise all the necessary powers to ensure the full and proper administration and management of the affairs, business or activities of the registered society including business or activities of the registered society as required under the rules, except these powers reserved for the general meeting of members or delegates.

Disclosure of conflict of interest by member of Board. [S 61/2012]

28H. (1) A member of the Board of a registered society who holds an office or possesses property by which, whether directly or indirectly a duty or interest may arise, in conflict with his duty or interest as member of the Board, shall declare the fact, nature and extent of the conflict which may arise at the first meeting of the Board held —

(a) after he becomes a member of the Board of a registered society; or

(b) if he is already a member of the Board of a registered society after he commences to hold office or to possess the property by which the conflict may arise.

(2) Any member of the Board of a registered society who fails to comply with subsection (1) is guilty of an offence and liable on conviction to a fine not exceeding \$10,000, imprisonment for a term not exceeding 6 months or both.

Liability of members of Board. [S 61/2012]

28I. In the conduct of the affairs of a registered society, the members of the Board of such registered society shall exercise the prudence and diligence of ordinary men of business and shall be jointly and severally liable for any loss sustained through failure to exercise such prudence and diligence or through any act which is contrary to the Act, the rules or the by-laws of such registered society or the direction of its general meeting.

PART IV A

[S 61/2012]

AMALGAMATION AND TRANSFERS

Amalgamation of societies.

28J. (1) Any two or more societies may, at general meetings specially called for that purpose, resolve to amalgamate into one society.

(2) The resolution to amalgamate into one society shall be passed at those meetings by not less than three-quarters of the members present and voting.

(3) Whenever an amalgamation involves the transfer of liabilities by one society to another society, 3 months' notice of the amalgamation shall be given to all creditors of the amalgamating societies.

(4) Creditors of any of the amalgamating societies shall be entitled to a refund of any sum due to them if they make a written demand to this effect at least one month before the date fixed for the amalgamation, but if the amalgamating societies obtain the prior agreement in writing of not less than three-quarters in value of the creditors not to make a demand for such a refund, then, in that event, the agreement shall be binding on all the creditors.

(5) A member of the amalgamating societies may, notwithstanding any by-law to the contrary, by notice in writing given to his society at least one month before the date specified as the date of amalgamation, declare his intention not to become a member of the amalgamated society.

(6) Where the Registrar is satisfied that —

(a) the proposed amalgamation is not against the interests of the members of the societies proposing the amalgamation;

(b) the proposed by-laws of the proposed amalgamated society are in accordance with this Act; and

(c) all the requirements laid down in subsections (1), (2) and (3) have been complied with,

he shall register the amalgamated society and its by-laws and thereupon —

- (i) the registration of all the amalgamating societies shall be cancelled and the amalgamating societies shall be dissolved;
- (ii) the registration of the amalgamated society shall be a sufficient conveyance without further assurance to vest the assets and liabilities of the amalgamating societies in the amalgamated society;
- (iii) the remaining members of the amalgamating societies shall become members of the amalgamated society subject to its by-laws; and
- (iv) the creditors of the amalgamating societies and any other persons who have claims against the amalgamating societies and whose claims were not satisfied before the registration of the amalgamated society may pursue their claims or causes of action against the amalgamated society.

Transfer of societies.

28K. (1) A society may at a general meeting specially called for that purpose, resolve to transfer its assets and liabilities to another society which is prepared to accept them (which latter society is in this section referred to as the receiving society).

(2) The resolution to transfer the assets and liabilities to a receiving society has to be passed at the general meeting of the transferring society by not less than three-quarters of the members present and voting.

(3) Wherever the transfer of assets and liabilities involves the transfer of liabilities by the transferring society to the receiving society, 3 months' notice of the transfer shall be given to all creditors of the transferring society.

(4) Creditors of the transferring society shall be entitled to a refund of any sum due to them if they make a written demand to this effect at least one month before the date fixed for the transfer.

(5) A member of the transferring society may, notwithstanding any by-law to the contrary, by notice in writing given to his society at least one month before the date specified as the date of transfer, declare his intention not to become a member of the receiving society.

(6) Where the Registrar is satisfied that —

(a) the proposed transfer is not against the interests of the members of the transferring society; and

(b) all the requirements laid down in subsections (1), (2) and (3) have been complied with,

he may approve the transfer and thereupon —

- (i) the registration of the transferring society shall be cancelled and the transferring society shall be dissolved;
- (ii) the approved resolution in accordance with subsection (2) shall be a sufficient conveyance without further assurance to vest the assets and liabilities of the transferring society in the receiving society;
- (iii) the remaining members of the transferring society shall become members of the receiving society, subject to its by-laws; and
- (iv) the creditors of the transferring society and any other person who have claims against the transferring society and whose claims were not satisfied before the approval of transfer by the Registrar may pursue their claims or causes of action against the receiving society.

PART V

PROPERTY AND FUNDS OF REGISTERED SOCIETIES

Loans made by registered society.

29. (1) No registered society shall grant any loan to any person except to —

- (a) its members;
- (b) its employees;
- (c) its subsidiary or subsidiaries; or

(d) another registered society,

and such loan shall be subject to —

- (i) the rules and by-laws of the society; and
- (ii) in the case of its subsidiary or subsidiaries or another registered society, the approval of the Registrar.

[S 61/2012]

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

(3) The Minister may, by general or special order, prohibit or restrict the lending of money on a mortgage or charge of any description of immovable property by any registered society or class of registered societies.

Deposits and loans received by registered society.

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

Restriction on other transaction with non-members.

31. Save as is provided in sections 29 and 30, the transactions of a registered society with persons other than members shall be subject to such prohibitions and restrictions as may be prescribed by the rules.

Investment of funds. [S 61/2012]

32. (1) Subject to the rules and its by-laws, a registered society may invest or deposit its surplus funds in —

(a) any financial institution licensed under the Banking Order, 2006 (S 45/2006) or the Islamic Banking Order, 2008 (S 96/2008) approved for this purpose by the Registrar;

(b) any financial institution established by the Government;

(c) any registered society approved for this purpose by the Registrar;

(d) any bonds or securities issued in Brunei Darussalam under any written law;

(e) such other investments and securities as are authorised under any written law for the investment of trust funds.

(2) No registered society shall invest its surplus funds in any other mode, except with the approval of the Registrar, in —

(a) the shares or securities of any other registered society;

(b) the share capital or convertible or redeemable debenture stocks of any company or any body corporate registered in Brunei Darussalam, other than those specified in subsection (1);

(c) any joint venture company; or

(d) its subsidiaries.

(3) No registered society shall invest its funds exceeding a limit which shall be determined by its general meeting.

Capital gains. [S 61/2012]

32A. (1) A registered society shall credit to its Capital Reserve Account all capital gains arising from —

(a) the sale of land, buildings or both, as fixed assets;

(b) the re-valuation of land, buildings or both, as fixed assets, with the approval of the Registrar.

(2) The capital gains referred to in subsection (1)(a) may be utilised by the registered society for all or any of the following purposes —

(a) the issue of bonus shares;

(b) the writing off of accumulated losses; and

(c) the creation of a Bonus Share Redemption Fund.

(3) No registered society shall utilise the capital gains referred to in subsection (1)(a) for the purpose of issuing bonus shares unless and until all its accumulated and current losses, if any, have been completely written off.

(4) The capital gains referred to in subsection (1)(b) may be utilised by the registered society for the issue to its members of bonus shares which shall not be withdrawn but which may, with the approval of the committee members or members of the directorate, be transferred to another member of that society or, in the case of a member who dies after the issue of bonus shares, be paid out of the Bonus Share Redemption Fund of that registered society.

(5) The bonus shares redeemed by a registered society may be re-issued as bonus shares to its member in accordance with its by-laws.

(6) A register of bonus shares shall be maintained by the registered society.

(7) This section does not apply to a registered society that is required by the provisions of any other written law to deal with its capital gains in the manner provided in that law.

Disposal of profits. [S 61/2012]

33. (1) At least one-fifth of the net profits of every registered society, ascertained by the audit required by section 34, shall be carried to a fund called the reserve fund, which shall be employed as stipulated by the rules:

Provided that the Registrar may, in his discretion, lower the percentage of contribution or exempt a society from the obligation to maintain a reserve fund.

(2) Every registered society shall out of its audited net profits pay into its development fund 5 *per cent* for the preceding year to —

(a) any co-operative educational institution; or

(b) any secondary or tertiary society which the Minister has declared to be a body representing the co-operative movement at national and international level,

established under the rules for the furtherance of co-operative principles.

(3) No secondary or tertiary society shall be declared under subsection (2)(b) to be a body representing the co-operative movement at national and international level unless —

(a) the objects of such society include the promotion of co-operative principles and the facilitation of the operations of registered societies; and

(b) the by-laws of such society provide for the affiliation of all registered societies without any restrictions or the payment of any fee except entrance fees.

(4) After deductions have been made under subsections (1) and (2), the remainder of such profits and any profits of past years available for distribution may be divided among members by way of dividend or bonus, or allocated to any funds constituted by the society to such extent or under conditions as may be prescribed by the rules or by-laws:

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

(5) Any registered society may, with the approval of the Registrar, after one-fifth of the net profits in any year has been carried to a reserve fund and 5 *per cent* out of its audited profits to a development fund, contribute an amount not exceeding 10 *per cent* of the remaining net profits to any charitable purposes or to a common-good fund.

PART VI

AUDIT, INSPECTION AND INQUIRY

Audit.

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

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

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

(a) to summon at the time of his audit any officer, agent, servant or member of the society who he has reason to believe can give material information in regard to any transactions of the society or the management of its affairs; or

(b) to require the production of any book or document relating to the affairs of, or any cash or securities belonging to, the society by the officer, agent, servant or member in possession of such book, document, cash or securities.

Approval of auditor of registered societies. [S 61/2012]

34A. (1) For the purposes of section 34(1), the Registrar may upon the payment of such fees as may be prescribed, approve any competent person to audit the accounts of a registered society or societies, as the case may be, under this Act if —

(a) such person applies in writing to the Registrar to be so approved; and

(b) the Registrar is satisfied that such person is fit and competent to be so approved.

(2) No person shall be approved to audit nor shall he audit the accounts of the same registered society for any continuous period exceeding 6 years, but such person may be approved to audit and may resume auditing the accounts of a registered society 2 years after he has ceased to audit the accounts of that registered society.

(3) For the purposes of subsection (2), the approval for a further period of an auditor, which immediately follows his ceasing to act as the auditor of the same registered society, shall be construed as making the period continuous.

Annual reports, accounts and financial statements. [S 61/2012]

34B. (1) A society shall, as soon as practicable but not later than 6 months after the close of each financial year, submit to the Registrar an annual report on its activities during the year together with two certified true copies of the audited financial statements of the society and the audit report for that year.

(2) The society shall keep proper accounts and records of its transactions and affairs and shall do all things necessary to ensure that all payments out of its moneys are correctly made and properly authorised and that adequate control is maintained over the assets of, or in custody of, the society and over the expenditure incurred by the society.

(3) The society shall, as soon as practicable but not later than 6 months after the close of the financial year, prepare and submit the financial statements in respect of that year to the auditor who shall audit and report on them.

(4) Notwithstanding subsection (3), the Registrar may, on application by a society, extend the period of 6 months referred to in that subsection, if for any special reason he thinks fit to do so.

(5) The financial statements, accounts and other relevant reports of a registered society and its subsidiary or subsidiaries, if any, duly audited, shall be submitted to its members not less than 15 days and to the Registrar not less than 30 days before the annual general meeting, and the Registrar may make such observations as he deems fit on the financial statements, accounts and the reports.

Duties of auditor. [S 61/2012]

34C. (1) The auditor shall inspect and audit the accounts and other relevant records of the society and shall forthwith draw the attention of the Registrar and the society to any irregularity disclosed by the inspection and audit that is, in the opinion of the auditor, of sufficient importance to justify his so doing. The financial statements submitted by the society after the close of the financial year shall be audited and reported on by the auditor.

(2) The auditor shall report —

(a) whether the financial statements give a true and fair view of the financial transactions and the state of affairs of the society; and

(b) such other matters arising from the audit as he considers should be reported.

(3) The auditor shall state in his report whether —

(a) proper accounting and other records have been kept; and

(b) the receipt, expenditure and investment of moneys and the acquisition and disposal of assets by the society during the year have been in accordance with the by-laws and the provisions of this Act and the rules.

(4) The auditor may at any other time report to the Registrar and the society upon any matters arising out of the performance of the audit.

(5) The audit of the accounts of a registered society shall include an examination of and report on overdue debts, if any, and an examination of and report on the valuation of the assets and liabilities of the society.

Power of Registrar to inspect societies' books etc.

35. The Registrar or any person authorised by general or special order in writing by the Registrar shall —

(a) at all times have access to all the books, accounts, papers securities, device, apparatus, material, computer program or the computer software of a registered society; and

(b) be entitled to inspect the cash in hand,

and every officer of the society and its subsidiary or subsidiaries shall furnish such information in regard to the transaction and working of the society and its subsidiary or subsidiaries as the person making such inspection may require.

[S 61/2012]

Power to seize and detain book, accounts and computers etc. *[S 61/2012]*

35A. If, in the course of or consequent upon an inspection under section 35, it appears that an offence against this Act has been committed, the Registrar or any public officer authorised by him in writing to make such inspection may enter any premises belonging to or occupied by the registered society and may seize and detain any books, accounts, papers, securities, device, apparatus, material computer program or the computer software of the registered society which may furnish evidence of an offence against this Act.

Inquiry and inspection.

36. (1) The Registrar may of his own motion and shall on the application of a majority of the committee members or of not less than one-third of the members of a registered society, hold an inquiry or audit under section 34 or direct some person authorised by him by order in writing in this behalf to hold an inquiry into the constitution, working and financial condition of a registered society; and all officers and members of the society shall furnish such information in regard to the affairs of the society and produce the cash in hand and such books, accounts, papers and securities of the society as the Registrar or the person authorised by him may require.

[S 61/2012]

(1A) For the purpose of an inquiry under subsection (1), the Registrar or the authorised person referred to in subsection (1) may summon any person who he has reason to believe has knowledge of any of the affairs of the registered society and may examine such person on oath and may require any person to produce or surrender any books, accounts, papers, securities, device, apparatus, material, computer program or the computer software in his custody belonging to the registered society and its subsidiary or subsidiaries, if any, if the Registrar or such authorised person has reason to believe that such books, accounts, papers, securities, device, apparatus, material, computer program or the computer software may furnish evidence of an offence against this Act or the rules.

[S 61/2012]

(1B) Every person authorised under subsection (1) shall, upon the completion of an inquiry under subsection (1), report his findings to the Registrar.

[S 61/2012]

(1C) If an inspection is carried out under section 35 or an inquiry is held under section 36, the Registrar may communicate the result of the inspection or the inquiry to the registered society and may, by order in writing, direct any officer of the registered society to take such actions as may be determined in the order to remedy, within such time as may be specified therein, the defects, if any, disclosed as a result of the inspection or the inquiry.

[S 61/2012]

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

(a) proves that an ascertained sum of money is then due to him and that he has demanded payment thereof and has not received satisfaction within a reasonable time; and

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

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

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

(5) Any sum awarded by way of costs against any society or person under this section may be recovered on production of the certificate referred to in subsection (4) to a court having jurisdiction in the place where the registered office of the society is situated or the person resides or carries on business for the time being, in like manner as a fine imposed by the court.

PART VII

DISSOLUTION

Dissolution of societies. [S 61/2012]

37. (1) If the Registrar, after holding an inquiry and inspection under section 36 or on receipt of an application made by three-quarters of the members of a society present and voting at a general meeting convened for the purpose, is of the opinion that the society ought to be wound up, he may issue an order directing it to be wound up.

(2) The Registrar may, of his own motion, make a winding-up order in respect of a society which has not commenced business operations without reasonable explanation for 2 years after receipt of the certificate of registration or the membership of which is reduced to less than the minimum membership prescribed in section 5.

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

(4) A member of a society may, within 2 months from the date of a winding-up order under subsection (1) or (2), appeal in writing against the order to the Minister and the decision of the Minister shall be final.

(5) When making a winding-up order under subsection (1) or (2), the Registrar may appoint a liquidator for this purpose and fix his remuneration.

(6) A liquidator shall not wind up a society until any appeal instituted under subsection (4) has been determined or until 2 months have elapsed from the date of the winding-up order, as the case may be.

Cancellation of registration of society due to lack of membership.

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

[S 61/2012]

Effect of cancellation of registration.

39. Where the registration of a society is cancelled by an order under section 37 or 38, the society shall cease to exist as a corporate body from the date on which the order takes effect, hereinafter referred to as the date of dissolution:

Provided that any privileges conferred on the society by or under sections 14, 15, 16 and 17 shall be deemed to be vested in any liquidator appointed for that society by the Registrar.

Liquidation after cancellation of registration of society.

40. Where the registration of a society is cancelled under section 37 or 38, the Registrar may appoint one or more persons to be, subject to his direction and control, the liquidator or liquidators of the society.

Liquidator's powers.

41. (1) A liquidator appointed under section 40 shall, subject to the guidance and control of the Registrar and to any limitations imposed by the Registrar by order under section 42, have power to —

(a) determine the contributions to be made by members and past members or by the estates of deceased members of the society to its assets;

(b) appoint a day by proclamation or notice before which creditors, whose claims are not already recorded in the books of the society, shall state their claims for admission or be excluded from any distribution made before they have proved them;

(c) decide any question of priority which arises between creditors and draw up a scheme for the payment of their dues;

(d) refer disputes to arbitration and institute and defend suits and other legal processings by and on behalf of the society by his name of office and to appear in court as a litigant in person on behalf of the society;

(e) empower any person to make collections and to grant valid receipts on his behalf;

(f) decide by what persons and in what proportions the cost of liquidation are to be borne;

(g) give such 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 be necessary in the course of winding-up the society;

(h) compromise any claim by or against the society provided the sanction of the Registrar has first been obtained;

(i) call such general meetings of members as may be necessary for the proper conduct of the liquidation;

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

(k) sell the property of the society;

(l) carry on the business of the society so far as may be necessary for winding it up beneficially:

Provided that nothing herein contained shall entitle the liquidator of a credit society to issue any loan; and

(m) arrange for the distribution of the assets of the society in a convenient manner when a scheme of distribution has been approved by the Registrar.

(2) A liquidator shall deposit the funds and other assets of a dissolved society which are collected by him or which come into his possession as liquidator in such a manner and in such a place as may from time to time be determined by the Registrar.

(3) A liquidator shall, every 3 months, submit to the Registrar a report stating the progress made in winding-up the affairs of the society, and shall, on completion of the liquidation proceedings, submit a final report and make over to the Registrar all books, registers and accounts belonging to the society and all books and accounts relating to such proceedings kept by him.

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

Power of Registrar to control liquidation.

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

(a) rescind or vary any order made by a liquidator and make whatever new order is required;

(b) remove a liquidator from office;

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

(d) by order in writing limit the powers of a liquidator under section 41;

- (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 an order for the remuneration of the liquidator; or
- (h) refer any subject of dispute between a liquidator and any third party to arbitration if that party shall have consented in writing to be bound by the decision of the arbitrator.

Enforcing order.

43. (1) The decision of an arbitrator on any matter referred to him under section 42 shall be binding upon the parties and shall be enforceable in like manner as an order made by the Registrar under that section.

(2) An order made by a liquidator or by the Registrar under section 41 or 42 shall be enforced by any court having jurisdiction over the place where the registered office of the society is situated in like manner as a decree of that court.

Limitation of jurisdiction of court.

44. Save insofar herein before expressly provided, no civil court shall have any jurisdiction in respect of any matter concerned with the dissolution of a registered society under this Act, and no appeal shall lie to any civil court from any order of the liquidator.

Closure of liquidation.

45. (1) In the liquidation of a society whose registration has been cancelled, the funds, including the reserve fund, shall be applied first to the costs of liquidation, then to the discharge of the liabilities of the society, then to the payment of the share capital and then, provided the by-laws of the society permit, to the payment of a dividend at a rate not exceeding 10 *per cent* per annum for any period for which no disposal of profits was made.

(2) When liquidation of a society has been closed and any creditor of that society has not claimed or received what is due to him under the scheme of distribution, notice of the closing of the liquidation shall be published in the *Gazette*; and, all claims against the funds of the society

liquidated shall be proscribed when 2 years have elapsed from the date of publication of the *Gazette* notice.

(3) (a) Any surplus remaining after the application of the funds to the purposes specified in subsection (1), including moneys remaining in respect of claims proscribed under subsection (2), shall be applied to such local object or objects of public utility as may be selected by a majority of the votes of the members of the society (as they existed at the date of the dissolution) assembled in a special meeting and approved of by the Registrar.

(b) If within 3 months of the dissolution of the society the members fail to make a selection which is approved by the Registrar, the latter shall place the balance on deposit in some co-operative or other bank until a new co-operative society with a similar area of operation is registered, in which event it shall be credited to the reserve fund of such society.

(4) The interest accruing in respect of the balance in any bank in accordance with the provisions of subsection (3) may be applied by the Registrar for the furtherance of co-operative principles in such manner as the Minister may, from time to time, direct.

(5) When any balance placed on deposit in a bank in accordance with the provision of subsection (3) has remained on deposit for a period of 10 years, the balance may after the expiration of such period be applied by the Registrar for such purposes specified in subsection (4) as the Minister may, from time to time, direct.

PART VIII

SURCHARGE AND ATTACHMENT

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

46. (1) Where in the course of the winding-up of a registered society, it appears that any person who has taken part in the organisation or management of such society, or any past or present officer of the society, —

(a) has misapplied or retained or become liable or accountable for any money or property of such society; or

(b) has been guilty of misfeasance or breach of trust in relation of such society,

the Registrar may, on the application of the liquidator or any creditor or contributory, examine into the conduct of such person and make an order requiring him to —

- (i) repay or restore the money or property or any part thereof with interest at such rate as the Registrar thinks just; or
- (ii) contribute such sum to the assets of such society by way of compensation in regard to the misapplication retainer, dishonesty or breach of trust as the Registrar thinks just. Such order shall be enforced in the same manner as if the order had been a judgment of a court.

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

Appeal to Minister.

47. Any person aggrieved by any order of the Registrar under section 46 may appeal to the Minister within 21 days from the date of the order and the decision of the Minister shall be final and conclusive.

PART IX

DISPUTES

Settlement of disputes.

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

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

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

[S 61/2012]

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

[S 61/2012]

(d) between the society and any other registered society,

such disputes shall be referred to the Registrar for decision.

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

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

(a) decide the dispute himself;

(b) refer it for disposal to an arbitrator or arbitrators; or

[S 61/2012]

(c) require the parties to the dispute to refer the dispute to a court.

[S 61/2012]

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

(4) A decision of the Registrar under subsection (2) or on appeal under subsection (3) shall be final and shall not be called in question in any legal proceedings whatsoever.

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

Tribunal. [S 61/2012]

48A. (1) The Minister may, on the recommendation of the Registrar, establish a tribunal to perform the functions specified in subsection (2).

(2) A tribunal established under subsection (1) shall hear and determine any dispute within the meaning of section 48(1) which is referred to it under this section.

(3) The Minister may make such rules, not inconsistent with the provisions of this Act, as may be necessary or expedient for the purpose of enabling the tribunal to carry out its functions, and in particular, without prejudice to the generality of the foregoing power, such rules may provide for the constitution, officers and proceedings of the tribunal.

(4) Upon establishment of a tribunal under subsection (1), all disputes within the meaning of section 48(1) —

(a) arising after such establishment; or

(b) which before such establishment, had been referred to the Registrar under section 48(1) but in respect of which —

(i) no step has been taken or no proceedings have been commenced by the Registrar for their disposal under section 48(2)(a); or

(ii) no decision has been made by the Registrar to refer them to an arbitrator or arbitrators for disposal under section 48(2)(b) or to require the parties concerned to refer them to a court under section 48(2)(c),

shall be referred to such tribunal.

(5) A tribunal established under subsection (1) may —

(a) procure and receive all such evidence, whether written or oral, and examine all such persons as witnesses as the tribunal may think it necessary to procure or examine;

(b) require the evidence of any witness to be made on oath (and may for those purposes administer any oath) or by statutory declaration;

(c) summon any person to attend any meeting of the tribunal to give evidence, or procure any document or other thing in his possession and examine him as a witness, or require him to produce any document or other thing in his possession;

(d) hear and determine the dispute referred to it, notwithstanding the absence of any party to the dispute who has been served with a summons or notice to appear;

(e) notwithstanding any written law relating to evidence, admit any evidence, whether written or oral, which might be inadmissible in civil or criminal proceedings; and

(f) conduct its proceedings or any part thereof in private.

(6) The award of a tribunal shall be binding upon the parties and shall be enforceable by an Intermediate Court in the same manner as if the award had been a judgment of that Court.

(7) Any party aggrieved by the award of a tribunal may appeal therefrom to the High Court in accordance with the rules of court applicable thereto.

(8) Notwithstanding the establishment of a tribunal under subsection (1), the Registrar before whom a dispute is pending under section 48(2)(a) or any arbitrator or arbitrators to whom a dispute has been referred under section 48(2)(b) shall continue to deal with such dispute under those paragraphs, and sections 48(3) and (5) shall continue to apply to the decision of the Registrar or the award of such arbitrator or arbitrators, as the case may be.

(9) Sections 48(2), (3), (4) and (5) do not apply to any dispute referred to a tribunal under this section.

(10) Any reference in this Act to a decision of the Registrar or an award of an arbitrator or arbitrators shall, in respect of disputes determined by a tribunal under this section, be construed as a reference to an award of such tribunal.

Case stated on question of law.

49. (1) Notwithstanding anything contained in section 48, the Registrar at any time when proceeding to a decision under this Act, or the Minister at any time when an appeal has been preferred to him against any decision of the Registrar under this Act, may refer any question of law arising out of such decision for the opinion of the High Court.

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

PART X

RULES

Rules.

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

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

(a) prescribe the forms to be used and the conditions to be complied with in applying for the registration of a society and the procedure in the matter of such application;

(b) prescribe the conditions to be complied with by persons applying for admission or admitted as members, and provide for the election and admission of members from time to time, and the payments to be made and interest to be acquired before exercising rights of membership;

(ba) provide for the establishment of subsidiary or subsidiaries of registered societies and matters relating to it;

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(c) subject to the provisions of section 26, prescribe the maximum number of shares or portion of the capital of a registered society which may be held by a member;

(d) prescribe the extent to which a registered society may limit the number of its members;

(e) provide for the withdrawal and expulsion of members and for the payments, if any, to be made to members who withdrew or are expelled, and for the liabilities of past members;

(f) provide for general meetings of the members and for the procedure at such meetings and the powers to be exercised by such meetings;

(g) provide for the appointment, suspension and removal of the members of the committee members and other officers, and for the procedure at meetings of the committee members, and for the powers to be exercised and the duties to be performed by the committee members and other officers;

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(h) prescribe the matters in respect of which a society may or shall make by-laws and for the procedure to be followed in making, altering and rescinding by-laws and the conditions to be satisfied prior to such making, alteration or rescission;

(i) regulate the manner in which funds may be raised by means of shares or debentures or otherwise;

(j) prescribe the conditions to be observed by a registered society applying for financial assistance from Government;

(k) prescribe the payments to be made, the conditions to be complied with and the forms of the bonds, instruments or other documents to be executed, by the members applying for loans or cash credits, the period for which loans may be made or credits granted, and the maximum amount which may be lent and the maximum credit which may be allowed to individual members with or without the consent of the Registrar;

(l) provide for the mode in which the value of a deceased member's interest shall be ascertained and for the nomination of a person to whom such interest may be paid or transferred;

(m) provide for the mode in which the value of the interest of a member who has become of unsound mind and incapable of managing himself or his affairs shall be ascertained and for the nomination of any person to whom such interest may be paid or transferred;

(ma) prescribe all matters relating to the amalgamation and division of registered societies and the transfer of assets and

liabilities of registered societies, including the vesting of assets and liabilities of—

- (i) amalgamating societies in the amalgamated society;
- (ii) a registered society in the new societies created pursuant to a division;
- (iii) a registered society in another society pursuant to a transfer,

the registration of the amalgamated society, the new societies and the transfer, and the revocation of the registration of, in the case of an amalgamation, the amalgamating societies, in the case of a division, the existing society and, in the case of a transfer, the receiving society;

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(n) provide for the formation and the maintenance of reserve funds, and the objects to which such funds may be applied, and for the investment of any funds under the control of any registered society;

(o) prescribe the conditions under which profits may be distributed to the members of a society with unlimited liability and maximum rate of dividend which may be paid by societies;

(p) prescribe the accounts and books to be kept by a registered society, and for the periodical publication of a balance sheet showing the assets and liabilities of a registered society;

(q) provide for the audit of the accounts of registered societies and for the charges, if any, to be made for such audit;

(r) prescribe the returns to be submitted by registered societies to the Registrar and the persons by whom and the form in which the same are to be made;

(s) provide for the persons by whom, and the form in which, copies of entries in books of registered societies may be certified;

(t) provide for the formation and maintenance of a register of members and, where the liability of members is limited by shares, of a register of shares;

(u) provide for the inspection of documents and registers at the Registrar's office and the fees to be paid therefor and for the issue of copies of such documents or registers;

(v) prescribe the manner in which any question as to the breach of any by-law or contract relating to the disposal of produce, to or through a society, may be determined, and the manner in which the liquidated damages for any such breach may be ascertained or assessed;

(w) prescribe the mode of appointing an arbitrator or arbitrators and the procedure to be followed in proceedings before the Registrar or such arbitrator or arbitrators;

(x) prescribe the procedure to be followed by a liquidator appointed under section 40 and the cases in which appeals shall lie from the orders of such liquidator;

(y) prescribe the forms to be used, the fees to be paid, the procedure to be observed and all other matters connected with or incidental to the presentation, hearing and disposal of appeals under this Act or the rules.

PART XI

GENERAL

Recovery of sums due to Government.

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

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

Powers to exempt society from requirements as to registration.

52. Notwithstanding anything contained in this Act, His Majesty the Sultan and Yang Di-Pertuan in Council may by special order in each case and subject to such conditions as he may impose, exempt any society from any of the requirements as to registration.

Power to issue guidelines, directives etc. [S 61/2012]

52A. The Registrar may issue guidelines, directives, circulars or notices in respect of this Act as are necessary or expedient to give full effect to or for the carrying out the provisions of this Act.

Power to exempt societies from Act.

53. His Majesty the Sultan and Yang Di-Pertuan in Council may by general or special order exempt any registered society or class of societies from any of the provisions of this Act, or may direct such provisions shall apply to any society or class of societies with effect from such date or with such modification as may be specified in the order.

Power to exempt from stamp duty and registration fees.

54. (1) His Majesty the Sultan and Yang Di-Pertuan in Council, may by notification published in the *Gazette*, in the case of any registered society or class of registered societies, reduce or remit —

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

(b) any fee payable under any laws relating to registration or licensing for the time being in force.

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

Prohibition of use of word “Co-operative”.

55. (1) No person other than a registered society shall trade or carry on business under any name or title which contains the word “Co-operative”

without the consent of His Majesty the Sultan and Yang Di-Pertuan in Council:

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

(2) Any person who contravenes the provisions of this section is guilty of an offence and liable on conviction to a fine of \$2,000 and, in the case of a continuing offence, to a further fine of \$100 for each day during which the offence continues.

Certain Acts.

56. The provisions of the Companies Act (Chapter 39), the Societies Act (Chapter 203), the Income Tax Act (Chapter 35) and the Trade Unions Act (Chapter 128) do not apply to societies registered under this Act.

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Penalty for non-compliance with Act.

57. (1) Any —

(a) registered society or officer or member thereof wilfully neglecting or refusing to do any act or to furnish any information required for the purposes of this Act by the Registrar or other person duly authorised by him in that behalf; or

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

is guilty of an offence against this Act.

(2) Every offence referred to in subsection (1) shall be punishable by a fine of \$2,000 and, in the case of a continuing offence, to a further fine of \$100 for each day during which the offence continues; and in the case of a second or subsequent offence it shall be punishable by a fine of \$8,000 and, in the case of a continuing offence, to a further fine of \$200 for each day during which the offence continues.

