

## **CHAPTER 107**

### **THE COOPERATIVE SOCIETIES ACT**

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**CHAPTER 107****THE COOPERATIVE SOCIETIES ACT**

*Commencement:* 15 November, 1991

**An Act to provide for the law relating to the constitution and regulation of cooperative societies and for related matters.****PART I—INTERPRETATION****1. Interpretation**

In this Act, unless the context otherwise requires—

“agricultural produce” means the produce of farms, gardens, orchards and forests, including all dairy produce and all products of animal husbandry, and shall be deemed to include all the products of fishes and fishing and peasant handicrafts;

“apex society” means a registered society under this Act, the membership of which is restricted to secondary and tertiary cooperatives societies and cooperative bank and includes a society established to serve the cooperative movement by providing facilities for banking, insurance and the supply of goods or services;

“beneficial owner” means a natural person who ultimately owns or controls a cooperative society or the natural person on whose behalf a transaction is conducted in the cooperative society, and includes a natural person who exercises ultimate control over a cooperative society;

“Board” means the Board of Directors of the Uganda Cooperative Alliance Ltd.;

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

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

“Commissioner” means the Commissioner for Cooperative Development and includes the assistant commissioners for cooperative development when acting for the Commissioner;

“committee” means the governing body of a registered society to which the management of its affairs is entrusted and includes a Board of Directors;

“cooperative bank” means a bank formed to serve primarily the cooperative societies;

“cooperative officer” includes a district cooperative officer as defined in the law;

“cooperative union” means a registered society under this Act, the membership of which is restricted to secondary societies and tertiary societies;

“court”, in relation to a registered society, means a court presided over by a chief magistrate or magistrate grade I, and in relation to a union of two or more registered societies means the High Court;

“currency point” has the value assigned to it in Schedule 1 to this Act; “date of dissolution” means the date on which the Registrar’s order cancelling the registration of a society takes effect;

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

“loan loss provision” means an expense or allowance a lender sets aside to recognise that a borrower may be unable to repay a loan in part or in total;

“member” includes any person or a registered society joining in the application for the registration of a society to membership after registration in accordance with the byelaws;

“Minister” means the Minister responsible for cooperatives;

“multipurpose society” means a primary cooperative society that engages in two or more different types of enterprises;

“officer” includes a chairperson, secretary, treasurer, member of a committee, employee, or other person empowered under any regulations made under this Act or the byelaws of a registered society to give directions in regard to the business of a registered society;

“primary society” means a registered society under this Act, the membership of which consists of individual persons and includes other bodies approved by the Registrar under section 17;

- “probationary society” means a society registered provisionally under section 6(1);
- “registered society” means a cooperative society registered or deemed to be registered under this Act;
- “Registrar” means the Registrar for Cooperative Societies and includes the deputy registrars for cooperative societies;
- “secondary society” means a registered society under this Act, the membership of which is restricted to primary societies;
- “social audit” means the process by which a cooperative society can account for its social performance report on and improve that performance;
- “tertiary society” means a registered society under this Act, the membership of which consists of at least two secondary societies;
- “winding up” means all proceedings subsequent to the cancellation of the registration of a society.

## PART II—REGISTRATION OF SOCIETIES

### **2. Registrar, deputy registrars and assistant registrars**

- (1) There shall be a Registrar for Cooperative Societies who shall also be the commissioner for cooperative development for the purposes of this Act.
- (2) The Registrar shall be a public officer responsible for providing and administering the services required by societies for their formation, organisation, registration, deregistration, operation and advancement and for carrying out the provisions of this Act.
- (3) There shall be three deputy registrars who shall be deputy commissioners, one of whom shall be responsible for the administration of cooperative societies, while the other shall be responsible for the implementation of the legal provisions of this Act.
- (4) All officers of the rank of assistant cooperative officer and above shall be assistant registrars of cooperative societies for the purpose of this Act.
- (5) Every district shall have a district cooperative officer and staff who shall report to the Commissioner or a person designated by him or her.

(6) The Minister may, by statutory order, confer or impose on any assistant registrar for cooperative societies all or any of the powers and duties conferred or imposed on the Registrar by this Act.

### **3. Registration of societies**

Subject to this Act, a society which has for its object the promotion of the economic and social interests of its members in accordance with cooperative principles and which, in the opinion of the Registrar, is capable of promoting those interests may be registered under this Act with or without limited liability; except that a cooperative union or any apex society shall be registered with limited liability.

### **4. Conditions of registration**

- (1) A society shall not be registered under this Act unless—
  - (a) it consists of at least thirty persons all of whom are qualified for membership of the society under section 15;
  - (b) in the case of a secondary society, it consists of at least two registered primary societies among its registered members;
  - (c) in the case of a tertiary society, it consists of at least two registered secondary societies among its registered members; or
  - (d) in the case of an apex society, it consists of two or more secondary or tertiary societies.

(2) Notwithstanding subsection (1)(a), the Registrar may register a society of a unique nature, consisting of less than thirty persons all of whom qualify for membership under section 15.

(3) The Uganda Cooperative Alliance Limited shall be administered in accordance with the provisions of this Act and other laws governing cooperative societies.

(4) A cooperative society shall incorporate in its proposed byelaws, a statement on cooperative identity as specified in Schedule 2 to this Act.

(5) For the avoidance of doubt, a society shall not be registered with unlimited liability.

**5. Application for registration**

- (1) For the purpose of registration, an application to register a society shall be made to the Registrar.
- (2) The application shall be signed—  
(a) in the case of a primary society, by at least thirty persons qualified for membership of the society under section 15; and  
(b) in the case of a secondary, tertiary or apex society, by person duly authorised for that purpose by each registered society, who is a member of that society.
- (3) The application shall be accompanied by four copies of the proposed byelaws of the society in English, and the persons by whom or on whose behalf the application is made shall furnish such information in regard to the society as the Registrar may require.

**6. Registration on probation**

- (1) Where the Registrar is satisfied that a society has complied with this Act and regulations made under it and that its proposed byelaws are not contrary to the provisions of this Act, he or she shall register the society and its byelaws on probation for a period not exceeding twenty-four months.
- (2) If at the expiration of twenty-four months, the Registrar is satisfied with the performance of the society, he or she shall register the society permanently, if the society complies with the conditions prescribed by regulations.
- (3) Where at the expiration of twenty-four months, the Registrar is not satisfied with the performance of the society, he or she may either cancel the registration or extend the probationary period by a period not exceeding twelve months; and if after the extension he or she is still not satisfied with the performance of the society, he or she shall cancel the registration of the society.<sup>1</sup>

- (4) Where the Registrar cancels the registration of a society under subsection (3), then the provisions of sections 130 and 131 concerning the appointment of a liquidator and his or her powers shall apply.

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<sup>1</sup> See revisers' note on page 3626

(5) A society registered under subsection (1) shall become a body corporate by the name under which it is registered probationary, with perpetual succession and a 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 all things necessary for the purpose of its constitution; and any reference in any written law to a registered society shall include a society which is registered under this section.

## **7. Pre-registration contracts**

(1) A contract which purports to be made on behalf of a cooperative society before the cooperative society is formed, has effect, as one made with the person purporting to act for the cooperative society.

(2) A cooperative society may adopt a pre-incorporation contract with its formation and registration made on its behalf without a need for novation.

(3) In all cases where the cooperative society adopts a pre-incorporation contract, the liability of the promoter of that cooperative society shall cease.

## **8. Indication of registration on probation**

A society which is registered under section 6(1) shall state in legible letters in all its receipt heads, letter papers, notices, advertisements or other official publications that it is registered probationary and shall indicate the same on a signboard in a conspicuous position outside any premises or office in which it carries on its business.

## **9. Cancellation of registration on probation<sup>2</sup>**

(1) At any time during the period of registration of a society under section 6(1), the Registrar may, by notice in writing to the person responsible for the running of the society, cancel the registration on probation of the society stating the reasons for the cancellation; and the society shall, from the date of service of the notice, cease to be a registered society.

<sup>2</sup> See revisers' note on page 3626

(2) The cancellation referred to in subsection (1) shall be gazetted and published in at least one of the English newspapers in Uganda.

(3) Where a society registered under section 6(1) contravenes or fails to comply with section 8, that society and any officer or person who purports to act on its behalf commits an offence and is liable, on conviction, to a fine not exceeding 0.5 of a currency point and in the case of a continuing offence to a further fine not exceeding 0.05 of a currency point for each day on which the offence is continued after conviction of the offence.

(4) A cooperative society shall be deregistered if its membership falls below the prescribed number in section 4.

## **10. Amendment of byelaws of registered society**

(1) A registered society may, subject to this Act, amend its byelaws, including a byelaw which declares the name of the society.

(2) An amendment of the byelaws of a registered society shall not be valid until the amendment has been registered under this Act, for which purpose a copy of the amendment shall be forwarded to the Registrar.

(3) Where the Registrar is satisfied that an amendment of the byelaws is not contrary to the provisions of this Act, he or she shall register the amendment.

(4) An amendment which changes the name of a registered 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 byelaws of a registered society, he or she shall issue to the society a copy of the amendment certified by him or her which shall be conclusive evidence of the fact that the amendment has been duly registered.

(6) Where it appears to the Registrar that an amendment of the byelaws of a society is necessary or desirable in the interest of the society,

he or she may call upon the society, subject to any regulations made under this Act, to make the amendment within the time as he or she may specify.<sup>3</sup>

(7) Where the society fails to make the amendment within the time specified, the Registrar may, after giving the society an opportunity of being heard, himself or herself make and register the amendment and issue to the society a copy of that amendment, certified by him or her.<sup>4</sup>

(8) With effect from the date of registration of an amendment under subsection (7), the byelaws shall be deemed to have been duly amended accordingly; and the byelaws as amended shall, subject to any appeal made in accordance with this Act, be binding on the society and its members.

(9) A society aggrieved by an amendment of its byelaws made and registered by the Registrar under subsection (7) may appeal against that amendment to the Board in writing within two months of the date of issue of the copy of the amendment.

(10) The decision of the Board on an appeal under subsection (9) shall, subject to section 144, be final.

(11) In this section, “amendment” includes the making of a new byelaw and the variation or revocation of a byelaw.

## **11. Appeal to Board**

From every refusal of the Registrar to register a society or its byelaws or any amendment of its byelaws, an appeal shall lie, in accordance with any regulations made under this Act, to the Board whose decision, subject to section 144, shall be final.

## **12. Provisions regarding name of registered society**

(1) A society shall not be registered under a name identical with that under which any other existing society is registered, or under any name likely in the opinion of the Registrar to mislead the members of the public as to its identity.

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<sup>3</sup> See revisers' note on page

<sup>3626</sup> <sup>4</sup> See revisers' note on

page 3626

(2) The word “Cooperative” shall form part of the name of every society registered under this Act, and the word “Limited” shall be the last word in the name of every society with limited liability registered under this Act.

### **13. Evidence of registration**

(1) A certificate of registration signed by the Registrar shall be conclusive evidence that the society mentioned in it is duly registered unless it is proved that the registration of the society has been cancelled.

(2) Where the Registrar is satisfied that a society’s original certificate of registration has been lost or destroyed, he or she may issue a duplicate certificate.

### **14. Register of beneficial owners**

(1) A cooperative society with beneficial owners shall keep a register of its beneficial owners and shall enter in register the following particulars—

- (a) the names, contact and postal addresses of each beneficial owner;
- (b) the national identification number (NIN) of each beneficial owner;
- (c) the nature of the beneficial ownership;
- (d) the date on which each beneficial owner was entered in the register as a beneficial owner;
- (e) the date on which any person ceased to be a beneficial owner; and
- (f) any other information as the Minister may prescribe by regulations.

(2) The register of beneficial owners shall be kept at the registered office of the cooperative society except that—

- (a) if the work of making it up is done at another office of the cooperative society, it may be kept at that other office; and
- (b) if the cooperative society arranges with some other person for the making up of a register on behalf of the cooperative society by that other person, it may be kept at the office of that person at which the work is done but it shall not be kept at a place outside Uganda.

(3) A cooperative society shall, within fourteen days after creating the register or changing the place where the register is kept, send notice of

the place where its register of beneficial owners is kept and of any change of place to the registrar.

(4) Notwithstanding subsection (3), a cooperative society shall transmit a copy of the register of the beneficial owners to the registrar.

(5) The Minister may, by statutory instrument, make regulations generally for giving effect to the provisions on beneficial owners including prescribing penalties for breach of the regulations.

(6) Where cooperative society defaults in complying with subsection (1), (2) or (3), the society and every officer of the cooperative society who is in default is liable to a daily default fine of twenty five currency points.

### PART III—RIGHTS AND LIABILITIES OF MEMBERS

#### **15. Qualifications for membership**

(1) In order to be qualified for membership of a registered society, any person, other than a registered society or a company incorporated under the Companies Act or an unincorporated body of persons permitted to become a member under section 17, shall—

- (a) have attained the age of eighteen years; and
- (b) be a resident within or in occupation of land within the society's area of operation as prescribed by the relevant byelaw.

(2) A person above the age of twelve years may become a member of a society, but that person shall not be eligible to act as a committee member of the society until he or she has reached the age of eighteen years.

(3) When, for the purpose of this section, any question arises as to the age of any person, that question shall be decided by the Registrar, whose decision shall be final.

#### **16. Restriction on shareholding**

A member, other than a registered society, shall not hold more than one-third of the paid-up share capital of any cooperative society.

**17. Restriction on membership**

A company incorporated or registered under the Companies Act and an unincorporated body of persons shall not be entitled to become a member of a registered society, except with the written permission of the Registrar.

**18. Rights and obligations of members**

- (1) A member of a registered society shall not exercise any of the rights of a member until he or she has made such payment to the society in respect of membership or has acquired such interest in the society as may be prescribed by regulations made under this Act or by the byelaws of the society.
- (2) A member of a cooperative society shall have a right to—
  - (a) attend, participate and vote for decisions taken at all general meetings of the society;
  - (b) be elected to organs of the society subject to its byelaws, policies and resolutions of the general meeting;
  - (c) enjoy the use of all facilities and services of the society subject to the society byelaws, policies and resolutions of the general meeting; and
  - (d) access all legitimate information relating to the society.
- (3) A member shall—
  - (a) observe and comply with all the byelaws of the society and decisions taken by the relevant organs of the cooperative society in accordance with the byelaws of the society;
  - (b) pay up for shares or make any other payments provided for in the byelaws of the society;
  - (c) meet the debts of the society in case of bankruptcy in accordance with the provisions of this Act and the byelaws of the society; and
  - (d) patronise the society.

**19. Votes of members**

- (1) Each member of a registered society shall have one vote only as a member in the affairs of the registered society.

(2) A registered society, a cooperative union or an apex society which is a member of any other registered society shall have as many votes as may be prescribed by the byelaws of the other society, and may, subject to those byelaws, appoint any number of its committee members, not exceeding the number of those votes, to exercise its voting power.

## **20. Leadership and management of society**

(1) Every society shall have a Board consisting of an odd number of members not less than five and not exceeding nine.

(2) The Board shall be the governing body of the society and shall, subject to any direction from the general meeting or the byelaws of the society, direct the affairs of the society with powers to—

- (a) enter into contracts;
- (b) institute and defend suits and other legal proceedings brought in the name of or against the society; and
- (c) do all other things necessary to achieve the society's object in accordance with its byelaws.

(3) In the conduct of affairs of a cooperative society, the members of the Board shall exercise the prudence and diligence of an ordinary person of business and shall be held, jointly and severally, liable for any losses sustained through any of their acts which are contrary to the Act, regulations, byelaws or directions of any general meeting of the cooperative society.

(4) The Board shall have the responsibility to appoint management who they shall monitor and supervise for the proper management of the society.

(5) A person appointed under subsection (4) to the management of a cooperative society shall—

- (a) be subjected to a fit and proper test; and
- (b) have two guarantors.

(6) A member of the Board shall hold office for a term of four years and shall be eligible for re-election.

(7) A person seeking election in a cooperative society shall be subjected to a vetting process by a vetting committee.

(8) A fit and proper test shall be done on all those vying to be Board members of a cooperative society in accordance with the statement on cooperative identity and the laws of Uganda.

(9) Subject to subsections (5) and (7), the test shall be done through a vetting committee whose terms of service shall be spelt out in the regulations made under this Act.

(10) Other than the qualifications that may be set with the approval of the Registrar, a person shall be a member of a Board if he or she—

- (a) is a member of the cooperative society;
- (b) is above the age of eighteen years;
- (c) is able to read and write;
- (d) has not been adversely named by the Registrar in an inquiry report adopted by a general meeting for mismanagement or corrupt practices while a member of the Board;
- (e) is not adjudged bankrupt;
- (f) is of sound mind;
- (g) is not of blood relations with another person on the same Board up to the second degree;
- (h) is not a joint account holder in the case of a savings and credit cooperative society; and
- (i) is not part of a Board which has failed to prepare accounts within the specified period as required by this Act, regulations and the byelaws.

(11) For the purposes of subsection (10)(g), a second degree relationship means a grandchild, grandmother or grandfather.

(12) A person shall automatically lose membership on the Board of a secondary, tertiary or apex society, where his or her society ceases to be a member of that secondary, tertiary or apex society.

## **21. Supervisory board**

(1) Save for the Board of a cooperative society provided for in section 20, the annual general meeting shall be responsible for electing a supervisory board of three persons, which shall make, or cause to be made, regular examination of the accounts, records, and affairs of the society and review the action of the officers, Board, and credit committee for conformity with

the law, regulations, byelaws, and policies of the society and is answerable to the annual general assembly.

(2) The supervisory board may, in consultation with the Registrar, call a special general meeting of the members to consider any violation of the Act, regulations or byelaws, or any practice of the cooperative society considered by the Board to be unsafe or unsound.

(3) The supervisory board shall be required to make a record of all its activities available for inspection by the Registrar and the society's auditors and shall present a report of its activities to the general meeting.

(4) Members of the supervisory board shall be subjected to the same provisions under section 20(10).

(5) The supervisory board shall inform the Registrar in writing within five working days of any recommendations on the management of the society.

## **22. Restrictions on transfer of share or interest**

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

- (a) he or she has held the 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.

## **PART IV—DUTIES OF REGISTERED SOCIETIES**

### **23. Address of society**

(1) Every registered society shall have a registered address to which notices and communications may be sent and shall send to the Registrar notice of every change of address within one month of the change.

(2) Every registered society shall display its name and address on a signboard in a conspicuous position outside its place of business.

**24. Copy of Act, regulations, byelaws, etc. to be open for inspection**

Every registered society shall keep a copy of this Act and of the regulations made under it and of its byelaws and a list of its members open to inspection by any person, free of charge at all reasonable times during business hours at the office of the society.

**25. Records management of registered society**

(1) Records management in a society shall be done in accordance with the National Records and Archives Act.

(2) There shall be a cooperative archive in the Ministry responsible for cooperatives.

**26. Audit, annual returns and accounts**

(1) Every registered society shall cause its accounts to be audited at least once in every year by an auditor appointed by the annual general meeting and approved by the Registrar, and the cost of the audit shall be borne by the society; except that<sup>5</sup>—

(a) no auditor chosen by a registered society to audit its books shall perform that function for more than three annual audits in succession unless authorised by the Registrar;

(b) where the registered society is unable to appoint its own auditors, the Registrar may appoint the auditors.

(2) Notwithstanding subsection (1), the Registrar may cause regular audits of operations of Savings and Credit Cooperative Organisations (SACCOs).

(3) Notwithstanding subsection (1), the Registrar may be appointed to carry out audits of a registered society.

(4) The Registrar may also cause to be audited societies which have no capacity to audit by a person registered and practicing as an accountant under the Accountants Act.

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<sup>5</sup> See revisers' note on page 3626

(5) Every society shall give to the Registrar statistics of operations as may be required by the Registrar.

(6) Audits shall be conducted in accordance with generally accepted professional audit standards and, in addition, include audit of management efficiency.

(7) In addition to regular audits, social audits shall be conducted annually to examine the following components—

- (a) organisation: a measurement of a cooperative society's fulfilment of its vision, mission and goals, feedback mechanisms, code of good governance and ethical standards;
- (b) membership: a measurement on how the cooperative society responds to the needs of members, observed governance practices, considered provision for benefits of members, and involved members in the affairs of the cooperative;
- (c) staff or employees: an assessment of the cooperative's fulfilment of the needs and welfare of the employees in terms of safety of workplace and sanitation, including the provision for compensation and benefits;
- (d) cooperation among cooperatives: a measurement of the cooperative society's affiliations and linkages to federations or unions, the apex society and other cooperatives;
- (e) community and nation: to determine the involvement of the cooperative society and its contributions to the community and nation, in general;
- (f) network alliance and linkages: an assessment of how the cooperative society relates to other organisations and its collaborative programmes.

(8) The auditor shall at all times have access to all books, accounts, papers and securities of a registered society, and every officer of the society shall furnish such information in regard to the transactions and working of the society as the auditor may require.

(9) The auditor shall have power when necessary—

- (a) to summon at the time of his or her audit any officer, agent, servant or member of the society whom he or she has reason to believe can give information in regard to the 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.
- (10) Every auditor appointed under subsection (1) shall submit a detailed audit report of the accounts and balance sheet to the committee and a true copy of the accounts and balance sheet to the Registrar, three months after its financial year prepared in compliance with generally accepted professional audit standards and, in addition, include the auditor's opinion on whether or not the business administration of the society has been conducted—
- (a) efficiently;
  - (b) in accordance with cooperative principles and the auditing and accounting provisions of this Act; and
  - (c) in accordance with its objectives, byelaws and any other decisions made by the annual general meeting.
- (11) The audited accounts and balance sheet referred to in subsection (5) shall be open for inspection by any member of the public upon payment of such fee as may be fixed by the Registrar.
- (12) Where a registered society fails to cause its accounts to be audited in accordance with subsections (1), (2) and (5), the committee of that society shall be deemed to have relinquished its office; and the Registrar shall convene a special general meeting to elect a new committee unless the Registrar is satisfied that the failure was due to circumstances beyond the committee's control.

## **27. Qualifications of auditors**

- (1) No person shall be appointed or approved as an auditor of the accounts of a registered society unless that person or in case of a firm is a member of the Institute of Certified Public Accountants of Uganda as per the Accountants Act.
- (2) The Registrar may in certain circumstances appoint an auditor for a limited period, a person who has previously served as an assistant registrar of a cooperative society.

(3) The Registrar may, in consultation with the Institute of Certified Public Accountants of Uganda, appoint a person who previously served as an assistant registrar and above to audit primary societies.

(4) The Minister may, by statutory instrument, in consultation with the Board and amend the qualifications of auditors specified in this section.

## **28. Estimates and expenditure**

(1) Every committee of a registered society shall cause estimates of the society's income and expenditure of both revenue and capital to be prepared for the coming twelve months at least three months before the end of its financial year.

(2) A copy of those estimates shall be sent to the Registrar for an opinion before they are submitted to the general meeting.<sup>6</sup>

(3) Supplementary estimates may be prepared by a society during the financial year and submitted to the Registrar for an opinion before they are submitted to the annual general meeting.<sup>7</sup>

(4) No development capital expenditure shall be made by a registered society before the committee's estimates have been approved by a general meeting.

(5) Where a society contravenes or fails to comply with any provision of this section, that society and any officer or person who purports to act on its behalf commits an offence, and the Registrar shall impose upon the society or officer or person a fine not exceeding 0.25 of a currency point and in the case of a continuing offence a further fine not exceeding 0.025 of a currency point for each day on which the offence is continued.

## **29. Voluntary amalgamation of societies**

(1) Any two or more registered societies may, with the prior approval of the Registrar, amalgamate into a single society.

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6 See revisers' note on page

3626 7 See revisers' note on

page 3626

(2) An amalgamation referred to in subsection (1) shall not take place unless—

- (a) a general meeting of each of the societies has been called;
- (b) each member of the society has had a clear notice of fifteen days of the meeting; and
- (c) a preliminary resolution has been passed by a two-thirds majority of the members present at the meeting for the amalgamation.

(3) Upon amalgamation of registered societies into a society, the societies shall cease to exist but there shall be division of assets and liabilities in accordance with the agreement governing the amalgamation.

### **30. Transfer of assets and liabilities to another society**

(1) A registered society may by a resolution passed under section 29(2)(c) transfer its assets and liabilities to any other society which agrees to accept them.

(2) The transfer of liabilities referred to in subsection (1) shall not be made to any society without giving a notice in writing of ninety days to the creditors of both or more societies concerned in the transfer of these liabilities.

(3) Where a creditor objects to an amalgamation decided upon under section 28 or a transfer of liabilities under this section and gives a notice in writing of one month before the date fixed for the amalgamation or transfer of liabilities to the society concerned, the amalgamation or transfer shall not take place until the dues of the creditor have been satisfied or until an agreement for payment of the dues has been made by the society and the creditor.

(4) A creditor who is not satisfied with the dues paid to him or her or who does not accept to enter an agreement with the society concerned as provided under subsection (3) may appeal to the Registrar within ninety days from the date of his or her disagreement with the society, and the decision of the Registrar shall be final.

**31. Voluntary division of society**

(1) A registered society may, with the prior approval of the Registrar, divide itself into two or more societies in accordance with the procedure laid down by regulations made under this Act.

(2) A division of a society referred to under subsection (1) shall not take place unless—

- (a) a general meeting of the members of the society has been called;
- (b) each member of the society has had a clear notice of at least fifteen days of the meeting; and
- (c) a resolution has been passed by a two-thirds majority of the members present at the meeting providing for the division.

(3) A resolution passed under subsection (2) (hereafter referred to as a preliminary resolution) shall contain proposals for the distribution of the assets and liabilities of the divided society among the societies in which it is proposed to be divided and shall prescribe the area of operation of, and specify the members who may constitute, each of the new societies.

(4) A copy of the preliminary resolution shall be sent to all the members of the society and its creditors, and any other person whose interests may be affected by the division shall be informed in writing by the society.

(5) A member of the divided society may notify the society in writing, within three months from the receipt of the preliminary resolution, of his or her intention not to belong to any of the new societies, and any creditor may demand from the society within that period a return of the amount due to him or her.

(6) Any other person whose interests are affected by the division of the society may submit his or her claim in writing to the society.

(7) After the period of three months from the sending of the resolution under subsection (4) to the members and creditors of the society, a special general meeting of the society shall be called to consider the preliminary resolution.

(8) A special meeting of the society shall not be called under subsection (7) unless each member of the society has had a notice of fifteen days in writing informing him or her of the meeting.

(9) Where, at the meeting called under subsection (7), a preliminary resolution is confirmed by a two-thirds majority of the members present, either without any change or with changes which, in the opinion of the Registrar, are not material, the Registrar may register the new societies and their byelaws; and on that registration, the registration of the old society shall be deemed to have been cancelled, and the society shall be deemed to be dissolved from the date of the cancellation.

(10) The opinion of the Registrar as to whether the changes made in the preliminary resolution made under subsection (9) are or are not material shall be final, and no appeal shall lie from it.

(11) At the special meeting of the society held under subsection (7), provision shall be made by another resolution for

- (a) the repayment of the share capital of all the members who have given notice under subsection (5);
- (b) the satisfaction of the claims of all the creditors who have given notice under subsection (5); and
- (c) the satisfaction of the claims of any other person who has given notice under subsection (6) as the Registrar decided or securing their claims in the manner decided by the Registrar,

except that no member, creditor or any other person shall be entitled to any repayment or satisfaction until the preliminary resolution is confirmed under subsection (9).

(12) The registration of new societies under subsection (9) shall be sufficient to vest the assets and liabilities of the divided society in the new societies in accordance with the preliminary resolution.

## PART V—DUTIES OF BOARD AND PRIVILEGES OF REGISTERED SOCIETIES

### **32. Societies to be bodies corporate**

A society on registration shall become 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 of every description, 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.*

### **33. Board of Directors of apex society**

*The Board of the apex society shall, subject to the byelaws and any directions issued by the general meeting of the alliance—*

- (a) *consider and make recommendations to the Government on matters of policy relating to the cooperative movement;*
- (b) *make representations to the Government as it may think fit in relation to any matter affecting registered cooperative societies in general or any particular registered society which those societies generally or any such society may request the Board to bring to the notice of the Government; and*
- (c) *carry out any other duty assigned to it under this Act.*

### **34. Byelaws to bind members**

(1) *The byelaws of a registered society shall, when registered, bind the society and its members to the same extent as if they were signed by each member, and contain obligations on the part of each member, his or her heirs, executors, administrators and assignees, to observe all the provisions of the bye laws.*

(2) *It shall not be competent for a member of a registered society to contest any suit, claim, action or proceedings between that member and the society or any other member of the society on the ground that any byelaw of the society constitutes a contract in restraint of trade.*

### **35. Contract with members to dispose of produce**

(1) *A registered society, having as one of its objects the disposal of any agricultural produce, may contract with its members either in its byelaws or by a separate document that they shall dispose of all their produce or of such amounts or descriptions as may be stated in those byelaws or that document, to or through the society, and may in the contract provide for payment of a specific sum per unit of weight or other measure as liquidated damages for infringement of the contract, and that sum shall be a debt due to the society.*

(2) Any such contract as is mentioned in subsection (1) shall create in favour of the society a first charge upon all produce mentioned in the contract, whether existing or future.

(3) The covenants or obligations imposed by any such contract as is mentioned in subsection (1) shall run with any lands, trees, buildings or other structures mentioned in it and shall be binding on all assignees and transferees; and any transfer or conveyance of property subject to the contract shall be deemed to operate also as a like transfer or assignment of the contract.

(4) A contract entered into under this section shall not be contested in any court on the ground that it constitutes a contract in restraint of trade.

### **36. Imposition of fines upon members**

(1) The byelaws of a registered society may, subject to any regulations made under this Act, provide for the imposition of fines on its members for any infringement of its byelaws; but no such fine shall be imposed upon any member until written notice of intention to impose the fine and the reason for it has been transmitted to him or her and he or she has had an opportunity of showing cause against the imposition of the fine and, if he or she so desires, of being heard with or without witnesses.

(2) Any such fine may be recovered by suit in any competent court.

(3) The whole or any part of such fine may be set off against any money due to such member in respect of produce delivered by him or her to the society.

(4) A member shall not be deemed to have infringed the byelaws of a registered society by reason of his or her having failed to deliver produce to the society if that failure was due to the fact that before becoming a member of the society the member had contracted to deliver the produce to some other person.

(5) Every person applying for membership of a registered society shall disclose to the society particulars of all such contracts as are mentioned in subsection (4).

**37. Charge on agricultural produce and certain other materials and articles**

Subject to the prior claims of the Government on property of its debtors and of landlords in respect of rent or any money recoverable as rent, or to any prior charge duly registered under this Act or under any other law for the time being in force, a registered society shall have a first charge—

- (a) upon agricultural produce of a member or past member, at any time within two years from the date when seed or manure was advanced, or agricultural services were supplied, or money was lent to the member or past member in respect of the unpaid portion of the advance, supplied services or loan; and
- (b) in respect of the supply of cattle, fodder for cattle, agricultural or industrial implements or machinery, or raw material for manufacture or building or for the loan of money for the purchase of any of the animals or things to be supplied or purchased in whole or in part from any such loan or on any articles manufactured from raw materials supplied or purchased.

**38. Charge and set-off in respect of shares or interest of members**

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

**39. Share or interest not liable to attachment**

Subject to section 35, 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 a trustee in bankruptcy under the law relating to bankruptcy for the time being in force shall not be entitled to or have any claim on that share or interest; but where a society is dissolved, the property in the shares of any member who has been adjudicated as bankrupt under any law relating to bankruptcy shall vest in the trustee in bankruptcy.

**40. Liability of past member**

The liability of a past member for the debts of a registered society as they existed at the time when he or she ceased to be a member shall continue for two years from the date of his or her ceasing to be member and if the first audit of the accounts of the society after his or her being a member disclose a credit balance in favour of that society, the financial liability of the past member shall forthwith cease.

**41. Liability of estate of deceased member**

The estate of a deceased member shall be liable for one year from the time of his or her decease for the debts of a registered society as they existed at the time of his or her decease; but in the case of a society with limited liability, if the first audit of the accounts of the society after his or her decease discloses a credit balance in favour of the society, the financial liability of the estate shall immediately cease.

**42. Transfer of interest on death of member**

(1) On the death of a member, a registered society may transfer the share or interest of the deceased member to the person nominated in accordance with any regulations made under this Act or, if there is no person so nominated, to such person as may appear to the committee of the society to be the legal personal representative of the deceased member or may pay to that nominee or legal personal representative, as the case may be, a sum representing the value of the member's share or interest, ascertained in accordance with any regulations made under this Act or the byelaws of the society; except that the society shall transfer the share or interest of the deceased member to the nominee or legal personal representative, as the case may be, being qualified in accordance with any regulations made under this Act and the byelaws for membership of the society or, on his or her application within one month of the death of the deceased member, to any person specified in the application who is so qualified.

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

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

#### **43. Registers and books of societies and copies of them shall be received in evidence in certain circumstances**

(1) A register or list of members or of shares which is kept by any registered society shall be *prima facie* evidence of any of the following particulars entered in it—

- (a) the date on which the name of any person was entered in the register or list as member; and
- (b) the date on which any such person ceased to be a member.

(2) A copy of any entry in a book of a registered society regularly kept in the course of business shall, if certified in accordance with any regulations made under this Act, be received in any suit or legal proceedings as *prima facie* evidence of the existence of the entry, and shall be admitted as evidence of the matters, transactions and accounts recorded in it in every case where and to the same extent as the original entry itself is admissible.

#### **44. Restriction on production of society's books**

An officer of a registered society shall not 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 section 43, or to appear as a witness to prove the matters, transactions and accounts recorded in those books unless by order of the court made for special cause.

#### **45. Power to exempt from duty or tax**

(1) The Minister responsible for finance may, by statutory order, in the case of a registered society or class of registered societies, reduce or remit

- (a) the duty or tax which, under any law for the time being in force, may be payable in respect of the accumulated funds of the society or of the dividends or other payments received by the members of the society on account of accumulated funds;
- (b) 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 the society or any class of those instruments are respectively chargeable; and
- (c) any fee payable under any law relating to registration for the time being in force.

(2) In the case of a division, an amalgamation or a transfer of some or all of the assets of a registered society, the Minister shall remit the stamp duty with which, under any law for the time being in force, instruments executed by or on behalf of the society or by an officer or member and relating to the business of the society or any class of those instruments are respectively chargeable.

## PART VI—PROPERTY AND FUNDS OF REGISTERED SOCIETIES

### 46. Restrictions on loans

A registered society shall not make a loan to any person other than a member; except that

- (a) with the general or special sanction of the Registrar, a registered society may make loans to another registered society; and
- (b) subject to the prior approval in writing of the Registrar and subject to such conditions as he or she may impose, a registered society may stand surety for a loan to be granted to an employee of that society where the loan is for the benefit of that society.

### 47. Restrictions on borrowing

(1) A registered society shall receive deposits and loans from persons who are not members only to such extent and under such conditions as the Registrar may, in writing, authorise.<sup>8</sup>

(2) For the purposes of this section, credit on current account for a period of more than ninety days and a deposit of money under a hire-purchase agreement shall be deemed to be a loan within the meaning of this section.

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<sup>8</sup> See revisers' note on page 3626

**48. Restrictions on other transactions with non-members**

Except as provided in sections 45 and 46, the transactions of registered persons other than members shall be subject to such prohibitions and restrictions, if any, as the Registrar may, in writing, direct.

**49. Cooperative bank**

(1) There shall be a cooperative bank to serve the interests of the cooperative societies and its individual members as provided in section 48.

(2) The cooperative bank shall be regulated by the Bank of Uganda.

**50. Investment of funds<sup>9</sup>**

A registered society may invest or deposit its funds only—

- (a) in a registered cooperative bank;
- (b) in any registered society, company or statutory corporation approved in writing by the Registrar;
- (c) in any bank or financial institution incorporated in Uganda;
- (d) in and upon such investment and securities as are by law allowed for the investment of trust funds; or
- (e) in such other mode as specified by the byelaws of the society and approved by the Registrar.

**51. Dividend or bonus**

(1) No registered society shall pay a dividend or bonus or distribute any part of its accumulated funds without the prior written consent of the Registrar and the written acknowledgement of the Registrar that a balance sheet has been lodged with him or her disclosing the surplus funds out of which the dividend, bonus or distribution is to be made.

(2) No society shall pay a dividend to its members exceeding the maximum rate prescribed by regulations made under this Act.<sup>10</sup>

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<sup>9</sup> See revisers' note on page

3626 <sup>10</sup> See revisers' note on  
page 3626

**52. Reserve and provident fund**

(1) Every society which does or can derive a surplus from its transactions shall maintain a reserve fund.

(2) A society shall carry to the reserve fund such portion of the net surplus in each year as may be prescribed by any regulations made under this Act or byelaws of the registered society.

(3) Every society shall, with the approval of the Registrar, establish a contributory provident fund for payment of pensions to its permanent employees at the time of their retirement.

**53. Distribution of net balance**

Subject to sections 50 and 51, the net balance of each year, with any sum available for distribution from previous years, may be distributed as may be prescribed by any regulations made under this Act or by the byelaws of the registered society.

**54. Contribution to education fund**

There shall be a National Cooperative Education Fund to which every registered cooperative society shall contribute one percent per year of its net surplus.

**55. Cooperative member education**

(1) The Commissioner shall carry out cooperative member education to members of registered societies.

(2) The history, philosophy and practices as cooperatives and their role as a factor in the national economy shall be disseminated both in formal and non-formal education.

(3) The role of private sector, non-governmental organisations and individuals engaged in cooperative promotion organisation, research and education shall be accredited by the Registrar.

(4) The Registrar may accredit such bodies or individuals under subsection (3) as non-academic training bodies.

(5) The Registrar shall publish a list of the organisations and individuals accredited under subsection (3), as may be required.

(6) Notwithstanding subsections (1), (2), (3), (4) and (5), every registered cooperative society shall provide for five percent of its net surplus in its budgets, funds for cooperative member education.

(7) Subject to subsection (1), every cooperative society shall file annual education plans for the society to the Registrar three months before the end of the financial year.

## **56. Audit and Supervision Fund**

(1) There is established an Audit and Supervision Fund into which every registered society shall, unless exempted by the Registrar, pay annually a supervision fee and if the society's accounts are audited by an officer of the department of cooperative development, an audit fee.

(2) The Registrar may under special circumstances require a registered society to make additional contributions to the Audit and Supervision Fund.

(3) The Registrar shall administer the Audit and Supervision Fund on behalf of the contributing registered societies and shall report annually to the Board in respect of the income derived from the fees and expenditure sanctioned from the Board and the balance remaining in the Fund.

(4) The Registrar shall fix the fees payable by the registered society under subsection (1).

(5) The Audit and Supervision Fund shall be audited annually by the Auditor General.

(6) The moneys in the Audit and Supervision Fund existing immediately before the 20th day of March, 2020 shall be transferred to the Audit and Supervision Fund established under this Act.

(7) Every registered society shall be required to file with the Registrar annual returns and pay a fee thereon which shall be deposited in the Audit and Supervision Fund.

### **57. Registration of charges**

Schedule 3 to this Act shall apply in relation to the registration of charges against the property of a registered society.

## **PART VII—SUPERVISION AND INSPECTION OF AFFAIRS**

### **58. Production of cash and books of registered society**

Any officer, agent, servant or member of a registered society who is required by the Registrar, or any persons authorised in writing, by the Registrar so to do, shall at such place and at such time as the Registrar may direct, produce all money, securities, books, accounts and documents the property of, or relating to the affairs of, the society which are in the custody of the officer of the society, agent, servant or member and which are under his or her control.

### **59. *Ad hoc* committee of inquiry**

(1) The Registrar may, in consultation with the Board, hold an inquiry or direct any person authorised by him or her by order in writing in that behalf to hold an inquiry into the constitution, working and financial condition of a registered society.

(2) Where the Registrar consults the Board under subsection (1), the Board shall within fourteen days respond to the Registrar in writing.

(3) Upon receipt of the Board's response in subsection (2), or where the Board does not respond to the Registrar within the time stipulated in subsection (2), the Registrar may proceed with the inquiry envisaged under subsection (1) as though the same were in consultation with the Board.

(4) On receipt of a resolution demanding an inquiry passed by not less than two-thirds of the members present at a general meeting of the society which has been duly advertised, the Registrar in consultation with the Board shall cause such an inquiry.

(5) During the period of inquiry referred to in subsections (1) and (2), the chief executive and other officers or employees may be suspended from duty by the Registrar as he or she may deem necessary to facilitate the smooth holding of the inquiry.<sup>11</sup>

(6) Where the chief executive has been suspended in accordance with subsection (5), a caretaker manager shall be appointed by the Registrar in consultation with the Board.<sup>12</sup>

(7) The caretaker manager shall remain in office until either the former chief executive is reinstated or a new one is appointed; except that he or she shall not stay in that office for more than three months after the report of the committee of inquiry has been submitted.<sup>13</sup>

(8) Where during the course of inquiry cause arises to dissolve the committee of the society, the Registrar, in consultation with the Board, shall dissolve the committee and convene within thirty days a special general meeting to replace the committee.<sup>14</sup>

(9) All officers and members of the society shall produce such cash, accounts, books, documents and securities of the society and furnish any information in regard to the affairs of the inspected society as the Registrar or such person authorised by the Registrar may require.

## **60. Inspection of books of indebted registered society**

(1) The Registrar may, if he or she thinks fit, on the application of a creditor or a registered society, direct any person authorised by him or her in writing in that behalf to inspect the books of the society if

- (a) the applicant satisfies the Registrar that the debt is a sum then due, and that he or she has demanded payment of the debt and has not received satisfaction within a reasonable time; and
- (b) the applicant deposits with the Registrar such sum as security for the costs of the proposed inspection as the Registrar may require.

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11 See revisers' note on page 3626

12 See revisers' note on page 3626

13 See revisers' note on page 3626

14 See revisers' note on page 3626

(2) The Registrar shall communicate the results of any inspection to the creditor.

### **61. Cost of inquiry**

Where an inquiry is held under section 59 or an inspection is made under section 60, the Registrar may make an award apportioning the costs or such part of the costs as he or she may think fit between the society, the members or creditor demanding an inquiry or inspection and the officer or former officers of the society.

### **62. Recovery of award under section 61**

An award under section 61 may be recovered in any court of competent jurisdiction in the same manner as a decree of that court.

## **PART VIII—SPECIAL PROVISIONS RELATING TO DIFFERENT TYPES OF COOPERATIVE SOCIETIES**

### **63. Savings and credit cooperative societies**

(1) A savings and credit cooperative society is a registered society for promoting and mobilising savings and extending credit and financial services to its members.

(2) The words “savings and credit cooperative or organisation” shall form part of the name of a society formed for the purpose described in subsection (1).

(3) All savings and credit cooperative societies shall be registered, developed, or deregistered under this Act, by the Registrar.

(4) A savings and credit cooperative society shall discharge any or all of the following functions—

- (a) acquire, lease, hold, assign, pledge, mortgage, discount or dispose of property or assets;
- (b) enter into contracts;
- (c) institute and defend against lawsuits and other legal proceedings;

- (d) mobilise deposits and borrow in an aggregate amount not exceeding a multiple of capital as prescribed in the regulations made under this Act;
- (e) accept member deposits, provide loans and other financial services to its members;
- (f) operate an office that shall be open for inspection by the Registrar or a representative of the Registrar at all designated working hours;
- (g) collect, receive and disburse money in connection with the provision of money transfers, and other money instruments and the provision of services through automated devices for the benefit or convenience of its members, and charge fees for such services;
- (h) act as a trustee, accept and hold in trust real and personal property;
- (i) purchase or make available various forms of insurance or risk;
- (j) manage programmes for its members, either on an individual or group basis in compliance with relevant laws; and
- (k) exercise such incidental powers as may be necessary to enable it to carry out effectively the purposes for which it is established.

#### **64. Appointment of Board of Directors**

(1) Every savings and credit cooperative society shall have a Board of Directors of not less than five directors.

(2) The Board of Directors shall be headed by a Chairperson who shall be a non-executive director.

(3) Notwithstanding anything to the contrary in any other written law, or any agreement, not more than fifty percent of the directors of the savings and credit cooperative society shall be employees of the savings and credit cooperative society or any of its subsidiaries or affiliates except in such cases where the Registrar is satisfied that all those directors who are employees have been deemed fit and proper to be directors of a savings and credit cooperative society by the home country regulator of the savings and credit cooperative society.

(4) No person who is not a fit and proper person in accordance with the fit and proper test specified in Schedule 4 to this Act shall become or remain a director of a savings and credit cooperative society, and for the

purposes of this subsection, the Registrar shall vet all persons proposed as directors of a savings and credit cooperative society within six months and notify the savings and credit cooperative society accordingly.

(5) An appointment of a director of a savings and credit cooperative society shall not have legal effect for the purposes of this Act or any other law unless that person has complied with the requirements of subsection (4).

(6) Subject to subsection (1), no person who on the 20th day of March, 2020 is a director of a savings and credit cooperative society shall, on the expiry of his or her current term of office be eligible for re-appointment as a director unless or until he or she qualifies for appointment under subsection (4).

(7) A director of a savings and credit cooperative society shall not, after six months from the 20th day of March, 2020, remain a director unless or until he or she qualifies to be a director as required under subsection 4.

(8) A member of a *Shari'ah* Advisory Board in any savings and credit cooperative society shall not be appointed a director of a savings and credit cooperative society while he or she holds that position.

## **65. Disqualification of director**

(1) No person shall become a director in a savings and credit cooperative society unless—

- (a) he or she is above eighteen years of age;
- (b) he or she has not been declared as suffering from mental illness by any court of law in Uganda or elsewhere;
- (c) he or she is not an undischarged bankrupt;
- (d) he or she is a natural person;
- (e) the savings and credit cooperative society has served a written notice on the Registrar of its nomination of that person to become a director; and
- (f) the Registrar has given a written approval of his or her compliance with the fit and proper test specified in Schedule 4 to this Act.

(2) The Registrar may, on receipt of the notice referred to in subsection (1), seek further information and documents from the applicant or from other sources.

(3) After due consideration has been given to the written notice, the Registrar may—

- (a) give his or her approval of the applicant to become a director; or
- (b) withhold his or her approval on the ground that the person concerned is not a fit and proper person to become a director.

(4) Any person who knowingly or recklessly provides information to the Registrar under subsections (1) and (2), which is false or misleading in any material particular commits an offence and is liable, on conviction, to a fine not exceeding two hundred fifty currency points or to imprisonment for a term not exceeding two years, or both.

(5) At least fifty percent of the directors of a savings and credit cooperative society registered under this Act must, during the tenure of their office, be resident in Uganda.

## 66. Conflict of interest

(1) A director, officer or a member of a *Shari'ah* Advisory Board of a savings and credit cooperative society shall not take part in the discussion of or taking a decision on any matter in which that person or any of his or her related interest has an interest.

(2) In any meeting where subsection (1) applies, every officer or director referred to in subsection (1) shall inform the meeting of his or her interest, or that of any of the parties mentioned in subsection (1), and to the extent that the discussion or decision concerns any matter in which he or she has an interest, shall exclude himself or herself from further attendance at that meeting.

## 67. Responsibilities of Board

(1) The Board of Directors of a savings and credit cooperative society shall be responsible for—

- (a) good corporate governance and business performance of the savings and credit cooperative society;
- (b) ensuring that the Board is in full control of the affairs and business operations of the savings and credit cooperative society;
- (c) ensuring that the business of the savings and credit cooperative society is carried on in compliance with all applicable laws and regulations, and in the case of a savings and credit cooperative

society that conflicts Islamic savings and credit cooperative society business, the business of the savings and credit cooperative society complies with the *Shari 'ah*, and is conducive to safe and sound cooperative practices; and

- (d) ensuring and reporting to the members at the annual general meeting of the savings and credit cooperative society, that the internal controls and systems, and management information systems of the savings and credit cooperative society—
  - (i) are designed to provide reasonable assurance as to the integrity and reliability of the financial statements of the savings and credit cooperative society and to adequately safeguard, verify and maintain accountability of its assets;
  - (ii) are based on established and written policies and procedures, and are implemented by trained and skilled officers with an appropriate segregation of duties; and
  - (iii) are continuously monitored, reviewed and updated by the Board of Directors to ensure that no material breakdown occurs in the functioning of such controls, procedures and systems.

(di) For the purposes of this Act, “corporate governance” shall cover the overall environment in which the savings and credit cooperative society operates, comprising a system of checks and balances which promotes a healthy balancing of risk and return, and in the case of a savings and credit cooperative society which conducts Islamic savings and credit cooperative society business, promotes compliance with the *Shari 'ah*.

- (3) The directors of a savings and credit cooperative society shall appoint from among their number, two executive directors who shall—
  - (a) be ordinarily resident in Uganda;
  - (b) have knowledge of the manner in which the savings and credit cooperative society’s longer term strategy is pursued in practice and an ability to influence its policies; and
  - (c) effectively direct the business of the savings and credit cooperative society.

## **68. Duties of directors**

(1) A director shall in relation to the savings and credit cooperative society in which he or she serves, stand in a fiduciary relationship and shall

in addition and without derogation owe the savings and credit cooperative society and its members the following duties—

- (a) a duty to act honestly and in good faith;
- (b) a duty to act in the best interest and for the benefit of the savings and credit cooperative society;
- (c) a duty to act independently, free from undue influence of any other person; and
- (d) a duty to access necessary information to enable him or her to discharge his or her responsibilities.

(2) The Board as an organ and each director individually shall immediately report in writing to the Registrar if they have reason to believe that the savings and credit cooperative society—

- (a) may not be able to properly conduct its business as a going concern;
- (b) appears to be or is likely in the near future to be unable to meet all, or any of its obligations;
- (c) has suspended or is about to suspend any payment of any kind or any transfer or delivery of any asset; or
- (d) does not, or may not be able to meet its capital requirements as prescribed in accordance with the Act and the savings and credit cooperative society byelaws.

(3) A director who acts in accordance with this section shall make his or her intention known to the Board in writing prior to reporting to the Registrar.

(4) Where the Board or a director fails, omits or neglects to report to the Registrar any matter required to be reported under subsection (2), the Registrar may—

- (a) withdraw his or her approval of the Board as an organ; or
- (b) withdraw his or her approval of any of the directors.

## **69. Removal and suspension of directors**

- (1) The Registrar may, for sufficient cause—
  - (a) remove a director of a savings and credit cooperative society;
  - (b) remove or suspend the whole Board of a savings and credit cooperative society; or

- (c) exclude any member of the Board from qualifying to serve on a Board of any savings and credit cooperative society in Uganda for a period of not less than ten years.
  
- (2) For the purposes of subsection (1), “sufficient cause” means—
  - (a) in relation to a director or directors, ceasing to comply with the fit and proper test specified in Schedule 4 to this Act; and
  - (b) in relation to the Board—
    - (i) failure, omission or neglect of their responsibilities in section 67;
    - (ii) failure, omission or neglect to report to the Registrar as required by section 68(2);
    - (iii) failure or omission or neglect of duties as prescribed by section 68(1); or
    - (iv) failure to attend without a lawful excuse, two consecutive meetings of the Board or being absent from three Board meetings for a consecutive period of six months.
  
- (c) No director serving on the Board of a savings and credit cooperative society shall simultaneously serve as a Board member, or in any executive capacity, with any other savings and credit cooperative society or a subsidiary or affiliate of the savings and credit cooperative society in Uganda.

- (4) Where the Registrar—
  - (a) removes or suspends the whole Board; or
  - (b) removes any directors from the Board and as a result of the removal the number of Board members falls below the minimum prescribed in accordance with this Act,

the Registrar shall immediately assume the powers of the Board and shall within fourteen days summon a meeting of the shareholders for the purpose of electing a new Board, which shall be required to satisfy the provisions of this Act relating to the appointment of directors.

## **70. Board Meetings**

- (1) The Registrar may, by notice, order any savings and credit cooperative society to provide the Registrar within a period specified in the notice, a copy of the Board minutes and resolutions duly certified as a true record by the Secretary and Chairperson of the Board.

(2) Notwithstanding anything in this Act and the byelaws of a savings and credit cooperative society, the Registrar may, in the interest of the savings and credit cooperative society or the safety of depositors—

- (a) order the Board of a savings and credit cooperative society to meet within three days and at such place in Uganda as the order shall specify;
- (b) order the Board of directors of a savings and credit cooperative society to consider on the agenda of the convened meeting such items relating to the savings and credit cooperative society as the Registrar may deem necessary for purposes of the safety of the savings and credit cooperative society and its depositors; or
- (c) appoint an observer to any Board meeting of a savings and credit cooperative society.

(3) Where a meeting of the Board is convened under subsection (2) (a), quorum for the meeting shall be three directors or one-third of the total directors present, whichever is greater, and decisions shall be taken by a simple majority.

(4) Any decision taken under subsection (3) shall be binding on the savings and credit cooperative society.

(5) Where no director turns up, the Registrar shall take appropriate action as the Registrar deems fit.

## **71. Audit Committee of Board**

(1) The Board shall constitute from among its members, a committee on audit, consisting of not less than two persons to perform such functions as the Board shall specify.

(2) Notwithstanding subsection (1), an executive director shall be disqualified from serving on the committee on audit.

(3) The committee on audit shall be headed by a chairperson who shall be appointed by the Board.

(4) The chairperson shall have such functions as are prescribed by the Board.

(5) The committee on audit shall meet once in every quarter of the financial year of the savings and credit cooperative society.

(6) The following shall be required to attend all meetings of the committee on audit—

- (a) the Board members of the committee on audit;
- (b) the officer responsible for internal audit in the savings and credit cooperative society; and
- (c) the officers in-charge of the financial and treasury functions of the savings and credit cooperative society.

(7) The committee on audit shall have the following duties—

- (a) to review the internal audit report and programmes of the savings and credit cooperative society;
- (b) to review the internal controls, operating procedures and systems and management information systems of the savings and credit cooperative society and in the case of a savings and credit cooperative society which controls Islamic savings and credit cooperative society business, those controls, procedures and systems designed to ensure compliance with the *Shari'ah*;
- (c) to ensure that the audit function of the savings and credit cooperative society is adequately staffed;
- (d) to ascertain the nature of the external audit, coordinate the internal and external audits and consider rectification and implementation of issues raised by the external auditor;
- (e) to review the financial statements of the savings and credit cooperative society and make recommendations on them;
- (f) to review such investments and transactions that could affect the well-being of the savings and credit cooperative society as the auditor or auditors or any officer of the savings and credit cooperative society may bring to the attention of the committee; and
- (g) to review the practices of a savings and credit cooperative society to ensure that any insider transactions of the institution that have a material effect on the stability or solvency of the society are identified and dealt with.

**72. Asset and Liability Management Committee**

(1) The Board shall constitute an Asset and Liability Management Committee consisting of not less than two persons to perform such functions as the Board shall specify in relation to establishing the broad guidelines on the savings and credit cooperative society's tolerance for risk and expectations from investment.

(2) Subject to subsection (1), the guidelines shall include the following—

- (a) limits on loan to deposit ratio;
- (b) limits on loan to capital ratio;
- (c) limits on exposure to single or related customers;
- (d) flexible limits on the percentage reliance on a particular deposit liability category;
- (e) maximum dependence on inter-bank and other volatile funding instruments;
- (f) limits on maximum and minimum maturities for newly acquired categories of assets and liabilities;
- (g) limits on maximum and minimum maturities for existing categories of assets and liabilities;
- (h) limits on the sensitivity of the net interest margin on changes in market interest rates;
- (i) maximum percentage imbalance between rates sensitive assets and liabilities;
- (j) limits on minimum spread acceptable between costs and yields of liabilities and assets respectively;
- (k) limits on minimum liquidity provision to be maintained to sustain operations while longer term adjustments are made;
- (l) primary sources of meeting funds should be quantified; and
- (m) other limits and guidelines as the Registrar may specify.

(3) The Registrar may issue notices to savings and credit cooperative societies concerning matters to be considered by the Asset and Liability Management Committee.

**73. Internal Auditor**

- (1) Every savings and credit cooperative society shall appoint an internal auditor suitably qualified and experienced in banking who shall report to the committee on audit of the Board.
- (2) The duties of the internal auditor shall be—  
(a) to evaluate the reliability of the information produced by accounting and computer systems;  
(b) to provide an independent appraisal function;  
(c) to evaluate the effectiveness, efficiency and economy of operations;  
(d) to evaluate compliance with laws, policies and operating instructions;  
(e) to provide investigative services to line management; and  
(f) to certify returns submitted to the Registrar by the savings and credit cooperative society.

**74. External Auditors**

- (1) Subject to subsection (5), every savings and credit cooperative society shall nominate for appointment annually, from a pre-qualified list to be published by the Registrar a firm of qualified auditors whose duty shall be to perform an audit of the financial statements of the savings and credit cooperative society and to give an opinion in accordance with this Act and International Standards on Auditing as adopted in Uganda on the following—  
(a) annual balance sheet, profit and loss account, cash flow statement and other financial statements required to be submitted by the savings and credit cooperative society to the Registrar under this Act;  
(b) compliance of the savings and credit cooperative society with the requirements of this Act; and  
(c) compliance of the savings and credit cooperative society with the requirements of its byelaws.
- (2) A savings and credit cooperative society shall, within thirty days after the nomination for appointment of an external auditor, apply in writing to the Registrar for the approval of the appointment.
- (3) On receipt of an application under subsection (2), the Registrar may in writing—

- (a) approve the appointment;
  - (b) approve the appointment subject to such conditions as shall be specified in the approval; or
  - (c) decline to approve the appointment.
- (4) Where the Registrar declines to approve the appointment of an external auditor under subsection (3) or withdraws an approval under subsection (7), the savings and credit cooperative society shall nominate another firm as external auditors and subsection (2) shall apply with the necessary modifications in respect of that nomination.
- (5) Where a savings and credit cooperative society fails to nominate or obtain approval of an external auditor within two months after the lapse of the term of its previous external auditor, or fails to fill a vacancy for an external auditor, the Registrar may appoint a qualified firm of auditors whose remuneration shall be paid by the savings and credit cooperative society.
- (6) A person appointed as an external auditor under subsection (5) shall—
  - (a) be deemed to have been appointed as an external auditor at the immediately preceding annual general meeting of the savings and credit cooperative society; or
  - (b) be deemed to be an external auditor appointed by the savings and credit cooperative society under subsection (1) and approved by the Registrar as required by subsection (3).
- (7) The Registrar may for sufficient cause withdraw his or her approval of the appointment of an external auditor previously granted, and upon the withdrawal, the external auditor concerned shall vacate office.
- (8) For the purposes of subsection (7), “sufficient cause” shall relate to any of the following—
  - (a) failure to comply with the requirements of this Act;
  - (b) breach of duty as imposed by this Act;
  - (c) inability to perform to the prescribed standard or at all; and
  - (d) any other reason that the Registrar may, in his or her discretion consider applicable.

**75. Approval of external auditor**

No person shall hold office as an external auditor of a savings and credit cooperative society unless his or her appointment has been approved by the Registrar under section 74.

**76. Disqualification of external auditor**

A person shall not qualify to be appointed or to act as an external auditor of a savings and credit cooperative society if—

- (a) that person, and in case of a firm, every partner in the firm, is not registered as a member of the Institute of Certified Public Accountants established under the Accountants Act;
- (b) that person, either directly or indirectly has a material interest in the savings and credit cooperative society or its affiliates;
- (c) in the opinion of the Registrar, circumstances exist which may impair the independence or impartiality of that person in the performance of his or her duties as an external auditor of the savings and credit cooperative society;
- (d) that person is an officer or servant of the savings and credit cooperative society;
- (e) that person is a partner, or associate of a director, or an officer or substantial shareholder of the savings and credit cooperative society; or
- (f) that person by himself or herself, together with his or her partners or employees, performs the duties of secretary or book keeper for the savings and credit cooperative society.

**77. No change of external auditor**

(1) No savings and credit cooperative society shall, before the expiry of the term of the current external auditor, remove or change its auditor except with the prior written approval of the Registrar.

(2) Any person who is an external auditor of a savings and credit cooperative society shall give adequate written notice to the savings and credit cooperative society and the Registrar of—

- (a) his or her decision to resign from office and the reasons for the resignation; and

- (b) his or her decision not to seek to be re-appointed and the reasons for doing so.

### **78. Insurance cover by external auditor**

Each firm of external auditors approved for appointment by the Registrar under this Act shall have in force, before the commencement of the audit, a valid professional indemnity insurance cover for negligence in the performance of its duties under this Act.

### **79. Time limit for external auditor**

No audit firm or individual auditor shall serve the same savings and credit cooperative society as external auditors for a continuous period exceeding four years.

### **80. Duties of external auditor to savings and credit cooperative society**

An external auditor appointed under this Act shall have a primary duty to audit, which shall include the following—

- (a) a duty to warn the Board of a savings and credit cooperative society of—
- (i) the savings and credit cooperative society's ability or inability to meet the capital requirements;
  - (ii) the savings and credit cooperative society's ability or inability to meet the reserve and liquidity requirements;
  - (iii) the savings and credit cooperative society's credit, foreign exchange and operations risks; and
  - (iv) any other matter which the auditor becomes aware of in the performance of his or her functions as an auditor which may—
    - (A) prejudice the ability of the savings and credit cooperative society to continue conducting business as a going concern;
    - (B) be detrimental to the interests of the depositors; or
    - (C) violate the principles of sound financial management or the maintenance of adequate internal controls and systems by the savings and credit cooperative society;

- (b) a duty to obtain sufficient, relevant and reliable evidence to satisfy themselves of the various matters necessary to form their opinion;
- (c) a duty to carefully plan, supervise and review all their work including work performed by subordinate staff;
- (d) a duty to ascertain, evaluate and test internal controls before placing audit reliance on them;
- (e) a duty to exercise reasonable care and skill in accordance with the current professional standards and practices, and to perform the audit in accordance with International Standards on Auditing and such other regulations, directives, policies and guidelines as the Registrar may issue; and
- (f) a duty to assess, and in writing comment on, the report of the Board before the report is tabled at the annual general meeting.

## **81. Duties of external auditor to Registrar**

- (1) An external auditor appointed under this Act shall inform the Registrar if there are reasonable grounds to believe that—
  - (a) the savings and credit cooperative society is insolvent, or there is a significant risk that the savings and credit cooperative society will become insolvent; or
  - (b) the savings and credit cooperative society has contravened a—
    - (i) prudential standard;
    - (ii) requirement in this Act, regulations, notice or directive issued under this Act; or
    - (iii) condition imposed on its licence.
- (c) The external auditor shall verify all quarterly returns and other reports of the savings and credit cooperative society which the Registrar may require to be verified.
- (3) The external auditor shall submit to the Registrar a management letter in which they shall disclose all shortcomings or any contravention of the law.
- (4) The external auditor shall perform any other functions as the Registrar may by notice assign the auditor.

**82. External auditors right to access financial records**

(1) The external auditor appointed under this Act shall have a right of access at all times to such books, accounts, computer systems, vouchers, financial records and securities of the savings and credit cooperative society and shall be entitled to receive from the officers and staff of the savings and credit cooperative society all information and explanations as he or she may require in the performance of his or her duties.

(2) Any person who—

- (a) obstructs an external auditor in the performance of his or her duties under this Act; or
- (b) fails, refuses or neglects to provide an external auditor with such books, accounts, computer systems, vouchers, financial records and securities as requested by the external auditor,

commits an offence and is liable, on conviction, to a fine not exceeding one hundred currency points or to imprisonment for a term not exceeding one year, or both.

**83. Information by external auditors to Registrar**

(1) The Registrar may, by notice in writing, require a person who is, or who has been an external auditor of

- (a) a savings and credit cooperative society; or
- (b) a subsidiary or affiliate of a savings and credit cooperative society, to provide such information about the savings and credit cooperative society, subsidiary or affiliate, if the Registrar considers that the information will assist the savings and credit cooperative society in performing its functions.

(2) Where a person to whom a request to provide information has been made under subsection (1), fails, refuses or neglects to provide the information, or provides information which is false or misleading, that person commits an offence under this Act and is liable, on conviction, to a fine not exceeding two hundred fifty currency points or to imprisonment for a term not exceeding two years, or both.

**84. Audit report**

(1) The external auditor shall, after performing the audit, submit to the savings and credit cooperative society an audit report.

(2) A savings and credit cooperative society shall ensure that a report made under subsection (1) is submitted to the Registrar within three months after the close of its financial year.

(3) A savings and credit cooperative society which contravenes subsection (2) commits an offence and is liable, on conviction, to a fine of twenty currency points for each day exceeding the period prescribed in subsection (2) until submission of the report.

(4) A savings and credit cooperative society shall provide the external auditor with a letter of assurance from management stating that they have disclosed all financial and other related transactions both off and on balance sheet including contingent liabilities and a copy of the letter shall be submitted to the Registrar with the audit report.

### **85. Qualified audit report**

The auditor shall, in every report on the savings and credit cooperative society's audited annual financial statements which include a qualification, identify and quantify the matters for qualification where possible.

### **86. Rejection of audit report**

(1) The Registrar may, if dissatisfied with the standard or quality or both, of the audit, reject the audit report and call for a fresh audit at the expense of the savings and credit cooperative society concerned, the external auditor or both.

(2) Where the Registrar rejects an audit report, it may appoint an auditor for the savings and credit cooperative society and shall fix the remuneration to be paid to the auditor by that savings and credit cooperative society.

### **87. Requirements on provisions**

The Registrar shall, before annual accounts of a savings and credit cooperative society are finalised, dividends paid, and the capital requirements are met, require to be satisfied by the savings and credit cooperative society in respect of—

- (a) sufficiency of provisions for bad debts;

- (b) existence and enforcement of a proper policy of non-accrual of interest on non-performing loans; and
- (c) amortisation of preliminary expenses, goodwill and similar expenses.

**88. Special and further investigations by external auditors**

- (1) The Registrar may require an external auditor—
  - (a) to submit such additional information in relation to the audit as the Registrar shall deem necessary;
  - (b) to carry out any other special investigation;
  - (c) to carry out any further investigation; or
  - (d) to submit a report on any of the matters referred to in paragraphs (a), (b) and (c),

and the savings and credit cooperative society concerned shall remunerate the auditor in respect of the discharge by the auditor of all or any of such additional duties.

(2) The Registrar shall, at least once in every financial year arrange meetings between the Registrar, a savings and credit cooperative society and its external auditor to discuss matters relevant to the Registrar's supervisory responsibilities which have arisen in the course of the statutory audit of that savings and credit cooperative society, including relevant aspects of the business of the savings and credit cooperative society, its accounting and internal control systems, and its annual balance sheet, profit and loss accounts, and management letter.

(3) The Registrar may, if he or she considers it necessary, arrange meetings with the external auditors of the savings and credit cooperative society.

(4) If an external auditor, acting in good faith and not negligently or with wrongful intent, furnishes to the Registrar any information or opinion on a matter to which this Act applies and which is relevant to the supervisory function of the Registrar whether or not in response to a request by it, such actions by the external auditor shall not—

- (a) constitute a breach of any duty which the external auditor may owe to any person; or
- (b) constitute a contravention of any code of professional conduct to which the external auditor may be subject.

(5) Subsection (4) shall apply to any matter of which the external auditor becomes aware in his or her capacity as an external auditor or in discharge of his or her duties under this Act and which relates to the business or affairs of the institution or its subsidiary or affiliate.

## **89. Control over management**

(1) The Registrar may, by order in writing, remove from office a chairperson, director or the chief executive of a savings and credit cooperative society if satisfied that in the public interest or for preventing the affairs of the savings and credit cooperative society being conducted in a manner detrimental to the interests of the depositors or for securing the proper management of the savings and credit cooperative society, it is necessary to do so.

(2) The removal under subsection (1), shall take effect from such date as may be prescribed by the Registrar.

(3) A person aggrieved by the decision of the Registrar may, within fourteen days after making the order, make representations to the Registrar and the Registrar may modify, cancel or uphold his or her decision to remove that person or impose any conditions on the modification or cancellation.

(4) Where an order under subsection (1) has been made, the Registrar may appoint any suitable person in place of the chairperson, director or chief executive who has been removed from office to hold that office for such period as the letter of appointment may specify.

(5) Notwithstanding anything in any law or in any contract, or memorandum and articles of association, a person removed by the Registrar under this Act is entitled to compensation for loss or termination of employment of not more than three months' salary.

(6) A person who has been convicted of an offence involving financial impropriety, fraud, or financial loss shall not become or continue in the management of a savings and credit cooperative society.

**90. Credit reference bureau**

(1) The Registrar or any other person authorised by the Registrar shall establish a credit reference bureau for the purpose of disseminating credit information among savings and credit cooperative societies for their business.

(2) All savings and credit cooperative societies shall promptly report to the credit reference bureau

- (a) all the details of non-performing loans and other accredited credit facilities classified as doubtful or loss in their portfolio, where the amount owed is not in dispute and the customer has not made any satisfactory proposals for repayment of the debt following formal demand, and the customer has been given at least twenty-eight days' notice of the intention to disclose that information to the credit reference bureau; and
- (b) information on customers involved in financial malpractices including bouncing of cheques due to lack of funds and fraud.

(3) No information other than that referred to in subsection (2) shall be divulged by any savings and credit cooperative society to the credit reference bureau without the customers' consent.

(4) Where—

- (a) a credit reference bureau formed under this Act or its officer; or
- (b) a savings and credit cooperative society or its officer,

discloses to a savings and credit cooperative society or its officer, the credit reference bureau or its officer, the information referred to in subsection (2), in good faith, in the performance of their duties, no right of action shall accrue to or against that person for breach of the duty of confidentiality.

(5) Any customer of a savings and credit cooperative society has a right to know what information is held on him or her by the credit reference bureau.

(6) The Registrar may, in consultation with the Minister, make regulations providing for the access and use of the credit reference bureau by other credit providers or service providers.

(7) For the purposes of subsection (6), “credit provider” or “service provider” means an institution not licensed by the Registrar that is involved in the provision of goods and services on credit to the public.

(8) Where the Registrar considers it necessary, and after consultation with the Minister, the Registrar may, under subsection (1), establish more than one credit reference bureau.

(9) The Registrar may license a biometric identification service provider for purposes of the credit reference bureau established under subsection (1).

(10) For the purposes of this section, “biometric identification service provider” means a legal entity established and licensed by the Registrar to collect, compile, consolidate, process and store biometric and personal identification data to identify persons, companies and enterprises for purposes of availing that data to savings and credit cooperative societies, microfinance deposit-taking institutions, credit reference bureaus and such other credit providers that may have been permitted by the Registrar under regulations made under subsection (6).

## **91. Savings and credit cooperative societies to carry out credit check on customer applying for credit**

(1) Unless the Registrar directs otherwise, every savings and credit cooperative society shall perform a credit check on a customer who applies for credit from the savings and credit cooperative society.

(2) Notwithstanding subsection (1), the Registrar may, by statutory instrument, after consultation with the Minister, prescribe other circumstances requiring a savings and credit cooperative society to perform a credit check on a customer.

### *Supervision*

## **92. Inspection of savings and credit cooperative societies**

(1) The Registrar may, periodically or at any time at his or her discretion, cause an inspection to be made, by an officer of the Registrar or other person appointed by the Registrar, of any savings and credit cooperative

society and of its financial records and books of accounts on the premises of the savings and credit cooperative society and shall provide to that savings and credit cooperative society a copy of the report on inspection.

(2) The savings and credit cooperative society shall furnish to the officer making an inspection under subsection (1) all such books of accounts and financial records and other documents as well as assets including cash, notes and securities held by the savings and credit cooperative society in its custody or power and furnish the officer with such statements or information relating to the affairs of the savings and credit cooperative society, as the officer may require of it, within such reasonable time as the officer may specify.

(3) An officer of a savings and credit cooperative society who fails to furnish any document in his or her custody or power, as required under subsection (2), commits an offence and is liable, on conviction, to a fine not exceeding fifty currency points or to imprisonment for a term not exceeding six months, or both.

(4) An officer appointed by the Registrar under subsection (1) shall after inspection, prepare and submit a report which shall draw attention to any breach or contravention of this Act, regulations, notices or directions issued under this Act, any weaknesses in systems control and procedures or in the manner of conduct of the business of the savings and credit cooperative society inspected, any mismanagement, and such other matter relating to the business of the savings and credit cooperative society not consistent with sound banking practice.

### **93. Information to be provided by savings and credit cooperative societies**

(1) A savings and credit cooperative society shall furnish to the Registrar at such times and in such form as the Registrar may prescribe, all information and data of its operations in Uganda including periodic returns called for by the Registrar and the audited balance sheet and profit and loss account and those of any company which is a subsidiary, affiliate, associate or holding company to that savings and credit cooperative society or any other information which the Registrar may require for the proper discharge of his or her functions under this Act.

(2) A savings and credit cooperative society shall report to the Registrar all loans and other credit granted or extended to its insiders at least once every quarter of the financial year.

(3) A savings and credit cooperative society which, without reasonable cause, fails to comply with subsection (1) or (2), or submits inaccurate returns, shall pay to the Registrar a civil penalty of fifty currency points per day of default.

(4) The Registrar may impose restrictions on the operations of a savings and credit cooperative society which fails to provide information required under this section or which provides false information.

(5) The Registrar may, upon request made to him or her by any monetary or financial regulatory authority in the ordinary course of its business, disclose any of the information provided under this section to that monetary or financial regulatory authority within or outside Uganda; except that the Registrar shall, before disclosing any information under this section, first satisfy himself or herself that the information is required for the proper discharge of the functions of the requesting monetary authority or financial regulatory authority.

#### **94. Information for consolidated supervision**

(1) The Registrar shall, if he or she deems necessary for the safety and soundness of the savings and credit cooperative society, or for the safety of the depositors or to determine whether the provisions of this Act are being duly complied with, require in writing any affiliates, associates, holding or subsidiary companies or any person who controls a savings and credit cooperative society to provide the Registrar or his or her appointed agent such information or documents as may be necessary including the financial statements and other financial records of that affiliate, associate, holding or subsidiary company or controller within the period specified in the notice.

(2) The Registrar may appoint a competent person to carry out an examination of the operations and affairs of the affiliate, associate, holding or subsidiary company of a savings and credit cooperative society; or of any person who exercises control over a savings and credit cooperative society in order to satisfy himself or herself that the operations and affairs of the affiliate, associate or holding or subsidiary company or of the person

who exercises control over a savings and credit cooperative society are not detrimental to the safety and soundness of the savings and credit cooperative society concerned.

(3) Any person who fails, refuses, omits or neglects to provide information requested under subsection (1) or (2), commits an offence and is liable, on conviction, to a fine not exceeding two hundred fifty currency points or to imprisonment for a term not exceeding two years, or both; and an additional fine not exceeding fifty currency points for each day on which the offence continues.

(4) Any substantial shareholder or director of a savings and credit cooperative society who—

- (a) being a natural person fails, refuses, omits or neglects to provide information requested for under subsection (1) or (2) or is a party to such failure, refusal, omission or neglect; or
- (b) being a company fails, refuses, omits or neglects to provide information requested under subsection (1) or (2) or is a party to such failure, refusal, omission or neglect,

shall cease to be a fit and proper person and shall not remain a substantial shareholder or director in a savings and credit cooperative society.

## **95. Prudence and diligence**

(1) In the conduct of the affairs of a savings and credit cooperative society, the Board shall exercise the necessary prudence and diligence and shall be held jointly and severally liable for any losses sustained through any of their acts which are contrary to this Act, regulations and the byelaws of the society or the decisions of any general meeting.

(2) An officer of the savings and credit cooperative society shall not participate in the deliberation or determination of any question affecting that person's pecuniary interest or the pecuniary interest of any member of the immediate family of that person or of any company or organisation other than the savings and credit cooperative society in which that person has an interest, in which case the person shall disclose any conflict of interest to the Board.

**96. Credit committee**

(1) The Board of the savings and credit cooperative society shall appoint a credit committee among its members consisting of an odd number of not less than three persons, on such terms and conditions as the byelaws provide.

(2) The credit committee shall be responsible for the general supervision of loans to members, subject to policies established by the Board of the savings and credit cooperative society and approved at the annual general meeting.

(3) The credit committee shall meet as often as required to consider loan applications.

(4) A loan shall not be granted unless it is approved by a majority of the committee except if approved by an officer delegated in subsection (5).

(5) The Board may appoint officers and delegate to them the power to approve certain loans whose limits shall be set in their credit policies.

(6) Any action taken by an officer delegated under subsection (5) shall be reported to the credit committee.

(7) A member whose loan application is not approved may appeal against the decision to the Board whose decision shall be final.

(8) A member of the credit committee who defaults on his or her loan obligations, shall cease to be a member of the committee.

**97. Savings**

(1) A savings and credit cooperative society may receive savings from members with demand or fixed term accounts.

(2) The terms, rates and conditions of the savings under subsection (1) shall be determined by the Board.

(3) A savings and credit cooperative society shall maintain deposits in a bank or financial institution supervised by the Bank of Uganda or in

securities issued by the Government or by the Bank of Uganda, for an amount of not less than twenty percent of its total savings and deposits.

**98. Joint account**

Two or more members of a savings and credit cooperative society may open a joint account and the account shall be treated as a group account.

**99. Charge against shares and savings**

(1) A savings and credit cooperative society shall have a first charge against savings and shares off and upon any dividend or interest payable to the member, for any debt due to the savings and credit cooperative society from the member, either as a guarantor or endorser of a loan or any other obligation.

(2) A savings and credit cooperative society may offset any sum credited or payable to a member that is in arrears.

(3) A savings and credit cooperative society may refuse to allow withdrawals from any savings account where an account holder is in arrears on a debt to the savings and credit cooperative society.

**100. Dormant accounts**

(1) Where there has been no activity on a savings account for two years, the Board may impose a reasonable maintenance fee on the account.

(2) The savings and credit cooperative society shall give notice of the action under subsection (1) to a member or known interested parties at the last known address, allowing at least ninety calendar days for a response.

(3) A maintenance fee may be fixed at a rate that covers administrative costs, but shall not reduce a member's interest in the savings and credit cooperative society.

(4) The savings and credit cooperative society shall maintain a separate accounting record of all such accounts.

(5) Share and savings accounts, dividends, interest, and other sums due to a member or other person and held by the society may be presumed abandoned, unless the owner has within five years contacted the society in person or in writing, or otherwise indicated an interest in the funds.

(6) The Board of the savings and credit cooperative society may credit the abandoned funds to a special reserve fund of the society and thereafter dividends or interest shall not accrue to a member or other person to whom the property is owing to the last address shown on the records of the society.

(7) A member or other person may reclaim the abandoned funds by judicial proceedings filed within eight years after the society has credited the funds to the special reserve fund, and thereafter the unclaimed money shall remain in the reserve fund.

## **101. Purpose and conditions of loans**

(1) A savings and credit cooperative society may lend money to members for provident or productive purposes, under conditions provided by the byelaws, lending policies and regulations.

(2) The Board of the savings and credit cooperative society may establish written policies approved at the annual general meeting, regarding the granting of loans including the terms and conditions of repayment, maximum amounts that may be borrowed, and the acceptable form of security.

(3) A loan shall not be extended to non-members.

## **102. Loan limits and security**

(1) Loans may either be secured or unsecured.

(2) In addition to generally accepted forms of security, endorsement of a note by a guarantor or co-guarantor, assignment of an interest in real or personal property, deposits or wages may be deemed as security.

(3) The maximum amount that any member and related parties may borrow in the aggregate shall not exceed ten percent of total assets or

twenty-five percent of institutional capital and may be amended to preserve the quality of the assets of the society.

(4) The maximum amount that a savings and credit cooperative society may lend to its staff and Board in aggregate shall not exceed a pre-determined percentage of the cooperative society's total assets set out in the regulations made under this Act.

(5) All loans to staff and Board members should be reported to the full Board and disclosed on the face of the financial statements.

(6) A society, association, partnership, company or other forms of organisations applying for a loan in a savings and credit cooperative society shall have its directors or leaders pledge as security property held by them in their individual capacity or some other form of acceptable security.

### **103. Interest and other charges on loans**

(1) The interest rates on loans shall be determined by the Board of the savings and credit cooperative society subject to the limitations imposed by the Registrar.

(2) In addition to interest charged on loans, a savings and credit cooperative society may charge members reasonable expenses in connection with making, closing, disbursing, extending, collecting, or renewing of loans.

(3) A savings and credit cooperative society may also assess charges to members, in accordance with the byelaws, for failure to repay loans in the manner agreed upon.

(4) A savings and credit cooperative society may participate in any guaranteed loan programme of the Government under the terms and conditions specified in the law providing for such a programme.

### **104. Loans to society officials**

(1) Board members and officers shall be subjected to the same loan policy.

(2) All society employees shall not be advanced loans from the society other than salary advances in accordance with the human resource policy of the society.

(3) Board members, employees, and members of the supervisory committee shall not act as guarantors of loans to members.

## **105. Loan loss provisions and write-offs**

(1) Loan loss provisions and write-offs shall be made in accordance with the generally acceptable industrial standards for loans.

(2) Notwithstanding subsection (1), a savings and credit cooperative society shall put in place stringent collection efforts.

(3) Subject to subsection (2), all security seized shall be pledged and auctioned to recover the loan in default.

## **106. Investment of society funds**

(1) The funds of the savings and credit cooperative society may be invested in

- (a) securities or other debt instruments issued or guaranteed by the Government or any agency of the Government;
- (b) deposits or other account of deposit-taking institutions under the Microfinance Deposit-taking Institutions Act; or
- (c) shares, stocks, deposits in securities and loans to any cooperative society.

(2) An investment made under this section shall not in the aggregate exceed such proportion of the total core capital and savings of a savings and credit cooperative society as the Registrar may prescribe.

(3) A society shall not purchase or acquire any land or any interest or right in land except as may be reasonably necessary for the purpose of conducting its savings taking business and where such investments exist they shall not exceed such proportion of the total assets of the savings and credit cooperative society as the Registrar may prescribe.

**107. Reporting to Registrar**

(1) Notwithstanding section 25 of this Act, a savings and credit cooperative shall furnish quarterly reports to the Registrar on portfolio, operational self sufficiency, risk analysis and sustainability.

(2) A savings and credit cooperative society that contravenes subsection (1) is liable to a civil penalty not exceeding two hundred shillings payable to the Registrar.

**108. Cooperative central finance fund**

(1) There shall be a cooperative central finance fund into which every registered savings and credit cooperative shall contribute five percent of its total equity.

(2) The cooperative central finance fund shall compensate members of the savings and credit cooperative society upon liquidation.

(3) The cooperative central finance fund shall be administered by the Registrar.

(4) The cooperative central finance fund shall be invested in a commercial bank or such other mode as the Registrar may approve.

(5) Where the cooperative central finance fund has been in existence for three years, a registered savings and credit cooperative may borrow from the fund on terms and conditions determined by the Board.

**109. Functions of cooperative central finance fund**

The functions of the cooperative central finance fund are

- (a) to accumulate and prudently manage the liquidity of members of a savings and credit cooperative society through inter-lending and investment services;
- (b) to act as an intermediary for savings and credit cooperative society funds between members and other central finance funds;
- (c) to obtain liquid funds from other savings and credit cooperative society, financial intermediaries and other sources; and

- (d) to provide payment systems and other services of benefit to its members as may be authorised by its byelaws.

### **110. Sources of finance for cooperative central finance fund**

The cooperative central finance fund may be financed through the following means—

- (a) moneys contributed to the cooperative central finance fund by savings and credit societies as shall be approved by the Registrar;
- (b) investment income accruing to the cooperative central finance fund;
- (c) moneys borrowed for the purposes of the cooperative central finance fund; or
- (d) moneys received as donations or grants to the cooperative central finance fund.

### **111. Powers and privileges of cooperative central finance fund**

The cooperative central finance fund may exercise the powers and privileges of any other saving and credit cooperative society registered under this Act, except that it may only serve member organisations and not individuals.

### **112. Exemption of cooperative central finance fund from maintaining reserve fund**

(1) The cooperative central finance fund shall be exempted from the requirement of maintaining a reserve fund as provided under the regulations made under this Act.

(2) Notwithstanding subsection (1) the cooperative central finance fund shall be required to establish and maintain special reserves in accordance with regulations made by the Minister.

### **113. Voluntary liquidation**

(1) Subject to the provisions of this Act relating to liquidation, a savings and credit cooperative society may liquidate voluntarily and wind its affairs as provided in the regulations.

(2) Subject to subsection (1), the Board—

- (a) shall adopt a resolution recommending to the members that the savings and credit cooperative society be liquidated for the reasons indicated but no such liquidation shall be done without notification to the Registrar;
- (b) shall on recommendation of the Registrar issue an order temporarily suspending the operations of the savings and credit cooperative society for up to thirty calendar days, if it appears that a savings and credit cooperative society is insolvent, or that it has wilfully contravened this Act, or it is operating in an unsafe or unsound manner;
- (c) shall be given written notice of the suspension, which shall include a list of the reasons for the suspension and upon receipt of the notice, the savings and credit cooperative society shall cease all operations; except those allowed by the Registrar; and
- (d) may request a hearing to present a plan of proposed corrective action if it desires to resume operation of the savings and credit cooperative society, or it may request that the savings and credit cooperative society, be immediately placed into liquidation and a liquidator shall be appointed.

#### **114. Involuntary liquidation**

(1) If the Registrar considers that a savings and credit cooperative society is not viable in the long term, and that there is no suitable or willing merger partner, the Registrar may issue an order and appoint a liquidator for purposes of winding up the savings and credit cooperative society.

(2) Upon being placed under involuntary liquidation, a savings and credit cooperative society shall cease all deposit transactions and granting of loans.

(3) Under the liquidator, a savings and credit cooperative society shall continue in existence in order to discharge its debts, pay expenses, collect money owed to it and perform all acts required to wind off its affairs.

(4) The liquidator shall distribute the assets of the savings and credit cooperative society or proceeds of disposing the assets as provided in the regulations.

**115. Dispute resolution in savings and credit cooperative societies**

Subject to the provisions of this Act relating to arbitration under settlement of disputes under Part XI of this Act, the following shall also apply to savings and credit cooperative societies—

- (a) where there is a dispute and the issues involve loan defaults, fraud or misappropriations, the case shall be immediately referred to the courts by the society;
- (b) the Registrar shall prescribe the qualifications of arbitrators to resolve issues in savings and credit cooperative societies; and
- (c) the Board in consultation with the members shall identify the persons to be appointed as arbitrators under paragraph (b).

**116. Agricultural production and marketing cooperative society**

(1) An agricultural production and marketing cooperative society is a society registered for the purpose of animal or crop production, purchasing, processing, marketing, distribution and any such activity for its members as may be provided for in regulations and byelaws made under this Act.

(2) An agricultural production and marketing cooperative society is a form of cooperative society registered to help farmers gain market power by joining as a group to market their crops, increase their bargaining power by increasing economics of scale and or purchase supplies and services.

**117. Transport cooperative society**

(1) A transport cooperative society is a society registered to provide transport and transport related services to its members.

(2) A transport cooperative society shall discharge any or all of the following functions—

- (a) organise transport facilities along those routes or in those areas in which, the society may be permitted to operate by the competent authority;
- (b) purchase, hire or sell and maintain in an efficient condition vehicles and motor cycles for the purpose mentioned above;
- (c) establish service and repair shops, run petrol pumps and stock motor vehicles and motor cycles accessories, spare parts, oils, equipment:

- (d) operate bus stops which may be entrusted to the society;
- (e) to arrange for the insurance of the vehicles of the society against damage, passenger or third party risk;
- (f) own, purchase, erect, repair or take on rent buildings, workshops, stands, go downs, office premises as may be necessary to carry out the object of the society, and to acquire land for the purpose;
- (g) manage, sell, improve, develop, mortgage, lease, dispose of, take into account or otherwise deal with all or any part of the property, movable or immovable over which the society has power of disposal;
- (h) enter into any agreement with the Government or authority including an agreement to supply motor transport vehicles on hire to such authorities and to obtain from them all rights, concessions and privileges, that may seem useful to the object of the society or any of them and to give any guarantee or indemnity as may be expedient for the above purpose;
- (i) undertake welfare activities particularly for the members and employees and their children for the promotion of their moral, educational and physical improvement; and
- (j) undertake other measures designed to encourage in the members the spirit and practice of thrift, self-help and mutual help, and to do all such things as are incidental or conducive to the attainment of any or all of the foregoing objects.

## **118. Housing cooperative society**

(1) A housing cooperative society is a society registered to provide housing facilities and housing related needs for its members.

(2) A housing cooperative society shall discharge any or all of the following functions—

- (a) buy or acquire land and property by purchase, lease exchange, gift or otherwise;
- (b) lay out land to suit the requirements of the society in the form of roads, parks, play grounds, schools, hospitals, markets, post offices, cinemas and other social amenities, in accordance with the governing laws;
- (c) lay out land sites for the benefit of the members of the society;
- (d) construct or cause to be constructed buildings or other works of a common utility to the society, namely—

- (i) build houses for members on land owned by them and recover the cost in instalments;
  - (ii) build or cause to be built residential houses or other buildings for the members;
  - (iii) purchase land for members, build houses on it; and
  - (iv) build houses on land belonging to the society for purposes of renting or leasing them to members;
  - (e) hold, sell, mortgage, lease out on hire or hire-purchase system, or otherwise dispose of land, houses, house sites, buildings and all other properties movable and immovable as may be necessary for carrying out of the objective of the society;
  - (f) raise and borrow funds required for the business of the society;
  - (g) repair, alter or otherwise deal with the building of the society;
  - (h) establish and maintain social, recreational, educational, public health or medical institutions for the benefit of the members;
  - (i) encourage in members a spirit and practice of thrift, mutual help and self-help; and
  - (j) do all such things as are incidental or conducive to the attainment of any or all of the above objects.
- (3) The functions of the housing cooperative society under this Act are subject to the Land Act, the National Environment Act, the Condominium Property Act, the Electricity Act and any other law with direct or indirect relation with housing.

## **119. Energy cooperative society**

- (1) An energy cooperative society is a registered society formed for the purpose of generating, transmitting, distributing, sale or use of energy or power; both on-grid and off-grid, amongst its members.
- (2) An energy cooperative society shall discharge any or all of the following functions—
  - (a) provide a framework for the efficient and sustainable production, distribution and marketing of both on-grid and off-grid energy to members;
  - (b) promote generation of energy at household level and consumption of such energy for improved social economic livelihoods;
  - (c) improve access to quality, reliable and affordable energy services for members' economic, social and household uses;

- (d) promote energy efficiency and conservation among members;
- (e) promote diversification of energy supply sources amongst the members;
- (f) harness opportunities offered under clean development mechanisms and other mechanisms including, but not limited to, carbon credit trading to promote the development and exploitation of renewable energy sources;
- (g) identify areas in which new and renewable energy products and services need to be deployed;
- (h) ensure that prudent environmental, social, health and safety considerations, are factored in the operations of the society; and
- (i) perform any other function that is incidental or consequential to the functions in this subsection or as may be conferred on it by any other law.

## **120. Health cooperative society**

- (1) A health cooperative society is a society registered to establish and operate plans or programmes for health care, including hospital care, for its members and the members' dependents through contracts with physicians, medical societies, chiropractors, optometrists, dentists, dental societies, hospitals, podiatrists, and other health operators.
- (2) A health cooperative society shall discharge any or all of the following functions—
  - (a) establish, maintain, and operate health, dental, or vision care plan or plans;
  - (b) construct, operate, and maintain hospitals or other facilities where health care is given, dental, or vision care, is provided to its members and to other persons or groups of persons who become subscribers to the plans, under contracts;
  - (c) provide access to medical, surgical, chiropractic, vision, dental, or hospital care, other health care services; and
  - (d) provide appliances, and supplies, by physicians and surgeons, podiatrists, optometrists, chiropractors, dentists and other health care providers in their offices, in hospitals, in other facilities, and in the home, through contracts with the healthcare providers.

**121. Consumer cooperative society**

- (1) A consumer cooperative society is a society registered for the purpose of purchasing, procuring, processing, exchanging, hiring and dealing in goods, wares and merchandise including food, clothing, household goods, fuel and other necessities for individual or family consumption or use, as well as agricultural inputs for sale for its members.
- (2) A consumer cooperative society shall discharge any or all of the following functions—
- (a) collect and disseminate necessary marketing intelligence for the benefit of its members and to undertake research work and studies in connection with the consumer cooperative movement;
  - (b) render technical guidance and assistance to its members in grading, packaging, standardisation, bulk-buying, storing, pricing, account keeping, other business techniques and management methods to improve and increase their operation and management efficiency;
  - (c) establish testing laboratories for testing of consumer goods in general and making such services available for members;
  - (d) hold seminars, conferences, meetings and to undertake publicity, propaganda and similar activities that shall facilitate the development of consumers' cooperative movement in the country;
  - (e) establish trade connections with manufacturers, their authorised distributors and dealers and to undertake purchase, sale and supply of agricultural commodities, manufactured and value added items and other consumer goods;
  - (f) undertake supply of goods in wholesale and retail to its members;
  - (g) establish, run or sponsor processing of agricultural commodities and manufacturing units for the production of consumer goods, where necessary, in collaboration with other agencies;
  - (h) secure from the Government or other sources requisite facilities, assistance and financial aid, for its members;
  - (i) acquire property and equipment for its activities;
  - (j) act as agents of cooperative institutions or any other business enterprises for the purpose of sale, storage and distribution of consumer goods;
  - (k) organise cooperative education programmes for members; and

- (l) do all such things and take such steps as are incidental or conducive to the attainment of any or all the objects, in cooperation with other cooperatives and other agencies, where necessary, within and outside Uganda.

## **122. Industrial cooperative society**

(l) An industrial cooperative society is a society registered to produce, prepare, process or manufacture goods, wares and merchandise for direct sale or under contract and may include artisans, craftsmen, contracting societies and producers of natural products.

(2) An industrial cooperative society shall discharge any or all of the following functions—

- (a) produce, prepare, adapt, process or manufacture goods, wares and merchandise from materials of every description for direct sale or under contract;
- (b) undertake contracts or sub contracts by providing labour and technical services, materials, and equipment for land clearance or reclamation, and construction, construction of industrial plants, public utilities or facilities for the development of natural resources, and for the maintenance of buildings, plants and public utilities;
- (c) provide, the necessary materials, equipment, facilities and services to enable members and their families to produce, prepare, adapt or process goods, wares and merchandise in their homes either for individual sale by each member or for sale by or through the society; and
- (d) render services to its members as contractors or as producers, processors and manufacturer of goods, wares and merchandise which are ancillary to their operations or activities.

(3) Industrial cooperative societies for natural products shall perform the following functions—

- (a) purchase, hire or otherwise acquire, maintain and operate boats and other equipment to be used in group fishing by all or each member on an individual basis and market fish and fish products;
- (b) obtain or provide equipment contracts and management services for the production and marketing of pulp wood, fuel wood,

- timber, lumber and other forest products delivered wholly or particularly from them; and
- (c) obtain prospect, exploration and mining licences and obtain or provide equipment, contracts and management services to provide for development, utilisation and disposal of the products of any mine.

### **123. Multipurpose cooperative society**

- (1) For the purposes of carrying out more than one activity or objective, a society may be registered by the Registrar as a multipurpose cooperative society.
- (2) A society referred to in subsection (1) shall clearly state in its proposed byelaws the activities and objects at registration.
- (3) A society registered with more than one objective may by majority vote at an annual general meeting amend its objectives to multipurpose.

### **124. Formation of other cooperatives**

For the avoidance of doubt, this Part shall not prejudice the formation of cooperatives other than those mentioned.

## **PART IX—DISSOLUTION OF REGISTERED SOCIETY**

### **125. Cancellation of registration after inquiry or inspection**

- (1) Where the Registrar, after holding an inquiry under section 59 or after making an inspection under section 60, or on receipt of an application made by two-thirds of the members of a registered society, is of the opinion that the society ought to be dissolved, the Registrar may make an order for the cancellation of registration of the society.
- (2) A member of a registered society may, within two months from the date of an order made under subsection (1), appeal from the order to the Board.
- (3) Where no appeal is presented within two months from the making of an order under subsection (1) cancelling the registration of a society, the order shall take effect on the expiry of that period; where an

appeal is presented within two months, the order shall not take effect until it is confirmed by the Board.

(4) A registered society shall not be wound up, except by an order of the Registrar.

## **126. Cancellation for other reasons**

(1) The Registrar may, on his or her motion, by order in writing, cancel the registration of any society, if satisfied that—

- (a) the registration was obtained by fraud or mistake;
- (b) the society exists for an illegal purpose;
- (c) the society has wilfully, after notice by the Registrar, contravened any of the provisions of this Act, the regulations or the byelaws;
- (d) the society is no longer operating in accordance with cooperative principles;
- (e) the number of members of the society has fallen below the minimum required by this Act; or
- (f) the society has not commenced operations or has ceased to operate for two consecutive years.

(2) A society shall liquidate when two-thirds of its share capital has been lost, unless it can convince the Registrar that the loss will be made good within six months from the date of discovery of the insolvency.

(3) An appeal against an order made under subsection (1) or (2) shall be lodged with the Board within two months from the date of receipt of the order.

## **127. Winding up**

(1) Where the Registrar, after an inquiry has been held under section 59, is of the opinion that the society ought to be wound up, the Registrar may make an order directing it to be wound up and may appoint a liquidator for the purpose and fix the remuneration of the liquidator which shall be paid out of the funds of the society.

(2) Where no liquidator is appointed, the assets and liabilities of the society shall vest in the Registrar.

**128. Effect of winding up**

Upon the winding up of a registered society, Schedule 5 to this Act shall apply in relation to the society.

**129. Effective date of cancellation**

Where the registration of a society is cancelled, the society shall cease to exist as a corporate body as from the date of dissolution.

**130. Copy of order to be filed by Registrar**

On the making of an order to cancel the registration of a society, a copy of the order shall be placed in the file maintained by the Registrar in respect of the society and gazetted and published in at least one of the newspapers in Uganda.

**131. Appointment of liquidator**

Where the registration of a society is cancelled under section 125 or 126, the Registrar may appoint one or more persons to be a liquidator or liquidators of the society, and all the property of the society shall vest in the liquidator or liquidators with effect from the date of dissolution.

**132. Powers of liquidator**

A liquidator appointed under section 131 shall, subject to the guidance and control of the Registrar and to any limitation imposed by the Registrar or by an order made under section 133, have the following powers—

- (a) to appoint a day, in the manner prescribed by regulations made under this Act, before which the 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;
- (b) to institute and defend suits and other legal proceedings by and on behalf of the society by his or her name of office and appear in court as a litigant in person on behalf of the society;
- (c) to refer disputes to arbitration in the manner prescribed by regulations made under this Act;

- (d) to determine the contributions to be made by the members and past members, and by the estate of deceased members of the society, respectively, to the assets of the society;
- (e) to investigate all claims against the society and, subject to this Act, decide questions of priority arising between claimants;
- (f) to call such meetings of members as may be necessary for the proper conduct of the liquidation;
- (g) to sell the assets of the society;
- (h) to carry on the business of the society so far as may be necessary for the proper liquidation of the affairs of the society;
- (i) to determine by what persons and in what proportion the costs of the liquidation are to be borne;
- (j) to take possession of the books, documents and assets of the society;
- (k) to 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;
- (l) to give such directions in regard to the disposal of the books and documents of the society as may appear to the Registrar to be necessary for winding up the affairs of the society;
- (m) to compromise, with the approval of the Registrar, any claim by or against the society; and
- (n) to apply to the Registrar for his or her discharge from the duties of liquidator after completion of the liquidation proceedings.

### 133. Powers of Registrar in liquidation

- (l) A liquidator shall exercise his or her powers subject to powers of control and revision by 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 and appoint a new liquidator;
  - (c) call for all books, documents and assets of the society;
  - (d) by order in writing, limit the powers of a liquidator under section 132;
  - (e) require accounts to be rendered to the Registrar by the liquidator at the Registrar's discretion;
  - (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;

- (h) grant a discharge to the liquidator on application by him or her after completion of the liquidation proceedings;
  - (i) require any member of a society and any trustee, banker, receiver, agent or officer of the society to pay, deliver, convey, surrender or transfer immediately, or within such time as he or she shall direct, to the liquidator any money, property or books and papers in his or her hands to which the society is *prima facie* entitled;
  - (j) appoint a special manager of the business of a society whose registration has been cancelled and determine his or her remuneration and what, if any, security he or she shall give for the proper performance of his or her duties; or
  - (k) 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.
- (2) The decision of an arbitrator on any matter referred to the arbitrator under subsection (1)(k) shall be binding upon the parties and shall be enforceable in like manner as an order made by the Registrar under subsection (1)(a).

### **134. Appeal against order of liquidator or Registrar**

A person aggrieved by an order of a liquidator or the Registrar given under section 132 or 133(1)(a) may appeal against the order to the Board whose decision shall, subject to section 144, be final.

### **135. Commission of offences by officers of society**

If the liquidator of a society whose registration has been cancelled alleges that any of the offences mentioned in paragraphs 17, 18, 19, 20, 21 and 22 of Schedule 5 to this Act has been committed, the liquidator shall report to the Director of Public Prosecutions for the institution of proceedings as may be necessary.

### **136. Closure of liquidation**

(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, including the remuneration of the liquidator, then to the discharge of the liabilities of the society, then to the payment of the share

capital and then, if the byelaws of the society so permit, to the payment of a dividend at a rate not exceeding ten percent per year for any period for which no disposal of the net surplus was made.

(2) When the liquidation of a society has been closed, the claim of any creditor of that society who has not received what is due to him or her under the approved scheme of distribution shall be barred by prescription on the expiry of one year from the date of the order cancelling the registration of the society.

(3) Any surplus remaining after the application of the funds to the purposes specified in subsection (1) and any sums unclaimed under subsection (2) shall—

- (a) be distributed among the members at the time of dissolution (or their legal personal representatives) in proportion to the value of the business of each such member with the society during the three years immediately preceding the date of dissolution or, if the society has not existed for such period, during the existence of the society or if the society has done no business during these three years, then in proportion to the share capital held by them at such date; and
- (b) if it is impracticable to make a distribution in accordance with paragraph (a), whether through insufficiency of funds or otherwise, be paid, either in whole or as to any residue of a partial distribution, into a central fund as the Registrar may determine.

### **137. Convicted officers not to be officers of society**

(1) A person convicted of an offence under this part of this Act shall not be an officer of a registered society or in any way, whether directly or indirectly, be concerned in or take part in the management of a society for five years from the date he or she is released from prison or he or she pays a fine.

(2) Any person acting in contravention of this section commits an offence and is liable, on conviction, to imprisonment for a term not exceeding two years.

**138. Offences**

Offences under this Part shall be cognisable by a court presided over by a chief magistrate or a magistrate grade I having jurisdiction over the place in which the alleged offence was committed.

**PART X—SURCHARGE AND ATTACHMENT****139. Powers of Registrar to surcharge officers, etc.**

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

(2) Any money, including interest, awarded by an order made under subsection (1) to be repaid or contributed to a registered society shall, without prejudice to any other mode of recovery, be a civil debt recoverable summarily in any competent court.

(3) This section shall apply notwithstanding that the act in respect of which the Registrar has made an order under subsection (1) may constitute an offence under any other law for the time being in force.

**140. Appeal to Minister**

Any person aggrieved by an order of the Registrar made under section 139 may appeal to the Minister within twenty-one days from the date of that order, and the decision of the Minister shall, subject to section 143, be final.

**141. Attachment of property**

Where the Registrar is satisfied that any person, with intent to defraud or delay the execution of any order which may be made against him or her under section 131 or 139, or of any decision that may be given in a dispute referred to the arbitrators under this Act and for the time being in force, is about to dispose of the whole or any part of his or her property, the Registrar may, unless adequate security is furnished, order the conditional attachment of that property, and the attachment shall have the same effect as if made by a competent court.

**PART XI—SETTLEMENT OF DISPUTES****142. Settlement of disputes**

- (1) Where any dispute relating to the business of a registered society arises—
  - (a) among the members, past members and persons claiming through the 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 or any officer or past officer of the society;
  - (c) between the society or its committee and any officer or past officer of the society; or
  - (d) between the society and any other registered society,  
the dispute shall be referred to an arbitrator or arbitrators for decision.
- (2) A claim by a registered society for any debt or demand or demand due to it from a member, past member or the nominee, heir or legal representative of a deceased member, whether the debt or demand be admitted or not, shall be deemed to be a dispute within the meaning of subsection (1).
- (3) The parties to a dispute may agree upon an arbitrator or arbitrators for purposes of deciding the dispute.
- (4) If there is failure of agreement upon an arbitrator or arbitrators, each party shall appoint one arbitrator, and the two appointed arbitrators shall appoint a third arbitrator to decide the dispute.

(5) Where a party fails to appoint an arbitrator as required under subsection (4) within thirty days of receipt of a request to do so from the other party, or if the two arbitrators fail to agree on a third arbitrator within thirty days of their appointment, the appointment shall be made, upon request of either party, by the General Secretary of the Uganda Cooperative Alliance Ltd.

(6) Where an appointed arbitrator refuses or neglects to act, or is incapable of acting or dies or is removed, the parties shall fill the vacancy.

(7) Where the parties fail to fill the vacancy under subsection (6) within seven days from the date the vacancy occurs, either party may apply to the General Secretary of Uganda Cooperative Alliance Limited to fill the vacancy which he or she shall do after giving the other party an opportunity of being heard.

(8) The Arbitration and Conciliation Act shall, to the extent that it is not inconsistent with this Act, apply to an arbitration under this Act.

(9) Any party aggrieved by an award made under this section may appeal to the Board within two months from the date of the award.

- (10) An arbitrator appointed under this section may—
- (a) summon witnesses and call for any accounts, books, documents or any information which the arbitrator considers relevant to the matter in question;
  - (b) administer an oath or affirmation to any witness giving evidence before him or her;
  - (c) refer any point of law to the High Court for its decision; and
  - (d) amend the terms of the order of reference with the consent of the two parties to the dispute.

(11) When an arbitrator has made an award, the arbitrator shall sign it and shall give notice to the parties of the making of the award and of the amount of the fees and charges payable to him or her in respect of the arbitration and award.

(12) An arbitrator or arbitrators shall, at the request of any party to the arbitration or any person claiming under him or her, and upon payment of the fees and charges due in respect of the arbitration and award, and of the

costs and charges of filing the award, cause the award or a signed copy of it to be filed in the court; and notice of the filing shall be given to the parties by the arbitrator.

(13) Where an arbitrator or arbitrators refer a case to court on a point of law under subsection (10)(c), the court shall make its decision; and if the decision affects the amount of the award, it shall be increased or reduced, as the case may be, and the court shall execute the award as soon as possible.

(14) The award of an arbitrator or arbitrators under this section shall, if no appeal is preferred to the Board under subsection (9) or if an appeal is abandoned or withdrawn, be final and shall not be called in question in any court and shall be enforced in the same manner as if the award had been a judgment of a court.

(15) Notwithstanding this section, any debt arising out of embezzlement, loss of cash or misappropriation of a cooperative society's funds shall not be the subject of settlement by arbitration, but shall be referred by an arbitrator to a competent court for settlement.

(16) Subsections (1), (2), (3), (4) and (5) shall not apply to the Cooperative Bank Limited, for the purpose of transacting banking or credit institution business in as far as the matter relates to that business.

(17) The General Secretary of the Uganda Cooperative Alliance Limited may take administrative steps to cause a society indebted to the Cooperative Bank Limited to pay without recourse to the court.

(18) The Uganda Cooperative Alliance Limited shall report to the Registrar of cooperatives.

### **143. Protection of arbitrator**

No matter or thing done by an arbitrator or arbitrators under section 141 shall, if it is done *bona fide* for the purpose of executing any provisions of that section, subject the arbitrator to any civil liability.

**144. Application to Court**

(1) Any person aggrieved by the decision of the Registrar under section 141 or by virtue of any other provisions of this Act may apply to court for redress.

(2) The Chief Justice may make rules of court regulating the procedure and practice of the hearing of the application under this section.

**145. Legal representative not allowed before arbitrator**

A party to a dispute under section 142 shall not engage a legal representative before an arbitrator or arbitrators except on a reference to the court on a point of law, on an appeal from a decision of the Board under section 144 or at the filing of the award to the court.

**PART XII—TRAINING****146. Training of cooperative society members**

(1) There shall be training of cooperative officers, staff and members of committees of the cooperative societies in Kigumba Cooperative College, Tororo Cooperative College and any other cooperative training institution.

(2) These colleges shall be managed and run by the Ministry responsible for cooperatives.

(3) The education fund shall be applied to the development of these colleges.

(4) These colleges shall develop the cooperative knowledge, to be applied even to the last member of the cooperative society and any other incidentals in relation to cooperative education.

**PART XIII—GENERAL****147. Remuneration of officers**

(1) No officer or member of a registered society shall receive any remuneration, salary, commission or other payment from the society for

services rendered to the society unless the society has, after consultation with the Registrar, by resolution passed at a general meeting of the society, approved the payment of that remuneration, salary, commission or other payment.

(2) No officer or member of a registered society shall receive any remuneration, salary, commission or other payment from any person other than the society in respect of any business or transaction entered into by the society; but in special circumstances the society may, after consultation with the Registrar, by a resolution passed at a general meeting of the society, consent to such remuneration, salary, commission or other payment being made.

(3) Any officer or member of a registered society who receives any remuneration, salary, commission or other payment in contravention of subsection (1) or (2) commits an offence and is liable, on conviction, to a fine not exceeding one currency point or to imprisonment for a term not exceeding six months, or both and shall, if convicted for contravening subsection (1), be ordered to repay the remuneration, salary, commission or other payment received from the society; and default in that payment shall be treated in the same manner as default in paying a fine imposed by a competent court.

(4) Notwithstanding subsections (1) and (2), where in the opinion of the Registrar a registered society has improperly paid or consented to the payment to an officer or member of any remuneration, salary, commission or other payment, the Registrar may report the matter to the Board.

(5) Where the Board is of the opinion that the remuneration, salary, commission or other payment has been improperly paid, or payment has been improperly consented to, it may, by order published in the *Gazette*, declare that the society shall not, for a period to be stated in the order, pay or consent to the payment to an officer or member of the society of any such remuneration, salary, commission or other payment except with the approval of the Registrar.

(6) A society which contravenes an order made under subsection (5) and any officer or member who is knowingly a party to the contravention commits an offence and is liable, on conviction, to a fine not exceeding 0.1 of

a currency point or to imprisonment for a term not exceeding six months, or both.

#### **148. Prohibition of use of word “Cooperative”**

(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” is part without the sanction of the Registrar.

(2) Any person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding 0.5 of a currency point for each day on which the offence is continued after conviction for the offence.

#### **149. Regulations**

(1) The Minister may, in consultation with the Board, make regulations for carrying out the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the regulations may—

- (a) prescribe the forms to be used and the conditions to be complied with in the making of applications for the registration of a society and the procedure in the matter of the applications;
- (b) prescribe the matters in respect of which a society may or shall make byelaws and for the procedure to be followed in making, altering and rescinding byelaws and the conditions to be satisfied prior to the making, altering or rescinding;
- (c) 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 and the payment to be made and the interests to be acquired before the exercise of the right of membership;
- (d) regulate the manner in which funds may be raised by means of shares or debentures or otherwise;
- (e) provide for general meetings of the members and for the procedure at those meetings and the powers to be exercised by those meetings;
- (f) provide for the appointment and minimum qualifications of members of a committee, the suspension and removal of members of a committee and other officers, the procedure at meetings of

- a committee and the powers to be exercised and the duties to be performed by a committee and other officers;
- (g) provide for audit of the accounts and books to be kept by a society and the charges, if any, to be made for the audit;
- (h) provide for the form of the final accounts and the balance sheet to be prepared annually and any other statements and schedules relating to them;
- (i) provide for the establishment of a supervision and audit fund;
- (j) provide for the periodical publication of a balance sheet showing the assets and liabilities of a society;
- (k) provide for the persons by whom and the form in which copies of entries in books of societies may be certified;
- (l) 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 those documents or registers;
- (m) provide for the formation and maintenance of a register of members and, where the liability of members is limited by shares, of the register of shares;
- (n) provide for the resignation and expulsion of members and for the payments, if any, to be made to members who resign or are expelled and for the liabilities of past members;
- (o) provide for the mode in which the value of the interest of a deceased member shall be ascertained and, subject to section 41, for the nomination of any person to whom that interest may be paid or transferred;
- (p) provide for the mode in which the value of the interest of a member who suffers from mental illness and incapable of managing his or her affairs shall be ascertained and for the nomination of any person to whom that interest may be paid or transferred;
- (q) fix the conditions under which a society may grant loans to its members and the maximum amount of such loans and prescribe the payments to be made and the conditions to be complied with by members applying for loans, the period for which the loans may be made and the amount which may be lent to an individual member;
- (r) provide for the manner of formation and maintenance of reserve funds and the objects to which those funds may be applied and for the investment of any funds under the control of the society;
- (s) prescribe the extent to which a society may limit the number of its members;

- (t) prescribe the conditions under which accumulated funds may be distributed to the members of a society with unlimited liabilities and, subject to section 51(2), prescribe the maximum rate of dividend which may be paid by societies;
- (u) prescribe the procedure to be followed in appeals made to the Registrar or the Board under this Act;
- (v) prescribe the accounts and books to be kept by a society;
- (w) prescribe the returns to be submitted by a society to the Registrar and the person by whom and the form in which those returns shall be submitted;
- (x) prescribe the fees to be paid on applications, registrations and other acts undertaken by the Registrar or his or her representative under this Act; and
- (y) prescribe anything required by this Act to be prescribed.

(3) In any case where the Registrar is satisfied that a substantial number of members of any society are unacquainted with the English language, he or she may cause any regulations made under this section to be translated into a language with which those members are acquainted and to be made known to them in a manner customary for the community to which those members belong; but on any matter of interpretation the English version of the regulations shall prevail.

## **150. Offences and penalties**

- (1) It shall be an offence under this Act if
  - (a) a registered society or an officer or a member of a registered society fails to do or to allow to be done any act or thing which is required to be done by this Act or by any regulations made under this Act;
  - (b) a registered society or an officer or a member of a registered society does anything prohibited by this Act or by regulations under this Act;
  - (c) a registered society or an officer or a member of a registered society knowingly neglects or refuses to do any act or to furnish any information required for the purposes of this Act by the Registrar or any person duly authorised in that behalf by the Registrar;
  - (d) a registered society or an officer or member of a registered society knowingly makes a false return or furnishes false information;

- (e) a person knowingly or without reasonable excuse disobeys any summons, requisition or lawful order issued under this Act or does not furnish any information lawfully required from him or her by any person authorised to do so or which he or she is required to furnish under this Act;
  - (f) a person acts or purports to act as an officer of a registered society when not entitled to do so; or
  - (g) a registered society or an officer or member of a registered society knowingly performs any act which requires the consent or approval of the Registrar without having first obtained such consent or approval.
- (2) Every society, officer or member of a registered society or other person who commits an offence under this section is liable, on conviction, to a fine not exceeding 0.25 of a currency point or to imprisonment for a term not exceeding six months, or both.

### **151. Penalty for soliciting violation of contracts**

A person, firm or company having knowledge or notice of the existence of a contract described in section 35, who or which solicits or persuades or assists any person to sell or deliver produce in violation of that contract commits an offence and is liable, on conviction, to a fine not exceeding 0.25 of a currency point for each offence and shall, in addition, be ordered to pay the society concerned such damages as the court may see fit.

### **152. Application of other laws**

(1) Nothing in this Act shall be deemed to relieve any society from any of its obligations under any other laws governing or regulating its business activities.

(2) Where those laws conflict with this Act, the Act shall be construed with such modifications, adaptations and qualifications as are necessary to enable the society to conform to the laws governing or regulating its business activities.

**153. Certain laws not to apply**

(1) The Companies Act and the Business Names Registration Act shall not apply to a registered society.

(2) Notwithstanding the Labour Unions Act, no registered society shall be deemed to be a labour union.

**154. Power to amend Schedule 1**

The Minister responsible for finance may, by statutory instrument, with the approval of Cabinet, amend Schedule 1 to this Act.

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## SCHEDULES

### *Schedule I*

Sections 1, 154

#### **Currency Point**

A currency point is equivalent to twenty thousand shillings.

*Schedule 2*

Section 4(4)

**Statement on Cooperative Identity****1. Definition**

A cooperative is an autonomous association of persons united voluntarily to meet their common economic, social, and cultural needs and aspirations through a jointly owned and democratically controlled enterprise.

**2. Values**

(1) Cooperatives are based on the values of self-help, self-responsibility, democracy, equality, equity and solidarity.

(2) In the tradition of their founders, cooperative members believe in the ethical values of honesty, openness, social responsibility and caring for others.

**3. Principles**

The cooperative principles are guidelines by which cooperatives put their values into practice and these include the following—

- (a) voluntary and open membership; whereby cooperatives are voluntary organisations, open to all persons able to use their services and willing to accept the responsibilities of its membership, without gender, social, racial, political or religious discrimination;
- (b) democratic member control; whereby cooperatives are democratic organisations controlled by their members, who actively participate in setting their policies and making decisions namely—
  - (i) men and women serving as elected representatives are accountable to the membership; and
  - (ii) in primary cooperatives members have equal voting rights of one member, one vote and cooperatives at other levels are also organised in a democratic manner;
- (c) member economic participation; whereby members contribute equitably to, and democratically control, the capital of their cooperative such that

- (i) part of the capital is usually the common property of the cooperative;
  - (ii) members usually receive limited compensation if any, on capital subscribed as a condition of membership;
  - (iii) members allocate surpluses for any or all of the following purposes such as developing their cooperative by setting up reserves part of which at least would be indivisible, benefit members in proportion to their transactions with the cooperative and support other activities approved by the membership;
  - (d) autonomy and independence; whereby cooperatives are autonomous, self-help organisations controlled by their members. If they enter into agreements with other organisations, including governments, or raise capital from external sources, they do so on terms that ensure democratic control by their members and maintain their cooperative autonomy;
  - (e) education, training and information; whereby cooperatives provide education and training for their members, elected representatives, managers, and employees so that they can contribute effectively to the development of their cooperatives and also inform the general public particularly young people and opinion leaders about the nature and benefits of cooperation;
  - (f) cooperation among cooperatives; whereby cooperatives serve their members most effectively and strengthen the cooperative movement by working together through local, national, regional and international structures; and
  - (g) concern for community; whereby cooperatives work for the sustainable development of their communities through policies approved by their members.
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**Schedule 3 Registration  
of Charges**

Section 57

**1. Voiding of certain charges created by registered society**

(1) Subject to this Schedule, every charge created by a registered society to which this paragraph applies, shall so far as any security on the society's property is conferred by the charge, be void against the liquidator and any creditor of the society.

(2) Subparagraph (1) shall not apply where the particulars of the charge prescribed by regulations made under this Act, together with the instrument, if any, by which the charge is created or evidenced, or a copy of the instrument verified in the manner prescribed by the regulations made under this Act, are delivered to the Registrar for registration within 30 days after the date of the creation of the charge; but without prejudice to any contract or obligations for when a charge becomes void under this paragraph, the money secured thereby shall immediately become payable.

(3) This paragraph applies to the following charges—  
(a) a charge for the purpose of securing any issue of debentures;  
(b) a charge created or evidenced by an instrument which, if executed by an individual, would require registration as a bill of sale;  
(c) a charge on immovable property, wherever situated, or any interest in that property;  
(d) a charge on book debts of the society; and  
(e) a floating charge on the property of the society.

(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 paragraph be treated as a charge on those book debts.

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

(6) In this Schedule, "charge" includes a mortgage and a letter of hypothecation.

**2. Duty of society to register charges created by society**

(1) A registered society shall send to the Registrar for registration the particulars of every charge created by the society to which paragraph 1 of this Schedule applies, but registration of any charge may be effected on the application of any person interested in the charge.

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

(3) Where any registered society makes default in sending to the Registrar for registration the particulars of any charge to which paragraph 1 of this Schedule applies created by the society, then, unless the registration has been effected by some other person, the society and every officer and member of the society who is knowingly a party to the default commits an offence and is liable, on conviction, to a fine not exceeding 0.025 of a currency point for every day during which the default continues.

**3. Duty of society to register charges existing on property acquired**

(1) Where a registered society acquires any property which is subject to a charge to which paragraph 1 of this Schedule would apply if the charge had been created by the society after the acquisition of the property, the society shall cause the particulars of the charge prescribed by regulations made under this Act, together with a copy (certified in the manner prescribed by regulations made under this Act to be a correct copy) of the instrument, if any, by which the charge was created or is evidenced, to be delivered to the Registrar for registration within thirty days after the date on which the acquisition is completed.

(2) Where default is made in complying with this paragraph, the society and every officer who is in default commits an offence and is liable, on conviction, to a fine not exceeding 0.025 of a currency point.

**4. Register of charges**

(1) The Registrar shall keep, with respect to each registered society, a register in the form prescribed by regulations made under this Act of all

charges requiring registration under this Schedule and shall, on payment of the fee prescribed by regulations made under this Act, enter in the register with respect to any such charge the following particulars—

- (a) if the charge is a charge created by the society, the date of its creation and if the charge was a charge existing on property acquired by the society, the date of the acquisition of the property;
- (b) the amount secured by the charge;
- (c) brief particulars of the property charged; and
- (d) the person entitled to the charge.

(2) The Registrar shall issue a certificate under his or her hand of the registration of any charge registered under this Schedule, stating the amount thereby secured, and the certificate shall be conclusive evidence that the requirements of this Schedule as to registration have been complied with.

(3) The register kept under this paragraph shall be open to inspection by any person on payment of the fee prescribed by regulations made under this Act.

(4) The Registrar shall keep a chronological index, in such form and containing such particulars as may be prescribed by regulations made under this Act, of the charges entered in the register.

##### **5. Endorsement of certificate of registration or debentures**

(1) Every registered society shall cause every certificate of registration issued under paragraph 4 of this Schedule to be endorsed on every debenture or certificate of debenture stock which is issued by the society, and the payment of which is secured by the charge so registered; but nothing in this subparagraph shall be construed as requiring a society to cause a certificate of registration of any charge so given to be endorsed on any debenture or certificate of debenture stock issued by the society before the charge was created.

(2) Where any person knowingly and wilfully authorises or permits the delivery of any debenture or certificate of debenture stock which under this paragraph is required to have endorsed on it a certificate of registration without the certificate being so endorsed upon it, he or she, without prejudice to any other liability, commits an offence and is liable, on conviction, to a fine not exceeding 0.05 of a currency point.

**6. Entry of satisfaction**

The Registrar may, on evidence being given to his or her satisfaction that the debt for which any registered charge was given has been paid or satisfied, order that a memorandum of satisfaction be entered on the register, and shall, if required, furnish the society with a copy of it.

**7. Rectification of register of charges**

The Registrar on being satisfied that the omission to register a charge within the time required by this Act, or that the omission or misstatement of any particular with respect to any such charge or in the memorandum of satisfaction was accidental or due to inadvertence or some other good cause, or is not of a nature to prejudice the position of creditors or members of the society, or that on other grounds, it is just and equitable to grant relief, may, on the application of the registered society or any person interested and on such terms and conditions as seem to the Registrar just and expedient, order that the time for registration shall be extended or, as the case may be, that the omission or misstatement shall be rectified.

**8. Registration of appointment of receiver**

(1) Where any person obtains an order for the appointment of a receiver or manager of the property of a registered society, or appoints such a receiver or manager under any powers contained in any instrument, he or she shall, within seven days from the date of the order or of the appointment under those powers, give notice of the fact to the Registrar, and the Registrar shall, on payment of the fee prescribed by regulations made under this Act, enter the fact in the register of charges.

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

(3) Where any person makes default in complying with the requirements of this paragraph, he or she commits an offence and is liable, on conviction, to a fine not exceeding 0.005 of a currency point for every day during which the default continues.

**9. Copies of instruments creating charges to be kept by society**

Every registered society shall cause a copy of every instrument creating any charge requiring to be registered under this Schedule to be kept at the registered address of the society.

**10. Society's register of charges**

(1) Every registered society shall keep at the registered address of the society a register of charges and enter in it all charges specifically affecting property of the society and all 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 any officer of the society knowingly and wilfully authorises or permits the omission of any entry required to be made under this paragraph in any such register, he or she commits an offence and is liable, on conviction, to a fine not exceeding 0.025 of a currency point.

**11. Right of inspection**

(1) The copies of the instruments creating any charge required to be registered under this Schedule with the Registrar, and the register of charges kept by the registered society under paragraph 10 of this Schedule, shall be open during business hours (but subject to such reasonable restrictions as the society in general meeting may impose, so, however, that not less than two hours in each day shall be allowed for inspection) to the inspection of any creditor or member of the society without fee, and the register of charges shall also be open to the inspection of any other person on payment of such fee, not exceeding 0.005 of a currency point for each inspection, as the society may determine.

(2) Where inspection of those copies or that register is refused, any officer of the society refusing inspection, or who knowingly and wilfully permits the refusal, commits an offence and is liable to a fine not exceeding 0.025 of a currency point together with a further fine not exceeding five hundred shillings for every day during which the refusal continues, and the court may by order compel an immediate inspection of the copies or register.

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*Schedule 4*

Sections 64(4), 65(1),

**69(2) Criteria for Determining Whether Person is Fit and Proper Person to Manage, Control, Become Director or Substantial Member of Savings****and Credit Cooperative Society**

1. In order to determine, for the purposes of this Act, the professional and moral suitability of persons proposed to manage or control a savings and credit cooperative society, to become a substantial shareholder, or director, the Registrar, shall have regard to the following qualities, insofar as they are reasonably determinable, in respect of the person concerned—
  - (a) his or her general probity;
  - (b) his or her competence and soundness of judgment for the fulfilment of the responsibilities of the office in question;
  - (c) the diligence with which the person concerned is fulfilling or likely to fulfil those responsibilities; and
  - (d) whether the interests of depositors or potential depositors of the institution are, or are likely to be in any way threatened by his or her holding that position.
2. For the purposes of and without prejudice to the general effect of paragraph (1), the Registrar may have regard to the previous conduct and activities of the person concerned in business or financial matters and, in particular, to any evidence that the person
  - (a) has been convicted of the offence of fraud or any other offence of which dishonesty or violence is an element;
  - (b) has contravened any law designed for the protection of members of the public against financial loss due to the dishonesty or incompetence of or malpractice by, persons engaged in the provision of banking, insurance, investment or other financial services or the management of companies or against financial loss due to the conduct of a discharged or undischarged bankrupt;
  - (c) has taken part in any business practice that in the opinion of the Registrar, was deceitful or oppressive, fraudulent, prejudicial or otherwise improper whether unlawful or not, or which otherwise reflect discredit on his or her method of conducting business;
  - (d) has engaged or taken part in or been associated with any other business practices or otherwise conducted himself or herself in

- such manner as to cause doubt on his or her competence and soundness of judgment;
- (e) has defaulted on a loan or credit accommodation or a company in which he or she is a director has defaulted on a loan or credit accommodation.
3. The Registrar may request any person to furnish such additional information as may be necessary in determining the professional or moral suitability of that person.
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*Schedule 5*

Sections 128, 135

**Provisions to Apply to Winding Up of Registered Society****1. Definition of indebtedness under section 60 of Act**

A registered society shall be deemed to be indebted under section 60(1)(a) of the Act—

- (a) if the applicant, by assignment or otherwise, to whom the registered society is indebted has served on the registered society, by leaving it at the registered office of the registered society, a demand under his or her hand requiring the registered society to pay the sum so due and the registered society has for three weeks thereafter neglected to pay the sum or to secure or compound for it to the reasonable satisfaction of the creditor;
- (b) if execution or other process issued on a judgment, decree or order of any court in favour of a creditor of the registered society is returned unsatisfied in whole or in part;
- (c) if it is proved to the satisfaction of the court that the registered society is unable to pay its debts, and in determining whether a registered; or
- (d) society is unable to pay its debts the court shall take into account the contingent and prospective liabilities of the registered society.

**2. Power to stay or restrain proceedings against registered society**

At any time after the presentation of a winding up petition, and before an order of the cancellation of the registration of a society has been made, the registered society, or any creditor or member of a society, may

- (a) where any suit or proceeding against the registered society is pending in the High Court or the Court of Appeal apply to the court in which the suit or proceeding is pending for a stay of the proceedings; and
- (b) where any other suit or proceeding is pending against the registered society, apply to the court having jurisdiction to wind up the registered society, to restrain further proceedings in the suit or proceeding, and the court to which application is made may, as the case may be, stay or restrain the proceedings accordingly on such terms as it thinks fit.

**3. Avoidance of dispositions of property, etc. after date of dissolution**

In a winding up by court, any disposition of the property of the registered society, including things in action, and any transfer of shares, or alteration in the status of the members of the registered society, made after the commencement of the winding up, shall, unless the court otherwise orders, be void.

**4. Avoidance of attachments, etc.**

Where any registered society is being wound up by court, any attachment, distress or execution put in force against the estate or effects of the registered society after the commencement of the winding up shall be void.

**5. Actions stayed on order of cancellation of registration of society**

When an order of the cancellation of the registration of a society is made, no action or proceeding shall be proceeded with or commenced against the registered society except by leave of court and subject to such terms as court may impose.

**6. Effect of order of cancellation of registration of society**

An order for winding up a registered society shall operate in favour of all the creditors and of all the members of the registered society as if the order was made on the joint petition of a creditor and a member of the society.

**7. Power to stay winding up**

(1) The court may at any time after an order for winding up, on the application either of the liquidator, a creditor or member of a society, and on proof to the satisfaction of the court that all proceedings in relation to the winding up ought to be stayed, make an order staying the proceedings altogether or for a limited time, on such terms and conditions as the court thinks fit.

(2) On any application under this paragraph the court may, before making an order, require the liquidator to furnish to the court a report with respect to any facts or matters which are in the opinion of the liquidator relevant to the application.

(3) A copy of every order made under this paragraph shall as soon as may be practicable, be forwarded by the registered society, or as may be prescribed, to the registrar for registration.

**8. Power to summon persons suspected of having property of registered society, etc.**

(1) The court may, at any time after the appointment of an interim liquidator or the making of an order of the cancellation of the registration of a society, summon before it any officer of the registered society or person known or suspected to have in his or her possession any property of the registered society or supposed to be indebted to the registered society, or any person whom the court deems capable of giving information concerning the promotion, formation, trade, dealings, affairs or property of the registered society.

(2) The court may examine the officer or person mentioned in subparagraph (1), on oath concerning the matters referred to in the subparagraph and may require the officer or person to produce any books and papers, relating to the registered society, in his or her custody or power, but where the officer or person claims any lien on the books or papers produced by him or her, the production shall be without prejudice to that lien, and the court shall have jurisdiction in the winding up to determine all questions relating to that lien.

(3) If any person so summoned, after being tendered a reasonable sum for his or her expenses, refuses to come before the court at the time appointed, not having a lawful impediment (made known to the court at the time of its sitting and allowed by it), the court may cause the person to be arrested and brought before the court for examination.

**9. Power to arrest absconding member of registered society**

The court may, at any time before or after making an order of the cancellation of the registration of a society, on proof of probable cause for believing that any officer or person mentioned in paragraph 8(1) or a member of a society, is about to leave Uganda, to abscond or to remove or conceal any of his or her property for the purpose of evading any payment or of avoiding examination with respect to the affairs of the registered society, cause the officer, person or member, as the case may be, to be arrested and his or her books and papers

and movable personal property to be seized and for the officer, person or member, as the case may be and the books, papers or movable personal property, respectively, to be safely kept until such time as the court may order.

#### **10. Debts of all descriptions may be proved**

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

#### **11. Application of Insolvency Act in winding up of insolvent registered societies**

In the winding up of an insolvent registered society, the applicable provisions of the Insolvency Act shall apply to the rights of secured and unsecured creditors and to debts provable and to the valuation of annuities and future and contingent liabilities and all persons who would be entitled to prove for and receive dividends out of the assets of the registered society may make such claims against the registered society under this paragraph.

#### **12. Preferential payments**

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

- (a) all taxes and local rates due from the registered society at the relevant date and having become due and payable within twelve months next before that date, not exceeding in the whole, one year's assessment;
- (b) if any, the rents payable to the Uganda Land Commission or a district land board, which are not more than one year in arrear;
- (c) all wages or salary (whether or not earned wholly or in part by way of commission) of any clerk or servant (not being a member of a society) in respect of services rendered to the registered society during four months next before the relevant date and all wages (whether payable for time or for piecework) of any worker or labourer in respect of services so rendered;

- (d) unless the registered society is being wound up voluntarily merely for the purposes of reconstruction or amalgamation with another registered society, or unless the registered society has, at the commencement of the winding up, under any contract with insurers, rights capable of being transferred to and vested in a worker, all amounts due in respect of any compensation or liability for compensation under any law for the time being in force in Uganda relating to compensation of workers, being amounts which have accrued before the relevant date; and
- (e) all amounts due in respect of contributions payable by the registered society under the National Social Security Fund Act, during a period of twelve months immediately preceding the relevant date, unless the registered society is being wound up voluntarily merely for the purposes of reconstruction or amalgamation with another registered society.

(2) Notwithstanding anything in subparagraph (1)(c), the sum to which priority is to be given under the paragraph shall not, in the case of any one claimant, exceed four million shillings; except that where a claimant under subparagraph (1)(c) is a labourer in husbandry who has entered into a contract for the payment of a portion of his or her wages in a lump sum at the end of the year of hiring, he or she shall have priority in respect of the whole of such sum, or a part of it, as the court may decide to be due under the contract, proportionate to the time of service up to the relevant date.

(3) Where any compensation under any law for the time being in force in Uganda relating to compensation of workers is a weekly payment, the amount due shall, for the purposes of subparagraph (1)(d), 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 such law.

(4) Where any payment has been made to any clerk, servant, worker or labourer in the employment of a registered 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 so advanced and paid-up to the amount by which the sum in respect of which the clerk, servant, worker or labourer would have been entitled to priority in the winding up has been diminished by reason of the payment having been made.

- (5) The debts referred to in this paragraph 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 registered 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 the registered society, and be paid accordingly out of any property comprised in or subject to that charge.
- (6) In the event of a landlord or other person distraining or having distrained on any goods or effects of the registered society within six months next before the date of an order of the cancellation of the registration of a society, the debts to which priority is given by this paragraph shall be a first charge on the goods or effects so distrained on, or the proceeds of the sale of those goods or effects; but in respect of any money paid under any such charge, the landlord or other person shall have the same rights of priority as the person to whom the payment is made.
- (7) For the purposes of this paragraph—  
(a) any 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 registered society during that period;  
(b) “the relevant date” means—  
(i) in the case of a registered society ordered to be wound up compulsorily, the date of the appointment (or first appointment) of an interim liquidator, or, if no such appointment was made, the date of the order of the cancellation of the registration of the society, unless in either case the registered society had commenced to be wound up voluntarily before that date; and  
(ii) in any other case where subparagraph (i) does not apply, the date of the passing of the resolution for the winding up of the registered society.

### **13. Fraudulent preference**

- (1) Any transfer, conveyance, mortgage, charge, delivery of goods, payment, execution or other act relating to property made or done by or

against a registered society within six months before the commencement of its winding up which, had it been made or done by or against an individual within six months before the presentation of a bankruptcy petition on which the individual is adjudged bankrupt, would be deemed in his or her bankruptcy a fraudulent preference, shall in the event of the registered society being wound up be deemed a fraudulent preference of its creditors and be invalid accordingly.

(2) Any transfer, conveyance or assignment by a registered society of all its property to trustees for the benefit of all its creditors shall be void to all intents.

#### **14. Effect of floating charge**

Where a registered society is being wound up, a floating charge on the undertaking or property of the registered society created within twelve months of the commencement of the winding up shall, unless it is proved that the registered society immediately after the creation of the charge was solvent, be invalid, except to the amount of any cash paid to the registered society at the time of or subsequently to the creation of, and in consideration for, the charge, together with interest on that amount at the rate of 6 percent per year or such other rate as may for the time being be prescribed.

#### **15. Restriction of rights of creditor as to execution or attachment in case of registered society being wound up**

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

- (a) where the creditor had notice of a meeting at which a resolution for voluntary winding up was to be proposed, the date on which the creditor so had notice shall, for the purposes of this subparagraph, be substituted for the date of the commencement of the winding up;
- (b) a person who purchases in good faith under a sale by a bailiff on an order of the court any movable property of a registered society

on which an execution has been levied shall in all cases acquire a good title to the movable property against the liquidator; and

- (c) the rights conferred by this subparagraph on the liquidator may be set aside by the court in favour of the creditor to such extent and subject to such terms as the court may think fit.

(2) For the purposes of this paragraph, an 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) In this paragraph and in paragraph 16, "movable property" includes all chattels personal, and "bailiff" includes any officer charged with the execution of a writ or other process.

## **16. Duties of bailiff as to goods taken in execution**

(1) Subject to subparagraph (3), where any movable property of a registered society is taken in execution, and, before the sale of the movable property or the completion of the execution by the receipt or recovery of the full amount of the levy, notice is served on the bailiff that an interim liquidator has been appointed or that an order of the cancellation of the registration of a society has been made or that a resolution for voluntary winding up has been passed, the bailiff shall, on being so required, deliver the movable property, including any money seized or received in part satisfaction of the execution, to the liquidator, but the costs of the execution shall be a first charge on the goods or money so delivered, and the liquidator may sell the goods, or a sufficient part of the goods, for the purpose of satisfying that charge.

(2) Subject to subparagraph (3), where under an execution in respect of a decree for a sum exceeding four million shillings the movable property of a registered society is sold or money is paid in order to avoid sale, the bailiff shall deduct the costs of the execution from the proceeds of the sale or the money paid and retain the balance for fourteen days, and if within that time notice is served on the bailiff of a petition for the winding up of the registered society having been presented or of a meeting having been called at which there is to be proposed a resolution for the voluntary winding up of the registered society and an order is made or a resolution is passed, as the

case may be, for the winding up of the registered society, the bailiff shall pay the balance to the liquidator, who shall be entitled to retain it as against the execution creditor.

(3) The rights conferred by this paragraph on the liquidator may be set aside by the court in favour of the creditor to such extent and subject to such terms as the court thinks fit.

## 17. Offences by officers of registered societies in liquidation

(1) If any person, being a past or present officer of a registered society which at the time of the commission of the alleged offence is being wound up, whether by or under the supervision of the court or voluntarily, or is subsequently ordered to be wound up by the court or subsequently passes a resolution for voluntary winding up—

- (a) does not to the best of his or her knowledge and belief fully and truly disclose to the liquidator all the property, movable and immovable, of the registered society, and how and to whom and for what consideration and when the registered society disposed of any part of the property, except such part as has been disposed of in the ordinary way of the business of the registered society;
- (b) does not deliver up to the liquidator, or as he or she directs, all such part of the movable and immovable property of the registered society as is in his or her custody or under his or her control, and which he or she is required by law to deliver up;
- (c) does not deliver up to the liquidator, or as he or she directs, all books and papers belonging to the registered society and which he or she is required by law to deliver up;
- (d) within twelve months next before the commencement of the winding up or at any time thereafter conceals any part of the property of the registered society to the value of two million shillings or more, or conceals any debt due to or from the registered society;
- (e) within twelve months next before the commencement of the winding up or at any time thereafter fraudulently removes any part of the property of the registered society to the value of two million shillings or more;
- (f) makes any material omission in any statement relating to the affairs of the registered society;

- (g) knowing or believing that a false debt has been proved by any person under the winding up, fails for the period of a month to inform the liquidator of this;
- (h) after the commencement of the winding up prevents the production of any book or paper affecting or relating to the property or affairs of the registered society;
- (i) within twelve months next before the commencement of the winding up or at any time thereafter conceals, destroys, mutilates or falsifies, or is privy to the concealment, destruction, mutilation or falsification of, any book or paper affecting or relating to the property or affairs of the registered society;
- (j) within twelve months next before the commencement of the winding up or at any time thereafter makes or is privy to the making of any false entry in any book or paper affecting or relating to the property or affairs of the registered society;
- (k) within twelve months next before the commencement of the winding up or at any time thereafter fraudulently parts with, alters or makes any omission in, or is privy to the fraudulent parting with, altering or making any omission in, any document affecting or relating to the property or affairs of the registered society;
- (l) after the commencement of the winding up or at any meeting of the creditors of the registered society within twelve months next before the commencement of the winding up attempts to account for any part of the property of the registered society by fictitious losses or expenses;
- (m) has within twelve months next before the commencement of the winding up or at any time thereafter, by any false representation or other fraud, obtained any property for or on behalf of the registered society on credit which the registered society does not subsequently pay for;
- (n) within twelve months next before the commencement of the winding up or at any time thereafter, under the false pretence that the registered society is carrying on its business, obtains on credit, for or on behalf of the registered society, any property which the registered society does not subsequently pay for;
- (o) within twelve months next before the commencement of the winding up or at any time thereafter pawns, pledges or disposes of any property of the registered society which has been obtained on credit and has not been paid for, unless such pawning,

- pledging or disposing is in the ordinary way of the business of the registered society;
- (p) is guilty of any false representation or other fraud for the purpose of obtaining the consent of the creditors of the registered society or any of them to an agreement with reference to the affairs of the registered society or to the winding up;
- (q) has within twelve months next before the commencement of the winding up been privy to the carrying on of the business of the registered society knowing that the registered society was unable to pay its debts; or
- (r) has been privy to the contracting by the registered society of any debt provable in the liquidation without having at the time when the debt was contracted any reasonable or probable ground of expectation, proof whereof shall lie on him or her, that the registered society would be able to pay that debt, he or she commits an offence and is, in the case of the offences mentioned in (m), (n) and (o) of this subparagraph, liable, on conviction, to imprisonment for a term not exceeding five years and in the case of any other offence, liable, on conviction, to imprisonment for a term not exceeding three years.
- (2) It shall be a good defence to a charge under subparagraph (1)(a), (b), (c), (d), (f), (n), (o), (q) or (r) if the accused proves that he or she had no intent to defraud and to a charge under subparagraph (1)(h), (i) or (j) if he or she proves that he or she had no intent to conceal the state of affairs of the registered society or to defeat the law.
- (3) Where any person pawns, pledges or disposes of any property in circumstances which amount to an offence under subparagraph (1)(o), every person who takes in pawn or pledge or receives the property knowing it to be pawned, pledged or disposed of, commits an offence and is liable, on conviction, to be punished in the same way as if he or she had been convicted of an offence under section 294(1) of the Penal Code Act.
- (4) For the purposes of this paragraph, “officer” includes any person in accordance with whose directions or instructions the members of a registered society have been accustomed to act.

**18. Penalty for falsification of books**

If any officer or member of a registered society being wound up destroys, mutilates, alters or falsifies any books, papers or securities, or makes or is privy to the making of any false or fraudulent entry in any register, book of account or document belonging to the registered society with intent to defraud or deceive any person, he or she commits an offence and is liable to imprisonment for a term not exceeding seven years, and is also liable to a fine.

**19. Fraud by officers of registered societies which have gone into liquidation**

(1) If any person, who at the time of the commission of the alleged offence, is an officer of a registered society which is subsequently ordered to be wound up by the court or subsequently passes a resolution for voluntary winding up—

- (a) has by false pretences or by means of any other fraud induced any person to give credit to the registered society;
- (b) with intent to defraud creditors of the registered society, has made or caused to be made any gift or transfer of or charge on, or has caused or connived at the levying of any execution against, the property of the registered society;
- (c) with intent to defraud creditors of the registered society, has concealed or removed any part of the property of the registered society since, or within two months before, the date of any unsatisfied judgment or order for payment of money obtained against the registered society, he or she commits an offence and is liable, on conviction, to imprisonment for a term not exceeding two years.

(2) For the purposes of this paragraph, “officer” includes any person in accordance with whose directions or instructions the members of a registered society have been accustomed to act.

**20. Officers of registered society failing to account for loss of part of property of registered society**

(1) If any person being a past or present officer of a registered society which is being wound up under this Act fails to give a satisfactory explanation

of the manner in which the loss occurred, he or she commits an offence and is liable, on conviction, to imprisonment for a term not exceeding three years.

(2) A prosecution shall not be instituted against any person under this paragraph except by order of the Director of Public Prosecutions.

**21. Liability where proper accounts not kept**

(1) If in the course of the winding up of a registered society it is shown that proper books of accounts were not kept by the registered society at any time during the two years immediately preceding the commencement of the winding up, or the period between the registration of the registered society and the commencement of the winding up, whichever is the shorter, every officer of the registered society who is in default is liable, on conviction, to imprisonment for a term not exceeding three years, unless he or she shows that he or she acted honestly and that in the circumstances in which the business of the registered society was carried on the default was excusable.

(2) For the purpose of this paragraph, a registered society shall be deemed not to have kept proper books of accounts, if it has not kept such books or accounts as are required to be kept by section 25 of the Act.

**22. Responsibility for fraudulent trading of persons concerned**

(1) If in the course of the winding up of a registered society it appears that any business of the registered society has been carried on with intent to defraud the creditors of the registered society or the creditors of any other person or for any fraudulent purpose, the court, on the application of the liquidator or any creditor or member of the registered society, may, if it thinks proper to do so, declare that any persons who were knowingly parties to the carrying on of the business in the manner referred to in this subparagraph shall be personally responsible, without any limitation of liability, for all or any of the debts or other liabilities of the registered society as the court may direct.

(2) On the hearing of an application under subparagraph (1), the liquidator may himself or herself give evidence or call witnesses.

(3) Where the court makes a declaration under subparagraph (1), the court may give any further directions as it thinks proper for the purpose of giving effect to that declaration and, in particular, the court may make

provision for making the liability of any person under the declaration a charge on any debt or obligation due from the registered society to him or her, or on any mortgage or charge or any interest in any mortgage or charge on any assets of the registered society held by or vested in him or her, or any registered society or person on his or her behalf, or any person claiming as assignee from or through the person liable or any registered society or person acting on his or her behalf, and may from time to time make such further order as may be necessary for the purpose of enforcing any charge imposed under this subparagraph.

(4) For the purpose of subparagraph (3), “assignee” includes any person to whom or in whose favour, by the directions of the person liable, the debt, obligation, mortgage or charge was created, issued or transferred or the interest created, but does not include an assignee for valuable consideration (not including consideration by way of marriage) given in good faith and without notice of any of the matters on the ground of which the declaration is made.

(5) Where any business of a registered society is carried on with such intent or for such purpose as is mentioned in subparagraph (1), every person who was knowingly a party to the carrying on of the business in the manner specified in the subparagraph, is liable, on conviction, to a fine not exceeding two hundred fifty currency points or to imprisonment for a term not exceeding two years, or both.

(6) This paragraph shall have effect notwithstanding that the person concerned may be criminally liable in respect of the matters on the ground of which the declaration is to be made.

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**Revisers’ note:** The Constitutional Court in *Nathan Nandala Mafabi, Enoka Musundi, Sam Wagona and Hajji Hussein Mumanya Vs Attorney General, Constitutional Petition No. 46 of 2012* declared sections 6(3), 9, 10(6), 10(7), 17, 26(1), 28(2), 28(3), 47(1), 50, 51(2), 59(5), 59(6), 59(7) and 59(8) of the Cooperative Societies Act inconsistent with and in contravention of Articles 29(1)(b), 29(1)(e) and 40(2) of the Constitution and accordingly declared the sections null and void to the extent of the inconsistency.

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**History:** Statute 8/1991; Cap. 112 (Revised Edition, 2000); Act 5/2020; Act 19/2022; Act 17/2023

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### Cross References

- Accountants Act, Cap. 294
  - Arbitration and Conciliation Act, Cap. 5
  - Business Names Registration Act, Cap. 105
  - Companies Act, Cap. 106
  - Condominium Property Act, Cap. 234
  - Electricity Act, Cap. 157
  - Labour Unions Act, Cap. 228
  - Land Act, Cap. 236
  - Microfinance Deposit-Taking Institutions Act, Cap. 58
  - National Environment Act, Cap. 181
  - National Records and Archives Act, Cap. 256
  - National Social Security Fund Act, Cap. 230
  - Penal Code Act, Cap. 128
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