

# CHAPTER C19 - CO-OPERATIVE SOCIETIES LAW

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## CHAPTER C19

### CO-OPERATIVE SOCIETIES

#### **A Law to make provision with respect to Co-operative Societies in Kwara State.**

[NN 1963, Cap. 26. NN 20 of 1964, KWS 3 of 1968, KWS 1 of 1988, KWS LN 1 of 1982, No. 4 of 2006.]

[Date of commencement: 1st *November*, 1956]

## PART I

### *Preliminary*

#### **1. Short title**

This Law may be cited as the Co-operative Societies Law.

#### **2. Interpretation**

In this Law, unless the context otherwise requires—

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

**"by-laws"** means the registered by-laws made by a society in the exercise of any power conferred by this Law, and includes any registered amendment thereof;

**"Commissioner"** means the State Commissioner to whom is assigned responsibility for Co-operative Societies;

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

**"co-operative society"** means a co-operative society registered or deemed to have been registered in Kwara State under the provisions of the Co-operative Societies Act or under the provisions of this Law;

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

**"Governor"** means the Governor of the State;

**"High Court"** means the High Court of Justice of the State;

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

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

**"primary society"** means a registered society consisting of individuals as members;

**"registered society"** means a co-operative society registered under this Law;

**"registrar"** means the registrar of co-operative societies appointed under section 3 of this Law and includes any person when exercising such powers of the registrar as may have been conferred upon him under that section;

**"regulations"** means regulations made under this Law;

**"secondary financing society"** means a registered society of which the principal object is to make loans to other registered societies; but shall not include a society which carries on the business of receiving from the public on current account money which is to be repayable on demand by cheque;

**"secondary society"** means a registered society established to facilitate the operations of registered societies in accordance with co-operative principles and includes a secondary financing society;

**"the State"** means Kwara State of Nigeria.

## PART II

### *Registration*

#### **3. Appointment of registrar and assistant registrars and seal of office**

(1) The Civil Service Commission may appoint a person to be registrar of co-operative societies for the State, and may appoint persons to assist such registrar, and may, by notice published in the State Gazette, confer on any such persons all or any of the powers of a registrar under this Law.

[KWS LN 1 of 1982.]

(2) Any person appointed as registrar under this section shall have a seal of such device as may be approved by the Committee, and impressions of such seal shall be judicially noticed.

#### **4. Societies which may be registered**

(1) Subject to the provisions of this Law, a society which has as its object the promotion of the economic interests of its members in accordance with co-operative principles, or a society established with the object of facilitating the operations of such a society, may be registered under this Law with or without limited liability as the registrar may decide.

[F&L1958, Cap. 39.]

(2) All co-operative societies possessing a registered address within the State and registered under the Co-operative Societies Act shall be deemed to be registered also under this Law and subject to its provisions.

#### **5. Conditions of registration**

(1) No primary society shall be registered under this Law which does not consist of at least ten individuals each of whom is qualified for membership under section 24.

(2) No secondary society shall be registered unless at least two registered societies are members thereof.

(3) (a) The word "co-operative" or its vernacular equivalent shall form part of the name of every society registered under this Law.

(b) The word "limited" or its vernacular equivalent shall be the last word in the name of every society with limited liability registered under this Law.

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

## **6. Application for registration**

- (1) For the purposes of registration an application shall be made to the registrar.
- (2) The application shall be signed—
  - (a) in the case of a primary society, by at least ten individuals qualified for membership under section 24; and

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

- (3) The application shall be accompanied by three copies of the proposed by-laws of the society, and the persons by whom or on whose behalf such application is made shall furnish such information in regard to the society as the registrar may require.

- (4) The registrar may make such alterations in the proposed by-laws as he may deem advisable subject to the ratification of the applicants being obtained when such alterations are material.

## **7. Registration**

- (1) If the registrar is satisfied that a society has complied with the provisions of this Law and the regulations, and that its proposed by-laws are not contrary to this Law or to the regulations, he may register the society and its by-laws.

- (2) A society may within two calendar months from the date of the notification to it by the registrar of his refusal to register the society appeal to the Commissioner against such refusal.

- (3) On registration the society shall pay such fee as may be required by the regulations.

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

The registration of a society shall render it a body corporate by the name under which it is registered, with perpetual succession and a common seal, and with power to hold movable and immovable property 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.

## **9. Evidence of registration**

A certificate of registration signed and sealed by the registrar shall be conclusive

evidence that the society therein mentioned is duly registered, unless it is proved that the registration of the society has been cancelled.

### **PART III**

#### *Duties and Privileges of Registered Societies*

##### **10. Power to make by-laws**

- (1) Any registered society may, subject to the approval of the registrar, make by-laws for any such things as are necessary or desirable for the purposes for which such society is established.
- (2) A registered society shall make by-laws in respect of the following matters:
- (a) the name and registered address of the society;
  - (b) the area of its operations;
  - (c) the objects for which the society is established;
  - (d) the purposes to which the funds may be applied, the mode of custody and investment of funds;
  - (e) the qualifications for membership, the terms of admission of members, the entrance fees, if any, and the mode of election;
  - (f) the nature and extent of the liability of members;
  - (g) the withdrawal and expulsion of members, and the payments, if any, to be made to such members;
  - (h) the transfer of shares or interest of members;
  - (i) the manner of raising the share capital, if any, and other funds;
  - (j) general meetings, and the procedure and powers of such meetings;
  - (k) the appointment, suspension and removal of members of the committee and officers and the powers and duties of the committee and officers;
  - (l) the authorisation of an officer to sign documents and to use the seal on behalf of the society;
  - (m) in the case of a building society, the duration of the society.
- (3) If the objects of the registered society include the creation of funds to be lent to the members, additional by-laws shall be made in respect of the following matters:



- (a) the conditions on which loans may be made to members, including—
  - (i) the rate of interest;
  - (ii) the maximum amount which may be lent to a member;
  - (iii) the maximum period which can be granted for the repayment of a loan;
  - (iv) the extension of the term and renewal of loans;
  - (v) the purposes of loans;
  - (vi) security for repayment;
  - (vii) the consequences of default in payment of any sum due on account of shares or loans and
    - the consequences of failure to use a loan for the purpose for which it was granted.
- (b) the disposal of the annual net profits.

(4) A by-law made under this section may empower a registered society to impose a fine upon a member of the society for the breach of a by-law which fine shall be recoverable by the society as a civil debt.

#### **11. Amendment of the by-laws of a registered society**

- (1) Any registered society may, subject to this Law and the regulations, amend its by-laws, including the by-law which declares the name of the society.
- (2) No amendment of the by-laws of a registered society shall be valid until the same has been registered under this Law, for which purpose three copies of the amendment shall be forwarded to the registrar.
- (3) If the registrar is satisfied that any amendment of the by-laws is not contrary to this Law or to the regulations, he may register the amendment.
- (4) A society may within two calendar months from the date of notification to it by the registrar of his refusal to register an amendment of any by-law appeal to the Commissioner against such refusal.
- (5) An amendment which changes the name of the society shall not affect any right or obligation of the society or any of its members or past members, and any legal proceedings pending may be continued by or against the society under its new name.
- (6) When the registrar registers an amendment of the by-laws of a registered society, he shall issue to the society a copy of the amendment certified and sealed by him, and such copy so certified and sealed shall be conclusive evidence that the amendment is duly registered.
- (7) In this section, "amendment" includes the making of a new by-law and the variation or revocation of a by-law.

**12. Address of society**

Every registered society shall have an address registered in accordance with the regulations, to which all notices and communications may be sent, and shall send to the registrar notice of every change thereof.

**13. Copy of Law, regulations and by-laws to be open to inspection**

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

**14. Contracts with members**

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

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

(6) that any member who is proved or adjudged in such manner as may be prescribed by the regulations to have committed a breach of the by-laws or contract shall pay to the society as liquidated damages a sum ascertained or assessed in such manner as may be prescribed by the aforesaid regulations.

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

**15. Creation of charges in favour of registered societies**

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

(a) any debt or outstanding demand payable to a registered society by any member or past member shall be a first charge on all crops or other forest produce, marine produce, fish, livestock, fodder, agricultural, industrial and fishing implements, plant machinery, boats, tackle and nets, raw materials, stock in trade and generally all produce of labour and things used in connection with production

raised, purchased or produced in whole or in part from any loan whether in money or in goods given him by the society;

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

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

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

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

#### **17. Share or interest not liable to attachment or sale**

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

#### **18. Transfer of interest on death of a 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 the regulations made in this behalf, or if there is no person so nominated, to the heir or legal representative of the deceased member or, where an area court is administering the estate of the deceased member, to such area court, or may pay to such nominee, heir, legal representative or area court, as the case may be, a sum representing the value of such member's share or interest, as ascertained in accordance with the regulations or by-laws:

Provided that—

(a) in the case of a society with unlimited liability, such nominee, heir, legal representative or area court, as the case may be, may require payment by the society of the value of the share or interest of the deceased member ascertained as aforesaid;

(b) in the case of a society with limited liability, the society may transfer the share or interest of the deceased member to such nominee, heir or legal representative, as the case may be, being qualified in accordance with the regulations and by-laws for membership of the society, or on the application of the nominee, heir, legal representative or area court within six months 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 moneys due to the deceased member from the society to such nominee, heir, legal representative or area court, as the case may be.

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

#### **19. Deposits by or on behalf of minors**

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

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

#### **20. Register of members**

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

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

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

#### **21. Proof of entry in books of the society**

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

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

## **22. Exemption from compulsory registration of instruments relating to shares and debentures of registered society**

Nothing in any law for the time being in force relating to a matter within the legislative competence of the legislature of the State that relates to the registration of instruments shall apply to—

- (a) any instrument relating to shares in a registered society, notwithstanding that the assets of such society consist in whole or in part of immovable property; or
- (b) any debenture issued by any such society and not creating, declaring, assigning, limiting
  - or extinguishing any right, title or interest to or in immovable property except in so far as it entitles the holder to a security afforded by a registered instrument whereby the society has mortgaged, conveyed or otherwise transferred the whole or part of its immovable property or any interest therein to trustees upon trust for the benefit of the holders of such debentures; or
- (c) any endorsement upon or transfer of any debentures issued by any such society; or
- (d) any charge created in favour of a registered society by a member of that society in respect
  - of any produce of his agriculture or his land.

## **23. Power to exempt from certain duties and fees**

(1) The Commissioner charged with responsibility for finance by a notice published in the State Gazette may in the case of all or any registered societies reduce or remit—

- (a) the stamp duty with which, under any law for the time being in force in relation to matters within the exclusive legislative competence of the Legislature of the State, instruments executed by or on behalf of a registered society by an officer or member and relating to the business of such society or any class of such

instruments are respectively chargeable;

(b) any fee payable under the Law relating to the registration of instruments for the time being in force in relation to matters within the legislative competence of the Legislature of the State.

(2) The Commissioner charged with responsibility for finance may by notice published in the State Gazette cancel or modify any notice published under subsection (1).

#### PART IV

#### *Rights and Liabilities of Members*

#### **24. Qualification for membership**

(1) To be qualified for membership of—

[NN 20 of 1964.]

(a) a primary society, a person must—

(i) have attained the age of eighteen years;

(ii) be resident within, or in occupation of land within, the registered society's area of

operations as described in the by-laws; or

(b) a secondary society, if the applicant is a registered society, it must—

(i) have its registered address within the secondary society's area of operations as defined by

the by-laws; and

(ii) be a holder of property within the registered society's area of operations as defined in the

by-laws.

Provided that the registrar shall have power in the case of a society of limited liability to grant exemption from the qualifications set out in subparagraphs (i) and (ii).

(2) Notwithstanding the provisions of subparagraph (i) of paragraph (a) of subsection (1) the Commissioner may order that such provisions shall not apply to any primary society specified in such order and, if he makes such order, he shall therein specify the attainment of the age of fifteen years as a qualification for membership of such society.

(3) When, for the purposes of this section, any question arises concerning the age, residence, property qualification or status of any person, then the same shall be decided by the committee, subject to an appeal to the registrar whose decision shall be final.

**25. Members not to exercise rights till due payment made**

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

**26. Restriction of membership**

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

**27. Votes of members**

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

Provided that—

- (a) in the case of an equality of votes the chairman shall have a casting vote; and
- (b) in the case of societies of which a registered society is a member that society may have such voting powers as are provided in the regulations.

**28. Representation by proxy**

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

**29. Contracts with society of members who are minors**

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

**30. Restriction on interest of member of society**

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

**31. Restriction on transfer of share or interest**

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

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

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

**32. Liability of past member and estate of deceased member for debt of society**

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

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

**PART V**

*Property and Funds of Registered Societies*

**33. Restriction on loans**

(1) A registered society shall not, except as provided in section 36, make any loan to any person other than a member:

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

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



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

**34. Deposits and loans receivable by a registered society**

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

*Power to borrow*

(2) Subject to the provisions of subsection (1) a registered society may, with the consent of the registrar, borrow, whether by way of mortgage or otherwise and on such terms and conditions as the society with the consent aforesaid may determine, such sums of money as may be required for the purposes for which such society is established.

[KWS 3 of 1968.]

(3) There may be attached to any consent to borrow under subsection (2) the condition that such money shall be utilised for a specific purpose or purposes.

(4) A person lending money to the society shall not be bound to enquire whether the borrowing of money is within the power of the Society.

**35. Guarantee of borrowings of registered societies**

The Government of the State may, by the undertaking of the Governor, in such manner and on such conditions as he may think fit, guarantee the repayment of the principal and interest of any borrowing of a registered society under and in accordance with section 34 and any sum required for the fulfilment of any guarantee shall be charged to and issued out of the Consolidated Revenue Fund and shall be statutory expenditure.

[KWS 3 of 1968.]

**36. Repayment of and interest on sums issued to meet guarantees**

(1) Whenever the Government of the State shall have made payment of any sums of money in fulfilment of any guarantee given by the Government by the undertaking of the Governor under section 35 it shall be entitled to charge interest on such sums of money to the registered society and such interest may be charged at such rates and for such period as the Government may determine in respect of each sum so paid.

[KWS 3 of 1968.]

(2) The society shall repay such sums and the interest thereon to the Government at such times, in such amounts and in such manner as the Governor may from time to time direct.

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

Save as provided in sections 33, 34, 35 and 36, the transactions of a registered society with persons other than members shall be subject to such prohibitions and restrictions as may be prescribed by the regulations.

**38. Investment of funds**

A registered society may invest or deposit its funds—

[KWS LN 1 of 1982.]

- (a) in the Post Office Savings Bank or with any bank or company authorised to carry on the business of banking approved for this purpose by the registrar; or
- (b) in any securities issued or guaranteed by the Government of a Commonwealth country;
- or
- (c) with any other registered society approved for this purpose by the registrar;
- or
- (d) in any other manner approved by the registrar.

**39. Disposal of profits**

(1) No society shall pay a dividend or bonus or otherwise distribute any part of its net profits except as provided in its by-laws and until the proposed payment or distribution has been approved by the registrar.

(2) At least one-fourth of the net profits of every registered society, as ascertained by the audit prescribed by section 41, shall be carried to a fund to be called the reserve fund which shall be employed as prescribed by the regulations.

Provided that the registrar shall have power in the case of any registered society of limited liability to grant from time to time exemptions from further contribution to the reserve fund, or to reduce the rate thereof, and may at any time revoke such exemption or reduction.

And provided further that in the case of a society of unlimited liability, no distribution of the net profits shall be made without the order of the commissioner.

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

(4) Offence.—Any registered society or an officer or a member thereof wilfully neglecting or refusing to comply with any of the provisions of subsections (1) and (2) shall be guilty of an offence and shall be liable on conviction to imprisonment for six months or a fine of five thousand naira or to both such imprisonment and fine.

[No. 4 of 2006.]

#### **40. Misapplication of property of a society.**

If any person obtains possession by false representation or imposition of any property of a registered society, or having the same in his possession withholds or misapplies the same, or wilfully applies any part thereof to purposes other than those expressed or directed in the rules of the society and authorised by this Law or the regulations, he shall, on the complaint of the society or of any member authorised by the society, or the committee thereof, or of the registrar or any assistant registrar by his authority, be liable on summary conviction to a fine not exceeding two thousand naira with costs and to be ordered to deliver up all such property or to repay all moneys applied improperly, and, in default of such delivery or repayment or of the payment of such fine, to be imprisoned for a period not exceeding three months, but nothing contained in this section shall prevent any such person from being proceeded against by way of information if not previously convicted of the same offence under this Law.

[No. 4 of 2006.]

### **PART VI**

#### *Audit, Inspection and Inquiry*

#### **41. Inquiry and inspection**

(1) The Registrar may either of his own motion, or on the application of the Committee, or on the application of not less than one-third of the members of a registered society hold an inquiry or direct some person authorised by him by Order in writing, to hold on his behalf an inquiry into the constitution, working and financial condition of a registered society. All officers and members of a registered society shall furnish such information in regard to the affairs of the society, and produce the cash in hand, and such books, accounts, papers and securities of the

society as the Registrar or the person authorised by him may require.

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

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

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

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

(4) Offence.—Any officer, agent, servant or member of a registered society who—

(a) wilfully neglects or refuses to do any act or furnish any information; or

(b) furnishes information known to be false; or

(c) without any reasonable excuse disobeys any summons, requisition or order under subsection (3),

shall be guilty of an offence and shall be liable on conviction to imprisonment for six months or to fine of five thousand naira or to both such imprisonment and fine.

[No. 4 of 2006.]

#### **42. Power of Governor to order an inquiry**

Notwithstanding anything contained in this Law or any other Law, the Governor may if he deems it expedient, hold an inquiry or direct some person authorised by him, to hold an inquiry into the constitution, working and financial condition of a registered society, and all officers and members of the society shall furnish such information in regard to the affairs of the society and produce the cash in hand, and such books, accounts, papers and securities of the society as the person authorised by him may require.

[No. 4 of 2006.]

#### **43. Power of registrar to inspect books and to require returns**

(1) The registrar, or any person authorised by order in writing by the registrar, shall at all times have access to all the books, accounts, papers and securities of a registered society, and shall be entitled to inspect the cash in hand; and every officer

of the society shall furnish such information in regard to the transactions and working of the society as the person making such inspection may require.

(2) The registrar may give directions prescribing the returns to be submitted by the registered society to the registrar and the persons by whom and the form in which such returns shall be submitted. Directions given by the registrar under this subsection shall apply to all or any registered societies.

(3) Offence.—Any registered society or an officer or member thereof who—

- (a) wilfully neglects or refuses to do any act or to furnish any information; or
- (b) wilfully submits information or a return known to be false,

under subsections (1) and (2) hereof, shall be guilty of an offence, and shall be liable on conviction to imprisonment for six months or to a fine of five thousand naira or to both such imprisonment and fine.

[No. 4 of 2006.]

#### **44. Inquiry and inspection**

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

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

- (a) proves that an ascertained sum of money is then due to him and that he has demanded payment thereof and has not received satisfaction within a reasonable time; and
  - (b) deposits with the registrar such sum as security for the costs of the proposed inspection as the registrar may require.
- (3) The registrar shall communicate the results of any such inspection to the creditor and to the society into whose affairs inquiry has been held.

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

(5) Any sum awarded by way of costs under subsection (4) shall be recoverable in the same manner as a fine imposed by any court having jurisdiction over the person against whom the award is made, on the production before the court of the certificate referred to in the said subsection.

(6) Offence.—Any officer or member of a registered society who—

(a) wilfully neglects or refuses to do any act or to furnish any information; or

(b) furnishes information known to be false,

under the provisions of subsection (1) hereof, shall be guilty of an offence, and shall be liable on conviction to imprisonment for six months or to a fine of five thousand naira or to both such imprisonment and fine.

[No. 4 of 2006.]

## **PART VII**

### *Dissolution*

#### **45. Dissolution**

(1) If the registrar, after holding an inquiry or making an inspection under section 44 or on receipt of an application made by three-fourths of the members of a registered society, is of the opinion that the society ought to be dissolved, he may make an order for the cancellation of the registration of the society.

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

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

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

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

**46. Cancellation of registration of society due to lack of membership**

The registrar may, by order in writing, cancel the registration of any primary society if at any time it is proved to his satisfaction that the number of the members has been reduced to less than ten. Every such order shall take effect from the date thereof.

**47. Effect of cancellation of registration**

Where the registration of a society is cancelled by an order under section 45 or under section 46, the society shall cease to exist as a corporate body from the date on which the order takes effect, hereinafter referred to as the date of dissolution.

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

**48. Liquidation after cancellation of registration of society**

Where the registration of a society is cancelled by an order under section 45 or under section 46, the registrar may appoint a suitable person to be, subject to his direction and control, the liquidator of the society.

**49. Liquidator's powers**

(1) A liquidator appointed under section 48 shall, subject to the guidance and control of the registrar and to any limitations imposed by the registrar by order under section 50, have power to—

(a) decide, subject to any by-laws defining the liability of members, the contribution to be made by members and past members or by the estates of deceased members of the society to its assets;

(b) appoint a day by notice in the State Gazette before which creditors whose claims are not

already recorded in the books of the society shall state their claims for admission or be excluded from any distribution made before they have proved them;

(c) decide any question of priority which arises between creditors;

(d) refer disputes to arbitration and institute and defend suits and other legal proceedings on

behalf of the society by his name or office;

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

(f) give such directions in regard to the collection and distribution of assets as

may be necessary in the course of winding up the society;

- (g) compromise any claim by or against the society provided the sanction of the registrar has first been obtained;
- (h) call such general meeting of members as may be necessary for the proper conduct of the liquidation, giving not less than fourteen days' notice of every such meeting;
- (i) take possession of the books, documents and assets of the society;
- (j) sell the property of the society;
- (k) carry on the business of the society so far as may be necessary for winding it up beneficially, provided that he shall not for this purpose be entitled to issue any loan;
- (l) arrange for the distribution of the assets of the society in a convenient manner when a scheme of distribution has been approved by the registrar.

(2) Subject to such regulations as may be made in this behalf, any liquidator appointed under this Law shall in so far as such powers are necessary for carrying out the purposes of this section, have all such powers as are vested in a District Judge on the occasion of any action in respect of summoning parties, enforcing the attendance of witnesses and compelling the production of documents.

(3) Offence

Any person who—

- (a) wilfully neglects or refuses to do any act or furnish any information required for the purposes of this section; or
- (b) furnishes information known to be false; or
- (c) without reasonable excuse disobeys any summons, requisition or order issued under this section,

shall be guilty of an offence and shall be liable on conviction to imprisonment for six months or to a fine of five thousand naira or to both such imprisonment and fine.

[No. 4 of 2006.]

**50. Power of registrar to control liquidation**

(1) A liquidator shall exercise his powers subject to the control and revision of the registrar, who may—

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



- (b) remove a liquidator from office;
- (c) call for all books, documents and assets of the society;
- (d) by order in writing limit the powers of a liquidator under section 49;
- (e) require accounts to be rendered to him by the liquidator;
- (f) procure the auditing of the liquidator's accounts and authorise the distribution of the assets of the society;
- (g) make an order for the remuneration of the liquidator; or
- (h) refer any subject of dispute between a liquidator and any third party to arbitration if that party shall have consented in writing to be bound by the decision of the arbitrator.

(2) Offence.—Any person who—

- (a) wilfully neglects or refuses to do any act or to furnish any information required for the purposes of subsection (1); or
  - (b) furnishes information known to be false; or
  - (c) without reasonable excuse disobeys any order issued under subsection (1),
- shall be guilty of an offence and shall be liable on conviction to imprisonment for six months or to a fine of five thousand naira or to both such imprisonment and fine.

[No. 4 of 2006.]

## **51. Enforcement of order**

(1) The decision of an arbitrator on any matter referred to him under section 50 shall be binding upon the parties, and shall be enforceable in like manner as an order made by the registrar under that section.

(1) An order made by the liquidator or by the registrar under section 49 or section 50 shall be enforced by any civil court having jurisdiction over the place where the registered office of the society is situated in like manner as a decree of that court.

52 .....

[No. 4 of 2006.]

## **53. Disposal of funds on 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, then to the discharge of the liabilities of the society, then to the payment of the share capital and then, provided that the by-laws of the society permit, to the payment of a

dividend at a rate not exceeding five per centum per annum for any period for which no disposal of profits was made.

(2) When the liquidation of a society has been closed and any creditor of that society has not claimed or received what is due to him under the scheme of distribution, notice of the closing of the liquidation shall be published in the State Gazette; and no claim against the funds of the society liquidated shall lie after two years have elapsed from the date of the publication in the State Gazette notice.

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

## **PART VIII**

### *Surcharge and Attachment*

#### **54. Power of registrar to surcharge**

(1) Where in the course of an audit of a registered society held under the provisions of section 41 or in the course of an inquiry held under the provisions of section 44, or in the course of the winding up of a registered society it appears that any person who has taken part in the organisation or management of such society or any past or present officer of the society has misapplied or retained or become liable or accountable for any money or property of such society or has been guilty of misfeasance or breach of trust in relation to such society, the registrar may, on his own motion, or on the application of the liquidator or of any creditor or contributor, examine into the conduct of such person and make an order requiring him to repay or restore the money or property or any part thereof with interest at such rate as the registrar thinks just or to contribute such sum to the assets of such society by way of compensation in regard to the misapplication, retainer, dishonesty or breach of trust as the registrar thinks fit.

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

(3) Offence.—Any person who without reasonable excuse fails to comply with the provisions of an order issued under subsection (1) shall be guilty of an offence and shall be liable on conviction to imprisonment for six months or to a fine of five thousand naira or to both such fine and imprisonment in addition to any

punishment for which he may be liable upon conviction for any offence committed by him arising out of any act or omission referred to in subsection (1).

[No. 4 of 2006.]

#### **55. Attachment of property**

(1) When the registrar is satisfied that any person, with intent to defraud or delay the execution of any order which may be made against him under subsection (1) of section 54 or subsection (1) of section 57 or of any decision given in a dispute referred to the registrar or to any arbitrators under the regulations—

- (a) is about to dispose of the whole or any part of his property; or
- (b) is about to remove the whole or any part of his property from the local limits of the jurisdiction of the registrar,

the registrar may, unless adequate security is furnished, direct the interim attachment of the said property or such part thereof as he thinks necessary and such attachment shall have the same effect as if it had been made by a competent court.

(2) *Offence.*—Any person who without reasonable excuse fails to comply with the provisions of an order issued under subsection (1) shall be guilty of an offence and shall be liable on conviction to imprisonment for six months or to a fine of five thousand naira or to both such imprisonment and fine.

[No. 4 of 2006.]

#### **56. Appeal to Commissioner**

Any person aggrieved by an order of the registrar made under section 54 or 55 may appeal to the Commissioner within thirty days from the date of such order and the decision of the Commissioner shall be final and conclusive.

### **PART IX**

#### *Disputes*

#### **57. Settlement of disputes**

- (1) If any dispute touching the business of a registered society arises—
- (a) among members, past members and persons claiming through members, past members and deceased members; or
  - (b) between a member, past member or person claiming through a member, past member or deceased member and the society, its committee or any officer, agent or servant of the society; or
  - (c) between the society or its committee and any officer, agent or servant of the

society; or

- (d) between the society and any other registered society,  
such dispute shall be referred to the registrar for decision.

(2) A claim by a registered society for any debt or demand due to it from a member, past member or the nominee, heir, legal personal representative or estate of a deceased member, whether such debt or demand be admitted, shall not be deemed to be a dispute touching the business of the society within the meaning of subsection (1).

[NN 19 of 1962, No. 4 of 2006.]

(3) The registrar shall on receipt of such reference—

- (a) decide the dispute; or
- (b) subject to the provisions of any regulations, refer it for disposal to an arbitrator.

(4) Subject to the provisions of any regulations the registrar may withdraw any reference transferred under paragraph (b) of subsection (3) and decide the dispute under paragraph (a) of that subsection.

(5) The registrar may of his own motion or on the application of a party to a reference revise any decision thereon by an arbitrator to whom it was referred.

(6) (a) Any decision given by the registrar under paragraph (a) of subsection (3) or under subsection (5) shall, save as otherwise provided in subsection (7), be final.

(b) Any decision given by the arbitrator under paragraph (b) of subsection (3) shall, save as otherwise provided in subsection (5), be final.

(c) The decision shall, on the application of the party in whose favour it is given, be enforced by any court which would have jurisdiction in civil suits between the parties to the dispute to give a judgment for the payment of the amount awarded or, where the decision does not relate to the payment of money, to give a similar decision, in the same manner as if the decision had been a judgment or decision of such court.

(7) Any party aggrieved by any order of the registrar made under the provisions of subsection (5) or (6) may appeal to the Commissioner within thirty days from the date of such order and the decision of the Commissioner shall be final and conclusive.

## **58. Case stated on question of law**

(1) Notwithstanding anything contained in section 5, the registrar at any time

when proceeding to a decision under this Law, or the Commissioner at any time when an appeal has been referred to him against any decision of the registrar under this Law, may refer any question of law arising out of such decision for the opinion of the High Court.

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

(2) The Chief Judge with the approval of the Governor may make rules of court regulating the procedure of the High Court when exercising jurisdiction under the provisions of this section.

## **PART X**

### *Division and Amalgamation*

#### **59. Division of society**

(1) Any registered society may, at a meeting of its general body specially called for the purpose of which at least fourteen clear days' notice shall be given to the members, resolve to divide itself into two or more societies.

(2) A resolution passed under the provisions of subsection (1) (in this section referred to as the preliminary resolution) shall contain proposals for the division of the assets and liabilities of the society among the new societies into which it is proposed to divide it and may prescribe the area of operation of, and specify the members who will constitute, each of the new societies.

(3) (a) A copy of the preliminary resolution shall be sent to all the members and creditors of the society.

(b) Any member of the society may, notwithstanding any by-law to the contrary, by notice given to the society within a period of two months from his receipt of the preliminary resolution, intimate his intention not to become a member of any of the new societies.

(c) Any creditor of the society may, notwithstanding any agreement to the contrary, by notice given to the society within the said period of two months, intimate his intention to demand a return of the amount due to him.

(4) After the expiry of two months from the receipt of the preliminary resolution by all the members and creditors of the society, a meeting of the general body of the society, of which at least fourteen clear days' notice shall be given to its members, shall be convened for considering the preliminary resolution. If, at such meeting, the preliminary resolution is confirmed by a resolution passed by a majority of not less

than two-thirds of the members present, either without changes or with such changes as, in the opinion of the registrar, are not material, he may register the new societies and the by-laws thereof and on such registration the registration of the old society shall be deemed to have been cancelled.

(5) The opinion of the registrar as to whether the changes made under subsection (4) in the preliminary resolution are or are not material shall be final and no appeal shall lie therefrom.

(6) At the meeting referred to in subsection (4) provision shall be made by another resolution for—

(a) the repayment of the share capital of all the members who have given notice under paragraph (b) of subsection (3); and

(b) the satisfaction of the claims of all the creditors who have given notice under paragraph (c) of subsection (3).

Provided that no member or creditor shall be entitled to such repayment or satisfaction until the preliminary resolution is confirmed as provided in subsection (4).

(7) If, within such time as the registrar considers reasonable, the share capital of the members referred to in subsection (6) is not repaid or the claims of the creditors referred to in the same subsection are not satisfied, the registrar may refuse to register the new societies.

(8) The registration of the new societies shall operate to vest the assets and liabilities of the original society in the new societies in the manner specified in the preliminary resolution as confirmed under subsection (4) above.

## **60. Amalgamation of societies**

(1) Two or more registered societies may, at meetings of their respective general bodies specially called for the purpose of which at least fourteen clear days' notice shall be given to their respective members, pass a resolution (in this section referred to as the preliminary resolution) to amalgamate into one society.

(2) (a) A copy of the preliminary resolution of each society shall be sent to all the members and creditors thereof.

(b) Any member of any such society may, notwithstanding any by-law to the contrary, by notice given to the society of which he is a member within a period of two months from his receipt of the copy of the preliminary resolution, intimate his intention not to become a member of the new society;

(c) Any creditor of any such society may, notwithstanding any agreement to the contrary, by notice given to the society of which he is a creditor within the said period of two months, intimate his intention to demand payment of the amount due to him.

(3) After the expiry of two months from the receipt of the preliminary resolution by all the members and creditors of all the societies, a joint meeting of the members of such societies of which at least fourteen clear days' notice shall be given to them, shall be convened by the presidents of all the societies jointly for considering the preliminary resolution. If, at such meeting, the preliminary resolution is confirmed by a resolution passed by a majority of not less than two-thirds of the members present, either without changes or with such changes as in the opinion of the registrar are not material, the new society and the by-laws thereof may be registered. On such registration, the registration of the old societies shall be deemed to have been cancelled.

(4) The opinion of the registrar as to whether the changes made under subsection (3) in the preliminary resolution are or are not material shall be final and no appeal shall lie therefrom.

(5) At the joint meeting referred to in subsection (3), provision shall be made by another resolution for—

(a) the repayment of the share capital of all the members who have given notice under paragraph (b) of subsection (2); and

(a) the satisfaction of the claims of all the creditors who have given notice under paragraph (c) of subsection (2);

Provided that no member or creditor shall be entitled to such repayment or satisfaction until the preliminary resolution is confirmed as provided in subsection (3).

(6) If, within such time as the registrar considers reasonable, the share capital of the members referred to in subsection (5) is not repaid or the claims of the creditors referred to in the same subsection are not satisfied, the registrar may refuse to register the new society.

(7) The registration of the new society shall operate to vest in it all the assets and liabilities of the original societies.

## **PART XI**

### ***Regulations***

#### **61. Power to make regulations**

- (1) The Governor may make all such regulations as may be necessary for the purpose of carrying out or giving effect to the principles and provisions of this Law.
- (2) In particular and without prejudice to the generality of the foregoing power, such 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 societies, and the procedure to be followed with regard to such applications;
  - (b) prescribe the conditions to be complied with by persons applying for admission or admitted as members and provide for the election and admission of members, and the payment to be made and the interest to be acquired before the exercise of the right of membership;
  - (c) subject to the provisions of section 30, prescribe the maximum number of shares or portion of the capital of a society which may be held by a member;
  - (d) prescribe the extent to which a society may limit the number of its members;
  - (e) provide for the appointment, withdrawal or expulsion of members and the payments, if any, to be made to members who withdraw or are expelled, and for the liabilities of past members;
  - (f) provide for general meetings of the members, empower the registrar or any person authorised by him to summon such meetings, provide for the procedure at such meetings, and the powers to be exercised at such meetings, and the appointment and voting powers of representatives of affiliated societies to the meetings of secondary societies;
  - (g) provide for the appointment, suspension and removal of the members of the committee and other officers, and for the procedure at meetings of the committee, and for the powers to be exercised and duties to be performed by the committee and other officers;
  - (h) prescribe the matters in respect of which a society may or shall make by-laws and for the procedure to be followed in making, altering and rescinding by-laws, and the conditions to be satisfied prior to such making, alteration or correction;
  - (i) prescribe the payments to be made, the conditions to be complied with, and the forms of bonds, instruments or other documents to be executed, by members applying for loans or cash credits, the period for which loans may be made or credits granted and the maximum amount which may be lent and the maximum credit which may be allowed to individual members with or without the consent of the registrar;
  - (j) provide for the mode in which the value of a deceased member's interest



shall be ascertained and for the nomination of a person to whom such interest may be paid or transferred;

- (k) provide for the mode in which the value of the interest of a member who has become of unsound mind and incapable of managing himself or his affairs shall be ascertained; and for the nomination of any person to whom such interest may be paid or transferred;
- (l) provide for the formation and maintenance of reserve funds, the objects to which such funds may be applied, and for the investment of any funds under the control of the society;
- (m) prescribe the conditions under which the accumulated funds may be distributed to the members of a society and the maximum rate of dividend which may be paid by a society;
- (n) prescribe the accounts and books to be kept by a registered society, and for the periodical publication of a balance sheet showing the assets and liabilities of a registered society;
- (o) provide for the audit of the accounts of registered societies and for the charges, if any, to be made for such audit and provide for the levy of contributions from all or any registered societies to a fund to be used for the audit and supervision of existing societies and co-operative propaganda and prescribe for the administration of such a fund;
- (p) provide for the persons by whom, and the form in which, copies of entries in books of societies may be certified;
- (q) 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;
- (r) provide for the inspection of documents and registers at the registrar's office and the fees to be paid therefor and for the issue of copies of such documents or registers;
- (s) prescribe the manner in which any question as to the breach of any by-law or contract relating to the disposal of produce to or through a society may be determined and the manner in which the liquidated damages for any such breach may be ascertained or assessed;
- (t) prescribe the mode of appointing an arbitrator or arbitrators and the procedure to be followed in proceedings before the registrar or such arbitrator or arbitrators;
- (u) prescribe the procedure to be followed by a liquidator appointed under section 48 and the cases in which appeals shall lie from the orders of such liquidator;
- (v) prescribe the forms to be used, the fees to be paid, the procedure to be

observed and all other matters connected with or incidental to the presentation, hearing and disposal of appeals under this Law or the regulations.

(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 shall cause such regulations to be translated into a language with which such members are acquainted, and additionally to be made known in such manner as is customary for the community concerned.

## **PART XII**

### *Miscellaneous*

#### **62. Recovery of sums due to Government**

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

[KWS 3 of 1968.]

(2) Sums due from a registered society to the Government and recoverable under subsection (1) may be recovered first from the property of the society and secondly—

- (a) in the case of a society of which the liability of the members is limited, from the members subject to the limit of their liability; or
- (b) in the case of other societies, from the members.

#### **63. Prohibition of the use of the word "co-operative"**

(1) No person other than a registered society shall trade or carry on business under any name or title of which the word "co-operative" is part without the sanction of the Commissioner.

(2) *Offence*—Any person who contravenes the provisions of this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding ten thousand naira and in the case of a continuing offence to a further fine not exceeding five hundred naira for each day during which the offence continues.

[No. 4 of 2006.]

**64. Restriction on the application of Caps**

(1) The provisions of the Moneylenders Law shall not apply to societies registered under this Law.

[Cap. M3.]

(2) The provisions of the Arbitration Law shall not apply to any matter referred to an arbitrator under the provisions of this Law.

[Cap. A8.]

(3) The provisions of the Pawnbrokers Law shall not apply to agricultural produce or to the products of handicraftsmen pledged, pawned or otherwise delivered to a society registered under this Law by the members of the society.

[Cap. P2.]

**CHAPTER C19**

**CO-OPERATIVE SOCIETIES LAW**

**SUBSIDIARY LEGISLATION**

*List of Subsidiary Legislation*

1. Co-operative Societies (Reserve Fund—Reduction of Contribution) Order.
2. Exemption from Stamp Duties and Registration Fees.
3. Co-operative Societies Regulations.
4. Co-operative Societies (Stamp Duties Exemption) Notice.

**CO-OPERATIVE SOCIETIES (RESERVE FUND—REDUCTION OF CONTRIBUTION)**

**ORDER**

[Section 30.]

[Ord. 1948 Laws, Public Notice 121 of 1944.]

[Date of commencement: 22nd *June*, 1944]

1. This order may be cited as the Co-operative Societies (Reserve Fund—Reduction of Contribution) Order.
2. The sum annually payable to the reserve fund by any co-operative thrift and loan society of limited liability whose registered by-laws prohibit the granting of

loans in excess of the total amount standing to the borrower's credit in the books of the society shall be reduced from one-quarter to one-eighth of the net surplus disclosed in the duly certified profit and loss account of such society.

## **EXEMPTION FROM STAMP DUTIES AND REGISTRATION FEES**

[Section 23.]

[GN 690 of 1940.]

[Date of commencement: 27th *June*, 1940]

In exercise of the powers conferred upon him by section 33 of the Co-operative Societies Ordinance the Officer Administering the Government has been pleased to exempt all instruments executed by or on behalf of a registered society or by any officer or member of a registered society relating to the business of such society from payment of stamp duties chargeable under the Stamp Duties Act and from registration fees payable under any Act relating to the registration of instruments for the time being in force.

## **CO-OPERATIVE SOCIETIES REGULATIONS**

### **ARRANGEMENT OF SECTIONS**

#### **SECTION**

1. Short title.
2. Interpretation.
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## CO-OPERATIVE SOCIETIES REGULATIONS

[Section 61]

[NR LN 303 of 1956.]

[Date of commencement: 1st *November*, 1956]

### 1. Short Title

These regulations may be cited as the Co-operative Societies Regulations.

### 2. Interpretation

In these regulations—

"**credit society**" means a co-operative society registered or deemed to have been registered of limited liability, whose principal operations are the provision of thrift savings and the issue of loans to members and, where by by-laws permit, the

marketing of members' produce;

**"the Law"** means the Co-operative Societies Law;

[Cap. C19.]

**"marketing society"** means a co-operative society registered or deemed to have been registered of limited liability, whose principal operation is the purchase of members' produce for resale to their best advantage;

**"society"** means a co-operative society registered or deemed to have been registered in Kwara State under the provisions of the Co-operative Societies Law.

[Cap. 39(1948).]

### **3. Register of societies**

The registrar shall keep or cause to be kept at his office a register to be called "the register of societies" wherein shall be entered particulars relating to the registration of societies.

### **4. Entries in register**

(1) All original entries in the register of societies shall be made by, or under the direction of, the registrar and shall be signed by him.

(2) Every alteration, inter-lineation or erasure in the register of societies shall be initialled by the registrar.

### **5. Inspection of register**

The register of societies shall be open to inspection by the public at all reasonable times and free of charge.

### **6. Application for registration**

Every application for the registration of a society shall be submitted to the registrar in the form

#### **7. Name of society**

Every society shall include in its name a word or words clearly indicating the nature and situation of the society but shall not include the name of a person.

### **8. Registration of society**

(1) Where the registrar decides to register a proposed society, the society shall be registered in the register of societies.

(2) Upon the registration of a society the registrar shall forward to the society,

free of charge—

- (a) a certificate of registration;
- (b) a copy of the by-laws of the society as approved by him and certified under his hand as having been approved by him;
- (c) a copy of the Law and of the regulations in English.

#### **9. Refusal to register**

When the registrar refuses to register a society or its by-laws he shall record in writing his reasons for doing so.

#### **10. Register of members**

Every registered society shall keep a register to be called "the register of members" wherein shall be entered—

- (a) the name, address and occupation of each member and a statement of the shares, if any, held by him;
- (b) the date on which each member's name was entered in the register;
- (c) the date on which any member ceased to be a member; and
- (d) the nominee, if any, appointed under regulation 17.

#### **11. Books and accounts**

Every registered society shall keep such accounts, and shall use such books as may from time to time be prescribed by the registrar.

#### **12. Qualifications for membership**

The election and admission of members to a registered society, other than original members, shall be in such manner and on such conditions as the by-laws shall prescribe.

#### **13. Withdrawal from membership**

A member may withdraw from a registered society by giving such notice to the secretary as the by-laws may prescribe but such withdrawal shall be without prejudice to subsection (1) of section 32 of the Law.

#### **14. Expulsion and striking off of members**

- (1) If a member acts in contravention of the rules or by-laws or acts in any way detrimental to the interests of the registered society such member may be expelled by a vote of two-thirds of the members present at a general meeting upon a charge communicated to him in writing by the committee not less than one week before the



meeting. Such expulsion shall, however, be without prejudice to subsection (1) of section 32 of the Law.

(2) Any member who loses any of the qualifications for membership prescribed by the Law or the regulations or the by-laws shall cease to be a member of the registered society and the committee shall cause his name to be struck off the register of members without prejudice to any liabilities of such person under subsection (1) of section 32 of the Law.

#### **15. Restriction on repayment of money paid for purchase of shares**

In the case of any registered society of limited liability holding deposits or loans from non-members, no member withdrawing, removed or expelled therefrom shall be entitled to a repayment of any money paid by him towards the purchase of shares.

#### **16. Restriction on membership**

No registered society shall fix any limit to the number of its members save with the consent of the registrar.

#### **17. Nominees**

(1) Every appointment of a nominee by any member of a registered society for the purposes of section 18 of the Law shall be made in writing signed by the member in the presence of two attesting witnesses.

(2) No member of a registered society with share capital shall be entitled to appoint more than one nominee unless that member holds more than one share.

(3) In any case where more than one nominee is appointed by any member the number of shares to be transferred or the exact proportion of the amount available that is to be transferred to each of these nominees shall be specified at the time of the appointment.

(4) Every appointment of a nominee shall be recorded in the register of members.

(5) For the purpose of a transfer to a nominee, the value of any share or interest shall be represented by the sum actually paid for that share or interest by the member holding it unless the by-laws of the registered society otherwise provide.

(6) Where any money is paid to a nominee who is a minor, a receipt given either by the minor or by his guardian shall be sufficient discharge to the registered society.

## **18. Division of profits**

(1) Unless otherwise authorised by the Commissioner under the second proviso to subsection (2) of section 39 of the Law no dividend or payment on account of profits shall be made by a society registered with unlimited liability until the reserve fund has reached a proportion of not less than one-tenth of the society's total liabilities.

(2) No registered society shall pay a dividend if the rate of interest on loans granted by it to its members exceeds ten percent per annum.

(3) No registered society shall pay a dividend on share capital exceeding five percent (5%) per annum on the capital actually paid up.

(4) A bonus not exceeding five percent (5%) based on wages or on the value of the products of a member, or a bonus or rebate on patronage calculated in proportion to the amount of the business done by each member with the registered society may be distributed periodically to the members from surplus funds after the deduction of all expenditure and after making provision for bad and doubtful debts and making allocation to the reserve fund.

## **19. Maximum liability**

(1) Every registered society shall, from time to time, fix at a general meeting the maximum liability it may incur in loans or deposits whether from members or non-members.

(2) The maximum so fixed shall be subject to the sanction of the registrar, who may at any time reduce it. No registered society shall receive loans or deposits which will make its liability exceed the limit sanctioned by the registrar.

## **20. Authority in registered society**

The supreme authority in a registered society shall be vested in the general meeting of members at which every member has a right to attend and vote on all questions. Subject to the provisions of sections 27 and 28 of the Law, each member shall have one vote only which shall be exercised in person and not by proxy.

## **21. First meeting of members**

The first meeting of members shall have the same powers as are given to the annual general meeting, and shall be held immediately or not later than one month after the receipt of the certificate of registration of the society.

## **22. Annual general meeting**

The annual general meeting of members shall be convened by the committee as soon as the annual accounts have been approved by the registrar or as soon as the report

on the audit of the accounts by the registrar or person authorised by him is received by the committee. At least fourteen (14) days' notice shall be given before any such annual general meeting is held.

### **23. Functions of annual general meeting**

The functions of the annual general meeting shall be—

- (a) to confirm the minutes of the previous annual meeting and of any intervening special general meeting;
- (b) to consider the reports of the committee and the annual accounts and balance sheet as approved by the registrar together with the report on the audit of the accounts for the previous year as prepared by the registrar or the person authorised by him;
- (c) to elect officers of the registered society;
- (d) to transact any other general business of the registered society.

### **24. Ordinary general meetings**

Ordinary general meetings shall be held at such intervals as the by-laws may specify.

### **25. Business at ordinary general meetings**

The business of ordinary general meetings shall include—

- (a) the fixing of a maximum liability under regulation 19;
- (b) the fixing of maximum credit limits for members where applicable;
- (c) the consideration of the audit report and the registrar's comments thereon unless previously discussed at the annual general meeting in accordance with paragraph (b) of regulation 23;
- (d) the consideration of inspection reports and communications from the registrar;
- (e) the consideration of members' complaints.

### **26. Special general meetings**

A special general meeting of members may be convened at any time by the committee; and on receipt of a demand stating the object of the proposed meeting signed by not less than one-fifth of the members of the registered society, if such society is composed of less than one hundred members, or by twenty-five members if such society consists of more than one hundred members, it shall be the duty of the chairman of the committee to convene such a meeting giving fourteen (14) days' notice. If the chairman of the committee fails to convene a meeting within twenty-one (21) days from the receipt of a demand as aforesaid the members applying for

such a meeting will have the right to convene the meeting by notice which must contain the object of the proposed meeting and a statement to the effect that the meeting is convened on the failure of the chairman of the committee to convene the meeting demanded.

Provided that the registrar or a person authorised by him may at any time summon a special general meeting of the registered society in such manner and at such time and place as he may direct. He may also direct what matters shall be discussed at the meeting. Such meeting shall have all the powers of a meeting called according to the regulations.

## **27. Quorum at general meetings**

(1) When a registered society consists of not more than forty members, one-half of the number of the members or ten members, whichever is the less, shall form a quorum for the purposes of any general meeting and, when a registered society consists of more than forty members, one-fourth of the total number of the members of such society shall form a quorum for the purposes of any general meeting.

Provided that when any meeting is summoned by the registrar any members present at such meeting shall be deemed to form a quorum.

(2) If within one hour after the time fixed for any meeting other than a meeting convened by the registrar the members present are not sufficient to form a quorum such meeting shall be considered as dissolved if convened on the demand of members; in all other cases it shall stand adjourned to the same day in the next week at the same time and place and a notice to that effect shall be posted by the secretary within twenty-four (24) hours, and if at the adjourned meeting a quorum is not present within one hour from the time appointed for the meeting the members present shall form a quorum.

## **28. Conduct of general meetings**

(1) In the absence of the President of the society any other person duly elected by a majority of those present shall preside at any general meeting.

Provided that the registrar or a person appointed by him may preside at any meeting convened by himself or on his demand.

(2) The secretary or in his absence any other person nominated in writing by the presiding officer shall act as secretary at the meeting. The presiding officer, if necessary, may nominate other officers to assist at the meeting.

(3) The presiding officer may by the decision of the meeting adjourn the meeting

from time to time and from place to place but no business shall be transacted at any meeting so adjourned other than the business left unfinished at the meeting from which the adjournment took place.

(4) The presiding officer shall have the right to order the closure of a discussion and put the matter to the vote.

## **29. Voting at general meetings**

(1) Any question submitted to the decision of the members present at a meeting, unless otherwise dealt with in the regulations, shall be decided by a majority of votes.

(2) At any meeting a resolution put to the vote shall be decided on a show of hands unless voting by call of names or a ballot is demanded by at least five of the members present before the declaration of the result of the show of hands, and in such case voting by call of names or a ballot shall be taken, as the case may be.

(3) In respect of every resolution put to the vote the presiding officer shall declare whether it has been carried or lost, and whether on a show of hands or unanimously or by a particular majority, and an entry to that effect in the minute book shall be conclusive evidence of anything therein contained.

## **30. Minutes of general meetings**

(1) Minutes of general meetings shall be entered in the minute book and shall contain—

- (a) the number and names of the members or delegates present at the meeting unless the names are recorded in an attendance register and the name of the person who presided at the meeting;
- (b) the time fixed for the meeting and the time at which the meeting commenced;
- (c) all resolutions passed or decisions made at the meeting.

(2) At each general meeting the minutes of the previous general meeting shall be read and after confirmation with or without amendment shall be signed by the presiding officer and secretary.

## **31. Period of time for which officers may be appointed**

Members of the committee shall not be elected for a period exceeding one year but a retiring committee member shall be eligible for re-election unless otherwise provided in the by-laws.

**32. Qualification for committee member**

A member is not eligible for the committee if—

- (a) he is under twenty-one years of age; or
- (b) he is entrusted in his individual capacity with secretarial or managerial duties, other than the joint business of the committee, and receives a salary on that account; or
- (c) in a credit society he lends money on his own account; or
- (d) in a marketing society he deals in the commodities which the society markets otherwise than through his society.

**33. Disability of committee member**

A member of the committee shall cease to hold office if—

- (a) he ceases to be a shareholder; or
- (b) he is declared insolvent; or
- (c) he becomes of unsound mind; or
- (d) he is convicted of any offence involving dishonesty or is imprisoned for three months or longer; or
- (e) he becomes ineligible under regulation 32; or
- (f) he is removed by a resolution of the general meeting for conduct prejudicial to the interests of the society; or
- (g) he fails to attend three consecutive meetings of the committee without due excuse approved by the committee.

**34. Vacancies on committee**

- (1) Vacancies occurring on the committee shall be filled within fourteen days by the election of substitutes elected by the remaining members of the committee.
- (2) Any substitutes elected under this regulation shall be confirmed in office at the next general meeting and shall hold office until the expiration of the term of the remainder of the committee.

**35. Chairman of committee**

- (1) The president of the society shall be the chairman of the committee. In his absence the committee shall elect one of its members to perform his duties.
- (2) At meetings of the committee the chairman shall have an ordinary vote and on an equality of votes shall be entitled to a casting vote.

**36. Frequency of committee meetings**

- (1) The committee shall meet as often as the business of the registered society may require and in any case not less frequently than once a month.
- (2) Meetings of the committee shall be summoned by the secretary.

### **37. Quorum of committee**

The quorum for a meeting of the committee shall be half the number of committee members, provided that when the number of committee members does not exceed five the quorum shall be three.

### **38. Conduct of committee meetings**

At each committee meeting the secretary shall—

- (a) read the minutes of the preceding meeting, which after adoption or amendment shall be signed by the chairman and the secretary;
- (b) produce the cash book, detail the entries of receipts and payments made therein since the last meeting and with the treasurer produce the cash in their possession for verification by the committee with the cash book;
- (c) produce a statement showing the loans due and unpaid for determination by the committee as to the action to be taken in each case;
- (d) produce applications for loans, if any, for determination by the committee in accordance with the priority of receipt; and
- (e) submit any other business for consideration by the committee.

### **39. Minutes of committee meetings**

Minutes of committee meetings shall be recorded forthwith by the secretary in the minute book and shall contain the following particulars—

- (a) the names of the members present and the date of the meeting;
- (b) the name of the chairman of the meeting; and
- (c) a short statement of all matters discussed and decisions made and a record as to whether each decision was made unanimously or by a majority.

### **40. Powers and duties of committee**

- (1) The committee shall represent the registered society before all competent public authorities and in all dealings and transactions with third persons with power to institute or defend suits brought in the name of or against the society and in general it shall carry out such duties in the management of the affairs of the registered society as have not been specially assigned by the regulations or the by-laws to general meetings or to any other officer of the society.

- (2) In particular, the duties of the committee shall include the following—
- (a) to comply with the Law, the regulations and the by-laws of the registered society and properly to conduct the business of that society;
  - (b) to maintain true and accurate accounts and a true account of the registered society's assets and liabilities;
  - (c) to lay before the annual general meeting of the registered society an annual report and annual accounts approved by the registrar or auditor;
  - (d) to assist in the scrutiny of the books by any person authorised by the registrar to inspect or audit the accounts of the registered society;
  - (e) to take adequate security from employees;
  - (f) in a credit society to supervise and ensure that the loans are applied to the approved  
purpose for which they are made;
  - (g) in a marketing society to ensure that the produce marketed is of the highest quality and,  
where applicable, duly graded.

**41. Banking account**

- (1) With the approval of the registrar a registered society may open a banking account.
- (2) Unless otherwise specified in the by-laws or approved by the registrar all cheques shall be signed by two members of the committee and the secretary.

**42. Employees**

- (1) Unless the by-laws shall otherwise specify, the committee may—
  - (a) appoint such employees as it considers necessary; and
  - (b) fix the salary, wages or remuneration and other conditions of service of every such employee.
- (2) Every employee appointed under this regulation shall hold office during the pleasure of the committee.

**43. Responsibility of committee**

- (1) The committee shall take adequate measures for the safe custody and maintenance of the registered society's funds, stocks and property.
- (2) The members of the committee jointly may be held financially responsible for any loss sustained by the registered society through their failure to comply with the



Law, regulations and by-laws or properly to conduct the business of the society.

**44. Secretary**

- (1) The committee shall appoint a secretary and, unless the person so appointed is a member of the committee, shall have power to fix the remuneration for his services.
- (2) The secretary, if a member of the committee, shall be unpaid.
- (3) The secretary may be required to give security in such amount as the committee may determine.
- (4) The secretary shall occupy his office until his services are determined by one month's notice in writing given by the committee.
- (5) The secretary may resign his office by giving one month's notice in writing to the committee.
- (6) The remuneration of the secretary, if any, shall be paid from the funds of the registered society monthly in arrear.

**45. Suspension of secretary**

- (1) The committee may at any time suspend the secretary for any irregularity in the performance of his duties.
- (2) In the event of the suspension of the secretary the committee shall forthwith appoint a substitute to hold office during the period of such suspension.

**46. Absence of secretary**

- (1) The secretary shall not absent himself from duty save with the permission of the committee previously obtained.
- (2) During the absence of the secretary, the committee shall appoint a temporary secretary.
- (3) In case the secretary desires to be absent from duty for more than one month at any one time, the committee shall, before granting permission for such absence obtain the previous approval of a general meeting.

**47. Duties of secretary**

The duties of the secretary shall be—

- (a) to attend all meetings of the registered society and of the committee and to carry out all the instructions of the committee;
- (b) to be present at the office during the hours of business as fixed from time to time by the committee;
- (c) to record the whole of the transactions of the registered society in the books

prescribed for that purpose; to conduct correspondence on behalf of the registered society; to prepare the annual statement of accounts and balance sheet; and to have charge of the document books and vouchers for payments and receipts on behalf of the registered society;

- (d) to receive all applications for loans and bring the same before the committee; to prepare receipts and other documents in the form prescribed for signature by borrowers prior to their taking the loans sanctioned; and with the authority of the committee to supply information about the registered society which may be applied for by members; and
- (e) to summon meetings as provided in the regulations or by-laws.

**48. Committee may authorise the secretary to perform additional duties**

The committee may authorise the secretary to handle financial transactions on behalf of the registered society. In such cases the duties of the secretary shall include the following—

- (a) to receive all moneys due or payable to the registered society and issue receipts to the payer for same from an approved counterfoil receipt book, obtaining at the same time the signature of the person making the payment on the counterfoil;
- (b) to deposit with the treasurer from moneys collected by him on behalf of the registered society all sums in excess of an amount to be fixed from time to time by the committee and to obtain from him a receipt on a form to be taken from the prescribed counterfoil book;
- (c) to keep separate all moneys belonging to the registered society and on no account to mix them with any other moneys; and to produce at all times when called upon to the committee, or the registrar or any person authorized by him, all moneys in his hands belonging to the registered society;
- (d) to make payments as authorised by the committee, obtaining the payee's signature on the  
payment voucher or his official receipt; and
- (e) to issue a receipt on a form to be taken from the prescribed counterfoil book when  
receiving money from the treasurer.

**49. Treasurer**

- (1) The committee shall appoint one of the members of the committee, not being the chairman, to be the treasurer.
- (2) The treasurer may be required to give security for such amount as may be

determined by, and to the satisfaction of, the committee.

**50. Duties of treasurer**

(1) The duties of the treasurer shall be—

(a) to receive from the secretary as provided in paragraph (b) of regulation 48 moneys collected by the latter on behalf of the registered society, furnishing him with a receipt on a form taken from an approved counterfoil book and obtaining at the same time the signature of the secretary on the counterfoil;

(b) to advance money to the secretary for payments and obtain from him a receipt from the prescribed counterfoil book;

(c) to place to the account of the registered society in such bank or secondary society as may be approved by the registrar any amount in his hands in excess of the amount fixed from time to time by the committee;

(d) to keep separate all moneys belonging to the registered society and on no account to mix them with any other moneys; and to produce at all times when called upon to the committee, the registrar or any person authorised by him, all moneys in his hands belonging to the registered society; and

(e) to keep a record on the prescribed form of all moneys received by him from the secretary and of all moneys paid to the secretary.

(2) The treasurer shall be generally responsible under the direction of the committee for the safe custody of the cash and other valuables belonging to the registered society and for ensuring that all cash transactions of the society are accurately recorded and properly receipted.

(3) When the committee have not authorised the secretary to handle financial transactions on their behalf the treasurer shall perform the duties laid down for the secretary in regulation 48.

**51. Applications for loans**

In a registered society whose by-laws permit the making of loans, members who desire to obtain a loan shall submit an application to the committee stating the amount and the purpose for which the loan is required, the term for which it is asked, whether it is desired to repay it by installments, and the names of the proposed sureties or any other security which is offered.

**52. Sanction for loans**

(1) The committee shall consider at a meeting every application for a loan and if the committee is satisfied with the trustworthiness of the applicant, the sufficiency of

the security offered and the prospects of advantage to the borrower, in the way of increased production or economy or otherwise, it may sanction the loan.

(2) No person other than members of the committee and the secretary and the registrar and his staff shall be present at any meeting of the committee when an application for a loan is under consideration. A member of the committee who applies for a loan or who is proposed as surety for a loan must withdraw while the relevant application is being discussed. If there is a difference of opinion concerning the granting of a loan, the voting shall be taken by ballot. The proceedings with regard to loans at committee meetings shall be kept secret, and any member of the committee or officer of the registered society infringing this rule shall be liable to immediate expulsion or dismissal.

### **53. Security for loans**

Loans, when approved by the committee, shall be granted to members who are able to obtain two sureties approved by the committee, or who can give other security to the satisfaction of the committee.

### **54. Purposes of loans**

(1) No loan shall be made except for a purpose to be approved in each case by the committee.

(2) All loans made shall be applied by the borrowing members to such purpose as the committee has approved.

### **55. Documents relating to loans**

When a loan is sanctioned by the committee a notice shall be sent to the borrower to that effect, and, before the amount is advanced, the borrower and his sureties shall execute an instrument in writing setting out the terms of repayment of the loan and containing such other terms and conditions as the committee may consider necessary.

### **56. Restrictions on loans to defaulters**

Where a member—

- (a) is in default in the payment of a loan or of an installment of a loan; and
- (a) does not satisfy the committee that such default is due to a good cause, such member shall not be entitled to receive another loan from the registered society.

### **57. Extensions to loans**

If by reason of sickness or some other cause, a member finds that he will be unable to discharge his obligations to the registered society and notifies the secretary in writing before a loan is due, the committee may extend the time fixed for payment on such conditions as it thinks fit.

**58. Misapplication of loans**

Where the committee is satisfied that a member of the registered society who has obtained a loan has applied the proceeds thereof to a purpose other than the purpose which is stated in the application therefor under regulation 52, the committee may, by notice in writing to the debtor, demand payment of the loan before the agreed date of payment.

**59. Recovery of loans**

Where—

- (a) a loan or an installment of a loan has not been paid on the date on which it became due; and
- (a) no extension for the payment thereof has been given to the debtor by the committee under regulation 57,

the committee shall take steps for the recovery of the same by referring the matter to the registrar as prescribed in section 54 of the Law.

**60. Maximum credit limits**

- (1) In every registered society whose by-laws permit the making of loans to members in excess of a member's shares or interest or savings in the society, a maximum credit limit shall be fixed for each member of the society.
- (2) The registrar may prescribe generally or specifically limits to such maximum credit.

**61. Obligation of members of marketing society to dispose of produce through the society**

- (1) Every member of a registered society whose by-laws permit the marketing of members' produce through the society shall deliver to the society at such place as the committee shall direct such amount of articles produced or obtained by him as may be prescribed in the by-laws or in the relevant contract to be disposed of by the society.
- (2) Any member who is approved or adjudged in accordance with the provisions of section 54 of the Law to be guilty of a breach of the by-laws or the relevant

contract as the case may be shall pay to the society as liquidated damages such sum as may be specifically assessed or ascertained in manner prescribed by the by-laws or by the relevant contract and such sum shall be deemed to be a debt due to the society.

**62. Bad debts**

The committee may cause bad debts to be written off the books of the registered society in such manner and at such times as the registrar may approve.

**63. Transfer of shares**

(1) Any share may be transferred with the approval of the committee to any other member at the option of the transferor, but if the transferee is not a member, he must be approved of as a member by the committee or the general meeting, according to the by-laws relating to the admission of members, before the transfer can be registered; and if the by-laws require a member to hold more than one share, the transferee must acquire by the transfer, or by the transfer and allotment, the number so required to be held before the transfer can be registered.

(2) No transfer of a share shall be valid and effective unless and until such transfer has been registered by the secretary on the direction of the committee.

(3) No transfer of a share shall be registered if made by a member indebted to the registered society without special order of the committee, and until the transfer of a share is registered no right shall be acquired against the registered society by the transferee, nor shall any claim of the registered society upon the transferor be affected thereby.

**64. Sales of shares of members in default**

The committee may in default of payment by any member indebted to the registered society to an amount not less than three-fourths of the sum paid up for the time being on any transferable share held by him, sell, transfer and register in the books of the registered society such share to any person entitled to hold the same under the regulations or by-laws for the best price obtainable therefor, and apply the proceeds in or towards the discharge of the debt so due and of any expense incurred in or about the same, paying over the balance (if any) to the member, without being responsible for any loss occasioned thereby, and the defaulting member shall cease to have any further claim in respect of such share.

**65. Reserve Fund**

(1) The reserve fund of a registered society, created in pursuance of the provisions of subsection (2) of section 37 of the Law, shall be indivisible and no member shall be entitled to claim a specified share in it.

(2) The reserve fund may, with the sanction of the registrar—

- (a) be utilised in the business of the registered society; or
- (b) be applied to meet occasional deficiencies incurred by the registered society.

(3) In sanctioning the utilisation or application of the reserve fund the registrar may impose such terms and conditions as he may deem fit.

**66. Audit and supervision fees**

(1) Every registered society shall pay annually such audit and supervision fee, if any, as the registrar may direct.

(2) Until such time as a society has been established and registered for the purposes of audit and supervision, such fees shall be paid by registered societies into the revenue of the Government of Kwara State.

(3) As soon as a society for audit and supervision has been established and registered, such fees shall be paid to this society.

(4) The general assessment of rates of audit and supervision for all types of societies by the registrar shall be notified in the Kwara Gazette:

Provided that the registrar may reduce the assessment or exempt any society from such payment.

**67. Amendment of by-laws**

(1) Where in pursuance of the provisions of subsection (1) of section 11 of the Law a registered society amends its by-laws, such amendment shall be made by a resolution of the members of the registered society at a general meeting.

(2) Every resolution under paragraph (1) of this regulation shall not be valid and effective unless it was taken by a majority of not less than three-fourths of the members present at the general meeting at which the resolution was proposed.

(3) A copy of a resolution under paragraph (1) of this regulation shall be forwarded to the registrar together with three copies of the amendment.

**68. Copies of entries**

For purposes of section 21 of the Law a copy of an entry in the book of a society may be certified by a certificate written at the foot of such copy, declaring that it is a true copy of such entry and that the book containing the entry is still in the custody of the society, such certificate being dated and signed by the secretary and one member of the committee.

**69. Disputes**

(1) Reference of a dispute to the registrar for decision under the provisions of subsection (1) of section 54 of the Law may be made—

- (a) by the committee; or
- (b) by the registered society in pursuance of a resolution in that behalf taken in general meeting; or
- (c) by any party to the dispute; or
- (d) where the dispute concerns a member of the committee and the registered society, by any member of the registered society.

(2) Every reference under this regulation shall be made by a statement in writing addressed to the registrar. Such statement shall—

- (a) be dated;
- (b) specify the dispute;
- (c) set out full particulars of the dispute; and
- (d) be signed by the party making it.

**70. Arbitration**

(1) Where, in pursuance of the provisions of paragraph (b) of subsection (3) of section 54 of the Law the registrar decides to refer a dispute to arbitration, such decision shall be embodied in an order of reference under his hand.

(2) Every order of reference under this regulation shall—

- (a) specify the name, surname, place of abode and occupation of the arbitrator;
- (a) set out the dispute and full particulars thereof; and
- (a) limit the time within which the award shall be forwarded by the arbitrator to the registrar.



Provided that, on good cause shown to his satisfaction, the registrar may by a further order enlarge the time whether before or after the time limited by the order of reference has expired.

**71. Proceedings before arbitrator**

(1) The proceedings before the arbitrator shall, as nearly as possible, be conducted in the same way as proceedings before a court of law, and in particular the following provisions shall have effect in respect thereof—

- (a) ten days notice of the time and place at which the proceedings are to be held shall be given to the parties to the dispute;
- (b) a record of the evidence adduced before the arbitrator shall be made, dated and signed by the arbitrator;
- (c) documents produced as exhibits before the arbitrator shall be marked, dated and initialled by the arbitrator and shall be attached to the file of the proceedings; and
- (d) in the absence of any party duly notified to attend, the dispute may be decided by the arbitrator ex parte;
- (e) the arbitrator shall have power to require the attendance of the parties and witnesses and to require the production of all necessary books and documents by a summons delivered orally or sent by hand or by registered post, or through the nearest court having jurisdiction in the area in which the society operates, and shall further have power to order the expenses incurred in determining the dispute to be paid either out of the funds of the society or by such party or parties to the dispute as he may think fit. Persons not attending in accordance with such summons or making any other default or refusing to give evidence or being guilty of any contempt to an arbitrator during the investigation of the matter referred shall be subject by order of the registrar on the representation of the arbitrator to such disadvantages, penalties and punishments as they would incur for the same offences if committed in suits tried before a court.

(2) The award of the arbitrator shall—

- (a) be in writing;
- (b) be dated and signed by the arbitrator; and
- (c) state the amount of the costs and expenses of the arbitration, if any, and by which party  
or parties the same are to be paid.

(3) Upon the completion of the proceedings, the arbitrator shall forward to the registrar—

- (a) the file of the proceedings; and
- (b) the award.

## **72. Proceedings before registrar**

Where, in pursuance of the provisions of paragraph (a) of subsection (3) of section 57 of the Law the registrar exercises the power of deciding a dispute himself, the proceedings before him in relation thereto shall, as nearly as possible, be conducted in the same way as proceedings before a court of law and the provisions of regulation 71 shall apply mutatis mutandis to such proceedings.

## **73. Fees**

(1) Any member of the public shall be permitted, on payment of two hundred and sixty naira for each occasion of inspecting, to inspect in the office of the registrar for any lawful purpose the following documents—

- (a) the registered by-laws of a society and amendments effected in such by-laws;
- (b) an order cancelling the registration of a society;
- (c) the annual statements of a society.

(2) The fees prescribed for certified copies of any public documents, which any person has under this regulation a right to inspect, shall be at the rate of five hundred naira for each hundred words or part thereof of the copy.

(3) The fee prescribed for a certified copy of the registration certificate of a society shall be five hundred.

Provided that the registrar may, where a registration certificate of a society has been lost or destroyed, issue to that society a new certificate of registration free of charge.

# **CO-OPERATIVE SOCIETIES (STAMP DUTIES EXEMPTION) NOTICE**

## **ARRANGEMENT OF SECTIONS**

### **SECTION**

- 1. Short title.

1. Exemption from stamp duties and registration fees.

## **CO-OPERATIVE SOCIETIES (STAMP DUTIES EXEMPTION)**

### **NOTICE**

[Section 23 (1).]

[NRLN 474 of 1956.]

[Date of commencement: 1st *November*, 1956]

#### **1. Short Title**

This notice may be cited as the Co-operative Societies (Stamp Duties Exemption) Notice.

#### **2. Exemption from stamp duties and registration fees**

All instruments, regarding which the Government of Kwara State is competent to make laws, executed by or on behalf of a co-operative society registered under the Cooperative Societies Law are hereby exempted from payment of—

- (a) stamp duties chargeable thereon under any law for the time being in force in relation to Regional matters;
- (b) fees payable under the law relating to the registration of instruments for the time being in force in relation to Regional matters.

## **CHAPTER C28**

### **CORONERS LAW**

#### **ARRANGEMENT OF SECTIONS**

#### **PART 1**

*Short Title, Application and Definitions*

#### **SECTION**

1. Short title and application
2. Interpretation

#### **PART II**

3. Duties of public authorities and local governments.

### **PART III**

#### *General Provisions*

4. Who may hold inquests.
5. When Inquest to be held
6. Power to order exhumation
7. Inquest on all prisoners and on persons in police custody
8. Inquest to be held by coroner of place where body lying
9. Inquest where body destroyed or irrecoverable
10. Coroner may postpone burial or cremation till after inquest.
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### **PART IV**

#### *Post-mortem Examination*

13. Coroner may direct post-mortem examinations
14. Medical practitioner to make an examination and report.

### **PART V**

#### *Procedure at Inquest*

15. Inquiries to be made by coroner
16. Provisions regarding the viewing of body
17. Coroner may summon witnesses
18. Coroner not bound by rules of evidence
19. Evidence how recorded
20. Power to take evidence of witness unable to attend
21. Commissions
22. Inquest on Sunday or public holiday or in private
23. Adjournment of inquest
24. Staying of inquest and its resumption
25. Issue of summons or warrant
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28. Where guilty party cannot be found
29. Return of inquisition and powers of review by High Court
30. Powers of High court on application by or under authority of Attorney-General
31. Delegation of powers by the Attorney-General

## PART VI

### *Miscellaneous Provisions*

- 32. The coroner to transmit particulars of death and his finding thereon to Registrar.
- 33. Penalty where body is buried without authority
- 34. Obstructing medical practitioner or authority
- 35. Power to make rules
- 36. Forms

## FIRST SCHEDULE

### *Forms*

## SECOND SCHEDULE

### *Rules*

## CORONERS LAW

### **A Law to regulate the appointment, powers and duties of Coroners.**

[NN 1963, Cap. 27. KWS LN 1 of 1982, No. 4 of 2006.]

[Date of commencement: 1st *June*, 1945]

## PART I

### *Short Title, Application and Definitions*

#### **1. Short title and application**

- (1) This Law may be cited as the Coroners Law.
- (2) Parts I, III, IV, V and VI shall apply—
  - (a) to all cases in the State where the deceased was a non-Nigerian; and
  - (b) to such areas of the State or to such other class or classes of persons in the State or to such class or classes of persons without any specified areas therein as the Governor may by order declare.
- (3) Parts I and II shall apply to all persons and areas not specifically mentioned either in subsection (2) or in any order made thereunder.

## **2. Interpretation**

Definitions—

**"coroner"** means any person empowered to hold inquests under this Law;

**"medical practitioner"** means any person registered or licensed as a medical practitioner under the Medical and Dental Practitioners Acts of 1963 to 1969;

[No. 44 of 1969.]

**"local government"** includes any member of a local government;

**"State"** means the Kwara State of Nigeria.

## **PART II**

### **3. Duties of public authorities and local governments**

(1) In any area or in respect of any class or classes of persons in the State not made the subject of an Order made under the provisions of subsection (2) of section 1 when anybody is found or where there is any suspicion that any deceased person died from causes other than natural causes, any person finding the body or becoming aware of the death shall forthwith inform the District Head, Village Head or Hamlet Head.

(2) A District Head, Village Head or Hamlet Head to whom information has been given under subsection (1) shall after forwarding to the local government, which shall then inform the appropriate police officer, proceed to the place where the body of the deceased is and shall there in the presence of two or more persons whom he shall summon for the purpose and who also shall be bound to attend make an investigation and draw up a report of the apparent cause of death describing such wounds, fractures and other marks of injuries as may be found on the body and stating in what manner or by what weapon or instrument such marks appear to have been inflicted and such other information relating to the death as he can discover.

(3) Where practicable the person making an investigation under subsection (2) shall be accompanied by a medical officer or dispensary attendant.

(4) Where there is any doubt regarding the cause of death or where for any other reason the person making the investigation considers it expedient and practicable to do so or where the medical officer or dispensary attendant attending such investigation so directs the body shall be brought to the nearest hospital or to some other convenient place for further examination.

(5) Except in case of necessity the burial shall not take place until leave has been obtained from a Justice of the peace.

(6) On completion of the investigation the District Head, Village Head or Hamlet Head, as the case may be, shall forward his report and the record, if any, of his investigation to the local government, which shall then inform the appropriate police officer.

(7) *Procedures regarding prisoners and persons in police custody.*—Whenever any prisoner, or any person in police custody, shall die from any cause whatsoever, the local government of the area in which such death occurred shall cause an inquiry to be held as to the cause of such death and shall, as soon as possible, send a written report of such inquiry, signed by the Secretary of the local government, with all convenient despatch to an area court having jurisdiction in the area in which the death occurred which court shall take charge of such report.

(8) *Penalty.*—Any person who contravenes or fails to comply with the provisions of subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine of two thousand naira or imprisonment for a term not exceeding three months or to both such fine and imprisonment. Proceedings for an offence against this section may be taken either before a magistrate's court or area court.

[No. 4 of 2006.]

### **PART III**

#### *General Provisions*

#### **4. Who may hold inquests**

(1) Every Magistrate may hold inquests under this Law.

(2) The Attorney-General may empower any other fit and proper person to hold inquests under this Law within such area as the Attorney-General may specify.

(3) The Attorney-General shall cause to be published in the State Gazette notice of the name of any person empowered to hold inquests under subsection (2) and of the area within which he may hold the same.

(4) Any inquest commenced by a coroner may be continued, resumed, or re-opened in the manner provided by this Law by such coroner or by his successor in office.

## **5. When inquest to be held**

Whenever a coroner is informed that the body of a deceased person is lying within his jurisdiction and that there is reasonable cause to suspect that such person has died either a violent or an unnatural death, or has died a sudden death of which the cause is unknown, or that such person has died confined in a lunatic asylum, or in any place or circumstances which, in the opinion of the coroner, makes the holding of an inquest necessary or desirable, such coroner shall, subject as hereinafter in this section provided, hold an inquest on such body as soon as is practicable.

Provided that—

(a) whenever it shall appear to the coroner, either from the report of a medical practitioner rendered under section 13 or otherwise, that the death is due to natural causes, and that the body shows no appearance of death being attributable to or of having been accelerated by violence or by any culpable or negligent conduct either on the part of the deceased or of any other person, it shall thereupon be lawful for the coroner at his discretion (except in the case specified in section 7) to dispense with the holding of an inquest, and, in the case of a registrable death he shall notify the Registrar appointed under the provisions of the Births and Deaths (Compulsory Registration) Act, 1979;

[No. 39 of 1979.]

(b) where the coroner is informed that criminal proceedings have been or are about to be instituted against any person already in custody or about to be arrested in respect of such death, the inquest shall not be commenced, or if commenced shall not be continued or resumed, until such proceedings have been concluded.

## **6. Power to order exhumation**

Notwithstanding any law or custom to the contrary enacted or obtaining, whenever it shall appear to any coroner that the body of any person, who has died in circumstances requiring the holding of an inquest thereon, has been buried without being viewed or without such inquest having been held, or where such inquest, although held, has been quashed or re-opened, it shall be lawful for such coroner by his warrant as in Form A set out in the First Schedule to order the exhumation of such body; and he shall after such exhumation proceed to hold an inquest on such body and thereupon direct the re-interment thereof; and the expenses of such exhumation and re-interment shall be paid, upon the coroner's order, out of the general revenue.

[Form A.]



Provided that such exhumation shall not be ordered in any case where in the opinion of the coroner it would be injurious to public health, or where there is no reasonable probability of a satisfactory result being obtained thereby.

**7. Inquest on all prisoners and on persons in police custody**

Whenever any prisoner, or any person in police custody, shall die from any cause whatsoever, a coroner of the district in which such death has occurred shall hold an inquest and, where such death is in execution of a judgment of death, the inquest shall be held within four hours thereafter.

**8. Inquest to be held by coroner of place where body lying**

The coroner only within whose jurisdiction the body of any person, upon whose death an inquest ought to be held, is lying, shall hold the inquest, notwithstanding that the cause of death arose elsewhere; and if anybody is found in any river, creek, or in any inland waters, the inquest shall be held by the coroner within whose jurisdiction the body is first brought to land.

Provided that where it appears to a coroner by whom an inquest has been commenced that, owing to special circumstances to be entered upon the record of the inquest, it is expedient for the inquest to be continued by another coroner in the State, he shall after viewing the body (if such view is necessary in accordance with the provisions of section 16 (1)) and making such entry upon the record as is required to be made under the provisions of section 16 (4), refer the record to such other coroner; and such other coroner shall thereupon, subject to any directions in that behalf which may be given by the High Court and which the High Court is hereby empowered to give, continue the inquest and conclude the same in accordance with the provisions of this Law.

**9. Inquest where body destroyed or irrecoverable**

Where a coroner has reason to believe that a death has occurred in the area within which he has jurisdiction in such circumstances that an inquest ought to be held, and that owing to the destruction of the body by fire or otherwise or to the fact that the body is lying in a place from which it cannot be recovered, an inquest cannot be held except by virtue of the provisions of this section, he may, if he considers it desirable so to do, hold an inquest touching the death, and the Law relating to inquests shall apply with such modifications as may be necessary in consequence of the inquest being held otherwise than on or after view of a body lying within the coroner's jurisdiction.

**10. Coroner may postpone burial or cremation till after inquest**

A coroner may prohibit the burial or cremation of any body lying within his jurisdiction until an inquest shall have been held.

**11. Notice of death**

(1) When any body is found or a person has died in such circumstances as to make the holding of an inquest under this Law necessary or desirable it shall be the duty of any person finding the body or becoming aware of the death forthwith to inform the nearest local government or police officer and upon receiving any such information such local government or police officer shall notify the coroner having jurisdiction to hold an inquest. Any person who fails without good cause to inform the local government or police officer as required by this section shall be guilty of an offence and on conviction shall be liable to a fine of two thousand naira or imprisonment for a term not exceeding three months or to both such fine and imprisonment.

[No. 4 of 2006.]

(2) In the case of a death occurring to which the provisions of section 7 apply it shall be the duty of the person in charge of the premises forthwith to notify the coroner having jurisdiction to hold an inquest. Any such person who fails so to notify the said coroner shall be guilty of an offence and on conviction shall be liable to a fine of two thousand naira or imprisonment for a term not exceeding three months or to both such fine and imprisonment.

[KWS LN 1 of 1982.]

**12. Duty of police officer or local government**

(1) On information being given to a local government or police officer in pursuance of subsection (1) of section 11, such local government or police officer or a person authorised in that behalf by a local government or police officer, hereinafter referred to as the authority, shall proceed to the place where the body of the deceased person is lying and shall make a full investigation into the circumstances surrounding the death of the deceased and the probable cause thereof, and may arrest any person reasonably suspected of having caused the death.

(2) The authority shall without delay cause notice of the death as in Form B (or a translation thereof in such written language as the authority understands) set out in the First Schedule to be sent to a coroner having jurisdiction to hold an inquest stating any particulars concerning the cause of death disclosed by the investigation and giving an opinion as to whether or not the death was due to any unlawful act or omission.

[Form B.]

(3) In any case where the death is believed by the authority not to be due to any unlawful act or omission, such authority shall if the dead body is not already buried, view the body and authorise its interment, but in all other cases the authority shall cause the body to be taken to the nearest hospital or other place appointed for the reception of dead bodies unless the authority certifies to the coroner that the requirements of this subsection cannot reasonably be complied with, having regard to the condition of the body, the weather and the distance to be travelled.

## **PART IV**

### *Post-mortem Examination*

#### **13. Coroner may direct post-mortem examinations**

If any coroner considers it necessary with a view to investigating the circumstances of the death of any person, to obtain a medical report on the appearance of the body of such person, and as to the conclusions to be drawn therefrom, he may, by written order as in Form C set out in the First Schedule, require any Government medical officer or, in the absence of such officer, any other medical practitioner within his jurisdiction to make an examination of the body and to report thereon.

[Form C]

#### **14. Medical practitioner to make an examination and report**

Every medical practitioner upon the receipt of such order shall, unless he procures the services of some other medical practitioner to perform the duty, immediately make an examination of the body, with a view to determining therefrom the cause of death, and to ascertaining the circumstances connected therewith, and shall make a report in writing to the coroner describing the appearance of the body, and the conclusions which he draws therefrom touching the death of such person. The examination shall extend, when the medical practitioner considers it necessary but not otherwise, to such dissection of the body, with or without an analysis of the contents of the stomach or intestines, as he may think requisite. The report shall be as in Form D set out in the First Schedule, and shall state the cause of death, and shall be signed and dated by the medical practitioner. Such report on being read at the inquest by the coroner shall be prima facie evidence of the facts therein stated without further proof, unless it is proved that the medical practitioner purporting to sign the report did not in fact sign it.

[Form D.]

## **PART V**

### *Procedure at Inquest*

#### **15. Inquiries to be made by coroner**

At every inquest the coroner shall take on oath such evidence as is procurable as to the identity of the deceased, and the time, place and manner of his death.

#### **16. Provisions regarding the viewing of body**

(1) At or before the first sitting of an inquest on a body, the coroner shall view the body or shall satisfy himself that the body has been viewed by a police officer, medical practitioner or local government.

Provided that, when an inquest on the body has been previously opened, it shall not be necessary upon a resumed, continued or subsequent inquest for the body to be viewed a second time.

(2) An order authorising the burial of a body upon which it has been decided to hold an inquest may be issued at any time after the body has been viewed.

(3) If the body has been buried and has not been viewed in the manner provided in subsection (1), the coroner shall order the exhumation of the body for the purpose of a view in the manner provided by section 6 unless he certifies that in his opinion such exhumation would be injurious to the public health or that no satisfactory result would be obtained thereby.

(4) In any case in which the coroner himself has viewed the body he shall certify the fact upon the record of the inquest, and in other cases he shall record evidence, if any, of the view of the body by a local government officer, a police officer, medical practitioner or local government.

#### **17. Coroner may summon witnesses**

(1) A coroner holding an inquest shall have and may exercise all the powers of a Magistrate with regard to summoning and compelling the attendance of witnesses and requiring them to give evidence, and with regard to the production of any document or thing at such inquest.

[Form F.]

(2) Every summons and warrant of arrest and summons to produce shall be in writing signed by the coroner.

(3) Where the inquest concerns the death of a person executed in pursuance of a death warrant the medical practitioner who was present at the execution shall be an essential

witness at such inquest.

(4) The provisions of any law in force relating to summonses, warrants and summonses to produce issued by a Magistrate shall apply to summonses, warrants and summonses to produce issued by a coroner.

#### **18. Coroner not bound by rules of evidence**

A coroner holding an inquest shall not be bound by any rules of evidence which may pertain to civil or criminal proceedings, but if any witness objects to answer any question on the ground that it will tend to incriminate him, he shall not be required to answer the question nor be liable to any penalty for refusing so to answer.

#### **19. Evidence how recorded**

The evidence of every witness shall be taken down and recorded in the form of a deposition in the manner prescribed for preliminary inquiries under the provisions of the Criminal Procedure Code Law.

[Cap. C23.]

#### **20. Power to take evidence of witness unable to attend**

Where any person within the coroner's jurisdiction who is able to give material evidence in respect of any inquest is, owing to illness or other cause which appears satisfactory to the coroner, unable to attend at the place where the coroner usually sits, it shall be lawful for the coroner to take the deposition of such person in the place where such person is.

#### **21. Commissions**

(1) Whenever in the course of any inquest it appears to the coroner that any person without the jurisdiction of the coroner is able to give material evidence in respect of the inquiry and that the attendance of such person cannot be procured without an amount of delay, expense or inconvenience, which, in the circumstances of the case, would be unreasonable, the coroner shall apply to the High Court, giving the reasons for the application, and the High Court may—

(a) issue a commission to any magistrate (whether exercising jurisdiction in the State or any other State), within the local limits of whose jurisdiction such person resides, to take the evidence of such person; or

(b) reject the application.

(2) The Magistrate to whom the commission is issued shall proceed to the place where the witness is or shall summon the witness before him and shall take down his evidence in

the same manner, and may for this purpose exercise the same powers, as in a preliminary inquiry held under the provisions of the Criminal Procedure Code Law.

[Cap. C23.]

(3) Any interested party may appear before such Magistrate by advocate or in person, and may examine, cross-examine and re-examine, as the case may be, such witness.

(4) After such commission has been duly executed it shall be returned, together with the deposition of the witness examined thereunder, to the High Court, who shall forward the commission, the return thereto and the deposition to the coroner who made the application therefor.

(5) On the receipt thereof by the said coroner such commission, return thereto, and deposition shall be filed with and form part of the inquest proceedings relating thereto.

## **22. Inquest on Sunday or public holiday or in private**

(1) A coroner may lawfully hold inquests on any Sunday or public holiday.

(2) If the coroner thinks it expedient in the interests of justice that any inquest should be held in private, he shall hold the same in private.

(3) Whenever an inquest is held in private, the coroner shall record his reasons for so holding it.

## **23. Adjournment of inquest**

A coroner holding an inquest in any place may adjourn the inquest to another day and may order the adjourned inquest to be held in the same or any other place.

## **24. Staying of inquest and its resumption**

(1) If in the course of an inquest, the coroner is of opinion that sufficient grounds have been disclosed for instituting criminal proceedings in connection with the death against any person already in custody or whose arrest is contemplated, the coroner shall stay the inquest until the trial of the person to be charged is concluded or he is discharged under the provisions of section 159, 169 or 253 of the Criminal Procedure Code or it appears improbable that such person will be found.

[Cap. C23.]

(2) Where an inquest is stayed in pursuance of subsection (1), the coroner may resume and conclude the inquest after the conclusion of the criminal proceedings if he is of opinion that public benefit is likely to result from his so doing; but, if he is of opinion that no public benefit is likely to result from his so doing, he shall certify his opinion to that effect and transmit to the Attorney-General a copy of the inquest proceedings.

Provided that, if in the course of the criminal proceedings any person has been charged upon information, thereupon the resumed inquest no inquisition shall charge that person with an offence of which he could have been convicted on such information or contain any finding which is inconsistent with the determination of any matter by the result of those proceedings.

(3) Notwithstanding the provisions of subsection (2) where an inquest is stayed in pursuance of subsection (1), and it is ascertained that the person to be charged cannot be found, the coroner shall resume and conclude the inquest.

(4) For the purpose of this section, the expression "the criminal proceedings" means the proceedings before a magistrate's court and before any court to which the accused person is committed for trial or is charged or before which an appeal from the conviction of that person is heard, and criminal proceedings shall not be deemed to be concluded until no further appeal can, without an extension of time being granted by any court to which an appeal lies, be made in the course thereof.

## **25. Issue of summons or warrant**

If, during the course or at the close of any inquest, the coroner is of opinion that sufficient grounds are disclosed for making a charge against any person in connection with the death, he may issue a summons or warrant to secure the attendance of such person before any magistrate's court having jurisdiction, and may bind over any witness who has been examined by or before him on a recognisance with or without surety to appear to give evidence before such court.

## **26. The inquisition**

After the view (if any) of the body and hearing the evidence, the coroner holding the inquest shall give his verdict and certify it by an inquisition in writing as in Form E set out in the First Schedule, showing, so far as such particulars have been proved to him, who the deceased was, and how, when and where the deceased came by his death:

[Form E.]

Provided that, where the inquest concerns the death of a person executed in pursuance of a death warrant the verdict and inquisition shall include a finding as to whether the death was instantaneous and the person executed was the person mentioned in such warrant. Such inquisition and verdict shall be made and signed in duplicate and one of the originals shall be delivered to the sheriff.

## **27. Where guilty party unknown**



If, at the close of any inquest, the coroner is of opinion that there is ground for suspecting that some person is guilty of an offence in respect of the matter inquired into, but cannot ascertain who such person is, he shall certify his opinion to that effect and transmit a copy of the proceedings to the Divisional Police Officer of the division in which the inquest is held.

[No. 4 of 2006.]

## **28. Where guilty party cannot be found**

Where a copy of the proceedings upon any inquest has been transmitted to a superintendent of police under section 27 and the guilty person remains undiscovered, and if, in the opinion of the Divisional Police Officer, there is no probability that such person will be discovered, he shall certify his opinion to that effect and transmit the copy of the proceedings to the Attorney-General.

[No. 4 of 2006.]

## **29. Return of inquisitions and powers of review by High Court**

(1) Every inquisition, including the depositions and the recognisances of the witnesses, if any, shall be transmitted by the coroner, with all convenient despatch to the judicial division of the High Court in which the inquisition took place and the Registrar of such division shall take charge of such proceedings.

(2) The High Court may examine the record of any such proceedings for the purpose of satisfying itself as to the correctness, legality or propriety of any finding or verdict and as to the regularity of such proceedings.

(3) Where the High Court by reason of such examination is not satisfied as to the correctness, legality or propriety of any finding or verdict it may, after affording the Attorney-General or his representative an opportunity of being heard therein, exercise any of the powers conferred upon it by subsection (1) of section 30.

(4) Where the High Court by reason of such examination is not satisfied as to the regularity of the proceedings, it may take such action, not involving an alteration of the finding or verdict, as it may think necessary to cure such irregularity.

## **30. Powers of High Court on application by or under authority of Attorney-General**

(1) Where the High Court, upon application made by the Attorney-General in the judicial division of the court in which an inquest has been held or would fall to be held, is satisfied that, it is necessary or desirable to do so, it may—

(a) order an inquest to be held touching the death of any person;

(b) direct any inquest to be re-opened for the taking of further evidence, or for the



inclusion in the proceedings thereof and consideration with the evidence, already taken, of any evidence taken in any judicial proceeding which may be relevant to any issue determinable at such inquest, and the recording of a fresh verdict upon the proceedings as a whole;

(c) quash the verdict in any inquest substituting therefore some other verdict which appears to be lawful and in accordance with the evidence recorded or included as hereinbefore in this section provided; or

(d) quash any inquest, with or without ordering a new inquest to be held.

(2) The provisions of this section shall apply to all inquests and the verdicts therein, whether or not such inquests and verdicts are in pursuance of the provisions of this Law.

(3) For the purpose of this section the expression "**judicial proceeding**" means a proceeding before any court, tribunal or person having by law power to hear, receive and examine evidence on oath.

### **31. Delegation of powers by the Attorney-General**

The Attorney-General may order in writing that all or any of the powers vested in him by sections 29 and 30 be vested for the time being in the Solicitor-General or a State counsel and the exercise of those powers by the Solicitor-General or a State counsel shall then operate as if they had been exercised by the Attorney-General.

Provided that the Attorney-General may in writing revoke any order made by him under this section.

## **PART VI**

### *Miscellaneous Provisions*

### **32. The coroner to transmit particulars of death and his finding thereon to Registrar**

Where a death is required by law to be registered and an inquest is held, the coroner shall inquire of the particulars required to be registered concerning the death, and his finding thereon shall be attached to and form part of the inquisition; and the coroner shall send to the registration authority within five days after the finding is given, a certificate under his hand, giving information concerning the death and specifying his finding with regard to the said particulars and to the cause of death, and stating also the time and place at which the inquest was held.

### **33. Penalty where body is buried without authority**

(1) Any person who without lawful authority or excuse interrs, or cremates any body, the burial or cremation of which has been prohibited under section 10, or the body of any

person who has died in police custody or in any prison, or of any person who has died in any of the circumstances mentioned in section 5, shall be guilty of an offence and on conviction shall be liable to a fine of five thousand naira.

[No. 4 of 2006.]

(2) Where any person is charged with having committed an offence under this section the onus of proving that he had lawful authority or excuse shall be on the person charged.

### **34. Obstructing medical practitioner or authority**

Any person who obstructs a medical practitioner, a police officer or a local government officer in the execution of any duty imposed upon him by this Law shall be guilty of an offence and upon conviction shall be liable to a fine of two thousand naira or imprisonment for a term not exceeding three months or to both such fine and imprisonment.

[No. 4 of 2006.]

### **35. Power to make rules**

(1) The Governor may make rules prescribing the scale of fees to be paid to medical practitioners for any examination, autopsy or other service required of them under this Law.

(2) The rules in the Second Schedule shall be deemed to have been made under the power herein conferred.

[Second Schedule.]

### **36. Forms**

The forms set out in the First Schedule shall be used for the several matters to which they relate with such variations as circumstances may require. The Governor may from time to time by order published in the State Gazette amend, revoke or add to the said Schedule.

[First Schedule.]

## **FIRST SCHEDULE**

### **FORM A**

[Section 6.]

[No. 4 of 2006.]

## **CORONERS LAW**

### *Order for Exhumation*

.....District.  
To.....  
.....

Whereas it appears that .....has  
died  
in circumstances requiring the holding of an inquest upon his body and that the body of the  
said  
.....has been buried at.....without  
such  
inquest being held (or without the said body being viewed) (or that the inquest held  
at.....  
.....on the.....day of.....was  
insufficient):

These are to charge and command you that you forthwith cause the said body to be taken  
up (and viewed) (or, and safely conveyed to .....in the above-named  
district)

that I may proceed to inquire into the cause of the death of the  
said.....

(or as the case may be).

Herein fail not.

Given under my hand at.....this.....day of.....,  
20.....

.....  
Coroner,  
Kwara State

## FORM B

[Section 12.]

### CORONERS LAW

#### *Death Report to Coroner*

Particulars of deceased, etc.

1. Name, sex and approximate age of deceased.....

.....

2.                                      Nationality                                      or                                      Tribe

.....

3. Occupation .....

4.                      Date,                      hour                      and                      place                      of

death.....

.....

...

5. Supposed cause of death.....

.....

6.    Person    who    found    body    or    gave    first    information    of

death.....

.....

7.    Date    and    hour    first    information    received    by    police    or    local

authority.....

.....

.....

.....

8.    Circumstances    of    death    and    names    of    persons    who    give    information

thereof.....

.....

.....

.....

9.                      Name                      of                      authority                      making                      first

investigation.....

10.                      Date                      and                      time                      of

investigation.....

11.                      Describe                      where                      and                      how                      body                      found

.....

.....

.....

12. Marks of violence (if any) .....

.....

.....

13.                      Circumstances                      of                      suspicion                      (if

any).....

.....

...

14. Date and hour when report sent to coroner.....

.....

....

Having made full inquiries I have the honour to report that—

(a) there are no suspicious circumstances surrounding the death nor are there any marks of violence on the body;

ought to

(b) in my opinion an inquest be held;

need not

(c) the body has been viewed by me and buried at.....;

I am satisfied that the body viewed by me was the body of.....;

(d) the body has been sent by me to.....;

(e) the following persons have been arrested (or are about to be arrested) in connection with the death on the charges stated hereunder:

.....

....

.....

....

Station.....

.....

Authority

I order that an inquest be opened at.....

on the .....day of....., 20.....

(or) I do not consider that an inquest is necessary or desirable.

Date.....

.....

Coroner,

**FORM C**

[Section 13.]

**CORONERS LAW**

*Order for Post-mortem Examination*

To Dr .....

.....

Where I am credibly informed that  
one.....

has died in circumstances which may require the holding of an inquest under the Coroners  
Law,

you are hereby authorised and required to make a post-mortem examination of the  
said.....

.....whi  
ch

will be delivered to you by.....and  
to

make a report to me thereon—

Given under my hand  
at.....this.....day

Of....., 20.....

.....

Coroner,  
Kwara State

**FORM D**

[Section 14.]

**CORONERS LAW**  
*Report of Medical Practitioner*

1. Date and hour of receipt of corpse at mortuary

.....

.....

....

2. Condition of corpse on arrival

.....

3. Mode in which packed

.....

4. Date and hour of holding examination

.....

5. Name of deceased (if known).....

6. By whom identified

.....

7. Approximate age

.....

8.

Sex.....

9. Height, colour of hair, eyes, peculiar clothing and any other marks or means of identity.....

.....

....

10. Probable date of death

.....

11. Medical report

.....

.....

.....

.....

.....I certify the cause of death in my opinion to be.....

.....

....

Date.....

.....

(Signed)

.....

(Qualifications)

(Address).....

.....

.....

## FORM E

[Section 26.]

### CORONERS LAW

#### *The Inquisition*

An inquisition taken at.....in the district

of.....in the Kwara State of Nigeria, the.....

day of.....,20.....before....., on the view of the

body of one..... then and there lying dead

Now I.....charged to inquire when,

where, how and after what manner the said .....

came to his/her death say that the following particulars have been disclosed—

1. Name ..... of deceased.....

2. Residence ..... and ..... occupation .....

3. Means ..... of identity.....

4. Where found, when, and under what circumstances.....



.....  
...  
5. Date ..... of ..... death

.....  
6. Cause of death

.....  
7. Offence (if any) to which death attributable

.....  
....  
And I, the said .....do say that  
my  
verdict ..... is

.....  
In witness whereof I have to this inquisition set my hand  
the.....  
day of.....,20.....

Station.....  
..... Coroner, Kwara State

## FORM F

[Section 17.]

## CORONERS LAW

### *Summons to Witness*

To.....  
Whereas I am credibly informed that you can give evidence concerning the death  
of.....

.....  
Now, therefore, you are hereby required to attend  
at.....  
on the .....day  
of.....,20.....,  
at ..... of the clock in the..... noon, in order to give  
evidence  
before me touching the death of the said  
.....  
and herein fail not.

Dated this.....day of....., 20.....

.....  
Coroner,  
Kwara State

## SECOND SCHEDULE

[Section 35.]

### *Rules*

#### **1. Short title**

These rules may be cited as the Coroners (Post-mortem Fees) Rules.

#### **2. Where inquest dispensed with**

A medical practitioner required by order of the Coroner to examine and report upon a body and upon whose report the Coroner shall dispense with an inquest and shall be entitled to a fee of one thousand naira for such report and a further fee of one thousand naira if he shall have made a dissection.

Provided that where the report is made on the body of a person whom it was the duty of a medical practitioner in the service of the Government to attend, such medical practitioner shall only be entitled to the said fee of one thousand naira for any dissection made.

[No. 4 of 2006.]

#### **3. Where inquest held and medical evidence required**

A medical practitioner required by order of the Coroner to examine and report upon a body

on which an inquest is held and who is not summoned to give evidence in support of such report shall be entitled to a fee of one thousand naira for such report and a further fee of one thousand naira if he shall have made a dissection.

Provided that where the report is made on the body of a person whom it was the duty of a medical practitioner in the service of the Government to attend, such medical practitioner shall only be entitled to the said fee of one thousand naira for any dissection made.

[No. 4 of 2006.]

#### **4. Where medical officer summoned to give evidence**

A medical practitioner summoned by the Coroner to give evidence at any inquest in support of his examination and report shall be entitled to a fee of one thousand naira for the first day and further like fee for each day after the first.

Provided that where the inquest held is upon the body of a person whom it was the duty of a medical practitioner in the service of the Government to attend, such medical practitioner shall not be entitled to any fee for attending to give evidence as aforesaid.

[No. 4 of 2006.]

#### **5. Exhumation**

Any medical practitioner who is required to superintend the exhumation of a body shall be entitled to a fee of two thousand naira in addition to any other fees to which he may be entitled under the provisions of these Rules.

[No. 4 of 2006.]

#### **6. Travelling expenses**

Any reasonable travelling expenses, to be assessed by the Coroner which have been incurred by any medical practitioner in complying with any service ordered to be performed by him shall be payable to such medical practitioner.

7. No benefits shall accrue and no payments shall be made under these Rules to a medical practitioner who is in receipt of staff pay.