



CO-OPERATIVE SOCIETIES LAW

No. 5 of 1972

OF

THE NATIONAL STATE ASSEMBLY

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Co-operative Societies Law, No. 5 of 1972

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A LAW TO PROVIDE FOR THE DEVELOPMENT OF CO-OPERATIVE SOCIETIES, AND TO CONSOLIDATE AND AMEND THE LAW RELATING TO THE CONSTITUTION AND CONTROL OF CO-OPERATIVE SOCIETIES AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH AND INCIDENTAL THERETO.

BE it enacted by the National State Assembly of the Republic of Sri Lanka as follows:—

1. This Law may be cited as the Co-operative Societies Law, No. 5 of 1972.

Short title.

CHAPTER I

REGISTRATION

2. (1) There may be appointed a Registrar of Co-operative Societies for Sri Lanka or any portion thereof and such number of Deputy, Senior Assistant, or Assistant, Registrars as may be necessary.

Appointments of Registrar, Deputy, Senior Assistant, and Assistant Registrars and powers of Commissioner of Co-operative Development and persons appointed to assist the Commissioner.

(2) The Minister may, by general or special Order, confer on any Deputy, Senior Assistant or Assistant Registrar all or any of the powers of a Registrar under this Law or under any rules made thereunder.

(3) The person appointed to be, or to act for the time being as, the Commissioner of Co-operative Development shall have and may exercise the same powers as are vested in the Registrar of Co-operative Societies by this Law and by any rules made or deemed to be made thereunder.

(4) Each of the persons appointed to assist the Commissioner of Co-operative Development shall have and may exercise such of the powers of the Registrar under this Law and under any rules made or deemed to be made thereunder as may be specified by the Minister in any general or special Order made under this section.

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Societies
which may be
registered.

3. (1) Subject to the provisions hereinafter contained,—

- (a) a society which has as its object the promotion of the economic, social or cultural interests of its members in accordance with co-operative principles, or
- (b) a society established with the object of facilitating the operations of a society referred to in paragraph (a), or
- (c) a society consisting of registered societies as members established for the purpose of providing co-operative education and training, advisory services to co-operative societies in Sri Lanka and other services for the promotion of the co-operative movement in Sri Lanka, or
- (d) a society consisting of registered societies as members established for the purpose of planning, co-ordinating, and facilitating the activities of such co-operative societies in Sri Lanka or any part thereof as are engaged in marketing, industry, agriculture, fisheries or in such other activity as may be approved by the Registrar,

may be registered under this Law with or without limited liability:

Provided that the liability of a society of which a member is a registered society shall be limited.

(2) Where the liability of the members of a society is limited, no member other than a registered society shall hold more than such portion of the share capital of the society, subject to a maximum of one-third, as may be prescribed by the rules.

Conditions of
registration.

4. (1) No society, other than a society of which a member is a registered society, shall be registered under this Law, if it does not consist of at least ten persons each of whom is above the age of eighteen years and resides or is employed, or owns immovable property within the proposed area of operations of the society seeking registration.

(2) Where for the purposes of this section a question arises as to the age, residence, employment or property qualification of any person, that question shall be decided by the Registrar whose decision shall be final.

(3) The word "limited" shall be the last word in, or the equivalent of that word in Sinhala or Tamil shall form part of, the name of every society with limited liability registered under this Law.

5. (1) For the purposes of registration an application shall be made to the Registrar.

Application for registration.

(2) The application shall be signed—

(a) in the case of a society of which no member is a registered society, by at least ten persons qualified in accordance with the requirements of section 4 (1); and

(b) in the case of a society of which a member is a registered society, by a duly authorized person on behalf of every such registered society, and, where all the 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 two 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.

6. If the Registrar is satisfied that a society has complied with the provisions of this Law and the rules, that the activity in which the society proposes to engage is economically feasible, and that its proposed by-laws are not contrary to this Law or to the rules, he may, if he thinks fit, register the society and its by-laws. An appeal in accordance with such rules as may be made in that behalf shall lie to the Minister against the refusal of the Registrar to register any society.

Registration.

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

Evidence of registration.

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

Amendment of the by-laws of a registered society.

(2) No amendment of the by-laws of a registered society shall be valid until that amendment has been registered under this Law for which purpose two 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 rules, he may, if he thinks fit, register the amendment. An appeal in accordance with such rules as may be made in that behalf shall lie to the Minister against the refusal of the Registrar to register any amendment of any by-law.

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

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

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

Amalgamation,
division, and
transfer of
assets and
liabilities of
registered
societies.

9. (1) A registered society may, with the previous approval of the Registrar and by a resolution passed by a two-thirds majority of the members or delegates present and voting at a general meeting of the society—

(a) transfer its assets and liabilities in whole or in part to any other registered society; or

(b) divide itself into two or more societies.

(2) Any two or more registered societies may, with the previous approval of the Registrar and by a resolution passed by a two-thirds majority of the members or delegates present and voting at a general meeting of each such society, amalgamate themselves and form a new society.

(3) The resolution of a registered society under subsection (1) or subsection (2) shall contain all particulars of the transfer, division or amalgamation, as the case may be.

(4) Where a registered society has passed any such resolution, it shall give notice thereof in writing to all its members and creditors and, notwithstanding any by-laws or contract to the contrary, any member or creditor shall, during the period of one month of the date of service of the notice upon him, have the option of withdrawing his shares, deposits or loans, as the case may be.

(5) Any member or creditor who does not exercise his option within the period specified in subsection (4) shall be deemed to have assented to the proposals contained in the resolution.

(6) Where a resolution passed by a registered society under this section involves the transfer of any assets and liabilities, the resolution shall, notwithstanding anything contained in any law for the time being in force, be a sufficient conveyance to vest the assets and liabilities in the transferee without any further assurance.

10. (1) Where the whole of the assets and liabilities of a registered society are transferred to another registered society in accordance with the provisions of section 9, the registration of the first-mentioned society shall stand cancelled and that society shall be deemed to have been dissolved and shall cease to exist as a corporate body.

(2) When two or more registered societies are amalgamated into a new society in accordance with the provisions of section 9, the registration of each of the amalgamating societies shall stand cancelled on the registration of the new society and each such society shall be deemed to have been dissolved and shall cease to exist as a corporate body.

(3) Where a registered society divides itself into two or more societies in accordance with the provisions of section 9, the registration of that society shall stand cancelled on the registration of the new societies, and that society shall be deemed to have been dissolved, and shall cease to exist as a corporate body.

Cancellation of registration certificates of registered societies in certain cases.

CHAPTER II

MEMBERS OF REGISTERED SOCIETIES AND THEIR RIGHTS AND LIABILITIES

Members not to exercise rights till due payments made.

11. (1) 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 rules or by-laws.

(2) Where a member of a registered society has not made such payment to the society or acquired such interest in the society as is referred to in subsection (1), it shall be lawful for the society, from any sum of money due from the society to such member in respect of the purchase of any scheduled agricultural product under the Agricultural Products (Guaranteed Prices and Control of Hulling and Milling) Act, No. 33 of 1961, to deduct any sum of money due to the society from such member in respect of such payment or such interest as is referred to in subsection (1).

Associate members.

12. (1) A registered society may admit any individual as an associate member.

(2) An associate member shall not be entitled to any share, in any form whatsoever, in the assets or profits of the society, or any vote in the conduct of the affairs of the society.

(3) Save as provided in this section, an associate member shall have such privileges and rights of a member and be subject to such liabilities of a member as may be specified in the by-laws of the society.

Contracts with society of members who are minors.

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

14. The subsequent discovery, of any defect in the appointment of, or of any disqualification for election of, any officer of a registered society shall not be a ground for invalidating or avoiding any contract entered into by such officer on behalf of such society.

Contracts by officers of societies.

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

Votes of members.

Provided that in the case of an equality of votes the chairman shall have a casting vote.

16. (1) No member of any primary society shall at any meeting of the society exercise his vote except in person:

Manner of exercising votes.

Provided, however, that voting through delegates at any meeting of the society may be allowed where it is so provided under the by-laws of the society.

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

17. (1) The transfer of the share or other 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 rules.

Restrictions on transfer of share or interest.

(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 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.

CHAPTER III

DUTIES OF REGISTERED SOCIETIES

18. Every registered society shall have an address, registered in accordance with the rules, to which all notices and communications may be sent, and shall within seven days of any change of that address notify the Registrar of such change.

Address of society.

Copy of Law,
rules, by-laws,
&c., to be open
to inspection.

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

CHAPTER IV

PRIVILEGES OF REGISTERED SOCIETIES

Societies to be
bodies
corporate.

20. 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 property, to enter into contracts, to institute and defend suits and other legal proceedings, and to do all things necessary for the purpose of its constitution.

Disposal of
produce to or
through
society.

21. (1) A registered society which has as one of its objects the disposal of any article which is the produce of agriculture or animal husbandry or any other industry, may provide in its by-laws or may contract with its members—

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

(b) that any member who is proved or adjudged, in such manner as may be prescribed by rules, to be guilty of 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 rules, or by its by-laws.

(2) A contract made by a registered society under subsection (1) shall create in favour of the society a first charge upon all articles, whether produced or about to be produced, to which the contract relates.

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

(4) A member of a registered society shall be deemed not to have contravened any by-law of the society which requires him to deliver any produce to the society, if the failure to deliver such produce was

due to the fact that he had, prior to becoming a member of the society, contracted to deliver the produce to some other person.

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

22. (1) Where the Minister is satisfied in the case of any registered society that the members of the society or any section hereof are producers of any article in Sri Lanka, or in any province, district or area in Sri Lanka, the Minister may in his discretion, by Order, direct each producer of that article in Sri Lanka, or in such province, district or area in Sri Lanka, as the case may be, whether such producer is or is not a member of the society, to sell to or through the society such part of the total quantity of that article produced by him as is not required for his own use or consumption.

Compulsory
sale of produce
through a
registered
society in
certain cases.

(2) Every Order made by the Minister under subsection (1) shall be published in the *Gazette* and shall specify the article, the area in which the Order shall operate and the basis on which the producer of such article shall be paid.

(3) Every Order shall come into operation on the date of its publication in the *Gazette* and shall subject to the provisions of subsection (5) continue in operation until it is rescinded.

(4) Every Order shall, as soon as may be after it has come into operation, be brought before the National State Assembly for approval.

(5) Every Order which the National State Assembly refuses to approve shall be deemed to be rescinded, but without prejudice to the validity of anything previously done or suffered to be done thereunder. The date on which an Order shall be deemed to be rescinded shall be the date on which the National State Assembly refuses to approve the Order, and such date shall be notified in the *Gazette*.

(6) (a) The Minister may at any time by Order published in the *Gazette* (such Order being hereinafter referred to as an "amending Order") vary

any Order previously made under subsection (1). Every amending Order shall come into operation on the date of its publication in the *Gazette*.

(b) An Order made under subsection (1), which is varied by an amending Order shall continue in operation, as so varied, for the period during which it would have been in operation if it had not been so varied, and no longer.

(c) Every amending Order shall be brought before the National State Assembly for approval:

Provided, however, that where an Order made under subsection (1) is varied by one or more amending Orders before it is approved by the National State Assembly under subsection (4), the Order, when it is brought before the National State Assembly for approval under that subsection, shall have incorporated therein all variations effected by such amending Order or Orders, and it shall not be necessary in any such case to bring any such amending Order separately before the National State Assembly.

(d) The refusal of the National State Assembly to approve any amending Order which is brought before the National State Assembly for approval shall be deemed to be a rescission of that amending Order, and the Order made under subsection (1) shall, from the date of such rescission, continue in operation as though that amending Order had not been made.

(e) The Minister may at any time rescind any Order previously made under subsection (1). Notification of the rescission of any such Order shall be published in the *Gazette* and such Order shall be deemed to be rescinded upon the date of such publication.

(7) Every Order shall, when approved by the National State Assembly, be as valid and effectual as if it were herein enacted.

(8) Every Notification required to be published in the *Gazette* under this section shall be published under the hand of the Minister.

(9) The provisions of any Order made under this section shall, notwithstanding that they are inconsistent with or in conflict with the provisions of any other written law, prevail over such other written law for the period during which the Order is in force.

(10) Every producer who is directed by Order under subsection (1) to sell any article to or through a registered society of which he is not a member, shall, in respect of any such sale in compliance with such direction and of any matter or transaction arising out of such sale, be subject to the same conditions and obligations to which he would have been subject if he were a member of the society.

(11) Where any producer in respect of whom an Order is made under subsection (1), and who is not a member of the registered society, applies for admission as a member of the society, the society shall—

- (a) if he so desires, deduct from any funds received or held by the society on his account, the whole or any portion of the subscription for membership, and
- (b) admit him as a member upon payment in full of such subscription subject to any such deduction as aforesaid.

23. (1) Any person who, having knowledge or notice that any other person has contracted under section 21 or is bound by an Order under section 22 to sell any article produced by such other person to or through a registered society, solicits or persuades such other person to sell or deliver such article, in violation of such contract or in contravention of such Order, as the case may be, shall be guilty of an offence and shall on conviction after summary trial before a Magistrate be liable to a fine not exceeding one thousand rupees.

(2) Where the person convicted of an offence under subsection (1) is a body corporate, every person who at the time of the commission of the offence was a director or officer of the body corporate shall be deemed to be guilty of that offence unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of the offence.

Persons
soliciting
others to violate
contracts.

Rights of registered society over crops, agricultural produce, cattle, implements, raw material, and manufactured articles belonging to any member.

24. Subject to any prior claim of the Republic on the property of a 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—

(i) upon crops or other agricultural produce raised in whole or in part with a loan taken from the society by such member or past member;

(ii) upon any cattle, fodder for cattle, agricultural or industrial implements, or raw materials for manufacture, or workshops, godown, or place of business, supplied to or purchased by such member or past member in whole or in part from any loan whether in money or goods given to him by the society:

Provided that nothing herein contained shall affect the claims of any bona fide purchaser or transferee, for value without notice, of any such crops, or other agricultural produce, cattle, fodder for cattle, or agricultural or industrial implements, or raw materials for manufacture; and

(iii) upon any sum of money due from the society to such member in respect of the purchase of any scheduled agricultural product under the Agricultural Products (Guaranteed Prices and Control of Hulling and Milling) Act, No. 33 of 1961;

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

25. A registered society shall have a charge upon the shares or other interests 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—

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

- (a) any debt due to the society,
- (b) any debt due to any other registered society, or
- (c) any amount due to the liquidator of any registered society,

from such member or past member or estate, and may set off, or pay to such other society, or liquidator, as the case may be; 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 or amount.

26. Subject to the provisions of section 25, the share, contribution or other 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 appointed under Chapter L of the Civil Procedure Code, shall be entitled to, or have any claim on, such share, contribution or other interest.

Shares, contributions and other interests not liable to attachment or sale.

27. (1) On the death of a member, a registered society may transfer the share or other interest of the deceased member to the person nominated in accordance with the rules made in that behalf, or, if there is no person so nominated, to such persons as may appear to the committee to be the heir or legal representative of the deceased member, or may pay to such nominee, heir, or legal representative, as the case may be, a sum representing the value of such member's share or other interest, as ascertained in accordance with the rules or by-laws:

Transfer of interest on death of member.

Provided that—

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

(b) in the case of a society with limited liability, the society may transfer the share or other interest of the deceased member to such heir or legal representative, as the case may be, who is qualified in accordance with the rules and by-laws for membership of the society, or on his application 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, or legal representative, as the case may be.

(3) All transfers and payments 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.

Deposits by or on behalf of minor.

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

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

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

29. (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 continue for a period of two years reckoned from that date.

(2) The estate of a deceased member shall, for a period of two years reckoned from the date of his death, be liable for the debts of the society as they existed on the date of his decease.

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

Register of members.

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

31. (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 rules, be received in any legal proceeding, civil or criminal, as prima facie evidence of the existence of such entry, and shall be admitted as evidence of the matters, transactions, and accounts therein recorded in every case where, and to the same extent as, the original entry itself is admissible.

Proof of entries in books of society.

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

32. Notwithstanding any written or other law for the time being in force, a registered society may—

Deposits of securities as pledges by a society.

- (a) pledge as security for a general balance of account any securities held by it; and
- (b) authorize the creditor, in the event of default of payment on the date of the termination of a notice issued to the society, to sell any or all of such securities, without recourse to court, and to credit the proceeds to such balance of account.

33. A registered society may acquire by purchase, gift or otherwise and take on lease lands, buildings or other movable or immovable property, or sell, mortgage, lease, exchange or otherwise dispose of lands, buildings or other movable or immovable property for any purpose connected with its objects:

Right to acquire and sell property.

Provided, however, that the prior approval in writing of the Registrar shall be obtained in the case of any such transaction referred to in the preceding

provisions of this section as relates to any immovable property or to any such movable property as is specified in the rules made under this Law in that behalf.

Compulsory
acquisition of
lands and
buildings.

34. (1) Where any land or building is required for any purpose connected with the objects of a registered society, that purpose shall be deemed to be a public purpose and that land or building may be acquired under the Land Acquisition Act by the Government for that society.

(2) Where any land or building is to be acquired under the Land Acquisition Act by the Government for a registered society, that society shall, before an Order relating to that land or building is made under section 38 of that Act, pay to the Government the amount determined under that Act as the compensation payable in respect of that land or building and also the costs incurred by the Government in the acquisition proceedings:

Provided, however, that where it becomes necessary to take possession of any land or building on the ground of any urgency before the amount of compensation is determined under that Act, that society shall pay to the Government before such Order is made such amount as in the opinion of the acquiring officer is likely to be determined as the compensation payable in respect of that land or building, and shall pay the balance amount, if any, after the amount of compensation is determined under that Act.

CHAPTER V

EXEMPTIONS FROM STAMP DUTY AND FEES

Exemption
from stamp
duty and fees.

35. (1) Every registered society shall be exempt from—

- (a) any stamp duty chargeable under any written law in respect of any instrument executed by or on behalf of, or in favour of, a registered society, or in respect of any document filed in a court in pursuance of the provisions of section 59, in cases where but for the exemption granted by this subsection the registered society would be liable to pay the duty chargeable in respect of such instrument or document, and

(b) any fees payable under the law for the time being in force relating to the registration of documents.

(2) Every member of a registered society shall be exempt from the payment of any stamp duty chargeable under any written law in respect of any instrument executed by such member in favour of, and relating to the business of, such registered society in cases where but for the exemption granted by this subsection the member would be liable to pay the duty chargeable in respect of such instrument.

CHAPTER VI

GENERAL PROVISIONS RELATING TO BY-LAWS

36. (1) Every by-law of a registered society shall, upon registration, be binding upon the society and the members thereof to the same extent as if the by-law was signed by each member of the society and contained a covenant by each such member to observe the provisions of the by-law.

By-laws of a society to bind members.

(2) Any dispute arising out of the interpretation of a by-law of a registered society shall be referred to the Registrar for his decision, and his decision shall be final and conclusive in law.

37. No by-law made by a registered society in respect of any matter for which by-laws are authorized by any rule to be made, shall be called in question in any court of law on the ground only that such by-law constitutes a contract in restraint of trade.

Power to make by-laws in restraint of trade.

38. The by-laws made by any registered society may, subject to any rules, provide for the imposition of fines on the members of the society for contravention of its by-laws:

Power to make by-laws for the imposition of fines on members.

Provided, however, that no such fine shall be imposed on any member unless—

- (a) notice in writing of the intention to impose such fine and the reasons therefor have been given in writing to him by the society; and
- (b) he has failed to show, within such time and in such manner as may be prescribed by rules, sufficient cause against the imposition of the fine.

CHAPTER VII

PROPERTY AND FUNDS OF REGISTERED SOCIETIES

Loans made by registered societies.

39. (1) A registered society shall not 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 agricultural produce.

Deposits and loans received by registered societies.

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

(2) Where a loan is granted to a registered society by a bank on the mortgage of any immovable or movable property, such property shall, from and after the date of the registration of such mortgage under the Registration of Documents Ordinance, be charged with the payment of the moneys due under such mortgage in priority to every other debt of such registered society whatsoever and to every mortgage or charge affecting such property, except a mortgage or charge affecting such property which is secured by a mortgage duly registered under the Registration of Documents Ordinance prior to such date.

Restrictions on other transactions with non-members.

41. Save as provided in sections 39 and 40 the transactions of a registered society with persons other than members shall be subject to such prohibitions and restrictions as may be prescribed by the rules.

Investment of society's funds

42. (1) A registered society may deposit or invest its funds in any of the securities other than a first mortgage of immovable property specified in section 20 of the Trusts Ordinance, or with any banker or person acting as a banker approved for this purpose by the Registrar, or in the shares or on the security of any other registered society, approved for this purpose by the Registrar, or in any other mode permitted by the rules.

(2) Any deposit or investment made before the commencement of this Law which would have been valid if this Law had been in force is hereby ratified and confirmed.

43. (1) Every registered society shall, out of its net profits in any financial year as ascertained by the audit under section 44,—

Disposal of profits.

- (a) transfer an amount not being less than twenty-five *per centum* of the net profits to the reserve fund of the society; and
- (b) contribute such portion of the net profits as may be prescribed by rules to the Co-operative Fund established under the rules.

(2) The balance of the net profits may be utilized for all or any of the following purposes :—

- (a) payment of dividends to members on their paid-up share capital at a rate not exceeding the rate prescribed in the rules;
- (b) payment of rebates to members on the value of the business done by them with the society to the extent and in the manner specified in the by-laws;
- (c) contributions to such funds as may be prescribed in the by-laws;
- (d) payment of bonus to employees of the society;
- (e) payment on such other account as may be specified in the by-laws;
- (f) contributions of an amount not exceeding ten *per centum* of the net profits to a Common Good Fund for expenditure on any social, cultural or recreational purpose, or the advancement of any other object of local or public utility.

(3) In the case of a society with unlimited liability, no distribution of profits shall be made without the general or special order of the Registrar.

CHAPTER VIII

AUDIT, INQUIRY, INSPECTION OR INVESTIGATION

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

Audit.

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

(3) For the purposes of an audit under subsection (1), the Registrar or any person authorized by him to audit the accounts shall have the power—

(a) to summon any past or present officer, agent, servant or member of the society or any other person who, in the opinion of the Registrar or the person authorized by him to audit, can give material information about any transactions of the society or the management of its affairs;

(b) to require the production of any book or document relating to the affairs of the society, or any cash, security, or other property belonging to the society, by any past or present officer, agent, servant or member of the society or other person in possession of or having the custody of such book, document, cash, security or other property ; and

(c) to take into his custody books of accounts or the documents of the society where he discovers a fraud in the course of such audit.

(4) The Registrar, or any person authorized by general or special order in writing in that behalf 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 or member of the society shall furnish such information in regard to the transactions and working of the society as the person making an audit may require.

(5) The Registrar and every person authorized by him to audit the accounts of a registered society shall be deemed to be public servants within the meaning of the Penal Code.

(6) (a) If, in the course of, or at the conclusion of, an audit under subsection (1), it is found that any person, who is or was entrusted with the organization or management of a society, or who is or has at any time been an officer or an employee of a society has made any payment or has used any funds of the society contrary to the provisions of this Law or the rules made under this Law or the by-laws of the society or the working rules of the society, the Registrar shall disallow every such payment and every such use of funds and surcharge the same on the person making or

authorizing the making of such illegal payment or such use of funds and shall charge against any person, the amount of any deficiency or loss incurred by the negligence or misconduct of that person and any amount which ought to have been, but is not, brought into account by that person and shall in each case certify the amount due from such person and communicate his decision in writing to such person.

(b) Before making any disallowance or surcharge against any person, the Registrar, or any person authorized by general or special order in writing in that behalf by the Registrar, shall offer an opportunity to such person to be heard or to make any representations with regard to the matters which he may think fit, and shall in the event of his making such disallowance or surcharge, furnish such person in writing, on application being made to him for that purpose with the reasons for his decision in respect of such disallowance or surcharge.

(c) Any person aggrieved by any such disallowance or surcharge made by the Registrar may appeal therefrom to the Minister within fourteen days after the date of the decision of the Registrar being communicated to him, and the Minister's decision thereon shall be final and conclusive and shall not be questioned in any court :

Provided that no such appeal shall be entertained in any case in which the appellant has failed or neglected to make any representation with regard to the matter of such disallowance or surcharge after an opportunity to do so has been afforded to him by the Registrar in accordance with the provisions of paragraph (b).

(d) The provisions of section 66 (2) shall apply *mutatis mutandis* in a case where the decision made by the Registrar under paragraph (b), or a decision made by the Minister under paragraph (c), as the case may be, is not complied with.

45. (1) If on an audit held under section 44 any defects in the working of a registered society are disclosed, the Registrar may bring the defects to the notice of the society and if the society is a member of another society, also to the notice of that other society.

Communication
of defects in
audit to
society.

(2) The Registrar may make an order directing the society or its officers to take such action as may be specified in the order within the time mentioned therein to remedy the defects disclosed.

Inquiry.

46. (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 authorized by him by order in writing in that behalf, to hold an inquiry into the constitution, working, and financial condition of the registered society.

(2) For the purposes of an inquiry under subsection (1), the Registrar or any person authorized by him to hold an inquiry, shall have the power—

(a) to summon any past or present officer, agent, servant or member of the society or any other person who, in the opinion of the Registrar or the person authorized by him to inquire can give material information about any transactions of the society or the management of its affairs;

(b) to require the production of any book or document relating to the affairs of the society, or any cash, security, or other property belonging to the society, by any past or present officer, agent, servant or member of the society or other person in possession of or having the custody of such book, document, cash, security or other property;

(c) to summon a general meeting of the members of the society at such time and place as may be specified by him to determine such matters as may be directed by him; and

(d) to take into his custody books of accounts, the documents of the society where he discovers a fraud in the course of such inquiry.

~~Any meeting summoned under subsection (c) shall have all the powers of a general meeting and its proceedings shall be regulated by such by-laws except that the quorum shall be necessary for such meeting and the provisions of the by-laws relating to the period~~

notice relating to a general meeting shall not be applicable. The Registrar or any person authorized by him may preside at such meeting but shall have no vote; in the event of an equality of votes he shall have a casting vote.

(4) Where an inquiry is held under this section the Registrar shall communicate the result of the inquiry to the society and to the society, if any, of which that society is a member and to any bank to which the society is indebted.

(5) The Registrar and every person authorized by him to hold an inquiry under this section shall be deemed to be public servants within the meaning of the Penal Code.

47. (1) The Registrar may of his own motion, or on the application of a creditor of a registered society, inspect, or direct any person authorized generally or specially by him by order in writing in that behalf to inspect, the books of the society :

Inspection of books and investigation of the affairs of a society.

Provided that no such inspection shall be made on the application of a creditor unless 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.

(2) The Registrar may of his own motion investigate or direct any person authorized by him to investigate the affairs of any registered society.

(3) The Registrar, or any person authorized by the Registrar under this section,—

- (a) 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 or member of the society shall furnish such information in regard to the transactions and working of the society as the person making an inspection or an investigation may require; and

(b) shall have the power to take into his custody books of accounts or the documents of the society where he discovers a fraud in the course of such inspection or investigation.

(4) The results of any such inspection—

(a) where such inspection is held of the Registrar's own motion, may be communicated by the Registrar to the society and to any bank to which the society is indebted; and

(b) where such inspection is held on the application of a creditor, shall be communicated by the Registrar to the creditor and to the society.

(5) Where an inspection is held under subsection (1) on the application of a creditor of a registered society, the Registrar may apportion the costs, or such part of the costs, as he may think fit between the society and the creditor.

(6) Any sum awarded by way of costs against any society or creditor under this section may be recovered, on application to the Magistrate's Court having jurisdiction in the place where the registered office of the society is situated or the creditor resides, in like manner as a fine imposed by the Court.

(7) The Registrar and every person authorized by him to inspect the books or investigate the affairs of a registered society shall be deemed to be public servants within the meaning of the Penal Code.

CHAPTER IX

DISSOLUTION OF THE COMMITTEE OF A REGISTERED SOCIETY

Dissolution of
the committee
of a society.

48. (1) If the Registrar is of the opinion after an inquiry under section 46 or an inspection made on an application of a creditor under section 47, that the committee of any registered society is not performing its duties properly, he may, after giving an opportunity to the committee to state its objections, if any, to its dissolution, and after considering such objections at a general meeting of the society convened by him, by order in writing—

(a) dissolve the committee; and

(b) direct that the affairs of the society shall be managed and administered by a suitable person or persons appointed as hereinafter provided.

(2) Every direction under paragraph (b) of subsection (1) shall have effect for such period not exceeding two years as may be specified in the order containing such direction:

Provided, however, that the Registrar may in his discretion from time to time amend the order for the purpose of extending the period during which the direction shall have effect, so however that the aggregate period during which the direction shall so have effect shall not exceed four years.

(3) Where any order is made under subsection (1), the Registrar shall by the same or a subsequent order appoint a fit and proper person or two or more such persons to manage and administer the affairs of the society, and may from time to time remove or replace any person so appointed or appoint additional persons.

(4) Subject to the general direction and control of the Registrar, any person or persons appointed under this section to manage the affairs of a registered society—

(a) shall have the power to recover the assets and discharge the liabilities of the society and take such other steps as may be necessary in its interests, and

(b) may exercise all the powers, rights and privileges of a duly constituted committee of the society.

(5) Persons appointed under this section to manage the affairs of a registered society shall be jointly and severally responsible for any loss sustained through any such acts committed by them as are contrary to the law or the by-laws of the society.

(6) The Registrar may fix the remuneration payable to any person or persons appointed by him under this section to manage the affairs of a registered society. The amount of such remuneration and other expenses, if any, incurred in the management of the society shall be payable from its funds.

(7) It shall be the duty of the person or persons appointed under this section to manage the affairs of a registered society and holding office immediately prior to the date on which the direction under paragraph (b) of subsection (1) ceases to have effect,

to arrange, prior to the date aforesaid, for the appointment of a new committee in accordance with the by-laws of the society.

(8) No order under subsection (1) shall be made by the Registrar in respect of any registered society—

(a) if the society is indebted to any bank, except after prior consultation with the bank in regard to the dissolution of the committee and to the persons by whom and the manner in which the affairs of the society are to be managed and administered; and

(b) if the society is a co-operative bank, except with the prior approval of the People's Bank.

(9) Nothing in this section shall be deemed to affect the power of the Registrar to cancel the registration of the society under section 49.

CHAPTER X

DISSOLUTION OF A REGISTERED SOCIETY

Dissolution.

49. (1) If the Registrar, after an inquiry under section 46, or an inspection made on the application of a creditor under section 47, or on receipt of an application made by three-fourths of the members of a registered society, and after giving an opportunity to the society and to the creditors of such society to state their objections, is of opinion that the society ought to be dissolved, he may by order under his hand cancel the registration of the society.

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

(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 the two months, the order shall not take effect until it is confirmed.

(4) Where the Registrar cancels the registration of a society under subsection (1), he may appoint one or more persons to be in charge of the books, documents and other property of the society and

manage the affairs of the society until the order cancelling the registration of the society takes effect, or until such order is reversed in appeal by the Minister.

On the appointment of such person or persons the committee of the society or any other person in charge of the books, documents, and other property of the society shall hand over such books, documents or property to the first-mentioned person or persons and such committee shall until the order cancelling the registration takes effect or until such order is reversed in appeal by the Minister, cease to function.

50. The Registrar may by order in writing cancel the registration of any registered society—

Cancellation of registration of society.

(a) where it is a condition of the registration of the society that the society shall consist of at least ten members if the number of members of such society has been reduced to less than ten; or

(b) if a registered society has not commenced working during one year from the date of registration of such society or has ceased to work for a period of two years prior to the date of making the order of cancellation under this section.

51. Where the registration of a society is cancelled by an order under section 49 or under section 50, 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:

Effect of cancellation of registration.

Provided that any privileges conferred on the society by or under this Law shall be deemed to be vested in any liquidator or liquidators appointed for that society by the Registrar.

52. Where the registration of a society is cancelled under section 49 or section 50 the Registrar may appoint one or more persons to be the liquidator or liquidators of the society.

Liquidation after cancellation of registration of society.

All the property of the society shall vest in the liquidator or liquidators on the date on which the order of cancellation under section 49 or section 50, as the case may be, takes effect.

Liquidator's
powers.

53. (1) A liquidator appointed under section 52 shall, subject to the guidance and control of the Registrar and to any limitations imposed by the Registrar by order under section 54, have power to—

- (a) determine from time to time the contributions to be made by members and past members or by the estates of deceased members of the society to its assets;
- (b) appoint a day by proclamation or notice before which creditors whose claims are not already recorded in the books of the society shall state their claims for admission or be excluded from any distribution made before they have proved them;
- (c) decide in accordance with the provisions of this Law any question of priority which arises between creditors;
- (d) refer for arbitration under section 58 any dispute of any description mentioned in that section (references therein to the society being construed as references to the liquidator), 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 direction 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 meetings of members as may be necessary for the proper conduct of the liquidation;
- (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 nothing herein contained shall entitle the liquidator of a credit society to issue any loan; and

(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) Where there is any debt payable by any member or past member to a society whose registration is cancelled under section 49 or section 50 and such person is a member of any other society registered under this Law after the date of such cancellation, then the liquidator of such first-mentioned society appointed under section 52, shall, subject to the guidance and control of the Registrar and to any other limitations imposed by the Registrar by order under section 54, have power to require that such other society shall recover, from any sum of money due from such society to such person, a sum not exceeding such debt in like manner as if it was a debt due from such member to such other society and transmit the same to the liquidator.

(3) Subject to such rules as may be made in that 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 power to summon and enforce the attendance of parties and witnesses and to compel the production of documents by the same means and (so far as may be) in the same manner as is provided in the case of a District Court under the Civil Procedure Code.

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

Power of Registrar to control liquidation.

- (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 53;
- (e) require accounts to be rendered to him by the liquidator at his discretion;
- (f) procure the auditing of the liquidator's accounts and authorize the distribution of the assets of the society;

- (g) make order for the remuneration of the liquidator; or
- (h) refer for arbitration any dispute (not being a dispute so referable under section 53 (1) (d)) between the liquidator and any third party, if such party consents in writing to be bound by the decision of the arbitrator.

Enforcement
of order.

55. (1) The decision of an arbitrator on any matter referred to him under section 54 shall be binding upon the parties, and shall be enforceable in like manner as an order made by the Registrar under that section.

(2) An order made by a liquidator or by the Registrar under section 53 or section 54 shall not be called in question in any civil court, and 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;

Provided that any bank which is a creditor of a society whose registration has been cancelled shall be entitled to appeal to the Minister from an order made by a liquidator or by the Registrar under section 53 or section 54 within two months from the date of such order of the liquidator or the Registrar.

(3) Where no appeal is presented to the Minister within two months of the making of an order by a liquidator or by the Registrar under section 53 or section 54, such order of the liquidator or the Registrar shall take effect on the expiry of that period. Where an appeal is presented to the Minister within the two months, the order of the liquidator or the Registrar shall not take effect until it is confirmed by the Minister.

Limitation
of the
jurisdiction of
the civil court.

56. Save in so far as herein before expressly provided, no civil court shall have any jurisdiction in respect of any matter concerned with the dissolution of a registered society under this Law.

Course of
liquidation.

57. (1) In the liquidation of a society whose registration has been cancelled, the assets, including the reserve fund, shall subject to the provisions of section 4(2), be applied first to the costs of liquidation, then to the repayment of Government loans and Government guaranteed loans, then to the discharge

of the other liabilities of the society, then to the payment of the share capital and then, provided the by-laws of the society permit, to the payment of a dividend at a rate not exceeding six *per centum* per annum for any period for which no disposal of profits was made, and to the payment of a rebate to members for any period for which no disposal of profits has been made where such period is immediately preceding the date of dissolution.

(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 *Gazette*; and, in respect of any claim against the funds of such society, no action shall be maintainable unless it is commenced within three months from the date of the publication of such notice in the *Gazette*.

(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), may be applied to such object of local or public utility as may be selected, subject to the approval of the Registrar, by the persons who were officers of the society at the date of the dissolution thereof.

If such persons fail within three months after the date on which the liquidation of the society is closed to select as aforesaid an object approved by the Registrar, the Registrar shall deposit the surplus in a bank or with a registered society.

The surplus so deposited may be paid into such Surplus Fund as may be constituted for the purposes of this Law. Disbursement out of such Surplus Fund may be made at the discretion of the Registrar for such purposes and in such manner as may be provided in the rules:

Provided, however, that any interest accruing on the surplus may be paid into the Co-operative Fund.

CHAPTER XI

DISPUTES.

Settlement of
disputes.

58. (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 among officers or employees of the society, whether past or present, or among heirs or legal representatives of deceased officers or employees ; 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 or employee of the society, whether past or present, or any heir or legal representative of any deceased officer or employee ; or
- (c) between the society or its committee and any officer or employee of the society, whether past or present, or any heir or legal representative of any deceased officer or employee ; or
- (d) between the society or its committee and—
- (i) any person who was a member or an officer or employee of any other society whose business or part thereof was transferred to the society;
 - (ii) any person who claims through any member or past member or deceased member of the society referred to in sub-paragraph (i);
 - (iii) any person who is the heir or legal representative of any officer or employee of the society referred to in sub-paragraph (i); or
- (e) between the society and any other registered society,

such disputes shall be referred to the Registrar for decision.

A claim by a registered society for any debt, demand or damages due to it from a member, officer or employee, whether past or present, or any nominee, heir or legal representative of a deceased member,

officer or employee, whether such debt, demand or damages be admitted or not, shall be deemed to be a dispute touching the business of the society within the meaning of this subsection.

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

(a) decide the dispute himself, or

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

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

(4) No party to any appeal made to the Registrar under subsection (3) shall be entitled, either by himself or by any representative, to appear before and be heard by the Registrar on such appeal.

(5) A decision of the Registrar under subsection (2) or in appeal under subsection (3) shall be final and shall not be called in question in any civil court.

(6) The award of the arbitrator or arbitrators under subsection (2) shall, if no appeal is preferred to the Registrar under subsection (3) or if any such appeal is abandoned or withdrawn, be final and shall not be called in question in any civil court.

(7) The provisions of the Prescription Ordinance shall not apply to any claim which is the subject of a dispute under this section.

(8) If any question arises whether a dispute referred to the Registrar under this section is a dispute touching the business of a registered society the decision thereon of the Registrar shall be final and shall not be called in question in any civil court.

(9) In this section "member" includes associate member.

59. (1) Where a decision of the Registrar on a dispute or an appeal referred or made to him under section 58, hereafter in this section called a "decision" or an award of an arbitrator on a dispute referred to him under that section, from which award

Enforcement of
a decision or
award.

no appeal has been duly made to the Registrar under that section, hereafter in this section called an "award", is that a sum of money is due from one party to the dispute to another party to the dispute, and such sum together with costs and interest, if any, has not been paid, the Registrar may in respect of the party from whom such sum is due, hereafter in this section called the "defaulter",—

- (a) issue a certificate to a Government Agent, Assistant Government Agent, Fiscal or Deputy Fiscal, containing particulars of such sum, together with costs and interest, and the name of such defaulter; or
- (b) issue a certificate to a District Court having jurisdiction in any district where the defaulter resides or in which any property movable or immovable owned by the defaulter is situate, containing particulars of the sum due together with costs and interest, if any, and the name of the defaulter; or
- (c) issue a certificate containing particulars of the amount due and the name and last-known place of business or residence of the defaulter to a Magistrate having jurisdiction in the division in which such place is situate.

(2) (a) Where the Registrar issues a certificate under paragraph (a) of subsection (1) to a Government Agent, Assistant Government Agent, Fiscal or Deputy Fiscal, such officer is hereby empowered and required to cause such sum together with costs and interest to be recovered from the defaulter by seizure and sale of his movable property.

(b) The said seizure shall be effected in such manner as such officer shall deem most expedient in that behalf, and every property so seized shall be kept for five days at the cost and charge of the defaulter. If the defaulter does not pay such sum as is due together with costs and interest, and the cost and charge of seizing and keeping the property, within the said five days, the Government Agent, Assistant Government Agent, Fiscal or Deputy Fiscal, as the case may be, shall cause the said property to be sold by public auction.

(c) The sum realized by the sale shall be applied—

- (i) first, in payment of the cost and charge of seizing, keeping and selling the property, and

(ii) secondly, in satisfaction of the sum of money due together with costs and interest, and any balance shall be restored to the owner of the property seized.

(3) Where a certificate is issued to a District Court under paragraph (b) of subsection (1), the Court shall thereupon direct a writ of execution to issue to the Fiscal authorizing and requiring him to seize and sell all or any of the property movable and immovable of the defaulter, or such part thereof as he may deem necessary for the recovery of such sum, and the provisions of sections 226 and 297 of the Civil Procedure Code shall, *mutatis mutandis*, apply to such seizure and sale.

(4) Where a certificate is issued to a Magistrate under paragraph (c) of subsection (1), the Magistrate shall thereupon summon such defaulter before him to show cause why further proceedings for the recovery of the amount should not be taken against him, and in default of sufficient cause being shown, the amount shall be deemed to be a fine imposed by a sentence of the Magistrate on such defaulter for an offence punishable with fine only or not punishable with imprisonment, and the provisions of section 312 (except paragraphs (a) and (c) of subsection (1) of that section) of the Criminal Procedure Code shall thereupon apply, and the Magistrate may make any direction which, by the provisions of that section, he could have made at the time of imposing such sentence.

(5) Where the Registrar issues a certificate under this section, he shall issue to the defaulter a notification thereof by personal service, registered post or telegraph; but non-receipt of such notification by the defaulter shall not invalidate proceedings under this section.

(6) Nothing in this section shall authorize or require a District Court or Magistrate in any proceedings thereunder to consider, examine or decide the correctness of any statement in the certificate of the Registrar.

(7) Any sum realized by a sale under subsection (3) and any sum paid or levied as fine under subsection (4) shall be transmitted by the District Court or the Magistrate, as the case may be, to the Registrar who shall dispose of such sum in accordance with the relevant decision or award.

Registrar to
decide certain
other matters.

60. (1) Where the application for membership of a registered society made by any person is refused by the society, such person may appeal to the Registrar against the refusal and the decision of the Registrar on such appeal shall be final and binding on the society.

(2) Where any question arises as to whether a member of a registered society has been duly elected to any office in the society or whether a member has ceased to be a member or officer of the society, or whether any general meeting of the society had been validly held, that question shall be decided by the Registrar whose decision shall be final.

CHAPTER XII

RULES

Rules.

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

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

- (a) prescribe the conditions to be complied with in applying for the registration of a society and the procedure in the matter of 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 from time to time and the payment to be made and interest to be acquired before exercising rights of membership;
- (c) provide for the withdrawal and expulsion of members and for the payments to be made to members who withdraw or are expelled, and for the liabilities of past members;
- (d) prescribe the extent to which the registered society may limit the number of its members;
- (e) 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;

- (f) subject to the provisions of section 3, prescribe the maximum number of shares or portion of the capital of a registered society which may be held by a member;
- (g) prescribe the payments to be made, the conditions to be complied with, and the forms of the bonds, instruments or other documents to be executed, by 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;
- (h) prescribe the conditions under which profits may be distributed to the members of a society with unlimited liability, and the maximum rate of dividend which may be paid by societies;
- (i) regulate the manner in which funds may be raised by means of shares or debentures or otherwise and the rate of interest which may be paid on deposits;
- (j) provide for general meetings of the members, and for the procedure at such meetings and the powers to be exercised by such meetings;
- (k) 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 the duties to be performed by the committee and other officers;
- (l) prescribe the matters in respect of which a society may or shall make by-laws, and for the procedure to be followed in making, altering, and rescinding by-laws, and the conditions to be satisfied prior to such making, alteration, or rescission;
- (m) 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;
- (n) 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 known as the Co-operative Fund, to be used for the audit and supervision of and assistance to existing societies and co-operative propaganda, for co-operative education and training, and provide for the administration of that Fund;

- (o) prescribe the returns to be submitted by registered societies to the Registrar, and the persons by whom and the form in which the same are to be made;
- (p) provide for the persons by whom, and the form in which, copies of entries in books of registered societies may be certified;
- (q) provide for the formation and maintenance of a register of members, and, where the liability of the members is limited by shares, of a register of shares;
- (r) provide for the formation and the maintenance of reserve funds, and the objects to which such funds may be applied, and for the investment of any funds under the control of any registered society;
- (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, and the enforcement of the decisions of the Registrar or the awards of arbitrators;
- (u) prescribe the conditions to be observed by a registered society applying for the financial assistance of Government;
- (v) determine the cases, not expressly provided for in this Law, in which an appeal shall lie to the Minister against orders made by the Registrar;

- (w) prescribe the procedure to be followed by a liquidator appointed under section 52, and the cases in which appeals shall lie from the orders of such liquidator;
- (v) provide for the establishment and maintenance of the Surplus Fund referred to in section 57 and prescribe the manner and purposes for which the moneys of such Fund may be disbursed;
- (y) prescribe the forms to be used, the fees to be paid, the procedure to be observed, and all other matters connected with or incidental to the presentation, hearing and disposal of appeals under this Law or the rules made thereunder.

(3) No rule shall have effect unless it has been approved by the National State Assembly. Notification of such approval shall be published in the *Gazette*.

(4) Every rule shall, upon the publication in the *Gazette* of the Notification referred to in subsection (3), be as valid and effectual as though it were herein enacted.

CHAPTER XIII

DEBTS DUE TO GOVERNMENT

62. (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, including sums due on Government loans and Government guaranteed loans, and any costs awarded to the Government under section 46 may be recovered in manner provided for the recovery of debts due to the Republic by the Crown Debtors Ordinance, and shall, subject to the provisions of section 40 (2), be entitled to a preference of payment over sums due to any other person or persons.

Recovery of
sums due to
government.

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

CHAPTER XIV

MISCELLANEOUS

Special power of Minister to exempt any society from requirements as to registration.

63. Notwithstanding anything contained in this Law, the Minister may by special order in each case, and subject to such conditions as he may impose, exempt any society from any of the requirements of this Law as to registration.

Special power of Minister to exempt societies from provisions of this Law.

64. The Minister may by general or special order exempt any registered society or class of societies from any of the provisions of this Law, or may direct that such provisions shall apply to any society or class of societies with effect from such date or with such modifications as may be specified in the order.

Restriction of use of word "Co-operative."

65. (1) No person other than a registered society shall, without the sanction of the Minister, trade or carry on business under any name or title of which the word "co-operative", or in Sinhala the words "Eksath Sahakara" (එක්සත් සහකාර) or "Samupakara" (සමුපකාර) or in Tamil the word "Aikkiya" (அக்கியா) or "Kutturavu" (கூட்டுறவு) form part:

Provided that nothing in this section shall apply to the use by any person or his successor in interest of any name or title under which he traded or carried on business prior to the twenty-second day of September, 1921.

(2) Whoever contravenes the provisions of this section shall be liable on conviction after summary trial by a Magistrate's Court to a fine which may extend to five hundred rupees, and in the case of a continuing offence, with a further fine of fifty rupees for each day on which the offence is continued after conviction therefor.

Registrar may order repayment or restoration of money or other property.

66. (1) Where in the course of an audit under section 44 or an inquiry under section 46, or inspection of books and investigation of affairs of a society under section 47, or in the course of the liquidation of a society or in any case where any sum of money or other property is due to the society from any person or group of persons who or which has taken part in the organization or management of the society from any past or present officer or employee of a society, the Registrar may, of his own motion or on the application of the committee or the liquidator,

creditor or contributor of the society, as the case may be, examine the conduct of such person or group of persons or officer or employee and make an order requiring him or such group—

- (a) to repay with such interest as the Registrar thinks fit such money or part thereof,
- (b) to restore such other property or part thereof, or
- (c) to contribute such sum as the Registrar thinks fit to the assets of the society by way of compensation.

Before making any such order against any person or group of persons the Registrar shall give that person or group of persons an opportunity of being heard and of showing cause why such order should not be made.

(2) Where an order under subsection (1) for the repayment of any sum to a registered society, or for the contribution of any sum to its assets by way of compensation, has not been complied with, such sum may be recovered by the society on application to the Magistrate having jurisdiction in the division in which the registered place of business of the society is situated or in which the person or group of persons or officer or employee against whom the order was made resides or carries on business as though it were a fine imposed by a sentence of the Magistrate, on such person or group of persons or officer or employee for an offence punishable with fine only or not punishable with imprisonment, and the provisions of section 312 (except paragraphs (a) and (c) of subsection (1) of that section) of the Criminal Procedure Code shall thereupon apply, and the Magistrate may make any direction which, by the provisions of that section, he could have made at the time of imposing such sentence. Nothing in this section shall authorize or require the Magistrate in any proceedings thereunder to consider, examine or decide the correctness of any order made by the Registrar.

(3) Neither the preceding provisions of this section nor the making of any order thereunder may be deemed or construed to preclude or otherwise affect the institution or maintenance of a prosecution against any person or group of persons, or officer or employee referred to in subsection (1) in respect of any offence under any other written law.

Liability of officers &c. for breach of trust.

67. It shall be lawful for the Registrar, after the accounts of a registered society have been audited as provided in section 44 or after an inquiry under section 46 or inspection of books and investigation of affairs of a registered society has been held under section 47, to require any person, being a person who is or has at any time been entrusted with, or being a person having or at any time having had the dominion of, any money, in his capacity as an officer or a member or a servant of the society, to pay over or produce such amount of money or balance thereof which is shown in the books of accounts or statements kept or signed by such person as held by or due from him as such officer, member or servant; and if such person, upon being so required, fails to pay over or produce such amount of money or balance thereof forthwith or to duly account therefor, he shall be guilty of the offence of criminal breach of trust, and shall on conviction be subject to imprisonment of either description for a term which may extend to ten years and shall also be liable to a fine.

Registrar may require bank to produce any information, &c.

68. Notwithstanding anything in any other written law, the Registrar may, where he considers it necessary to do so, require any bank—

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

Companies Ordinance and Trade Unions Ordinance not to apply.

69. The provisions of the Companies Ordinance and of the Trade Unions Ordinance, and of any enactments amending those Ordinances, shall not apply to societies registered under this Law.

Savings for existing societies, rules, etc.

70. (1) Every society registered or deemed to be registered under any enactment repealed by this Law shall be deemed to be registered under this Law, and the by-laws of such society shall, so far as they are not inconsistent with the express provisions of the Law, continue in force until altered or rescinded.

(2) All rules made under any enactment repealed by this Law shall continue in force until altered or rescinded, so far as they are not inconsistent with the provisions of this Law.

deemed to have been made under this Law and shall continue in force until new rules are made under section 61 in substitution for those rules.

(3) All appointments and orders made, notifications and notices issued, and suits and other proceedings instituted or deemed to have been made, issued or instituted and all disputes that have arisen under any enactment repealed by this Law, shall, so far as may be, be deemed to have been respectively made, issued and instituted and to have arisen under this Law.

71. Where any registered society carrying on banking business of any kind has insured its deposits under Part II of Chapter V of the Monetary Law Act, the assets relating to the deposits insured under that Part, shall notwithstanding anything in any other provisions of this Law, not be utilized for any purpose other than to meet the liabilities relating to such deposits.

Assets relating to deposits insured under Monetary Law Act not to be utilized except for meeting liabilities relating to such deposits.

72. (1) Every registered society or an officer or employee or member thereof which or who wilfully neglects or refuses to do any act or to furnish any information required for the purposes of this Law by the Registrar or other person duly authorized by him in that behalf, and every person who wilfully or without any reasonable excuse disobeys any summons, requisition or lawful written order issued under the provisions of this Law, or fails to furnish any information lawfully required from him by a person authorized to do so under the provisions of this Law, and every registered society or officer or employee or member thereof which or who wilfully makes a false return or furnishes false information, shall be guilty of an offence under this Law.

Penalty for non-compliance with this Law

(2) Every person who commits any offence referred to in subsection (1) shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding five hundred rupees.

(3) Where any offence under this Law is committed by a registered society, every officer of the society bound by the by-laws or the rules to perform any duty whereof the offence is a breach, or if there is no such officer, then every member of the committee, unless that member is proved to have been ignorant of or to have attempted to prevent the commission of the offence, shall be liable to the same penalty as if he had committed the offence.

Repeal of enactments.

73. The following enactments are hereby repealed:—

- (i) The Co-operative Societies Ordinance (Chapter 124).
- (ii) The Co-operative Societies (Special Provisions) Act (Chapter 125).
- (iii) The Commissioner of Co-operative Development (Definition of Powers) Ordinance (Chapter 127).
- (iv) The Co-operative Societies (Special Provisions) Act, No. 24 of 1958.
- (v) The Co-operative Societies (Amendment) Act No. 27 of 1964.

Amendments to Act No. 35 of 1970.

74. (1) Section 5 of the Co-operative Societies (Special Provisions) Act, No. 35 of 1970, is hereby amended in subsection (1) of that section, by the substitution, for paragraph (e) of that subsection, of the following new paragraph:—

“(e) decide, subject to the provisions of section 40 (2) of the Co-operative Societies Law, 1972, any question of priority which arises between creditors;”

(2) The following new section is hereby inserted immediately after section 22, and shall have effect from section 22A, of the Co-operative Societies (Special Provisions) Act, No. 35 of 1970:—

“Employees of dissolved society.

22A. The Registrar may direct a society which in his opinion is registered consequent on the dissolution of another society, to employ any such employee of the dissolved society as may be nominated by him in such capacity and on such terms and conditions as may be determined by him. Any society which fails to comply with any such direction shall be guilty of an offence under this Act.

75. In this Law, unless the context otherwise requires— Interpretation.

“bank” means—

- (a) any person or body of persons, corporate or unincorporate, which carries on in Sri Lanka the business of accepting from the public, or of creating, demand deposits;
- (b) any agency or institution acting on behalf of the Government (whether established by any written law or otherwise) which makes loans, advances or investments or accepts deposits of money from the public;
- (c) the Development Finance Corporation of Ceylon established under the Development Finance Corporation of Ceylon Act; and
- (d) any other person or body of persons declared by the Minister in charge of the subject of Finance, in consultation with the Minister in charge of the subject of Co-operative Development, by Order published in the *Gazette*, to be a bank for the purposes of this Law;

“by-laws” means the registered by-laws for the time being in force and includes a registered amendment of the by-laws;

“committee” means the governing body of a registered society to whom the management of its affairs is entrusted and includes the board of directors of a registered society, and persons appointed by the Registrar under section 48;

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

“officer” includes every person who is the chairman, secretary, treasurer or manager of a society or any branch thereof or a member of the committee of a society, and any other person who is empowered by the rules or by-laws of a society to give directions in regard to the business of the society;

“ primary society ” means a registered society not being a society established with any object, or for any purpose referred to in paragraph (b), (c) or (d) of section 3 (1);

“ registered society ” means a society registered or deemed to be registered under this Law;

“ Registrar ” means the person appointed to perform the duties of the Registrar of Co-operative Societies under this Law;

“ rules ” means rules made or deemed to have been made under this Law.