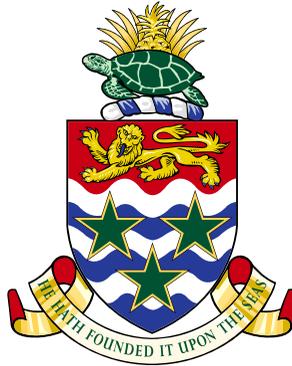


CAYMAN ISLANDS



COOPERATIVE SOCIETIES LAW

(2020 Revision)

Supplement No. 9 published with Legislation Gazette No. 4 of 9th January, 2020.

PUBLISHING DETAILS

Cap. 25 [Law 10 of 1961] of the 1963 Revised Edition of the Laws of the Cayman Islands consolidated with Laws 14 of 2000 and 19 of 2019.

Revised under the authority of the *Law Revision Law (1999 Revision)*.

Originally enacted —

Cap. 25-1st January, 1964.

Law 14 of 2000-18th September, 2000

Law 16 of 2019-26th July, 2019.

Consolidated and revised this 31st day of December, 2019.

Note (not forming part of the Law): This revision replaces the 2001 Revision which should now be discarded.



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CAYMAN ISLANDS



COOPERATIVE SOCIETIES LAW

(2020 Revision)

PART I - Introductory

Short title

1. This Law may be cited as the *Cooperative Societies Law (2020 Revision)*.

Definitions

2. In this Law —

“**Authority**” means the Cayman Islands Monetary Authority established under section 5(1) of the *Monetary Authority Law (2020 Revision)* and includes any employee of the Monetary Authority acting under the Monetary Authority’s authorisation;

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

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

“**credit union**” means a registered society which has as its objects —

- (a) the promotion of thrift among the members of the society by the accumulation of their savings;
- (b) the creation of sources of credit for the benefit of the members of the society at a fair and reasonable rate of interest;

- (c) the use and control of the members' savings for their mutual benefit; and
- (d) the training and education of the members in the wise use of money and in the management of their financial affairs;

“**credit union business**”, in relation to a registered society, means the business of —

- (a) promoting thrift among the members of the society by the accumulation of their savings;
- (b) creating sources of credit for the benefit of the members of the society at a fair and reasonable rate of interest;
- (c) using and controlling the members' savings for their mutual benefit; and
- (d) training and educating the members in the wise use of money and in the management of their financial affairs;

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

“**financial year**”, in relation to a credit union, means the period not exceeding fifty-three weeks at the end of which the balance of the union's accounts is struck or, if no such balance is struck or if a period in excess of fifty-three weeks is employed, then a calendar year;

“**Judge**” means a Judge of the Grand Court;

“**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 in accordance with the rules;

“**officer**” includes the chairperson, secretary, treasurer, member of the committee or other person empowered under the regulations or rules to give directions in regard to the business of a registered society;

“**registered society**” means a cooperative society registered under this Law;

“**Registrar**” means the Registrar of Cooperative Societies appointed under section 3 and includes any person when exercising such powers of the Registrar as may have been conferred upon that person under that section;

“**regulations**” means regulations made under this Law; and

“**rules**” means the rules made by a society registered under this Law.

PART II - Registration

Appointment of Registrar and Assistant Registrars

3. The Cabinet may appoint a Registrar of Cooperative Societies for the Islands and persons to assist such Registrar and may, by general or special order published in the Gazette, confer on any such persons all or any of the powers of a Registrar.



Societies which may be registered

4. Subject to this Law, a society may be registered which —
- (a) has as its object the promotion of the economic interest of its members in accordance with cooperative principles and consists of not less than ten members each of whom is qualified under section 23 for membership; or
 - (b) is established with the object of facilitating the operations of a society described in paragraph (a) and includes among its members at least two registered societies.

Conditions for application for registration

- 4A. (1) A person who wishes to register a cooperative society to engage in credit union business under this Law shall apply in the prescribed form to the Authority for a determination that the proposed directors and senior officers of that society are fit and proper persons.
- (2) The applicant referred to in subsection (1) shall provide such information to the Authority, and within such period of time, as the Authority may require for the purpose of assessing whether the proposed directors and senior officers of the proposed credit union are fit and proper persons.
 - (3) The Authority shall, upon carrying out its assessment, notify the applicant and Registrar of its determination.
 - (4) In determining for the purposes of this Law whether a person is a fit and proper person, regard shall be had to all circumstances, including that person's —
 - (a) honesty, integrity and reputation;
 - (b) competence and capability; and
 - (c) financial soundness.

Conditions of registration

5. (1) The word “cooperative” shall form part of the name of every registered society.
- (2) The liability of every registered society which includes one or more registered societies among its members shall be limited.
 - (3) The word “limited” shall be the last word in the name of every registered society with limited liability.
 - (4) No society shall be registered under this Law under a name identical with that under which any other existing society is registered or so nearly resembling such name as to be likely to mislead the members of the public as to its identity.
 - (5) A society that wishes to engage in credit union business under this Law shall not be registered without the determination of the Authority that the proposed directors and senior officers of that society are fit and proper persons.

Application for registration

6. (1) For the purpose of registration, an application shall be made to the Registrar.
- (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 section 23; 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 the members of the society are not registered societies, by ten other members, or where there are less than ten other members, by all of them.
- (3) The application shall be accompanied by three copies of the proposed rules 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 application shall be accompanied by the prescribed registration fee.

Registration

7. (1) When an application for registration is made, the Registrar shall satisfy themselves that the society has complied with this Law and the regulations, that the society is a *bona fide* cooperative society and that its proposed rules are in conformity with this Law and the regulations, and for these purposes may make such enquiries and obtain such information as the Registrar thinks fit.
- (1A) The Registrar shall not approve an application for registration of a society referred to in section 4A(1) if the proposed directors and senior officers of the society have not been determined by the Authority to be fit and proper persons.
- (2) The Registrar, upon being satisfied of the foregoing matters, may register the society and its rules and shall forthwith inform the Cabinet who shall publish a Gazette Notice thereof in the Islands.
- (3) If the Registrar refuses to register a society, an appeal shall lie to the tribunal appointed by regulations within one month from the date of such refusal. The decision of the tribunal shall be final and shall not be called in question in any court.

Societies to be bodies corporate

8. The registration of a society shall render it a body corporate by the name under which it is registered, with perpetual succession, and 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.



Evidence of registration

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

PART III - Duties and Privileges of Societies**Power of registered society to make rules**

10. (1) Every registered society may, subject to the approval of the Registrar, make rules for any such things as are necessary or desirable for the purpose for which such society is established.
- (2) Rules made under subsection (1) shall bind the society and every member thereof and every person claiming through such member to the same extent as if every such member had subscribed that person's name and affixed that person's seal thereto and there were contained in such rules a covenant on the part of such member, that person's heirs, executors, administrators and assigns to be bound thereby.

Amendment of rules

11. (1) Any registered society may, subject to this Law and the regulations, amend its rules, including the rule which declares the name of the society.
- (2) No amendment of the rules of a registered society shall be valid until that amendment 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 rules is not contrary to this Law or the regulations, the Registrar may register the amendment:
- Provided that the Registrar may, for reasons to be given to the society, refuse to register an amendment. If the Registrar shall refuse to register any amendment, an appeal shall lie to the tribunal appointed by the regulations within one month from the date of such refusal. The decision of the tribunal shall be final and not called in question in any court.
- (4) An amendment which changes the name of a registered society shall not affect any right or obligation 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) When the Registrar registers an amendment of the rules of a registered society, the Registrar shall issue to the society a copy of the amendment certified by the Registrar, which shall be conclusive evidence of the fact that the amendment has been duly registered.

Address of society

12. 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 of that address.

Publication of name

13. Every registered society shall paint or affix and keep painted or affixed its registered name, in letters easily legible, and in a conspicuous position on the outside of every office or place in which the business of the society is carried on.

Copy of Law, etc., to be open to inspection

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

Disposal of produce to or through a registered society

15. (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 rules 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
 - (b) that any member who is proved or adjudged to be in breach of the rules or contract shall pay to the society as liquidated damages a sum ascertained or assessed in such manner as may be prescribed by such rules or contract.
- (2) No contract entered into under subsection (1) shall be contested in any court on the ground only that it constitutes a contract in restraint of trade.

Creation of charges in favour of registered societies

16. Subject to any prior claim of the Crown 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 on all crops or other agricultural 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 that person by the society:



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

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

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

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

Power of nomination

18. (1) A member of a registered society may, by instrument in writing signed by such member in the presence of two attesting witnesses and delivered at or sent to the registered office of the society during the lifetime of such member or made in any book kept thereat, nominate any person or persons to or among whom there shall be transferred at that person's death such property in the society as may be that person's at the time of that person's decease, or as may have accrued thereon, whether in shares, loans or deposits or so much thereof as is specified in such nomination, if the nomination does not comprise the whole:

Provided that no member of a registered society with share capital shall be entitled to nominate more than one person unless such member holds more than one share.

- (2) A nomination so made may be revoked or varied by a subsequent nomination signed, attested and delivered, or sent or made as aforesaid, or by any similar document in the nature of a revocation or variation signed by the nominator in the presence of two attesting witnesses and delivered, sent or made as aforesaid, but shall not be revocable or variable by the will of the nominator or by any codicil thereto.
- (3) The society shall keep a book wherein the names of all persons so nominated and all revocations or variations, if any, of such nominations shall be recorded.

Transfer or payment of value of interest on death of member

19. (1) On the death of a member, a registered society shall, subject to subsections (2) and (3) —
 - (a) transfer to any person nominated in accordance with section 18 the property of the deceased member or such property as may have accrued

- thereon, comprised in the nomination in manner directed by the nomination, or pay to every person entitled thereunder the full value of the property given to that person; and
- (b) transfer to the personal representatives of the deceased member any property of the deceased member in the society, or such property as may have accrued thereon, not comprised in any nomination, or pay to the personal representatives the full value of such property.
- (2) Any person entitled, under subsection (1), to receive property or payment of the value thereof from a society with unlimited liability may require payment by the society of the value of such property.
 - (3) Any share or interest of a deceased member of a society with limited liability may be transferred by the society to —
 - (a) the person entitled thereto under subsection (1), if such person is qualified to be a member of the society; or
 - (b) any other person qualified to be a member of the society and specified, within six months of the death of the deceased member, in an application by the person entitled thereto under subsection (1).
 - (4) All transfers and payments made by a registered society under this section shall be valid and effectual against any demand made upon the society by any other person.

Deposit by or on behalf of minors

- 20. (1) A registered society may receive deposits from or for the benefit of minors and it shall be lawful for a registered society to pay such minors the interest which may become due on such deposits. Any deposits made by a minor may, together with the interest accrued thereon, be paid to that minor; and any deposit made on behalf of a minor may, together with the interest accrued thereon, be paid to the guardian of that minor for the use of the minor.
- (2) The receipt of any minor or guardian for money paid to that person under this section shall be a sufficient discharge of the liability of the society in respect of that money.

Register of members

- 21. Any register or list of members kept by the 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; and
 - (b) the date at which any such person ceased to be a member.



Evidence of documents and of entries in books

- 22.** (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 proceedings, 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 books of the society, 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.
- (3) Every copy of rules or other instruments or documents, and every extract of an instrument or document, bearing the seal or signature of the Registrar, shall be received in evidence without further proof; and every document purporting to be signed by the Registrar under this Law shall, in the absence of any evidence to the contrary, be received in evidence without further proof of the signature.

Qualifications for membership

- 23.** No person other than a registered society shall be a member of a registered society unless —
- (a) he has attained the age of eighteen years; and
 - (b) there exists between that person and the other members of the society some common bond of occupation, association or residence in a defined neighbourhood, community or district.

Members not to exercise rights until due payment made

- 24.** No member of a registered society shall exercise the right of a member unless or until that person 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.

Restriction of membership in society

- 25.** Except with the sanction of the Registrar, no person shall be a member of more than one registered society with unlimited liability, whose primary object is to grant loans to its members.

Voting rights

- 26.** (1) Subject to subsections (2) to (4), no member of a registered society shall have more than one vote in the conduct of the affairs of the society:
- Provided that in the case of an equality of votes the chairperson shall have a casting vote.

- (2) A registered society which is a member of any other registered society shall have such voting rights as may be prescribed by the rules, and such voting rights shall be exercised in accordance with the rules.
- (3) A registered society which is a member of any other registered society may appoint one of its members as its proxy for the purpose of voting in the conduct of the affairs of such other registered society.
- (4) Except as provided by subsection (3), voting by proxy shall not be allowed.

Liability of infants on contracts

- 27.** An infant duly admitted as a member of a registered society shall enjoy all the rights and be subject to all the liabilities of an ordinary member and any contracts made by such person as a member of such society shall be enforceable at law.

No individual to hold more than twenty per cent of share capital

- 28.** Where the liability of the members of a registered society is limited by shares, no member, other than a registered society, shall hold more than such portion of share capital of the society, subject to a maximum of twenty per cent, as may be prescribed by the rules.

Restriction on transfer of share or interest

- 29.** (1) The transfer or charge of the share or interest of a member, past member or deceased member shall be subject to such conditions as may be prescribed by this Law or regulations made thereunder:

Provided that a member shall not in any event transfer any share held by that member or that person's interest in the capital of the society or any part thereof unless the transfer or charge is made to the society, to a member of the society or to a person whose application for membership has been accepted by the committee.

- (2) A purchaser under any execution or any other person succeeding by operation of law or otherwise to the share or interest of a member in a society shall not be entitled to membership or become a member by virtue only of such purchase or transfer.
- (3) A registered society may, by rules, provide for the purchase by the society of the share or interest of any member.
- (4) In the case of a credit union which may issue shares which carry voting rights, shares representing ten per cent or more of total voting rights of the credit union shall not be issued to a member, and issued shares representing ten per cent or more of the total voting rights of the credit union shall not be transferred or disposed of in any manner by a member, without the prior approval of the Authority.



- (5) The Authority shall not grant the approval specified in subsection (4) where persons acquiring control or ownership of shares representing ten per cent or more of the total voting rights of the credit union are not fit and proper persons by the Authority's assessment.
- (6) For the purposes of subsection (4), the credit union shall provide such information to the Authority, and within such time as the Authority may specify, for the purpose of assessing whether persons acquiring control or ownership of such shares representing ten per cent or more of the total voting rights of the credit union are fit and proper persons to have such control or ownership.
- (7) For the avoidance of doubt, the references to shares representing ten per cent or more of the total voting rights of the credit union include the cumulative acquisition of shares or voting rights which amount to ten per cent or more of the total voting rights of a credit union.

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

- 30.** The liability of a past member or of the estate of a deceased member for the debts of a registered society as they existed on the date on which such member ceased to be a member or died shall continue for a period of two years reckoned from that date.

PART IV - Property and Funds of Registered Societies

Loans made by registered societies

- 31.** A registered society shall not make a loan to any person other than a member:
Provided that a registered society may make loans to another registered society.

Deposits and loans received by a registered society

- 32.** 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 regulations or rules.

Restrictions on other transactions with non-members

- 33.** Save as provided in sections 31 and 32, 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.

Disposal of dividends and bonus

- 34.** (1) No registered society shall pay a dividend or bonus or distribute any part of its accumulated funds before the balance sheet has been certified —
- (a) in the case of a society other than a credit union, by an auditor approved by the Registrar; and

- (b) in the case of a credit union, by an auditor approved by the Authority.
- (2) No registered society shall declare any dividend exceeding six per cent per annum.

Reserve funds

- 35.** (1) Every registered society which does or can derive profit from its transactions shall maintain a reserve fund.
- (2) At least twenty per cent of the net profits of every registered society as ascertained by the audit prescribed by section 39 or 45, as the case may be, shall be carried to the reserve fund which shall be employed as prescribed by the regulations.

Allocation to education or charity

- 36.** Any registered society may, after the allocation to the reserve fund has been made in accordance with section 35, contribute an amount not exceeding ten per cent of the remaining net balance to any educational or charitable purpose.

Disposal of surplus moneys

- 37.** Subject to sections 35 and 36 the net balance at the end of each year together with any sum available for distribution from previous years may be distributed as may be prescribed by the rules.

PART V - Additional Provisions Relating to Credit Unions

Application of this Part

- 38.** (1) This Part applies only to registered societies which are carrying on, or proposing to carry on, credit union business; and the provisions of this Part are in addition to, not in derogation of, any other provision of this Law.
- (2) No credit union is required to be licensed under the *Trade and Business Licensing Law (2019 Revision)*.

Authority to approve change of directors and senior officers

- 38A.** A credit union shall obtain the approval of the Authority prior to appointing a director or senior officer and shall require that the director or senior officer is a fit and proper person.

Accounts

- 39.** (1) Every credit union shall have its accounts audited annually, or at such other times as the Authority may require, by an auditor, who shall be a chartered accountant, a certified public accountant, or some other professionally qualified accountant, approved by the Authority.



- (2) The audited accounts shall be forwarded to the Authority within three months of the end of the financial year of the credit union, unless prior written approval for an extension has been granted by the Authority.

Obligations of auditors

- 39A.**(1) If an auditor, in the course of carrying out an audit of the accounts of a credit union under this Law, obtains information or suspects that the credit union is —
- (a) unable or likely to become unable to meet its obligations as they fall due;
 - (b) carrying on or attempting to carry on business or winding up its business voluntarily in a manner that is prejudicial to its members;
 - (c) carrying on or attempting to carry on business without keeping any or sufficient accounting records to allow its accounts to be properly audited;
 - (d) carrying on or attempting to carry on business in a fraudulent or criminal manner; or
 - (e) carrying on or attempting to carry on business otherwise than in compliance with —
 - (i) this Law or the Regulations;
 - (ii) the *Monetary Authority Law (2020 Revision)*; or
 - (iii) the *Anti-Money Laundering Regulations (2020 Revision)*,the auditor shall immediately give the Authority written notice of the information or suspicion and, in the case of suspicion, the auditor's reason for that suspicion.
- (2) Without prejudice to subsection (8), if it appears to the Authority that an auditor has failed to comply with subsection (1), the Authority may disqualify the auditor from being an auditor of a credit union, but the Authority may remove any disqualification imposed under this subsection if it is satisfied that the auditor in question will in future comply with subsection (1).
 - (3) A credit union shall not appoint as an auditor a person disqualified under subsection (2).
 - (4) Where the Authority has granted approval of an auditor under this Law, the approval may be revoked by the Authority if the Authority is of the opinion that the auditor is not sufficiently competent to carry out an audit of the accounts of a credit union or that, in all the circumstances, the auditor is incapable of carrying out the audit objectively.
 - (5) When a credit union changes its auditor, the Authority may require the former auditor to explain the reasons for the change.
 - (6) A person carrying out or charged with the carrying out of any duty, obligation or function under this section shall not incur civil liability for anything done or omitted to be done in respect of the discharge or purported discharge of that duty

or function unless it is shown that the act or omission concerned was in bad faith.

- (7) A reference in this section to an auditor carrying out an audit of the accounts of a credit union includes a reference to an auditor who was engaged to carry out such an audit or who was in the course of carrying out such an audit but resigned before carrying out or completing the audit or whose contract to carry out or complete the audit was otherwise terminated.
- (8) Nothing in subsection (1) shall impose on an auditor carrying out an audit of the accounts of a credit union an obligation to do anything that the auditor would not otherwise be required to do in accordance with generally accepted auditing standards, other than the obligation to provide notice and reasons to the Authority.
- (9) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of twenty thousand dollars.

Powers and duties of the Authority

- 40.** (1) Without prejudice to any other provision of this Law, it is the duty of the Authority —
- (a) to maintain a general review of credit union business practice in the Islands;
 - (aa) to assess the fitness and propriety of persons required to be so assessed under this Law and notify the Registrar of the determination of the assessment in respect of such persons;
 - (b) whenever the Authority thinks fit, to examine the affairs or business of any credit union carrying on business in the Islands for the purpose of satisfying itself that this Law has been or is being complied with, and that the credit union is in a sound financial position and is carrying on its business in a satisfactory manner;
 - (c) to assist in the investigation of any offence against the laws of the Islands which the Authority has reasonable grounds to believe has or may have been committed by a credit union or by any of its directors or officers in their capacity as such; and
 - (d) to examine annual accounts prepared under section 39, and report on them to the Cabinet whenever the Authority thinks fit.
- (2) In matters relating to credit unions, the Authority shall take all necessary action to ensure the proper and just implementation of this Law.
 - (3) In the performance of its functions under this Law and subject to the *Monetary Authority Law (2020 Revision)*, the Authority is entitled at all reasonable times —



- (a) to have access to such books, records, vouchers, documents, cash and securities of any credit union;
 - (b) to request such information, matter or thing from any person who the Authority has reasonable grounds to believe is carrying on business in contravention of this Law; and
 - (c) to call upon the committee of a credit union, or any officer designated by the committee, for such information or explanation, as the Authority may reasonably require for the purpose of enabling it to perform its functions under this Law, and information requested under paragraph (b) shall be provided in such form as the Authority may reasonably require.
- (4) If it appears to the Authority that there are reasonable grounds for suspecting that an offence against this Law has been or is being committed by any credit union, the Authority may take such action as it considers necessary, in the interest of the members or creditors of the credit union, to preserve any assets held by the credit union.
- (5) Whoever fails to comply with any requirement under subsection (3) by the Authority commits an offence and liable on summary conviction to a fine of five thousand dollars and to imprisonment for six months.

Powers of Authority in respect of credit unions

41. (1) Whenever the Authority is of the opinion that a credit union —
- (a) is or appears likely to become unable to meet its obligations as they fall due;
 - (aa) has a director or senior officer who is not a fit and proper person;
 - (b) is carrying on business in a manner detrimental to the public interest or the interest of its members or creditors; or
 - (c) has contravened this Part,
- the Authority may forthwith do any of the following —
- (i) require the substitution of any director or officer of the credit union;
 - (ii) at the expense of the credit union, appoint a person to advise the union on the proper conduct of its affairs and to report to the Authority thereon within three months of the date of that person's appointment;
 - (iii) at the expense of the credit union, appoint a person to assume control of the union's affairs who shall, with any necessary changes, have all the powers of a person appointed, under section 18 of the *Bankruptcy Law (1997 Revision)*, as a receiver or manager of a business; and
 - (iv) require such action to be taken by the credit union as the Authority considers necessary.

- (2) A credit union may, within seven days of the Authority's decision, apply to the Authority for a reconsideration of its decision.
- (3) A person appointed under paragraph (c)(ii) or (iii) of subsection (1) or whose appointment has been extended under paragraph (b) of subsection (4) shall, from time to time at that person's discretion and in any case within three months of the date of that person's appointment or of the extension of that person's appointment (as the case may be), prepare and furnish a report to the Authority of the affairs of the credit union and of that person's recommendations thereon.
- (4) On receipt of a report under subsection (3), the Authority may —
 - (a) revoke the appointment of the person appointed under paragraph (c)(ii) or (iii) of subsection (1);
 - (b) extend the period of that person's appointment; or
 - (c) subject to such conditions as the Authority may impose, allow the credit union to reorganise its affairs in a manner approved by the Authority.

Power of search

- 42.** (1) If a magistrate or justice of the peace is satisfied by information on oath given by the Authority that —
- (a) there is reasonable ground for suspecting that an offence against this Part has been or is being committed and that evidence of the commission of the offence is to be found at any premises specified in the information, or in any vehicle, vessel or aircraft so specified; or
 - (b) any books, records, vouchers, documents, cash or securities which ought to have been produced under section 40(3) and have not been produced are to be found at any such premises or in any such vehicle, vessel or aircraft,
- he may grant a search warrant authorising the Authority or any constable of the rank of Inspector or above, together with any other person named in the warrant and any other constables to enter the premises specified in the information or, as the case may be, any premises upon which the vehicle, vessel or aircraft so specified may be, at any time within one month from the date of the warrant, and to search such premises or, as the case may be, such vehicle, vessel or aircraft.
- (2) The person authorised by any such warrant to search any premises or any vehicle, vessel or aircraft may search every person who is found in or whom that person has reasonable grounds to believe to have recently left or to be about to enter those premises or that vehicle, vessel or aircraft, as the case may be, and may seize any books, records, vouchers, documents, cash or securities found in the possession of any such person or in such premises or in such vehicle, vessel or aircraft which that person has reasonable grounds for believing ought to have been produced under section 40(3).



- (3) No female shall, in pursuance of any warrant issued under this section, be searched except by a female.
- (4) Where, under this section, a person has any power to enter any premises, that person may use such force as is reasonably necessary for the purpose of exercising that power.
- (5) Whoever obstructs the Authority or any other person in the exercise of any powers conferred under this section, commits an offence and liable on summary conviction to a fine of five thousand dollars and to imprisonment for six months.

Appeals

- 43.** (1) An appeal lies to the Grand Court from any decision of the Authority.
- (2) An appeal against the decision of the Authority shall be by motion.
 - (3) The appellant, within twenty-one days after the day on which the Authority has given its decision, shall serve a notice in writing signed by the appellant or that person's attorney-at-law on the Authority of that person's intention to appeal and of the general ground of that person's appeal.
 - (4) Any person aggrieved by a decision of the Authority may, upon notice to the Authority, apply to the Grand Court for leave to extend the time within which the notice of appeal prescribed by this section may be served, and the Court upon the hearing of such application, may extend the time prescribed by this section as it considers fit.
 - (5) The Authority shall, upon receiving the notice of appeal, transmit to the Clerk of the Court without delay a copy of the decision and all papers relating to the appeal, but the Authority is not compelled to disclose any information if it is considered that the public interest would suffer by such disclosure.
 - (6) The Clerk of Court shall set the appeal down for argument on such day, and shall cause notice of the same to be published in such manner, as the Grand Court may direct.
 - (7) At the hearing of the appeal, the appellant shall, before going into the case, state all the grounds of appeal on which the appellant intends to rely and shall not, unless by leave of the Grand Court, go into any matters not raised by such statements.
 - (8) The Grand Court may adjourn the hearing of an appeal and may, upon the hearing thereof, confirm, reverse, vary or modify the decision of the Authority or remit the matter with the opinion of the Court thereon to the Authority.
 - (9) An appeal against a decision of the Authority shall not have the effect of suspending the execution of such decision.

Immunity

44. The Authority shall not be liable in damages for anything done or omitted in the discharge or purported discharge of its functions under this Part, unless it is shown that the act or omission was in bad faith.

PART VI - Audit, Inspection and Inquiry in respect of Cooperative Societies other than Credit Unions

Audit

45. (1) The Registrar shall audit or cause to be audited by some person authorised by the Registrar by general or special order in writing the accounts of every registered society other than a credit union once at least in every year.
- (2) The audit under subsection (1) shall include an examination of overdue debts, if any, and an evaluation of the assets and liabilities of the registered society.
- (3) The Registrar and every other person appointed to audit the accounts of a society other than a credit union shall have power when necessary —
- (a) to summon at the time of that person's audit any officer, agent, servant or member of the society who the Registrar 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.

Power of Registrar to inspect books, etc., of society other than a credit union

46. The Registrar, or any person authorised by general or special order in writing by the Registrar, shall, at all times, have access to all the books, accounts, papers and securities of a registered society other than a credit union, 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.



Inquiry and inspection

- 47.** (1) The Registrar may, of that person's 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 other than a credit union, hold an inquiry or direct some person authorised by the Registrar by order in writing in this behalf to hold an inquiry into the constitution, working and financial condition of a registered society other than a credit union, 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 the Registrar may require.
- (2) The Registrar shall, on the application of a creditor of the registered society other than a credit union, inspect or direct some person authorised by the Registrar in writing in that person's behalf to inspect the books of the society, if the applicant —
- (a) proves that an ascertained sum of money is then due to the applicant and that the applicant 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 cost of the proposed inspection as the Registrar may require.
- (3) The Registrar shall communicate the results of any such inspection to the creditor and to the society into whose affairs inquiry has been made.
- (4) Where an inquiry is held under subsection (1) or an inspection is made under subsection (2), the Registrar may apportion the costs or such part of the costs, as the Registrar may think right, among the registered society, the members demanding an inquiry, the officers or former officers of the society and the creditor, if any, on whose application the inquiry was made.
- (5) Any sum awarded by way of costs against any society or person under this section may be recovered in like manner as money payable under a judgment of the Grand Court for a civil debt.

PART VII - Dissolution of Registered Society other than Credit Union**Non-application of this Part**

- 48.** This Part does not apply to registered societies carrying on credit union business.

Dissolution

49. (1) If the Registrar, after holding an inquiry or making an inspection under section 47 or on receipt of an application made by seventy-five per cent of the members of a registered society, is of the opinion that the society ought to be dissolved, the Registrar may, by order, cancel the registration of the society, and shall forthwith inform the Cabinet who shall publish an Official Gazette Notice thereof in the Islands.
- (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 tribunal appointed by regulations under this Law. The decision of the tribunal shall be final and shall not be called in question in any Court.
- (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 tribunal appointed by the regulations.
- (4) Where the Registrar cancels the registration of a society under subsection (1), the Registrar may make such order as the Registrar 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.

Cancellation of registration due to lack of membership

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

Effect of cancellation of registration

51. Where the registration of a society is cancelled by an order under section 49 or 50, the society shall, except for the purposes of winding up as hereinafter provided, cease to exist as a corporate body from the date on which the order takes effect, hereinafter referred to as the date of dissolution.

Appointment of liquidator

52. Where the registration of a society is cancelled under section 49 or 50, the Registrar may appoint one or more persons to be, subject to that person's direction and control, the liquidator or liquidators of the society.



Powers of a liquidator

- 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 64, have power —
- (a) to institute and defend suits and other legal proceedings by and on behalf of the society by that person's name or office and to appear in court as a litigant in person on behalf of the society;
 - (b) to refer disputes to arbitration;
 - (c) to determine the contribution to be made by the members and past members and by estates of deceased members of the society respectively to the assets of the society;
 - (d) to investigate all claims against the society and, subject to this Law, to decide questions of priority arising between claimants;
 - (e) to determine, from time to time, by what persons and in what proportion the costs of the liquidation are to be borne;
 - (f) to take possession of the books, documents and assets of the society;
 - (g) to give such directions, in regard to the collection of the assets of the society and the disposal of the books and documents of the society, as may appear to the liquidator to be necessary for winding up the affairs of the society;
 - (h) to appoint a day, by proclamation, 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 such claims have been proved;
 - (i) to compromise any claim by or against the society;
 - (j) to sell the property of the society;
 - (k) to call such general meetings of the society as may be necessary;
 - (l) to carry on the business of the society, so far as may be necessary for winding it up beneficially; and
 - (m) to arrange for the distribution of the assets of the society in a convenient manner when a scheme of distribution has been approved by the Registrar.
- (2) A liquidator appointed under subsection (1) shall, insofar as such powers are necessary for carrying out the purposes of subsection (1), have all the powers of a Judge to compel the attendance and examination of witnesses and the production of documents.

Power of Registrar to control liquidation

- 54.** A liquidator shall exercise that person's 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 53;
- (e) require accounts to be rendered to the Registrar by the liquidator;
- (f) procure the auditing of the accounts of the liquidator 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 has consented 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 that arbitrator 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 the liquidator or the Registrar under section 53 or 54 shall be enforced in the same manner in all respects as an order made by a Judge.

Limitation of the jurisdiction of court

- 56.** Save insofar as is hereinbefore expressly provided, no court shall have any jurisdiction in respect of any matter concerned with the dissolution of a registered society under this Law.

Closure of liquidation

- 57.** (1) In the liquidation of a society whose registration has been cancelled, the funds, including the reserve fund, shall be applied first to the costs of liquidation, then to the discharge of the liabilities of the society, then to the payment of the share capital and then, provided the rules of the society permit to the payment of a dividend at a rate not exceeding ten per cent 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 that creditor under the scheme of distribution, notice of the closing of the liquidation shall be published in the Gazette and all claims against the funds of the society liquidated shall be barred when two years have elapsed from the date of such publication.
- (3) Any surplus remaining after the application of the funds to the purposes specified in subsection (1) shall not be divided among the members but such surplus shall be devoted to any purpose specified in the rules of the society



whose registration has been cancelled, and where no purpose is so specified, shall be devoted by the Registrar to such cooperative purpose as may be decided by the Registrar in consultation with the members of the society whose registration has been cancelled.

PART VIII - 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;
 - (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 of the society;
 - (c) between the society or its committee and any officer of the society; or
 - (d) between the society and any other registered society,
- (2) The Registrar shall, on receipt of a reference under subsection (1), 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.
- (4) A decision of the Registrar on an appeal under subsection (3) shall be final and shall not be called in question in any court.
- (5) The award of the arbitrator or arbitrators under subsection (2) shall, if no appeal is referred 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 court and shall be enforced in the same manner in all respects as if the award had been a judgment of the Grand Court.

Case stated on question of law

- 59.** (1) Notwithstanding section 58, the Authority or the Registrar, at any time when proceeding to a decision under this Law, or the tribunal, at any time when an appeal has been referred to it 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 Grand Court.
- (2) A Judge may consider and determine any question of law so referred and the opinion given on such question shall be final and conclusive.

PART IX - Regulations

Regulations

60. The Cabinet may make such regulations as may be necessary for the purpose of carrying out or giving effect to this Law and in particular and without prejudice to the generality of such power such regulations may —
- (a) prescribe the forms to be used and the conditions to be complied with in applying for the registration of a society and the procedure in the matter of such application;
 - (b) prescribe the conditions to be complied with by persons applying for admission or admitted as members, and provide for the election and admission of members from time to time, and the payment to be made and interest to be acquired before exercising rights of membership;
 - (c) subject to section 28, prescribe the maximum number of shares or portions of the capital of a registered society which may be held by a member;
 - (d) 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;
 - (e) provide for general meetings of the members and for the procedure at such meetings, and for the powers to be exercised by such meetings;
 - (f) provide for the appointment, suspension and removal of the members of the committee and other officers, 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;
 - (g) prescribe the matters in respect of which a society may or shall make rules and for the procedure to be followed in making, altering and rescinding rules, and the conditions to be satisfied prior to such making, alteration or rescission;
 - (h) regulate the manner in which funds may be raised by means of shares, debentures or otherwise;
 - (i) 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, the maximum amount which may be lent and the maximum credits which may be allowed to individual members;
 - (j) provide for the mode in which the value of the interest of a deceased member shall be ascertained;
 - (k) provide for the mode in which the value of the interest of a member who has become of unsound mind incapable of managing themselves or that



- person's affairs shall be ascertained and for the nomination of any person to whom such interests may be paid or transferred;
- (l) 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;
 - (m) prescribe the conditions under which profits may be distributed to the members of a society and the maximum rate of dividend which may be paid by societies;
 - (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 for the levy of contributions from all or any registered societies to a fund to be used for the audit and supervision of existing societies and prescribe for the administration of such a fund;
 - (p) 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;
 - (q) provide for the persons by whom, and the form in which, copies of entries in books of registered societies may be certified;
 - (r) provide for the formation and maintenance of a register of members and, where the liability of members is limited by shares, of a register of shares;
 - (s) 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;
 - (t) prescribe the manner in which any question as to the breach of any rule 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;
 - (u) prescribe the mode of appointing an arbitrator or arbitrators and the procedure to be followed in proceedings before such arbitrator or arbitrators;
 - (v) provide for the formation of a Joint Cooperative Council and for the objects and functions of such a Council; and
 - (w) provide for the appointment of a tribunal to hear appeals and to prescribe the fees to be paid, the procedure to be observed and all other matters connected with appeals.

PART X - Miscellaneous

Amalgamation

61. (1) Any two or more registered societies may, by special resolution of both or all such societies, become amalgamated as one society with or without any dissolution or division of the funds of such societies or either of them, and the property of such societies shall become vested in the amalgamated society without the necessity of any form of conveyance other than that contained in the special resolution amalgamating the societies:

Provided that amalgamation, in pursuance of this Law, shall not prejudice any right of a creditor of any registered society which is a party thereto.

- (2) A copy of every special resolution, signed by the chairperson of the meeting at which the resolution was confirmed, and countersigned by the secretary of the society, shall be sent to the Registrar and registered, and until that copy is so registered the special resolution shall not take effect.
- (3) For the purposes of subsections (1) and (2), a special resolution means a resolution which is —
- (a) passed by a majority of not less than seventy-five per cent of such members of a registered society for the time being entitled to vote as may have voted in person or by proxy, where voting by proxy is allowed by this Law, at any general meeting of which notice specifying the intention to propose the resolution has been duly given according to the rules; and
 - (b) confirmed by a majority of such members for the time being entitled to vote as may have voted in person or by proxy, where voting by proxy is allowed by this Law, at a subsequent general meeting of which notice has been duly given, held not less than fourteen days nor more than one month from the day of the meeting at which such resolution was first passed.

Conversion

62. (1) A company registered under the *Companies Law (2020 Revision)* or friendly society registered under the *Friendly Societies Law (1998 Revision)* may, by special resolution, determine to convert itself into a registered society.
- (2) Any such resolution for conversion into a registered society shall appoint ten persons, members of a company or friendly society, as the case may be, who, together with the secretary, shall sign the rules and who may, by the resolution, be given such powers to act on behalf of the company or friendly society as may be specified in such resolution.
- (3) A copy of the special resolution, together with three copies of the rules, shall be sent to the Registrar, who shall thereupon proceed as provided in this Law upon an application for registration.



Conversion effective upon issue of certificate of registration by Registrar

63. A conversion under section 62 shall be deemed to be effective when the Registrar has issued a certificate of registration and thereupon the registration of the company or friendly society as such shall become void, and shall be cancelled by the proper officer, but the registration of any such body as a registered society shall not affect any right or claim, for the time being subsisting against such body or any penalty incurred, and any such right, claim or penalty may be enforced against such body by proceedings taken in the same manner as if it had not become a registered society. Every such right or claim, and the liability for every such penalty shall have priority as against the property of such registered society over all other rights or claims against, or liabilities of, the registered society.

Provision for fines and penalties against members

64. A registered society shall have the power to provide under its rules or in any contract made under section 15 for the payment by its members of fines and penalties or specific or ascertainable sums of money by way of liquidated damages for any infringement of its rules or any breach of such contract or any term thereof, and may further provide that the party found in any breach of such contract or any terms thereof shall pay all costs, expenses and fines in case any action in respect of such breach is brought by the registered society.

Injunction and specific performance

- 65.** (1) In the event of any breach or threatened breach of any contract by a member of any registered society made under section 15, such society shall be entitled to an injunction to restrain such member, that person's agents and servants from selling or delivering the agricultural or manufactured product otherwise than in accordance with the contract and to a decree for specific performance of the said contract by such member.
- (2) Pending the adjudication of any action brought by any registered society under subsection (1), and upon *ex parte* application to a Judge and upon evidence by affidavit of the breach or threatened breach and upon the giving of such undertaking or security as may be approved by such Judge, the registered society shall be entitled to an interim injunction restraining such breach or threatened breach.

Prohibition of the use of the word "cooperative", etc.

- 66.** (1) No person, other than a registered society, shall trade or carry on business under any name or title of which the word "cooperative" or "cooperation" or any abbreviation, or the words "credit union" or "credit unions" or any abbreviation is part:

Provided that nothing in this section shall apply to the use by any person or that person's successor in interest of any name or title under which that person traded or carried on business at the time of the passing of this Law.

- (2) Whoever contravenes subsection (1) is commits an offence and liable on summary conviction to a fine of one hundred dollars or to imprisonment for six months and in the case of a continuing offence to a further fine of ten dollars in respect of each day on which the offence is continued after conviction therefor or in default of payment thereof to imprisonment for three months.

Exemption from stamp duty

67. All instruments executed by or on behalf of a registered society or by or on behalf of an officer or member relating to the business of such society shall be exempt from stamp duty.

Offences

68. (1) Every registered society and every officer or member thereof who —
 - (a) wilfully neglects or refuses to do any act or furnish any information required for the purposes of this Law by the Authority or the Registrar or other person duly authorised by the Registrar in writing in that behalf; or
 - (b) wilfully makes a false return or furnishes any false information,is commits an offence.
- (2) Whoever —
 - (a) wilfully or without any reasonable excuse, disobeys any summons, requisition or lawfully written order issued under this Law; or
 - (b) fails to furnish any information lawfully required from that person by a person authorised to do so under this Law,is commits an offence.

Punishment of fraud or misappropriation

69. Whoever obtains possession by false representation or imposition of any property of a society, or having the same in that person's possession withholds or misplaces 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 shall, on the complaint of the society, any member authorised by the society, the committee thereof, the Authority or the Registrar, be liable on summary conviction to a fine of forty dollars 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 imprisonment for three months; but nothing in this section shall prevent any such person from being proceeded against by way of indictment, if not previously convicted of the same offence under this Law.



Penalties

- 70.** Whoever commits an offence against this Law for which no specific punishment is otherwise provided is, upon summary conviction, liable to a fine of one hundred dollars or to imprisonment for six months.

**Publication in consolidated and revised form authorised by the Cabinet this 7th day
of January, 2020.**

Kim Bullings
Clerk of the Cabinet

ENDNOTES

Table of Legislation History:

SL #	Law #	Legislation	Commencement	Gazette
	16/2019	Cooperative Societies (Amendment) Law, 2019	8-Aug-19	LG28/2019/S7
		Cooperative Societies Law (2001 Revision)	23-Apr-01	G9/2001/S2
	14/2000	Cooperative Societies (Amendment) (Credit Unions) Law, 2000	20-Nov-00	G24/2000/s3
		Cooperative Societies Law (1997 Revision)	29-Sep-97	G20/1997/S6
	Cap. 25	Cooperative Societies Law	1-Jan-1964	Laws of the CI (Vol I – p.447)





(Price: \$8.00)

