

AUSTRALIAN CAPITAL TERRITORY.

No. 9 of 1939.

AN ORDINANCE

Relating to Co-operative Trading Societies.

BE it ordained by the Governor-General in and over the Commonwealth of Australia, with the advice of the Federal Executive Council, in pursuance of the powers conferred by the *Seat of Government Acceptance Act 1909-1938* and the *Seat of Government (Administration) Act 1910-1933*, as follows:—

PART I.—PRELIMINARY.

1. This Ordinance may be cited as the *Co-operative Trading Societies Ordinance 1939*. Short title.

2. Upon the commencement of this Ordinance the Building and Co-operative Societies Act, 1901, of the State of New South Wales shall cease to apply to the Territory. Repeal.

3. This Ordinance is divided into Parts, as follows:—

Parts.

Part I.—Preliminary.

Part II.—Administration.

Part III.—Co-operative Trading Societies.

Part IV.—Incorporation.

Part V.—Rules, Management and Disputes.

Part VI.—Winding up.

Part VII.—Evidence and Offences.

Part VIII.—Miscellaneous.

4. In this Ordinance, unless the contrary intention appears— Definitions.

“bond” includes debenture;

“member” means a member of a society;

“mortgage” includes lien, charge or other security over property;

“officer” includes director, secretary, treasurer or other person empowered under the Rules to give directions in regard to the business of a society;

“society” means a society registered under this Ordinance;

“the Board” means the Board of Directors of the society in relation to which the term is used;

“the Companies Act” means the Companies Act 1899 and amendments thereof as continued in force in the Territory by the *Companies Ordinance 1931-1938*;

"the Registrar" means the Registrar of Co-operative Societies appointed under this Ordinance;

"the Rules" means the Rules of the society in relation to which the term is used;

"the Secretary" means the Secretary of the Society in relation to which the term is used.

PART II.—ADMINISTRATION.

Registrar of
Co-operative
Societies.

5.—(1.) The Minister may appoint a person to be the Registrar of Co-operative Societies.

(2.) The Registrar shall have such duties, powers and authorities as are prescribed.

(3.) During the absence from duty of the Registrar by reason of illness, leave of absence or other cause, the duties, powers and authorities of the Registrar shall be performed and may be exercised by a Deputy Registrar, who shall be appointed by the Minister.

(4.) The Registrar shall have a seal of office.

(5.) All certificates, rules and documents required to be registered under this Ordinance or to be transmitted to the Registrar for record shall be kept in the office of the Registrar.

Registrar may
require certain
information or
evidence to be
furnished.

6.—(1.) On any application for registration of a society or of any Rules or documents, the Registrar may require the applicant to furnish such information or evidence as is reasonable in order to enable him to determine whether the application should be granted.

(2.) The Registrar may require any society to furnish to him proper and sufficient evidence—

(a) that the society is *bona fide* carrying on business in accordance with this Ordinance; and

(b) in respect of all matters required to be done and in respect of the entries in any document required to be transmitted to him under this Ordinance.

Special meeting
and inquiry.

7.—(1.) The Registrar shall, on the application of the majority of the Board, or of not less than one-third of the members of any society—

(a) call a special meeting of the society; or

(b) hold an inquiry into the affairs of the society,
as the application requires.

(2.) The application shall be supported by such evidence as the Registrar directs for the purpose of showing that the applicants have good reason for requiring the meeting or inquiry and that the application is made without malicious motive.

(3.) The Registrar shall forthwith give notice of the application to the society.

(4.) The applicants shall give such security for payment of the expenses of the meeting or inquiry as the Registrar directs.

(5.) The Registrar shall direct at what time and place the meeting shall be held and the matters that shall constitute the business of the meeting and shall give to members such notice of the meeting as he thinks fit.

(6.) The meeting shall have all the powers of a meeting called in accordance with the Rules of the society and, notwithstanding any rule of the society to the contrary, shall have power to elect its own chairman.

(7.) The expense of, or incidental to, any meeting or inquiry held in pursuance of an application under this section shall be defrayed—

(a) by the applicants;

(b) by the society;

(c) by any officer or member, or former officer or member; or

(d) by some or all of them in proportions determined by the Registrar,

as the Registrar directs.

(8.) The Registrar may, although no application has been made under this section, hold an inquiry into the working and financial condition of a society and may require, from any bank in which funds of the society are deposited or invested, a statement of the amount of the deposit or investment and any further particulars specified in the requirement.

(9.) The Registrar may, in the case of any inquiry under this section, appoint an inspector to examine and report upon the minutes, books, documents, stock, securities and affairs of any society.

(10.) Any inspector appointed under this section may require the production of all or any of the books and documents of the society, and may examine on oath any officer, member, agent or employee of the society and may administer an oath accordingly.

(11.) Upon the completion of any inquiry under this section the Registrar may, if he thinks fit, call a special general meeting of the society and the provisions of sub-sections (5.), (6.) and (7.) of this section shall apply in respect of the meeting.

8. Where any special meeting, inquiry or inspection is conducted in pursuance of section seven of this Ordinance the Registrar shall certify the amount of the expenses thereof and incidental thereto, and that amount shall constitute a debt due to the Crown and recoverable in any court of competent jurisdiction.

9. Any person may, on payment of the prescribed fee—

(a) inspect at the office of the Registrar the registration and Rules of a society;

(b) obtain from the Registrar a certificate of the registration of a society and a certified copy of its Rules; and

(c) with the permission of the Registrar, inspect at his office and obtain from him a certified copy of any other registered document or part thereof.

Certificate
as to cost of
inquiry, &c.

Inspection of
documents.

Registrar may
administer
oath, &c.

10. The Registrar may, for the purposes of any inquiry or inspection under this Ordinance, administer an oath and may require the attendance of any witness and the production of books and documents relating to the matters of the inquiry or inspection.

Appeal from
decisions of
Registrar.

11.—(1.) Where the Registrar refuses to register a society or any of its Rules, or refuses to register or directs a change of its name, the Registrar shall, if so required by the society, set forth in writing under his hand the grounds of his refusal or direction.

(2.) The society may summon the Registrar to appear before the Supreme Court and uphold his refusal or direction.

(3.) The Supreme Court may direct any fact to be determined in such manner as it thinks fit and may make such order, including an order as to costs, as it thinks proper in the circumstances.

Annual Report:

12. The Registrar shall in each year make a report to the Minister of his proceedings and the principal matters transacted by him in the previous year.

PART III.—CO-OPERATIVE TRADING SOCIETIES.

Objects,

13. A trading society may be formed for all or any of the following objects:—

- (a) to carry on in the Territory any business, trade or industry specified in or authorized by its Rules, whether wholesale or retail;
- (b) to acquire and distribute information as to the markets of the world and as to co-operative trading in general;
- (c) to establish agencies in the Territory and elsewhere for any objects of the society; and
- (d) to do all such other things calculated to promote the economic interests of its members in relation to the objects mentioned as are prescribed.

Powers.

14. A society shall have power to do all things necessary to carry out its objects, and may do all or any of the following things, if specified in or authorized by its Rules, as incidental to its objects, that is to say, the society may—

- (a) raise money on loan for any objects of the society;
- (b) receive money on deposit;
- (c) acquire, by purchase or otherwise, shares in any other trading society; and
- (d) make advances to its members against products delivered to the society.

PART IV.—INCORPORATION.

Liability and
membership.

15.—(1.) A society shall be formed with limited liability.

(2.) Unless otherwise provided by the Rules, every person shall be qualified to become a member of a society.

(3.) Where a member is under the age of twenty-one years he may execute all necessary instruments and give all necessary acquittances, but he shall not be competent to vote or hold any office in the society or to be one of the seven or more persons by whom a society may be formed.

16.—(1.) A society may be formed by any seven or more persons who are over the age of twenty-one years and are qualified to be members of a society. Formation and registration of society.

(2.) No society shall be registered unless there has been a meeting, at which there have been present seven or more such persons, and the meeting has been conducted in accordance with the requirements of this section.

(3.) There shall have been presented at the meeting—

(a) a statement in writing setting out the objects of the society and the reasons for believing that, when registered, it will be able to carry out its objects successfully; and

(b) a copy of the Rules which it is proposed to tender for registration.

(4.) If at the same, or any subsequent or adjourned meeting, after consideration of the statement and Rules, seven or more persons, qualified to form a society, approve the Rules with or without amendment and sign an application for membership, they shall proceed to elect the first directors of the society in accordance with the Rules as so approved.

(5.) Within two months after the election of directors an application shall be made in the prescribed manner to the Registrar for registration of the society.

(6.) The application for registration shall be accompanied by—

(a) a statutory declaration from the chairman and the secretary of the meeting as to compliance with the requirements of this section;

(b) a copy of the statement submitted at that meeting;

(c) two copies of the proposed Rules signed by not less than seven applicants for membership, each of whose signatures shall be attested by a witness;

(d) a list containing the full name and the occupation and address of each director;

(e) a list containing the full name and the occupation and address of each applicant for membership and showing the number of shares subscribed for by each applicant; and

(f) such other particulars as are prescribed.

(6.) The statutory declaration accompanying the application for registration may be accepted by the Registrar as sufficient evidence of compliance with the requirements of this section as mentioned therein.

(7.) The Registrar shall, if he is satisfied that the society has complied with the provisions of this Ordinance and the regulations and that the proposed Rules of the society are not contrary to this Ordinance or those regulations, register the society and its Rules and shall issue a certificate that the society is incorporated under this Ordinance.

(8.) Notwithstanding any other provision of this section, an association or union may be registered as prescribed.

(9.) The expenses of and incidental to the formation of a society, association or union may be paid either out of capital or income.

Change of name
of a society.

17.—(1.) The Registrar shall not register a society by a name which is identical with the name of any registered society, or so nearly resembling that name as, in his opinion, to be likely to deceive.

(2.) Where any society is registered in contravention of the provisions of the last preceding sub-section, the Registrar may direct that society to change its name.

(3.) A society may, by special resolution, change its name to any name not identical with the name of any registered society, or so nearly resembling that name as, in the opinion of the Registrar, to be likely to deceive.

(4.) Where a society changes its name it shall forward to the Registrar notice of the change of name together with its certificate of incorporation.

(5.) The Registrar shall, upon notice of a society's change of name, register the change, and either note the change on the certificate of incorporation or issue to the society a new certificate of incorporation in the prescribed form.

(6.) A change in the name of a society shall be advertised in the prescribed manner.

(7.) No right or obligation of a society, or of any member or any other person, shall be affected by a change in the name of the society, and no legal proceedings by or against the society shall be rendered defective thereby.

(8.) Any legal proceedings that might have been continued or commenced against a society by its former name may be continued or commenced against it by its changed name.

Amalgamation.

18.—(1.) Any two or more societies registered under this Ordinance may, by special resolution of both or all the societies, as the case may be, apply in the prescribed manner for registration as an amalgamated society, with or without any winding up or any division of the funds of the societies or any of them.

(2.) An application under this section shall be accompanied by—

- (a) two copies of the proposed Rules of the amalgamated society; and
- (b) such other particulars as are prescribed.

(3.) The Registrar shall, if he is satisfied that the applicant societies have complied with the provisions of this Ordinance and the regulations and that the proposed Rules of the amalgamated society are not contrary to this Ordinance or those regulations, register the society and its Rules, issue a certificate that the society is incorporated as an amalgamated society and notify, in the prescribed form, the incorporation in the *Gazette*.

19.—(1.) Upon notification in the *Gazette* of the incorporation of an amalgamated society, the property of the societies which have amalgamated shall, as from the date of that notification and by virtue of this Ordinance, without any transfer, conveyance or assignment, except as otherwise provided in this section, vest in the amalgamated society. Property to vest on amalgamation.

(2.) For the purposes of this section the property of the societies shall include all estates and interests in property, whether real or personal, vested or contingent, including all rights and choses in action, whether by law assignable or not, which at the date of the notification in the *Gazette* of the incorporation belonged to, or were vested in, any trustee or person for the use or benefit of any of the societies, or to which any such trustee or person was contingently entitled for the use and benefit of any of the societies.

(3.) In the case of any property of the societies a transfer of which is required by any law relating to that property to be registered, that property shall not vest in the amalgamated society until the appropriate transfer is executed and registered so that the property is duly transferred.

(4.) In the case of any property that is only transferable in books kept by a corporation, company, or other body, or in a manner directed by or under a law relating to that property, the property shall not vest in the amalgamated society until it is duly transferred.

(5.) Where any property does not vest under this section until transfer or registration, the amalgamated society shall have the right to require a transfer of the property to itself or to such person as the Board directs and to sue for or recover the property.

(6.) Any property which is vested in or transferred to an amalgamated society under this section shall be subject to any debt, liability or obligation specially charged on or affecting the same.

(7.) All debts and liabilities, whether certain or contingent, and whether then existing or capable of arising at a future time, to or with which any of the societies which have been incorporated as an amalgamated society, or any trustee or person for and on account of any of those societies, is, at the date of notification in the *Gazette* of that incorporation, liable or charged, shall become and be debts of the amalgamated society.

(8.) The amalgamation of any societies shall not prejudice the rights of any creditor of a society which is a party to the amalgamation.

**Certificate of
incorporation.**

20.—(1.) A certificate of incorporation under this Ordinance shall be in accordance with the prescribed form, in accordance with the nature and objects of the society, and shall contain a statement that the incorporation does not imply any approval by the Registrar of the policy of its Rules or any guarantee of its good management or its financial stability.

(2.) The certificate shall be conclusive evidence that all the requirements of this Ordinance in respect of registration have been complied with:

Provided that this sub-section shall not affect any provisions of this Ordinance for the winding-up or dissolution of the society or the cancellation of its registration.

Members.

21.—(1.) The members of a society formed under this Ordinance shall be the persons who sign the application for membership on the formation of the society and any other persons admitted to membership in accordance with the Rules.

(2.) The members of an amalgamated society shall be the persons who at the date of amalgamation were members of any of the societies parties to the amalgamation, together with any persons admitted to membership in accordance with the Rules of the amalgamated society.

(3.) No rights of membership shall be exercised by any member of a society who has not made such payment to the society or acquired such share or interest as is provided for by the Rules of that society.

(4.) A person shall cease to be a member of a society in any of the following circumstances:—

- (a) where his share is transferred to another person in accordance with the Rules of the society and the transferee is registered as holder of the share;
- (b) where his share is forfeited in accordance with the Rules of the society;
- (c) where, in pursuance of a power conferred by the Rules of the society, his share is sold by the society and the purchaser is registered as holder of the share;
- (d) where, in pursuance of this Ordinance, the society purchases his share;
- (e) where he is expelled in accordance with the Rules of the society;
- (f) where he becomes bankrupt and the trustee disclaims under section one hundred and four of the *Bankruptcy Act 1924-1933*;

- (g) on death, provided that his estate shall remain liable until his nominee, executor or administrator or some other person is registered as holder in his place, or until the society pays the value of his share in accordance with the provisions of this Ordinance;
- (h) where the contract of membership is rescinded on the ground of misrepresentation or mistake;
- (i) where the value of his share is repaid to him in accordance with the Rules of the society.

22.—(1.) The capital of a society shall vary in amount according to the nominal value of shares from time to time subscribed. Shares.

(2.) The capital shall be divided into shares of a fixed amount which shall be specified in the Rules.

(3.) The shares shall be of one class, all ranking equally.

(4.) No share shall be allotted unless one-tenth of the nominal value thereof has been paid.

(5.) Any balance unpaid in respect of shares at the time of allotment shall be paid by periodic subscriptions or in such manner as is specified in the Rules of the society.

(6.) No member shall hold more than one-fifth of the shares of a society or more than such less proportion of the shares as is prescribed in the Rules of the society.

(7.) A member shall subscribe for such minimum number of shares as is specified in the Rules of the society and the number may be determined by the use made by him of the society or in any manner specified in those Rules.

(8.) Any dividend, rebate or bonus to a member shall be applied to paying off any subscription or calls on shares which at the time the dividend, rebate or bonus becomes payable are due by him and unpaid.

(9.) A share may be held by two or more persons jointly.

(10.) A share in a society shall not be sold without the consent of the Board.

23.—(1.) Five per centum at least of the surplus arising in any year from the business of a society shall be carried to a reserve fund until the fund is at least one-fourth of the aggregate amount of the capital for the time being paid up and of the moneys raised on loan or received on deposit and for the time being remaining unpaid. Funds of society.

(2.) The reserve fund shall not be distributed amongst the members of the society except in the event of winding up.

(3.) The reserve fund shall at any time be applicable to any purposes to which the capital of the society is applicable.

(4.) If authorized by the Rules of the society (but subject to sub-section (1.) of this section) an amount not exceeding ten per centum of the surplus arising in any year from the business of the society may be applied to any charitable purpose or for promoting co-operation or any community advancement.

(5.) If authorized by the Rules of the society (but subject to sub-section (1.) of this section) any part of the surplus arising in any year from the business of the society may—

- (a) be paid to a member by way of dividend in respect of the shares held by him;
- (b) be paid to a member by way of bonus or rebate on the business done by him with the society;
- (c) be credited to any employee who is not a member, but is qualified to be a member, by way of bonus in proportion to his salary or wages at a rate equal to the rate of bonus or rebate paid to a member on the business done by him with the society; or
- (d) be credited to any person who is not a member, but is qualified to be a member, by way of bonus or rebate in proportion to the business done by him with the society.

(6.) A bonus or rebate shall only be credited to any employee or person who is not a member, if the amount credited does not exceed the nominal value of the minimum number of shares for which a member is required by the Rules to subscribe and is to be applied in or towards payment for such minimum number of shares to be issued to him on application in accordance with the Rules of the society.

(7.) Nothing in this section shall preclude the payment of a bonus to an employee in accordance with the terms of his employment.

(8.) In this section the surplus means the surplus after making proper allowance for depreciation in value of the property of the society and for contingent liability for loss.

Liability of members of society.

24. A member shall be liable to a society for the amount, if any, unpaid on the shares held by him, together with any charges payable by him to the society in accordance with its Rules.

Purchase of shares.

25. A society may, if authorized by its Rules, purchase out of its reserve fund any share of a member in the society:

Provided that the shares so purchased in any one year shall not exceed in value one-twentieth part of the paid-up capital of the society.

Cancellation and re-issue of shares.

26. A society may cancel or sell and re-issue any share purchased by or forfeited to the society in accordance with the provisions of this Ordinance.

Repayment of shares.

27.—(1.) A society may repay to any member, with his consent, the value of his shares, ascertained in accordance with the Rules, at any time when the money is no longer required for the purposes of the society.

(2.) The society may not, except with the consent of the Registrar, make any such repayment if the society has received from any person who is not a member any money on loan or deposit which is not secured by mortgage and is still unpaid.

28. A society shall have a charge upon the share or interest in the capital and on the credit balance of a member or past member and upon any dividend, bonus or rebate payable to a member or past member in respect of any debt due from the member or past member to the society, and may set off any sum creditable or payable to a member or past member in or towards payment of the debt. Charge and set-off against member.

29.—(1.) On the death of a member the Board shall, except as otherwise prescribed in this section, transfer his share or interest to one of the following persons:— Death of member.

(a) the nominee of the member nominated as prescribed or, if there is no nominee, to the executor or administrator of the member; or

(b) to such person as the nominee, executor or administrator specifies in an application made to the society within three months after the death of the member:

Provided that the proposed transferee shall be qualified to be a member of the society and shall not already hold such number of shares that the transfer would increase his holding in the society beyond the proportion permitted under this Ordinance.

(2.) If no proposed transferee is willing to have the share or interest of the deceased member transferred to him, the Board may, notwithstanding the provisions of the proviso to section twenty-five of this Ordinance, purchase the shares and pay the amount of the purchase money to the nominee, or, if there is no nominee, to the executor or administrator of the member:

Provided that the Board shall not be bound to make any payment under this sub-section until all moneys due from the deceased member or his estate have been paid to the society.

(3.) The share or interest of the deceased member shall, for the purposes of this section, include any credit balance due to the member and the value of the share or interest shall be ascertained in accordance with the Rules of the society.

(4.) The nominee of a member shall not be an officer or employee of the society unless the officer or employee is the husband, wife, father, mother, child, brother, sister, nephew or niece of the member.

(5.) A nomination shall not be valid if, at the date of nomination, the member is under the age of sixteen years, or if, at the death of the member, the value of his share or interest exceeds Two hundred pounds.

(6.) A nomination may be varied or revoked in the prescribed manner but shall not be revocable or variable by will or codicil.

(7.) A nomination shall be revoked by the marriage of the nominator, unless expressed to be made in contemplation of marriage and in favour of the intended wife:

Provided that, where the Board makes any transfer or payment to a nominee in ignorance of a marriage contracted by the nominator after the date of the nomination, the receipt of the nominee shall be a valid discharge to the society and the society shall be under no liability to any other person claiming the share or interest.

(8.) Any transfer or payment made by the Board in accordance with the provisions of this section shall be valid and effectual against any demand made upon the society by any other person.

Death of
intestate.

30.—(1.) Where any member or person, entitled, in respect of any share in, loan to, or deposit with, a society, to a sum of money not exceeding One hundred pounds, dies intestate, the Board may, upon such evidence as it deems sufficient, pay the money to any person who appears to the Board to be entitled to obtain a grant of administration of the estate of the deceased and the person so paid shall hold the money on the same trusts as if he had obtained such a grant.

(2.) The provisions of this section shall extend to any surplus, not exceeding One hundred pounds, arising on the sale by the society as mortgagee of any property mortgaged by the deceased to the society.

(3.) Nothing in this section shall affect the rights of a nominee under any nomination made by a member and then subsisting.

(4.) Any payment made by the Board in accordance with the provisions of this section shall be valid and effectual against any demand made upon the society by any other person.

Society a
body corporate.

31. A society shall be a body corporate by the name under which it is registered, with perpetual succession and a common seal, and shall have power to enter into contracts, to institute and defend actions, suits and legal proceedings and to do all things necessary for the purpose of its constitution.

Use of word
"co-operative".

32.—(1.) No person, other than a society, shall trade or carry on business under any name or title of which the word "co-operative" or any other word importing a similar meaning is part, or in any manner hold out that the trade or business is co-operative.

(2.) Where a company, firm, association or body of persons contravenes the provisions of sub-section (1.) of this section, every director, manager or other officer thereof who knowingly or wilfully authorizes or permits the contravention shall be guilty of an offence.

Penalty: Five pounds for every day during which the offence is committed.

33. No fee shall be chargeable for the registration of a society or of its Rules or any alteration of those Rules. Exemption from fees.

34. A society may acquire by lease, purchase, donation, devise, bequest or otherwise real and personal property for the purposes of the society. Property.

35.—(1.) Where a society is authorized by its Rules to raise money on loan, the society, unless it is also expressly authorized to receive money on deposit, shall not be deemed to be authorized to receive money on deposit, but may raise money by mortgage of any of its real or personal property or of its uncalled capital or by the issue of bonds or otherwise. Borrowing powers.

(2.) Bonds issued by a society shall be in the prescribed form and shall be issued and transferred in the prescribed manner, and, in case of loss or destruction of a bond, a new bond may be issued in lieu thereof in the prescribed manner and subject to the prescribed conditions.

(3.) For the purposes of the last preceding sub-section a bond shall not include any instrument which makes any property liable, whether specifically or otherwise, to any bank or any financial trading corporation or liable specifically to any other person as security for money raised on loan or received on deposit.

(4.) The provisions of the Companies (Registration of Securities) Act, 1918, in its application to the Territory, shall, *mutatis mutandis* and with such modifications as are prescribed, be deemed to extend to any mortgage or charge created or bond issued by a society.

36.—(1.) Where a society is authorized by its Rules to raise money on loan or to receive money on deposit, the society may raise loans or receive deposits at interest, within the limits provided in this section, from its members or other persons, to be applied for the purposes of the society. Loans and deposits.

(2.) The total amount so raised or received, and not repaid by the society, shall not at any time exceed the sum ascertained by deducting one-half the amount of debts owing by the society from the aggregate of the following amounts:—

- (a) one-half of the capital of the society for the time being unpaid inclusive of the contingent liability (if any) attached to the shares;
- (b) four-fifths of the amount for the time being secured to the society by mortgages from its members or other persons; and
- (c) one-half of the amount shown in the last audited balance-sheet as the value of any other assets of the society exclusive of goodwill.

(3.) Notwithstanding the provisions of the last preceding subsection, the total amount so raised or received and not repaid by a society may be such sum as the society deems proper if the society has not issued bonds to or received deposits from any person other than a member holding fully paid shares in the society to the value of Five pounds or more.

(4.) In calculating the amount for the time being secured to a society by mortgages from its members, the following amounts shall be disregarded:—

- (a) the amounts secured on any property in respect of which the payments were upwards of twelve months in arrear at the date of the last annual account and statement of the society; and
- (b) the amount secured on any property of which the society has been twelve months in possession at the date of that account and statement.

(5.) A society shall not raise money so that it has on loan at any one time an aggregate amount exceeding One hundred pounds unless a higher aggregate amount has been approved by special resolution of the society.

(6.) A society shall not accept money on deposit except upon terms that not less than one month's notice may be required by the Board before repayment.

(7.) Every deposit book and every acknowledgment or security of any kind given by a society for a loan or deposit shall have printed or written therein or thereon a statement that the society is only entitled to receive loans or deposits within the limits provided in this section, and every deposit book or other form of acknowledgment of a deposit shall have printed or written therein or thereon a statement that the society is not entitled to accept money on deposit except upon terms that not less than one month's notice may be required by the Board before repayment.

(8.) Any member or other person lending money to, or depositing money with, the society shall not be bound to see to its application, or that the society has not exceeded its borrowing limit.

vestments

37.—(1.) A society may invest its funds—

- (a) in any securities authorized by law for the investment of trust funds;
- (b) by deposit with the Commonwealth Bank of Australia; or
- (c) in any prescribed security.

(2.) A society shall not acquire by purchase or otherwise shares in any society with unlimited liability.

(3.) A society may, if authorized by its Rules, make an advance out of its reserve fund to a member upon the security of his shares in the society:

Provided that no amount so advanced shall exceed one-half of the amount paid upon the shares.

(4.) Any property to which a society becomes absolutely entitled by foreclosure, surrender or other extinguishment of the right of redemption shall, as soon afterwards as is conveniently practicable, be sold or converted into money.

38.—(1.) A society may, by special resolution, transfer its engagements to any other society which undertakes to fulfil the engagements of the society. **Transfer of engagements.**

(2.) A transfer of engagements in pursuance of this section shall not prejudice any right of a creditor of any society which is a party to the transfer.

39.—(1.) Contracts on behalf of a society may be made, varied and discharged as provided in this section. **Contracts.**

(2.) Any contract which, if made between private persons, would by law be required to be in writing and under seal, may be made on behalf of the society in writing under the common seal of the society and the contract may, in the same manner, be varied or discharged.

(3.) Any contract which, if made between private persons, would by law be required to be in writing and signed by the party to be charged therewith, may be made on behalf of the society in writing signed by any person acting under the express or implied authority of the society, and the contract may, in the same manner, be varied or discharged.

(4.) Any contract which, if made between private persons, would by law be valid, although made by parol only and not reduced into writing, may be made by parol on behalf of the society by any person acting under the express or implied authority of the society and the contract may, in the same manner, be varied or discharged.

(5.) Any contract made according to the provisions of this section shall be effectual in law and shall be binding on the society and all other parties thereto.

40.—(1.) The name of a society shall include the word "co-operative" as part of its name and the word "limited" shall be the last word of its name. **Name and address of society.**

(2.) The name of a society shall be inscribed in legible characters on its seal and shall be stated in legible characters in all notices, advertisements, and other official publications of the society, and in all bills of exchange, cheques, promissory notes, endorsements, orders for money or goods, way-bills, invoices, receipts and other documents required in the business of the society.

(3.) The name of the society, with a statement that the society is registered under this Ordinance, shall be painted or affixed and kept painted or affixed, on the outside of its office, in a conspicuous place, in letters that are clearly legible.

(4.) The office of the society shall be registered as prescribed and notice of any change of address shall be transmitted to the Registrar within fourteen days after the change.

Rules.

41. The Rules of a society shall bind the society and all members thereof and all persons claiming through them respectively to the same extent as if each member had subscribed his name and affixed his seal thereto and there were contained in the Rules a covenant on the part of each member and his legal representatives to observe all the provisions of the Rules, subject to the provisions of this Ordinance.

Registers and accounts.

42.—(1.) A society shall keep such registers and accounts as are prescribed.

(2.) The registers shall include the following:—

- (a) a register of directors, members and shares;
- (b) a register of loans raised, securities given, bonds issued and deposits received by the society;
- (c) a register of any loans made or guaranteed by the society and of any securities taken by the society;
- (d) a register of any nominees to whom any share or interest is to be transferred or the value thereof paid on the death of a member.

(3.) The registers shall be kept in such manner and shall contain such particulars as are prescribed.

(4.) No notice of any trust, express, implied or constructive, shall be entered in any register or be received by the Registrar.

Inspections of documents by members and creditors.

43. A society shall have at its office and open at all reasonable hours to inspection by any member or creditor without fee—

- (a) a copy of this Ordinance and the regulations;
- (b) a copy of the Rules of the society;
- (c) a copy of the last balance-sheet and profit and loss account for the time being, together with the report of the auditors;
- (d) the prescribed register of directors, members and shares; and
- (e) the prescribed register of loans raised, securities given and bonds issued by the society.

Returns.

44.—(1.) A society shall, within fourteen days after any change in the membership of the Board, transmit to the Registrar notice of the change.

(2.) A society shall, before the thirtieth day of September in each year, or before such later date as the Registrar authorizes, transmit to the Registrar the following returns:—

- (a) a list of directors for the year then current;
- (b) a list of members of the society at the thirtieth of June then last past;
- (c) a statement of the assets and liabilities of the society at the thirtieth day of June then last past and of the accounts of the society for the year ending on that date;
- (d) a copy of any report by the auditor on those accounts; and
- (e) any other prescribed particulars.

(3.) If the society transmits information of any change in membership since the date the previous list of members was furnished it shall be deemed to have complied with the requirements of paragraph (b) of the last preceding sub-section.

(4.) Any list, return or information required by this section to be transmitted to the Registrar shall be in such form as is prescribed.

45.—(1.) A society may, if authorized by its Rules, make a contract with a member requiring him to have any specified dealings with the society for a fixed period, and in particular requiring him to sell products through or to the society, or to obtain supplies or services through or from the society, with provision for payment by him to the society of specified sums as liquidated damages for the breach of any term of the contract and the contract shall be binding on the society and all other parties, notwithstanding that but for this Ordinance the contract would be invalid as being in restraint of trade, and any such sum shall for the purposes of section twenty-eight of this Ordinance be a debt due from the member to the society.

(2.) Where a society is authorized by its Rules to have any dealings with a member, the society shall, unless the Rules otherwise provide, be deemed to be authorized to have similar dealings with any person who applies and is qualified to be a member.

46.—(1.) A society shall furnish to any person intending to become a member a list of the charges payable by a member of the society.

(2.) A person who becomes a member of a society shall be liable to pay only the charges mentioned in the list furnished to him under the last preceding sub-section and any charges which may be imposed by any subsequent alteration in the Rules of the society.

(3.) The charges referred to in this section may be altered by special resolution.

(4.) The charges and any alteration of the charges shall be subject to approval by the Registrar.

Fines.

47.—(1.) A society may impose a fine on a member for any infringement of its Rules:

Provided that no fine exceeding Ten shillings shall be imposed until written notice of intention to impose the fine and of the reason therefor has been transmitted to the member and he has had an opportunity of appearing before the Board in person, with or without witnesses, or of sending to the Board a written statement for the purpose of showing cause against the imposition of the fine.

(2.) The society may set off the whole or any part of the fine against any moneys due to the member in respect of any produce delivered by him to the society, but no part of the fine shall be set off against any advance due to him by the society in accordance with the Rules against produce so delivered.

(3.) The member shall not be deemed to have infringed the Rules of a society by a failure to deliver produce to the society if the failure was due to the fact that under the Rules of another society he had previously bound himself to deliver produce to that society and had actually so delivered the produce.

Special resolution.

48.—(1.) For the purposes of this Ordinance, a special resolution means a resolution which is passed by a majority of not less than two-thirds of such members of the society entitled under its Rules to vote as are present in person or, where the Rules allow proxies, by proxy, at any general meeting of the society of which notice specifying the intention to propose the resolution has been duly given in accordance with the Rules.

(2.) At any general meeting to which this section applies a declaration by the Chairman that the special resolution has been carried shall, unless a poll is demanded, be conclusive evidence of the carrying of the resolution.

(3.) A copy of any special resolution which is carried shall be signed by the chairman of the meeting, countersigned by the secretary of the society, and sent to the Registrar and registered by him.

(4.) A special resolution shall have no force or effect until registered in pursuance of this section.

PART V.—RULES, MANAGEMENT AND DISPUTES.

Rules.

49.—(1.) The Rules of a society shall be divided into paragraphs numbered consecutively and shall set forth—

- (i) the name of the society with the word “co-operative” as part of the name and the word “limited” as the last word of the name;
- (ii) that the liability of the members is limited;
- (iii) where the office of the society is to be situated;
- (iv) the objects of the society;

- (v) whether the society intends to avail itself of any powers authorized by this Ordinance as incidental to its objects and, in the case of borrowing powers, within what limits not exceeding the prescribed limits;
- (vi) the manner in which the capital of the society is to be raised;
- (vii) the manner in which the funds of the society are to be managed, and, in particular, the mode of drawing and signing cheques, drafts, bills of exchange, promissory notes, and other negotiable instruments for and on behalf of the society;
- (viii) the purposes to which the funds of the society are to be applied and the manner in which they are to be invested;
- (ix) in the case of any society which is authorized to make an advance—
 - (a) the manner in which an application for an advance is to be made;
 - (b) the conditions with which an applicant is to comply;
 - (c) the manner in which an advance is to be made and repaid;
 - (d) the deduction, if any, for premium;
 - (e) the conditions on which a borrower may redeem the amount due from him before the expiration of the period for which the advance was made; and
 - (f) the terms upon which a mortgage may be redeemed;
- (x) the manner in which any gain or surplus which may result from the transactions of the society is to be distributed among the members;
- (xi) the manner in which any loss which may result from the transactions of the society is to be provided for;
- (xii) the mode and conditions of admission to membership, and the payment to be made or the share of interest to be acquired before the exercise of the rights of membership;
- (xiii) the rights and liabilities of members, and of the estates of deceased members and of members whose estates have been sequestrated or assigned;
- (xiv) the manner in which the share or interest of members may be transferred;
- (xv) the circumstances in which members may be expelled and the rights and liabilities of expelled members;

- (xvi) the number of directors, the qualification of directors, the manner of electing, remunerating and removing directors and filling a vacancy in the directorate, whether directors are to be elected annually or half-yearly, the period for which directors are to hold office, and whether directors are to retire by rotation or otherwise;
- (xvii) the powers and duties of the Board, the requisite notice of meetings, the quorum for meetings, and the procedure at meetings, of the Board;
- (xviii) the intervals between general meetings of the society, the manner of calling special and general meetings, the requisite notices of meetings and the quorum of meetings, of the society;
- (xix) the procedure at meetings of the society, including the rights of members in voting thereat, the manner of voting, and the majority necessary for carrying resolutions;
- (xx) the manner of appointing, remunerating and removing officers of the society, the powers and duties of officers and the security to be given by any officer having the receipt or charge of any moneys belonging to the society;
- (xxi) whether the accounts of the society are to be audited annually or more frequently;
- (xxii) the manner of appointing, remunerating and removing auditors, the powers and duties of auditors, and, in particular, their powers and duties with respect to the inspection of securities belonging to the society;
- (xxiii) provision for the custody of securities belonging to the society;
- (xxiv) the charges, including any charges on admission or for working expenses or otherwise, which are to be payable by a member of the society;
- (xxv) the circumstances in which fines and forfeitures may be imposed on members of the society and the amount of the fines, not exceeding the prescribed maximum;
- (xxvi) whether disputes between the society and any of its members, or any person claiming by or through any member, under the Rules, are to be settled by reference to arbitration or by some other specified manner;
- (xxvii) the manner of altering and rescinding the Rules and making additional Rules;
- (xxviii) provision for the device, custody and use of the seal of the society;
- (xxix) the manner in which the society may be wound up;
- (xxx) the nominal value of each share in the society;

- (xxxi) the maximum proportion of the shares which may be held by a member, not exceeding the prescribed proportion;
- (xxxii) the periodic subscriptions by which or the manner in which shares are to be paid for;
- (xxxiii) the maximum amount which may be paid to a member in the form of a dividend in respect of the shares held by him, not exceeding the prescribed maximum;
- (xxxiv) provision for the forfeiture of shares on expulsion or on failure to pay any subscription or call, the extent to which members whose shares have been forfeited shall remain liable for any amount still unpaid in respect thereof, and the sale or cancellation of forfeited shares;
- (xxxv) the manner in which shares may be transferred; and
- (xxxvi) any other prescribed matters.

(2.) The Rules of a society may provide for the imposition of a fine on a member for any infringement thereof:

Provided that the amount of the fine shall not exceed such amount as is prescribed.

(3.) The Rules of a society may require a member to have any specified dealings with the society for a fixed period and to enter into a contract for that purpose notwithstanding that, but for this Ordinance, any such provision or contract might be invalid as in restraint of trade.

(4.) Any person shall be entitled to obtain from a society a copy of its Rules on payment of a sum not exceeding Two shillings and sixpence.

50.—(1.) The Rules of a society shall not be altered unless ^{Alteration of Rules.} the alteration has been approved by a special resolution.

(2.) Where an alteration of the Rules has been so approved, the society shall, within one month after the date of approval, apply, in the prescribed manner, to the Registrar to register the alteration.

(3.) The application for registration of the alteration shall be accompanied by—

- (a) a statutory declaration from the chairman and secretary of the meeting at which the special resolution of alteration was passed as to compliance with the requirements of this section; and
- (b) two copies of the alteration signed by the secretary and not less than three members.

(4.) Where the alteration alters part of a Rule only a copy of the alteration shall mean a copy of the Rule as altered.

(5.) If the Registrar is satisfied that the Rules as altered are not contrary to this Ordinance or the regulations, he shall register and certify the alteration as prescribed.

(6.) The alteration shall not have any force or effect until it is registered and certified in accordance with the last preceding sub-section.

(7.) The Rules of the society shall be read subject to all alterations so registered and certified.

(8.) For the purposes of this Ordinance, an addition to, rescission of, or a substitution of, a Rule shall be deemed to be an alteration of a Rule.

Board of
directors.

51.—(1.) The business and operations of a society shall be managed and controlled by a Board of directors and, for that purpose, the Board, except as provided in this section, shall have and may exercise the powers of the society as if they had been expressly conferred on the Board by a general meeting of the society.

(2.) The powers of the Board shall be subject to such restrictions as this Ordinance or the Rules of the society impose.

(3.) Every director acting in the business or operations of the society in pursuance of a resolution duly passed by the Board shall be deemed to be the agent of the society for all purposes within the objects of the society.

(4.) The acts of a director shall be valid notwithstanding any defect that may afterwards be discovered in his appointment or qualification.

(5.) A director shall not be held liable to the society for any loss the society may sustain unless the loss was due to his wilful misconduct or gross failure to comply with any of the provisions of this Ordinance or the regulations or the Rules of the society.

(6.) The directors shall be elected at a general meeting of the society in accordance with the Rules:

Provided that in the case of a society which is formed under this Ordinance, the first directors shall be elected at the meeting for its formation.

(7.) The number of directors shall be not less than three, and no person shall be qualified to be a director unless he is a member of the society.

(8.) Meetings of the Board shall be held as often as may be necessary for properly conducting the business and operations of the society, but shall be held at least quarterly, and a quorum of a meeting of the Board shall be as specified in the Rules of the society but shall not, in any case, be less than one half of the number of directors.

(9.) The chairman of the Board may be elected either by the Board or at a general meeting of the society, and shall be elected, hold office, and retire, and may be removed from office, in manner specified in the Rules of the society.

(10.) The directors of a society shall hold office and retire and may be removed from office in the manner specified in the Rules of the society.

(11.) The office of a director shall be vacated in such circumstances, if any, as are specified in the Rules of the society and in any of the following cases:—

- (a) if he becomes bankrupt or assigns his estate for the benefit of, or compounds with, his creditors;
- (b) if he becomes an insane patient or insane or incapable person within the meaning of the Lunacy Act of 1898 of the State of New South Wales in its application to the Territory;
- (c) if he is convicted of any offence under this Ordinance, or if he is convicted of any offence and sentenced to any period of imprisonment without the option of a fine;
- (d) if he absents himself from three consecutive ordinary meetings of the Board without its leave;
- (e) if he ceases to be a member of the society;
- (f) if he gives one month's notice in writing to the Board of his intention to resign from office and his resignation is accepted by the Board;
- (g) if he is removed from office by resolution of a general meeting of the society; and
- (h) if he has, except as provided in this section, a direct or indirect pecuniary interest in any agreement with the society otherwise than as a member and in common with the other members of another society or incorporated company consisting in either case of not less than twenty-five members.

(12.) The provisions of paragraph (h) of sub-section (11.) of this section shall not be deemed to extend to any loan to a director made or guaranteed by the society in accordance with a special resolution, or to any purchase by the director from the society in accordance with a special resolution, or to any of the following dealings, if made in good faith, in the ordinary course of business of the society and on such terms as are usual and proper in similar dealings between the society and its members:—

- (a) a purchase of any goods by a director from the society;
- (b) a sale of any agricultural products or livestock by the director to the society;
- (c) a loan, whether by deposit or otherwise, by the director to the society;

- (d) any loan made to the society in which a director's pecuniary interest consists in his having guaranteed or joined in guaranteeing the repayment of the loan or any part thereof;
- (e) any other dealing between the society and a director which under its objects the society may have with a director; or
- (f) any other prescribed dealings.

(13.) A director shall not vote on any question in which he has any direct or indirect pecuniary interest otherwise than as a member and in common with the other members of the society, and, if he votes, his vote shall not be counted but this sub-section shall not extend to a vote in respect of a dealing specified in paragraphs (c), (d), (e) or (f) of the last preceding sub-section.

(14.) Any vacancy occurring on the Board shall be filled in the manner provided in the Rules of the society.

Meetings.

52.—(1.) Every society shall hold an annual general meeting within three months after the close of its financial year or within such further time as is prescribed or is authorized by the Registrar.

(2.) Meetings of a society, other than its annual general meeting shall be held or may be called at the times and in the manner specified in its Rules.

(3.) At any meeting of a society no item of business shall be transacted unless a quorum of members as specified in its Rules is present during the time when the meeting is considering that item.

Votes of members.

53.—(1.) Except as otherwise provided in this Ordinance or by the Rules of the society, every question for decision by a meeting of a society shall be determined by a majority of members present in person thereat and, unless a poll is demanded by at least five members, the question shall be decided by a show of hands.

(2.) Every member of a society shall have one vote:

Provided that, if so authorized by the Rules and except as otherwise provided in this section, every member shall, on a poll, be entitled to an additional vote or votes, not exceeding two, allotted in accordance with this section.

(3.) Any additional vote shall be allotted on the basis of the value of goods purchased from the society by the member during the preceding financial year:

Provided that, where it is obligatory for the member to subscribe for shares in proportion to the use made by him of the society, any additional vote may be allotted on the basis of the shares held by the member.

(4.) The allotment of any additional vote to a member shall be determined in the manner and time specified in the Rules of the society.

(5.) Notwithstanding any other provision of this section a member who has borrowed from the society any money which is still unpaid shall not be entitled to vote on any question in respect of which his right to vote is excluded by the Rules of the society and, if he votes on any such question, his vote shall not be counted.

(6.) Where a poll is held any member may vote personally, or, if the Rules of the society so provide, by proxy:

Provided that—

- (a) no person may act as a proxy unless he is a member of the society; and
- (b) no person may at any meeting act as proxy for more than five persons.

54. Minutes of every meeting of the Board and of the society ^{Minutes.} shall be kept and confirmed as prescribed.

55.—(1.) A director or other officer of a society shall not ^{Officers.} borrow from it and the society shall not lend to a director or other officer except in pursuance of a special resolution of the society, and if any loan is made in contravention of this section the members of the Board who authorized the loan shall be jointly and severally liable for any loss on the loan occasioned to the society.

(2.) Every officer having the receipt or charge of any money of the society shall give such security as is prescribed for rendering a just and true account of all money received and paid by him for the society and for payment of all money due from him to the society.

56.—(1.) The accounts of a society shall be audited annually ^{Accounts and audit.} and in addition at such other times (if any) as are provided by its Rules.

(2.) The auditor of a society's accounts shall be some competent person approved by the Registrar but shall not be an officer of the society.

(3.) Every auditor shall have a right of access to all books, accounts, vouchers and documents of the society whose accounts he is auditing, and may require from the directors and other officers of the society such information and explanations as are necessary for the performance of his duties as auditor.

(4.) In making his report to the members of a society and in signing any statement of assets and liabilities or of accounts to be presented to the members or transmitted to the Registrar, the auditor of the society shall state—

- (a) whether he has obtained all information and explanations required by him;

- (b) whether in his opinion the statements are properly drawn up so as to exhibit a true and correct view of the financial position of the society according to the information at his disposal and explanations given him and as shown by the books of the society; and
- (c) whether the provisions in the Rules relating to the administration of the funds of the society have been observed.

(5.) A copy of the balance-sheet and profit and loss account duly audited, together with a copy of the auditor's report to the members of the society shall be transmitted to each member with the notice of the annual general meeting, or, in the alternative, if the Rules of the society so provide, the notice of the annual general meeting may include a notice that the balance-sheet and profit and loss account and auditor's report may be inspected by members at the office of the society during such period before the meeting as is specified in the Rules.

(6.) Any member may inspect his own account in the books of the society at any reasonable time on payment of a fee not exceeding two shillings.

Financial year.

57.—(1.) The financial year of a society shall end on the thirtieth day of June.

(2.) Where a society is registered in any year on a date between the first day of July and the thirty-first day of December, the first financial year of the society shall be deemed to be from that date to the thirtieth day of June next ensuing.

(3.) Where a society is registered in any year between the first day of January and the thirtieth day of June, the first financial year of the society shall end on the thirtieth day of June in the year next ensuing.

Disputes.

58.—(1.) Every dispute between a member, in his capacity of a member, and the society shall, except as otherwise provided in this section, be determined in the manner specified in the Rules of the society.

(2.) For the purposes of this section, "society" shall include the Board or any officer of the society and "member" shall include—

- (a) any person aggrieved who has not for more than three months ceased to be a member;
- (b) any person claiming through or under a member or through a person to whom paragraph (a) of this sub-section applies.

(3.) Notwithstanding the provisions of sub-section (1.) of this section, any party may refer the dispute to the Registrar unless the dispute has, in pursuance of the Rules, been referred to arbitration or, if the dispute has been so referred to arbitration, unless an award has been made within one month after the date of reference.

(4.) Where a dispute is referred to the Registrar, the Registrar or a person deputed by him shall hear and determine the dispute, and may order the expenses to be paid out of the funds of the society or by such party to the dispute as he thinks fit.

(5.) Where a dispute is so referred the Registrar or person deputed by him may administer an oath and may require the attendance of any party or witness and the production of any book or document relating to the matter in dispute.

(6.) Any determination or order under this section, whether made on a reference to the Registrar or otherwise, shall be binding and conclusive on all parties without appeal, and shall not be removable into any court or be restrainable by injunction.

(7.) A determination or order under this section may, on application by any party interested, be enforced by the Court of Petty Sessions.

(8.) The Court of Petty Sessions may give such relief and make such orders, including an order as to costs, and give such directions as it thinks fit in respect of any matter brought before it under this section.

(9.) Any order made or direction given under this section by the Court of Petty Sessions may be enforced by any process or procedure which would be applicable if the order had been made upon the hearing of an action in the Court or by such process or procedure as the Court directs.

(10.) The Attorney-General may make rules of Court to regulate the practice and procedure in applications to the Court of Petty Sessions under this section.

(11.) Nothing in this section shall extend to any dispute as to the construction or effect of any mortgage or of any contract contained in any document other than the Rules of the society.

PART VI.—WINDING UP.

59.—(1.) A society may be wound up voluntarily or by the ^{Winding up.} Supreme Court or upon the certificate of the Registrar.

(2.) In the case of winding up, either voluntarily or by the Court, the society may be wound up in the same manner and in the same circumstances in which a company formed or registered under Part I. of the Companies Act may be so wound up:

Provided that where, on the application of the Registrar or any interested party, the Court is satisfied that the registration of the society was obtained by fraud, the Court may wind up the society.

(3.) In the case of a winding up on the certificate of the Registrar, the society may be wound up if the Registrar certifies that—

- (a) the number of members is reduced to less than seven;
- (b) the society has not commenced business within a year of registration or has suspended business for a period of more than six months;
- (c) the period (if any) fixed for the duration of the society in its Rules has expired;
- (d) an event (to be specified in the certificate) upon the occurrence of which the regulations or the Rules provide that the society shall be wound up, has occurred;
- (e) the registration of the society has been obtained by mistake;
- (f) the society exists for an illegal purpose; or
- (g) the society has wilfully and after notice from the Registrar violated the provisions of this Ordinance or the regulations or the Rules of the society.

(4.) The Registrar shall not issue a certificate under this section unless the truth of the matter to be certified is proved to his satisfaction and unless, in the case of a matter specified in paragraph (e), (f) or (g) of the last preceding sub-section, the Attorney-General consents to the issue of the certificate.

(5.) Upon the issue of a certificate by the Registrar under this section, he may appoint a person to be the liquidator of the society.

(6.) A person appointed to be the liquidator of a society shall give such security and be entitled to such fees as are prescribed.

(7.) In the case of any winding-up of a society the provisions of the Companies Act with respect to the winding-up of a company formed or registered under Part I. of that Act shall apply to the winding-up of the society:

Provided that, for the purposes of this section—

- (a) the terms “special resolution” and “extraordinary resolution” shall have the meaning given to the term “special resolution” in this Ordinance;
- (b) the term “Registrar” shall have the meaning given to it in this Ordinance; and
- (c) the provisions with respect to the winding-up of a company by the Court shall apply to the winding-up of the society whether the winding-up is by the Court or upon a certificate of the Registrar, save that where the winding-up is on the certificate of the Registrar in any of the events specified in paragraphs (a), (b), (c) or (d) of sub-section (3.) of this section,

the liquidator shall have the powers of liquidators mentioned in paragraph (g), (h), (i) and (j) of section one hundred and thirty-four of the Companies Act and sections one hundred and forty-one and one hundred and forty-two of that Act shall apply.

(8.) Notwithstanding any other provision of this section, the winding-up of a society shall be deemed to commence—

- (a) at the time of passing the resolution to wind-up in the case of a voluntary winding-up;
- (b) at the time of making the order to wind-up in the case of a winding-up by the Court; and
- (c) at the time the certificate is given in the case of a winding-up on the certificate of the Registrar.

(9.) The liquidator shall cause a notice of the commencement of the winding-up of a society to be advertised in the *Gazette* and in a newspaper circulating in the Territory and to be sent to the Commissioner of Taxation.

(10.) In the case of a voluntary winding-up the liquidator shall, within one month after the affairs of the society have been fully wound up, send to the Registrar an account and balance-sheet, signed and certified by the liquidator as correct, and showing the assets and liabilities of the society at the commencement of the winding-up and the mode in which those assets and liabilities have been applied and discharged, and in default of so doing the liquidator shall be liable to a penalty not exceeding Five pounds for every day on which the default continues.

60.—(1.) Where a society is being wound up every present and past member shall, subject to the succeeding provisions of this section, be liable to contribute to the assets of the society an amount sufficient for payment of the debts and liabilities of the society and the costs, charges and expenses of the winding-up, and for the payment of such sums as are required for the adjustment of the rights of the contributories among themselves.

Liability of members in a winding-up.

(2.) A past member shall not be liable to contribute to the assets of the society if he has ceased to be a member for one year or upwards before the commencement of its winding-up.

(3.) A past member shall not be liable to contribute to the assets of the society in respect of any of its debts and liabilities which were contracted after he ceased to be a member.

(4.) A past member shall not be liable to contribute to the assets of the society unless it appears to the Court that the existing members are unable to make the contributions required to be made by them in order to satisfy all just demands upon the society.

(5.) No contribution shall be required from any member in excess of the amount (if any) unpaid on the shares in respect of which he is liable as a present or past member, together with

the amount of contingent liability (if any) attached thereto, and together with any charges payable by him to the society in accordance with its Rules.

(6.) No sum due to any member of a society in his character of a member by way of dividends, profits or otherwise shall be deemed to be a debt of the society payable to the member in the case of competition between himself and any other creditor not being a member, but any such sum may be taken into account for the purpose of the final adjustment of the rights of contributors among themselves.

Dissolution.

61. A society shall not be dissolved and its registration cancelled until a certificate signed by the liquidator or by the secretary or some other officer approved by the Registrar has been transmitted to the Registrar that all property vested in the society has been duly conveyed or transferred by the society to the persons entitled.

Cancellation.

62. As soon as may be practicable after the society is dissolved, the Registrar shall register the dissolution and cancel the registration of the society.

PART VII.—EVIDENCE AND OFFENCES.

Certificates and documents.

63.—(1.) Any certificate of incorporation of a society given by the Registrar shall be received in evidence as if it were the original certificate.

(2) Every certificate of registration or other official document relating to a society signed by or bearing the seal of the Registrar shall be received in evidence without further proof.

(3.) Judicial notice shall be taken of the signature and seal of any person who holds or has held the office of Registrar if the signature or seal purports to be attached to any certificate or other official document.

(4.) The provisions of this section shall extend to any copy of the Rules of a society certified by the Registrar to be a true copy of its registered Rules.

Rules.

64. A printed copy of the Rules of a society certified by the secretary to the society to be a true copy of its registered Rules shall be received as evidence of those Rules in the absence of proof to the contrary.

Registers.

65. The register of directors, members and shares of a society shall be evidence of the particulars directed or authorized by or under this Ordinance to be inserted therein.

Minutes.

66.—(1.) Every entry in the minutes purporting to be a minute of the business transacted at a meeting of the society or of its Board, and to be signed by the chairman at a subsequent meeting, shall be evidence that the business as therein recorded was transacted at the meeting and that the meeting was duly convened and held.

(2.) An entry in the minutes of a meeting of a society to the effect that a resolution was carried or carried unanimously, or was lost, shall be evidence of the fact without proof of the number or proportion of votes recorded for or against the resolution.

67. A copy of any entry in a book of a society regularly kept ^{Entries.} in the course of business shall, if certified by statutory declaration of the secretary to be a true copy of the entry, be received in evidence in any case where, and to the same extent as, the original entry is admissible.

68.—(1.) A society which fails—

^{Defaults by a society.}

(a) to paint, affix or keep painted or affixed, the name of the society on the outside of its office as prescribed by this Ordinance;

(b) to keep any register or account, or to make any entry therein, in accordance with the requirements of this Ordinance;

(c) to have at its office and open for inspection a copy of—

(i) this Ordinance and the regulations;

(ii) the Rules of the society;

(iii) the last balance-sheet or profit and loss account together with the report of the auditor; and

(iv) any register,

as required by this Ordinance; or

(d) to transmit to the Registrar any notice or return as required by this Ordinance,

shall be guilty of an offence.

(2.) A society which refuses or wilfully neglects to furnish any information lawfully required by the Registrar, or by any other person authorized under this Ordinance to make the requirement, shall be guilty of an offence.

(3.) Where a society is guilty of an offence against sub-section (1.) or sub-section (2.) of this section, every director and officer of the society who knowingly and wilfully authorizes or permits the default shall be guilty of an offence.

Penalty: Five pounds or, if the offence is a continuing offence, Five pounds for every day on which the offence continues.

69.—(1.) A society which contravenes any restriction imposed by this Ordinance on its power to carry on business, and, in particular, which raises money on loan or receives deposits except as authorized by its Rules and within the prescribed limits, shall be guilty of an offence. ^{Restrictions on powers.}

Penalty: Fifty pounds.

(2.) Where a society is guilty of an offence against sub-section (1.) of this section, every director and officer of the society who knowingly and wilfully authorizes or permits the contravention shall be guilty of an offence.

Penalty: Ten pounds.

Too few
members.

70.—(1.) Where a society carries on business after the number of its members is reduced to less than seven for a period of one month after its membership is so reduced, every director who is aware that the society is so carrying on business shall be guilty of an offence.

Penalty: Five pounds for every day the business is so carried on.

(2.) Any person who is guilty of an offence against sub-section (1.) of this section shall be liable to satisfy all obligations of the society incurred during the period when the society carried on business with less than seven members and may be sued therefor without any other member being joined in the action.

Name.

71.—(1.) A society which uses any name other than its registered name shall be guilty of an offence.

Penalty: Five pounds for every day the offence continues.

(2.) An officer of a society or any person acting on behalf of the society who issues or authorizes the issue of any notice, advertisement or other official publication of the society, or signs or authorizes to be signed on behalf of the society any bill of exchange, cheque, promissory note, endorsement, order for money or goods, waybill, invoice, receipt or other document required in the business of the society, wherein its name does not appear in legible characters, shall be guilty of an offence.

Penalty: Fifty pounds.

(3.) Any person guilty of an offence against sub-section (2.) of this section in respect of the signature of any bill of exchange, cheque, promissory note, or order for money or goods, shall be personally liable for the amount to the holder thereof unless the same is duly paid by the society.

Seal.

72. Any officer of a society or person acting on its behalf who uses any seal, purporting to be the seal of the society, wherein its name does not appear in legible characters, shall be guilty of an offence.

Penalty: Fifty pounds.

Allotment of
shares.

73. Any person who, before a society is registered, takes any money in consideration of the allotment of any share or interest in the society, shall be guilty of an offence.

Penalty: Fifty pounds.

False copies
of Rules.

74. Any person who—

- (a) gives to any member of a society or to any person intending or applying to become a member of the society a copy of any Rules or any alteration of the Rules other than those that have been duly registered representing that the same are binding on members of the society; or

(b) makes any alterations in any of the Rules of the society after they are registered and circulates the altered Rules falsely representing them to have been duly registered,

shall be guilty of an offence.

Penalty: One hundred pounds.

75. Any person who wilfully makes, orders or allows to be made any entry or erasure in, or omission from, any balance sheet of a society or any contribution or collecting book or any return or document required to be sent, produced or delivered for the purposes of this Ordinance with intent to falsify the same or to evade any provision of this Ordinance, shall be guilty of an offence. Falsification.

Penalty: One hundred pounds.

76.—(1.) Any person who, by false representation or imposition, obtains possession of any property of a society, or who, having property of a society in his possession, withholds or misapplies it or wilfully applies any part of it to purposes other than those specified or authorized in the Rules of the society or in this Ordinance, shall be guilty of an offence. Fraud or misappropriation.

Penalty: One hundred pounds.

(2.) Every person found guilty of an offence under sub-section (1.) of this section shall, if so ordered by the Court, deliver up all property and repay all money in respect of which the offence was committed and, in default of delivery and repayment as ordered, shall be liable to imprisonment for three months.

(3.) Nothing in this section shall prevent any person from being proceeded against by indictment if he has not previously been convicted of the same offence under this Ordinance.

77.—(1.) Any officer of a society who accepts any commission, fee or reward, whether pecuniary or otherwise, from any person for or in connexion with a transaction of that person with the society shall be guilty of an offence. Commission.

Penalty: One hundred pounds or imprisonment for six months.

(2.) An officer of a society who incurs a penalty under sub-section (1.) of this section shall pay to the society an amount equal to twice the value of the fee, commission or reward accepted by him.

78. Any person who fails to comply with any requirements of this Ordinance within the time or in the manner prescribed or commits any other contravention of its provisions shall be guilty of an offence and shall, if no other penalty is prescribed, be liable to a penalty not exceeding Twenty-five pounds. Contravention of Ordinance.

Recovery of
penalties.

79.—(1.) Every penalty or fine imposed by this Ordinance or by the Regulations or by the Rules of any society shall be recoverable summarily.

(2.) A penalty or fine, if imposed by this Ordinance or the regulations, shall be recoverable at the suit of the Registrar or any person aggrieved and, if imposed by the Rules of a society, shall be recoverable at the suit of the society.

Civil remedies.

80. Where a society in making, guaranteeing or raising any loan, or in receiving any deposit, contravenes any provision of this Ordinance, the civil rights and liabilities of the society or any other person in respect of the recovery of the loan or deposit shall not be affected or prejudiced by the contravention, save that the money shall become immediately payable and the same remedies may be had for the recovery of the loan or deposit and for the enforcement of any security therefor as if there had been no contravention of the Ordinance.

PART VIII.—MISCELLANEOUS.

Regulations.

81.—(1.) The Minister may make regulations not inconsistent with this Ordinance, prescribing all matters which by this Ordinance are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Ordinance and in particular—

- (a) prescribing penalties not exceeding Fifty pounds for any breach of the Regulations, and, where the breach is a continuing breach, an additional daily penalty not exceeding Five pounds per day; and
- (b) requiring the verification by statutory declaration of any statement or return to be lodged with the Registrar.

Dated this thirtieth day of August, 1939.

GOWRIE

Governor-General.

By His Excellency's Command,

W. M. HUGHES

for Minister of State for the Interior.

By Authority: L. F. JOHNSTON, Commonwealth Government Printer, Canberra.