

Queensland



ANNO TRICESIMO QUINTO

ELIZABETHAE SECUNDAE REGINAE

No. 19 of 1986

An Act to make provision for the formation of credit societies and related bodies, for the regulation of credit societies and related bodies formed in the State, for the registration of certain other credit societies, for matters related to credit societies and related bodies; to amend the Co-operative and Other Societies Act 1967-1978 in certain particulars and the Money Lenders Act 1916-1979, in a certain particular; and for other purposes

[ASSENTED TO 8TH APRIL, 1986]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

PART I—PRELIMINARY

1. **Short title.** This Act may be cited as the *Credit Societies Act 1986*.

2. **Commencement.** (1) Section 1 and this section shall commence on the day on which this Act is assented to for and on behalf of Her Majesty.

(2) Except as provided by subsection (1), this Act or the provisions thereof specified in the Proclamation shall commence on the day or days appointed by Proclamation for the commencement of this Act or, as the case may be, those provisions.

3. **Parts of Act.** This Act is divided into Parts and Divisions as follows:—

PART I—PRELIMINARY (ss. 1-6);

PART II—INCORPORATION (ss. 7-31);

Division 1—Formation and Registration (ss. 7-19);

Division 2—Rules (ss. 20-23);

Division 3—Name (ss. 24-29);

Division 4—Office and Service of Documents (ss. 30-31);

PART III—OBJECTS AND POWERS (ss. 32-42);

Division 1—Credit Societies (ss. 32-33);

Division 2—Associations (ss. 34-35);

Division 3—General (ss. 36-42);

PART IV—MEMBERSHIP AND CAPITAL (ss. 43-71);

Division 1—Members (ss. 43-50);

Division 2—Share Capital (ss. 51-56);

Division 3—Funds (ss. 57-62);

Division 4—Unclaimed Moneys (s. 63);

Division 5—Loans (ss. 64-68);

Division 6—Liquidity and Reserves (ss. 69-71);

PART V—MANAGEMENT (ss. 72-120);

Division 1—Directors and Officers (ss. 72-88);

Division 2—Meetings and Voting (ss. 89-93);

Division 3—Accounts (ss. 94-106);

Division 4—Audit (ss. 107-117);

Division 5—Registers (ss. 118-119);

Division 6—Returns etc. (s. 120);

PART VI—DISPUTES (s. 121);

- PART VII—AMALGAMATION AND TRANSFER OF ENGAGEMENTS (ss. 122-127);
- PART VIII—SUSPENSION, ADMINISTRATION, RECEIVERSHIP AND WINDING UP OF REGISTERED BODIES (ss. 128-138);
- Division 1—Suspension* (s. 128);
- Division 2—Appointment of Administrator* (ss. 129-133);
- Division 3—Receivers and Managers* (s. 134);
- Division 4—Winding Up* (ss. 135-138);
- PART IX—GUARANTEE FUND AND GUARANTEE FUND COMMITTEE (ss. 139-160);
- PART X—FOREIGN CREDIT SOCIETIES (ss. 161-171);
- PART XI—ADMINISTRATION (ss. 172-202);
- Division 1—Administrative Staff and Office* (ss. 172-176);
- Division 2—General* (ss. 177-185);
- Division 3—Investigations* (ss. 186-195);
- Division 4—Inquiry by Registrar, etc.* (ss. 196-199);
- Division 5—Advisory Committee* (ss. 200-202);
- PART XII—EVIDENCE AND OFFENCES (ss. 203-238);
- Division 1—Evidence* (ss. 203-209);
- Division 2—Offences* (ss. 210-230);
- Division 3—Proceedings* (ss. 231-238);
- PART XIII—MISCELLANEOUS (ss. 239-246);
- PART XIV—TRANSITIONAL (ss. 247-250);
- SCHEDULE.

4. Interpretation. (1) In this Act, unless the contrary intention appears—

- “accounting records” includes invoices, receipts, orders for the payment of money, bills of exchange, cheques, vouchers and other documents of prime entry and also includes such working papers and other documents as are necessary to explain the methods and calculations by which accounts are made up;
- “administrator” means a person appointed as an administrator under Division 2 of Part VIII;
- “Advisory Committee” means the Credit Societies’ Advisory Committee constituted under Division 5 of Part XI;
- “annual general meeting” in relation to a registered body means a meeting of the registered body required to be held by section 89;
- “association” means—
- (a) an association of credit societies; or
 - (b) a union of associations of credit societies,

formed and registered or deemed to be formed and registered under this Act and includes an amalgamated association so registered or deemed to be so registered;

“bank” means—

- (a) a bank as defined by section 5 of the *Banking Act 1959* of the Commonwealth as amended and in force for the time being; or
- (b) a bank constituted under a law of a State or Territory;

“banker’s books” means—

- (a) books of a bank, including any documents used in the ordinary business of a bank;
- (b) cheques, orders for the payment of money and bills of exchange in the possession or under the control of a bank; and
- (c) securities or documents of title to securities in the possession or under the control of a bank whether by way of pledge or otherwise;

“*Bankruptcy Act 1966*” means the *Bankruptcy Act 1966* of the Commonwealth as amended and in force for the time being and includes an Act passed in substitution for that Act;

“bill of exchange” includes a promissory note;

“board” in relation to a registered body means the board of directors of the registered body;

“books” includes any register or other record of information and any accounts or accounting records however compiled, recorded or stored, and also includes any document;

“certified” in relation to a copy of or extract from a document, means certified by a statement in writing to be a true copy of or extract from the document;

“charge” means a charge created in any way and includes a mortgage and an agreement to give or execute a charge or mortgage, whether upon demand or otherwise;

“continuing credit arrangement” means an agreement whereby a credit society—

- (a) agrees with a member to provide credit to that member in respect of cash (including cheques) supplied by the credit society to that member from time to time; or
- (b) agrees with a member—
 - (i) on behalf of that member to satisfy liabilities of the member to a third person in respect of payment for goods and services or cash (including cheques) supplied by that third person to the member from time to time; and
 - (ii) to provide credit to that member in respect of payment by the member of amounts owing from time to time to the credit society in respect of the satisfaction by

the credit society of those liabilities on behalf of that member—

and agrees to calculate the amount owing to it from time to time under the agreement on the basis that all amounts owing and all payments made by the member under or in respect of the agreement are entered in the same account;

“corporation” means any body corporate whether formed or incorporated within or outside the State but does not include—

- (a) a body corporate that is incorporated within Australia or an external Territory and is a public authority or an instrumentality or agency of the Crown; or
- (b) a corporation sole;

“Court” means the Supreme Court of Queensland or a Judge of that Court;

“credit society” means a credit society formed and registered or deemed to be formed and registered under this Act and includes an amalgamated credit society so registered or deemed to be so registered;

“debenture” includes debenture stock, bonds, notes and any other securities of a registered body, whether constituting a charge on the property of the registered body or not;

“declared law” means a law of another State or of a Territory, being a law in respect of which a declaration referred to in subsection (2) is in force;

“director” in relation to a registered body, includes—

- (a) any person occupying or acting in the position of a director of the registered body by whatever name called and whether or not validly appointed to occupy or duly authorised to act in the position; and
- (b) any person in accordance with whose directions or instructions a director of the registered body is accustomed to act;

“document” includes—

- (a) any paper or other material on which there is writing or printing or on which there are marks, symbols or perforations having a meaning for persons qualified to interpret them; and
 - (b) a disc, tape or other article from which sounds, images or messages are capable of being reproduced,
- and without limiting the generality of the foregoing, includes any summons, order and other legal process and any notice;

“emoluments” means the amount or value of any money, consideration or benefit given, directly or indirectly, to a director of a registered body in connexion with the management of the affairs of the registered body, whether

as a director or otherwise, but does not include amounts in payment or reimbursement of out-of-pocket expenses incurred for the benefit of the registered body;

“executive officer” in relation to a registered body means any person, by whatever name called and whether or not he is a director of the registered body, who is concerned, or takes part, in the management of the registered body;

“external Territory” means a Territory, not being an internal Territory, for the government of which as such a Territory provision is made by an Act of the Commonwealth;

“foreign credit society” means a credit society formed and registered or deemed to be formed and registered under a declared law of another State or of a Territory;

“function” includes a duty;

“Guarantee Fund” means the Credit Societies’ Guarantee Fund established and kept under Part IX;

“Guarantee Fund Committee” means the Credit Societies’ Guarantee Fund Committee constituted under Part IX;

“insolvent under administration” means a person who—

- (a) under the *Bankruptcy Act 1966* or the law of an external Territory, is a bankrupt in respect of a bankruptcy from which he has not been discharged; or
- (b) under the law of a country other than Australia or the law of an external Territory, has the status of an undischarged bankrupt,
and includes—

- (c) a person who has executed a deed of arrangement under Part X of the *Bankruptcy Act 1966* or the corresponding provisions of the law of an external Territory or of the law of a country other than Australia where the terms of the deed have not been fully complied with; and

- (d) a person whose creditors have accepted a composition under Part X of the *Bankruptcy Act 1966* or the corresponding provisions of the law of an external Territory or the law of a country other than Australia where a final payment has not been made under that composition;

“machine copy” has the meaning ascribed to that expression in Part VII of the *Evidence Act 1977-1984*;

“Minister” means the Minister for Justice and Attorney-General or other Minister of the Crown for the time being charged with the administration of this Act: the term includes a Minister of the Crown who is temporarily performing the duties of the Minister;

“officer” in relation to a registered body includes—

- (a) a director, secretary, executive officer, treasurer, employee or administrator of the registered body or any other person

empowered under the rules of the registered body to give directions or instructions in regard to the conduct of the business of the registered body;

- (b) a receiver and manager of the property or any part of the property of the registered body appointed under a power contained in an instrument;
- (c) a liquidator of the registered body appointed in a voluntary winding up,
but does not include—
 - (d) a receiver who is not also a manager;
 - (e) a receiver and manager appointed by the Court; or
 - (f) a liquidator appointed by the Court;

“power” includes an authority;

“prescribed bill of exchange” means a bill of exchange—

- (a) that is drawn by a registered body in favour of itself;
- (b) that has been accepted by the bank or prescribed corporation on which it is drawn; and
- (c) under which the date for payment is either fixed or determinable at the time the bill is drawn;

“prescribed corporation” means a prescribed corporation within the meaning of section 97 (7) (b) of the *Companies (Queensland) Code*;

“principal executive officer” in relation to a registered body means the principal executive officer of the registered body for the time being, by whatever name called, and whether or not he is a director;

“registered body” means a credit society or an association;

“registered company auditor” means a person registered or deemed to be registered as an auditor under the *Companies (Queensland) Code* and, in relation to a foreign credit society, includes a person qualified to act as auditor of the credit society under the law of the place in which the credit society is formed and registered;

“registered liquidator” means a person registered or deemed to be registered as a liquidator under the *Companies (Queensland) Code*;

“Registrar” means the Registrar of Commercial Acts, Brisbane appointed under the *Administration of Commercial Laws Act 1962-1981*: the term includes any Deputy Registrar of Commercial Acts, Brisbane appointed under that Act;

“reproduction” in relation to a document has the meaning ascribed to that expression in Part VII of the *Evidence Act 1977-1984*;

“rules” in relation to a registered body means the registered rules of the registered body for the time being in force;

“share” in relation to a registered body means share in the share capital of the registered body;

“special notice” in relation to a general meeting of a registered body means a notice of that meeting given not less than 28 days before the meeting;

“Territory” means a Territory of the Commonwealth;

“transparency” in relation to a document has the meaning ascribed to that expression in Part VII of the *Evidence Act 1977-1984*.

(2) The Governor in Council may by Order in Council declare a law of another State or of a Territory to be a declared law for the purpose of this Act and may by Order in Council vary or revoke such a declaration.

(3) A reference in any provision of this Act to the corresponding officer of another State or of a Territory, is a reference to a person who, under a provision of a declared law of that State or Territory that corresponds to that provision, exercises functions similar to functions exercised by the Registrar under the first mentioned provision.

(4) For the purposes of this Act, a person shall not be regarded as a person in accordance with whose directions or instructions the directors of a registered body are accustomed to act by reason only that the directors act on advice given by that person in the proper performance of the functions attaching to his professional capacity.

(5) A reference in this Act to the holding registered body of a corporation shall be read as a reference to the registered body of which the corporation is a subsidiary.

(6) For the purposes of this Act, a receiver of the whole or any part of the property of a registered body shall be deemed to be also a manager of the registered body if the receiver manages affairs of the registered body or has power under the terms of his appointment to manage affairs of the registered body.

5. Subsidiaries. (1) For the purposes of this Act, a corporation shall, subject to subsection (3), be deemed to be a subsidiary of a registered body if—

(a) the registered body—

(i) controls the composition of the board of directors of that corporation;

(ii) is in a position to cast or control the casting of more than one-half the maximum number of votes that might be cast at a general meeting of that corporation; or

(iii) holds more than one-half of the issued share capital of that corporation (excluding any part of that issued share capital that carries no right to participate beyond a specified amount in a distribution of either profits or capital); or

(b) that corporation is a subsidiary of any corporation that is a subsidiary of the registered body (including a corporation

that is a subsidiary of the registered body by another application or other applications of this paragraph).

(2) Without limiting by implication the circumstances in which the composition of a corporation's board of directors is to be taken to be controlled by a registered body the composition of a corporation's board of directors shall be taken to be controlled by a registered body if that registered body, by the exercise of some power exercisable whether with or without the consent or concurrence of any other person by that registered body, can appoint or remove all or a majority of the directors, and for the purposes of this provision that registered body shall be deemed to have power to make such an appointment if—

- (a) a person cannot be appointed as a director without the exercise in his favour by that registered body of such a power; or
- (b) a person's appointment as a director follows necessarily from his being a director or other officer of that registered body.

(3) In determining whether a corporation is a subsidiary of a registered body—

- (a) subject to paragraphs (b) and (c), any shares held or power exercisable—
 - (i) by any person as a nominee for that registered body; or
 - (ii) by, or by a nominee for, a subsidiary of that registered body not being a subsidiary that is concerned only in a fiduciary capacity,

shall be treated as held or exercisable by that registered body;

- (b) any shares held or power exercisable by any person by virtue of the provisions of any debentures of that corporation, or of a trust deed for securing any issue of such debentures, shall be disregarded; and
- (c) any shares held or power exercisable by, or by a nominee for, that registered body or its subsidiary (not being held or exercisable as mentioned in paragraph (b)) shall be treated as not held or exercisable by that registered body if the shares are held or the power is exercisable only by way of security given for the purposes of a transaction entered into in the ordinary course of business in connexion with the lending of money.

(4) In subsection (3) (b)—

“debentures” has the meaning ascribed to that term by section 5 (1) of the *Companies (Queensland) Code*.

6. Application of Companies (Queensland) Code. (1) Subject to the express provisions of this Act, the *Companies (Queensland) Code* and the *Companies (Acquisition of Shares) (Queensland) Code* do not apply to, or to acts, matters, circumstances or things of or in relation to registered bodies or foreign credit societies registered under Part X.

(2) The provisions of section 169 of the *Companies (Queensland) Code* apply to registered bodies and foreign credit societies registered under Part X except in respect of the issuing of their own shares or, insofar as a particular registered body or foreign credit society and a particular prescribed interest is concerned, where the Governor in Council by Order in Council directs that those provisions do not apply to the registered body or, as the case may be, foreign credit society in respect of the particular prescribed interest. For the purposes of this subsection "prescribed interest" has the same meaning as is ascribed to that term by section 5 (1) of the *Companies (Queensland) Code*.

(3) Where under this Act provisions of the *Companies (Queensland) Code* are expressed to be applicable to, or to acts, matters, circumstances or things of or relating to, registered bodies or foreign credit societies registered under Part X, a reference to the applied provisions shall be construed as including a reference to—

- (a) rules made under the *Companies (Queensland) Code* and the relevant provisions of those rules shall, *mutatis mutandis*, apply accordingly; and
- (b) the *Companies (Queensland) Regulations* and the relevant provisions of those regulations shall, *mutatis mutandis* and with such modifications (if any) as may be prescribed, apply accordingly.

PART II—INCORPORATION

Division 1—Formation and Registration

7. Formation of credit society. (1) Subject to this Act, any 25 or more persons of full capacity and of or above the age of 18 years (which number is in this section referred to as the "minimum number" and which persons are so referred to as "qualified persons") may form a credit society.

(2) A credit society shall be formed in the following manner—

- (a) not less than the minimum number of qualified persons shall be present at a meeting called for the purpose of forming the credit society and at every subsequent and adjourned meeting called or adjourned for that purpose (which meeting or meetings is or are in this Division referred to as the "credit society formation meeting");
- (b) at the credit society formation meeting there shall be presented—
 - (i) a written statement showing the objects of the credit society, the ways and means proposed to be adopted to finance the credit society and the reasons for believing that, if registered, it will be able to carry out its objects successfully;
 - (ii) a written statement showing full particulars of—
 - (A) any contract, agreement, arrangement or understanding in respect of an activity, duty or work in relation to the credit society to which section 37 refers;

- (B) any contract, agreement or arrangement in relation to the purchase of land or the taking on lease or licence of land by the credit society,
entered into or proposed to be entered into by any of the persons forming the credit society or proposed to be entered into by the credit society after registration; and
- (iii) a copy of the rules that are proposed to be tendered for registration;
- (c) if, at the credit society formation meeting, after consideration of the rules not less than the minimum number of qualified persons—
 - (i) approve the rules presented with or without amendment; and
 - (ii) sign applications for membership and shares,
they shall proceed to elect the first directors of the proposed credit society in accordance with the rules as so approved and thereupon may proceed to appoint the members of such committees as may be provided for in the rules.

8. Application for registration of credit society. (1) An application for registration of a credit society shall be lodged with the Registrar in the prescribed manner within 2 months, or such further period as the Registrar may allow, after the election of the directors pursuant to section 7.

- (2) The application shall be accompanied by—
 - (a) a statutory declaration by the chairman and the secretary of the credit society formation meeting as to the compliance with the requirements of section 7;
 - (b) a copy of the written statements presented to the credit society formation meeting pursuant to section 7 (2) (b) (i) and (ii) signed by the chairman and the secretary of the meeting;
 - (c) two copies of the proposed rules of the credit society signed by the chairman and the secretary of the credit society formation meeting and certified by them as being the rules approved in accordance with section 7 (2) (c), each of whose signatures shall be attested by a witness;
 - (d) a list containing such particulars as are prescribed, of each director, the proposed secretary and the proposed principal executive officer;
 - (e) a list containing the full name, occupation and address of each applicant for membership who, being a qualified person, attended the credit society formation meeting and thereat

signed an application for membership and shares, and the number of shares subscribed for by him; and

(f) such other particulars as may be prescribed.

9. Registration of credit societies. (1) If the Registrar is satisfied—

(a) that the credit society has complied with the provisions of this Act in respect of matters precedent to the registration of the credit society and incidental to its registration;

(b) that the proposed rules of the credit society or those rules as modified by him (he being hereunto authorized to modify the same) contain the prescribed provisions and otherwise conform with the requirements of this Act, are adequate for the proper conduct and operation of the credit society and are such as may be reasonably registered by him,

and is of the opinion—

(c) that there are reasonable grounds for believing that the credit society, if registered, will be able to carry out its objects successfully; and

(d) that there is no reasonable cause why the credit society and its proposed rules should not be registered,

he shall register the credit society and its rules and shall issue a certificate of incorporation in the prescribed form to the effect that the credit society and its rules are registered under this Act on and from the date specified in the certificate.

(2) The statutory declaration mentioned in section 8 (2) (a), may be accepted by the Registrar as sufficient evidence of compliance with the requirements of this Act in respect of matters precedent to the registration of the credit society and incidental to its registration.

(3) The expenses of and incidental to the formation of a credit society may be paid out of capital or income.

10. Formation of association of credit societies. (1) Subject to this Act, any 5 or more credit societies or such other number as may be prescribed (which number is in this section referred to as the “minimum number”) may form an association of credit societies.

(2) An association of credit societies shall be formed in the following manner—

(a) duly appointed representatives of not less than the minimum number of credit societies, each with equal representation and equal voting rights, shall be present at a meeting called for the purpose of forming the association and at every subsequent or adjourned meeting called or adjourned for that purpose (which meeting or meetings is or are in this Division referred to as the “association formation meeting”);

(b) at the association formation meeting there shall be presented—

~~(i) a written statement showing the objects of the association, the ways and means proposed to be adopted to finance~~

the association and the reasons for believing that, if registered, it will be able to carry out its objects successfully;

- (ii) a written statement showing full particulars of—
 - (A) any contract, agreement, arrangement or understanding in respect of an activity, duty or work in relation to the association to which section 37 refers;
 - (B) any contract, agreement or arrangement in relation to the purchase of land or the taking on lease or licence of land by the association,

entered into or proposed to be entered into by any of the credit societies forming the association or any of the persons taking part in the formation of the association or proposed to be entered into by the association after registration;

- (iii) a copy of the rules that are proposed to be tendered for registration;
- (c) if, at the association formation meeting, after consideration of the rules not less than the minimum number of credit societies by their duly appointed representatives—
 - (i) approve the rules presented with or without amendment; and
 - (ii) sign applications for membership and shares, which applications shall state the names of the credit societies applying for membership and shares and the number of shares applied for,

such representatives shall proceed to elect the first directors of the proposed association in accordance with the rules as so approved.

11. Application for registration of association of credit societies. (1)

An application for registration of an association of credit societies shall be lodged with the Registrar in the prescribed manner within 2 months, or such further period as the Registrar may allow, after the election of the directors pursuant to section 10.

- (2) The application shall be accompanied by—
 - (a) a statutory declaration by the chairman and the secretary of the association formation meeting as to the compliance with the requirements of section 10;
 - (b) a copy of the written statements presented to the association formation meeting pursuant to section 10 (2) (b) (i) and (ii) signed by the chairman and the secretary of the meeting;
 - (c) 2 copies of the proposed rules of the association signed by the chairman and the secretary of the association formation meeting and certified by them as being the rules approved

in accordance with section 10 (2) (c), each of whose signatures shall be attested by a witness;

- (d) a list containing such particulars as are prescribed, of each director, the proposed secretary, and the proposed principal executive officer;
- (e) a list containing the name and address of the registered office of each applicant for membership whose duly appointed representatives attended the association formation meeting and thereat signed on its behalf an application for membership and shares, and the number of shares subscribed for by it; and
- (f) such other particulars as may be prescribed.

12. Registration of associations of credit societies. (1) If the Registrar is satisfied—

- (a) that the association of credit societies has complied with the provisions of this Act in respect of matters precedent to the registration of the association and incidental to its registration;
- (b) that the proposed rules of the association or those rules as modified by him (he being hereunto authorized to modify the same) contain the prescribed provisions and otherwise conform with the requirements of this Act, are adequate for the proper conduct and operation of the association and are such as may be reasonably registered by him,

and is of the opinion—

- (c) that there are reasonable grounds for believing that the association, if registered, will be able to carry out its objects successfully; and
- (d) that there is no reasonable cause why the association and its proposed rules should not be registered,

he shall register the association of credit societies and its rules and shall issue a certificate of incorporation in the prescribed form to the effect that the association and its rules are registered under this Act on and from the date specified in the certificate.

(2) The statutory declaration mentioned in section 11 (2) (a) may be accepted by the Registrar as sufficient evidence of compliance with the requirements of this Act in respect of matters precedent to the registration of the association and incidental to its registration.

(3) The expenses of and incidental to the formation of an association of credit societies may be paid out of capital or income.

13. Formation of union of associations of credit societies. (1) Subject to this Act any 2 or more associations of credit societies or such other number as may be prescribed (which number is in this section referred to as the “minimum number”) may form a union of associations of credit societies.

(2) A union of associations of credit societies shall be formed in the following manner—

- (a) duly appointed representatives of not less than the minimum number of associations, each with equal representation and equal voting rights, shall be present at a meeting called for the purpose of forming the union and at every subsequent or adjourned meeting called or adjourned for that purpose (which meeting or meetings is or are in this Division called the “union formation meeting”);
- (b) at the union formation meeting there shall be presented—
 - (i) a written statement showing the objects of the union of associations, the ways and means proposed to be adopted to finance the union and the reasons for believing that, if registered, it will be able to carry out its objects successfully;
 - (ii) a written statement showing full particulars of—
 - (A) any contract, agreement, arrangement or understanding in respect of an activity, duty or work in relation to the union to which section 37 refers;
 - (B) any contract, agreement or arrangement in relation to the purchase of land or the taking on lease or licence of land by the union,
entered into or proposed to be entered into by any of the associations forming the union or any of the persons taking part in the formation of the union or proposed to be entered into by the union after registration;
 - (iii) a copy of the rules that are proposed to be tendered for registration;
- (c) if, at the union formation meeting, after consideration of the rules not less than the minimum number of associations by their duly appointed representatives—
 - (i) approve the rules presented with or without amendment; and
 - (ii) sign applications for membership and shares, which applications shall state the names of the associations applying for membership and shares and the number of shares applied for,
such representatives shall proceed to elect the first directors of the proposed union in accordance with the rules as so approved.

14. Application for registration of union of associations of credit societies. (1) An application for registration of a union of associations of credit societies shall be lodged with the Registrar in the prescribed manner within 2 months, or such further period as the Registrar may allow, after the election of the directors pursuant to section 13.

- (2) The application shall be accompanied by—
- (a) a statutory declaration by the chairman and the secretary of the union formation meeting as to the compliance with the requirements of section 13;
 - (b) a copy of the written statements presented to the union formation meeting pursuant to section 13 (2) (b) (i) and (ii) signed by the chairman and the secretary of the meeting;
 - (c) 2 copies of the proposed rules of the union signed by the chairman and the secretary of the union formation meeting and certified by them as being the rules approved in accordance with section 13 (2) (c), each of whose signatures shall be attested by a witness;
 - (d) a list containing such particulars as are prescribed, of each director, the proposed secretary and the proposed principal executive officer;
 - (e) a list containing the name and address of the registered office of each applicant for membership whose duly appointed representatives attended the union formation meeting and thereat signed on its behalf an application for membership and shares and the number of shares subscribed for by it; and
 - (f) such other particulars as may be prescribed.

15. Registration of union of associations of credit societies. (1) If the Registrar is satisfied—

- (a) that the union of associations of credit societies has complied with the provisions of this Act in respect of matters precedent to the registration of the union and incidental to its registration;
- (b) that the proposed rules of the union or those rules as modified by him (he being hereunto authorized to modify the same) contain the prescribed provisions and otherwise conform with the requirements of this Act, are adequate for the proper conduct and operation of the union and are such as may be reasonably registered by him,

and is of the opinion—

- (c) that there are reasonable grounds for believing that the union, if registered, will be able to carry out its objects successfully; and
- (d) that there is no reasonable cause why the union and its proposed rules should not be registered,

he shall register the union of associations of credit societies and its rules and shall issue a certificate of incorporation in the prescribed form to the effect that the union and its rules are registered under this Act on and from the date specified in the certificate.

(2) The statutory declaration mentioned in section 14 (2) (a) may be accepted by the Registrar as sufficient evidence of compliance with

the requirements of this Act in respect of matters precedent to the registration of the union and incidental to its registration.

(3) The expenses of and incidental to the formation of a union of associations of credit societies may be paid out of capital or income.

16. Certificate of incorporation conclusive. A certificate of incorporation under this Act is conclusive evidence that all the requirements of this Act in respect of registration and of matters precedent and incidental thereto have been complied with and that the credit society, association of credit societies or union of associations of credit societies referred to therein is duly incorporated under this Act.

17. Body corporate. On and from the date specified in the certificate of incorporation but subject to this Act, the credit society, or, as the case may be, association—

- (a) shall be a body corporate by the name under which it is registered, with perpetual succession and a common seal;
- (b) shall in its corporate name be capable of suing and being sued;
- (c) shall have power to enter into contracts; and
- (d) shall have the powers, rights and functions conferred, imposed or prescribed by or under this Act and the rules of the credit society or, as the case may be, of the association,

but with such liability on the part of its members to contribute to the assets of the credit society or association in the event of its being wound up as is provided for in this Act.

18. Review of decisions of the Registrar. (1) Where the Registrar—

- (a) refuses to register a proposed credit society or association or any of its proposed rules, or any proposed alteration of the rules of a credit society or association;
 - (b) registers the rules or the alteration of the rules subject to such modifications as he thinks fit;
 - (c) requires the revision or alteration of a rule;
- or

(d) directs a change of name of a credit society or association, and the applicant for registration or, as the case may be, the credit society or association, within one month of the receipt by him or it of notification of the refusal, registration, requirement or direction, requires the Registrar so to do, the Registrar shall specify in writing under his hand within one month of the date of receipt of the requisition—

- (e) the grounds of his refusal;
- or
- (f) in the case of the registration of rules or the alteration of a rule, subject to modification, the grounds on which the rules were or the alteration was, modified;
- or

- (g) in the case of a requirement or direction by him, the grounds upon which the requirement or direction was made or given.
- (2) Within one month of the receipt by him or it of the document specifying the grounds of the Registrar's refusal, modification, requirement or direction, the applicant for registration or, as the case may be, the credit society or association may, unless the grounds of the Registrar's refusal, requirement or direction are that the credit society or association would be or is registered by a name or a name of a kind that the Minister has directed the Registrar not to accept for registration, apply to the Court for review of the refusal, modification, requirement or direction.
- (3) On the review—
- (a) the Registrar may be represented and may oppose any modification or reversal of the refusal, modification, requirement or direction;
- (b) the Court may confirm, modify or reverse the refusal, modification, requirement or direction and make such further order in the matter (including an order as to costs) as to it seems proper in the circumstances.
- (4) A review under this section shall be by way of rehearing and the decision of the Court is final and shall be given effect to by the Registrar.
- (5) In this section a reference to any refusal, modification, requirement or direction of the Registrar shall be construed as extending to any such refusal, modification, requirement or direction of any person authorised by the Registrar pursuant to section 177.

19. Certain bodies deemed to be registered under this Act. (1) A society that was formed and registered as a credit union under *The Co-operative and Other Societies Act of 1967* or any corresponding previous enactment, and that was subsisting immediately before the commencement of this Part, shall on and from that commencement be deemed, subject to this Act, to be formed and registered under this Act as a credit society, and the rules thereof in force immediately before that commencement shall on and from that commencement be deemed, subject to this Act, to be the rules thereof registered under this Act.

(2) A federation or league, comprising as component members only societies that are credit unions, that was formed and registered under *The Co-operative and Other Societies Act of 1967* or any corresponding previous enactment, and that was subsisting immediately before the commencement of this Part, shall on and from that commencement be deemed, subject to this Act, to be formed and registered under this Act as an association of credit societies and the rules thereof in force immediately before that commencement shall on and from that commencement be deemed, subject to this Act, to be the rules thereof registered under this Act.

(3) The identity of a credit union registered as a credit society under this Act by virtue of subsection (1) and the identity of a federation or league registered as an association under this Act by virtue of subsection (2) shall not be affected and each of them shall continue as the same entity.

(4) A reference in any document or in any other Act to a credit union or a federation or league of credit unions or to *The Co-operative and Other Societies Act of 1967* or any corresponding previous enactment or to that Act or enactment as amended shall, in so far as it affects a credit union registered as a credit society under this Act by virtue of subsection (1) or a federation or league registered as an association under this Act by virtue of subsection (2), be deemed to be a reference to a credit society or an association of credit societies registered under this Act or, as the case requires, to this Act.

Division 2—Rules

20. Rules. (1) The rules of a registered body shall, in addition to rules otherwise required or permitted by this Act to be included, include rules, not inconsistent with this Act, relating to the matters set forth in the Schedule.

(2) Model rules for credit societies and for associations may be prescribed and, hereinafter in this section, a reference to model rules is a reference in the case of a credit society to the model rules prescribed for credit societies and, in the case of an association, to the model rules prescribed for associations.

(3) Any credit society or, as the case may be, any association may adopt as the whole or part of its rules the whole or any part of those model rules, with or without modification.

(4) In so far as the rules of a credit society or of an association registered under this Act do not conflict with, exclude or modify any model rules in force, those model rules shall, so far as they are capable of applying to the credit society or association, be rules of the credit society or association as if they had been lodged by it with the Registrar and registered by him under Division 1.

21. Copy of Rules. A registered body shall furnish any person with a copy of its rules on request and on payment by that person of the amount specified in that regard in the rules, not exceeding \$2.00, or where some other amount is prescribed in that regard not exceeding that prescribed amount, or where no amount is so specified, the sum of 50 cents.

22. Member and registered body bound by rules. Subject to this Act, the rules of a registered body shall, when registered, bind the registered body 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 to the rules, 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.

23. Alterations of rules. (1) The rules of a registered body shall not be altered unless the alteration has been approved by a special resolution.

(2) Where the alteration of the rules has been so approved, the registered body shall, within the prescribed time and in the prescribed manner, lodge with the Registrar an application to have the alteration registered and shall furnish with the application such documents and particulars as may be prescribed.

(3) The Registrar may—

(a) register the alteration;

(b) register the alteration subject to such modifications as he thinks fit; or

(c) refuse to register the alteration,

and shall, within 3 months of the date on which the application was lodged notify the registered body accordingly.

(4) If notice has not been given by the Registrar as provided for in subsection (3) he shall be taken to have refused to register the alteration.

(5) The Registrar may, at any time prior to the review by the Court of his refusal to register the alteration, register the alteration and give notice thereof to the registered body concerned.

(6) The alteration shall not have any force or effect until it is registered in accordance with this section.

(7) The rules of the registered body shall be read subject to any alteration registered in accordance with this section.

(8) For the purpose of this Act, alteration of the rules includes a repeal, rescission, revocation, variation, amendment, substitution or modification otherwise of the rules or any part thereof.

(9) Where, in the opinion of the Registrar, the rules of a registered body should be altered to achieve conformity with any requirement of this Act, he may, by instrument in writing served upon the registered body, require it, within a period specified in the instrument, to alter its rules in a manner specified in the instrument or otherwise in a manner approved by the Registrar.

(10) If within the period specified in the instrument, the registered body fails to alter its rules as required by the instrument, the Registrar may himself, by notation upon the registered copy of the rules, alter the rules of the registered body.

(11) The Registrar shall give notice to a registered body of any alteration of its rules made by him under subsection (10).

(12) Any alteration made by the Registrar to the rules of a registered body under subsection (10) shall be as valid and effectual as an alteration made and registered under subsections (1) to (8) (both inclusive).

(13) The rights and obligations of a person who holds shares in a credit society in accordance with its rules before an alteration to its

rules made by the Registrar under subsection (10) shall, upon and by virtue of such an alteration, be varied to conform with the rules of the society, as so altered.

Division 3—Name

24. Names of registered bodies. (1) Except with the consent of the Minister, a registered body shall not be registered by a name that, in the opinion of the Registrar, is undesirable or is a name or a name of a kind that the Minister has directed the Registrar not to accept for registration.

(2) The Minister shall cause a direction given by him under subsection (1) to be published in the Gazette.

(3) A registered body shall have the word "Limited" or the abbreviation "Ltd." as part of and at the end of its name and shall include in its name—

- (a) in the case of a credit society that is actually registered under this Act—the words "credit society";
- (b) in the case of a credit society to which section 19 (1) applies—the words "credit union" or "credit society";
- (c) in the case of an association that is actually registered under this Act—the words "credit society" or "credit societies";
- (d) in the case of an association to which section 19 (2) applies—the words "credit union", "credit unions", "credit society" or "credit societies",

in consecutive form.

(4) A description of a registered body shall not be deemed to be inadequate or incorrect by reason of the use of—

- (a) the abbreviation "Ltd." in lieu of the word "Limited" contained in its name;
- (b) the symbol "&" in lieu of the word "and" contained in its name; or
- (c) any of the words specified in paragraph (a) or (b) in lieu of the corresponding abbreviation or symbol contained in its name.

25. Use of words "credit society". (1) Subject to this section, no person or body of persons, whether incorporated or unincorporated, other than a credit society, an association or a foreign credit society registered under Part X shall—

- (a) trade or carry on business, which expression shall, without limiting the generality thereof, include—
 - (i) the establishing or using of an office for the receipt of share capital, deposits or loan funds;
 - (ii) advertising for or otherwise seeking share capital, deposits or loan funds; or
 - (iii) the making of loans to members residing in the State, whether by servants or agents or otherwise, under any name

or title of which the words "credit society" or the words "credit societies" or any other words importing a similar meaning, form part; or

- (b) in any manner hold out that its trade or business is respectively that of a credit society, an association of credit societies, a union of associations of credit societies or a foreign credit society registered under Part X.

(2) Subsection (1) does not prevent an unincorporated association of credit societies, credit society officers, or an unincorporated union of associations of credit societies, formed in this State from using the words "credit society" or "credit societies" or any other words importing a similar meaning in its name or title if that association or union has been approved by the Registrar for the purposes of this subsection and that approval has not been revoked.

(3) Any society or corporation formed or incorporated outside the State (other than a foreign credit society) that desires to trade or carry on business in the State may apply in the prescribed form to the Registrar for exemption from the provisions of subsection (1) which shall not apply to any such society or corporation in respect of which the Registrar has granted exemption, while that exemption subsists.

(4) The Registrar may grant an approval for the purposes of subsection (2) and an exemption for the purposes of subsection (3) for such time and upon such conditions as he thinks fit and may revoke the approval or exemption or vary the conditions.

(5) The Registrar shall not grant an exemption for the purposes of subsection (3) unless he is satisfied that the society or corporation would be able to trade or carry on business in the State in accordance with the principles contained in this Act for the carrying on of the business of a credit society or, as the case may be, of an association.

(6) Any person contravening this section and, in the case of a corporation or an unincorporated body of persons contravening this section, any director or other person having the control and management of the affairs of the corporation or body of persons contravening, are each guilty of an offence.

Penalty: \$1 000 or imprisonment for 3 months, or both.

26. Exemption from section 25 (1). Section 25 (1) shall not, for the period of 6 months from the commencement of this Part, apply to a registered foreign company within the meaning of the *Companies (Queensland) Code* that was such a company and was lawfully carrying on the business of a credit union immediately prior to that commencement.

27. Change of Name. (1) Subject to this section, a registered body may, by an alteration of its rules in the manner provided by this Act, and with the approval of the Registrar, change its name to a name by

which it could be registered under this Act without contravention of section 24 (1).

(2) If a registered body through inadvertence or otherwise, is registered by a name by which it could not be registered without contravention of subsection (1) of section 24 it may, by an alteration of its rules in the manner provided by this Act, change its name to a name by which it could be registered without contravention of that subsection and, if the Registrar with the approval of the Minister so directs, shall so change it within 6 weeks of the date of the direction or such longer period as the Registrar allows unless the direction is withdrawn.

(3) Upon registration of an alteration of the rules of a registered body pursuant to this section, the Registrar shall register the change of name and either note the change of name on the certificate of incorporation, or, upon surrender to the Registrar of the certificate of incorporation or production of such evidence as to its loss as the Registrar may require, issue a new certificate of incorporation in the prescribed form in lieu thereof.

(4) Where a change of name of a registered body has been registered pursuant to this section or a corresponding previous law of the State, the name so registered shall be its registered name, and a reference in this Act to the registered name of a registered body shall, in relation to the registered body, be construed as a reference to its new name registered pursuant to this section or the corresponding previous law of the State or where more than one change of name has been so registered, the name lastly registered.

(5) A change of name of a registered body shall be published, at its expense, in the manner prescribed.

(6) A change of name pursuant to this Act does not affect the identity of the registered body in question or any right or obligation of the registered body or of any member or other person or render defective any legal proceedings by or against it and any legal proceedings that might have been continued or commenced against it by its former name may be continued or commenced against it by its new name.

(7) Any reference in any share certificate, mortgage, lien, security, bond, agreement, contract, deed, or other document, instrument or writing whatsoever to the registered body by its former name shall, on and from the date of the noting of the change in the certificate of incorporation or, as the case may be, issue of the new certificate of incorporation, be read and construed as a reference to the registered body by its new name.

(8) In the case of any estate in land registered in the name of a registered body before its change of name—

(a) the Registrar of Titles, where the *Real Property Act 1861-1985* applies to such estate; or

(b) the person or authority charged with registering instruments of title to or dealings with such estate, where that Act does not apply thereto,

shall without any authority other than this Act and without payment of any fee have power and authority to—

- (i) make or cause to be made any necessary recordings in the appropriate register or other record of titles or dealings;
- (ii) do and execute all such acts, matters and things as may be necessary and proper,

to give full effect to the change of name of the registered body.

28. Publication of name. (1) The name of a registered body shall appear in legible characters on—

- (a) its seal; and
- (b) every business letter, statement of account, invoice, order for goods, order for services, official notice, publication, bill of exchange, cheque or other negotiable instrument, indorsement on, or order in, a bill of exchange, cheque or other negotiable instrument, receipt and letter of credit of, or purporting to be issued or signed by or on behalf of, the registered body,

and, if default is made in complying with this subsection, the registered body is guilty of an offence.

(2) If an officer of a registered body or any person on its behalf—

- (a) uses or authorizes the use of a seal that purports to be a seal of the registered body, but on which the name of the registered body does not appear as required by subsection (1);
- (b) issues or authorizes the issue of any business letter, statement of account, invoice, order for goods, order for services or official notice or publication of the registered body on which its name does not appear as required by that subsection; or
- (c) signs, issues or authorizes to be signed or issued on behalf of the registered body any bill of exchange, cheque or other negotiable instrument, any indorsement on, or order in, a bill of exchange, cheque or other negotiable instrument, or any receipt or letter of credit, on which its name does not appear as required by that subsection,

he is guilty of an offence.

(3) If an officer of a registered body or any person on its behalf signs, issues or authorizes to be signed or issued on behalf of the registered body any bill of exchange, cheque or other negotiable instrument, or any indorsement on, or order in, a bill of exchange, cheque or other negotiable instrument, or any letter of credit, on which the name of the registered body does not appear as required by subsection (1), he is liable to the holder of the instrument or letter of credit for the amount due on it unless that amount is paid by the registered body.

(4) A registered body shall paint or affix and keep painted or affixed on the outside of every office or place in which the business of the

registered body is carried on, in a conspicuous position and in letters easily legible, the name of the registered body and also, in the case of the registered office, the words "Registered Office" and, if default is made in complying with this subsection, the registered body is guilty of an offence.

29. Registered body using other than registered name. (1) Subject to section 24 (4) a registered body shall not use any name or title, other than its registered name or an abbreviation or elaboration of that name approved in writing by the Registrar.

(2) An approval referred to in subsection (1) may be given subject to such terms and conditions as to the Registrar seem fit.

Division 4—Office and Service of Documents

30. Registered Office. (1) A registered body shall have a registered office within the State to which all communications and notices may be addressed.

(2) The person making application for registration of a credit society or of an association shall lodge with the Registrar a notice in the prescribed form of the address of the proposed registered office.

(3) The registered office of a credit society or an association to which section 19 applies shall, subject to this section, be the address of its registered office under *The Co-operative and Other Societies Act of 1967* immediately before the commencement of this Part.

(4) A registered body shall, not later than 14 days after a change in the address of its registered office, lodge with the Registrar, in the prescribed form, notice of the change and the Registrar shall thereupon register the new address as the address of the registered office of the registered body.

31. Service of documents. (1) A document may be served on a registered body by leaving it at or sending it by post to its registered office.

(2) If communications left at or sent by post to the address of the registered office of a registered body will not be, or are not likely to be, received by it, a document may be served on the registered body by delivering a copy of the document personally to each of 2 directors of the registered body who reside in the State or by sending a copy of the document by post to each of 2 such directors at the address of those directors last known to the person sending the copy of the document.

(3) A document may be served on a director or other officer of a registered body by sending it by post to the director or other officer at the last address of the director or other officer as disclosed in returns lodged by the registered body with the Registrar pursuant to this Act.

(4) Where a liquidator of a registered body has been appointed, a document may be served on the registered body by leaving it at or

sending it by post to the last address of the office of the liquidator, notice of which has been lodged with the Registrar.

(5) For the purposes of subsections (1) and (2), the situation of the address of the registered office of the registered body—

- (a) in a case to which paragraph (b) does not apply, shall be deemed to be the address of which notice has been lodged with the Registrar;
- (b) if a notice of change of address has been lodged with the Registrar under section 30 (4), shall from the date on which the notice is lodged be deemed to be the address specified in the notice.

(6) In the application of subsection (5) to a registered body that has lodged more than one notice of change of address of its registered office, a reference in paragraph (b) of that subsection to a notice shall be construed as a reference to the notice last duly lodged.

(7) In this section, in the case of a credit society or of an association to which section 19 applies—

- (a) a reference to the Registrar shall be construed as including a reference to the holder of an office by whatever name called having under a previous law of the State corresponding to this Act powers and functions similar to those of the Registrar under this Act;
- (b) a reference to this Act or a provision of this Act shall be construed as including a reference to any previous law of the State corresponding to this Act or, as the case may be, to that provision.

PART III—OBJECTS AND POWERS

Division 1—Credit Societies

32. Objects of a credit society. The objects of a credit society shall be—

- (a) to raise funds by subscription of its members and in any way authorized by this Act;
- (b) to apply those funds, subject to this Act and the rules of the credit society, in making loans to or continuing credit arrangements with its members and in such other ways as are authorized by this Act and those rules;
- (c) to provide such services to its members and depositors as are provided for in this Act.

33. Powers of a credit society. Subject to this Act, a credit society shall have and may exercise such powers incidental to its objects as are from time to time—

- (a) prescribed; or
- (b) conferred by its rules,

and, without limiting the powers which may be so conferred, the rules may confer all or any of the following powers—

- (c) to raise money for any of its objects on loan or by negotiation of promissory notes or prescribed bills of exchange;
- (d) to receive money on deposit;
- (e) to make and enter into arrangements for the provision of loan protection insurance and life savings insurance;
- (f) to provide counselling and other services for its members as may assist members in the proper management of their finances.

Division 2—Associations

34. Objects of an association. The objects of an association shall be such of the following as may be authorised by the rules of the association:—

- (a) to promote the interests of and co-operation among credit societies and associations;
- (b) to formulate and to provide for the adoption and observance by credit societies of conditions, standards, practices, procedures and guidelines governing the carrying on of their business;
- (c) to render services to and to act on behalf of its component members in such a manner as may be specified in or authorised by the rules of the association or as may be prescribed;
- (d) to advocate and promote such legislation, practices and reforms as may be conducive to any of the objects of the association;
- (e) to co-operate with other bodies with similar objects;
- (f) to encourage and assist in the formation of credit societies;
- (g) to assist and advise in the management of the affairs of its component members.

35. Powers of an association. (1) Subject to this Act, an association shall have and may exercise such powers, incidental to its objects, as are from time to time—

- (a) prescribed; or
- (b) conferred by its rules,

and, without limiting the powers which may be so conferred, the rules may confer all or any of the following powers:—

- (c) to raise money for any of its objects on loan or by negotiation of promissory notes or prescribed bills of exchange;
- (d) to receive money on deposit;
- (e) to make loans to its component members and to its full-time employees;
- (f) to deposit money with an association of which it is a component member.

(2) Where an association raises money on loan for any of its objects and a guarantee is given by any person in respect of the repayment of the loan, the component members of the association or any one or more of them may, jointly with the association, enter into an agreement to indemnify the guarantor against any liability which may arise under or in respect of the guarantee.

(3) Except as is otherwise provided by this Act an association shall not make a loan to a person or body who is not a member or a full-time employee of the association.

Division 3—General

36. Business premises. (1) A registered body may acquire by purchase, lease or otherwise, real or personal property required mainly for the purpose of providing business or office accommodation for the registered body.

(2) A registered body may sell, mortgage or assign the lease of any such real or personal property and, provided that the property continues to be used mainly for the purpose of providing business or office accommodation for the registered body, may let any part thereof.

(3) Subject to subsection (5), the amount that may be expended in the acquisition of business or office accommodation pursuant to subsection (1) in any financial year shall not, when added to the amount previously expended for the same purpose, exceed a sum equal to 5 per centum, or such other proportion as is prescribed by Order in Council, of the aggregate of the share capital of and the amount held on deposit by the registered body at the end of the financial year immediately preceding the financial year during which such expenditure is to be incurred.

(4) An Order in Council under subsection (3) may be of general application or be limited in its application to a particular registered body or particular registered bodies or to registered bodies in a class or classes of registered bodies referred to in the Order in Council.

(5) A registered body may use the proceeds of any sale pursuant to subsection (2) in the acquisition of real or personal property for a purpose referred to in subsection (1) and, where it does so, the amount used shall not be taken into account in calculating the amount which may be expended pursuant to subsection (3).

37. Management contracts prohibited. (1) In this section "management contract" means—

- (a) a contract, agreement, arrangement or understanding to which a registered body is party by virtue of which—
 - (i) the affairs and activities, or any of the affairs or activities, of the registered body are managed, controlled or promoted; or
 - (ii) assistance or advice in relation to the management of the registered body or any part of its activities is given, by a person—
 - (iii) who is not a director or otherwise a member of the management or staff of the registered body; or
 - (iv) who is a director or otherwise a member of the management or staff of the registered body but is not undertaking or performing the activity in that capacity;
 - (b) a contract, agreement, arrangement or understanding to which a registered body is party by virtue of which the whole, or any substantial part, of the duties or work ordinarily undertaken or performed by the managements or staffs of registered bodies is undertaken or performed for the registered body by a person—
 - (i) who is not a member of the management or staff of the registered body; or
 - (ii) who is a member of the management or staff of the registered body but is not undertaking or performing the duties or work in that capacity.
- (2) Subject to this section, a registered body shall not enter into any management contract.
- (3) Any management contract entered into in contravention of subsection (2) is void.
- (4) Subject to this section, where—
- (a) the affairs or activities, or any of the affairs or activities, of a registered body are managed, controlled or promoted by a person—
 - (i) who is not a director or otherwise a member of the management or staff of the registered body;
 - (ii) who is a director or otherwise a member of the management or staff of the registered body but is not undertaking or performing the activity in that capacity;
 - (b) assistance or advice in the management of a registered body, or any part of the activities of the registered body, is given by a person—
 - (i) who is not a director or otherwise a member of the management or staff of the registered body; or
 - (ii) who is a director or otherwise a member of the management or staff of the registered body but is not undertaking or performing the activity in that capacity;
 - (c) the whole, or any substantial part, of the duties or work ordinarily undertaken or performed by the managements or

staffs of registered bodies is undertaken or performed for the registered body by a person—

- (i) who is not a member of the management or staff of the registered body; or
- (ii) who is a member of the management or staff of the registered body but is not undertaking or performing the duties or work in that capacity;

the registered body, every officer of the registered body who is in default and the person are each guilty of an offence.

Penalty: \$5 000 or imprisonment for 1 year.

(5) This section does not—

- (a) operate so as to render void a management contract entered into by a registered body with a person, so far as it relates only to the undertaking or performance by that person of activities, duties or work on behalf of or in relation to the registered body in the capacity of banker, auditor, legal adviser, actuary, tax agent, computer specialist or advertising agent or in any other capacity approved in writing by the Registrar;
- (b) apply to or in relation to the undertaking or performance by a person of any activity, duties or work on behalf of a registered body in the capacity of banker, auditor, legal adviser, actuary, tax agent, computer specialist or advertising agent or in any other capacity approved in writing by the Registrar;
- (c) apply to or in relation to—
 - (i) the undertaking or performance by an association of any activity, duties or work for or on behalf of a component member the undertaking or performance of which is authorised by this Act or the rules of the association;
 - (ii) a management contract entered into by a credit society with an association so far as it relates only to an activity, duty or work to which subparagraph (i) relates;
- (d) apply to or in relation to—
 - (i) the undertaking or performance of any activity, duties or work by a corporation—
 - (A) that is a subsidiary of the registered body concerned; or
 - (B) all the shares in which are owned by registered bodies and some of the shares in which are owned by the registered body concerned;
 - (ii) a management contract entered into by a registered body with a corporation—
 - (A) that is a subsidiary of the registered body; or

- (B) all the shares in which are owned by registered bodies and some of the shares in which are owned by the registered body concerned; or
- (e) apply to or in relation to a management contract in respect of which the approval in writing of the Registrar thereto has—
 - (i) in the case of a management contract entered into after the commencement of this section, first been obtained;
 - (ii) in the case of a management contract entered into before the commencement of this section, been obtained before the expiration of a period of 3 months next after the said commencement or such extended period as the Registrar in special circumstances allows.

(6) Where at the commencement of this section a management contract exists between a registered body and a person that would, if the management contract had been entered into after that time, have been entered into in contravention of subsection (2), that management contract shall, notwithstanding any of its provisions to the contrary, be deemed to be terminated, where the approval of the Register has not been obtained before the expiration of the period or extended period that applies in respect of the contract under subsection (5) (e) (ii), from the expiration of that period.

(7) Where under a management contract referred to in subsection (6) any money has become due and payable by or to a registered body before the management contract is deemed to have been terminated by that subsection, that money may, to the extent that it might have been recoverable apart from that termination, be recovered in proceedings in a court of competent jurisdiction.

(8) Where a management contract between a registered body and a person is deemed to be terminated by virtue of subsection (6), all books and records held by that person which relate to any of the affairs or activities of the registered body shall be deemed to belong to the registered body and that person shall, within 14 days after that termination, take all practicable steps necessary to transfer those books and records to the control of the registered body.

Penalty: \$2 000 or imprisonment for 6 months, or both.

(9) A person required to transfer any books and records to a registered body in accordance with subsection (8) shall not—

- (a) conceal, destroy, mutilate or alter any such book or record; or
- (b) send, attempt to send or conspire with another person to send such a book or record out of the State.

Penalty: \$10 000 or imprisonment for 2 years, or both.

(10) It is a defence to a prosecution under subsection (9) to prove that the person charged did not act with intent to defeat the purposes of this section.

(11) Subject to this section where moneys are paid to any person by a registered body in pursuance, or purported pursuance, of—

- (a) a management contract entered into by the registered body in contravention of subsection (2); or
- (b) a management contract entered into before the commencement of this section other than moneys in respect of the contract that are recoverable under subsection (7),

then notwithstanding subsections (2) and (3), the person who received such moneys is liable to repay those moneys to the registered body and the said moneys may be recovered by it from the person by whom the moneys were received in an action as for a debt in any court of competent jurisdiction.

(12) Subject to this section where moneys are paid to any person by a registered body in pursuance, or purported pursuance, of—

- (a) a management contract entered into by it in contravention of subsection (2); or
- (b) a management contract entered into before the commencement of this section other than moneys in respect of the contract that are recoverable under subsection (7),

any officer of the registered body who wilfully made, authorized or permitted the payment of the moneys is liable to pay to the registered body a sum equivalent to the amount of the moneys so paid and such sum of money may be recovered by the registered body from the officer in an action as for a debt in any court of competent jurisdiction but moneys shall not be recovered both under subsection (11) and this subsection in respect of the same payment of moneys by a registered body.

38. Raising of money. (1) Subject to this section, a registered body may within the limits provided in this section—

- (a) raise money on loan, or receive money on deposit;
- (b) raise money by negotiating promissory notes or prescribed bills of exchange;
- (c) raise money on the secondary mortgage market as defined in the *Mortgages (Secondary Market) Act 1984-1985* by selling secondary mortgage market securities in which a trustee may invest trust funds pursuant to section 34 of that Act,

to be applied for its objects.

(2) A registered body may raise money on loan in such manner as the board may think fit provided that it shall not borrow money otherwise than in Australian currency or undertake to repay money borrowed otherwise than in Australian currency.

(3) Without limiting in any way the manner in which the registered body may so raise money on loan, but subject to subsection (10), money may be raised by legal or equitable mortgage charged upon the undertaking

of the registered body or upon all or any part of the property and rights (both present and future) of the registered body including its share capital subscriptions, loan payments and other moneys.

(4) A credit society shall not in any month raise on loan or by negotiating promissory notes or prescribed bills of exchange amounts that, if added to the amount owing as at the last day of the next preceding month by the credit society in respect of all loans made to it and all promissory notes and prescribed bills of exchange negotiated by it pursuant to this section, would produce an amount greater than 10 per centum (or such other percentage as is prescribed) of the sum of—

- (a) the share capital of the credit society;
- (b) the amount held on deposit by the credit society; and
- (c) where the Registrar so approves in writing, the amount or a part thereof held in reserve by the credit society,

as at that day.

(5) Notwithstanding the provisions of subsection (4), a credit society may, with the written approval of the Registrar first obtained, raise moneys on loan or by negotiating promissory notes or prescribed bills of exchange of an amount in excess of the amount prescribed by or for the purpose of that subsection—

- (a) where the period of 4 years next succeeding the day on which the credit society was first registered—
 - (i) in the case of a credit society to which section 19 (1) applies—as a credit union under *The Co-operative and Other Societies Act of 1967*; or
 - (ii) in the case of any other credit society—under section 9 of this Act, has not expired; or
- (b) where the Registrar is satisfied—
 - (i) that the membership of the credit society has not reached its potential and the credit society requires to raise the moneys for the purpose of increasing its membership;
 - (ii) that the credit society requires to raise the moneys following the extension of the class or classes of persons eligible to borrow;
 - (iii) that the credit society desires to raise the moneys to enable the acquisition of real property necessary for the purpose of providing business or office accommodation for the credit society; or
 - (iv) that the moneys to be raised on loan or by negotiating promissory notes or prescribed bills of exchange are to be used for the purpose of repaying share capital or deposits.

(6) Where the Registrar grants an approval for the purposes of subsection (5), he may, in granting the approval, impose such terms

and conditions to be complied with by the credit society as he deems appropriate and where default is made in complying with any such terms and conditions the credit society and every officer of the credit society who is in default are each guilty of an offence.

Penalty: \$1 000 or imprisonment for 3 months, or both.

(7) A registered body shall not accept money on deposit unless the deposit is received upon terms that not less than one month's notice may be required by the board before repayment.

(8) Any member or other person who lends or pays money to or deposits money with a registered body shall not be bound to see to the application thereof or be in any way affected or prejudiced by the fact that the registered body in borrowing or raising such money or receiving such deposit has contravened any provision of this Act or of its rules.

(9) Nothing in this section shall affect the validity of any deposits with or loans to a registered body made before the commencement of this section but any redepositing or relending of the moneys in question shall be made only in conformity with this section.

(10) A registered body shall not issue to the public, offer to the public for subscription or purchase, or invite the public to subscribe for or purchase, any debenture.

39. Application of Companies (Queensland) Code in relation to charges by registered bodies, etc. (1) The provisions of Division 9 of Part IV of the *Companies (Queensland) Code* shall, *mutatis mutandis*, and with such modifications (if any) as may be prescribed, extend to any charge created by a registered body or a foreign credit society registered under Part X.

(2) For the purposes of the extension of provisions specified in subsection (1)—

- (a) a reference in any of those provisions to the Commission shall be construed as a reference to the Registrar under this Act;
- (b) a reference in any of those provisions to a company shall be construed as a reference to a registered body; and
- (c) a reference in any of those provisions to a registered foreign company shall be construed as a reference to a foreign credit society registered under Part X.

40 Contracts, authorization of documents. (1) Contracts on behalf of a registered body may be made, varied or discharged as is provided in this section.

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

(3) Any contract which, if made between natural persons, would by law be required to be in writing and signed by the parties to be

charged therewith may be made in the name and on behalf of a registered body in writing signed by any person acting under its express or implied authority and the contract may be varied or discharged in the same manner.

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

(5) Any contract made according to the provisions of this section is effectual in law and binds the registered body and its successors and all other parties to the contract.

(6) A document or proceeding requiring authentication by a registered body may be signed by an authorized officer of the registered body and need not be under its common seal.

(7) A registered body may, by writing under its common seal, empower any person, either generally or in respect of any specified matters, as its agent or attorney to execute deeds on its behalf and a deed signed by such agent or attorney on behalf of the registered body and under his seal or, subject to subsections (8) and (9), under the appropriate official seal of the registered body shall bind the registered body and have the same effect as if it were under its common seal.

(8) The authority of an agent or attorney empowered pursuant to subsection (7) shall, as between the registered body and any person dealing with him, continue during the period (if any) mentioned in the instrument conferring the authority, or if no period is so mentioned, until notice of the revocation or determination of his authority has been given to the person dealing with him.

(9) A registered body whose objects require or comprise the transaction of business outside the State may, if authorized by its rules, have for use outside the State an official seal, which shall be a facsimile of the common seal of the registered body with the addition on its face of the name of every place where it is to be used and the person affixing any such official seal shall, in writing under his hand, certify on the instrument to which it is affixed the date on which and the place at which it is affixed.

41. Agency contracts, etc. (1) A registered body shall not enter into a contract or arrangement whereby administrative, technical or financial services or other services are to be provided—

- (a) to the registered body by a person who, in providing the services, is acting otherwise than as an officer of the registered body;
- (b) to the members or depositors of the registered body by a person other than the registered body; or

- (c) by the registered body to persons other than its members or depositors,

unless—

- (d) the services in question have, or are of a type that have, been approved by Order in Council; and
- (e) the registered body has received the approval of the Registrar in writing so to do.

(2) The approval of the Registrar under subsection (1) (e) may be given subject to such conditions as are prescribed or, if none are prescribed, as he thinks fit.

(3) A registered body that fails to comply with the conditions of an approval under subsection (1) (e) commits an offence.

(4) Where the Registrar refuses to approve the entering into of a contract or arrangement under subsection (1) the registered body concerned may make representations to the Minister with respect to the refusal and the Minister may direct the Registrar to approve of the contract or arrangement.

(5) The Registrar shall comply with the direction of the Minister given under subsection (4).

(6) To the extent that a contract or arrangement referred to in subsection (1) is a management contract within the meaning of section 37, that section shall, where it has commenced, apply to and in respect of the contract or arrangement to the exclusion of the foregoing provisions of this section.

42. Power to join certain organizations. (1) A registered body may join or become a member of an organization, by whatever name it is constituted and whether a corporation or not, that has been created for the purpose of assisting—

- (a) registered bodies;
- (b) corporations incorporated in another State or in a Territory that have the same or similar objects as registered bodies; or
- (c) registered bodies and corporations referred to in paragraph (b),

to carry on their respective business activities.

(2) A registered body shall not join or become a member of an organization referred to in subsection (1) if by reason of such joining or becoming it will be required to pay moneys to the organization or invest any of its funds in the shares or other capital of or in making a loan to the organization unless—

- (a) the organization is, or is of a class that is, approved by Order in Council; and
- (b) the written approval of the Registrar, which may be given subject to such conditions as he thinks fit, is first obtained.

(3) A contract or arrangement pursuant to which a registered body joins or becomes a member of an organization in contravention of subsection (2) is void.

(4) A registered body that fails to comply with the conditions of an approval given under subsection (2) (b) commits an offence.

(5) Where the Registrar refuses his approval under subsection (2) (b) the registered body concerned may make representations to the Minister who may direct the Registrar to give his approval.

(6) The Registrar shall comply with a direction of the Minister given under subsection (4).

(7) Where, at the commencement of this section, a registered body is part or a member of an organization referred to in subsection (1) pursuant to a contract or arrangement it shall furnish a copy or, where it is not in writing, complete details, of the contract or arrangement to the Registrar.

Penalty: \$5 000.

(8) Where, at the commencement of this section, a registered body is part or a member of an organization referred to in subsection (1) pursuant to a contract or arrangement which, if entered into after that time would, pursuant to subsection (3), be void, that contract or arrangement shall, notwithstanding any of its provisions to the contrary, be deemed to be terminated from the expiration of the period of 6 months next after that time unless the written approval of the Registrar has been obtained in respect of that contract or arrangement before the expiration of that period.

(9) Where under a contract or arrangement referred to in subsection (8) any money has become due and payable by or to a registered body before the contract or arrangement is deemed to have been terminated by that subsection, that money may, to the extent that it might have been recoverable apart from that termination, be recovered in proceedings in a court of competent jurisdiction.

(10) A registered body shall not carry on business in accordance with a contract or arrangement that is deemed to have been terminated by subsection (8).

Penalty: \$5 000.

(11) The Registrar may in a particular case extend or further extend the period of 6 months referred to in subsection (8) and, where he does so, a reference in that subsection to that period shall be taken to be a reference to that period as so extended or further extended, as the case may be.

PART IV—MEMBERSHIP AND CAPITAL

Division 1—Members

43. Membership—general. (1) The members of a credit society formed under this Act shall be those persons who sign an application for membership and shares on the formation of the credit society and any other persons who are admitted to membership in accordance with the rules of the credit society.

(2) The members of an association formed under this Act shall be the credit societies or associations by which the association is formed, and any other credit societies or associations that are admitted to membership in accordance with the rules of the association.

(3) The members of a credit society or of an association that, immediately before the commencement of this Part, was registered as a society under *The Co-operative and Other Societies Act of 1967* or any corresponding previous enactment shall be the persons who or, as the case may be, the credit societies (by whatever name called) that, immediately before that commencement, were members of the society and any persons who or, as the case may be, credit societies that are admitted to membership in accordance with its rules after that commencement.

(4) No rights of membership of a registered body shall be exercised by any person unless or until the person has made such payments to the registered body in respect of membership and has acquired such shares as are provided by the rules of the registered body to be made or acquired by a person before exercising the rights of membership.

44. Delegation—admission of members. (1) Where the rules of a credit society so provide, the board may, by instrument in writing, delegate any or all of its powers to admit persons to membership of the credit society to any officer of the credit society.

(2) The exercise of any delegation under this section shall be subject to and in accordance with such limits and conditions as may be specified in the instrument of delegation and such conditions as may be prescribed.

(3) Notwithstanding any delegation made under this section the board may continue to exercise or perform all or any of the powers so delegated.

(4) Any act or thing done or suffered by the delegate when acting in the exercise of any delegation under this section and within the terms of the delegation, shall be as effective as if the act or thing had been done or suffered by the board.

(5) A refusal of an application for admission of a person to membership of the credit society in the exercise of any delegation under subsection (1) does not preclude a reconsideration of the application by the board upon a request by the applicant that the application be referred to the board.

(6) The board may, by instrument in writing, revoke wholly or in part any delegation made under subsection (1).

45. Body corporate as member. (1) Subject to this section, where a body corporate is a member of a credit society it may by instrument in writing appoint a person being a natural person to represent it in respect of the shares held by it.

-
- (2) A person appointed pursuant to subsection (1)—
- (a) shall be entitled to receive all notices in the same manner as the members of the credit society are so entitled; and
 - (b) shall be entitled to exercise the same rights of voting as a member in respect of the shares held by the body corporate as he would have as a natural person who as a member held those shares; and
 - (c) shall be eligible to be elected to the board of the credit society if the body corporate holds such qualifications other than those relating to age and being a natural person as may be requisite for holding office as a director.

46. Nominated members. (1) A credit society that is a member of an association of credit societies may, by instrument in writing, appoint such number of its members as may be provided for in the rules of the association to represent it on the association.

(2) An association that is a member of a union of associations of credit societies may, by instrument in writing, appoint such number of persons as may be provided for in the rules of the union to represent it on the union but no person shall be appointed under this subsection unless he is a member of a credit society that is a member of the association.

(3) Where—

- (a) a person is appointed under subsection (1) to represent a credit society; or
- (b) a person is appointed under subsection (2) to represent an association,

the person so appointed shall, during the continuance of his appointment, be deemed—

- (c) to be a member of the association of credit societies or, as the case may require, union of associations of credit societies in relation to which he has been so appointed as a representative; and
- (d) to be the holder of the shares held by the body by whom he was appointed a representative under this section in the body in relation to which he was so appointed for all purposes except—
 - (i) liability in respect of the shares;
 - (ii) the exercise of any power to transfer the shares;
 - (iii) the receipt of dividends in respect of the shares.

47. Minors as members. (1) Subject to this section, unless otherwise provided by the rules, a person under the age of 18 years may be a member of a credit society and may, to the extent required by reason of his membership, execute all instruments and give all necessary acquittances, and such instruments and acquittances shall be as binding and sufficient in law for all purposes as if he had been of the age of 18

years at the time he executed the instruments or gave the acquittances in question.

(2) Where a member of a credit society under the age of 18 years who is married borrows money from the credit society, he shall, in respect of his agreement to repay the loan and in respect of any security for repayment of the loan given by him to the credit society, be subject to the same liabilities and obligations as he would have been subject to and shall have the same rights as he would have had if he had been of the age of 18 years at the time the loan was made.

(3) Any guarantee or surety by any person in respect of a loan to which subsection (2) relates shall be as binding and effectual as if the person who borrowed the money had been of the age of 18 years when the guarantee or surety was given or entered into.

(4) A person under the age of 18 years is not eligible to hold office in a credit society or an association.

48. Power to impose fines for breach of rules. A credit society may impose a fine not exceeding \$20 or such other amount as may be prescribed on a member for an infringement by the member of its rules but no fine exceeding \$10 or such other amount as may be prescribed shall be imposed until written notice of intention to impose the fine and of the reason for its imposition has been given to the member and he has had an opportunity of appearing before the board 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.

49. Cessation of membership. The rules of a registered body shall specify the circumstances, including, in the case of a credit society, those relating to bankruptcy and death, in which membership thereof shall cease.

50. Expulsion of member. (1) Subject to this section, where a member has been expelled from a registered body in accordance with its rules, it shall repay to the member the amount paid up on the shares held by him or it at the date of his or its expulsion, less any amount owing by the member to the registered body under the rules or any contract or otherwise.

(2) Where the balance sheet of the registered body last made out pursuant to section 98 (2) before the date of expulsion of any member discloses a loss or deficiency, there may be deducted from any amount due in respect of shares held by him or it at the date of his or its expulsion, an amount that bears to the amount of the loss or deficiency the same proportion as the number of shares held by him or it bore to the total number of shares held by all members as at the date of the members expulsion.

Division 2—Share Capital

51. Share capital. (1) The capital of a registered body shall vary in amount according to the nominal value of shares from time to time subscribed.

(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 and no share shall be issued at a discount or at a premium.

(4) A share shall not be allotted unless the full nominal value thereof has been paid.

(5) A share may not be sold or transferred without the consent of the board.

(6) The shares of a registered body shall not be quoted for sale or purchase at any stock exchange or in any other public manner whatever.

(7) A share of a credit society may be held by 2 or more persons jointly and, where a share is so held—

(a) the joint holder who is named first in the register of members and shares shall be the “primary joint holder” for the purposes of this subsection;

(b) except where the rules of the credit society otherwise provide but without prejudice to the right under this Act of a member of a credit society to obtain from the credit society on demand a copy of the balance sheet, any notice or other document may be given or sent by the credit society to the joint holders by being given or sent to the primary joint holder;

(c) for the purpose of determining—

(i) who is qualified to vote on a resolution at a meeting of the credit society; and

(ii) the number or proportion of any members required to give effect to any provisions of this Act or of the rules, the shares shall be treated as being held by the primary joint holder alone;

(d) the register of members and shares shall indicate if a person is a joint holder; and

(e) the joint holders shall be entitled to choose the order in which they are named in the register of members and shares, but failing any such choice the credit society may enter the names in such order as the board thinks fit.

(8) The liability of a member to a registered body shall be limited to the amount (if any) of any charges payable to it as specified by the rules and any money owing otherwise howsoever by the member to the registered body.

(9) A member of a registered body shall subscribe for such number of shares as is specified by the rules.

52. Restriction on shareholding. A credit society, in issuing its shares, shall issue the same number of shares to each person.

53. Cancellation of shares. (1) A registered body shall cancel any share forfeited to it in accordance with the rules or in respect of which it has repaid to the member the whole of the amount paid up thereon.

(2) If any member entitled in respect of any share in a credit society dies, the credit society may cancel the share and where it does so shall hold an amount equal to the amount that was paid up on the share on behalf of the member's estate.

(3) The amount held by a credit society under subsection (2) may be dealt with in the same manner as a deposit under section 56.

54. Repayment of capital. (1) Subject to the provisions of section 55, a registered body may, with the consent of a member, repay the whole or any part of the amount paid up on any share held by the member at any time.

(2) A registered body shall not approve an application for a loan until all applications for withdrawal of the whole or any part of the amount paid up on any share have been satisfied or are, in the opinion of the board, capable of being satisfied within 30 days of the date of the approval of the loan.

55. Charge and set off. (1) A registered body shall have a charge upon the interest in the capital and on the credit balance of a member or past member and upon any dividend, interest or rebate payable to a member or past member in respect of any debt due from the member or past member to the registered body and may set off any amount paid on account of that interest or otherwise or any amount credited or payable to the member or past member in or towards payment of the debt.

(2) The charge created by this section may be enforced, at any time after 7 days' notice in writing to the member or past member, by the appropriation by the registered body of the capital or interest subject to the charge and any share in respect of which the whole of the capital has been so appropriated shall be cancelled.

56. Deceased members, payment prior to administration or probate.

(1) If any member or other person entitled in respect of any share in, loan to or deposit with a credit society dies intestate, the credit society may, upon such evidence as it deems sufficient and subject to subsection (4), pay the money or transfer the shares to any person who appears to the credit society to be entitled to obtain a grant of letters of administration of the estate of the deceased and that person shall hold the money or shares on the same trusts as if he had obtained such a grant.

(2) If any member or other person entitled as specified in subsection (1) dies testate, the credit society may, upon such evidence as it deems sufficient and subject to subsection (4), pay the money or transfer the shares to the person appearing to the credit society to be entitled thereto under the will of the deceased member or other person.

(3) The provisions of this section shall, subject to subsection (4), extend to any surplus arising on the sale by a credit society as mortgagee of any property mortgaged by the deceased member to the credit society or by a credit society exercising as a transferee the powers of a mortgagee of any property mortgaged by the deceased to a credit society.

(4) The provisions of subsection (1), (2) or (3) do not authorise a payment or a transfer of any assets of a deceased member or other person the total value of which, together with the total value of any other assets of that deceased member or other person already paid or transferred under any of those subsections, exceeds the amount of \$10 000 or, where some other amount is prescribed, that other amount.

(5) Any payment or transfer made by the credit society in accordance with the provisions of this section shall be valid and effectual against any demand made upon the credit society by any other person but that person may have recourse against the person to whom the money was paid or the shares transferred by the credit society.

(6) No payment or transfer pursuant to this section shall be made after evidence has been produced to the credit society that letters of administration of the estate or probate of the will of the deceased member or other person have or has been granted.

Division 3—Funds

57. Investment of funds. (1) Without in any way limiting the operation of subsection (7) or section 58 and subject to its having obtained the written approval of the Registrar so to do, a registered body may invest any of its funds—

- (a) in the shares or other capital of or in making a secured loan to a corporation that is not a registered body;
- or
- (b) by depositing them with or in making a loan to another registered body.

(2) The Registrar shall not approve of an investment under subsection (1) (a) and the Minister shall not direct him to approve of any such investment unless—

- (a) the business of the corporation concerned is primarily that of providing special services to the registered body or to bodies with the same or similar objects as those of the registered body in the furtherance of its or their objects; and
- (b) the corporation is or is of a class that is sanctioned by an Order in Council made for the purposes of this subsection on the recommendation of the Minister.

(3) Where the Registrar refuses to approve of an investment to which subsection (1) (a) applies, the registered body concerned may make representations to the Minister who may direct the Registrar to approve the investment.

(4) The Registrar shall comply with a direction of the Minister given under subsection (3).

(5) A sanction referred to in subsection (2) (b) may relate to one or more registered bodies or to each registered body included in a class of registered bodies, identified in the Order in Council and to one or more corporations or to each corporation included in a class of corporations, identified in the Order in Council and shall be subject to such conditions (if any) as are specified in the Order in Council.

(6) Subsection (1) (b) shall not be construed as requiring the consent of the Registrar before an association invests any of its funds in a secured loan to any of its members.

(7) A registered body may invest any of its funds not immediately required for any of its objects or for purposes incidental thereto—

- (a) in any securities authorized by law for the investment of trust funds but subject to the limitations, restrictions and stipulations (if any) prescribed by law with respect to such investments;
- (b) in or on the security of authorized bills of exchange;
- (c) on deposit with or in a loan to an association of which the registered body is a member;
- (d) in either or both of the following, namely—
 - (i) on deposit in any bank;
 - (ii) on the security of a certificate of deposit issued by any bank;
- (e) with any dealer in the short term money market approved by the Reserve Bank of Australia as an authorized dealer, who has established lines of credit with that bank as a lender of last resort;
- (f) in the shares of or on deposit with a permanent building society within the meaning of the *Building Societies Act 1985*;
- (g) in a loan to the Guarantee Fund Committee;
- (h) in any other manner from time to time prescribed.

(8) Nothing in this section shall affect the validity of any investments of its funds made before the commencement of this Part by a credit society or an association that immediately before that commencement was registered as a society under *The Co-operative and Other Societies Act of 1967*.

(9) A registered body may invest its funds as authorized by this section or section 58 notwithstanding anything to the contrary contained in its rules.

(10) In this section “authorized bill of exchange” means a bill of exchange which is payable on demand or not more than 200 days from the date on which it is acquired by the registered body and which if bought for value by it would give it as holder in due course a right of

recourse against a bank for an amount equal to the face value of the bill.

58. Purchase of mortgage debts. (1) A credit society may invest any of its funds not immediately required for any of its objects or for purposes incidental thereto in the purchase of mortgage debts from—

- (a) another credit society;
- (b) a person approved by the Minister under section 59 where the debts were assigned to that person by a credit society pursuant to that section and where the purchasing credit society is satisfied that the mortgagors have satisfied their obligations under their respective mortgages for a period of at least 6 months prior to the date of purchase.

(2) It is lawful for a credit society that purchases mortgage debts from another credit society pursuant to subsection (1) (a) to charge and recover from that other credit society a fee fixed by the purchasing credit society to cover the cost of processing the purchase and assignment of those debts, such fee not to exceed 0.75 per centum of the amount of the mortgage debts and in addition to charge and recover from that other credit society, costs, fees and charges—

- (a) paid or payable by the purchasing credit society in respect of the preparation by a solicitor or conveyancer in private practice of documents properly evidencing or securing the assignment of the mortgage debts;
- (b) paid or payable by the purchasing credit society in respect of stamp duty or registration fees payable under any Act in respect of the assignment of the mortgage debts,

but it shall not be lawful for a credit society, directly or indirectly, to seek, accept, demand or receive any commission, fee, bonus or reward for or in connexion with any payment as specified in paragraph (a) from the person to whom such a payment has been made or is payable.

(3) For the purpose of subsection (1) (a) it is hereby declared that—

- (a) on the assignment of the mortgage debt the mortgagor shall be deemed to be a member of the credit society that purchased the mortgage debt;
- (b) the mortgagor shall be subject to and comply with the rules of the purchasing credit society in substitution for the rules of the credit society to which he was subject prior to the assignment of the mortgage debt;
- (c) the mortgagor shall be admitted as a member of the purchasing credit society without complying with the rules for admission as a member of that credit society and without any expense to the mortgagor;
- (d) there shall be issued to the mortgagor by the purchasing credit society the number of shares in that society that a

member thereof is required by its rules to hold, without any expense to the mortgagor;

- (e) the mortgagor may, within the period of 3 months after the assignment of the mortgage debt, elect by notice in writing served on the purchasing credit society not to continue as a member of that credit society, whereupon the mortgagor is required to discharge in full his mortgage debt to that credit society in accordance with the rules of the credit society from which the mortgage debt was purchased as if those rules were the rules of the purchasing credit society and the terms and conditions of the instrument of mortgage within the period of one month from the date of election;
- (f) if the mortgagor having elected pursuant to paragraph (e) fails to discharge his mortgage debt within the time limited by that paragraph he shall continue as a member of the purchasing credit society and be subject to and comply with its rules.

(4) The provisions of subsection (3) shall apply, *mutatis mutandis* and with such modifications as are necessary, to the purchase of a mortgage debt under subsection (1) (b) and for that purpose subsection (3) shall be deemed to be amended by—

- (a) omitting the expression “subsection (1) (a)” and substituting the expression “subsection (1) (b)”;
- (b) in paragraph (b), omitting all words from and including the words “in substitution for”;
- (c) in paragraph (e), omitting the words “from which the mortgage debt was purchased” and substituting the words “that assigned the mortgage debt to the approved person”.

59. Assignment of mortgage debts. (1) A credit society may, notwithstanding anything to the contrary contained in its rules, assign its mortgage debts—

- (a) to another credit society that wishes to purchase the same;
- (b) to a person approved by the Minister.

(2) An approved person shall have, in relation to a debt assigned to him pursuant to subsection (1) (b), all the authorities and powers had by the credit society as mortgagee or exercisable by its directors under its rules in relation to that debt save that he is not authorized to reduce the term of repayment of the debt without the consent of the mortgagor.

60. Registered body shall not guarantee borrowings. Except as provided for in section 35 (2), a registered body shall not give a guarantee for or provide a security in relation to a loan made to any other person or body of persons (whether corporate or unincorporate).

61. Distribution of profit. (1) Subject to this section and section 70, a registered body may, if authorized by its rules, from the profit arising in any financial year from its business—

- (a) pay to a member a dividend on shares held by him;
- (b) pay to a borrowing member a rebate of interest paid or due by the borrowing member, such rebate being based on the business done during that year by the borrowing member with the registered body.

(2) Payment of any rebate may be made directly to a borrowing member or by crediting the same to the member's savings account or by crediting the same in reduction or repayment of any amount owed to the registered body by the borrowing member.

(3) The rate of dividend to be paid, if any, shall be declared at an annual general meeting of the registered body but shall not exceed the rate recommended by the board.

(4) A dividend or rebate shall not bear interest against the registered body.

(5) Subject to section 70, where the rules of a registered body—

- (a) authorise the application for any charitable purpose or for promoting the credit society movement or any community advancement of a part of the profit arising in any financial year from the business of the registered body; and
- (b) limit the amount that may be so applied to a specified proportion of that profit,

the registered body may apply a part of that profit that does not exceed the specified proportion accordingly for any such authorized purpose.

(6) Nothing in this section precludes the payment of a bonus to an employee of a registered body in accordance with the terms of his employment.

62. Bonding of officers and other insurances. (1) No officer or other person shall be employed, engaged or authorized by a registered body to have the receipt or charge of money of the registered body unless security as prescribed for rendering a just and true account of all money received and paid by such officer or person for the registered body and for payment of all money due from him to the registered body has first been obtained.

(2) Subject to subsection (3) every registered body shall insure and keep insured to an adequate extent against all risks properly insurable against in accordance with good and prudent management, all real and personal property vested in the registered body.

(3) Every registered body may insure and keep insured to an adequate extent loans to members and loans and deposits with persons or bodies against the non-repayment of the same but nothing in subsection (2) requires it so to do.

(4) Every registered body shall insure itself and keep itself insured to an adequate extent against all liabilities properly insurable against which may arise through injury to any person or damage to any property caused during the course of the conduct of its business.

Division 4—Unclaimed Moneys

63. Dormant accounts. (1) Subject to this section a credit society may classify an account of a member or other person in which there have been no transactions for a period of 2 years as a dormant account.

(2) Before an account is classified as a dormant account, the credit society shall give to the member or, as the case may be, other person notice of intention to declare the account dormant and of the subsequent action proposed by the credit society. Such notice shall be given by—

- (a) certified post to the member's or, as the case may be, other person's last known address; and
- (b) where the balance in the dormant account exceeds the prescribed amount, publishing it in a newspaper circulating generally throughout the State.

(3) Unless within one month after the posting of the letter or publication of the advertisement in accordance with subsection (2), whichever is the later—

- (a) in the case of a member, the member gives notice in writing to the credit society of his desire to remain a member, the credit society may, subject to the provisions of this section—
 - (i) cancel the membership of the member; and
 - (ii) transfer the share capital and funds of the member to a special account established for this purpose;
- (b) in the case of a person other than a member, the person gives notice in writing to the credit society of his desire to retain the account, the credit society may, subject to the provisions of this section, transfer the funds of the person to a special account established for this purpose.

(4) A member whose capital and funds were so transferred and a person other than a member whose funds were so transferred may within 6 years after the date upon which the transfer occurred, claim upon the credit society in respect of the moneys so transferred and if no such claim is made the capital and funds shall be dealt with in accordance with part VIII of the *Public Trustee Act 1978-1981*.

(5) A credit society is, upon payment to the Public Trustee of an amount as required by this section, discharged from further liability in respect of that amount.

Division 5—Loans

64. Loans to members. (1) Except as otherwise provided in this Act, a credit society shall not make a loan to or a continuing credit

arrangement with any person except a natural person who is a member of that credit society.

(2) A member desiring a loan or to make a continuing credit arrangement shall make application in writing to the credit society in the manner provided by the rules and such application shall state—

- (a) the amount required and purpose for which it is to be used;
- (b) the term for which the loan or continuing credit arrangement is required; and
- (c) such other particulars as the board or the rules of the credit society may require.

(3) Subject to this Division, the board may approve an application for a loan or a continuing credit arrangement or approve the application in part on such terms as it may deem proper, including the giving of security by way of mortgage or otherwise as the Act or the rules may require or where not so required as it thinks necessary.

(4) The member shall be notified in writing of the board's decision.

(5) If a member wishes to accept the loan or continuing credit arrangement subject to the terms and conditions notified he shall so notify the credit society in writing.

(6) Where a loan or continuing credit arrangement is approved pursuant to this section the credit society shall before any part of the loan or any credit is made available to the member—

- (a) obtain from the member a loan contract or, as the case may be, an agreement with respect to the continuing credit arrangement, duly executed;
- (b) where the loan or continuing credit arrangement was approved subject to the giving of a specified security for repayment, obtain the security that shall, to the satisfaction of the board in the circumstances then obtaining and to the extent required, be adequate to secure repayment together with interest thereon in the event of the realization or enforcement of the security;
- (c) otherwise do all such acts and things as may be necessary to be done to ensure that, if default is made in repayment, the credit society may prosecute proceedings for recovery of the debt and may forthwith proceed to realize upon or enforce any security given.

(7) The board or its delegate shall not approve an application for a loan or a continuing credit arrangement unless it or, as the case may be, he is then of the opinion in the light of information available after due inquiry that the member has, and it is more likely than not will continue to have, an income or other financial resources sufficient to provide for the repayment of that indebtedness and the servicing of the loan or continuing credit arrangement.

(8) A member of a credit society may, notwithstanding any terms and conditions specified in the rules of the credit society or any

agreement entered into or instrument executed by him, repay the whole or any part of the principal and the interest due in respect of his indebtedness before it is due to be repaid and notwithstanding anything in the rules of the credit society or the provisions of a security given to the credit society by a member to the contrary, no additional fee or interest by way of penalty in the event of the early discharge of his indebtedness under the loan or arrangement shall be charged or recovered by the credit society from the member unless—

- (a) the additional fee or interest does, or the additional fee and interest do, not exceed 0.5 per centum of the portion of the indebtedness discharged before it falls due; and
- (b) the indebtedness is discharged within one year of the date of the approval by the board or its delegate of the loan or, as the case may be, continuing credit arrangement.

(9) Subject to subsection (1) and its rules, a credit society may lend moneys to any of its directors who are members of the credit society in their capacity as members on such terms and conditions as are usual and proper in similar dealings between the credit society and its members.

(10) The amount of every loan to which subsection (9) relates, the terms and conditions thereof and the full name of the person to whom the loan is made shall be reported to the Registrar within 14 days of the making of the loan.

(11) Where the security for a loan made to or continuing credit arrangement made with a member provides that any property covered by the security shall be insured and kept insured by the member against an insurable risk the board shall take all reasonable steps to ensure that the provision is complied with in every respect.

(12) Where the rules of a credit society so provide, the board may, by instrument in writing, delegate any or all of its powers under subsection (3) and all or any of its powers in respect of matters ancillary to the powers conferred under that subsection to any officer of the credit society.

(13) The exercise of any delegation under subsection (12) shall be subject to and in accordance with such limitations and conditions as may be specified in the instrument of delegation and such conditions as may be prescribed.

(14) Notwithstanding any delegation made under subsection (12), the board may continue to exercise all or any of the powers so delegated.

(15) Any act or thing done or suffered by the delegate when acting in the exercise of a delegation under subsection (12) and within the terms of the delegation shall be as effective as if the act or thing had been done or suffered by the board.

(16) A refusal of an application for a loan or a continuing credit arrangement, wholly or in part, in the exercise of a delegation under subsection (12) does not preclude a reconsideration of the application

by the board upon a request by the applicant that the application be referred to the board.

(17) The board may, by instrument in writing, revoke wholly or in part any delegation under subsection (12).

65. Loan Limits. (1) The maximum amount that may be lent or advanced or lent and advanced by a credit society to a member is—

(a) \$10 000; or

(b) one per centum of the withdrawable funds of the credit society as at the end of the next preceding month,

whichever is the greater.

(2) A credit society shall not make a loan or advance or loan and advance jointly to 2 or more members if the amount of that loan or advance or loan and advance would exceed an amount that would, if each of those members had applied individually for a loan or advance or loan and advance, be the sum of the amounts of the loans or advances or loans and advances which could have been made to each of those members.

(3) In this section—

“advanced” means advanced pursuant to a continuing credit arrangement and “advance” has a corresponding meaning;

“withdrawable funds” means the aggregate of—

(a) the share capital of the credit society;

(b) the amount held on deposit by the credit society and accrued interest thereon; and

(c) the amount outstanding in respect of all loans received by the credit society (other than prescribed loans) and the amount of accrued interest thereon.

66. Interest and charges. (1) A credit society shall not charge any interest in respect of a loan or a continuing credit arrangement approved by it until some part of the loan or some money under the continuing credit arrangement has been actually advanced by it to or on account of the member for a purpose for which the loan or continuing credit arrangement was approved and such interest shall be charged only on money actually advanced by it.

(2) No charges in addition to the rate of interest on his loan or in respect of his continuing credit arrangement other than—

(a) legal expenses in the examining of a title and perfecting the security;

(b) expenses in the obtaining of valuations (if any) incurred by the credit society;

(c) an amount payable under an Act in respect of the loan or arrangement or in respect of documents relating thereto;

(d) expenses relating to protection insurance in respect of the amount of the loan or the amount covered by the arrangement;

(e) an establishment fee that does not exceed three-quarters of one per centum of the amount of the loan or the amount covered by the arrangement; and

(f) such other charges as are prescribed,

shall be payable by the member to the credit society with respect to the making of the loan or arrangement.

67. Default by borrower. (1) The whole of the principal and interest, and any other amount that may lawfully be added thereto, in respect of a loan or a continuing credit arrangement granted by a credit society to a member shall become due and payable forthwith—

- (a) if default is made in repayment of the loan or continuing credit arrangement or payment of the interest thereon or any part thereof;
- (b) if the member attempts to sell or dispose of or in any way part with the possession of any personal property upon which the credit society has in respect of the loan or continuing credit arrangement a lien or charge, without the previous consent in writing of the credit society to the sale, disposal or parting with possession or if the member suffers or permits any such property to be seized or taken in execution;
- (c) if the member fails to insure or to keep insured any property to the extent agreed upon with the credit society;
- (d) if the member becomes an insolvent under administration;
- (e) if default is made in the performance of any undertaking given by the member in the application for the loan or continuing credit arrangement or set out in the terms upon which the loan or continuing credit arrangement is granted;
- (f) if the member has obtained the loan or continuing credit arrangement by fraud or has made an untrue statement in his application for the loan or continuing credit arrangement.

(2) Upon the occurrence of any of the events referred to in subsection (1), the credit society by any person authorized by it, with such assistance as may be required, may at any reasonable time during the day enter into or upon land or premises upon which any property subject to a lien or charge in respect of the loan or continuing credit arrangement in favour of the credit society may be and may seize, remove and sell any such property or any part thereof by public auction or private contract.

(3) A purchaser on a sale pursuant to this section shall not be concerned to inquire whether the sale is authorized by this section or the power is regularly and properly exercised or to see to the application of the purchase money and the title of the purchaser shall not be impeachable on the ground that no case had arisen to authorize the sale or that the power was improperly or irregularly exercised but any person damnified by an unauthorized or improper or irregular exercise of power shall have his remedy in damages against the credit society exercising the power.

(4) The proceeds of a sale pursuant to this section shall be applied in the first place in paying and reimbursing the credit society all such moneys as may be due, owing, and accruing under the terms of the loan or continuing credit arrangement and all costs and expenses that may have been incurred by the credit society in consequence of the

default, neglect, or failure of the member to pay those moneys or any of them.

(5) Any surplus that remains after the proceeds of a sale pursuant to this section have been applied in accordance with subsection (4) shall be payable to the member or other person entitled thereto.

68. Liability of borrower. A member of a credit society shall be liable not only for the payment of the amount of any loan or continuing credit arrangement granted to him by the credit society and interest thereon and any proper charges but also, in a case where he is in default, for the costs of collection of that amount, interest and charges.

Division 6—Liquidity and Reserves

69. Liquidity. (1) Subject to the provisions of this section, a credit society or an association shall not approve the making of loans or, in the case of a credit society, continuing credit arrangements of such amounts that if the total of those amounts was deducted from the amount of its liquid funds as at the next preceding day it would produce an amount that bears to the sum of—

- (a) the share capital of the credit society or, as the case may be, of the association; and
- (b) the amount held by the credit society or, as the case may be, by the association on deposit,

as at that day a proportion less than the prescribed proportion for that credit society or association.

(2) For the purposes of this section—

“liquid funds” means the aggregate of—

- (a) cash at the bank (after allowing for cheques and other bills of exchange drawn but not presented for payment) or in hand;
- (b) investments in securities authorized by law for the investment of trust funds (being authorized investments made in compliance with and subject to the limitations, restrictions and stipulations, if any, prescribed by law with respect to such investments) that become due and are repayable to the credit society or, as the case may be, the association at its option or in any event within 2 years of their acquisition;
- (c) funds on deposit with a bank (including a savings bank);
- (d) funds on deposit with an association of which the depositor is a member;
- (e) shares in or funds on deposit with a permanent building society within the meaning of the *Building Societies Act 1985*;
- (f) funds invested with any dealer in the short term money market referred to in section 57 (7) (e);
- (g) investments in authorized bills of exchange referred to in section 57 (7) (b);
- (h) investments in prescribed securities; and
- (i) money which a corporation approved by the Registrar undertakes to loan to the credit society or association in accordance with an agreement that has also been so approved;

but does not include such funds or investments to the extent—

- (j) of the amount necessary to satisfy any lien or fixed charge on those funds or investments;
- (k) (except where such overdrafts or other borrowings are dealt with in paragraph (j)) of the amount necessary to satisfy bank overdrafts and other borrowings—
 - (i) repayable at call;
 - (ii) repayable within a period of one month; or
 - (iii) which may become repayable within a period of one month;
- (l) in the case of the funds or investments referred to in paragraphs (c), (d) or (e), that they may only be withdrawn on more than 3 months' notice or where some other period of notice is prescribed in respect of all or any of them that period of notice;
- (m) of the amount necessary to satisfy any loan that has been approved and that has not been disbursed from the funds of the credit society or association;
- (n) in the case of a credit society, of the amount necessary to satisfy any continuing credit arrangement that has been approved and has not been disbursed from the funds of the credit society or, where an amount expressed as a percentage of the first mentioned amount is prescribed for the purpose of this paragraph, that amount; or
- (o) where the regulations so provide, that the amount of any of those funds or investments specified by the regulations exceeds an amount prescribed by or calculated as prescribed by the regulations;

“prescribed proportion” means the percentage prescribed for the time being which prescribed percentage may be prescribed differently for credit societies and associations and for different credit societies and different associations and for credit societies and associations belonging to different classes of credit societies and associations.

(3) For the purpose of calculating the amount of liquid funds held by a credit society or by an association, investments referred to in the definition of “liquid funds” in subsection (2) shall be assessed at cost or market value, whichever is the less.

(4) This section shall not, during the period of 3 months next succeeding the commencement of this Division, apply to or in respect of a credit society or an association that, immediately before that commencement, was registered as a society under *The Co-operative and Other Societies Act of 1967*.

(5) Where for any period of one month the proportion that the amount of the liquid funds of a credit society or of an association bears to the sum of the amounts referred to in subsection (1) (a) and (b) is

less than the prescribed proportion then the credit society or, as the case may be, the association shall, within 7 days after the expiration of that period, advise the Registrar in writing of that fact.

70. Reserves. (1) Subject to subsection (4), a credit society shall at the end of each financial year of the credit society transfer to a capital reserve account, out of the profit arising in that financial year from the business of the credit society, not less than the amount required to be transferred under this section.

(2) Subject to subsection (3), the amount required to be transferred to a capital reserve account by a credit society in respect of a financial year of the credit society is—

(a) an amount that is not less than—

(i) where the credit society does not have a capital reserve account, the required amount for that financial year; or

(ii) where the credit society has a capital reserve account but the account is less than the required reserve amount for that financial year—

(A) the required amount for that financial year; or

(B) the amount necessary to increase the capital reserve account to the required reserve amount for that financial year,

whichever is the less; or

(b) subject to subsection (6), an amount that is not less than the amount that would result in the proportion that the capital reserve account for that financial year bears to the withdrawable funds of the credit society at the end of that financial year being not less than the proportion that the capital reserve account in respect of the immediately preceding financial year bore to the withdrawable funds of the immediately preceding financial year,

whichever is the greater.

(3) The amount required to be transferred to a capital reserve account by a credit society in respect of the tenth whole financial year of the credit society first occurring after the credit society is registered or, as the case may be, deemed to have been registered under this Act is—

(a) where the credit society does not have a capital reserve account, the required reserve amount; or

(b) where the credit society has a capital reserve account but the account is less than the required reserve amount for that financial year, the amount necessary to increase the capital reserve account to the required reserve amount for that financial year.

(4) Notwithstanding subsection (1), if a credit society is unable to comply with that subsection in respect of a financial year—

- (a) the credit society shall forthwith notify the Registrar of the reasons for its inability so to comply; and
- (b) the Registrar may, by notice in writing served on the credit society, direct that the transfer required by subsection (1) or such part thereof as is specified in the notice be made by the credit society—
 - (i) from such accounts of the credit society as are specified in the notice; and
 - (ii) within such period as is specified in the notice, being a period of not less than 7 days from the date on which the notice is given to the credit society.

(5) A credit society shall comply with a direction of the Registrar given under subsection (4).

(6) Nothing in this section requires a credit society to transfer to a capital reserve account at the end of a financial year of the credit society an amount that would result in the reserve account exceeding the required reserve amount for that financial year.

(7) Moneys transferred to a capital reserve account of a credit society in pursuance of this section shall not be distributed amongst the members of the credit society except in the event of the winding up of the credit society.

(8) Subject to this section, moneys transferred to a capital reserve account of a credit society in pursuance of this section may at any time be applied for any purpose for which the capital of the credit society may be applied.

(9) If default is made in complying with subsection (1) or (5), the credit society and any officer of the credit society who is in default are each guilty of an offence.

(10) It is a defence to a prosecution for an offence in relation to subsection (1) if the credit society proves—

- (a) that it has notified the Registrar in accordance with subsection (4) (a); and
- (b) that it has not received a notice under subsection (4) (b) or if it has received a notice under subsection (4) (b), that the period specified in the notice has not expired or that the direction contained in the notice has been complied with.

(11) In this section—

“required amount” in relation to a financial year of a credit society, means an amount equal to—

- (a) where a proportion is fixed by Order in Council—that proportion; or
- (b) where no such proportion is so fixed—.3 per centum, of the withdrawable funds of the credit society at the end of that financial year;

“required reserve amount” in relation to a financial year of a credit society, means an amount equal to—

- (a) where a proportion is fixed by Order in Council—that proportion; or
- (b) where no such proportion is so fixed—3 per centum, of the withdrawable funds of the credit society at the end of that financial year;

“withdrawable funds” means the aggregate of—

- (a) the share capital of the credit society; and
- (b) the amount held on deposit by the credit society.

71. Transfer of moneys standing to credit in capital reserve fund established pursuant to s. 48 of the Co-operative and Other Societies Act. (1) Upon the commencement of this Division, a credit society which immediately prior to that commencement was registered as a society under *The Co-operative and Other Societies Act of 1967* and had a capital reserve fund pursuant to section 48 of that Act shall forthwith transfer all moneys standing to credit in that fund to a capital reserve account.

(2) Moneys transferred to a capital reserve account of a credit society in pursuance of this section shall, for the purposes of subsections (7) and (8) of section 70, be deemed to be moneys transferred to the capital reserve account of the credit society in pursuance of that section.

(3) If default is made in complying with subsection (1), the credit society and any officer of the credit society who is in default are each guilty of an offence.

PART V—MANAGEMENT

Division 1—Directors and Officers

72. Board of directors. (1) Subject to this Act and the rules of the registered body, the business and operations of a registered body shall be managed and controlled by the board of directors all of whom shall be natural persons.

(2) Every director acting in the business or operations of the registered body pursuant to this Act and the rules or to a resolution duly passed by the board shall be deemed to be the agent of the registered body for all purposes within its objects.

73. Validity of acts of directors. (1) The acts of a director shall be valid notwithstanding any defect that may afterwards be discovered in his election, appointment or qualification.

(2) Where a person, whose office as director is vacated pursuant to subsection (1) of section 76, purports to do an act as director that act is as valid in relation to a person dealing with the registered body in good faith and for value and without actual knowledge of the matter referred to in that subsection by reason of which the office of the firstmentioned person was vacated as if that office had not been vacated.

74. Election of directors. (1) The directors shall, subject to this Act, be elected or appointed, hold or vacate office or be removed from office in such manner as may be specified in the rules of the registered body.

(2) Subject to subsection (4), an election of directors of a credit society shall be conducted by means of a postal ballot of the members of the credit society.

(3) On receipt of an application from a credit society for his consent, the Minister may by notice in writing served on the credit society consent to the election of its directors being conducted by a means other than that referred to in subsection (2) and where he does so, he shall specify in the notice the manner in which the directors are to be elected.

(4) Where the Minister has given his consent under subsection (3), an election of the directors to which that consent relates shall be conducted by the means and in the manner specified in the notice evidencing that consent.

(5) The consent of the Minister given under subsection (3) shall be of such general or limited application as is specified in the notice evidencing that consent.

(6) The number of directors of a registered body shall not be less than 5.

(7) A director shall not be removed from or required to vacate his office by any resolution, request or notice of the directors or any of them, notwithstanding anything to the contrary in the rules of the registered body.

(8) At a meeting of an association a motion for the election or appointment of 2 or more persons as directors by a single resolution shall not be moved unless a resolution that it be moved has first been agreed to by the meeting without any vote being given against it.

(9) A resolution passed pursuant to a motion moved in contravention of subsection (8) is void, whether or not its being so moved was objected to at the time, and where such a resolution moved in contravention of subsection (8) is passed any provision for the automatic re-election or re-appointment of retiring directors in default of another election shall not apply.

(10) For the purposes of subsection (8), a motion for approving a person's election or for nominating a person for election shall be treated as a motion for his election.

(11) Nothing in subsection (8) or (9) shall prevent the election of 2 or more directors by ballot or poll.

(12) The rules of a credit society may provide that where the principal executive officer of the credit society is nominated by a majority of its directors he may stand for election and be elected as a director of the credit society.

(13) A director who is the principal executive officer of the credit society shall not be eligible to be elected as chairman of the board of that credit society.

(14) A person whose usual place of residence is outside the State shall not be elected or appointed a director of a registered body if, on his election or appointment as such, a majority of the directors of the registered body would not be resident in the State.

(15) A person shall not, after the commencement of this Part, be elected or appointed a director of a registered body for an indefinite term or for a term exceeding 5 years and where, immediately prior to the commencement of this Part, a person held office as a director for life, for an indefinite term or for a term not due to expire before the expiration of 5 years after the date of that commencement, the term of office of that person as a director shall, unless sooner determined, determine at the expiration of the period of 5 years immediately following the date of that commencement.

75. Qualifications of directors. (1) A person is not qualified to be a director of a registered body unless he has attained the age of 18 years and—

- (a) in the case of a credit society, at the time of election or appointment he is a member of the credit society or an accredited appointee under section 45 of a body corporate that is a member of the credit society; or
- (b) in the case of an association, at the time of election or appointment he is an accredited appointee under section 46 of a credit society or of an association that is a member of the association and, where the rules make provision in that respect, the holder of not less than the minimum number of shares specified by the rules of the association as the shareholding qualification requisite for the holding of office as a director.

(2) Except as provided in section 83, a person who, if he were a director, would be required under section 76 to vacate his office is not qualified to be a director of a registered body.

76. Vacation of office. (1) A director of a registered body vacates his office in such circumstances, if any, as may be prescribed by its rules and in any of the following circumstances, that is to say—

- (a) if he becomes an insolvent under administration;
- (b) if he is admitted into and detained in a hospital, as a patient or otherwise, for treatment for mental illness pursuant to the *Mental Health Services Act 1974-1984* or becomes a protected person within the meaning of Part VI of the *Public Trustee Act 1978-1981*;
- (c) if he is convicted of an offence referred to in section 83 (2);

- (d) if he absents himself from 3 consecutive ordinary meetings of the board of which due notice has been given to him without the prior leave of the Board;
- (e) in the case of a credit society, if within 2 months after any money becomes due from him to the credit society he does not pay the same;
- (f) if he ceases to be qualified as provided by section 75 (1);
- (g) if he resigns in writing, whereupon such vacation has effect upon the day of receipt by the registered body of the resignation in writing sent or given by the director or, where some date subsequent thereto is specified for that purpose in the resignation, that later date;
- (h) if he is removed from office by resolution of a general meeting of the registered body;
- (i) if he, his partner, a person in his employment or his employer acts as accountant (otherwise than as accountant exclusively to the registered body) solicitor, valuer or auditor to the registered body;
- (j) if he is or becomes an employee of the registered body (other than, in the case of a credit society, the principal executive officer who is a director in accordance with section 74 (8));
- (k) if, having been elected as a director in accordance with section 74 (8), he ceases to be the principal executive officer of the credit society;
- (l) if he becomes subject to an order made under section 84 of this Act or an order made under section 227A or 562 of the *Companies (Queensland) Code* or under the law of another State or of a Territory that corresponds to section 227A or 562 of that Code;
- (m) if he is removed from office pursuant to section 146 (7);
- (n) if he dies.

(2) Subject to this Act any vacancy occurring on the board shall be filled as soon as practicable as provided for by the rules of the registered body.

(3) In this section, "employee", in relation to a registered body includes a person, or an employee of a person, who provides that registered body with services in pursuance of a management contract within the meaning of section 37.

77. Disclosure of interest. (1) Subject to this section, a director of a registered body who is in any way, whether directly or indirectly, interested in a contract or proposed contract (which expression, in the case of a credit society, shall not include loans to directors in pursuance of section 64 (9)) with the registered body shall, as soon as practicable after the relevant facts have come to his knowledge, declare the nature of his interest to the board in accordance with this section.

Penalty: \$1 000 or imprisonment for 3 months, or both.

(2) The requirements of subsection (1) do not apply in any case where the interest of a director of a registered body consists only of being a member or creditor of a corporation that is interested in a contract or proposed contract with the registered body if the interest of the director may properly be regarded as not being a material interest.

(3) In the case of a proposed contract, the declaration required by this section to be made by a director shall be made—

- (a) at the meeting of the board at which the question of entering into the contract is first taken into consideration;
- (b) if the director was not present at the meeting referred to in paragraph (a), at the next meeting of the board held thereafter; or
- (c) if the director was not at the date of the meeting referred to in paragraph (a) interested in the proposed contract, at the next meeting of the board held after he becomes interested in the proposed contract,

as the case may require.

(4) Where the director becomes interested in a contract with the registered body after it is made, the declaration required by this section shall be made at the first meeting of the directors held after he becomes interested in the contract.

(5) For the purposes of this section, a general notice in writing given to all the other directors by a director to the effect that he is an officer or member of a specified corporation or a member of a specified firm and is to be regarded as interested in any contract which may, after the date of the notice, be made with that corporation or firm, shall be deemed to be a sufficient declaration of interest in relation to any contract so made or proposed to be made if—

- (a) the notice states the nature and extent of the interest of the director in the corporation or firm;
- (b) when the question of confirming or entering into the contract is first taken into consideration, the extent of his interest in the corporation or firm is not greater than is stated in the notice; and
- (c) the notice is given at a meeting of the directors or the director takes reasonable steps to ensure that it is brought up and read at the next meeting of the directors after it is given.

(6) A director of a registered body who holds any office or possesses any property whereby, directly or indirectly, duties or interests might be created in conflict with his duties or interests as director, shall, in accordance with subsection (7), declare at a meeting of the board of the registered body the fact and the nature, character and extent of the conflict.

Penalty: \$1 000 or imprisonment for 3 months, or both.

(7) A declaration in pursuance of the requirements of subsection (6) shall be made at the first meeting of the board held—

(a) after he becomes a director; or

(b) if already a director, after he commenced to hold the office or to possess the property,

as the case requires.

(8) Without prejudice to the power of a credit society in pursuance of section 64 (9) to make loans to a director who is a member nothing in this section shall be taken to prejudice the operation of any rule of law restricting directors of a registered body from having any interest in contracts with the registered body or affecting the obligations of a director to account for any profit arising from any such contract or from holding offices or possessing properties involving duties or interests in conflict with his duties or interests as a director.

(9) The secretary of a registered body shall record every declaration made under this section in the minutes of the meeting at which it is made.

(10) The directors of a registered body shall report any declaration made under this section to the Registrar forthwith.

78. Secretary. (1) A registered body shall have a secretary.

(2) The secretary of a registered body shall be appointed by the board.

(3) A person is not capable of being a secretary of a registered body unless the person is a natural person and has attained the age of 18 years.

(4) The secretary of a registered body shall be a person who ordinarily resides in the State.

(5) If the office of secretary is vacant or for any other reason the secretary is not capable of acting, any act or thing required or authorized to be done by or in relation to the secretary may be done by or in relation to any assistant or deputy secretary or, if there is no assistant or deputy secretary or no assistant or deputy secretary is capable of acting, by or in relation to any officer of the registered body authorized by the directors to act as secretary either generally or in relation to the doing of that act or thing.

(6) A provision of this Act or the rules requiring or authorizing any act or thing to be done by or in relation to a director and the secretary is not satisfied by its being done by or in relation to the same person acting both as director and as, or in place of, the secretary.

(7) If default is made in complying with any provision of this section, the registered body and any officer of the registered body who is in default are each guilty of an offence.

79. Provisions indemnifying directors or officers. (1) Any provision, whether contained in the rules of or in a contract with a registered body

or otherwise, for exempting any officer of the registered body from, or indemnifying him against, any liability which by law would otherwise attach to him in respect of any negligence, default, breach of duty or breach of trust of which he may be guilty in relation to the registered body is void.

(2) Notwithstanding anything in this section, a registered body may, pursuant to its rules or otherwise, indemnify an officer against any liability incurred by him in defending any proceedings, whether civil or criminal, in which judgment is given in his favour or in which he is acquitted or in connexion with any application in relation to any such proceedings in which relief is, under this Act, granted to him by the Court.

(3) Subsection (1) does not apply in relation to a contract of insurance not being a contract of insurance the premiums in respect of which are paid by the registered body.

(4) For the purposes of this section, "officer", in relation to a registered body means—

- (a) a director, secretary, executive officer, treasurer, employee or administrator of the registered body or any other person empowered under its rules to give directions or instructions in regard to the conduct of its business;
- (b) a receiver or receiver and manager of the property or any part of the property of the registered body;
- (c) a liquidator of the registered body.

80. Remuneration of directors. (1) No director of a registered body shall be paid any remuneration for his services as a director other than such fees, salary or other monetary consideration, concessions and other benefits as may be approved at a general meeting of the registered body.

(2) Notwithstanding subsection (1), a director may be paid all travelling and other expenses properly incurred by him in attending and returning from meetings of the directors or any committee of the directors or general meetings of the registered body or otherwise in connexion with its business.

81. Chairman. Subject to this Act, the chairman of the board of a registered body shall be elected in accordance with its rules and shall hold office and retire and may be removed from office as set out in those rules.

82. Meetings of the board, quorum. (1) Meetings of the board of a registered body shall be held as often as may be necessary for properly conducting its business and operations, and shall be held at least—

- (a) in the case of a credit society, calendar monthly;
- (b) in the case of an association, every 2 calendar months.

(2) A director shall not vote at a meeting of the board or exercise any delegated power of the board upon any question in which he or

any body corporate of which he is an appointee has any direct or indirect pecuniary interest other than an interest common to all members of the registered body and if he does so vote his vote shall not be counted.

(3) A quorum of a meeting of a board shall be as specified in the rules of the registered body, but shall not in any case be less than half the number of directors.

83. Certain persons not to manage registered bodies. (1) A person who is an insolvent under administration shall not act as a director or, directly or indirectly, take part in or be concerned in the management of a registered body except with leave of the Court.

Penalty: \$5 000 or imprisonment for 1 year, or both.

(2) Where a person is convicted whether within or without the State—

- (a) on indictment of any offence in connexion with the promotion, formation or management of a registered body or other corporation;
- (b) of any offence involving fraud or dishonesty punishable on conviction by imprisonment for a period of not less than 3 months;
- (c) of an offence under section 87, 215, 219, 221, 222 or 223, of this Act or the provisions of a law of another State or a Territory that corresponds to a section specified in this paragraph,

and that person within a period of 5 years after his conviction or, if he was sentenced to imprisonment, after his release from prison, without the leave of the Court acts as a director, or is in any way directly or indirectly concerned or takes part in the management, of a registered body he is guilty of an offence.

Penalty: \$5 000 or imprisonment for 1 year, or both.

(3) In any proceedings for an offence against subsection (2), a certificate purporting to be by a prescribed authority stating that a person was released from prison on a specified date is prima facie evidence that that person was released from prison on that date.

(4) When granting leave under this section, the Court may impose such conditions or limitations as it thinks fit and a person who contravenes or fails to comply with any such condition or limitation that is applicable to him is guilty of an offence.

Penalty: \$5 000 or imprisonment for 1 year, or both.

(5) A person intending to apply for leave of the Court under this section shall give to the Registrar not less than 21 days notice of his intention to apply for such leave.

(6) On the hearing of an application under this section, the Registrar may be represented at the hearing of and may oppose the granting of the application.

(7) The Court may at any time, on the application of the Registrar, revoke leave granted by the Court under this section.

84. Court may disqualify person from acting as director, etc., in certain circumstances. (1) Unless cause to the contrary is shown, the Court may, on an application by the Registrar and on being satisfied as to the matters referred to in subsection (2), make an order prohibiting a person specified in the order from acting as a director of, or from being concerned or taking part in the management of, a registered body during such period, not exceeding 5 years, after the date of the order as is specified in the order.

(2) The Court shall not make an order under subsection (1) unless it is satisfied—

- (a) that the person to whom the application for an order relates was given notice of the application;
- (b) that, within the period of 7 years before notice of the application was given to the person referred to in paragraph (a), whether that period commenced before or after the commencement of this Part, that person was a director of, or was concerned or took part in the management of—
 - (i) a registered body—
 - (A) that has been wound up, or is in the course of being wound up, because of inability to pay its debts as and when they became due without, in the case of a credit society, assistance from the Guarantee Fund;
 - (B) that has been in the course of being wound up because of inability to pay its debts as and when they became due, where the winding up has been stayed or terminated by an order under section 383 of the *Companies (Queensland) Code* as applied to the winding up by Division 4 of Part VIII; or
 - (C) in respect of which an administrator has been appointed pursuant to this Act because it was unable to pay all its debts in full without, in the case of a credit society, assistance from the Guarantee Fund;
 - (ii) a corporation other than a registered body—
 - (A) that has been wound up, or is in the course of being wound up, because of inability to pay its debts as and when they became due;
 - (B) that has been in the course of being wound up because of inability to pay its debts as and when they became due, where the winding up has been stayed or terminated by an order under section 383 of the *Companies (Queensland) Code*; or
 - (C) that has been or is under official management or like form of administration; or
 - (iii) a registered body or other corporation—
 - (A) that has ceased to carry on business because it was unable to pay its debts as and when they became due;
 - (B) in respect of which a levy of execution was not satisfied;

- (C) in respect of the property or part of the property of which a receiver, or a receiver and manager, has been appointed, whether by a court or pursuant to the powers contained in an instrument, whether or nor the appointment has been terminated; or
 - (D) that has entered into a compromise or scheme of arrangement with its creditors; and
- (c) that the manner in which the affairs of the registered body or other corporation had been managed was wholly or partly responsible for any of the events referred to in paragraph (b) in relation to the registered body or, as the case may be, other corporation.

(3) A person shall not contravene or fail to comply with an order under this section that is applicable to him.

Penalty: \$5 000 or imprisonment for 1 year, or both.

(4) Subsection (3) does not affect the powers of the Court in relation to the punishment of contempts of the Court.

85. Age limit for directors. (1) No person of or over the age of 72 years shall be elected or appointed a director of a registered body but nothing in this subsection prevents a person from acting as a director of a registered body, during the period commencing on the day on which he attains the age of 72 years and ending at the conclusion of the annual general meeting commencing next after that day.

(2) The office of a director of a registered body shall become vacant at the conclusion of the annual general meeting commencing next after he attains the age of 72 years or if he has attained the age of 72 years before the commencement of this Part, at the conclusion of the annual general meeting next after that commencement.

(3) An act done by a person as director is valid notwithstanding that it is afterwards discovered that he was of or over the age of 72 years at the time of his appointment or that his appointment had terminated by virtue of subsection (2).

(4) Where the office of a director has become vacant by virtue of subsection (2) no provision for the automatic re-appointment or re-election of retiring directors in default of another appointment or re-election applies in relation to that director.

(5) A vacancy in the office of a director occurring by virtue of subsection (2) shall not be taken into account in determining when other directors retire.

(6) Nothing in this section limits or affects the operation of any provision of the rules of a registered body preventing any person from being elected or appointed a director, or requiring any director to vacate his office, at any age less than 72 years.

86. Acting as director after office vacated. A person who knowingly purports to exercise the powers of a director of a registered body after

his office as director has been vacated and any director of a registered body who knowingly permits or suffers any person to exercise the powers of a director after that person's office as director has been vacated is guilty of an offence.

Penalty: \$1 000 or imprisonment for 3 months, or both.

87. Duty and liability of officers. (1) An officer of a registered body shall at all times act honestly in the exercise of his powers and the discharge of the duties of his office.

Penalty—

- (a) in a case to which paragraph (b) does not apply—\$5 000; or
- (b) where the offence was committed with intent to deceive or defraud the registered body, members or creditors of the registered body or creditors of any other person or for any other fraudulent purpose—\$20 000 or imprisonment for 5 years, or both.

(2) An officer of a registered body shall at all times exercise a reasonable degree of care and diligence in the exercise of his powers and the discharge of his duties.

Penalty: \$5 000.

(3) An officer of a registered body—

- (a) shall not do; or
- (b) shall not aid, abet, counsel or procure or by act or omission be in any way directly or indirectly concerned in or party to the doing of,

any act or thing that is directed to an object that is not an object of the registered body.

Penalty: \$5 000.

(4) An officer or employee of a registered body or a former officer or employee of a registered body shall not make improper use of information acquired by virtue of his position as such an officer or employee to gain, directly or indirectly, an advantage for himself or for any other person or to cause detriment to the registered body.

Penalty: \$20 000 or imprisonment for 5 years, or both.

(5) An officer or employee of a registered body shall not make improper use of his position as such an officer or employee, to gain, directly or indirectly, an advantage for himself or for any other person or to cause detriment to the registered body.

Penalty: \$20 000 or imprisonment for 5 years, or both.

(6) For the purposes of this section, "officer", in relation to a registered body means—

- (a) a director, secretary or executive officer of the registered body;
- (b) a receiver, or receiver and manager, of the property or part of the property of the registered body;
- (c) an administrator of the registered body; and
- (d) a liquidator of the registered body.

(7) Where—

- (a) a person is convicted of an offence under this section; and
- (b) the court is satisfied that the registered body has suffered loss or damage as a result of the act or omission that constituted the offence,

the court by which he is convicted may, in addition to imposing a penalty, order the convicted person to pay compensation to the registered body of such amount as that court specifies, and any such order may be enforced as if it were a judgment of that court.

(8) Where a person contravenes or fails to comply with a provision of this section in relation to a registered body, the registered body may, whether or not the person has been convicted of an offence under this section in relation to that contravention or failure to comply, recover from the person as a debt due to it by action in any court of competent jurisdiction—

- (a) if that person or any other person made a profit as a result of the contravention or failure—an amount equal to that profit; and
- (b) if it has suffered loss or damage as a result of the contravention or failure—an amount equal to that loss or damage.

(9) This section has effect in addition to, and not in derogation of, any rule of law relating to the duty or liability of a person by reason of his office or employment in relation to a registered body and does not prevent the institution of any civil proceedings in respect of a breach of such a duty or in respect of such a liability.

88. Returns. (1) A registered body shall lodge with the Registrar—

- (a) within one month after a person ceases to be, or becomes, a director of the registered body, a return in the prescribed form notifying the Registrar of the change and containing, with respect to each person who is, at the time of lodgment of the return, a director of the registered body, the particulars required to be specified in the register;
- (b) within one month after a person becomes the principal executive officer or secretary of the registered body, a return in the prescribed form notifying the Registrar of that fact

and specifying the full name, address and other occupation (if any) of that person; and

- (c) within one month after a person ceases to be the principal executive officer or secretary of the registered body, a return in the prescribed form notifying the Registrar of that fact.

(2) If default is made in complying with any of the preceding provisions of this section, the registered body and any officer of the registered body who is in default are each guilty of an offence.

(3) The Registrar may at any time, by notice in writing to a person who appears to the Registrar to be a director or the principal executive officer or secretary of a registered body, require the person to lodge with the Registrar, within a period specified in the notice, a notice in the prescribed form stating whether the person is such a director, principal executive officer or secretary and, if the person has ceased to be such a director, principal executive officer or secretary, specifying the date on which he so ceased and, where a person receives such a notice, the person shall comply with the notice.

(4) A certificate of the Registrar stating that, from any return or notice lodged with the Registrar pursuant to this section, it appears that at any time specified in the certificate, or throughout a period specified in the certificate, a person was a director or the principal executive officer or secretary of a registered body shall, in all courts and by all persons having power to take evidence for the purposes of this Act, be received as prima facie evidence of the facts stated in the certificate.

For the purposes of this subsection, a person who appears from any return or notice so lodged to be a director or the principal executive officer or secretary of a registered body shall be deemed to continue as such until, from a return or notice subsequently so lodged with the Registrar, it appears that he has ceased to be such a director, principal executive officer or secretary.

Division 2—Meetings and Voting

89. Annual and special meetings. (1) Subject to this section, every registered body shall, in addition to any other meeting held by it, hold a general meeting to be called the “annual general meeting” within 4 months after the close of its financial year.

(2) The Registrar may, on written application made by a registered body in accordance with a resolution of the board and signed by a director or the secretary and subject to such conditions as the Registrar thinks fit, extend the period of 4 months referred to in subsection (1).

(3) An application by a registered body for an extension of time under subsection (2) shall be made before the expiration of the period in which the annual general meeting would otherwise be required by subsection (1) to be held.

(4) A registered body is not in default in holding an annual general meeting if that meeting is held within the extended period in which, under subsection (2), it is permitted to be held.

(5) Meetings of a registered body, other than its annual general meeting, shall be held or may be called as provided for in its rules.

(6) At any meeting of a registered body no item of business shall be transacted unless a quorum of members entitled under the rules to vote is present at the meeting during the time when the meeting is considering that item.

(7) A quorum at any meeting of a registered body shall be constituted as provided for in its rules but shall not, in the case of a credit society, be less than—

- (a) where the number of members entitled to vote at meetings for the time being is 30 or less, one third of such members personally present;
- (b) where the number of members entitled to vote at meetings for the time being is greater than 30 but less than 300, 15 such members personally present; and
- (c) where the number of members entitled to vote at meetings for the time being is 300 or more, 30 such members personally present.

(8) Subject to subsections (9) and (10), notice of every meeting of a registered body shall be—

- (a) given to the Registrar by the sending of written notice thereof to him;
- (b) given to all members as at the date of calling the meeting in such manner as is provided for in the rules of the registered body.

(9) Subject to subsection (10) it shall be sufficient compliance with the provisions of subsection (8) (b) if the notice is advertised in such a way as to comply in all respects with the requirements prescribed for such advertising.

(10) Not less than—

- (a) in the case of a meeting of a registered body called for the purpose of passing a special resolution, 21 days notice shall be given;
- (b) in the case of a meeting called for a purpose other than that referred to in paragraph (a), 14 days notice shall be given.

(11) If default is made in holding an annual general meeting under this section or in complying with any conditions imposed by the Registrar under subsection (2)—

- (a) the registered body, and any officer of the registered body who is in default are each guilty of an offence; and
- (b) the Court may, on the application of any member, order a general meeting to be convened.

Penalty: \$1 000 or imprisonment for 3 months, or both.

90. Voting. (1) Except as is otherwise provided by this Act or the rules of the registered body, every question for decision by a meeting of a registered body shall be determined by a majority of the votes which the persons present in person at the meeting are entitled to cast and, unless a poll is demanded—

- (a) in the case of a meeting of a credit society, by at least 5 persons present in person who are entitled to vote on the question; or
- (b) in the case of a meeting of an association, by the persons present in person at the meeting representing not less than one-fifth of the number of credit societies or associations duly represented at the meeting,

the question shall be determined on a show of hands.

(2) Notwithstanding any provisions of the rules of the registered body to the contrary, a person may not vote by proxy at a meeting of a registered body.

(3) Every member of a credit society entitled under the rules and this Act to vote at a meeting shall, irrespective of the number of shares held by him, have one vote.

(4) Except as is otherwise provided by this Act, at a meeting of an association each appointee of a component credit society or association shall have one vote.

(5) Where the rules of an association of credit societies so provide, the appointee or appointees of a component credit society who is or are present at a meeting of the association may, on a poll, cast on behalf of the credit society such total number of votes as is specified in the rules of the association.

(6) Where the rules of a union of associations of credit societies so provide, the appointee or appointees of a component association who is or are present at a meeting of the union of associations may, on a poll, cast on behalf of the association of credit societies such total number of votes as is specified in the rules of the union of associations.

(7) In the case of an equality of votes on a show of hands or on a poll at any meeting of a registered body or of a board of a registered body, the chairman of the meeting at which the show of hands takes place or at which the poll is demanded shall, unless the rules of the registered body provide to the contrary, be entitled to exercise a casting vote in addition to any other vote to which he may be entitled.

91. Special resolution. (1) For the purposes of this Act, a special resolution means a resolution—

- (a) where the voting on the resolution is by show of hands, that is passed by a majority of not less than two-thirds of the number of persons who, being entitled so to do, vote in person; or
- (b) where the voting on the resolution is by poll, that is passed by a majority of not less than two-thirds of the number of

votes cast by the persons who, being entitled so to do, cast votes,

at a general meeting of a registered body of which notice specifying the intention to propose the resolution as a special resolution has been duly given in accordance with the provisions of this Act and of the rules of the registered body.

(2) At a meeting at which a resolution mentioned in this section is submitted, a declaration by the chairman that the resolution has been carried is, unless a poll is demanded, conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

(3) A registered body shall, within the time prescribed and in the prescribed manner, lodge with the Registrar an application to have a special resolution registered and a special resolution does not take effect until registered by the Registrar.

(4) A certificate of registration of any special resolution or of any alteration of the rules of a registered body given by the Registrar shall, in favour of any person lending money to the registered body on the faith of such a certificate, or in favour of any guarantor of any such loan, be conclusive evidence that the resolution was duly passed or the alteration in the rules was duly made, as the case may be.

(5) In any rules made by a registered body whether before or after the commencement of this Part, "special resolution" means a special resolution as defined in this section.

92. Minutes of meeting. (1) A registered body shall—

- (a) cause minutes of every meeting of the board and of every meeting of the registered body to be entered, within one month after the relevant meeting is held, in books kept for that purpose; and
- (b) cause those minutes to be signed by the chairman of the meeting or by the chairman of the next succeeding meeting.

(2) A registered body that fails to comply with the provisions of this section and any officer of the registered body who is in default are each guilty of an offence.

Penalty: \$1 000 or imprisonment for 3 months, or both.

93. Inspection of minutes. (1) The minutes of proceedings of each general meeting and of each meeting of the board of a registered body shall be kept by the registered body at its registered office.

(2) The minutes of proceedings of each general meeting of a registered body shall be open for inspection by any member without charge.

(3) A member of a registered body may request it in writing to furnish him with a copy of any minutes of proceedings of a general meeting of the registered body and where he does so and pays to it

such amount (if any) as is required by the registered body (not exceeding the prescribed amount) it shall furnish the member with the copy within 21 days after the payment is received or, in the case where payment is not required, within 21 days after the request is made.

Division 3—Accounts

4— **94. Interpretation.** (1) For the purposes of this Division and Division

“accounts” means profit and loss accounts and balance-sheets and includes statements, reports and notes, other than auditors’ reports or directors’ reports, attached to or intended to be read with any of those profit and loss accounts or balance-sheets;

“group accounts” in relation to a holding body, means—

- (a) a set of consolidated accounts for the group of corporations of that holding body;
- (b) 2 or more sets of consolidated accounts together covering that group;
- (c) separate accounts for each corporation in that group; or
- (d) a combination of one or more sets of consolidated accounts and one or more separate accounts together covering that group;

“group of corporations” in relation to a holding body, means the holding body and the corporations that are subsidiaries of the holding body;

“holding body” means a registered body that is the holding registered body of a corporation;

“prescribed accounting standard” means an accounting standard prescribed in regulations;

“the profit or loss” means—

- (a) in relation to a registered body that is not a holding body, the profit or loss resulting from operations of that registered body;
- (b) in relation to a registered body that is a holding body of a group of corporations for which group accounts are required, the profit or loss resulting from operations of that registered body; and
- (c) in relation to a registered body referred to in paragraph (b) and its subsidiaries, the profit or loss resulting from operations of the group of corporations of which the registered body is the holding body.

(2) Unless the contrary intention appears in the accounting standard, an expression used in a prescribed accounting standard has the same meaning as the expression has in this Division or Division 4.

95. Financial year. (1) Subject to this section, and notwithstanding anything to the contrary contained in the rules of the registered body, the financial year of a registered body shall be the period of one year ending on 30 June in each year.

(2) The first financial year of a registered body may extend from the date of its registration to a date (being 30 June) not later than 18 months from the date of its registration.

(3) Where at the commencement of this Part, the financial year of a registered body ends on a date other than the date specified in subsection (1), the directors of the registered body shall take such steps as are necessary to ensure that its financial year ends on 30 June in each year and for the purpose of complying with the provisions of this subsection—

- (a) the financial year current at the commencement of this Part may be extended for a period not exceeding 6 months; or
- (b) the financial year next following the financial year that is then current may be a period exceeding 12 months but not exceeding 18 months.

96. Accounts to be kept and controls to be established. (1) A registered body shall—

- (a) keep such accounting records as correctly record and explain the transactions of the registered body and the financial position of the registered body;
- (b) keep its accounting records in such a manner as will enable—
 - (i) the preparation from time to time of true and fair accounts of the registered body; and
 - (ii) the accounts of the registered body to be conveniently and properly audited in accordance with this Act; and
- (c) establish and maintain a system of control and inspection of its books of account, a system for supervising its cash holdings and all receipts and remittances and a system to ensure the safe custody of all documents of title and securities belonging to the registered body, and of the documents of title relating to property mortgaged to the registered body.

(2) A registered body shall retain the accounting records kept under this section or under a corresponding provision of a previous law of the State (except such accounting records as are prescribed) for a period of 7 years after the completion of the transactions to which they relate.

(3) A registered body shall keep the accounting records at such place or places in the State as its directors think fit.

(4) A registered body shall give to the Registrar notice in writing of the place or places in the State where the accounting records are kept unless the same are kept at the registered office of the registered body.

This subsection shall not apply to branch records maintained at a branch office.

(5) The accounting records of a registered body shall be kept in writing in the English language or so as to enable the accounting records to be readily accessible and readily convertible into writing in the English language.

(6) The Court may, on application by a director of a registered body, make an order authorizing a registered company auditor acting for the director to inspect the accounting records of the registered body.

(7) A registered body shall make its accounting records available in writing in the English language at all reasonable times for inspection without charge by any director of the registered body and by any other person authorized or permitted by or under this Act to inspect the accounting records of the registered body.

(8) Where a registered company auditor inspects the accounting records pursuant to an order of the Court under subsection (6), he shall not disclose to a person other than the director on whose application the order was made, the Registrar or a person conducting an inquiry or making a special audit with respect to the registered body concerned under Division 4 of Part XI any information acquired by him in the course of his inspection.

(9) If default is made in complying with a provision of this section other than subsection (8), the registered body, a director of the registered body who failed to take all reasonable steps to secure compliance by the registered body with the provision and any officer of the registered body who is in default are each guilty of an offence.

Penalty: \$2 000 or imprisonment for 6 months, or both.

(10) In any proceedings against a person for failure to take all reasonable steps to secure compliance by a registered body with a provision of this section, it is a defence if the person proves that he had reasonable grounds to believe and did believe that a competent and reliable person was charged with the duty of seeing that that provision was complied with and was in a position to discharge that duty.

97. Financial years of grouped corporations. (1) Subject to this section, the directors of a holding body shall take such action as is necessary to ensure that the financial year of each subsidiary of the holding body coincides with the financial year of the holding body.

(2) The action referred to in subsection (1) shall be taken in relation to a particular subsidiary not later than 12 months—

- (a) in a case where the subsidiary is a subsidiary of the holding body at the commencement of this Part, after that commencement;
- (b) in a case to which paragraph (a) does not apply, after the date on which the subsidiary becomes a subsidiary of the holding body.

(3) Subject to any order by the Registrar under this section, where the financial year of a holding body and the financial year of each of its subsidiaries coincide, the directors of the holding body shall at all times take such action as is necessary to ensure that the financial year of any of its subsidiaries is not altered in such a way that all of those financial years no longer coincide.

(4) Where the directors of a holding body are of the opinion that there is good reason why the financial year of any of its subsidiaries should not coincide with the financial year of the holding body, they may apply in writing to the Registrar for an order authorizing the subsidiary to continue to have or to adopt (as the case requires) a financial year that does not coincide with that of the holding body.

(5) The application shall be supported by a statement in writing made in accordance with a resolution of the directors of the holding body, signed by not less than 2 directors and stating the reasons for seeking the order.

(6) The Registrar may require the directors making the application to supply such information relating to the operations of the holding body and of any subsidiary as the Registrar thinks necessary for the purpose of determining the application.

(7) The Registrar may engage a registered company auditor to investigate and report to him on the application.

(8) The costs of an investigation and report under subsection (7) are payable by the holding body of which the applicants are directors.

(9) The Registrar may make an order granting or refusing the application or granting the application subject to such limitations, terms or conditions as he thinks fit, and shall serve a copy of the order on the holding body.

(10) Where the applicants are aggrieved by an order made by the Registrar, the applicants may, within 2 months after the service of the order upon the holding body, appeal against the order to the Court.

(11) The Court shall determine the appeal and, in determining the appeal, may make any order that the Registrar had power to make on the original application and may exercise any of the powers that the Registrar might have exercised in relation to the original application.

(12) Where the directors of a holding body have applied to the Registrar for an order under this section, subsection (1) shall be deemed not to apply to or in relation to the subsidiary to which the application relates until the determination of the application and of any appeal arising out of the application.

(13) Where an order is made authorizing a subsidiary to have or to adopt a financial year that does not coincide with that of its holding body, compliance with the terms of the order of the Registrar (including any limitations or conditions set out in the order) or, where there has been an appeal, compliance with the terms of any order made on the

determination of the appeal, shall be deemed to be compliance with the provisions of subsection (1) in relation to the subsidiary.

(14) Where an application for an order by the Registrar under this section has been refused and there is no appeal, or where there has been an appeal and the appeal has been withdrawn or dismissed, the time within which the directors of the holding body are required to comply with the provisions of subsection (1) in relation to the subsidiary shall be deemed to be the period of 12 months after the date upon which the order of the Registrar is served on the holding body or, where there has been an appeal that has been dismissed, the period of 12 months after the determination of the appeal.

(15) Where the directors of a holding body have applied to the Registrar for an order under this section, and the application has been refused and the appeal (if any) arising out of the refusal has been withdrawn or dismissed, the directors of the holding body are not entitled to make an application under this section with respect to the subsidiary within 3 years after the refusal of the first-mentioned application or, where there was an appeal that has been dismissed, after the dismissal of the appeal, unless the Registrar is satisfied that there has been a substantial change in the relevant facts or circumstances since the refusal of the former application or the determination of the appeal, as the case may be.

98. Profit and loss account, balance-sheet and group accounts. (1) The directors of a registered body shall, not less than 14 days before an annual general meeting of the registered body or, if no annual general meeting of the registered body is held within the period within which it is required by section 89 to be held, not less than 14 days before the end of that period, cause to be made out a profit and loss account for the last financial year of the registered body, being a profit and loss account that gives a true and fair view of the profit or loss of the registered body for that financial year.

(2) The directors of a registered body shall, not less than 14 days before an annual general meeting of the registered body, or, if no annual general meeting is held within the period within which it is required by section 89 to be held, not less than 14 days before the end of that period, cause to be made out—

- (a) a balance sheet as at the end of the last financial year of the registered body being a balance sheet that gives a true and fair view of the state of affairs of the registered body as at the end of that financial year; and
- (b) a statement that gives a true and fair view of the sources and application of the funds of the registered body for that financial year.

(3) Where, at the end of a financial year of a registered body the registered body is a holding body, the directors of the registered body shall, not less than 14 days before the next annual general meeting of the registered body or, if no annual general meeting of the registered

body is held within the period after the end of that financial year within which it is required by section 89 to be held, not less than 14 days before the end of that period, cause to be made out group accounts dealing with—

- (a) the profit or loss of the registered body and its subsidiaries for their respective last financial years;
- (b) the state of affairs of the registered body and its subsidiaries as at the end of their respective last financial years; and
- (c) the sources and application of the funds of the registered body and its subsidiaries for their respective last financial years,

and giving a true and fair view of the profit or loss, state of affairs and sources and application of funds so far as they concern members of the holding body.

(4) The directors of a registered body shall take reasonable steps to ensure that the accounts of the registered body and, if it is a holding body, the group accounts are audited as required by this Part not less than 14 days before the annual general meeting of the registered body or, if no annual general meeting of the registered body is held within the period within which it is required by section 89 to be held, not less than 14 days before the end of that period.

(5) The directors of a registered body shall cause to be attached to, or endorsed upon, the accounts or group accounts in relation to the registered body the auditor's report relating to those accounts or group accounts, as the case may be, that is furnished to the directors in accordance with section 114 (2).

(6) The directors shall, before the profit and loss account and balance-sheet referred to in subsections (1) and (2) are made out, take reasonable steps—

- (a) to ascertain what action has been taken in relation to the writing off of bad debts and the making of provisions for doubtful debts and to cause all known bad debts to be written off and adequate provision to be made for doubtful debts;
- (b) to ascertain whether any current assets, other than current assets to which paragraph (a) applies, are unlikely to realize, whether directly or indirectly, in the ordinary course of business their value as shown in the accounting records of the registered body and, if so, to cause—
 - (i) those assets to be written down to an amount that they might be expected so to realize; or
 - (ii) adequate provision to be made for the difference between the amount of the value as so shown and the amount that they might be expected so to realize; and
- (c) to ascertain whether any non-current asset is shown in the books of the registered body at an amount that, having regard to its value to the registered body, as a going concern,

exceeds the amount that it would have been reasonable for the registered body to expend to acquire that asset as at the end of the financial year and, unless adequate provision for writing down that asset is made, to cause to be included in the accounts such information and explanations as will prevent the accounts from being misleading by reason of the overstatement of the amount of that asset.

(7) Without affecting the generality of the preceding provisions of this section, the directors of a registered body shall ensure that the accounts of the registered body and, if it is a holding body, the group accounts comply with such of the prescribed requirements as are relevant to those accounts or group accounts, as the case may be, but where accounts or group accounts prepared in accordance with those requirements would not otherwise give a true and fair view of the matters required by this section to be dealt with in the accounts or group accounts, the directors of the registered body shall add such information and explanations as will give a true and fair view of those matters.

(8) Without affecting the generality of the preceding provisions of this section, the directors of a registered body shall ensure that the accounts of the registered body and, if the registered body is a holding body, the group accounts of the holding body are made out in accordance with applicable prescribed accounting standards.

(9) Notwithstanding subsection (8), where the accounts of a registered body or the group accounts of a holding body would not, if made out in accordance with a particular applicable prescribed accounting standard, give a true and fair view of the matters required by this section to be dealt with in those accounts or group accounts, as the case may be, the directors of the registered body or holding body are not required to ensure that those accounts or group accounts, as the case may be, are made out in accordance with that accounting standard.

(10) The directors of a registered body shall cause to be attached to any accounts required by section 104 to be laid before an annual general meeting of the registered body, before the auditor reports on the accounts under this Part, a statement made not more than 56 days before the date of the annual general meeting or, if no annual general meeting of the registered body is held within the period within which it is required by section 89 to be held, not more than 56 days before the end of that period, in accordance with a resolution of the directors and signed by at least 2 directors—

(a) stating whether, in the opinion of the directors—

- (i) the profit and loss account is drawn up so as to give a true and fair view of the profit or loss of the registered body for its last financial year;
- (ii) the balance-sheet is drawn up so as to give a true and fair view of the state of affairs of the registered body as at the end of its last financial year; and
- (iii) the statement showing the sources and application of the funds of the registered body is drawn up so as to give a

- true and fair view of the sources and application of the funds of the registered body for its last financial year;
- (b) stating whether the accounts have been made out in accordance with applicable prescribed accounting standards; and
 - (c) if the accounts have not been made out in accordance with a particular applicable prescribed accounting standard—
 - (i) stating why the accounts, if made out in accordance with that accounting standard, would not have given a true and fair view of the matters required by this section to be dealt with in the accounts; and
 - (ii) giving particulars of the quantified financial effect on the accounts of the failure to make out the accounts in accordance with that accounting standard.

(11) The directors of a registered body that is a holding body shall cause to be attached to group accounts of the registered body required by section 104 to be laid before an annual general meeting of the registered body, before the auditor reports on the group accounts under this Part, a statement made, not more than 56 days before the date of the annual general meeting, or, if no annual general meeting of the registered body is held within the period within which it is required by section 89 to be held, not more than 56 days before the end of that period, in accordance with a resolution of the directors and signed by at least 2 directors—

- (a) stating whether, in the opinion of the directors, the group accounts are drawn up so as to give a true and fair view of—
 - (i) the profit or loss of the registered body and its subsidiaries for their respective last financial years;
 - (ii) the state of affairs of the registered body and its subsidiaries as at the end of their respective last financial years; and
 - (iii) the sources and application of the funds of the registered body and its subsidiaries for their respective last financial years, so far as they concern members of the registered body;
- (b) stating whether the group accounts have been made out in accordance with applicable prescribed accounting standards; and
- (c) if the group accounts have not been made out in accordance with a particular applicable prescribed accounting standard—
 - (i) stating why the group accounts, if made out in accordance with that accounting standard, would not have given a true and fair view of the matters required by this section to be dealt with in the group accounts; and
 - (ii) giving particulars of the quantified financial effect on the group accounts of the failure to make out the group accounts in accordance with that accounting standard.

-
- (12) The directors of a registered body shall—
- (a) in forming an opinion for the purposes of a statement under subsection (10) in relation to accounts of the registered body, as to the matters specified in paragraph (a) of that subsection, have regard to—
 - (i) circumstances that have arisen; and
 - (ii) information that has become available,
since the end of the financial year to which the accounts relate, being circumstances or information that would, if those accounts had been made out when the statement is made, have affected the determination of an amount or particular in those accounts; and
 - (b) if adjustments have not been made in those accounts to reflect circumstances or information of a kind referred to in paragraph (a), being circumstances that are, or information that is, relevant to an understanding of those accounts or of an amount or particular in those accounts, include in the statement such information and explanations as will prevent those accounts or that amount or particular from being misleading by reason that such adjustments have not been made.
- (13) The directors of a registered body that is a holding body shall—
- (a) in forming an opinion, for the purposes of a statement under subsection (11) in relation to group accounts of the registered body as to the matters specified in paragraph (a) of that subsection, have regard to circumstances that have arisen, and information that has become available, since—
 - (i) in the case of circumstances or information concerning the registered body, the end of the financial year of the registered body to which those accounts relate; or
 - (ii) in the case of circumstances or information concerning a subsidiary of the registered body, the end of the financial year of that subsidiary to which those accounts relate,
being circumstances or information that would, if those accounts had been made out when the statement is made, have affected the determination of an amount or particular in those accounts; and
 - (b) if adjustments have not been made in those accounts to reflect circumstances or information of a kind referred to in paragraph (a), being circumstances that are, or information that is, relevant to an understanding of those accounts or of an amount or particular in those accounts, include in the statement such information and explanations as will prevent those accounts or that amount or particular from being misleading by reason that such adjustments have not been made.

99. Directors reports. (1) The directors of a registered body, other than a registered body to which subsection (2) applies, shall, not less than 14 days and not more than 56 days before the annual general meeting of the registered body or, if no annual general meeting of the registered body is held within the period within which it is required by section 89 to be held, not less than 14 days and not more than 56 days before the end of that period, cause to be made out a report, made in accordance with a resolution of the directors and signed by at least 2 directors—

(a) stating—

- (i) the names of the directors in office at the date of the report;
- (ii) the principal activities of the registered body in the course of its last financial year and any significant change in the nature of those activities that occurred during that financial year;
- (iii) the net amount of the profit or loss of the registered body for that financial year after provision for income tax; and
- (iv) the amount (if any) that the directors recommend should be paid by way of dividend, and any amounts that have been paid or declared by way of dividend since the commencement of that financial year, indicating which of those amounts (if any) have been shown in a previous report under this subsection or subsection (2) or under a corresponding previous law of the State;

(b) containing a review of the operations of the registered body during that financial year and of the results of those operations;

(c) giving particulars of any significant change in the state of affairs of the registered body that occurred during that financial year;

(d) giving particulars of any matter or circumstance that has arisen since the end of that financial year and that has significantly affected or may significantly affect—

- (i) the operations of the registered body;
- (ii) the results of those operations; or
- (iii) the state of affairs of the registered body, in financial years subsequent to that financial year; and

(e) referring to—

- (i) likely developments in the operations of the registered body; and
- (ii) the expected results of those operations, in financial years subsequent to that financial year.

(2) The directors of a registered body that, at the end of its last financial year, was a holding body shall, not less than 14 days and not more than 56 days before the annual general meeting of the registered

body or, if no annual general meeting of the registered body is held within the period within which it is required by section 89 to be held, not less than 14 days and not more than 56 days before the end of that period, cause to be made out a report, made in accordance with a resolution of the directors and signed by at least 2 directors—

- (a) stating—
 - (i) the names of the directors of the registered body in office at the date of the report;
 - (ii) the principal activities of the corporations in the group in the course of that financial year and any significant change in the nature of those activities that occurred during that financial year;
 - (iii) the net amount of the consolidated profit or loss of the group for that financial year after provision for income tax and after deducting from that consolidated profit or loss any amounts that should properly be attributed to any person other than a corporation in the group; and
 - (iv) the amount (if any) that the directors of the registered body recommend should be paid by way of dividend, and any amounts that have been paid or declared by way of dividend since the commencement of that financial year, indicating which of those amounts (if any) have been shown in a previous report under this subsection or subsection (1) or under a corresponding previous law of the State;
- (b) containing a review of the operations of the group during that financial year and of the results of those operations;
- (c) giving particulars of any significant change in the state of affairs of the group that occurred during that financial year;
- (d) giving particulars of any matter or circumstance that has arisen since the end of that financial year and that has significantly affected or may significantly affect—
 - (i) the operations of the group;
 - (ii) the results of those operations; or
 - (iii) the state of affairs of the group,
in financial years subsequent to that financial year; and
- (e) referring to—
 - (i) likely developments in the operations of the group; and
 - (ii) the expected results of those operations,
in financial years subsequent to that financial year.

(3) Where, in the opinion of the directors of a registered body, it would prejudice the interests of the registered body if particular information, being some or all of the information required by paragraph

(e) of subsection (1) or paragraph (e) of subsection (2) to be included in a report, were so included—

- (a) the first-mentioned information need not be included in the report; and
- (b) if the first-mentioned information is not included in the report, the report shall state that some or all, as the case may be, of the information required by that paragraph to be so included has not been so included.

(4) The directors of a registered body shall include in, or attach to, a report made for the purposes of subsection (1) or (2) a statement setting out, as at the date of the statement, in respect of each director of the registered body—

- (a) particulars of the qualifications, experience and special responsibilities (if any) of the director;
- (b) particulars of any interest of the director in a contract or proposed contract with the registered body, being an interest the nature of which has been declared by the director in accordance with section 77—
 - (i) in the case of the first statement made by the directors of the registered body under this subsection, since the commencement of this Part; or
 - (ii) in any other case, since the date of the last statement made under this subsection; and
- (c) particulars of shares in any subsidiary of the registered body required by section 231 (1) (a) of the *Companies (Queensland) Code* to be shown with respect to that director in a register kept in accordance with section 231 (1) of that Code.

(5) The directors of a registered body shall state in the report whether, since the end of the previous financial year, a director of the registered body has received or become entitled to receive a benefit, other than—

- (a) a benefit included in the aggregate amount of emoluments received or due and receivable by directors shown in the accounts or, if the registered body is a holding body, the group accounts, in accordance with the regulations made for the purposes of section 98 (7); or
- (b) the fixed salary of a full-time employee of the registered body,

by reason of a contract made by the registered body or a subsidiary of the registered body with the director or with a firm of which he is a member, or with a corporation in which he has a substantial financial interest, and, if so, the general nature of the benefit.

(6) Where there is attached to or included with a report of the directors laid before a registered body at its annual general meeting or made available to the members under section 103 a statement, report or other document relating to affairs of the registered body or any of

its subsidiaries, not being a statement, report or document required by this Act to be laid before the registered body in general meeting, the statement, report or other document shall, for the purposes of section 216 be deemed to be part of that first-mentioned report.

100. Rounding off of amounts in accounts and reports. (1) The regulations may make provision permitting every registered body, or every registered body included in a class of registered bodies specified in the regulations, subject to such conditions, exceptions or qualifications (if any) as are specified in the regulations, to insert in any accounts or report under this Act, in substitution for an amount that the registered body would, but for this section, be required or permitted to set out in the accounts or report, an amount ascertained in accordance with the regulations but not being an amount that is more than \$500 greater or less than the first-mentioned amount.

(2) For the purposes of subsection (1), the insertion of zero shall be deemed to be the insertion of an amount.

101. Directors of holding body to obtain all necessary information. (1) Subject to subsection (3), the directors of a holding body shall not cause to be made out the group accounts referred to in section 98 (3), the statement referred to in section 98 (11) or the report referred to in section 99 (2) unless they have available to them sufficient information, in relation to each subsidiary, to enable them to ensure—

- (a) that the group accounts will give a true and fair view of—
 - (i) the profit or loss of the holding body and its subsidiaries for their respective last financial years;
 - (ii) the state of affairs of the holding body and its subsidiaries as at the end of their respective last financial years; and
 - (iii) the sources and application of the funds of the holding body and its subsidiaries for their respective last financial years, so far as they concern members of the holding body; and
- (b) that neither the statement nor the report will be false or misleading in a material particular.

(2) The directors of a subsidiary shall, at the request of the directors of the holding body, supply to the holding body all the information that is required by the directors of the holding body for the preparation of the group accounts, the statement and the report referred to in subsection (1).

(3) Where the directors of a holding body, having taken all such steps as are reasonably available to them, are unable to obtain from the directors of a subsidiary the information required by the directors of the holding body for the preparation of the group accounts, the statement and the report referred to in subsection (1) within the period within which those accounts, that statement and that report are

respectively required, by the provisions referred to in that subsection, to be prepared—

- (a) the directors of the holding body shall cause to be made out those group accounts, that statement and that report without incorporating in, or including with, those group accounts, or incorporating in that statement or report, as the case requires, the information relating to the subsidiary, but—
 - (i) they shall include in those group accounts, that statement or that report, as the case requires, a description of the nature of the information that has not been obtained, and shall include in those group accounts, that statement and that report such qualifications and explanations as are necessary to prevent those group accounts, that statement and that report from being misleading; and
 - (ii) they may qualify accordingly that part of that statement that is made in pursuance of section 98 (11) (a); and
- (b) where the directors of the holding body have caused to be made out those group accounts, that statement and that report in accordance with paragraph (a), they shall, within one month after receiving any of that information from the directors of the subsidiary—
 - (i) lodge with the Registrar a statement setting out or summarizing the information and containing such qualifications and explanations, by the directors of the holding body, of those group accounts, that statement or that report as are necessary having regard to the information received from the directors of the subsidiary; and
 - (ii) have available at the registered office of the holding body and at each branch office and open at all reasonable hours to inspection by a member a copy of the statement required by subparagraph (i) to be lodged with the Registrar.

(4) A holding body shall, during the period of 12 months next occurring after the documents are made available for inspection under subsection (3), furnish to a member, on request in writing being made by him to the holding body, as soon as practicable and without charge a copy of that statement.

(5) It is a defence to a prosecution for a failure to comply with subsection (4) if the defendant proves that the person in relation to whom the failure occurred had, before the failure occurred, been furnished with a copy of the statement referred to in subsection (4).

102. Relief from requirements as to accounts and reports. (1) The directors of a registered body may apply to the Registrar in writing for an order relieving them from compliance with any specified requirements of this Act relating to, or to the audit of, accounts or group accounts

or to the report required by section 99 (1) or (2) and the Registrar may make an order relieving the directors from compliance with all or any of those requirements either unconditionally or on condition that the directors comply with such other requirements relating to, or to the audit of, the accounts or group accounts or to the report as the Registrar imposes.

(2) The application shall be supported by a statement in writing made in accordance with a resolution of the directors of the registered body signed by not less than 2 directors and stating the reasons for seeking an order.

(3) The Registrar may require the directors making the application to supply such information relating to the operations of the registered body and of any subsidiary thereof as the Registrar thinks necessary for the purpose of determining the application.

(4) Notice of an order under subsection (1) shall be served on the registered body to which it relates.

(5) The Registrar may, where he considers it appropriate, make an order in respect of a specified class of registered bodies relieving the directors of a registered body in that class from compliance with any specified requirements of this Act relating to, or to the audit of, accounts or group accounts or to the report required by section 99 (1) or (2) and the order may be made either unconditionally or on condition that the directors of the registered body comply with such other requirements relating to, or to the audit of, accounts or group accounts or to the report as the Registrar imposes.

(6) Notice of an order under subsection (5) shall be published in the Gazette.

(7) The Registrar shall not make an order under subsection (1) or (5) relating to the form or content of accounts or group accounts or of a report required by section 99 (1) or (2) unless the Registrar is of the opinion that compliance with the requirements of this Act would render the accounts or group accounts or the report, as the case may be, misleading or inappropriate to the circumstances of the registered body or would impose unreasonable burdens on the registered body or on an officer of the registered body.

(8) The Registrar may make an order under subsection (1) or (5) that is limited to a specific period and—

- (a) in the case of an order under subsection (1)—may from time to time either on application by the directors, or without any such application, revoke or suspend the operation of the order; or
- (b) in the case of an order under subsection (5)—may from time to time revoke or suspend the operation of the order.

(9) The revocation or suspension under subsection (8) of an order does not take effect until—

- (a) in the case of an order under subsection (1)—notice of the revocation or suspension is served on the registered body to which the order relates; and
- (b) in the case of an order under subsection (5)—notice of the revocation or suspension is published in the Gazette.

(10) A person aggrieved by—

- (a) an order under subsection (1) or (5);
- (b) the revocation or suspension of the operation of such an order; or
- (c) the refusal of an application for an order or for revocation or suspension of the operation of an order,

may, within 2 months after the service or publication, as the case may be, of notice of the order or notice of the revocation or suspension or after the refusal, as the case may be, appeal to the Court, and the Court may confirm, set aside or modify the order, or confirm or set aside the revocation, suspension or refusal, and may make such further order as it thinks just.

103. Certain persons entitled to inspect balance-sheet, etc. (1) A registered body shall, not less than 14 days before each annual general meeting, furnish to the Registrar and have available at its registered office and at each branch office and open at all reasonable hours to inspection without the payment of a fee by a member, depositor or creditor a copy of all accounts and, if it is a holding body, group accounts that are to be laid before the registered body at the meeting, together with a copy of the statements required under section 98, a copy of the directors' report required under section 99 and a copy of the auditor's report or reports required by section 114 (1).

(2) A registered body shall furnish to a member, depositor or creditor, on request in writing being made by him to the registered body, as soon as practicable and without charge, a copy of the documents last made available for inspection under subsection (1).

(3) It is a defence to a prosecution for a failure to comply with subsection (2) if the defendant proves that the person in relation to whom the failure occurred had, before the failure occurred, been furnished with a copy of the documents referred to in subsection (2).

104. Accounts and reports to be laid before annual general meeting. The directors of a registered body shall cause to be laid before each

annual general meeting of the registered body held in accordance with section 89—

- (a) a copy of the profit and loss account made out in accordance with section 98 (1) for the last financial year of the registered body;
- (b) a copy of the balance-sheet made out in accordance with section 98 (2) (a) as at the end of the last financial year of the registered body;
- (c) a copy of the statement of the sources and application of funds made out in accordance with section 98 (2) (b) for the last financial year of the registered body;
- (d) in the case of a registered body that, at the end of its last financial year before the relevant annual general meeting, was not a holding body—a copy of the directors' report made out in accordance with section 99 (1) in respect of that financial year;
- (e) in the case of a registered body that, at the end of its last financial year before the relevant annual general meeting, was a holding body—a copy of the group accounts made out in accordance with section 98 (3) in relation to that financial year and a copy of the directors' report made out in accordance with section 99 (2) in respect of the profit or loss and the state of affairs of the group of corporations of the holding body as at the end of that financial year;
- (f) a copy of any auditor's report required by section 98 (5) to be attached to the accounts or group accounts of the registered body; and
- (g) a copy of the statement by the directors required by section 98 (10) or (11) to be attached to the accounts or group accounts of the registered body.

105. Assets revaluation reserve account. Where in the accounts of a registered body any amount is or has been applied or transferred to an assets revaluation reserve account (by whatever name called) as a result of a revaluation of the assets of the registered body or by reason of the adoption and use of any accounting principle that has the effect of creating such a reserve account, the registered body shall not apply or transfer any amount from that account for any purpose unless the amount has been actually realised through the sale or disposal of those assets.

106. Failure to comply with this Division. (1) Subject to this section, if a director of a registered body fails to take all reasonable steps to comply with, or to secure compliance with, or has knowingly been the cause of any default under, any of the preceding provisions of this Division other than section 96, he is guilty of an offence.

Penalty—

- (a) in a case to which paragraph (b) does not apply—\$5 000; or
- (b) if the offence was committed with intent to deceive or defraud members, depositors or creditors of the registered body or creditors of any other person or for any other fraudulent purpose—\$20 000 or imprisonment for 5 years, or both.

(2) In any proceedings against a person for failure to take all reasonable steps to comply with, or to secure compliance with, the preceding provisions of this Division relating to the form and content of the accounts of a registered body or group accounts of a holding body by reason of an omission from the accounts or group accounts it is a defence to prove that the information omitted was immaterial and did not affect the giving of a true and fair view of the matters required by section 98 to be dealt with in the accounts or group accounts, as the case may be.

(3) In any proceedings against a person for failure to take all reasonable steps to comply with, or to secure compliance with, or for having knowingly been the cause of any default under, any of the preceding provisions of this Division relating to the accounts of a registered body or the group accounts of a holding body by reason that the accounts or group accounts, as the case may be, have not been made out in accordance with an applicable prescribed accounting standard, the onus of proving that the accounts or group accounts, as the case may be, would not, if made out in accordance with that accounting standard, have given a true and fair view of the matters required by section 98 to be dealt with in the accounts or group accounts lies on that person.

(4) If, after the expiration of the period within which any accounts of a registered body or any report of the directors of a registered body are or is required by section 98 or 99 to be made out, the Registrar, by notice in writing to each of the directors, requires the directors to produce the accounts or report to a person specified in the notice on a date and at a place so specified, and the directors fail to produce the accounts or report as required by the notice, then, in any proceeding for a failure to comply with section 98 or 99, proof of the failure to produce the accounts or report as required by the notice is prima facie evidence that the accounts or report were not made out within that period.

Division 4—Audit

107. Qualifications of auditors. (1) Subject to this section, a person shall not—

- (a) consent to be appointed as auditor of a registered body;
- (b) act as auditor of a registered body; or

- (c) prepare a report required by this Act to be prepared by a registered company auditor or by an auditor of a registered body,

if—

- (d) the person is not a registered company auditor who is ordinarily resident in Queensland;
 - (e) the person, or a corporation in which the person is a substantial shareholder for the purposes of Division 4 of Part IV of the *Companies (Queensland) Code* or the provisions of the law of another State or of a Territory that correspond with that Division, is indebted in an amount exceeding \$5 000 to the registered body or to a subsidiary thereof;
 - (f) the person is an officer of the registered body;
 - (g) the person is a partner, an employer or an employee of an officer of the registered body; or
 - (h) the person is a partner or an employee of an employee of an officer of the registered body.
- (2) A firm shall not—

- (a) consent to be appointed as auditor of a registered body;
- (b) act as auditor of a registered body; or
- (c) prepare a report required by this Act to be prepared by a registered company auditor or by an auditor of a registered body,

unless—

- (d) at least one member of the firm is a registered company auditor who is ordinarily resident in Queensland;
- (e) where the business name under which the firm is carrying on business is not registered under the *Business Names Act 1962-1979*—there has been lodged with the Registrar a return in the prescribed form showing, in relation to each member of the firm, his full name and his address as at the time when the firm so consents, acts or prepares a report;
- (f) no member of the firm and no corporation in which any member of the firm is a substantial shareholder within the meaning of Division 4 of Part IV of the *Companies (Queensland) Code* or the provisions of the law of another State or of a Territory that correspond with that Division, is indebted in an amount exceeding \$5 000 to the registered body or to a subsidiary thereof;
- (g) no member of the firm is—
 - (i) an officer of the registered body;
 - (ii) a partner, an employer or an employee of an officer of the registered body; or
 - (iii) a partner or an employee of an employee of an officer of the registered body; and
- (h) no officer of the registered body receives any remuneration from the firm for acting as a consultant to it on accounting or auditing matters.

(3) For the purposes of subsections (1) and (2), a person shall be deemed to be an officer of a registered body if he is an officer of a subsidiary of the registered body or except where the Registrar, if he thinks fit in the circumstances of the case, directs otherwise, if he has at any time within the immediately preceding period of 12 months been an officer of the registered body or of a subsidiary thereof.

(4) For the purposes of this section, a person shall not be taken to be an officer of a registered body by reason only of his being or having been the liquidator of that registered body or of a subsidiary thereof.

(5) For the purposes of this section, a person shall not be deemed to be an officer of a registered body by reason only of his having been appointed as auditor of that registered body or of a subsidiary thereof or, for any purpose relating to taxation, a public officer of the registered body, or by reason only of his being or having been authorized to accept on behalf of the registered body or subsidiary service of process or any notices required to be served on the registered body or subsidiary.

(6) The appointment of a firm as auditor of a registered body shall be deemed to be an appointment of all persons who are members of the firm and are registered company auditors, whether resident in the State or not, at the date of appointment.

(7) Where a firm that has been appointed as auditor of a registered body is reconstituted by reason of the death, retirement or withdrawal of a member or by reason of the admission of a new member or members or both—

- (a) a person who was deemed under subsection (6) to be an auditor of the registered body and who has so retired or withdrawn from the firm as previously constituted shall be deemed to have resigned as auditor of the registered body as from the day of his retirement or withdrawal but, unless that person was the only member of the firm who was a registered company auditor and after the retirement or withdrawal of that person there is no member of the firm who is a registered company auditor, section 111 does not apply to that resignation;
- (b) a person who is a registered company auditor and who is so admitted to the firm shall be deemed to have been appointed as an auditor of the registered body as from the date of his admission; and
- (c) the reconstitution of the firm does not affect the appointment of the continuing members of the firm who are registered company auditors as auditors of the registered body,

but nothing in this subsection affects the operation of subsection (2).

(8) Except as provided by subsection (7), the appointment of the members of a firm as auditors of a registered body that is deemed by subsection (6) to have been made by reason of the appointment of the firm as auditor of the registered body is not affected by the dissolution of the firm.

(9) A report or notice that purports to be made or given by a firm appointed as auditor of a registered body shall not be taken to be duly made or given unless it is signed in the firm name and in his own name by a member of the firm who is a registered company auditor.

(10) If, in contravention of this section, a firm consents to be appointed or acts as auditor of a registered body or prepares a report required by this Act to be prepared by an auditor of a registered body each member of the firm is guilty of an offence.

(11) A person shall not—

- (a) if he has been appointed auditor of a registered body—knowingly disqualify himself while the appointment continues from acting as auditor of the registered body; or
- (b) if he is a member of a firm that has been appointed auditor of a registered body—knowingly disqualify the firm while the appointment continues from acting as auditor of the registered body.

108. Appointment of auditors of existing registered bodies.

(1) Within one month after the date of commencement of this Part, or within such longer period as the Registrar, if he thinks fit in the circumstances of the case, allows, the directors of a registered body that does not have an auditor or that does not have an auditor qualified under section 107 for appointment as an auditor shall take all steps necessary for the appointment of a person or persons, a firm or firms, or a person or persons and a firm or firms who or which are so qualified as auditor or auditors of the registered body, unless the registered body at a general meeting has appointed an auditor or auditors so qualified.

(2) If a director of a registered body fails to take all reasonable steps to comply with or secure compliance with subsection (1) he is guilty of an offence.

(3) A person or firm appointed as auditor of a registered body under subsection (1) shall, subject to this Act, hold office until the next annual general meeting of the registered body.

109. Nomination of auditors. (1) Subject to this section, a registered body is not entitled to appoint a person or a firm as auditor of the registered body at its annual general meeting, not being a meeting at which an auditor is removed from office, unless notice in writing of his or its nomination as auditor was given to the registered body by a member of the registered body—

- (a) before the meeting was convened; or
- (b) not less than 21 days before the meeting.

(2) If a registered body purports to appoint a person or firm as auditor of the registered body in contravention of subsection (1), the purported appointment is of no effect and the registered body and any officer of the registered body who is in default are each guilty of an offence.

(3) Where notice of nomination of a person or firm for appointment as auditor of a registered body is received by the registered body, whether for appointment at a meeting or an adjourned meeting referred to in section 110 (10) or at an annual general meeting, the registered body shall—

- (a) not less than 7 days before the meeting; or
- (b) at the time notice of the meeting is given,

send a copy of the notice of nomination to each person or firm nominated, to each auditor of the registered body, to each member of the registered body and to the Registrar.

(4) It shall be sufficient compliance with the provisions of subsection (3) in so far as the sending of a copy of the notice of nomination to each member is concerned if the nomination is advertised in such a way as to comply in all respects with the requirements prescribed for such advertising.

110. Appointment of auditors. (1) Within one month after the date on which a registered body is registered, the directors of the registered body shall appoint, unless the registered body at a general meeting has appointed, a person or persons, a firm or firms, or a person or persons and a firm or firms, as auditor or auditors of the registered body.

(2) A person or firm appointed as auditor of a registered body under subsection (1) shall hold office subject to this Division until the first annual general meeting of the registered body.

(3) A registered body shall—

- (a) at its first annual general meeting appoint a person or persons, a firm or firms, or a person or persons and a firm or firms as auditor or auditors of the registered body; and
- (b) at each subsequent annual general meeting, if there is a vacancy in the office of auditor of the registered body, appoint a person or persons or a firm or firms, or a person or persons and a firm or firms to fill the vacancy.

(4) A person or firm appointed as auditor under subsection (3) holds office until death, removal or resignation from office in accordance with section 111 or until ceasing to be capable of acting as auditor by reason of section 107 (1) or (2).

(5) Within one month after a vacancy, other than a vacancy caused by the removal of an auditor from office, occurs in the office of auditor of a registered body if there is no surviving or continuing auditor of the registered body, the directors shall, unless the registered body at a general meeting has appointed a person or persons, a firm or firms, or a person or persons and a firm or firms, to fill the vacancy, appoint a person or persons, a firm or firms or a person or persons and a firm or firms, to fill the vacancy.

(6) While a vacancy in the office of auditor continues, the surviving or continuing auditor or auditors (if any) may act.

(7) A registered body or the directors of a registered body shall not appoint a person or firm as auditor of the registered body unless that person or firm has, before the appointment, consented by notice in writing given to the registered body or to the directors to act as auditor and has not withdrawn his or its consent by notice in writing given to the registered body or directors.

(8) A notice under subsection (7) given by a firm shall be signed in the firm name and in his own name by a member of the firm who is a registered company auditor.

(9) If a registered body appoints a person or firm as auditor of the registered body in contravention of subsection (7), the purported appointment does not have any effect and the registered body and any officer of the registered body who is in default are each guilty of an offence.

(10) Where an auditor of a registered body is removed from office at a general meeting in accordance with section 111—

- (a) the registered body may at that meeting (without adjournment) by a resolution passed by a majority of not less than two-thirds of such members of the registered body as, being entitled so to do, vote in person forthwith appoint as auditor or auditors a person or persons, a firm or firms, or a person or persons and a firm or firms to whom or which has been sent a copy of the notice of nomination in accordance with section 109 (3); or
- (b) if such a resolution is not passed or, by reason only that such a copy of the notice of nomination has not been sent to a person, could not be passed, the meeting may be adjourned to a date not earlier than 20 days and not later than 30 days after the day of the meeting and the registered body may, at the adjourned meeting, by ordinary resolution appoint as auditor or auditors a person or persons, a firm or firms, or a person or persons and a firm or firms, notice of whose nomination for appointment as auditor has been received by the registered body, from a member of the registered body, at least 14 clear days before the date to which the meeting is adjourned.

(11) If after the removal from office of an auditor of a registered body the registered body fails to appoint another auditor under subsection (10), the registered body shall, within 7 days after the failure, notify the Registrar accordingly, whereupon the Registrar shall, unless there is another auditor of the registered body whom the Registrar believes to be able to carry out the responsibilities of auditor alone and who agrees to continue as auditor, appoint as auditor or auditors of the registered body, a person or persons, a firm or firms, or a person or persons and a firm or firms who or which consents or consent to be so appointed.

(12) Subject to subsection (11), if a registered body does not appoint an auditor when required by this Act to do so, the Registrar may, on the application in writing of a member of the registered body, appoint

as auditor or auditors of the registered body a person or persons, a firm or firms, or a person or persons and a firm or firms who or which consents or consent to be so appointed.

(13) A person or firm appointed as auditor of a registered body under subsection (5), (10), (11) or (12) holds office, subject to this Division, until the next annual general meeting of the registered body.

(14) If a director of a registered body fails to take all reasonable steps to comply with, or secure compliance with, subsection (1) or (5) he is guilty of an offence.

(15) Where a person or firm is appointed as an auditor under subsection (1), (3), (5) or (10) the registered body shall, within 14 days after the appointment, lodge with the Registrar a notice in the prescribed form stating that the appointment has been made and specifying the name of the person or firm and such other particulars relating to the appointee as are prescribed.

111. Removal and resignation of auditors. (1) An auditor of a registered body may be removed from office by resolution of the registered body at a general meeting of which special notice has been given, but not otherwise.

(2) Where notice of a resolution to remove an auditor is received by a registered body it shall forthwith send a copy of the notice to the auditor and lodge a copy of the notice with the Registrar.

(3) Within 7 days after receiving a copy of the notice, the auditor may make representations in writing to the registered body, not exceeding a reasonable length, and request that, before the meeting at which the resolution is to be considered, a copy of the representations be sent by the registered body at its expense to every member of the registered body and to the Registrar.

(4) Unless the Registrar on the application of the registered body otherwise orders, the registered body shall send a copy of the representations in accordance with the auditor's request, and the auditor may, without prejudice to his right to be heard orally or where a firm is the auditor to have a member of the firm heard orally on its behalf, require that the representations be read out at the meeting.

(5) An auditor of a registered body may, by notice in writing given to the registered body, resign as auditor of the registered body if—

(a) he has, by notice in writing given to the Registrar, applied for consent to his resignation and stated the reasons for his application and, at or about the same time as he gave the notice to the Registrar, notified the registered body in writing of his application to the Registrar; and

(b) he has received the consent of the Registrar.

(6) The Registrar shall, as soon as practicable after receiving a notice from an auditor under subsection (5), notify the auditor and the registered body whether he consents to the resignation of the auditor.

(7) A statement made by an auditor in an application to the Registrar under subsection (5) or in answer to an inquiry by the Registrar relating to the reasons for the application—

- (a) is not admissible in evidence in any civil or criminal proceedings against the auditor; and
- (b) may not be made the ground of a prosecution, action or suit against the auditor,

and a certificate signed by the Registrar that the statement was made in the application or in answer to the inquiry by the Registrar is conclusive evidence that the statement was so made.

(8) A person aggrieved by the refusal of consent by the Registrar to the resignation of an auditor of a registered body may, within one month after the date of refusal, appeal to the Court from the refusal, and thereupon the Court, after giving the registered body an opportunity to be heard, may confirm or reverse the refusal and may make such further order as it thinks just.

(9) Subject to any order of the Court under subsection (8), the resignation of an auditor takes effect—

- (a) on the date (if any) specified for the purpose in the notice of resignation;
- (b) on the date on which the Registrar gives his consent to the resignation; or
- (c) on the date (if any) fixed by the Registrar for the purpose, whichever last occurs.

(10) Where on the retirement or withdrawal from a firm of a member, the firm will no longer be capable, by reason of the provisions of section 107 (2) (d) of acting as auditor of a registered body the member so retiring or withdrawing shall (if not disqualified from acting as auditor of the registered body) be deemed to be the auditor of the registered body until he obtains the consent of the Registrar to his retirement or withdrawal.

(11) Forthwith upon receipt of a notice of resignation from an auditor of a registered body or, where an auditor of a registered body is removed from office, forthwith upon the removal, the registered body shall lodge a notice of the resignation or removal in the prescribed form with the Registrar.

112. Effect of winding up on office of auditor. An auditor of a registered body ceases to hold office if—

- (a) a special resolution is passed for the voluntary winding up of the registered body;
- (b) an order is made by the Court for the winding up of the registered body; or
- (c) the Registrar certifies under subsection (3) of section 135 as to any of the events referred to in that subsection in relation to the registered body.

113. Fees and expenses of auditors. The reasonable fees and expenses of an auditor of a registered body are payable by the registered body.

114. Duties of auditors. (1) An auditor of a registered body shall report to the members of the registered body on the accounts required to be laid before the registered body at the annual general meeting and on the registered body's accounting records and other records relating to those accounts and if it is a holding body shall also report to the members on the group accounts.

(2) A report by an auditor of a registered body under subsection (1) shall be furnished by the auditor to the directors of the registered body in sufficient time to enable the registered body to comply with the requirements of section 103 (1) in relation to that report.

(3) An auditor shall, in a report under this section, state—

(a) whether the accounts, and if the registered body is a holding body, the group accounts are in his opinion properly drawn up—

(i) so as to give a true and fair view of the matters required by section 98 to be dealt with in the accounts;

(ii) in accordance with the provisions of this Act;

(iii) in accordance with the applicable prescribed accounting standard;

(b) if, in his opinion, the accounts, or, if the registered body is a holding body, the accounts or group accounts, have not been drawn up in accordance with a particular applicable prescribed accounting standard—

(i) whether, in his opinion, the accounts or group accounts, as the case may be, would, if drawn up in accordance with that accounting standard, have given a true and fair view of the matters required by section 98 to be dealt with in the accounts or group accounts;

(ii) if, in his opinion, the accounts or group accounts, as the case may be, would not, if so drawn up, have given a true and fair view of those matters, his reasons for being of that opinion;

(iii) if the directors have caused to be attached to the accounts or group accounts a statement under section 98 (10) or (11), as the case may be, giving particulars of the quantified financial effect on the accounts or group accounts of the failure to so draw up the accounts or group accounts, his opinion concerning the particulars; and

(iv) in a case to which neither subparagraph (ii) nor (iii) applies, particulars of the quantified financial effect on the accounts or group accounts of the failure to so draw up the accounts or group accounts, as the case may be;

(c) whether the accounting records and other records, and the registers, required by this Act or its rules to be kept by the

- registered body have been, in his opinion, properly kept in accordance with the provisions of this Act and the rules;
- (d) if the registered body is a holding body, whether the accounting records and other records and registers—
- (i) in the case of a subsidiary incorporated under the *Companies (Queensland) Code*—required by that Code to be kept by the subsidiary (other than a subsidiary of which he has not acted as auditor) have been, in his opinion, properly kept in accordance with the provisions of that Code;
 - (ii) in the case of a subsidiary incorporated under the law of another State or Territory that corresponds to the *Companies (Queensland) Code*—required by that law to be kept by the subsidiary (other than a subsidiary of which he has not acted as auditor) have been, in his opinion, properly kept in accordance with the provisions of that law;
- (e) whether the registered body has, in his opinion, maintained a satisfactory system of control over its transactions and records, and in particular whether the requirements of paragraphs (b) and (c) of section 96 (1) have been complied with;
- (f) in the case of group accounts—
- (i) the names of the subsidiaries (if any) of which he has not acted as auditor;
 - (ii) whether he has examined the accounts and auditors' reports of all subsidiaries of which he has not acted as auditor, being accounts that are included (whether separately or consolidated with other accounts) in the group accounts;
 - (iii) whether he is satisfied that the accounts of the subsidiaries that are to be consolidated with other accounts are in form and content appropriate and proper for the purposes of the preparation of the consolidated accounts, and whether he has received satisfactory information and explanations as required by him for that purpose; and
 - (iv) whether the auditor's report on the accounts of any subsidiary was made subject to any qualification or included any comment made under section 285 (4) of the *Companies (Queensland) Code* or the corresponding provisions of the law in force in another State or in a Territory and, if so, particulars of the qualification or comment;
- (g) any defect or irregularity in the accounts or group accounts and any matter not set out in the accounts or group accounts without regard to which a true and fair view of the matters

dealt with by the accounts or group accounts would not be obtained; and

- (h) if he is not satisfied as to any matter referred to in paragraph (a), (b), (c), (d), (e) or (f) his reasons for not being so satisfied.

(4) It is the duty of an auditor of a registered body to form an opinion as to each of the following matters:—

- (a) whether he has obtained all the information and explanations that he required;
- (b) whether the returns received from branch offices of the registered body are adequate;
- (c) whether the provisions of this Act and the rules relating to the administration and employment of the funds of the registered body have been observed;
- (d) whether proper accounting records and other records, including registers, have been kept by the registered body as required by this Act and its rules;
- (e) where the registered body is a holding body, whether the procedures and methods used by the holding body and by each of its subsidiaries in arriving at the amounts taken into any consolidated accounts were appropriate in the circumstances of the consolidation; and
- (f) where group accounts are prepared otherwise than as one set of consolidated accounts for the group, whether he agrees with the reasons for preparing them in the form in which they are prepared as given by the directors in the accounts,

and he shall state in his report particulars of any deficiency, failure or shortcoming in respect of any matter referred to in this subsection.

(5) An auditor of a registered body has a right of access at all reasonable times to the accounting records and other records, including registers, of the registered body and is entitled to require from any officer of the registered body such information and explanations as he desires for the purposes of audit.

(6) An auditor of a holding body has a right of access at all reasonable times to the accounting records and other records, including registers, of any subsidiary and is entitled to require from any officer or auditor of any subsidiary, at the expense of the holding body, such information and explanations in relation to the affairs of the subsidiary as he requires for the purpose of reporting on the group accounts.

(7) The auditor's report shall be attached to or endorsed upon the accounts or group accounts and shall, if a member so requires, be read before the registered body at the annual general meeting, and is open to inspection by a member at any reasonable time.

(8) An auditor of a registered body or an agent authorized by him in writing for the purpose is entitled to attend any meeting of the registered body and to be given written notice of any such meeting and

to be heard at any meeting which he attends on any part of the business of the meeting that concerns the auditor in his capacity as auditor and is entitled so to be heard notwithstanding that he retires at that meeting or a resolution to remove him from office is passed at that meeting.

(9) If an auditor of a registered body becomes aware that the registered body or the directors has or have made default in complying with section 89 or the provisions of section 104 relating to the laying of accounts or group accounts before the annual general meeting of the registered body, the auditor shall forthwith furnish to the Registrar a written report on the matter.

(10) Except in a case to which subsection (9) applies, if an auditor, in the course of the performance of his duties as auditor of a registered body—

(a) is satisfied that there has been a breach or non-observance of any of the provisions of this Act or of the rules of the registered body; or

(b) becomes aware of a prescribed matter,

he shall forthwith furnish to the Registrar a written report on the matter.

(11) An auditor shall at the time at which he furnishes his report to the directors of a registered body pursuant to subsection (2) furnish a copy thereof accompanied by a copy of the accounts or, as the case may be, the group accounts to the Registrar.

(12) Each auditor and former auditor of a registered body shall give to the Registrar such information and explanations in respect of the affairs of the registered body as the Registrar requires and the auditor or former auditor is able to give.

115. Obstruction of auditor. An officer or auditor of a registered body or any subsidiary thereof, who refuses or fails without lawful excuse to allow an auditor of the registered body access, in accordance with section 114, to any accounting records and other records, including registers, of the registered body or subsidiary in his custody or control, or to give any information or explanation as and when required under that section, or otherwise hinders, obstructs or delays an auditor in the performance of his duties or the exercise of his powers, is guilty of an offence.

Penalty: \$10 000 or imprisonment for 2 years, or both.

116. Provisions indemnifying auditors. (1) Any provision, whether contained in the rules of a registered body or in any contract with a registered body or otherwise, for exempting any auditor from or indemnifying him against any liability which by law would otherwise attach to him in respect of any negligence, default, breach of duty or breach of trust of which he may be guilty in relation to the registered body shall be void.

(2) Notwithstanding anything in this section a registered body may, pursuant to its rules or otherwise, indemnify any auditor against any

liability incurred by him in defending any proceedings, whether civil or criminal, in which judgment is given in his favour or in which he is acquitted or in connexion with any application in relation to any such proceedings in which relief is, under this Act, granted to him by the Court.

(3) Subsection (1) does not apply in relation to a contract of insurance not being a contract of insurance the premiums in respect of which are paid by the registered body.

117. Auditors and other persons to enjoy qualified privilege in certain circumstances. (1) A person is not, in the absence of ill-will to the person concerned or any other improper motive on his part, liable to any action for defamation at the suit of any person in respect of any statement that he makes in the course of his duties as auditor of a registered body.

(2) A person is not, in the absence of ill-will to the person concerned or any other improper motive on his part, liable to any action for defamation at the suit of any person in respect of the publishing of any document prepared by an auditor of a registered body in the course of his duties and required by or under this Act to be lodged with the Registrar, or required by or under a law in force in another State or in a Territory to be lodged with a person who under that law exercises functions similar to those exercised by the Registrar under this Part, whether or not the document has been so lodged.

(3) This section does not limit or affect any other right, privilege or immunity that an auditor or other person has as a defendant in an action for defamation.

Division 5—Registers

118. Registers. (1) A registered body shall keep—

- (a) a register of directors, principal executive officers and secretaries;
- (b) a register of members and shares;
- (c) a register of loans raised, and securities given or issued in respect of such loans, by the registered body;
- (d) a register of bills of exchange negotiated by the registered body for the purpose of raising money, and securities given or issued by the registered body in connexion with such bills of exchange;
- (e) a register of loans made by, and securities given in respect of such loans to, the registered body;
- (f) a register of investments made by the registered body; and
- (g) such other registers as are prescribed.

(2) The registers required to be kept by a registered body shall be kept in such form and in such manner and shall contain such particulars as are prescribed.

(3) Subject to any regulations made for the purposes of subsection (2), for the purposes of this Act any register, index, minute book or book of account may be kept either by making entries in a bound book or by recording the matters in question in any other manner.

(4) Where any register, index, minute book or book of account required by this Act to be kept is not kept by making entries in a bound book, but by some other means, reasonable precautions shall be taken for guarding against falsification and for facilitating its discovery, and where default is made in complying with this subsection the registered body and any officer of the registered body who is in default are each guilty of an offence.

(5) Except as provided in this section, no notice of any trust, whether express, implied or constructive, shall be entered in any register or account kept by a registered body or be received by a registered body or by the Registrar.

(6) Where the rules of a registered body so provide, an entry in a register or an account kept by the registered body in respect of any shares in the registered body or moneys deposited with the registered body may, in the circumstances and in the manner authorized by the rules, be made so as to indicate that the shares or the moneys are held by, or vested in, a person upon trust.

(7) No liabilities are affected by anything done in pursuance of subsection (6) and the registered body concerned shall not be affected with notice of any trust by anything so done.

119. Inspection by members of registers, etc. (1) A registered body shall keep at its registered office and open at all reasonable hours to inspection by any member without fee—

- (a) a copy of this Act;
- (b) a copy of the rules of the registered body;
- (c) the prescribed register of directors, principal executive officers and secretaries;
- (d) the prescribed register of loans raised, and securities given or issued in respect of such loans, by the registered body;
- (e) the prescribed register of bills of exchange negotiated by the registered body for the purpose of raising money, and securities given or issued by the registered body in connexion with such bills of exchange; and
- (f) such other registers (other than a register to which section 118 (1) (b), (e) or (f) relates) as may be prescribed, for the purposes of this subsection.

(2) A registered body shall keep at each branch office and open at all reasonable hours to inspection by any member without fee, the documents to which paragraphs (a) and (b) of subsection (1) refer.

(3) A member may inspect his own account in the books of the registered body at any reasonable time.

Division 6—Returns

120. Returns. (1) A registered body shall in respect of each financial year of the registered body lodge with the Registrar a copy, certified by one of the directors to be a true copy, of the balance-sheet, profit and loss account, source and application of funds' statement and other statements and reports prepared in pursuance of sections 98, 99 and 114 and laid or required to be laid before the annual general meeting.

(2) The documents required to be lodged with the Registrar under subsection (1) shall be accompanied by—

- (a) a declaration by the prescribed officer of the registered body in the prescribed form and containing the prescribed particulars; and
- (b) such other statements and returns as are prescribed.

(3) The documents referred to in subsections (1) and (2) in respect of each financial year of the registered body shall be lodged within 4 months after the close of the financial year in question.

(4) The Registrar may on such conditions as he thinks fit, on written application by a registered body made in accordance with a resolution of its board and signed by a director or the secretary extend the period of 4 months referred to in subsection (3).

(5) A registered body shall furnish to the Registrar such other statements and returns as are prescribed.

(6) In addition to the returns, reports and other documents required elsewhere in this Act to be furnished to him, a registered body shall, at the request of the Registrar, furnish to the Registrar such further information and particulars with respect to the affairs, and any matters relevant to the affairs, of the registered body as he may from time to time require and the registered body shall furnish to the Registrar the information and particulars so requested in the form and within the time and at the place specified by him in the request.

(7) If a registered body fails to comply in any respect with this section or with a requirement by, or a request of, the Registrar pursuant to this section, the registered body and any officer of the registered body who is in default are each guilty of an offence.

Penalty: \$1 000 or imprisonment for 3 months.

PART VI—DISPUTES

121. Disputes. (1) For the purpose of this section "registered body" includes the board or any officer of the registered body and "member" includes—

- (a) any person aggrieved who has not for more than 3 months ceased to be a member;
- (b) any person claiming through or under a member or through or under a person referred to in paragraph (a).

(2) Subject to this section, every dispute between a member, in his capacity as a member, and a registered body shall be determined in the manner provided for in the rules of the registered body.

(3) Any party to a dispute to which this section relates may refer the dispute to the Registrar if it has not been referred to arbitration in accordance with the rules of the registered body or in the case of such a dispute that has been so referred to arbitration, if one month has elapsed without an award being made.

(4) Where a dispute is referred to the Registrar, the Registrar or any person deputed by him may hear and determine the dispute and may order the expenses of the hearing and such costs of the parties as he specifies to be paid out of the funds of the registered body or by such party to the dispute as he may think fit.

(5) Where the Registrar decides not to hear, and not to depute the hearing of a dispute he shall, within one month of receipt of the reference, notify the parties in writing of his decision and the dispute shall be determined in the manner (other than by reference to the Registrar under this section) prescribed by the rules of the registered body but where the only manner prescribed by those rules for the determination of the dispute is by reference to the Registrar the dispute shall be determined by arbitration in accordance with the *Arbitration Act 1973* in which case subsections (8), (9), (10) and (11) of this section shall not apply.

(6) Where a dispute is referred to the Registrar and the Registrar decides to hear, or depute the hearing of, the dispute, the Registrar or, as the case may be, the person deputed by him may administer an oath or affirmation and may, by a notice in writing given in the prescribed manner, require the attendance of any party or witness and the production of any book relating to the matter in question.

(7) The provisions of section 29 of the *Arbitration Act 1973*, and of any rules made under that Act that relate to the operation of that section, shall apply, *mutatis mutandis*, to and in respect of a dispute as if the Registrar or person deputed by him to hear the dispute were an arbitrator and as if the reference of the dispute to the Registrar were a reference under that Act.

(8) Any determination or order in accordance with 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.

(9) Any determination or order referred to in subsection (8) may be registered, by any person interested, in the Court and thereupon it shall be deemed to be a judgment or order of that court and may be enforced in the same manner as such a judgment or order.

(10) The Court may give such relief and make such orders and give such directions in relation to the enforcement of any determination or order registered in the Court under subsection (9) as it may deem proper.

(11) Any order made or direction given by the Court under this section 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 procedures as the Court may direct.

(12) Nothing in this section shall extend to any dispute as to the construction or effect of this Act or of any mortgage or other security or of any contract contained in any document other than the rules of the registered body.

(13) Any person who fails, without lawful excuse, to comply with a requirement of the Registrar, or a person deputed by him, pursuant to subsection (6) is guilty of an offence.

Penalty: \$1 000 or imprisonment for 3 months.

PART VII—AMALGAMATION AND TRANSFER OF ENGAGEMENTS

122. Amalgamation. (1) Subject to this section—

(a) any 2 or more credit societies may apply to the Registrar to be registered as an amalgamated credit society; and
 (b) any 2 or more associations of a similar kind may apply to the Registrar to be registered as an amalgamated association, with or without any winding up or any division of the funds of the credit societies or, as the case may be, of the associations or any of them.

(2) An application under subsection (1) shall not be made—

- (a) unless the amalgamation and the terms thereof have been approved by a special resolution of each of the registered bodies; or
 (b) if the amalgamation is disapproved in writing by the holders of not less than one-third of the whole number of shares of an amalgamating registered body and the disapprovals are received by the registered body in question before the day on which the meeting to consider the special resolution referred to in paragraph (a) is held, unless the amalgamation is confirmed under section 125 (4).

(3) The application shall be in the form prescribed and shall be accompanied by—

- (a) 2 copies of the proposed rules of the amalgamated registered body; and
 (b) such other particulars as may be prescribed.

(4) If the Registrar is satisfied that the registered bodies have complied with the provisions of this Act in relation to the application and that the proposed rules of the amalgamated registered body are not contrary to this Act, are adequate for the proper conduct and operation of the amalgamated registered body and are such as may reasonably be

approved by him, the Registrar shall, upon the surrender to him of the certificates of incorporation of the amalgamating registered bodies—

- (a) register the amalgamated registered body and its rules;
- (b) issue a certificate in the prescribed form that the registered body is incorporated as an amalgamated registered body under this Act on and from the date specified in the certificate which date is hereinafter in this section referred to as the date of the amalgamation; and
- (c) notify the issue of the certificate in the Gazette.

(5) The Registrar may exercise his powers under subsection (4) notwithstanding that a relevant certificate of incorporation has not been surrendered to him where he is satisfied that the certificate has been lost.

(6) The Registrar may, following the issue of the certificate under subsection (4), cancel the registration and remove from the register the name of any of the registered bodies that have so amalgamated but before so doing the Registrar shall give notice of his intention so to do to the amalgamated registered body.

(7) On and from the day on which the certificate of incorporation of the amalgamated registered body is issued—

- (a) all real and personal property and all right and interest therein and all management and control thereof that, immediately before that day, was vested in or belonged to a registered body that is a party to the amalgamation shall, by virtue of this Act without any conveyance, transfer or assignment, vest in or belong to the amalgamated registered body;
- (b) all debts, moneys and claims, liquidated and unliquidated, that, immediately before that day, were due or payable to, or recoverable by, a registered body that is a party to the amalgamation shall be debts due and moneys payable to and claims recoverable by the amalgamated registered body;
- (c) all suits, actions and proceedings pending immediately before that day at the suit of a registered body that is a party to the amalgamation shall be respectively suits, actions and proceedings pending at the suit of the amalgamated registered body and all suits, actions and proceedings so pending at the suit of any person against a registered body that is a party to the amalgamation shall be respectively suits, actions and proceedings pending at the suit of that person against the amalgamated registered body;
- (d) all contracts, agreements, arrangements and undertakings entered into with and all securities lawfully given to or by a registered body that is a party to the amalgamation and in force immediately before that day shall be deemed to be contracts, agreements, arrangements and undertakings entered

into with and securities given to or by the amalgamated registered body;

- (e) the amalgamated registered body may, in addition to pursuing any other remedies or exercising any other powers that may be available to it, pursue the same remedies for the recovery of moneys and claims referred to in this subsection and for the prosecution of suits, actions and proceedings so referred to as a registered body that is a party to the amalgamation might have done but for the amalgamation;
- (f) the amalgamated registered body may enforce and realise any security or charge existing immediately before that day in favour of a registered body that is a party to the amalgamation and may exercise any powers thereby conferred on a registered body that is a party to the amalgamation as if the security or charge were a security or charge in favour of the amalgamated registered body;
- (g) all debts, moneys and claims, liquidated and unliquidated, that, immediately before that day, were due or payable by, or recoverable against, a registered body that is a party to the amalgamation shall be debts due and moneys payable by and claims recoverable against the amalgamated registered body; and
- (h) all liquidated and unliquidated claims for which a registered body that is a party to the amalgamation would, but for the amalgamation, have been liable shall be liquidated and unliquidated claims for which the amalgamated registered body shall be liable.

(8) On and from the day on which the certificate of incorporation of the amalgamated registered body is issued, a reference in any instrument to a registered body that is a party to the amalgamation shall be read and construed as if it were a reference to the amalgamated registered body.

(9) The members of an amalgamated registered body shall be the persons who, immediately before the amalgamation, were members of the registered bodies that were parties to the amalgamation and any other persons who are admitted to membership in accordance with the rules of the amalgamated registered body.

(10) The amalgamation shall not prejudice any right of a creditor of any registered body which is a party to the amalgamation.

(11) Upon production of the certificate of the Registrar issued pursuant to subsection (4) (b) and of the appropriate instrument of title (if any)—

- (a) the Registrar of Titles, where the *Real Property Act 1861-1985* applies; or
- (b) the person or authority charged with registering instruments of title or dealings, where that Act does not apply,

shall make such recordings, entries or notations in the appropriate register or upon existing instruments of title or shall issue such new instruments of title as are necessary to evidence the vesting by virtue of this section of any estate or interest in land in the amalgamated registered body.

(12) Any property that is vested in or transferred to the amalgamated registered body by virtue of or in pursuance of this section shall be subject to any debt, liability or obligation specially charged on or affecting the same immediately before the vesting or transfer.

123. Transfer of engagements. (1) Subject to this section—

- (a) a credit society may by special resolution transfer its engagements to another credit society that undertakes to fulfil those engagements;
- (b) an association may by special resolution transfer its engagements to another association of a similar kind that undertakes to fulfil those engagements.

(2) For the purposes of subsection (1), a registered body may—

- (a) by special resolution; or
- (b) with the consent of the Registrar, by resolution of a general meeting or of the board,

undertake to fulfil the engagements of another registered body.

(3) A transfer of engagements between a registered body and another registered body under this section shall not have effect—

- (a) unless the special resolution of the transferor registered body has been registered;
- (b) if the holders of not less than one-third of the whole number of shares of the transferor registered body have disapproved in writing of the transfer and the disapprovals were received by the transferor registered body before the day on which the meeting to consider the special resolution referred to in paragraph (a) is held, unless the transfer has been confirmed under section 125 (4);
- (c) where a registered body has, by special resolution, undertaken to fulfil the engagements of another registered body—if the holders of not less than one-third of the whole number of shares of the transferee registered body have disapproved in writing of the transfer and the disapprovals were received by the transferee registered body before the day on which the meeting to consider the special resolution is held, unless the transfer has been confirmed under section 125 (4).

(4) The Registrar, before registering the special resolution referred to in subsection (3) (a), may require such evidence as he deems necessary to ensure—

- (a) that the transferee registered body has by means authorized by this section undertaken to fulfil the engagements of the transferor registered body;
- (b) that the statements referred to in section 125 (1) have (unless exemption has been granted by the Registrar pursuant to that section) been sent in accordance with that section; and
- (c) that the transfer has not been disapproved as specified in subsection (3) (unless the Registrar has, pursuant to the provisions of section 125 (4), confirmed the transfer).

(5) Within one month of the passing under subsection (2) of a resolution to which paragraph (b) of the subsection refers, the registered body shall lodge in the prescribed form notice of the resolution with the Registrar and if the registered body fails so to do, the registered body and any officer of the registered body who is in default are each guilty of an offence.

(6) The provisions of subsections (7), (10), (11) and (12) of section 122 shall apply, *mutatis mutandis*, to a transfer of engagements where a registered body transfers the whole of its engagements to another registered body, and for the purpose of that application—

- (a) a reference to amalgamation shall be construed as a reference to transfer of engagements;
- (b) a reference to property shall be construed as a reference to the engagements transferred;
- (c) a reference to the amalgamated registered body shall be construed as a reference to the registered body to which the engagements are transferred;
- (d) a reference to a registered body that is a party to the amalgamation shall be construed as a reference to the registered body transferring its engagements; and
- (e) a reference to the issue of the certificate of incorporation shall be construed as a reference to the registration of the special resolution of the transferor registered body referred to in subsection (1).

(7) The Registrar may, following the registration of the special resolution of the transferor registered body for the transfer of the whole of its engagements, cancel the registration and remove from the register the name of that registered body but before so doing the Registrar shall give notice of his intention so to do to the transferee registered body.

(8) The—

- (a) members of a credit society to which another credit society has transferred the whole of its engagements pursuant to this section shall be the persons who immediately before the transfer took effect were members of the credit societies

that were parties to the transfer and any other persons who are admitted after the transfer to membership of the transferee credit society in accordance with its rules;

- (b) members of an association to which another association has transferred the whole of its engagements pursuant to this section shall be the credit societies or associations which immediately before the transfer took effect were members of the associations that were parties to the transfer and any other credit societies or associations which are admitted after the transfer to membership of the transferee association in accordance with its rules.

124. Transfer of engagements by direction of the Registrar. (1) Subject to this section, the Registrar may, with the approval of the Minister—

(a) direct—

- (i) a credit society to transfer its engagements to another credit society approved by the Registrar that has undertaken to fulfil those engagements;
 - (ii) an association to transfer its engagements to another association of a similar kind approved by the Registrar that has undertaken to fulfil those engagements; and
- (b) at the same time, require the credit society or, as the case may be, association, within a period specified by the Registrar when giving the direction or within such further period as the Registrar may allow, to enter into an agreement, approved by the Registrar, to give effect to the transfer of engagements directed.

(2) The Registrar shall not give a direction under subsection (1) unless he certifies—

(a) that the number of members—

- (i) in the case of a credit society, is reduced to less than 25;
 - (ii) in the case of an association of credit societies, is reduced to less than 5;
 - (iii) in the case of a union of associations of credit societies, is reduced to less than 2;
- (b) that the registered body has not commenced business within 6 months of registration or has not done any business for a period of more than 6 months;
- (c) that the registered body has, after notice by the Registrar of any breach of or non-compliance with this Act or the rules of the registered body, failed, within the time specified in the notice, to remedy the breach or non-compliance or has committed any further breach of a kind specified in the notice;
- (d) that there are, and have been for a period of one month immediately before the date of the certificate, insufficient

directors of the registered body to constitute a quorum as provided by the rules of the registered body;

- (e) that, as a result of an investigation pursuant to the provisions of Division 3 of Part XI into all or any of the affairs of the registered body it is in the interests of members, depositors or creditors of the registered body that the registered body should transfer its engagements;
- (f) that, as a result of an inquiry pursuant to the provisions of Division 4 of Part XI into the affairs of the registered body or the working and financial condition of the registered body, or a special audit pursuant to those provisions, it is in the interests of members, depositors or creditors of the registered body that the registered body should transfer its engagements;
- (g) that the transfer has been recommended by the Guarantee Fund Committee, the Advisory Committee or an administrator of the registered body; or
- (h) that, in the interests of members, depositors or creditors of the registered body, it is expedient for the registered body to transfer its engagements.

(3) The Registrar shall not certify under subsection (2) unless the ground or matter to be certified has been proved to his satisfaction.

(4) Where a registered body fails to comply with a direction given to it under subsection (1) (a), the Registrar may notify the registered body that he has elected to treat the certificate given under subsection (2) in relation to the registered body, as—

- (a) a certificate given under section 129 (2); or
- (b) a certificate given under section 135 (3).

(5) Where the Registrar notifies a registered body as provided by subsection (4), this Act applies to and in respect of the registered body as from the time when the notice is given as if the certificate that pursuant to subsection (4) (a) or (b) was specified in the notice has been duly given by the Registrar.

(6) The Registrar may, before a registered body has, pursuant to a direction under subsection (1) (a), entered into an agreement pursuant to a requirement under subsection (1) (b) to transfer its engagements, revoke the direction.

(7) Notwithstanding anything to the contrary in section 57 or the rules, a registered body may, by resolution of the board, accept a transfer of engagements directed under this section.

(8) Sections 123 and 125 do not apply to a transfer of engagements under this section.

(9) The provisions of subsections (7), (10), (11) and (12) (both inclusive) of section 122 shall apply *mutatis mutandis* to a transfer of

the whole of its engagements pursuant to this section by a registered body to another registered body and for the purpose of that application—

- (a) a reference to amalgamation shall be construed as a reference to transfer of engagements;
- (b) a reference to property shall be construed as a reference to the engagements transferred;
- (c) a reference to the amalgamated registered body shall be construed as a reference to the registered body to which the engagements are transferred;
- (d) a reference to a registered body that is a party to the amalgamation shall be construed as a reference to the registered body transferring its engagements; and
- (e) a reference to the issue of the certificate of incorporation and to the date thereof shall be construed as a reference to the notification of the transfer of engagements in the Gazette in pursuance of subsection (10) of this section and to the date specified therein as the day on which the transfer takes effect.

(10) A transfer of engagements under this section takes effect at the time and on the day specified by the Registrar by notification in the Gazette.

(11) In the case of a partial transfer of its engagements pursuant to this section by a registered body, debts and liabilities, whether certain or contingent and whether then existing or capable of arising at a future time to or with which the registered body is liable shall as specified by instrument in writing under the hand of the Registrar annexed to and identified in the agreement to give effect to the transfer approved by the Registrar under subsection (1)—

- (i) remain with the transferor registered body; or
- (ii) become and be, by virtue of this Act, the debts and liabilities of the transferee registered body,

according as in the opinion of the Registrar at the time of the transfer having regard to all the circumstances including the engagements the subject of the transfer, the interests of members and the claims of creditors, the justice of the case requires.

(12) On the transfer of the whole of its engagements under this section, the Registrar may cancel the registration and remove from the register the name of the transferor registered body but before so doing the Registrar shall give notice of his intention so to do to the transferee registered body.

(13) An officer of a registered body who—

- (a) fails to take all reasonable steps to secure compliance by the registered body with a direction given or a requirement made under subsection (1); or
- (b) by a wilful act or omission is the cause of a failure by the registered body to comply with a direction given or a requirement made under subsection (1).

is guilty of an offence.

Penalty: \$1 000 or imprisonment for 3 months.

(14) Subject to any applicable provisions expressed to apply to the transfer of the whole of the engagements of a registered body the provisions of this section apply to and with respect to a transfer of the whole of its engagements and to a transfer of any of them.

(15) The members of a credit society to which another credit society has transferred the whole of its engagements pursuant to this section shall be the persons who immediately before the transfer took effect were members of the credit societies that were parties to the transfer and any other persons who are admitted after the transfer to membership of the transferee credit society in accordance with its rules.

(16) The members of an association to which another association has transferred the whole of its engagements pursuant to this section shall be the credit societies or associations which immediately before the transfer took effect were members of the associations that were parties to the transfer and any other credit societies or associations which are admitted after the transfer to membership of the transferee association in accordance with its rules.

(17) In the case of a partial transfer of its engagements pursuant to this section by a credit society or an association subsection (15) or, as the case may require, subsection (16) shall apply, *mutatis mutandis*, in relation to the transfer but the members of the transferor credit society or association who cease to be members of that credit society or association and become members of the transferee credit society or association are such of the persons who, immediately before the transfer took effect, were members of the transferor credit society or association as are specified for the purposes of this subsection in the agreement to give effect to the transfer approved by the Registrar under subsection (1).

(18) In this section a reference to the term “engagements” in relation to a registered body includes a reference to its property or, as the case may require, any of its property.

125. Supplementary provisions as to amalgamation or transfer of engagements. (1) A registered body—

- (a) desiring to amalgamate with one or more other registered bodies;
- (b) desiring to transfer its engagements to another registered body; or
- (c) desiring, by way of special resolution, to undertake to fulfil the engagements of another registered body,

shall, unless exempted in writing by the Registrar, send to each of its members and its auditor a statement the contents of which have been approved by the Registrar concerning—

(d) in respect of each of the parties of the proposed amalgamation or transfer of engagements—

- (i) the financial position of the registered body;
- (ii) the interest of the directors of the registered body in the amalgamation or transfer;
- (iii) the compensation or other consideration proposed to be paid to the directors or other officers of the registered body in relation to the amalgamation or transfer;
- (iv) the payments to be made to members of the registered body in consideration of the amalgamation or transfer of engagements; and
- (v) such other matters as the Registrar may direct; and

(e) in respect of the registered body sending a statement—

- (i) the right of its members to disapprove of the amalgamation or transfer of engagements and the effect of disapproval by holders of not less than one-third of the whole number of shares of the registered body where such disapprovals are received before the day mentioned in section 122 (2) (b) or section 123 (3) (b) or (c), as the case may be; and
- (ii) such other matters as the Registrar may direct.

(2) A statement sent pursuant to subsection (1) (d) shall include—

- (a) a report by a registered company auditor on the financial position of the registered body;
- (b) a report by the directors of the registered body as to whether there has arisen in the interval between the date up to which the auditor has prepared his report and the date of the statement any matter or circumstance that has significantly affected or that may significantly affect—
 - (i) the operations of the registered body;
 - (ii) the results of those operations; or
 - (iii) the state of affairs of the registered body.

(3) A statement under subsection (1) shall be sent so that it will in due course of post reach each member and the auditor of the registered body not later than 21 days prior to the date of the meeting called to pass the special resolution referred to in section 122 (2) or section 123 (1) or (2) as the case may require.

(4) A registered body may apply to the Registrar to confirm an amalgamation or transfer of engagements, notwithstanding that the amalgamation or transfer of engagements has been disapproved in writing by the holders of not less than one-third of the whole number of shares of that registered body and the disapprovals have been received before the day specified in that regard in subsection (1) (e) (i).

(5) Where an application is made under subsection (4), the registered body shall give notice of the application in such manner and at such times as the Registrar may direct.

(6) The Registrar shall consider the application and may, after hearing the registered body and any other person whom he may consider entitled to be heard, confirm the amalgamation or transfer of engagements accordingly.

126. Representations to Advisory Committee. (1) Where a direction is given to a registered body under section 124 (1), the registered body may, not later than 14 days after the direction is given, make representations to the Advisory Committee with respect to the direction and, where any such representations are so made, the Advisory Committee shall report thereon to the Minister.

(2) The Registrar shall exercise in relation to a registered body his powers under section 124 (6) if the Minister so directs after considering a report under subsection (1) with respect to the registered body.

127. Amalgamation with or transfer of engagements to a body formed outside of State. (1) It is competent to a credit society to amalgamate with or transfer its engagements to a body, whether corporate or unincorporate, formed in another State or in a Territory only where it obtains the written approval of the Minister so to do and complies with the terms and conditions to which the approval is made subject.

(2) The Minister may give his approval referred to in subsection (1) subject to such terms and conditions as to him seem desirable.

(3) Where an amalgamation or transfer of engagements referred to in subsection (1) is completed the Registrar shall cancel the registration of the credit society concerned.

PART VIII—SUSPENSION, ADMINISTRATION, RECEIVERSHIP AND WINDING UP OF REGISTERED BODIES

Division 1—Suspension

128. Power to suspend operations. (1) If, with respect to any registered body, the Registrar considers it expedient to do so in the interests of persons—

- (a) who are or may become members of the registered body;
or
- (b) who have deposited or may deposit money with the registered body,

he may with the approval of the Minister, by notice in writing served on the registered body, direct it not to do any one or more of the following:—

- (c) make any money available on loan to members or other persons;
- (d) in the case of a credit society, make any money available to a member pursuant to a continuing credit arrangement;
- (e) accept the deposit of any money;
- (f) borrow any money;
- (g) accept any payment on account of share capital other than a payment that fell due before the direction was given;
- (h) repay any moneys paid on shares;
- (i) repay any moneys on deposit or loan;
- (j) dispose of or otherwise deal with any of its property.

(2) Subject to subsection (6), a registered body shall not fail to comply with each direction contained in a notice served on it under subsection (1).

(3) A registered body on which a notice has been served under subsection (1) may make representations to the Advisory Committee with respect to any direction contained therein and the Committee shall report thereon to the Minister who may direct the Registrar to withdraw or amend the notice.

(4) The Registrar may, and shall on the direction of the Minister, withdraw or amend any notice served under subsection (1).

(5) If a registered body commits an offence against subsection (2), the registered body, a director of the registered body who failed to take all reasonable steps to secure compliance by the registered body with the provision and every officer of the registered body who is in default are each guilty of an offence.

Penalty: \$5 000 or imprisonment for 1 year, or both.

(6) It is not a contravention of subsection (2) to the extent that an act or matter prohibited under that subsection is done by the credit society or association in accordance in every respect with the written permission of the Registrar first had and obtained.

Division 2—Appointment of Administrator

129. Appointment of an administrator. (1) Subject to this section, the Registrar may, with the approval of the Minister, appoint an administrator to conduct the affairs of a registered body and may revoke any such appointment.

(2) The Registrar shall not appoint an administrator unless he certifies—

- (a) that the number of members—
 - (i) in the case of a credit society, is reduced to less than 25;
 - (ii) in the case of an association of credit societies, is reduced to less than 5;
 - (iii) in the case of a union of associations of credit societies, is reduced to less than 2;
- (b) that the registered body has not commenced business within 6 months of registration or has not done any business for a period of more than 6 months;
- (c) that the registered body has, after notice by the Registrar of any breach of or non-compliance with this Act or the rules of the registered body, failed, within the time specified in the notice, to remedy the breach or non-compliance or has committed any further breach of a kind specified in the notice;
- (d) that there are, and have been for a period of one month immediately before the date of the certificate, insufficient directors of the registered body to constitute a quorum as provided by the rules of the registered body;
- (e) that, as a result of an investigation pursuant to the provisions of Division 3 of Part XI into all or any of the affairs of the registered body, it is in the interests of members, depositors or creditors of the registered body that an administrator should be appointed to conduct the affairs of the registered body;
- (f) that, as a result of an inquiry pursuant to the provisions of Division 4 of Part XI into the affairs of the registered body or the working and financial condition of the registered body, or a special audit pursuant to those provisions, it is in the interests of members, depositors or creditors of the registered body that an administrator should be appointed to conduct the affairs of the registered body;
- (g) that the appointment has been recommended by the Guarantee Fund Committee or the Advisory Committee; or
- (h) that, in the interests of members, depositors or creditors of the registered body, it is expedient that an administrator should be appointed to conduct the affairs of the registered body.

(3) The registrar shall not certify under subsection (2) unless the ground or matter to be certified has been proved to his satisfaction.

-
- (4) Upon the appointment of an administrator of a registered body—
- (a) the directors of the registered body cease to hold office;
 - (b) all contracts of employment with the registered body are terminated;
 - (c) all contracts for the provisions of services for the registered body are terminated;
 - (d) the appointments of persons as auditors of the registered body are terminated; and
 - (e) the appointment of any person as receiver or receiver and manager of the property or any part of the property of the registered body is terminated.

(5) An administrator of a registered body has the powers and functions of the board of the registered body and, except as provided by subsection (11), no appointment or election of a director of the registered body may be made while the administrator is in office.

(6) An administrator shall hold office until his appointment is revoked or until a liquidator is appointed to wind up the registered body, whichever is the first to occur.

(7) (a) Where in the performance of his duties as administrator of a registered body an administrator becomes aware of a prescribed matter he shall, as soon as practicable after becoming aware of that matter, furnish to the Registrar a written report on the matter.

(b) In this subsection “prescribed matter” means matter that in the opinion of the administrator—

- (i) constitutes or may constitute a breach or non-observance of any of the provisions of this Act or of the rules of the registered body; or
- (ii) has adversely affected, is adversely affecting or may adversely affect the viability of the registered body or the interests of its members, depositors or creditors,

and that has not already been the subject of a report to the Registrar by an auditor of the registered body in pursuance of section 114 (9) or (10).

(8) Forthwith upon the receipt of a request from the Registrar so to do the administrator shall prepare and submit to the Registrar a report showing how the administration is being conducted.

(9) Forthwith upon the cessation of his appointment, an administrator shall prepare and submit a report to the Registrar showing how the administration was conducted by him and for that purpose an administrator has access to the records and books of the registered body.

(10) Upon completion of the report referred to in subsection (9) and accounting fully in respect of his administration to the satisfaction of the Registrar, the administrator is, in the absence of fraud or dishonesty, released from any further liability to account in respect of his administration.

(11) Before revoking the appointment of an administrator of a registered body the Registrar shall, except in the case of a revocation under section 133 (2)—

- (a) appoint another administrator;
- (b) ensure that directors of the registered body have been elected in accordance with the rules of the registered body and in the case of an association at a meeting convened by the administrator in accordance with those rules; or
- (c) appoint directors of the registered body.

A person shall not be appointed pursuant to paragraph (c) unless he consents to such appointment.

(12) Directors elected under subsection (11) (b) or appointed under subsection (11) (c)—

- (a) take office upon revocation of the appointment of the administrator; and
- (b) in the case of appointed directors, subject to section 130, hold office until the annual general meeting of the registered body that next succeeds revocation of that appointment.

(13) The expenses of and incidental to the conduct of the affairs of a registered body by an administrator shall be payable from the funds of the registered body.

(14) The remuneration of an administrator who is not a servant of the Crown is an expense referred to in subsection (13) and shall be fixed by the Registrar.

(15) Where an administrator appointed under this section is a servant of the Crown, the reimbursement of the Crown in respect of the remuneration of its servant in an amount certified by the Registrar is an expense referred to in subsection (13) and is recoverable as a debt due to the Crown.

(16) Without prejudice to his liability to account under subsections (9) and (10) an administrator of a registered body is not liable for any loss or damage sustained by the registered body or by any other person during the administrator's term of office in respect of any act done or omitted to be done by him as administrator if the act is done or omitted to be done in the course of the performance of his powers and functions as such administrator or, in good faith, in the purported performance of those powers and functions unless the loss or damage was due to his wilful misconduct or gross negligence or to his wilful failure to comply with the provisions of this Act or the rules of the registered body in so far as those rules are not inconsistent with the provisions of this Act.

(17) The Minister and the Registrar are not liable for any loss or damage sustained by a registered body or by any other person during the term of office of an administrator in respect of any act done or omitted to be done by the administrator in, or purporting to be in, the

management of the registered body or otherwise in relation to his conduct or purported conduct as administrator, whether or not the administrator is so liable.

130. Additional powers of Registrar when appointing directors. (1) Notwithstanding any other provision of this Act or the rules of the registered body the Registrar may exercise the powers and authorities conferred on him by this section.

(2) Where the Registrar appoints directors of a registered body, pursuant to section 129 (11) he may, with the approval of the Minister first had and obtained, by instrument in writing—

- (a) specify a time during which this section is to apply to and in respect of the registered body;
- (b) specify the terms and conditions on which the directors so appointed, or any of them, shall hold office;
- (c) specify rules to be the rules of the registered body or, as the Registrar specifies, part of the rules of the registered body.

(3) For the time specified by the Registrar pursuant to subsection (2) or for that time as extended or reduced by him—

- (a) this section applies in respect of the registered body of which he has appointed directors;
- (b) the Registrar may remove and appoint the directors of the registered body from time to time;
- (c) the terms and conditions specified pursuant to subsection (2), or those terms and conditions as amended from time to time by the Registrar, are the terms and conditions on which the directors of the registered body or any one or more of them, as specified by the Registrar, shall hold office for the time being;
- (d) the rules specified pursuant to subsection (2) or those rules as amended from time to time by the Registrar are the rules or, as specified by him, part of the rules of the registered body.

(4) The Registrar may at any time, with the approval of the Minister first had and obtained by instrument in writing—

- (a) extend or abridge the time for which this section is to apply in respect of a registered body;
- (b) amend, by revoking, altering or adding to, the terms and conditions on which the director of a registered body to which this section applies holds office or the rules of such a registered body whether specified by him under subsection (2) or made by the registered body.

(5) A rule specified by the Registrar pursuant to this section as a rule of a registered body so long as the rule continues to apply to the registered body—

- (a) shall not be amended or revoked save as is prescribed by subsection (4);
- (b) shall, if it is inconsistent with any other rule of the registered body, prevail and the other rule shall to the extent of the inconsistency be deemed to be invalid;
- (c) shall have and shall be given the same evidentiary value as is by this Act accorded to the rules of the registered body and to copies thereof.

131. Stay of proceedings. (1) Where, pursuant to section 129, an administrator is appointed to conduct the affairs of a registered body no action or proceedings in any court shall, except with the leave of the Court and, if the Court grants leave, in accordance with such terms and conditions as the Court may impose, be commenced or proceeded with against the registered body until the appointment of the administrator is revoked.

(2) A person intending to apply for the leave of the Court under subsection (1) shall give to the Registrar not less than 10 days notice of his intention so to apply.

(3) On the hearing of an application under subsection (1) the Registrar may be represented and may oppose the granting of the application.

132. Documents of registered body under an administrator to state fact. (1) Where the affairs of a registered body are being conducted by an administrator pursuant to this Part, in every business letter, statement of account, invoice, order for goods, order for services, official notice, publication, bill of exchange, cheque or other negotiable instrument, indorsement on, or order in, a bill of exchange, cheque or other negotiable instrument, receipt and letter of credit of, or purporting to be issued or signed by or on behalf of the registered body there shall be set out after the name of the registered body where it first appears the words "administrator appointed".

(2) If default is made in complying with subsection (1), the registered body and any officer of the registered body who is in default are each guilty of an offence.

133. Advisory Committee to report to Minister. (1) Where an administrator of a registered body is appointed under section 129, a majority of the directors who ceased to hold office upon the appointment of the administrator may, not later than 14 days after the appointment, make representations to the Advisory Committee with respect to the appointment and, where any such representations are so made, the Advisory Committee shall report thereon to the Minister.

(2) The Registrar shall, if the Minister so directs after considering a report under subsection (1) with respect to a registered body, revoke

the appointment of an administrator of the registered body and a director who held office immediately before the appointment of the administrator resumes that office upon revocation of the appointment in pursuance of this section.

Division 3—Receivers and Managers

134. Application of Companies (Queensland) Code where receiver, etc., appointed. (1) The provisions of Part X of the *Companies (Queensland) Code* shall, subject to this Part, *mutatis mutandis* and with such modifications (if any) as may be prescribed apply—

- (a) to a receiver, and receiver and manager, of the property or part of the property of a registered body or of the property or part of the property within the State of a foreign credit society registered under Part X;
- (b) in respect of a registered body and a foreign credit society registered under Part X.

(2) In the application of the provisions of Part X of the *Companies (Queensland) Code* pursuant to subsection (1) unless a contrary intention appears any reference in those provisions—

- (a) to the Commission—shall be construed as a reference to the Registrar;
- (b) to a registered foreign company—shall be construed as a reference to a foreign credit society registered under Part X.

(3) The provisions of section 538 of the *Companies (Queensland) Code* shall, *mutatis mutandis*, apply to any act, omission or decision of a receiver or receiver and manager of property of a registered body.

Division 4—Winding Up

135. Winding up. (1) A registered body may be wound up—

- (a) by the Court;
- (b) voluntarily; or
- (c) upon the certificate of the Registrar.

(2) Subject to this Division, a registered body may be wound up in the manner and circumstances in which a company may be wound up under the *Companies (Queensland) Code*.

(3) In the case of a winding up upon a certificate of the Registrar the registered body may be wound up if the Registrar certifies—

- (a) that the number of persons—
 - (i) in the case of a credit society, is reduced to less than 25;
 - (ii) in the case of an association of credit societies, is reduced to less than 5;
 - (iii) in the case of a union of associations of credit societies, is reduced to less than 2;
- (b) that the registered body has not commenced business within 6 months of registration or has not done any business for a period of more than 6 months;
- (c) that the registration of the registered body whether as a society under *The Co-operative and Other Societies Act of*

1967 or any corresponding previous enactment or as a credit society or association under this Act has been obtained by mistake or fraud;

- (d) that the registered body exists for an illegal purpose;
- (e) that the registered body has, after notice by the Registrar of any breach of or non-compliance with this Act or the rules of the registered body failed, within the time specified in the notice, to remedy the breach or non-compliance or has committed any further breach of a kind specified in the notice;
- (f) that there are and have been for a period of one month immediately before the date of the certificate, insufficient directors of the registered body to constitute a quorum as provided by the rules of the registered body;
- (g) that, as a result of an investigation pursuant to the provisions of Division 3 of Part XI into all or any of the affairs of the registered body, it is in the interests of members, depositors or creditors of the registered body that the registered body be wound up;
- (h) that, as a result of an inquiry pursuant to the provisions of Division 4 of Part XI into the affairs of the registered body or the working and financial condition of the registered body, or of a special audit pursuant to those provisions, it is in the interests of members, depositors or creditors of the registered body that the registered body be wound up;
- (i) that the Guarantee Fund Committee, the Advisory Committee or an administrator has recommended that the registered body be wound up; or
- (j) that, in the interests of members, depositors or creditors of the registered body, it is expedient that the registered body be wound up.

(4) The Registrar shall not certify under this section unless the ground or matter to be certified has been proved to his satisfaction and unless, in the case of a matter specified in paragraph (c), (d), (e), (f), (g), (h), (i) or (j) of subsection (3), the Minister consents to the issue of the certificate.

(5) Where the Registrar so certifies, he may appoint a person to be the liquidator of the registered body and the liquidator shall give such security as is prescribed and be entitled to receive such fees as are fixed by the Registrar.

(6) Any vacancy occurring in the office of a liquidator appointed under subsection (5) shall be filled by a person appointed by the Registrar for the purpose.

(7) A winding up upon a certificate of the Registrar shall be deemed to commence at the date of the certificate of the Registrar and the liquidator shall within 14 days after his appointment give notice thereof

in the Gazette and in a newspaper published and circulating in the State.

(8) The provisions of Part XII of the *Companies (Queensland) Code* shall, subject to this Part, *mutatis mutandis* and with such modifications (if any) as may be prescribed apply to the winding up or dissolution of a registered body or to a defunct or dissolved registered body.

(9) In the application of the provisions of Part XII of the *Companies (Queensland) Code* to the winding up or dissolution of a registered body or a defunct or dissolved registered body unless a contrary intention appears any reference in those provisions—

- (a) to a special resolution—shall be construed as a special resolution within the meaning of this Act;
- (b) to the Commission—shall be construed as a reference to the Registrar;
- (c) to a voluntary winding up—shall be construed as including a reference to a winding up of a registered body upon a certificate of the Registrar;
- (d) to the Gazette—shall be construed as a reference to the Queensland Government Gazette.

(10) The provisions of section 538 of the *Companies (Queensland) Code* shall, *mutatis mutandis*, apply to any act, omission or decision of a liquidator of a registered body.

136. Vacancy in office of liquidator. Where a registered body is being wound up voluntarily and a vacancy occurs in the office of liquidator which in the opinion of the Registrar is unlikely to be filled in the manner provided by Part XII of the *Companies (Queensland) Code*, the Registrar may appoint a person qualified under that Part for such appointment.

137. Remuneration of liquidator. Notwithstanding anything contained in this Act or in the *Companies (Queensland) Code* the remuneration paid to the liquidator of a registered body wound up voluntarily shall not exceed the amount fixed by the Registrar.

138. Cancellation. As soon as is practicable after a registered body is dissolved or deemed to be dissolved, the Registrar shall register the dissolution and cancel the registration of the registered body.

PART IX—GUARANTEE FUND AND GUARANTEE FUND COMMITTEE

139. Guarantee Fund. (1) There shall be established and kept in the Treasury a fund called the Credit Societies' Guarantee Fund.

(2) The Guarantee Fund is established to provide protection, to the extent prescribed in this Part, for—

- (a) members of credit societies in respect of loss of share capital and of moneys deposited with credit societies; and
- (b) persons or bodies of persons (whether corporate or unincorporate) who deposit money with credit societies in respect of loss of that money.

140. Moneys constituting fund. The Guarantee Fund shall consist of—

- (a) moneys paid into the Guarantee Fund by credit societies under section 142;
- (b) moneys (if any) borrowed by the Guarantee Fund Committee pursuant to section 144;
- (c) interest and profits from time to time accruing from the investment of moneys comprising the Guarantee Fund;
- (d) moneys recovered by or on behalf of the Guarantee Fund Committee in the exercise of a right of action conferred by this Part;
- (e) moneys paid by an insurer pursuant to a contract of insurance or indemnity entered into by the Guarantee Fund Committee under section 160; and
- (f) all other moneys lawfully paid into the Guarantee Fund.

141. Payment out of Guarantee Fund. Subject to this Part, there shall be paid out of the Guarantee Fund in such order as the Guarantee Fund Committee deems proper—

- (a) the amount of all claims against the Guarantee Fund, including costs, allowed by the Guarantee Fund Committee under this Part;
- (b) all moneys due to be paid under the terms of all voluntary and compulsory loans or borrowings or investments made for the purposes of the Guarantee Fund under this Part;
- (c) all moneys necessary to meet expenses lawfully incurred by the Guarantee Fund Committee in relation to—
 - (i) claims made against the Guarantee Fund; and
 - (ii) the administration of the Guarantee Fund;
- (d) all premiums payable in respect of contracts of insurance or indemnity entered into by the Guarantee Fund Committee under section 160;
- (e) all moneys payable to any person referred to in subsection (3) of section 152 by way of indemnification in accordance with that subsection for expenses incurred or sustained;
- (f) payments made by way of loan under section 146; and
- (g) all other moneys payable out of the Guarantee Fund in accordance with the provisions of this Part.

142. Payments to Guarantee Fund (1) Subject to subsections (6) and (10), each credit society shall—

- (a) contribute to the Guarantee Fund the amounts prescribed pursuant to subsections (2) and (4);
 - (b) pay to the Guarantee Fund such amounts as the Guarantee Fund Committee determines from time to time pursuant to subsection (5);
- and

- (c) pay to the Guarantee Fund by way of compulsory loans such amounts as the Guarantee Fund Committee determines from time to time pursuant to subsection (7),

by or within the time specified for that purpose or, where that time is extended pursuant to subsection (9), that time as so extended.

(2) Save where it is directed to contribute some other amount by the Guarantee Fund Committee pursuant to subsection (4), each credit society shall contribute to the Guarantee Fund on or before the fourteenth day of each calendar month an amount calculated at the prescribed rate on the daily balances of the funds of the society that in the calendar month immediately preceding the calendar month in which falls the due date on or before which payment is required to be made are represented by the aggregate of—

- (a) the share capital of the credit society;
- (b) the amount held on deposit by the credit society;
and
- (c) the amount outstanding in respect of loans (other than prescribed loans) received by the credit society.

(3) in subsection (2)—

“prescribed rate” means—

- (a) where a rate is fixed by Order in Council—that rate;
- (b) where a rate is not fixed by Order in Council—
 - (i) during the period of 12 months commencing on the date on which this Part commenced—.1 per centum per annum;
 - (ii) during the period of 12 months commencing on the first anniversary of the date on which this Part commenced—.15 per centum per annum;
 - (iii) during the period of 12 months commencing on the second anniversary of the date on which this Part commenced—.2 per centum per annum;
 - (iv) thereafter—.25 per centum per annum.

An Order in Council under this subsection may fix a general rate or may fix different rates in respect of different periods.

(4) (a) Upon representations made by a credit society to the Guarantee Fund Committee, the Committee, if it considers the case justifies it, may direct in writing that the credit society is to contribute to the Guarantee Fund on or before the fourteenth day of each calendar month an amount estimated by the Committee in lieu of the amount prescribed pursuant to subsection (2) and may at any time revoke a direction so given.

(b) From time to time as determined by the Guarantee Fund Committee, the Committee shall—

- (i) where the amount contributed by a credit society pursuant to a direction given pursuant to paragraph (a) is less than the amount which the credit society would otherwise have been required to contribute under subsection (2), direct the credit society to contribute to the Guarantee Fund the amount of the difference within the time specified in the direction;
- (ii) where the amount contributed by a credit society pursuant to a direction given pursuant to paragraph (a) exceeds the amount which the credit society would otherwise have been required to contribute under subsection (2), pay the amount of the difference to the credit society out of the Guarantee Fund.

(5) From time to time, as the Guarantee Fund Committee determines it to be necessary, the Committee—

- (a) may fix an amount that is required for the purposes of the Guarantee Fund by way of compulsory levy from all credit societies in addition to the amounts paid or payable under subsection (1) (a);
- (b) shall reduce that amount to a percentage of the aggregate of—
 - (i) the share capital of all credit societies;
 - (ii) the amounts held on deposit by all credit societies; and
 - (iii) the amounts outstanding in respect of all loans (other than prescribed loans) received by credit societies, as at a date selected by the Committee; and
- (c) by its precept directed to each credit society require each credit society to pay to the Guarantee Fund within the time specified in the precept the amount by way of compulsory levy of the percentage ascertained in accordance with paragraph (b) and specified in the precept, of the aggregate of—
 - (i) the share capital of the credit society;
 - (ii) the amount held on deposit by the credit society; and
 - (iii) the amount outstanding in respect of loans (other than prescribed loans) received by the credit society, at the date selected by the Committee for the purposes of paragraph (b) and specified in the precept.

(6) The amount that a credit society is required to pay to the Guarantee Fund in any period of 12 months ending on 30 June pursuant to paragraphs (a) and (b) of subsection (1) shall not exceed one per

centum per annum calculated on the daily balances during that period of the aggregate of—

- (a) the share capital of the credit society;
- (b) the amount held on deposit by the credit society; and
- (c) the amount outstanding in respect of loans (other than prescribed loans) received by the credit society.

(7) From time to time, as the Guarantee Fund Committee determines it to be necessary, the Committee—

- (a) shall fix an amount that is required for the purposes of the Guarantee Fund by way of compulsory loan from all credit societies;
- (b) shall reduce that amount to a percentage of the aggregate of—
 - (i) the share capital of all credit societies;
 - (ii) the amounts held on deposit by all credit societies; and
 - (iii) the amounts outstanding in respect of all loans (other than prescribed loans) received by credit societies, as at a date selected by the Committee; and
- (c) by its precept directed to each credit society require each credit society to pay to the Guarantee Fund within the time specified in the precept the amount by way of compulsory loan of the percentage ascertained in accordance with paragraph (b) and specified in the precept, of the aggregate of—
 - (i) the share capital of the credit society;
 - (ii) the amount held on deposit by the credit society; and
 - (iii) the amount outstanding in respect of loans (other than prescribed loans) received by the credit society, at the date selected by the Committee for the purposes of paragraph (b) and specified in the precept.

(8) In relation to each precept directed to a credit society pursuant to subsection (7) the Guarantee Fund Committee shall determine the rate of interest to be paid in respect of the loan and may determine the other terms and conditions on which the loan shall be repaid and interest shall be payable from the Guarantee Fund accordingly in respect of the loan.

(9) The Guarantee Fund Committee may, in a special case, allow an extension of time, not exceeding 3 months, within which a sum of money must be paid to the Guarantee Fund pursuant to this section.

(10) Where a credit society is being wound up or the affairs of a credit society are being conducted by an administrator appointed pursuant to this Act, the credit society is not required to make any payment to the Guarantee Fund pursuant to this section during or in respect of any period during which it is being so wound up or its affairs are being so conducted by an administrator.

(11) Payments under this section shall be made by a credit society to the Guarantee Fund Committee in the manner specified by the Committee in a notification in writing served on the credit society.

(12) If default is made in making any payment required to be made under subsection (1)—

(a) the credit society concerned and every director thereof commits an offence;
and

(b) the amount of the payment together with any administrative costs incurred by the Guarantee Fund Committee by reason of the default and interest as provided for by subsection (13) shall be recoverable by the Committee from the credit society concerned by action as for a debt in any court of competent jurisdiction and such amounts shall be paid into and applied for the purposes of the Guarantee Fund.

(13) Where a credit society is in default in the payment of moneys as required by this section, the credit society shall be liable to pay to the Guarantee Fund interest at the prescribed rate upon the amount outstanding.

(14) A credit society is empowered to do all matters and things requisite to comply with the provisions relating to payments under this section.

143. Returns for use by Committee. (1) Each credit society shall furnish to the Guarantee Fund Committee such returns and information as the Committee may require for the exercise or performance of its powers and functions under section 142. The returns and information furnished to the Guarantee Fund Committee in compliance with this subsection shall be in the form, contain the particulars and be furnished within the time directed from time to time by the Committee under the hand of the chairman.

(2) A credit society shall maintain such records as will readily permit verification of the information and particulars furnished to the Guarantee Fund Committee in compliance with subsection (1) or a direction thereunder.

(3) If default is made by a credit society in complying in all respects with the provisions of this section or a direction given in pursuance thereof, the credit society and any officer of the credit society who is in default are each guilty of an offence.

Penalty: \$1 000 or imprisonment for 3 months.

(4) If the returns and information required to be furnished by subsection (1) are not furnished by a credit society or not furnished in compliance in all respects with directions given in pursuance of that subsection, the Guarantee Fund Committee may inform itself concerning the information and particulars in question in such manner as may be available to it and may make such estimates of the amounts that in

respect of the credit society in question the Committee requires to be informed of for the due exercise or performance of its powers and functions under section 142 and the amounts thus estimated by the Committee shall be deemed to have been furnished to the Committee by the credit society in pursuance of subsection (1) and may be used by the Committee accordingly.

(5) No levy or precept issued to a credit society by the Guarantee Fund Committee in pursuance of section 142 shall be held to be defective or of no force and effect by reason only that it was made or given in reliance by the Committee on the accuracy or truth of the information and particulars furnished to the Committee in pursuance of subsection (1) or on amounts estimated by the Committee in respect of the credit society in pursuance of subsection (4).

(6) Returns and information furnished to the Guarantee Fund Committee in pursuance of this section are not available for search by any member of the public.

144. Power of Guarantee Fund Committee to borrow. (1) The Guarantee Fund Committee may, with the prior approval of the Minister in writing of the amount, terms and conditions thereof, borrow moneys at interest to be applied for the purposes of the Guarantee Fund from any bank or any insurer authorized to carry on insurance business in Queensland under any law of the Commonwealth or of the State or any registered body or from any other person approved in writing by the Minister.

(2) Before the Minister approves a borrowing pursuant to subsection (1) he shall consult the Treasurer of Queensland in relation to the matter.

(3) Moneys borrowed in pursuance of this section shall be paid to the Guarantee Fund.

(4) Moneys borrowed by the Guarantee Fund Committee together with interest due under the terms agreed upon in respect thereof shall be a first charge against the Guarantee Fund.

145. Investment of Guarantee Fund. (1) The Guarantee Fund Committee may from time to time invest moneys standing to the credit of the Guarantee Fund that are surplus to the commitments of the Fund, as known to the Committee as at the date of investment, in the following manner:—

- (a) in any securities authorized by law for the investment of trust funds but subject to the limitations, restrictions and stipulations (if any) prescribed by law with respect to such investments;
- (b) on any interest bearing term deposit in any bank;
- (c) on deposit in any savings bank;
- (d) on the security of a certificate of deposit issued by any bank;

- (e) with any dealer in the short term money market, approved by the Reserve Bank of Australia as an authorized dealer, who has established lines of credit with that bank as a lender of last resort;
- (f) on loan to the Treasurer of Queensland at such rate as may be negotiated by the Committee but not less than the prescribed minimum rate (if any);
- (g) in any other investment or class of investment approved by the Minister in writing;
- (h) on the security of an authorized bill of exchange.

(2) An investment made pursuant to subsection (1) shall be for a period not in excess of 3 months or such other period as may be authorized by the Treasurer of Queensland in writing.

(3) The amounts of interest accruing at any time and from time to time in respect of, and profits arising from, moneys invested by the Guarantee Fund Committee pursuant to this section shall be paid to the credit of the Guarantee Fund.

(4) In this section "authorized bill of exchange" has the same meaning as in section 57.

146. Financial assistance to credit society. (1) A credit society that is experiencing financial difficulties in carrying on its business may apply to the Guarantee Fund Committee for a loan from the Guarantee Fund.

(2) The Guarantee Fund Committee shall refer an application made under subsection (1) to the Minister for his consideration.

(3) The Minister shall give consideration to an application referred to him pursuant to subsection (2) and advise the Guarantee Fund Committee in writing as to whether or not he consents to the Committee granting the application in whole or in part and, where he does so consent, of the terms and conditions to which his consent is subject.

(4) The Minister may withdraw his consent given under subsection (3) or vary any term or condition to which it is subject by notice in writing given to the Guarantee Fund Committee.

(5) Where it has the consent of the Minister so to do and subject to the terms and conditions to which that consent is subject the Guarantee Fund Committee may approve an application made to it under subsection (1) and make a payment from the Guarantee Fund by way of loan to the credit society concerned.

(6) Where money is lent to a credit society pursuant to this section—

- (a) it is not competent to the credit society and the Guarantee Fund Committee to vary the terms and conditions that relate to the loan without the written approval of the Minister so to do;
- (b) the Minister may by notice in writing served on the credit society and the Guarantee Fund Committee from time to

time vary any terms and conditions that relate to the loan and where he does so the terms and conditions as so varied shall be the applicable terms and conditions and shall be binding on the credit society and the Guarantee Fund Committee.

(7) Where money is lent to a credit society pursuant to this section and he has the written consent of the Minister so to do, the Registrar may—

- (a) by notice in writing served on the credit society, remove a director thereof from office;
- (b) appoint a management advisory committee to advise him in relation to the manner in which the society should carry on its business having regard to the interests of its members, depositors and creditors.

(8) A notice referred to in subsection (7) (a) shall take effect on and from the date specified in the notice.

(9) The Registrar may, having regard to the advice tendered to him by the management advisory committee, give to the credit society concerned such directions as he thinks fit in regard to the manner in which it is to carry out its business.

(10) A credit society shall comply with a direction given to it under subsection (9).

147. Guarantee Fund Committee. (1) There shall be constituted from time to time a committee called the Credit Societies' Guarantee Fund Committee.

(2) The function of the Guarantee Fund Committee is to administer the Guarantee Fund established and kept under this Part.

(3) The Committee shall consist of 6 members of whom—

- (a) one shall be the Registrar who shall be its chairman;
- (b) 2 shall be persons nominated by the Minister; and
- (c) 3 shall be persons selected by the Minister from a panel of 4 names at the least furnished to him by the association of credit societies registered under this Act or where there is more than one such association, those associations.

(4) Where there are 2 or more associations of credit societies registered under this Act, the panel referred to in subsection (3) (c) shall be furnished as may be agreed between the associations and failing such agreement as may be directed by the Minister.

(5) If within 7 days after the Minister has requested in writing that a panel referred to in paragraph (c) of subsection (3) be furnished to him the panel is not furnished or a panel is furnished that is deficient or does not comply otherwise in any respect with the Minister's request, the Minister may appoint a member or, as the case requires, members of the Guarantee Fund Committee without reference to the association

or, as the case may be, associations referred to in that paragraph or to the panel furnished.

(6) The Registrar shall be a member of the Guarantee Fund Committee by virtue of his office as Registrar.

(7) Members of the Guarantee Fund Committee (other than the Registrar) shall be appointed by the Minister by notification published in the Gazette.

(8) The Minister may in writing, either generally or to meet a particular case, appoint a person who is not a member to act as a member of the Guarantee Fund Committee (other than the Registrar) during any period when a member is unable to perform the functions of his office or there is a vacancy in the office of a member and whilst so acting he shall be deemed to be a member of the Committee and shall have and may exercise the powers and shall perform the functions of the member in whose place he is acting or, in the case of a vacancy in the office of a member, of that office.

(9) The Registrar may in writing, either generally or to meet a particular case, appoint a Deputy Registrar of Commercial Acts, Brisbane to act as his deputy in the case of his inability from whatever cause to attend a meeting of the Guarantee Fund Committee or otherwise exercise or perform his powers and functions as a member of the Committee and whilst so acting the Deputy Registrar of Commercial Acts, Brisbane so appointed shall be deemed to be a member of the Committee and chairman thereof and may exercise the powers and perform the functions of the Registrar as member and chairman of the Committee.

(10) The validity of anything done by a person purporting to act in accordance with subsection (8) or (9) shall not be called in question on the ground that the occasion for him to act or for his appointment had not arisen or that the occasion for him to act had passed or his appointment had ceased to have effect.

(11) No person who, by virtue of section 150, is not qualified to be a member shall be appointed as a member or acting member of the Guarantee Fund Committee.

148. Provisions appertaining to office of members, etc. (1) Subject to subsection (2), each member, acting member and deputy member, shall be paid from the Guarantee Fund such fees, allowances and expenses as are from time to time approved by the Governor in Council.

(2) A fee or an allowance shall not be paid from the Guarantee Fund to a member, acting member or deputy member who is an officer of the Public Service of Queensland for attendance at any meeting of the Guarantee Fund Committee held during the ordinary office working hours of that officer.

(3) A provision of any enactment requiring the holder of an office to devote the whole of his time to the duties of his office or prohibiting him from engaging in employment outside the duties of his office shall

not operate to prevent any person from holding that office and also an appointment as chairman, member, acting member or deputy member of the Guarantee Fund Committee or, subject to subsection (2), his acceptance and retention of any fees, allowances or expenses payable under this Act in respect of such an appointment.

(4) Subject to this Act, the term of appointment of a member of the Guarantee Fund Committee, other than the Registrar, shall not exceed 2 years.

(5) A member of the Guarantee Fund Committee shall, if he is otherwise qualified, be eligible for reappointment as a member.

149. Vacation of office of member. (1) The office of a member, other than the Registrar, shall become vacant if the member—

- (a) dies;
- (b) resigns his office by writing under his hand furnished to the Minister;
- (c) is absent without prior leave granted by the Minister from 3 consecutive meetings of the Guarantee Fund Committee of which due notice has been given to him;
- (d) ceases to be qualified to be a member;
- (e) is removed from office as a member by the Minister;
- (f) is one who holds his office by reason of his being the holder of a specified office in the Public Service of Queensland, and he ceases to hold such office;

or the term for which the member is appointed expires.

(2) The Minister may at any time remove a member of the Guarantee Fund Committee, other than the Registrar, from office as member if—

- (a) he becomes incapable, in the opinion of the Minister, of discharging the duties of his office;
- (b) he is, in the opinion of the Minister, incompetent or unfit to hold office.

150. Disqualification from office. A person who—

- (a) becomes an insolvent under administration;
- (b) has been convicted of any offence under this Act, or has been convicted in Queensland of an indictable offence or elsewhere than in Queensland of an offence that if committed by him in Queensland would have constituted an indictable offence, unless the Minister is satisfied that the circumstances of the offence do not warrant disqualification from office and certifies accordingly;
- (c) is admitted into and detained in a hospital, as a patient or otherwise, for treatment for mental illness pursuant to the *Mental Health Services Act 1974-1984* or becomes a protected

person within the meaning of Part VI of the *Public Trustee Act 1978-1981*;

(d) has attained the age of 70 years,
shall not be qualified to be or continue as a member.

151. Proceedings of Guarantee Fund Committee. (1) The chairman may give such directions as he thinks necessary in respect of the arrangement of business of the Guarantee Fund Committee.

(2) The chairman shall convene such meetings of the Guarantee Fund Committee as he thinks necessary for the efficient performance of the functions of the Committee, which meetings shall be held at such times and places as the chairman determines.

(3) The Guarantee Fund Committee shall exercise or perform a power or function by a majority of votes of members present at a meeting, at which there is a quorum, and voting on the business in question.

(4) The chairman shall preside at all meetings of the Guarantee Fund Committee and subject to this Act and rules made by the Committee from time to time, he may give directions regarding the procedure to be followed at or in connexion with a meeting.

(5) The chairman and 3 other members of the Guarantee Fund Committee shall be a quorum for the purposes of any meeting of the Committee.

(6) A member present at a meeting who abstains from voting shall be taken to have voted for the negative.

(7) At any meeting of the Guarantee Fund Committee, the chairman shall have a deliberative vote and, in the event of an equality of votes, a second or casting vote.

(8) The Guarantee Fund Committee shall as soon as practicable after 30 June in each year make a report to the Minister of—

- (a) its proceedings and the principal matters dealt with by it;
- (b) the administration of the Guarantee Fund and the credit society movement generally,

during the year immediately preceding that date.

152. Protection for acts and omissions under Act. (1) An act or proceeding of the Guarantee Fund Committee shall not be invalid by reason only of a vacancy in its membership, and notwithstanding the subsequent discovery of a defect in the nomination, selection or appointment of a member or the appointment of an acting or deputy member, any such act or proceeding shall be as valid and effectual as if the member had been duly nominated, selected or appointed or, as the case may be, the acting or deputy member had been duly appointed.

(2) A member, acting member or deputy member of the Guarantee Fund Committee or a person acting under the direction or authority of

the Committee shall not be liable for an act or omission done or omitted in good faith for the purposes of this Act and done or omitted without negligence.

(3) Every member, acting member and deputy member and every person acting under the direction or authority of the Committee shall be indemnified out of the Guarantee Fund for all expenses incurred or sustained by him as the result of an act or omission referred to in subsection (2).

(4) In any proceedings brought with respect to an act or omission referred to in subsection (2) the burden of proof concerning bona fides shall lie upon him whose case depends on the absence of bona fides.

153. Powers of Committee. (1) The Guarantee Fund Committee shall have and may exercise and perform the powers and functions conferred or imposed upon it by or under this Act.

(2) For the purposes of exercising and performing its powers and functions, the Guarantee Fund Committee may, subject to this Act, from time to time make and amend by way of rescission, alteration or addition, rules not inconsistent with this Act—

- (a) with respect to payments by credit societies to the Guarantee Fund by way of compulsory levy or compulsory loan;
- (b) prescribing the form, content and details of any statement required to be furnished under this Act for use by the Committee;
- (c) providing for the investment of moneys that form part of the Guarantee Fund and that are surplus to the commitments of the Fund as known to the Committee as at the date of investment;
- (d) prescribing the form, content and details of information to be lodged in support of notices of claims on the Guarantee Fund and the time for lodgement of that information with the Committee;
- (e) prescribing the method of admitting and settling claims lodged against the Guarantee Fund;
- (f) prescribing the procedures to be followed at meetings of the Committee or in the conduct of its affairs;
- (g) providing for such other matters as are considered necessary or expedient for the efficient performance of the functions of the Committee.

(3) The Guarantee Fund Committee may, as and when it considers it necessary so to do, and shall, as required by the Minister, advise the Minister on any matter relating to the administration of the credit society movement or the Guarantee Fund.

(4) The Registrar may provide the Guarantee Fund Committee with the assistance of such officers and such information under his control as he deems proper to enable the Committee to perform its functions.

(5) A person who is required to perform duties on behalf of the Guarantee Fund Committee pursuant to subsection (4) may perform those duties in conjunction with any other duties he is required to perform by reason of his being an officer of the Public Service of Queensland.

(6) The Guarantee Fund Committee may, as and when it considers it necessary so to do, make a recommendation referred to in section 124 (2) (g), 129 (2) (g) or 135 (3) (i) to the Registrar.

154. Claims against the Guarantee Fund. (1) Subject to this section, the Guarantee Fund Committee may receive and settle any proper claim against the Guarantee Fund made by a liquidator or an administrator of a credit society appointed pursuant to this Act.

(2) No person other than a liquidator or an administrator referred to in subsection (1) shall be entitled to make a claim against the Guarantee Fund or to recover any amount in respect of a claim by any action in relation to the Guarantee Fund.

(3) A liquidator referred to in subsection (1) shall not be entitled to recover from the Guarantee Fund an amount in excess of any deficiency remaining after all assets of the credit society have been disposed of or realised and applied in settlement of all claims admitted or admissible to proof against the society.

(4) An administrator referred to in subsection (1) shall not be entitled to recover from the Guarantee Fund an amount in excess of—

(a) where all assets of the credit society have been disposed of or realised and applied in settlement of all claims admitted or admissible to proof against the society—any deficiency remaining;

or

(b) where all assets of the credit society are not disposed of or realised—such amount as is determined by the Guarantee Fund Committee on application made by the administrator.

(5) Notwithstanding the provisions of subsection (3) or (4), a liquidator or an administrator may be paid from the Guarantee Fund the amount of the estimated deficiency referred to in subsection (3) or (4) that will remain after all claims against the funds of the credit society have been met out of such funds and if the amount so paid to him exceeds the amount he is entitled to recover under subsection (3) or (4), such excess amount shall be repaid by him to the Guarantee Fund.

(6) The Governor in Council may from time to time by notification in the Gazette limit—

- (a) the amount that a liquidator or an administrator shall be entitled to recover from the Guarantee Fund under subsection (3) or (4);
- (b) the amount that a liquidator or an administrator may apply out of moneys payable to him from the Guarantee Fund in settlement of a claim—
 - (i) by a member against the credit society in respect of share capital in and moneys deposited with a credit society; and
 - (ii) by persons or bodies corporate or unincorporate against the credit society in respect of money deposited with a credit society;
- (c) the aggregate amount that may be applied during or in respect of a particular period or generally by reference to a particular date in settlement of all claims against the Guarantee Fund pursuant to this section that have been made during, or in respect of, the period or before the date but not settled or which though made after the expiration of the period or date in question might have been made during that period or before that date and were in respect of the period, or a time prior to the date, in question.

(7) Where, in any case pursuant to subsection (6), the Governor in Council has limited an amount or an aggregate amount pursuant to that subsection, there shall not be paid out of the Guarantee Fund, and no claimant shall be entitled to recover from the Guarantee Fund, any amount in excess of the amount so limited and claims made or that may be made thereafter (being claims that could have been made at a time prior to the date or during the period in question) are, to the extent of the excess, discharged.

(8) No amount shall be paid or be payable out of the Guarantee Fund as interest on the amount of any claim made against the Fund.

(9) In the settlement of any claim, the Guarantee Fund Committee may, in its discretion, make payment in respect of the claim to such extent as, in the Committee's opinion, will permit all actual and contingent payments out of the Guarantee Fund pursuant to section 141 to be met proportionately, having regard to the moneys available in the Guarantee Fund.

(10) Subject to subsection (7) and section 144 where claims against the Guarantee Fund are not met in full those claims, if, in the opinion of the Committee, they have been made at or substantially at the same time, shall rank amongst themselves for payment from the Fund *pari passu* but, to the extent that they have not been met, shall rank in priority over all future payments to be made out of the Fund pursuant to section 141.

(11) The amount of any claim admitted pursuant to this Part, shall, subject to this Part, be payable out of the Guarantee Fund and not otherwise.

(12) The Guarantee Fund Committee after disallowing, whether wholly or partly, a claim against the Guarantee Fund shall serve notice of the disallowance on the claimant in the prescribed form at the last address of the claimant known to the Committee.

(13) Where a claim against the Guarantee Fund is maintainable under this Part, it is a function and a duty of a liquidator and an administrator to do all things necessary to prepare, make and pursue the claim in accordance with this Part and such a person shall have all the powers that are necessary to perform that function and the reasonable fees and expenses incurred by such a person in performance of that function shall be payable out of the Guarantee Fund.

155. Application of Fund moneys. Where any moneys are paid out of the Guarantee Fund to a liquidator or an administrator of a credit society which may lawfully be applied by him in settlement of losses referred to in section 154 (3) or (4) then, notwithstanding anything to the contrary in the rules of the credit society, such moneys shall be applied by him so as to permit as nearly as possible all such losses to be met proportionately having regard to the amount of moneys received by him from the Guarantee Fund which may be so applied.

156. Repayment of loans by credit society under section 57. Where credit societies have invested moneys in making loans to the Guarantee Fund Committee pursuant to section 57 (7) (g) the Guarantee Fund Committee may repay to the investing credit societies the whole or part of such moneys and interest thereon, having regard to the commitments of the Guarantee Fund as known to the Committee as at the date of repayment, but such repayment shall be made in a manner that permits all such investments ranking equally to be repaid proportionately having regard to the moneys available in the Guarantee Fund.

157. Admission of claims against the Guarantee Fund. (1) All claims against the Guarantee Fund, which shall be lodged with the Guarantee Fund Committee in the manner determined by the Committee from time to time, shall be in the prescribed form and shall have attached a statement of affairs of the credit society showing, in the prescribed form—

- (a) the assets of the credit society and the total amount realised or expected to be realised from the assets;
- (b) the liabilities of the credit society, current and contingent, and whether existing or capable of arising at a future time;
- (c) the actual to date and estimated expenses incurred and likely to be incurred in relation to the making and proof of the claim by the liquidator or administrator of the credit society, made up to the latest practical date before the lodging of the claim.

(2) The Guarantee Fund Committee may in its discretion require such further particulars, including such evidence of proof of any claim or any part thereof as it considers satisfactory and deems necessary, to be furnished to it in the manner and within the time specified by it and notified in writing.

(3) In any case where—

(a) a liquidator or an administrator—

(i) fails to lodge a statement of affairs as prescribed; or

(ii) fails, within the time specified, to furnish such further particulars in respect of the claim as are required; or

(b) the Guarantee Fund Committee is not satisfied as to the accuracy of any claims or any aspect thereof,

the Guarantee Fund Committee may request the Registrar to furnish to it a report on any of the matters referred to in subsections (1) and (2).

(4) Where the Registrar accedes to the request of the Guarantee Fund Committee made under subsection (3) he may, on his own authority, undertake or cause to be undertaken such examination of the affairs of the credit society, or special audit of the accounting and other records of the credit society, as he deems necessary or proper in the circumstances and for the purpose of such examination or special audit the Registrar or other person undertaking the examination or audit shall have such powers as the Registrar would have had if he had been conducting an inquiry into the affairs of the credit society under section 196.

158. Subrogation. On payment out of the Guarantee Fund of moneys in settlement in whole or in part of any claim against the Guarantee Fund, the Guarantee Fund Committee shall be subrogated, to the extent of such payment, to all rights and remedies of the claimant or any other person or of the credit society in relation to matters affecting or giving rise to the claim and all moneys recovered by the Committee pursuant to this section shall be paid into the Guarantee Fund.

159. Accounts and audit. (1) The Guarantee Fund Committee shall cause to be kept and maintained proper accounts in relation to the Guarantee Fund and shall, as soon as practicable after 30 June in each year, cause an income and expenditure account and a balance sheet in respect of these accounts to be made out as at that date.

(2) The accounts shall be kept and maintained in such a manner as to disclose the true position in regard to the Guarantee Fund and to enable the accounts to be conveniently and properly audited by the Auditor-General who is hereby authorized and required to audit such accounts and balance sheet at least once in each year.

(3) The Auditor-General shall in respect of an audit of the accounts relating to the Guarantee Fund, have the powers conferred on him by

the *Financial Administration and Audit Act 1977-1985* in relation to the audit of the public accounts and departmental accounts.

160. Guarantee Fund Committee may enter into contracts of insurance or indemnity. (1) The Guarantee Fund Committee may, in its discretion, enter into a contract with a person carrying on the appropriate insurance business either within or without the State whereby the Committee will be insured or indemnified to the extent and in the manner provided by the contract against liability in respect of claims against the Guarantee Fund under this Part.

(2) Such a contract may be entered into in relation to credit societies generally, or in relation to particular credit societies named therein, or in relation to credit societies generally with the exclusion of particular credit societies named therein.

(3) An action does not lie against the Guarantee Fund Committee or against a member, acting member or deputy member of the Guarantee Fund Committee or any person acting under the direction or authority of the Guarantee Fund Committee for loss or damage alleged to have been suffered by a credit society or by any other person by reason of the publication in good faith of a statement that a contract entered into under this section does or does not apply with respect to that credit society.

(4) A claimant against the Guarantee Fund or any other person (other than the Guarantee Fund Committee) does not have a right of action against a person with whom a contract of insurance or indemnity is made under this section in respect of any moneys paid or payable by the insurer in accordance with such a contract.

PART X—FOREIGN CREDIT SOCIETIES

161. Application and interpretation of this Part. (1) Except where the contrary intention appears, this Part applies to a foreign credit society only if it has a place of business or is carrying on business within the State.

(2) In this Part, unless the contrary intention appears—

“agent” means the person named in a memorandum of appointment or power of attorney lodged under section 163 (1) (e) or (8).

“carrying on business” includes—

- (a) establishing or using a share transfer or share registration office;
- (b) establishing or using an office for the receipt of share capital, deposits or loan funds;
- (c) advertising for or otherwise seeking share capital, deposits or loan funds; or
- (d) making loans to members residing in the State, whether by servants or agents or otherwise and “to carry on business” has a corresponding meaning.

(3) Notwithstanding subsection (2), a foreign credit society shall not be regarded as carrying on business within the State for the reason only that within the State it—

- (a) is or becomes a party to any action or suit or any administrative or arbitration proceeding or effects settlement of an action, suit or proceeding or of any claim or dispute;
- (b) holds meetings of its directors or shareholders or carries on other activities concerning its internal affairs;
- (c) maintains any bank account;
- (d) effects any sale through an independent contractor;
- (e) creates evidence of any debt or creates a charge on property;
- (f) secures or collects any of its debts or enforces its rights in regard to any securities relating to such debts;
- (g) conducts an isolated transaction that is completed within a period of 31 days, but not being one of a number of similar transactions repeated from time to time; or
- (h) invests any of its funds or holds any property.

162. Power of foreign credit societies to hold land. A foreign credit society registered under this Part has power to hold land in the State.

163. Documents, etc., to be lodged by foreign credit societies having place of business in the State. (1) Every foreign credit society shall within one month after it establishes a place of business or commences to carry on business within the State, lodge with the Registrar for registration—

- (a) a certified copy of the certificate of its incorporation or registration in its place of incorporation or origin or a document of similar effect;
- (b) a certified copy of its rules or other instrument constituting or defining its constitution;
- (c) a list of its directors containing similar particulars with respect to its directors as are by this Act required to be contained in the register of the directors of a credit society formed and registered under this Act;
- (d) where the list includes directors resident in the State who are members of the local board of directors a memorandum duly executed by or on behalf of the foreign credit society stating the powers of the local directors;
- (e) a memorandum of appointment or power of attorney under the seal of the foreign credit society or executed on its behalf in such manner as to be binding on the credit society and, in either case, verified in the prescribed manner, stating the name and address of one or more persons resident in this State (not including a body corporate incorporated outside

the State) authorized to accept on its behalf service of process and any notices required to be served on the credit society;

- (f) notice of the situation of its registered office in the State;
- (g) notice of the situation of its registered office in its place of incorporation or origin; and
- (h) a statutory declaration in the prescribed form made by the agent of the credit society,

and the Registrar shall register the credit society under this Part by registration of the documents.

(2) Where a memorandum of appointment or power of attorney lodged with the Registrar in pursuance of subsection (1) (e) is executed by a person on behalf of the foreign credit society, a copy of the deed or document by which that person is authorized to execute the memorandum of appointment or power of attorney, verified by statutory declaration in the prescribed manner, shall be lodged with the Registrar and the copy shall for all purposes be regarded as an original.

(3) Subsection (1) applies to a foreign credit society which immediately before the date of commencement of this Part, had a place of business or was carrying on business within the State and, on that date, has a place of business or is carrying on business within the State, as if it established that place of business or commenced to carry on that business on that date.

(4) A foreign credit society shall have a registered office within the State to which all communications and notices may be addressed.

(5) An agent, until he ceases to be such in accordance with subsection (7)—

- (a) continues to be the agent of the foreign credit society;
- (b) is answerable for the doing of all such acts, matters and things, as are required to be done by the foreign credit society by or under this Act; and
- (c) is personally liable to all penalties imposed on the foreign credit society for any contravention of any of the provisions of this Act unless he satisfies the court hearing the matter that he should be not so liable.

(6) A foreign credit society or its agent may lodge with the Registrar a notice in writing stating that the agent has ceased to be the agent or will cease to be the agent on a date specified in the notice.

(7) The agent in respect of whom the notice has been lodged ceases to be an agent on the expiration of a period of 21 days after the date of lodgement of the notice or on the date of the appointment of another agent the memorandum of whose appointment has been lodged in accordance with subsection (8) whichever is the earlier, but if the notice states a date on which he is to so cease and the date is later than the expiration of that period, on that date.

(8) Where an agent ceases to be the agent and the foreign credit society is then without an agent in the State then if the foreign credit

society continues to carry on business or has a place of business in the State it shall, within 21 days after the agent ceases to be such, appoint an agent and lodge a memorandum of his appointment and a statutory declaration in accordance with subsection (1) and if not already lodged in pursuance of subsection (2) a copy of the deed or document or power of attorney referred to in that subsection verified in accordance with that subsection.

(9) On the registration of a foreign credit society under this Part or the lodging with the Registrar of particulars of a change or alteration in a matter referred to in paragraph (c), (d) or (f) of section 164, the Registrar shall issue a certificate in the prescribed form under his hand and seal which certificate shall be prima facie evidence in all courts of the particulars mentioned in the certificate.

(10) Where, but for the provisions of this subsection, a foreign credit society registered under this Part would have been guilty of an offence under section 25 in respect of a period of one month immediately preceding the date of its registration under this Part or any part of such period the foreign credit society shall be deemed not to have committed the offence.

164. Return to be filed where documents, etc., altered. (1) Where any change or alteration is made in—

- (a) the rules of the foreign credit society or other instrument lodged with the Registrar;
- (b) the directors of the foreign credit society;
- (c) the agent or agents of the foreign credit society or the address of any agent;
- (d) the situation of the registered office of the foreign credit society in the State;
- (e) the address of the registered office of the foreign credit society in its place of incorporation or origin;
- (f) the name of the foreign credit society; or
- (g) the powers of any directors resident in the State who are members of the local board of directors of the foreign credit society,

the foreign credit society shall within one month after the change or alteration lodge with the Registrar in the prescribed form particulars of the change or alteration and such documents as the regulations require.

(2) Subject to section 169 (2) the Registrar may register any change or alteration in the name of a foreign credit society particulars of which have been lodged with him pursuant to subsection (1).

165. Balance sheets. (1) Subject to this section a foreign credit society shall, within the period of 4 months or such extended period as the Registrar may allow in special circumstances, next after the end of each financial year of the credit society, lodge with the Registrar a copy of its financial statements made up to the end of its last financial

year in such form and containing such particulars and including copies of such documents as the credit society is required to prepare by the law for the time being applicable to that credit society in the place of its incorporation or origin, together with a statutory declaration in the prescribed form verifying that the copies are true copies of the documents so required.

(2) The Registrar may, if he is of the opinion that the financial statements and other documents referred to in subsection (1) do not sufficiently disclose the foreign credit society's financial position, require the credit society to lodge a financial statement within such period, in such form and containing such particulars and including such documents as the Registrar by notice in writing to the credit society requires, but this subsection does not authorize the Registrar to require a financial statement to contain any particulars or include any documents that would not be required to be furnished if the credit society were a credit society formed and incorporated under this Act.

(3) The foreign credit society shall comply with the requirements set out in the notice.

(4) Where a foreign credit society is not required by the law of the place of its incorporation or origin to prepare a balance sheet the credit society shall prepare and lodge with the Registrar a financial statement within such period, in such form and containing such particulars and including such documents as the credit society would have been required to prepare if the credit society were a credit society formed and incorporated under this Act.

166. Publication of name, etc., of foreign credit society. (1) There shall appear in legible characters on every relevant document of a foreign credit society that is issued, signed or published in the State—

- (a) the name of the foreign credit society and the place where it is formed or incorporated; and
- (b) in the case of a foreign credit society the liability of the members of which is limited (unless the last word of its name is the word "Limited" or the abbreviation "Ltd"), notice of the fact that the liability of its members is limited, and, if default is made in complying with this subsection, the foreign credit society is guilty of an offence.

(2) There shall appear in legible characters on every relevant negotiable instrument of a foreign credit society that is issued or signed in the State the name of the foreign credit society and, if default is made in complying with this subsection, the foreign credit society is guilty of an offence.

(3) If an officer of a foreign credit society or any other person—

- (a) on behalf of the foreign credit society, issues or publishes in the State, or authorizes the issue or publication in the State of, any relevant document of the foreign credit society

that does not comply with the requirements of subsection (1); or

- (b) signs or issues in the State, or authorizes to be signed or issued in the State, on behalf of the foreign credit society, any relevant negotiable instrument that does not comply with the requirements of subsection (2),

he is guilty of an offence.

(4) If an officer of a foreign credit society, or any other person, signs or issues in the State, or authorizes to be signed or issued in the State, on behalf of the foreign credit society, any relevant negotiable instrument that does not comply with the requirements of subsection (2), he is liable to the holder of the relevant negotiable instrument for the amount due on it unless that amount is paid by the foreign credit society.

(5) A foreign credit society shall paint or affix and keep painted or affixed on the outside of every office or place in the State in which its business is carried on, in a conspicuous position and in letters easily legible—

- (a) its name and the place where it is formed or incorporated;
- (b) in the case of a foreign credit society the liability of the members of which is limited (unless the last word of its name is the word “Limited” or the abbreviation “Ltd”), notice of the fact that the liability of its members is limited; and
- (c) in the case of the office that is its registered office in the State, the words “Registered Office”,

and, if default is made in complying with this subsection, the foreign credit society is guilty of an offence.

(6) In this section—

“relevant document” in relation to a foreign credit society, means a business letter, statement of account, invoice, receipt, order for goods, order for services, official notice or publication of or purporting to be issued or signed by or on behalf of, the foreign credit society;

“relevant negotiable instrument” in relation to a foreign credit society, means a bill of exchange, cheque or other negotiable instrument, indorsement on, or order in, a bill of exchange, cheque or other negotiable instrument, or a letter of credit of, or purporting to be issued or signed by or on behalf of, the foreign credit society.

167. Service of notice. A document required to be served on a foreign credit society shall be sufficiently served—

- (a) if addressed to the foreign credit society and left at or sent by post to its registered office in the State; or
- (b) if addressed to an agent of the foreign credit society and left at or sent by post to the registered address of the agent.

168. Cesser of business in the State. (1) If a foreign credit society ceases to have a place of business or to carry on business in the State

it shall, within 7 days after so ceasing, lodge with the Registrar in the prescribed form notice of that fact and, as from the day on which the notice is so lodged, its obligation to lodge any document (not being a document that ought to have been lodged before that day) with the Registrar shall cease and the Registrar shall, upon the expiration of 12 months after the lodging of the notice, remove the name of that foreign credit society from the register.

(2) If a foreign credit society goes into liquidation or is dissolved in its place of incorporation or origin—

- (a) each person who immediately prior to the commencement of the liquidation proceedings or the dissolution was an agent shall, within one month after the commencement of the liquidation or the dissolution or within such further time as the Registrar in special circumstances allows, lodge or cause to be lodged with the Registrar notice of that fact and, when a liquidator is appointed, notice of such appointment; and
- (b) the liquidator shall, until a liquidator for the State is duly appointed by the Court, have the powers and functions of a liquidator for the State.

(3) A liquidator of a foreign credit society appointed for the State by the Court or a person exercising the powers and functions of such a liquidator—

- (a) shall, before any distribution of the foreign credit society's assets is made, by advertisement in a newspaper circulating generally in each State or Territory where the foreign credit society had been carrying on business prior to the liquidation if no liquidator has been appointed for that place, invite all creditors to make their claims against the foreign credit society within a reasonable time prior to the distribution;
- (b) shall not, without obtaining an order of the Court, pay out any creditor to the exclusion of any other creditor of the foreign credit society;
- (c) shall, unless otherwise ordered by the Court, only recover and realise the assets of the foreign credit society in the State and shall pay the net amount so recovered and realised to the liquidator of that foreign credit society for the place where it was formed or incorporated.

(4) Where a foreign credit society has been wound up so far as its assets in the State are concerned and there is no liquidator for the place of its incorporation or origin the liquidator may apply to the Court for directions as to the disposal of the net amount recovered in pursuance of subsection (3) and the Court may give such directions as to it seems fit.

(5) On receipt of a notice from an agent that the foreign credit society has been dissolved, the Registrar shall remove the name of the credit society from the register.

(6) Where the Registrar has reasonable cause to believe that a foreign credit society has ceased to carry on business or to have a place of business in the State the provisions of this Act relating to the cancellation of the registration of defunct credit societies shall with such adaptations as are necessary extend and apply accordingly.

169. Restriction on use of certain names. (1) Except with the consent of the Minister a foreign credit society shall not be registered by a name that, in the opinion of the Registrar, is undesirable or is a name, or a name of a kind, that the Minister has directed the Registrar not to accept for registration.

(2) Except with the consent of the Minister, any change in the name of a foreign credit society shall not be registered if, in the opinion of the Registrar, the new name of the credit society is undesirable or is a name, or a name of a kind, that the Minister has directed the Registrar not to accept for registration, notwithstanding that particulars of the change have been lodged in accordance with section 164.

(3) No foreign credit society to which this Part applies shall use in the State any name other than that under which it is registered under this Part or under any other Act.

(4) If default is made in complying with subsection (3) the foreign credit society, any officer of the foreign credit society who is in default and any agent of the foreign credit society who knowingly and wilfully authorizes or permits the default shall be guilty of an offence.

170. Penalties. If default is made by any foreign credit society in complying with any provision of this Part, other than a provision in which a penalty or punishment is expressly mentioned, the foreign credit society and any officer of the foreign credit society who is in default and any agent of the foreign credit society who knowingly and wilfully authorizes or permits the default, shall be guilty of an offence.

171. Winding up of foreign credit societies. The provisions of Division 6 of Part XII of the *Companies (Queensland) Code* apply, *mutatis mutandis*, and subject to such modifications as are prescribed to the winding up of a foreign credit society registered under this Part and such a credit society may be wound up accordingly, a reference in those provisions to the Commission being construed as a reference to the Registrar.

PART XI—ADMINISTRATION

Division 1—Administrative Staff and Office

172. Registrar. (1) The Registrar is hereby charged with the administration of this Act and shall have and may exercise such powers and functions as are conferred or imposed upon him by or under this Act.

(2) The Registrar shall, as and when required by the Minister, furnish reports with respect to the policy that he is pursuing, or proposes

to pursue, in the exercise or discharge of any of his powers and functions under this Act.

(3) The Minister may issue directions to the Registrar on matters of policy and the Registrar shall observe and carry out the directions issued.

173. Office and records of Registrar. (1) All certificates, rules and documents required to be registered by, or to be lodged with or furnished to, the Registrar, shall be kept in the office of the Registrar.

(2) The Registrar shall, subject to this Act, keep such registers as he considers necessary in such form as he thinks fit.

(3) The Registrar may incorporate with registers kept by him under this Act such documents, instruments and registers kept under any corresponding previous enactment by the Registrar of Co-operative and Other Societies or other officer charged with the registration of credit unions as he deems fit.

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

174. Fees. (1) There shall be paid to the Registrar such fees as may be prescribed in respect of acts, matters or things to be done under or for the purposes of this Act.

(2) Where a fee is payable to the Registrar for or in respect of the lodging of a document with or the furnishing of a document to the Registrar and the document is submitted for lodgement or furnished without payment of the fee, the document shall be deemed not to have been lodged or, as the case may be, furnished until the fee is paid to the Registrar.

175. Destruction, etc., of old records. Subject to the *Libraries Act 1943-1979*, the Registrar may, if in his opinion it is no longer necessary or desirable to retain them, destroy or dispose of—

- (a) in the case of a registered body—
 - (i) any document lodged pursuant to section 120 (1) or (2) that has been lodged for not less than 7 years or any document creating or evidencing a charge or the complete or partial satisfaction of a charge where a memorandum of satisfaction of the charge has been registered for not less than 7 years; or
 - (ii) any other document (other than the rules or any document affecting them) which has been lodged, furnished or registered for not less than 15 years;
- (b) in the case of a registered body that has been dissolved for not less than 15 years, any document lodged, furnished or registered; or
- (c) any document, a transparency of which has been incorporated with a register kept by the Registrar.

176. Annual report by Registrar. (1) As soon as practicable after 30 June in each year, the Registrar shall furnish to the Minister a report on the administration of this Act by the Registrar in respect of the year ending on that date.

(2) The Minister shall lay a copy of every such report before the Legislative Assembly.

Division 2—General

177. Performance of Registrar's functions by authorized person. (1) Except as otherwise expressly provided by this Act, a power or function conferred or imposed by this Act on the Registrar may be exercised or performed by a person authorized by the Registrar to exercise or perform that power or function.

(2) Without limiting the generality of subsection (1), a reference to the Registrar in sections 178, 179, 203 and 240 includes a reference to any person who is or has been authorized by the Registrar to perform the relevant power or function conferred or imposed by this Act on the Registrar.

(3) The Registrar may revoke or vary any authorization under subsection (1) and whilst the authorization remains in force the person authorized may exercise or perform the power or function the subject of the authorization as fully and effectively as the Registrar but the existence of the authorization does not prevent the exercise or performance by the Registrar of any power or function.

178. Inspection of books, etc. (1) The Registrar may—

- (a) inspect and make copies of or take extracts from any—
 - (i) books kept by or by a person in respect of a registered body (whether or not the registered body has been dissolved); and
 - (ii) banker's books kept by a banker who acts or has acted as banker to a registered body in so far as they relate to the registered body (whether or not the registered body has been dissolved); and
- (b) require an officer or former officer of a registered body to answer any questions relating to the affairs of the registered body (whether or not the registered body has been dissolved).

(2) An officer of a registered body, a person who keeps any books in respect of a registered body or a banker may be required by the Registrar to produce, at the time and place (if any) specified in the requirement, any book to which the requirement relates.

(3) An officer or former officer of a registered body shall not, when required under subsection (1) (b) to answer any question, give an answer that is false or misleading or, knowing or being in a position to know the answer, fail to answer that question.

(4) A person shall not be required under this section to answer any question tending to incriminate him.

(5) Where a person exercises a power under this section to require another person to produce books and the books are not produced, the first-mentioned person may require the other person—

- (a) to state, to the best of his knowledge and belief, where the books may be found; and
- (b) to identify the person who, to the best of his knowledge and belief, last had custody of the books and to state, to the best of his knowledge and belief, where the last-mentioned person may be found.

(6) The Registrar may require any bank with which funds have been deposited by a registered body to furnish him with particulars of the amount of those funds and any dealing with or disposition of those funds by the registered body.

(7) In this section—

“registered body” includes a foreign credit society registered under Part X and a body exempted under section 25.

179. Investigation of certain matters. Where the Registrar has reason to suspect that a person has committed an offence under a provision of this Act or has been guilty of fraud in relation to a registered body, a foreign credit society registered under Part X or body exempted under section 25, the Registrar may make such investigation as he thinks expedient for the due administration of this Act.

180. Inspection of documents in Registrar’s Office. (1) Any person may on payment of the prescribed fee—

- (a) inspect at the office of the Registrar the registration documents and rules of a registered body or a foreign credit society registered under Part X;
- (b) obtain from the Registrar a certified copy of the certificate of incorporation of a registered body or a certificate of the registration of a foreign credit society registered under Part X and a certified copy of the rules of a registered body or a foreign credit society registered under Part X, or of any part of the rules;
- (c) inspect any document lodged pursuant to this Act or to any corresponding previous law of the State by any registered body or, pursuant to Part X, by a foreign credit society, other than a prescribed document;
- (d) obtain a copy of or extract from any document that he is entitled to inspect pursuant to paragraph (c) certified by the Registrar.

(2) If a transparency or a reproduction of a document is produced for inspection, a person is not entitled pursuant to subsection (1) to require the production of the original of that document.

(3) The reference in paragraph (b) or (c) of subsection (1) to any document includes, where a reproduction or transparency of that

document has been incorporated with the register kept by the Registrar, a reference to that reproduction or transparency and where such a reproduction or transparency has been so incorporated a person shall not be entitled pursuant to either of the said paragraphs to a copy of the original of that document.

181. When documents deemed not to be lodged or furnished. When a document is lodged with or furnished to the Registrar and, in the opinion of the Registrar—

- (a) the document does not comply with the provisions of this Act; or
- (b) any information required to be furnished in or with the document has not been furnished or has not been fully furnished,

the document shall be deemed not to have been lodged or furnished until such time as, in the opinion of the Registrar, the document complies with those provisions or the information has been furnished or fully furnished, as the case may be.

182. Information and evidence. (1) On an application for registration of a credit society or of an association or of any rule or document under this Act, the Registrar may require from the applicant such information and evidence as may be reasonable in order to show that the application should be granted.

(2) The Registrar may require from any registered body such information and evidence as may be reasonable in order to show that the registered body is bona fide carrying on business in accordance with the provisions of this Act.

(3) The Registrar may require from a registered body such evidence as he thinks proper of the doing of any act, matter or thing required to be done, or of the correctness of any entry in any document required to be lodged with or furnished to him, under this Act.

(4) The preceding provisions of this section apply, with all necessary modifications to a foreign credit society registered, or applying for registration, under Part X.

183. Secrecy. (1) Subject to this section, the Registrar, a member of the Guarantee Fund Committee or of the Advisory Committee or any other person appointed or employed for the purposes of this Act or authorized to exercise or perform any power or function of the Registrar under this Act or authorized by any such Committee to do any act or thing in relation to its functions shall not, except to the extent necessary to perform his official duties or exercise or perform such a power or function or do any such act or thing, either directly or indirectly and whether before or after he ceases to be Registrar or a member or to be so appointed, employed or authorized—

- (a) make a record of or divulge or communicate to any person any information that is gained by or conveyed to him by

reason of his being Registrar or such a member or being so appointed, employed or authorized; or

- (b) make use of any such information.

Penalty: \$1 000 or imprisonment for 3 months, or both.

(2) Nothing in subsection (1) precludes a person from—

- (a) producing a document to a court in the course of criminal proceedings or proceedings under this Act or from divulging or communicating to a court in the course of such proceedings any matter or thing coming under his notice in the performance of his official duties or the exercise or performance by him of powers or functions referred to in that subsection; or
- (b) producing a document or communicating any information gained by or conveyed to him—
- (i) to the Minister or Treasurer or any person acting on behalf of and with the authority of the Minister or Treasurer;
- (ii) to the Registrar, the Advisory Committee, the Guarantee Fund Committee, any member, acting member or deputy member of any such Committee, or an inspector appointed under this Act;
- (iii) with the approval of the Minister or the Registrar first had and obtained, to any person appointed or engaged under the provisions of this Act for the purpose of that person discharging his duties under that appointment or engagement.

184. Registrar entitled to be present at meetings. The Registrar is entitled to attend every meeting of the members of a registered body.

185. Protection. Liability at law shall not attach to the Crown or any person on account of any act or thing done or omitted to be done pursuant to this Act or done or omitted to be done bona fide for the purposes of this Act and done or omitted to be done without negligence.

Division 3—Investigations

186. Interpretation. In this Division, unless the contrary intention appears—

“affairs” in relation to a registered body includes—

- (a) the promotion, formation, membership, control, transactions, dealings, business and property of the registered body;
- (b) ownership of shares in, or deposits with, or loans to, the registered body;
- (c) matters concerned with the ascertainment of the persons who are or have been financially interested in the success or failure or apparent success or failure of the registered

body or are or have been able to control or materially influence the policy of the registered body;

- (d) the circumstances under which a person acquired or disposed of shares in or made or withdrew or disposed of deposits with or loans to the registered body;

“inspector” means an inspector appointed under this Division;

“prescribed person” means—

- (a) an officer within the meaning of section 4 (1);
- (b) a person who acts, or has at any time acted, as banker, solicitor, auditor or in any other capacity for the registered body;
- (c) a person who—
 - (i) has, or has at any time had, in his possession any property of the registered body;
 - (ii) is indebted to the registered body; or
 - (iii) is capable of giving information concerning the affairs of the registered body; and
- (d) where an inspector has reasonable grounds for suspecting or believing that a person is a person referred to in paragraph (c) of this definition, that person;

“registered body” includes—

- (a) a foreign credit society registered under Part X;
- (b) a body exempted under section 25;
- (c) where the Minister has appointed an inspector under section 187 (3) to investigate the affairs of a credit society or association, that credit society or association;

187. Appointment of inspectors. (1) The Minister, where it appears to him that it is desirable for the protection of the public or of members, depositors or creditors of a registered body or in any case it is in the public interest to do so, by instrument in writing—

- (a) may appoint a person as an inspector to investigate the affairs of a registered body or, if he is of opinion that an investigation ought not to be made into all those affairs, such of the affairs as he is satisfied ought to be investigated and specifies in the instrument and to report on the investigation in such manner as the Minister directs; and
- (b) may revoke any such appointment.

(2) The Minister shall, in an instrument appointing an inspector, specify—

- (a) full particulars of the terms and conditions to which the appointment is subject; and
- (b) the matters into which an investigation is to be made, being all the affairs or particular affairs of a registered body.

(3) Where—

- (a) under a law of another State or of a Territory corresponding to this Division, a person has been appointed to investigate affairs of a credit society or of an association registered in that State or Territory; and
- (b) the Minister is satisfied that in connexion with that investigation it is expedient that an investigation be made into those affairs in this State,

the Minister may, by instrument in writing appoint that person an inspector to investigate those affairs in this State or, if the Minister is of the opinion that an investigation ought not to be made into all those affairs, such of those affairs as he is satisfied ought to be investigated and specifies in the instrument.

(4) Where, under subsection (3), the Minister may appoint a person to investigate affairs of a credit society or of an association in this State, he may by instrument in writing declare that that person shall have such of the powers of an inspector appointed under subsection (1) in relation to the investigation subject to such terms and conditions as the Minister specifies in the instrument as if that person had been appointed an inspector under subsection (1) and upon that declaration that person shall have the powers so specified and subject to all necessary adaptations, for the purposes of the investigation the provisions of this Division apply to and in relation to that person and that investigation as if he had been appointed an inspector under subsection (1).

(5) Where 2 or more inspectors have been appointed, whether by the same instrument or by different instruments, to investigate affairs of a registered body each of those inspectors may exercise his powers or perform his functions under this Division independently of the other inspector or inspectors.

(6) The Minister may, at any time by notice in writing given to an inspector, vary particulars or matters specified in the instrument of appointment, being particulars or matters referred to in subsection (2).

(7) The Minister may by notice in writing given to an inspector terminate his appointment at any time.

188. Investigation of affairs of subsidiary. Where an inspector thinks it necessary for the purposes of the investigation of affairs of a registered body to investigate affairs of a corporation which is or has at any relevant time been a subsidiary of the registered body he may, with the consent in writing of the Minister, investigate affairs of that corporation and in investigating those affairs the inspector shall have all powers given him under this Act as if the corporation were a registered body.

189. Powers of inspectors. (1) An inspector may, by notice in the prescribed form given in the prescribed manner, require a prescribed person—

- (a) to produce to the inspector such books relating to a matter to which his investigation relates as are in the custody or under the control of that person;
- (b) to give to the inspector all reasonable assistance in connexion with the investigation; and
- (c) to appear before the inspector for examination on oath or affirmation and to answer questions put to him,

and may administer an oath or affirmation to that person.

(2) A notice given pursuant to subsection (1) (c) shall set out the provisions of subsections (8) and (9).

(3) Where an inspector has reasonable grounds for believing that books in the custody or under the control of a person may be relevant to any of the matters relating to affairs that are being investigated under this Division the inspector may, by notice in writing containing the prescribed matters given in the prescribed manner, require that person to produce those books to the inspector.

(4) An examination under this section shall, for the purposes of Chapter XVI of *The Criminal Code*, be deemed to be a judicial proceeding.

(5) Where books are produced to an inspector under this section the inspector may take possession of the books for such period as he considers necessary for the purposes of his investigation and during that period he shall permit a person who would be entitled to inspect any of those books if they were not in possession of the inspector to inspect at all reasonable times such of those books as that person would be so entitled to inspect.

(6) A prescribed person shall not—

- (a) refuse or fail to comply with a requirement of an inspector under subsection (1) to the extent to which that person is able to comply with it;
- (b) in purported compliance with such a requirement knowingly furnish information that is false or misleading in a material particular; or
- (c) when appearing before an inspector for examination in pursuance of such a requirement make a statement that is false or misleading in a material particular.

Penalty: \$10 000 or imprisonment for 2 years, or both.

(7) A prescribed person shall not, when appearing before an inspector for examination pursuant to a requirement under subsection (1), refuse or fail to take an oath or make an affirmation.

Penalty: \$1 000 or imprisonment for 3 months, or both.

- (8) A solicitor or barrister acting for a prescribed person—
- (a) may attend an examination of that person; and
 - (b) may, to the extent that the inspector permits—
 - (i) address the inspector; and
 - (ii) examine that person,
in relation to matters in respect of which the inspector has questioned him.

(9) A prescribed person is not excused from answering a question put to him by an inspector on the ground that the answer might tend to incriminate him but, where that person claims, before answering the question, that the answer might tend to incriminate him, neither the question nor the answer is admissible in evidence against him in criminal proceedings other than proceedings under subsection (6) or other proceedings in respect of the falsity of the answer.

(10) A person who complies with a requirement of an inspector under this section does not incur a liability to any person by reason only of that compliance.

(11) A person who is required to attend for examination under this section is entitled to such allowances and expenses as are approved by the Governor in Council.

(12) Where an inspector is satisfied that a prescribed person or other person has failed without reasonable excuse to comply with a requirement of the inspector made under this section to the extent to which the person is able to comply with it, the inspector may certify the failure by writing under his hand to the Court.

(13) Where an inspector gives a certificate under subsection (12), in relation to a prescribed person or other person, the Court may inquire into the case and—

- (a) order the prescribed person or other person, as the case may be, to comply with that requirement within such period as is fixed by the Court; or
- (b) if the Court is satisfied that the prescribed person or other person, as the case may be, failed, without reasonable excuse, to comply with the requirement of the inspector, punish him in like manner as if he had been guilty of contempt of the Court and, if it sees fit, also make an order under paragraph (a).

(14) Where in the opinion of an inspector, a solicitor or barrister acting for a prescribed person is attempting to obstruct the examination of the prescribed person by the exercise of the rights conferred on him under subsection (8) to address the inspector or to examine the prescribed person, the inspector may require the solicitor or barrister to cease to address him or to cease to examine the prescribed person, as the case may be.

(15) Where an inspector makes a requirement of a solicitor or barrister under subsection (14), the solicitor or barrister shall not refuse or fail to comply with that requirement.

190. Notes of examination. (1) An inspector may cause notes of an examination made by him under this Division to be recorded in writing and to be read to or by the person examined, and may require that person to sign the notes and, subject to this section, notes signed by that person may be used in evidence in legal proceedings against him.

(2) A copy of the notes signed by a prescribed person shall be furnished by the inspector, without charge, to that person on request made by that person in writing.

(3) Notes made pursuant to this section that relate to a question the answer to which a prescribed person has claimed might tend to incriminate him may not be used as evidence in criminal proceedings other than proceedings under section 189 (6) or other proceedings in respect of the falsity of the answer.

(4) Nothing in this section affects or limits the admissibility of other written evidence or of oral evidence.

(5) The Minister may give a copy of notes made pursuant to this section to a solicitor who satisfies the Minister that he is acting for a person who is conducting, or is, in good faith, contemplating legal proceedings in respect of any matters into which an investigation is made by an inspector under this Division.

(6) A solicitor to whom a copy of notes is given under subsection (5) shall not use the notes otherwise than in connexion with the institution or preparation of, and in the course of, legal proceedings referred to in that subsection, and shall not publish or communicate for any other purpose the notes or any part of the contents of them to any other person.

Penalty: \$1 000 or imprisonment for 3 months, or both.

(7) Where a report is made under this Division, notes that are recorded pursuant to this section in relation to that report shall be furnished with the report.

191. Delegation of powers, etc., by inspector. (1) An inspector may, by instrument in writing—

(a) delegate all or any of his powers or functions under this Division (except this power of delegation, the power to administer oaths or affirmations, and the power to examine on oath or affirmation); and

(b) vary or revoke a delegation given by him.

(2) A power or function delegated by an inspector may be exercised or performed by the delegate in accordance with the instrument of delegation as in force from time to time.

(3) Any act or thing done in the exercise of a power or the performance of a function by a person to whom that power or function has been delegated by an inspector under subsection (1) has the same force and effect as if it had been done by the inspector.

(4) A delegate shall, at the request of a prescribed person or other person, produce the instrument of delegation for inspection.

(5) A delegation under this section by an inspector of a power or function does not prevent the exercise of the power or the performance of the function by the inspector.

192. Report of inspector. (1) Subject to subsection (2), the Minister shall, unless in his opinion there is good reason for not divulging the contents of the report, give a copy of a report made to him under this Division to the registered body to which the report relates and to each person to whom, in the opinion of the Minister, the report ought to be given by reason that it relates to the affairs of that person to a material extent.

(2) Subject to subsection (3), the Minister is not bound to furnish a registered body or any other person with a copy of a report under this Division if the Minister is of the opinion that there is good reason for not divulging the contents of the report.

(3) The court before which legal proceedings are brought against a person for or in respect of matters dealt with in a report under this Division may order that a copy of the report be given to that person.

(4) The Minister may, if he is of the opinion that it is in the public interest to do so, cause the whole or any part of a report under this Division to be printed and published.

(5) If from a report under this Division or from the notes of an examination under this Division, it appears to the Minister that an offence may have been committed by a person and that a prosecution ought to be instituted, the Minister shall cause a prosecution to be instituted and prosecuted.

(6) Where it appears to the Minister that a prosecution ought to be instituted, he may, by notice in writing given before or after the institution of a prosecution in accordance with subsection (5), require a person whom he suspects or believes on reasonable grounds to be capable of giving information concerning any matter to which the prosecution relates (not being a person who is or, in the opinion of the Minister, is likely to be a defendant in the proceedings or is or has been a solicitor or barrister acting for such a person) to give all assistance in connexion with the prosecution or proposed prosecution that he is reasonably able to give.

(7) Where a person to whom a notice has been given under subsection (6) fails to comply with a requirement specified in the notice the Court may, on the application of the Minister, direct that person to comply with the requirement.

(8) If from a report under this Division, or from the notes of an examination under this Division, the Minister is of the opinion that proceedings ought in the public interest to be brought by a registered body affairs of which were investigated by the inspector for the recovery of damages in respect of fraud, misfeasance or other misconduct in connexion with the affairs of the registered body, or for the recovery of property of the registered body, the Minister may cause proceedings to be brought accordingly in the name of the registered body.

193. Minister's powers in respect of books. An inspector may, when making a report to the Minister under this Division, give to the Minister books of which he has taken possession under section 189 and the Minister—

- (a) may retain the books for such period as he considers to be necessary to enable a decision to be made as to whether or not legal proceedings ought to be instituted as a result of the investigation;
- (b) may retain the books for such further period as he considers to be necessary to enable any such proceedings to be instituted and prosecuted;
- (c) may permit other persons to inspect the books while they are in his possession;
- (d) may permit the use of the books for the purposes of legal proceedings instituted as a result of the investigation; and
- (e) shall permit a person who would be entitled to inspect any one or more of the books if they were not in the possession of the Minister to inspect at all reasonable times such of the books as that person would be so entitled to inspect.

194. Privileged communications. Where in the exercise of his powers under section 189 an inspector requires a solicitor or barrister to disclose a privileged communication made by or on behalf of or to that solicitor or barrister in his capacity as a solicitor or barrister, the solicitor or, as the case may be, barrister is entitled to refuse to comply with the requirement unless the person to whom or by or on behalf of whom the communication was made agrees to the solicitor or barrister complying with the requirement but, where the solicitor or barrister so refuses to comply with a requirement, he shall, if he knows the name and address of the person to whom or by or on behalf of whom the communication was made, forthwith furnish that name and address in writing to the inspector.

Penalty: \$1 000 or imprisonment for 3 months, or both.

195. Expenses of investigation. (1) Subject to this section, the expenses of and incidental to an investigation by an inspector appointed under section 187 (including the expenses incurred and payable by the Minister in any proceedings brought by him in the name of a registered body under section 192 (8)) shall be defrayed out of moneys provided by Parliament for the purpose.

(2) An application referred to in subsection (3) may be made to a court by or on behalf of the Minister—

- (a) in the course of proceedings in that court instituted by the Minister in the name of a registered body under section 192 (8); or
- (b) upon, or within 28 days after, a conviction or judgment by a court in proceedings certified by the Minister, for the purposes of the application, to have been instituted as a result of an investigation by an inspector appointed under this Division,

and the court may make such order with respect to the application and its subject-matter as it thinks fit.

(3) The application that may be made under subsection (2) is an application for one or more of the following orders, namely:—

- (a) that a specified person pay the whole, or a specified part, of the expenses of and incidental to the investigation that led to the proceedings;
- (b) where expenses have been paid under subsection (1), that a specified person pay the expenses or reimburse the Crown to the extent of the payment; or
- (c) that a specified person pay, or reimburse the Crown in respect of, the remuneration of any servant of the Crown concerned with the investigation.

(4) Where the Minister is of the opinion that the whole or any part of the expenses of or incidental to an investigation into affairs of a registered body under this Division (including the expenses incurred and payable by the Minister in any proceedings brought by him in the name of the registered body under section 192 (8)) should be paid by the registered body, the Minister may by order direct that the expenses or part thereof be so paid or, if they have been paid under subsection (1), direct the registered body to reimburse the Crown and may, in either case direct the registered body to reimburse the Crown in respect of the remuneration of any servant of the Crown concerned in the investigation.

(5) Where a registered body has failed to comply with an order of the Minister under subsection (4), proceedings may be taken in a court of competent jurisdiction to recover the amount in question as a debt due to the Crown.

Division 4—Inquiry by Registrar, etc.

196. Special meeting and inquiry by Registrar. (1) Subject to compliance with any requirement or direction of the Registrar pursuant to this section, the Registrar may on the application of a majority of

the board of a registered body or, in the case of a credit society, of not less than one-tenth of its members, or of his own motion—

- (a) call a special meeting of the registered body;
- (b) hold an inquiry into the affairs, including the working and financial condition, of the registered body; or
- (c) both call such a meeting as is referred to in paragraph (a) and hold such an inquiry as is referred to in paragraph (b).

(2) An application under this section shall be supported by such evidence as the Registrar requires 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) Notice of an application under this section shall be given to the registered body by such persons and in such manner as the Registrar directs.

(4) Security for the expenses of a meeting or inquiry pursuant to this section shall be given by such persons and in such amount and manner as the Registrar directs.

(5) The Registrar may direct at what time and place a meeting called under this section is to be held and what matters are to be discussed and determined at the meeting and shall give such notice to members of the holding of the meeting as he deems fit notwithstanding any other provision of this Act or any provision of the rules of the registered body as to the giving of notice.

(6) A meeting called under this section shall have all the powers of a meeting called in accordance with the rules of the registered body and shall have the power to appoint its own chairman, any rule of the registered body to the contrary notwithstanding. The Registrar or any person nominated by him may attend and address any such meeting.

(7) If a meeting called under this section fails to appoint a chairman, the Registrar or any person nominated by him to attend the meeting may act as chairman of the meeting or may appoint a chairman to conduct the meeting or any adjournment thereof.

(8) If the chairman of a meeting called under this section is not a member of the registered body in respect of which it was so called, he may exercise a casting vote but shall not otherwise be entitled to vote.

(9) All expenses of and incidental to a meeting called, or inquiry held, under this section shall be defrayed, in such proportions as the Registrar directs, by the applicants, or out of the funds of the registered body, or by any officer or member or former officer or member of the registered body and may be recovered as a debt due to the Crown in any court of competent jurisdiction.

197. Inquiry by Registrar or his deputy. (1) Where, pursuant to section 196, an inquiry is held into the affairs of a registered body or such of those affairs as the Registrar deems proper, the inquiry may be conducted by the Registrar or, as the Registrar may determine, by a

person deputed by the Registrar by instrument in writing under his hand.

(2) Where the Registrar determines to depute the conduct of an inquiry to which subsection (1) relates, he may, by instrument in writing, depute for that purpose any person, including a person who is not an officer or employee subject to the *Public Service Act 1922-1978*, and where a person who is not such an officer or employee is deputed under this section the provisions of that Act do not apply to or with respect to that person.

(3) Any determination by the Registrar for the purposes of section 196 and this section may be varied or revoked by a subsequent determination.

(4) The Registrar or, where the Registrar has deputed a person under this section to conduct an inquiry, that person, is hereinafter in this section in relation to the inquiry referred to as the inspector.

(5) An inspector may, by a notice in the prescribed form given in the prescribed manner, require a person to whom this section applies—

- (a) to produce to the inspector such books relating to the registered body as are in the custody or under the control of that person;
- (b) to give to the inspector all reasonable assistance in connexion with the inquiry;
- (c) to verify by statutory declaration any statement made by him to the inspector relating to the affairs of the registered body; and
- (d) to appear before the inspector for examination on oath or affirmation.

(6) An inspector may examine on oath or affirmation a person to whom this section applies appearing before the inspector in pursuance of a requirement in that regard in pursuance of subsection (5) and may administer the oath or affirmation referred to in paragraph (d) of that subsection.

(7) A person appearing before an inspector for examination in pursuance of a requirement of the inspector under subsection (5) shall have the same protection and shall, in addition to any penalties provided by this Act, be subject to the same liabilities as a witness in any action or trial in the Court.

(8) Where books are produced to an inspector under this section the inspector may take possession of the books for such period as he considers necessary for the purposes of the inquiry, and during that period he shall permit a person who would be entitled to inspect any of those books if they were not in the possession of the inspector to inspect at all reasonable times such of those books as that person would be so entitled to inspect.

(9) An inspector may by instrument in writing—

- (a) delegate all or any of his powers or functions under this section except this power of delegation, the power to administer an oath or affirmation and the power to examine on oath or affirmation; and
- (b) vary or revoke a delegation given by him.

(10) A power or function delegated by an inspector may be exercised or performed by the delegate in accordance with the instrument of delegation as in force from time to time.

(11) Any act or thing done in the exercise of a power or the performance of a function by a person to whom that power or function has been delegated by an inspector under subsection (9) has the same force and effect as if it had been done by the inspector.

(12) A delegate shall on request of a person to whom this section applies produce the instrument of delegation for inspection.

(13) A delegation under subsection (9) by an inspector of a power or function does not prevent the exercise of the power or the performance of the function by the inspector.

(14) A person to whom this section applies shall not—

- (a) refuse or fail to comply with a requirement of an inspector under subsection (5) to the extent to which that person is able to comply with it;
- (b) in purported compliance with such a requirement knowingly furnish information that is false or misleading in a material particular; or
- (c) when appearing before an inspector for examination in pursuance of such a requirement—
 - (i) make a statement that is false or misleading in a material particular;
 - (ii) refuse or fail to take an oath or affirmation.

Penalty: \$2 000 or imprisonment for 6 months, or both.

(15) Where an inquiry to which this section relates is conducted by a person other than the Registrar, that person shall report on the inquiry to the Registrar in such manner as the Registrar directs.

(16) A person who complies with a requirement of an inspector under subsection (5) does not incur a liability to any person by reason only of that compliance.

(17) In this section—

“person to whom this section applies” means—

- (a) any officer of the registered body;
- (b) a person who acts, or has at any time acted, as banker, solicitor, auditor or in any other capacity for the registered body;
- (c) a person who—
 - (i) has, or has at any time had, in his possession any property of the registered body;
 - (ii) is indebted to the registered body; or
 - (iii) is capable of giving information concerning the affairs of the registered body; and
- (d) where an inspector has reasonable grounds for suspecting or believing that a person is a person referred to in paragraph (c) of this definition, that person.

198. Special audit. (1) Where—

- (a) a majority of members of a registered body present at a meeting called pursuant to section 196 resolve that a special audit be made of the accounts of the registered body;
- (b) the Registrar has received from the auditor of a registered body a report under section 114 (9) or (10);
- (c) the Registrar is not satisfied with any document, information, particulars or report lodged with or furnished to him under this Act in relation to a registered body;
- (d) a registered body fails, within the time prescribed by, or specified in a direction under, this Act, to lodge with or furnish to the Registrar any document, information, particulars or report required by or under this Act to be so lodged or furnished; or
- (e) the Registrar is otherwise satisfied whether of his own motion or upon the application of any person or persons that it is in the interests of the members, depositors or creditors of a registered body or the public generally, to do so,

the Registrar may, by instrument in writing—

- (f) appoint a registered company auditor to examine, audit and report either generally, or in relation to any particular matters, upon the books, accounts and records of the registered body (hereinafter in this section referred to as a special audit); and
 - (g) vary or revoke such an appointment.
- (2) The Registrar shall in the instrument appointing a person to make a special audit specify—
- (a) full particulars of the terms and conditions to which the appointment is subject; and
 - (b) the matters in relation to which the special audit is to be made.

(3) A person appointed under this section to make a special audit shall upon the conclusion of the examination and audit in respect of which he was appointed, make a report thereon to the Registrar.

(4) The provisions of subsections (5) to (14) (both inclusive) and (16) and (17) of section 197 in relation to an inquiry pursuant to section 196 shall, subject to this section, apply *mutatis mutandis* to and with respect to a special audit under this section and for the purpose of such application the provisions referred to shall be construed as if—

- (a) a reference to an inquiry were a reference to a special audit under this section;
- (b) a reference to an inspector were a reference to the person appointed under this section to make the special audit.

(5) The costs and expenses of and incidental to a special audit under this section shall be defrayed, in such proportions as the Registrar directs, by the applicants or out of the funds of the registered body in question or by any officer or member, or former officer or member, of the registered body, and may be recovered as a debt due to the Crown in any court of competent jurisdiction.

(6) A copy of the report on any special audit under this section shall be furnished to the registered body in question together with such annotations, recommendations and directions as the Registrar deems fit to make and the registered body shall comply with any such direction.

(7) If a registered body fails to comply with a direction of the Registrar made under subsection (6) the registered body and every officer of the registered body who is in default are each guilty of an offence.

Penalty: \$2 000 or imprisonment for 6 months.

199. Actuarial investigation. The Registrar may direct a registered body to submit its affairs to an actuarial investigation.

Such an investigation shall be carried out by the State Actuary of the Public Service of Queensland.

The costs and expenses of any such investigation shall be borne by the registered body concerned and shall be recoverable by the Registrar from the registered body as a debt due to the Crown in any court of competent jurisdiction.

Division 5—Advisory Committee

200. Advisory Committee. (1) There shall be a Credit Societies' Advisory Committee consisting of such number of members as may be determined by the Minister, being not less than 5 and not exceeding 9 or, where some other maximum number is prescribed, not exceeding the prescribed maximum number.

(2) The person who for the time being holds the office of Registrar shall be, by virtue of his office, a member of the Advisory Committee and shall in addition by virtue of such office be the executive member of the Committee.

(3) Each member of the Advisory Committee, other than the Registrar and one other member, shall be an officer of a registered body.

(4) A deputy or alternate member may be appointed to attend any meeting of the Advisory Committee at which a member other than the Registrar is unable to be present and whilst so acting the deputy or alternate member shall be deemed to be a member of the Committee and may act in the place of that member.

(5) The Registrar may in writing, either generally or to meet a particular case, appoint a Deputy Registrar of Commercial Acts, Brisbane to act as his deputy in the case of his inability from whatever cause to attend a meeting of the Advisory Committee or otherwise exercise or perform his powers and functions as a member of the Committee and whilst so acting the person so appointed shall be deemed to be a member of the Committee and may exercise the powers and perform the functions of the Registrar as a member of the Committee.

(6) The members of the Advisory Committee (other than the Registrar) and the deputy or alternate members of the Committee (other than the person who is the deputy of the Registrar) shall be appointed by the Minister by notification in the Gazette and shall hold office for such period not exceeding 3 years as the Minister may deem fit and may be removed from office by him.

(7) The Minister may by notification in the Gazette appoint a member of the Advisory Committee to be the chairman thereof.

(8) In the absence of the chairman from a meeting of the Advisory Committee the members present at that meeting may appoint one of their number to be the chairman of that meeting.

(9) A member of the Advisory Committee shall be eligible for re-appointment if he is otherwise eligible for appointment to the Committee.

(10) Meetings of the Advisory Committee may be convened by the chairman or by any 2 members.

(11) Business and proceedings of the Advisory Committee shall be regulated and conducted as prescribed and so far as not prescribed as the Committee determines.

201. Function of Advisory Committee. (1) The general function of the Advisory Committee shall be to submit recommendations to the Minister with respect to—

- (a) proposals to promote the formation of credit societies;
- (b) proposals to improve the method of operation of credit societies;
- (c) such other matters as may be referred to it by the Minister or as may be prescribed.

(2) The Advisory Committee may, as and when it considers it necessary so to do, make a recommendation referred to in section 124 (2) (g), 129 (2) (g) or 135 (3) (i) to the Registrar.

(3) The Advisory Committee shall advise the Registrar on such matters as may be referred to it by him for that purpose.

202. Fees and allowances. (1) Each member and deputy or alternate member of the Advisory Committee shall be paid such fees, allowances and expenses as are from time to time approved by the Governor in Council.

(2) A fee or an allowance shall not be paid to a member or deputy or alternate member who is an officer of the Public Service of Queensland for attendance at any meeting of the Advisory Committee held during ordinary office working hours of that officer.

(3) A provision of any enactment requiring the holder of an office to devote the whole of his time to the duties of his office or prohibiting him from engaging in employment outside the duties of his office shall not operate to prevent any person from holding that office and also an appointment as chairman, member or deputy or alternate member of the Advisory Committee or, subject to subsection (2), his acceptance and retention of any fees, allowances or expenses payable under this Act in respect of such an appointment.

PART XII—EVIDENCE AND OFFENCES

Division 1—Evidence

203. Certificates, etc. (1) A certificate of incorporation or other document relating to a registered body signed by or bearing the seal of the Registrar or, in the case of a registered body to which section 19 relates, the Registrar under the *Co-operative and Other Societies Act 1967-1978* shall be received in evidence without further proof.

(2) Any document purporting to be a copy of a certificate of incorporation of a registered body and certified as such by the Registrar, shall be received in evidence as if it were the original certificate.

(3) Judicial notice shall be taken of the signature and seal of any person who holds, or has held, the office of Registrar and of the signature of any person authorized by the Registrar pursuant to section 177 if the signature or seal purports to be attached to any certificate or other official document.

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

(5) A copy of or extract from any document registered, furnished or lodged in or at the office of the Registrar, certified to be a true copy or extract under the hand and seal of the Registrar, shall in any proceedings be admissible in evidence as of equal validity with the original document.

(6) In any proceedings a certificate purporting to be signed by the Registrar that a requirement of this Act specified in the certificate—

- (a) had or had not been complied with at a date or within a period specified in the certificate; or
- (b) had been complied with at a date specified in the certificate but not before that date,

shall be received as prima facie evidence of matters specified in the certificate.

204. Rules. A printed copy of the rules of a registered body certified by the secretary of the registered body to be a true copy of its registered rules shall be prima facie evidence of the rules.

205. Register. The registers kept in pursuance of section 118 shall be prima facie evidence of the particulars directed or authorized by or under this Act to be inserted therein and a copy of any entry in any such register shall, if certified by the secretary of the registered body to be a true copy of the entry in question, be prima facie evidence of the particulars to which the entry refers.

206. Entries in books. A copy of an entry in a book of a registered body regularly kept 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 itself is admissible.

207. Minutes effect as evidence. (1) Every entry in the minutes purporting to be a minute of the business transacted at a meeting of a registered body or of its board or of a committee of its board and to be signed by the chairman of the meeting at which the business was transacted, or by the chairman of the next succeeding meeting, shall be evidence that the business as therein recorded was transacted at the meeting first mentioned in this subsection and that the meeting was duly convened and held.

(2) An entry in the minutes of a meeting of a registered body 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.

208. Form and evidentiary value of books. (1) A book that is required by this Act to be kept or prepared may be kept or prepared—

- (a) by making entries in a bound or looseleaf book;
- (b) by recording or storing the matters concerned by means of a mechanical, electronic or other device; or
- (c) in any other manner approved by the Registrar.

(2) Subsection (1) does not authorize a book to be kept or prepared by a mechanical, electronic or other device unless—

- (a) the matters recorded or stored will be capable, at any time, of being reproduced in a written form; or
- (b) a reproduction of those matters is kept in a written form approved by the Registrar.

(3) A registered body shall take all reasonable precautions, including such precautions (if any) as are prescribed, for guarding against damage to, destruction of or falsification of or in, and for discovery of falsification of or in, any book or part of a book required by this Act to be kept or prepared by the registered body.

(4) Where a registered body records or stores any matters by means of a mechanical, electronic or other device, any duty imposed by this Act to make a book containing those matters available for inspection or to provide copies of the whole or part of a book containing those matters shall be construed as a duty to make the matters available for inspection in written form or to provide a document containing a clear reproduction in writing of the whole or part of them, as the case may be.

(5) Where—

(a) by virtue of a provision of this Act a book that is required by this Act to be kept or prepared is prima facie evidence of any matters; and

(b) the book is kept or prepared by recording or storing the matters concerned by means of a mechanical, electronic or other device,

any writing that reproduces matters so recorded or stored is prima facie evidence of those matters.

(6) A writing that purports to reproduce matters recorded or stored by means of a mechanical, electronic or other device shall, unless the contrary is established, be deemed to be a reproduction of those matters.

209. Saving. The foregoing provisions of this Division are in addition to and not in substitution for any other Act or law under which such documents, matters and things are admissible as evidence, have evidentiary value or are judicially noticed.

Division 2—Offences

210. Allotment of shares. A person who, before a credit society or an association is registered, takes any money in consideration of the allotment of any share or interest in, or grant of a loan by, the credit society or, as the case may be, association is guilty of an offence.

Penalty: \$1 000 or imprisonment for 3 months, or both.

211. Commission. (1) An officer of a registered body who accepts any commission, fee or reward, whether pecuniary or otherwise, from any person for or in connexion with a transaction had, or to be had, by that person with the registered body is guilty of an offence.

Penalty: \$1 000 or imprisonment for 3 months, or both.

(2) An officer who is guilty of any offence under subsection (1) shall further, if so ordered by the court by which he was convicted, be liable to pay to the registered body such amount not exceeding double the

value or double the amount of such commission, fee or reward as is determined by the court.

(3) Any sum received in contravention of this section shall upon conviction under subsection (1) be repaid by the person who received it to the person who made such payment and that sum may be recovered by the person who paid it from the person by whom it was received in an action as for a debt in any court of competent jurisdiction.

212. False copies of rules. Any person—

- (a) who gives to any member of a registered body or to any person intending or applying to become a member of a registered body a copy of any rules or any alterations of the same other than those which have been duly registered representing that the same are binding on the members of the registered body; or
- (b) who makes any alteration in any copy of the rules of the registered body after they have been registered, and circulates the same representing that they have been duly registered, when they have not been so registered,

is guilty of an offence.

213. Failure to comply with lawful requirements, etc. Except where provision is expressly otherwise made in this Act in relation to specific matters, a person who being required under this Act to supply any information, produce any book, or lodge or furnish any return or other document, fails without reasonable excuse the proof whereof shall lie upon him, to supply that information, produce that book, or lodge or furnish that return or document as the case may be, in accordance with that requirement is guilty of an offence.

Penalty: \$1 000 or imprisonment for 3 months.

214. Obstruction. A person who obstructs any person in the exercise of his powers, or in the performance of his duties, under this Act or attempts to do so is guilty of an offence.

Penalty: \$1 000 or imprisonment for 3 months.

215. Inducement to secure appointment, etc. A person who gives or agrees or offers to give to any officer, member or creditor of a registered body any valuable consideration with a view to securing his own appointment or nomination, or to securing or preventing the appointment or nomination of some person other than himself, as the registered body's director, auditor, liquidator, administrator, receiver or receiver and manager, or with a view to securing or preventing the exercise of any power, authority, duty or responsibility, or the doing of an act, authorized by this Act, is guilty of an offence.

Penalty: \$1 000 or imprisonment for 3 months, or both.

216. False or misleading statements. (1) A person who, in a document required by or for the purposes of this Act or lodged with or furnished

to the Registrar, makes or authorizes the making of a statement that to his knowledge is false or misleading in a material particular, or omits or authorizes the omission of any matter or thing without which the document is to his knowledge misleading in a material respect, is guilty of an offence.

Penalty: \$10 000 or imprisonment for 2 years, or both.

(2) A person who, in a document required by or for the purposes of this Act or lodged with or furnished to the Registrar—

- (a) makes or authorizes the making of a statement that is false or misleading in a material particular; or
- (b) omits or authorizes the omission of any matter or thing without which the document is misleading in a material respect,

without having taken reasonable steps to ensure that the statement was not false or misleading or to ensure that the statement did not omit any matter or thing without which the document would be misleading, as the case may be, is guilty of an offence.

Penalty: \$5 000 or imprisonment for 1 year, or both.

(3) For the purposes of subsections (1) and (2), where—

- (a) at a meeting, a person votes in favour of a resolution approving, or otherwise approves, a document required by or for the purposes of this Act or required to be lodged with or furnished to the Registrar; and
- (b) the document contains a statement that, to the person's knowledge, is false or misleading in a material particular, or omits any matter or thing without which the document is, to the person's knowledge, misleading in a material respect,

the person shall be deemed to have authorized the making of the statement or the omission of the matter or thing.

217. False reports. (1) An officer of a registered body who makes or furnishes, or authorizes or permits the making or furnishing of, a statement or report relating to affairs of the registered body, knowing the statement or report to be false or misleading in a material particular, to—

- (a) a director, auditor, member, depositor, liquidator or administrator of the registered body; or
- (b) the Guarantee Fund Committee,

is guilty of an offence.

Penalty: \$10 000 or imprisonment for 2 years, or both.

(2) An officer of a registered body who makes or furnishes, or authorizes or permits the making or furnishing of, a statement or report

relating to affairs of the registered body that is false or misleading in a material particular to—

- (a) a director, auditor, member, depositor, liquidator or administrator of the registered body; or
- (b) the Guarantee Fund Committee,

without having taken reasonable steps to ensure that the statement or report was not false or misleading is guilty of an offence.

Penalty: \$5 000 or imprisonment for 1 year, or both.

(3) The references in subsections (1) and (2) to making or furnishing, or authorizing or permitting the making or furnishing of a false or misleading statement or report relating to affairs of a registered body includes a reference to making or furnishing, or authorizing or permitting the making or furnishing of, a false or misleading statement or report as to the state of knowledge with respect to those affairs of the person making or furnishing, or authorizing or permitting the making or furnishing of, the statement or report.

(4) Where a statement or report is made or furnished to a person or committee referred to in subsection (1) or (2) in response to a question asked by that person or committee the question, and the statement or report, shall be considered together in determining whether the statement or report was false or misleading.

218. Concealing, etc., of books. (1) A person who—

- (a) conceals, destroys, mutilates or alters a book of or relating to a corporation affairs of which are the subject of—
 - (i) investigation under Division 3 of Part XI;
 - (ii) inquiry or special audit under Division 4 of Part XI;
- (b) where such book is in the State, sends the book out of the State; or
- (c) where such a book is outside the State but is within Australia, sends the book out of Australia,

is guilty of an offence.

Penalty: \$20 000 or imprisonment for 5 years, or both.

(2) It is a defence to a prosecution for an offence against subsection (1) if the defendant proves that he did not act with intent to defeat the purposes of Division 3 or, as the case may be, Division 4 of Part XI or to delay or obstruct the carrying out of an investigation under Division 3 or an inquiry or special audit under Division 4 of Part XI, as the case may be.

219. Falsification of books. (1) An officer, former officer, member or former member of a registered body who conceals, destroys, mutilates or falsifies any securities of or belonging to the registered body or any books affecting or relating to affairs of the registered body is guilty of an offence.

Penalty: \$10 000 or imprisonment for 2 years, or both.

(2) Where matter that is used or intended to be used in connexion with the keeping of any books affecting or relating to affairs of a registered body is recorded or stored in an illegible form by means of a mechanical device, an electronic device or any other device, a person who—

- (a) records or stores by means of that device matter that he knows to be false or misleading in a material particular;
- (b) destroys, removes or falsifies matter that is recorded or stored by means of that device, or has been prepared for the purpose of being recorded or stored, or for use in compiling or recovering other matter to be recorded or stored, by means of that device; or
- (c) fails to record or store matter by means of that device with intent to falsify any entry made or intended to be compiled, wholly or in part, from that matter,

is guilty of an offence.

Penalty: \$10 000 or imprisonment for 2 years, or both.

(3) It is a defence to a charge arising under subsection (1) or (2) if the defendant proves that he acted honestly and that in all the circumstances the act or omission constituting the offence should be excused.

(4) In this section, “officer”, in relation to a registered body includes a receiver of the property or any part of the property of the registered body who is not also a manager.

220. Frauds by officers. A person who, while an officer of a registered body—

- (a) by false pretences or by means of any other fraud, induces a person to give credit to the registered body or to a subsidiary of the registered body;
- (b) with intent to defraud the registered body or a subsidiary of the registered body or creditors or members of the registered body or of a subsidiary of the registered body, makes or purports to make or causes to be made or to be purported to be made any gift or transfer of or charge on, or causes or connives at the levying of any execution against, property of the registered body or subsidiary; or
- (c) with intent to defraud the registered body or a subsidiary of the registered body or creditors or members of the registered body or a subsidiary of the registered body, conceals or removes any part of the property of the registered body or subsidiary after or within 2 months before the date of any unsatisfied judgment or order for payment of money obtained against the registered body or subsidiary,

is guilty of an offence.

Penalty: \$10 000 or imprisonment for 2 years, or both.

221. Offences by officers of certain registered bodies. (1) A person who, being a past or present officer of a registered body to which this section applies—

- (a) does not, so far as he is capable of doing so, disclose to the appropriate officer all the property of the registered body, and how and to whom and for what consideration and when any part of the property of the registered body was disposed of within 5 years next before the relevant day, except such part as has been disposed of in the ordinary course of the business of the registered body;
- (b) does not deliver up to, or in accordance with the directions of, the appropriate officer—
 - (i) all the property of the registered body in his custody or under his control; or
 - (ii) all books in his custody or under his control belonging to the registered body;
- (c) has, within 5 years next before the relevant day or at a time on or after that day—
 - (i) concealed or removed any part of the property of the registered body to the value of \$100 or upwards;
 - (ii) concealed any debt due to or by the registered body;
 - (iii) fraudulently parted with, altered or made any omission in, or been privy to fraudulent parting with, altering or making any omission in, any book affecting or relating to affairs of the registered body;
 - (iv) by any false representation or other fraud, obtained on credit for or on behalf of the registered body, any property that the registered body has not subsequently paid for; or
 - (v) pawned, pledged or disposed of, otherwise than in the ordinary course of the business of the registered body, property of the registered body that has been obtained on credit and has not been paid for;
- (d) makes any material omission in any statement or report relating to affairs of the registered body;
- (e) knowing or believing that a false debt has been proved by a person, fails for a period of one month to inform the appropriate officer of his knowledge or belief;
- (f) prevents the production to the appropriate officer of any book affecting or relating to affairs of the registered body;
- (g) has, within 5 years next before the relevant day or at a time on or after that day, attempted to account for any part of the property of the registered body by making entries in the books of the registered body showing fictitious transactions, losses or expenses; or
- (h) has, within 5 years next before the relevant day or at a time on or after that day, been guilty of any false representation

or other fraud for the purpose of obtaining the consent of the creditors of the registered body or any of them to an agreement with reference to affairs of the registered body or to the winding up,

is guilty of an offence.

Penalty: \$10 000 or imprisonment for 2 years, or both.

(2) It is a defence to a charge arising under subsection (1) (c) (i) in relation to the removal of property of a registered body, or under subsection (1) (c) (v) in relation to property of a registered body, if the defendant proves that he had no intent to defraud.

(3) It is a defence to a charge arising under subsection (1) (d) if the defendant proves that he had no intent to defraud.

(4) It is a defence to a charge arising under subsection (1) (f) if the defendant proves that he had no intent to conceal the state of affairs of the registered body.

(5) Where a person pawns, pledges or disposes of any property in circumstances that amount to an offence under subsection (1) (c) (v), any person who takes in pawn or pledge or otherwise receives the property knowing it to be pawned, pledged or disposed of in those circumstances is guilty of an offence.

Penalty: \$5 000 or imprisonment for 1 year, or both.

(6) A person who takes in pawn or pledge or otherwise receives property in circumstances mentioned in subsection (5) and with the knowledge mentioned in that subsection shall be deemed to hold the property as trustee for the registered body concerned and is liable to account to the registered body for the property.

222. Liability where proper accounts not kept. (1) If—

- (a) a provision of section 96 was not complied with, in respect of a registered body to which this section applies, during the whole or any part of the period of 2 years immediately preceding the relevant day or the period between the incorporation of the registered body and the relevant day, whichever is the shorter; and
- (b) the registered body was at any time during that period, or became at a later time, a registered body to which this section applies,

a director of the registered body who failed to take all reasonable steps to secure compliance by the registered body with the provision throughout that period and any officer of the registered body who is in default are each guilty of an offence.

Penalty: \$5 000 or imprisonment for 1 year, or both.

(2) In any proceedings against a person for failure to take all reasonable steps to secure compliance by a registered body with a provision of section 96, it is a defence if the person proves that he had

reasonable grounds to believe and did believe that a competent and reliable person was charged with the duty of seeing that that provision was complied with and was in a position to discharge that duty.

223. Offences relating to incurring of debts or fraudulent conduct.

(1) If—

- (a) a registered body incurs a debt, whether within or outside the State;
- (b) immediately before the time when the debt is incurred—
 - (i) there are reasonable grounds to expect that the registered body will not be able to pay all its debts as and when they become due; or
 - (ii) there are reasonable grounds to expect that, if the registered body incurs the debt, it will not be able to pay all its debts as and when they become due; and
- (c) the registered body is, at the time when the debt is incurred, or becomes at a later time, a registered body to which this section applies,

any person who was a director of the registered body, or took part in the management of the registered body, at the time when the debt was incurred is guilty of an offence and the registered body and that person or, if there are 2 or more such persons, those persons are jointly and severally liable for the payment of the debt.

Penalty: \$5 000 or imprisonment for 1 year, or both.

(2) In any proceedings against a person under subsection (1), it is a defence if the defendant proves—

- (a) that the debt was incurred without his express or implied authority or consent; or
- (b) that at the time when the debt was incurred, he did not have reasonable cause to expect—
 - (i) that the registered body would not be able to pay all its debts as and when they became due; or
 - (ii) that, if the registered body incurred that debt, it would not be able to pay all its debts as and when they became due.

(3) Proceedings may be brought under subsection (1) for the recovery of a debt whether or not the person against whom the proceedings are brought, or any other person, has been convicted of an offence under subsection (1) in respect of the incurring of that debt.

(4) Where subsection (1) renders a person or persons liable to pay a debt incurred by a registered body, the payment by that person or either or any of those persons of the whole or any part of that debt does not render the registered body liable to the person concerned in respect of the amount so paid.

(5) If—

- (a) a registered body does any act (including the making of a contract or the entering into of a transaction) with intent to defraud creditors of the registered body or of any other person or for any other fraudulent purpose; and
- (b) the registered body is at the time when it does the act, or becomes at a later time, a registered body to which this section applies,

any person who was knowingly concerned in the doing of the act with that intent or for that purpose is guilty of an offence.

Penalty: \$10 000 or imprisonment for 2 years, or both.

(6) A certificate issued by the proper officer of a court stating that a person specified in the certificate—

- (a) was convicted of an offence under subsection (1) in relation to a debt specified in the certificate incurred by a registered body so specified; or
- (b) was convicted of an offence under subsection (5) in relation to a registered body specified in the certificate,

is, in any proceedings, prima facie evidence of the matters stated in the certificate.

(7) A document purporting to be a certificate issued under subsection (6) shall, unless the contrary is established, be deemed to be such a certificate and to have been duly issued.

224. Powers of Court. (1) Where a person has been convicted of an offence under section 223 (1) in respect of the incurring of a debt, the Court, on the application of the Registrar or the person to whom the debt is payable, may, if it thinks it proper to do so, declare that the first-mentioned person shall be personally responsible without any limitation of liability for the payment to the person to whom the debt is payable of an amount equal to the whole of the debt or such part of it as the Court thinks proper.

(2) Where a person has been convicted of an offence under section 223 (5), the Court, on the application of the Registrar or of a prescribed person, may, if it thinks it proper to do so, declare that the first-mentioned person shall be personally responsible without any limitation of liability for the payment to the registered body of the amount required to satisfy so much of the debts of the registered body as the Court thinks proper.

(3) In relation to a registered body in respect of which a conviction referred to in subsection (2) relates—

- (a) the appropriate officer; and
- (b) a creditor of the registered body authorized by the Registrar to make an application under that subsection,

are prescribed persons for the purposes of that subsection.

(4) Where the Court makes a declaration under subsection (1) in relation to a person, it may give such further directions as it thinks proper for the purpose of giving effect to that declaration.

(5) In particular, the Court may order that the liability of the person under the declaration shall be a charge—

- (a) on a debt or obligation due from the registered body to him; or
- (b) on a right or interest under a charge on any property of the registered body held by or vested in him or a person on his behalf, or a person claiming as assignee from or through the person liable or a person acting on his behalf.

(6) The Court may, from time to time, make such further order as it thinks proper for the purpose of enforcing a charge imposed under subsection (5).

(7) For the purpose of subsection (5), “assignee” includes a person to whom or in whose favour, by the directions of the person liable, the debt, obligation or charge was created, issued or transferred or the interest created, but does not include an assignee for valuable consideration, not including consideration by way of marriage, given in good faith and without actual knowledge of any of the matters upon which the conviction or declaration was made.

(8) On the hearing of an application under subsection (1) or (2), the appropriate officer or other applicant may himself give evidence or call witnesses.

225. Interpretation. (1) Sections 221 to 224 (inclusive) apply to a registered body—

- (a) that has been wound up or is in the course of being wound up;
- (b) that has been in the course of being wound up, where the winding up has been stayed or terminated by an order under section 383 of the *Companies (Queensland) Code* as applied by Division 4 of Part VIII;
- (c) that has at any time been or is under the management of an administrator;
- (d) affairs of which have been or are under investigation pursuant to Division 3 of Part XI;
- (e) affairs of which have been or are being inquired into pursuant to section 196;
- (f) in respect of the property or part of the property of which a receiver, or a receiver and manager, has at any time been appointed, whether by the Court or pursuant to the powers contained in any instrument, whether or not the appointment has been terminated; or
- (g) that has ceased to carry on business or is unable to pay its debts.

- (2) For the purposes of this section, a registered body—
- (a) shall be deemed to have ceased to carry on business if, and only if, the Registrar has—
 - (i) sent to the registered body by post a letter pursuant to the provisions of section 459 (1) of the *Companies (Queensland) Code* as applied by Division 4 of Part VIII and has not, within the next succeeding period of one month from the date of the letter, received an answer to the effect that the registered body is carrying on business; or
 - (ii) published in the Gazette a notice pursuant to the provisions of section 459 (3) of that Code as so applied; and
 - (b) shall be deemed to be unable to pay its debts if, and only if, execution or other process issued on a judgment, decree or order of any court in favour of a creditor of the registered body is returned unsatisfied in whole or in part.
- (3) In this section and in sections 221 to 224 (inclusive)—
- “appropriate officer” means—
- (a) in relation to a registered body that has been, has been in the course of being or is being wound up, the liquidator;
 - (b) in relation to a registered body that has been or is being managed by an administrator, the administrator;
 - (c) in relation to a registered body affairs of which have been or are under investigation pursuant to Division 3 of Part XI, the Registrar;
 - (d) in relation to a registered body affairs of which have been or are being inquired into pursuant to section 196, the Registrar;
 - (e) in relation to a registered body in respect of the property or any part of the property of which a receiver, or a receiver and manager, has been appointed, the receiver or the receiver and manager; and
 - (f) in relation to a registered body that has ceased to carry on business or is unable to pay its debts, the Registrar;
- “relevant day” means—
- (a) in relation to a registered body that has been, has been in the course of being or is being wound up, the day upon which under the provisions of the *Companies (Queensland) Code* as applied by Division 4 of Part VIII or of a corresponding previous law of the State the winding up commenced or is deemed to have commenced;
 - (b) in relation to a registered body that has been or is under the management of an administrator, the day upon which the administrator was appointed;
 - (c) in relation to a registered body affairs of which have been or are under investigation pursuant to Division 3 of Part XI, the day upon which the inspector was appointed;
 - (d) in relation to a registered body affairs of which have been or are being inquired into pursuant to section 196, the

day upon which the Registrar made the determination that the inquiry be held;

- (e) in relation to a registered body in respect of the property or any part of the property of which a receiver, or a receiver and manager, has been appointed, the day upon which the receiver, or the receiver and manager, was appointed;
- (f) in relation to a registered body that is unable to pay its debts, the day upon which the execution or other process was returned unsatisfied in whole or in part; or
- (g) in relation to a registered body that has ceased to carry on business, the day on which a letter was first sent to the registered body or a notice was first published in the Gazette in relation to the registered body, as the case may be, under section 459 of the *Companies (Queensland) Code* as applied by Division 4 of Part VIII.

226. Certain rights not affected. Except as provided by section 223 (4), nothing in section 223 (1) or 224 (1) or (2) affects any right of a person to indemnity, subrogation or contribution.

227. General penalty provisions. (1) A person who—

- (a) does an act or thing that he is forbidden to do by or under a provision of this Act;
- (b) does not do an act or thing that he is required or directed to do by or under a provision of this Act; or
- (c) otherwise contravenes or fails to comply with a provision of this Act,

is, unless that provision otherwise provides that he is guilty of an offence, guilty of an offence against this Act by virtue of this subsection.

(2) A person who aids, abets, counsels or procures, or by act or omission is in any way directly or indirectly concerned in or party to the commission of an offence against this Act shall be deemed to have committed that offence and is punishable accordingly.

(3) A person who attempts to commit an offence against this Act is guilty of an offence against this Act and is punishable as if the attempted offence had been committed.

(4) Where a corporation (other than a registered body) is guilty of an offence against this Act any officer of the corporation who is in any way, whether by any act or omission, directly or indirectly concerned in or party to the default, contravention or failure constituting the offence or, in the case of a continuing default, contravention or failure, is or at any time becomes so concerned in or party to the continuing default, contravention or failure is also guilty of the same offence and liable to the penalty prescribed for that offence.

(5) A person who is guilty of an offence against this Act for which a specific penalty is not prescribed by another provision of this Act is liable to a penalty not exceeding \$1 000.

(6) This Act is in addition to and not in substitution for the provisions of *The Criminal Code*.

228. Offences committed partly in and partly out of the State. If a person does or omits to do an act or thing outside the State and that person, if he had done or omitted to do that act or thing in the State, would, by reason of his also having done or omitted to do an act or thing in the State, have been guilty of an offence against this Act, that person is guilty of that offence.

229. Continuing offences. (1) Where—

- (a) by or under this Act an act or thing is required or directed to be done within a particular period or before a particular time;
- (b) failure to do that act or thing within the period or before the time referred to in paragraph (a) constitutes an offence; and
- (c) that act or thing is not done within the period or before the time referred to in paragraph (a),

the following provisions of this subsection have effect:—

- (d) the obligation to do that act or thing continues, notwithstanding that that period has expired or that time has passed, until that act or thing is done;
- (e) where a person is convicted of an offence that, by virtue of paragraph (d), is constituted by failure to do that act or thing after the expiration of that period or after that time, as the case may be, that person is guilty of a separate and further offence in respect of each day after the day of the conviction during which the failure to do that act or thing continues; and
- (f) the penalty applicable to each such separate and further offence is \$50.

(2) Where—

- (a) by or under this Act an act or thing is required or directed to be done but no period within which or time by which that act or thing is to be done is specified;
- (b) failure to do that act or thing constitutes an offence; and
- (c) a person is convicted of an offence in respect of a failure to do that act or thing,

that person is guilty of a separate and further offence in respect of each day after the day of the conviction during which the failure to do that act or thing continues and the penalty applicable to each such separate and further offence is \$50.

(3) Charges against the same person for any number of offences under subsection (1) (e) or (2) may be joined in the same complaint if those offences relate to a failure to do the same act or thing.

(4) If a person is convicted of more than one offence under subsection (1) (e) or subsection (2), the court may impose one penalty in respect of all the offences of which the person is so convicted under that subsection, but that penalty shall not exceed the sum of the maximum penalties that could be imposed if a penalty were imposed in respect of each offence separately.

230. Officers and other persons in default. (1) Where a provision of this Act provides that an officer of a registered body or other person who is in default is guilty of an offence, the reference to the officer or other person who is in default shall, in relation to a contravention of, or failure to comply with, the provision, be construed as a reference to any officer of the registered body (including a person who subsequently ceased to be an officer of the registered body) or any person, as the case may be, who is in any way, by act or omission, directly or indirectly, knowingly concerned in or party to the contravention or failure.

(2) For the purposes of subsection (1), a secretary of a registered body shall, unless the contrary is proved, be deemed to be knowingly concerned in and party to any failure by the registered body to comply with a provision of this Act requiring the lodgment of a document with or the furnishing of a document to the Registrar.

Division 3—Proceedings

231. Proceedings how and when taken. (1) Notwithstanding anything in any other Act, proceedings for any offence against this Act with a view to the summary conviction of the offender may be instituted within the period of 3 years after the act or omission alleged to constitute the offence or, with the consent of the Minister, at any later time.

(2) In any proceedings for an offence against this Act any complaint under the *Justices Act 1886-1985* may be made only—

- (a) by the Registrar; or
- (b) by a person authorized in writing by the Minister.

(3) The authority of a person to make a complaint referred to in subsection (2) shall be presumed until the contrary is proved.

232. Indictable offences and summary offences. (1) An offence against this Act that is not punishable by imprisonment or is punishable by imprisonment for a period not exceeding 6 months is, unless the contrary intention appears, punishable summarily.

(2) An offence against this Act that is punishable by imprisonment for a period exceeding 6 months is, subject to subsection (3), punishable on indictment.

(3) Where—

- (a) proceedings for an offence against this Act is punishable by imprisonment for a period exceeding 6 months are brought in a court of summary jurisdiction; and
- (b) the prosecutor requests the court to hear and determine the proceedings,

the offence is punishable summarily and the court shall hear and determine the proceedings.

(4) A court of summary jurisdiction may not—

- (a) impose, in respect of any one offence against this Act, a period of imprisonment exceeding 2 years; or
- (b) impose, in respect of offences against this Act, cumulative periods of imprisonment that, in the aggregate, exceed 5 years.

(5) Nothing in this section renders a person liable to be punished more than once in respect of the same offence.

233. Civil remedies. If a registered body in making or raising any loan or making an advance pursuant to a continuing credit arrangement or receiving any deposit or allotting any shares contravenes any provision of this Act or any rule of the registered body, the civil rights and liabilities of the registered body or any other person in respect of the recovery of the loan, advance or deposit or the moneys payable in respect of the shares 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, advance, deposit or share capital and for the enforcement of any security therefor as if there had not been a contravention of this Act or of the rules of the registered body.

234. Examination of persons concerned with registered bodies. (1) In this section, a reference, in relation to a registered body, to a prescribed person, shall be construed as a reference to an administrator or liquidator of the registered body or to any other person authorized by the Registrar to make applications under this section or to make an application under this section in relation to that registered body.

(2) Where it appears to the Registrar or to a prescribed person that—

- (a) a person who has taken part or been concerned in the formation, management, administration or winding up of, or has otherwise taken part or been concerned in affairs of, a registered body, has been, or may have been, guilty of fraud, negligence, default, breach of trust, breach of duty or other misconduct in relation to that registered body; or
- (b) a person may be capable of giving information in relation to the formation, management, administration or winding up of, or otherwise in relation to affairs of, a registered body,

the Registrar or prescribed person may apply to the Court for an order under this section in relation to the person.

(3) Where an application is made under subsection (2) in relation to a person, the Court may, if it thinks fit, order that the person attend before the Court on a day and at a time to be fixed by the Court to be

examined on oath or affirmation on any matters relating to the formation, management, administration or winding up of, or otherwise relating to affairs of, the registered body concerned.

(4) An examination under this section shall be held in public except to such extent (if any) as the Court considers that, by reason of special circumstances, it is desirable to hold the examination in private.

(5) The Court, on making an order for an examination, or at any later time, on the application of any person concerned, may give such directions as to the matters to be inquired into, and, subject to subsection (4), as to the procedure to be followed (including, in the case of an examination in private, directions as to the persons who may be present), as it thinks fit.

(6) A person who is ordered under subsection (3) to attend before the Court shall not without reasonable excuse—

- (a) fail to attend as required by the order; or
- (b) fail to attend from day to day until the conclusion of the examination.

Penalty: \$10 000 or imprisonment for 2 years, or both.

(7) A person attending before the Court for examination pursuant to an order made under subsection (3) shall not refuse or fail to take an oath or make an affirmation.

Penalty: \$10 000 or imprisonment for 2 years, or both.

(8) A person attending before the Court for examination pursuant to an order made under subsection (3) shall not refuse or fail to answer a question that he is directed by the Court to answer.

Penalty: \$10 000 or imprisonment for 2 years, or both.

(9) A person attending before the Court for examination pursuant to an order made under subsection (3), if directed by the Court to produce any books in his possession or under his control relevant to the matters on which he is to be, or is being, examined, shall not refuse or fail to comply with the direction.

Penalty: \$10 000 or imprisonment for 2 years, or both.

(10) Where the Court so directs a person to produce any books and the person has a lien on the books, the production of the books does not prejudice the lien.

(11) A person attending before the Court for examination pursuant to an order made under subsection (3) shall not make a statement that is false or misleading in a material particular.

Penalty: \$10 000 or imprisonment for 2 years, or both.

(12) A person is not excused from answering a question put to him at an examination held pursuant to an order made under subsection (3) on the ground that the answer might tend to incriminate him but,

where the person claims, before answering the question, that the answer might tend to incriminate him, the answer is not admissible in evidence against him in criminal proceedings other than proceedings under this section or other proceedings in respect of the falsity of the answer.

(13) The Court may order the questions put to a person and the answers given by him at an examination under this section to be recorded in writing and may require him to sign that written record.

(14) Subject to subsection (12), any written record of an examination so signed by a person, or any transcript of an examination of a person that is authenticated as provided by the *Recording of Evidence Acts, 1962 to 1968*, may be used in evidence in any legal proceedings against the person.

(15) An examination under this section may, if the Court so directs and subject to the rules of court, be held before such other court as is specified by the Court and the powers of the Court under this section may be exercised by that other court.

(16) A person ordered to attend before the Court or another court for examination under this section may, at his own expense, employ a solicitor, or a solicitor and barrister and the solicitor or barrister, as the case may be, may put to him such questions as the Court, or the other court, as the case may be, considers just for the purpose of enabling him to explain or qualify any answers or evidence given by him.

(17) The Court or another court before which an examination under this section takes place may, if it thinks fit, adjourn the examination from time to time.

(18) Where an order is made under subsection (3) and the Court is satisfied that it was obtained without reasonable cause, the Court may order the whole or any part of the costs incurred by the person ordered to be examined to be paid by the applicant or by any other person who, with the consent of the Court, took part in the examination.

235. Civil proceedings not to be stayed. No civil proceedings under this Act shall be stayed by reason only that the proceeding discloses, or arises out of, the commission of an offence.

236. Orders against persons concerned with registered bodies. (1) In this section, a reference to a prescribed person, in relation to a registered body shall be construed as a reference to an administrator or liquidator of the registered body or to any other person authorized by the Registrar to make applications under this section or to make an application under this section in relation to that registered body.

(2) Subject to subsection (3), where, on application by the Registrar or a prescribed person, the Court is satisfied that—

- (a) a person is guilty of fraud, negligence, default, breach of trust or breach of duty in relation to a registered body; and
- (b) the registered body has suffered, or is likely to suffer, loss or damage as a result of the fraud, negligence, default, breach of trust or breach of duty,

the Court may make such order or orders as it thinks appropriate against or in relation to the person (including either or both of the orders specified in subsection (4)) and may so make an order against or in relation to a person notwithstanding that the person may have committed an offence in respect of the matter to which the order relates.

(3) The Court shall not make an order against a person under subsection (2) unless the Court has given the person the opportunity—

- (a) to give evidence himself;
- (b) to call witnesses to give evidence;
- (c) to adduce other evidence in relation to the matters to which the application relates; and
- (d) to employ, at his own expense, a solicitor, or a solicitor and barrister, to put to him, or to any other witness, such questions as the Court considers just for the purpose of enabling him to explain or qualify any answers or evidence given by him.

(4) The orders that may be made under subsection (2) against a person include—

- (a) an order directing the person to pay money or transfer property to the registered body; and
- (b) an order directing the person to pay to the registered body the amount of the loss or damage.

(5) Nothing in this section prevents any person from instituting any other proceedings in relation to matters in respect of which an application may be made under this section.

237. Power to grant relief. (1) If, in any civil proceeding against a person to whom this section applies for negligence, default, breach of trust or breach of duty in a capacity by virtue of which he is such a person, it appears to the court before which the proceedings are taken that the person is or may be liable in respect of the negligence, default or breach but that he has acted honestly and that, having regard to all the circumstances of the case, including those connected with his appointment, he ought fairly to be excused for the negligence, default or breach, the court may relieve him either wholly or partly from his liability on such terms as the court thinks fit.

(2) Where a person to whom this section applies has reason to apprehend that any claim will or might be made against him in respect of any negligence, default, breach of trust or breach of duty in a capacity by virtue of which he is such a person, he may apply to the Court for relief, and the Court has the same power to relieve him as it would have had under subsection (1) if it had been a court before which proceedings against the person for negligence, default, breach of trust or breach of duty had been brought.

(3) Where a case to which subsection (1) applies is being tried by a judge with a jury, the judge after hearing the evidence may, if he is

satisfied that the defendant ought pursuant to that subsection to be relieved either wholly or partly from the liability sought to be enforced against him, withdraw the case in whole or in part from the jury and forthwith direct judgment to be entered for the defendant on such terms as to costs or otherwise as the judge thinks proper.

(4) This section applies to a person who is—

- (a) an officer of a registered body;
- (b) an auditor of a registered body;
- (c) an expert in relation to a matter in relation to which the civil proceeding has been taken or the claim will or might arise; or
- (d) a receiver, receiver and manager, liquidator or other person appointed or directed by the Court to carry out any duty under this Act in relation to a registered body.

(5) For the purposes of this section, “officer” in relation to a registered body, means—

- (a) a director, secretary, executive officer or employee of the registered body;
- (b) a receiver, or receiver and manager, of the property or part of the property of the registered body;
- (c) an administrator of the registered body; and
- (d) a liquidator of the registered body.

238. Irregularities. (1) In this section, unless the contrary intention appears—

- (a) a reference to a proceeding under this Act is a reference to any proceeding whether a legal proceeding or not; and
- (b) a reference to a procedural irregularity includes a reference to—
 - (i) the absence of a quorum at a meeting of a registered body, at a meeting of directors or creditors of a registered body or at a joint meeting of creditors and members of a registered body; and
 - (ii) a defect, irregularity or deficiency of notice or time.

(2) A proceeding under this Act is not invalidated by reason of any procedural irregularity unless the Court is of the opinion that the irregularity has caused or may cause substantial injustice that cannot be remedied by any order of the Court and by order declares the proceeding to be invalid.

(3) A meeting held for the purposes of this Act, or a meeting notice of which is required to be given in accordance with the provisions of this Act or the rules of the registered body, or any proceeding at such a meeting, is not invalidated by reason only of the accidental omission to give notice of the meeting or the non-receipt by any person of notice of the meeting, unless the Court, on the application of the person

concerned, a person entitled to attend the meeting or the Registrar, declares proceedings at the meeting to be void.

(4) Subject to the following provisions of this section and without limiting the generality of any other provision of this Act, the Court may, on application by any interested person, make all or any of the following orders, either unconditionally or subject to such conditions as the Court imposes:—

- (a) an order declaring that any act, matter or thing purporting to have been done, or any proceeding purporting to have been instituted or taken, under this Act or in relation to a registered body is not invalid by reason of any contravention of, or failure to comply with, a provision of this Act or a provision of the rules of the registered body;
- (b) an order directing the rectification of any register kept by the Registrar under this Act;
- (c) an order relieving a person in whole or in part from any civil liability in respect of a contravention or failure of a kind referred to in paragraph (a);
- (d) an order extending the period for doing any act, matter or thing or instituting or taking any proceeding under this Act or in relation to a registered body (including an order extending a period where the period concerned expired before the application for the order was made) or abridging the period for doing such an act, matter or thing or instituting or taking such a proceeding,

and may make such consequential or ancillary orders as the Court thinks fit.

(5) An order may be made under paragraph (a) or (c) of subsection (4) notwithstanding that the contravention or failure referred to in the paragraph concerned resulted in the commission of an offence.

(6) The Court shall not make an order under this section unless it is satisfied—

- (a) in the case of an order referred to in paragraph (a) of subsection (4)—
 - (i) that the act, matter or thing, or the proceeding, referred to in that paragraph is essentially of a procedural nature;
 - (ii) that the person or persons concerned in or party to the contravention or failure acted honestly; or
 - (iii) that it is in the public interest that the order be made;
- (b) in the case of an order referred to in paragraph (c) of subsection (4), that the person subject to the civil liability concerned acted honestly; and
- (c) in every case, that no substantial injustice has been or is likely to be caused to any person.

PART XIII—MISCELLANEOUS

239. Regulations. (1) The Governor in Council may make regulations, not inconsistent with this Act, for or with respect to—

- (a) prescribing forms for the purposes of this Act;
- (b) providing for the recovery of fees to be paid in respect of matters or things to be done under or for the purposes of this Act;
- (c) the furnishing to the Registrar of information in addition to, or in variation of, the information contained in a prescribed form lodged with him;
- (d) the manner in which, the persons by whom, and the directions in accordance with which the prescribed forms, or any of them, shall or may be signed, prepared or completed, and the regulation generally of the signing, preparation and completion of those forms or any of them;
- (e) the times within which information required to be furnished to the Registrar pursuant to this Act shall be so furnished;
- (f) requiring credit societies, or credit societies of a prescribed class, to keep their offices open to the public throughout prescribed periods;
- (g) prescribing penalties not exceeding \$500 for any breach of the regulations and where the breach is a continuing breach an additional penalty not exceeding \$50 per day;
- (h) requiring the verification, including verification by statutory declaration, of a statement or return lodged with the Registrar;
- (i) prescribing accounting standards for the purpose of Division 3 of Part V;
- (j) requiring a director of a registered body to give notice in writing to the registered body of such particulars and other matters as are specified in the regulations;
- (k) prescribing the minimum provisions to be made for doubtful debts in the accounts of a registered body;
- (l) generally prescribing any matters or things authorized or required to be prescribed under this Act or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Except as otherwise expressly provided in this Act, the regulations may be of general or specially limited application or may differ according to differences in time, locality, place or circumstances.

(3) For the purpose of subsection (1) (i) the regulations may adopt, wholly or in part or with such modifications (if any) as may be contained in the regulations and either by way of reference or by way of express specification therein, any of the accounting standards of the body known as the Accounting Standards Review Board or some other body identified in the regulations.

240. Advertising. (1) Subject to subsection (4), a registered body shall not advertise or cause, permit or authorize any other person to advertise on its behalf unless it has obtained the prior approval in writing of the Registrar who is hereby authorized to approve of any advertisement by, or on behalf of, a registered body on such terms and conditions as he thinks fit.

(2) A registered body or any other person that in any advertisement makes a reference to—

- (a) the receipt of share capital, the acceptance of loans or deposits; or
- (b) the right and method of withdrawal of share capital or deposits or the right and method of repayment of loans,

which reference is not in compliance with the registered body's rules, commits an offence against this Act.

Penalty: \$5 000.

(3) A person shall not by advertisement in any form seek members, capital or deposits for a proposed registered body unless he has obtained the prior approval in writing of the Registrar who is hereby authorized to approve of any such advertisement on such terms and conditions as he thinks fit.

(4) The Minister may, if he thinks fit, exempt—

- (a) a registered body;
- (b) registered bodies generally; or
- (c) a particular class of registered bodies,

from complying with the provisions of subsection (1), which exemption may be made subject to such terms and conditions as the Minister thinks fit.

Any exemption granted under this subsection may at any time be revoked by the Minister.

(5) A registered body or other person that fails to comply with any term or condition imposed pursuant to this section commits an offence against this Act.

Penalty: \$5 000.

(6) In this section—

“advertisement” includes—

- (a) any circular or handbill in or by any medium inviting business or making known the activities of a registered body or proposed registered body;
- (b) the promotion or sponsorship of an activity or the sponsorship of a person, which has the effect of inviting business or making known the activities of a registered body or proposed activities of a proposed registered body;

- (c) matter that makes known the activities of a registered body,
and “advertise” has a corresponding meaning;
“registered body” includes a foreign credit society registered under Part X and a body exempted under section 25.

241. Publication, etc., of Orders in Council. The provisions of section 28A of the *Acts Interpretation Act 1954-1977* apply with all necessary adaptations to and in relation to Orders in Council made under this Act and for the purposes of that application a reference in those provisions to a regulation shall be construed as a reference to an Order in Council made under this Act.

242. Rules of Court. (1) Where under this Act any power or jurisdiction is conferred on a court, the power to make rules of court in respect of that court includes power to make rules with respect to proceedings and the practice and procedure of the court under this Act.

(2) Until such rules are made a judge of the court may, in any particular case, give such directions as he deems fit and such directions shall, according to their tenor, have the force and effect of rules made under this section.

243. Preservation and disposal of records, etc. A registered body that is required by a provision of this Act to maintain, make or keep a register or any record (other than a record to which section 96 (2) relates) in relation to the business carried on by the registered body shall preserve that register or record for a period of 5 years next after the day on which the last entry was made therein.

244. Credit society may be registered issuer or packager. A credit society may, notwithstanding anything to the contrary contained in its rules, become a registered issuer or registered packager within the meaning of section 4 of the *Mortgages (Secondary Market) Act 1984-1985* and carry on business as such in accordance with that Act.

245. Amendment of Money Lenders Act 1916-1979. (1) The *Money Lenders Act 1916-1979* is amended by inserting in the definition of “money-lender” in section 3, next after paragraph (b), the following paragraph and word:—

- “(ba) Any credit society, association of credit societies or union of associations of credit societies formed and registered or deemed to be formed and registered under the *Credit Societies Act 1986*, any foreign credit society registered under Part X of that Act or any credit society, society or corporation formed or incorporated outside the State in respect of which an exemption from compliance with the provisions of section 25 (1) of the *Credit Societies Act 1986* is for the time being in force; or”.

(2) The *Money Lenders Act 1916-1979* as amended by this section may be cited as the *Money Lenders Act 1916-1986*.

246. Amendments of Co-operative and Other Societies Act 1967-1978. (1) The *Co-operative and Other Societies Act 1967-1978* is amended in the manner and to the extent set out as follows:—

Provision Amended	Nature of Amendment
Section 2	Omit the expression "Division 4—Credit Unions;"
Section 9 (2)	Omit the expression "(c) a credit union;"
Part III—Division 4	Division 4 is repealed
Section 33 (5)	Subsection (5) is repealed
Section 34 (4)	Omit the second paragraph
Section 59 (1)	Omit the words "other than a credit union"
Section 59 (2)	Omit subsection (2)
The Schedule	The Schedule is repealed.

(2) The *Co-operative and Other Societies Act 1967-1978* as amended by this section may be cited as the *Co-operative and Other Societies Act 1967-1986*.

(3) Unless the contrary intention appears in this Act—

- (a) all persons, things and circumstances appointed done or created by or under the provisions of the Act amended by this section in so far as those provisions applied to or in relation to, a society registered or deemed to have been registered under that Act or a federation or league registered or deemed to be registered under the Act comprising as component members only societies that are credit unions or existing or continuing under those provisions immediately before the commencement of this Part shall under and subject to this Act continue to have the same status, operation and effect as they would have had if the Act as so amended had not been amended;
- (b) in particular and without affecting the generality of paragraph (a) such amendment shall not disturb the status, operation or effect of any establishment, incorporation or registration of a society or federation or league to which paragraph (a) refers or of any rule, regulation, direction, order, notice, registration, register, resolution, security, charge, conveyance, re-conveyance, certificate, receipt, deed, instrument, document, appointment, application, contract, agreement, compromise, arrangement, right or liability made, done, effected, given, issued, passed, taken, validated, entered into, executed, lodged, kept, accrued, incurred, granted, fixed, acquired, existing or pending by or under any of the said provisions before the commencement of this Part.

PART XIV—TRANSITIONAL

247. Application of Divisions 3 and 4 of Part V—Transitional. (1) Divisions 3 and 4 of Part V do not apply, in relation to a credit society, or an association, that immediately before the commencement of this Part was registered as a society under *The Co-operative and Other Societies Act of 1967*, to or in respect of the financial year of the credit society or association that began before the commencement of this Part and ends after that commencement.

(2) To the extent to which, by virtue of subsection (1), Divisions 3 and 4 of Part V do not apply, in relation to a credit society or association, to or in respect of the financial year of the credit society or association that began before the commencement of this Part and ends after that commencement, the provisions (if any) of *The Co-operative and Other Societies Act of 1967* relating to matters in respect of which provision is made by or under Divisions 3 and 4 of Part V continue to apply as if this Act has not been enacted.

248. Acts of Registrar—Transitional. All acts, matters and things of a continuing nature done or commenced before the commencement of this Part by, on behalf of, or in relation to the Registrar under *The Co-operative and Other Societies Act of 1967* to or in respect of a credit union or a federation or league of credit unions to which section 19 relates shall not be affected and shall, under and subject to this Act, continue to have the same status, operation and effect as they would have had if this Act had not been enacted.

249. Transitional—winding up. The provisions of this Act with respect to winding up or dissolution shall not apply to any credit society or association in respect of which the winding up or the procedure leading to dissolution has commenced before the commencement of this Part, but every such credit society or association shall be wound up or may be dissolved in the same manner and with the same incidents as if this Act had not been passed and for the purposes of the winding up or dissolution the Act or Acts or other laws under which the winding up or the procedure leading to dissolution commenced shall be deemed to remain as in force immediately prior to the commencement of this Part.

250. Registrar to act as representative of all credit societies, etc. Any power under section 460 of the *Companies (Queensland) Code* which by virtue of Part VIII of *The Co-operative and Other Societies Act of 1967* the Registrar under that Act could have exercised before the commencement of this Part as representing a dissolved credit union or federation or league of credit unions or its liquidator may be exercised by the Registrar under this Act as representing that credit union or federation or league or liquidator notwithstanding that that credit union, federation or league had ceased to exist before the commencement of this Part.

SCHEDULE

[s. 20]

(a) The name of the registered body and the location of its first registered office.

(b) The objects of the registered body.

(c) The powers of the registered body, in particular and without affecting the generality of this clause—

(i) the powers to borrow money;

(ii) the powers to raise money on deposit and the manner in which the board may regulate the withdrawal of such deposits, and any limitation on any of the powers of the registered body.

(d) The manner in which investments may be made.

(e) The manner in which the funds of the registered body are to be managed and in particular the mode of drawing and signing drafts, bills of exchange, cheques and other negotiable instruments for and on behalf of the registered body.

(f) The manner in which any gain or surplus which may result from the transactions of the registered body is to be distributed among members.

(g) The number of directors, the qualification of directors and the manner of electing, appointing, remunerating and removing directors and filling a vacancy.

(h) The powers and duties of the board, the requisite notice of meetings and the quorum for meetings.

(i) The intervals between general meetings of the registered body, the manner of calling general and special meetings, the requisite notices of meetings and the quorum for meetings of the registered body.

(j) The procedures for the conduct of meetings of the registered body including the rights of members in voting at meetings, the manner of voting and the majority necessary for carrying resolutions.

(k) The frequency at which the accounts of the registered body are to be audited.

(l) 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 registered body.

(m) The manner of appointing, remunerating and removing officers (other than directors) and the powers and functions of such officers.

(n) The manner of altering or rescinding the rules and of making additional rules.

(o) The device, custody and use of the seal of the registered body.

(p) The manner in which the registered body may be wound up.

(q) The conditions of admission to membership.

(r) The manner in which a dispute between a member, in his capacity as a member, and a registered body shall be settled.

(s) The custody of documents of title and securities belonging to the registered body.

(t) In the case of a credit society the fines that may be imposed on members of the credit society.