Namibia

Co-operatives Act, 1996

Act 23 of 1996

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Annotated Statutes

Co-operatives Act, 1996

Act 23 of 1996

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ACT

To provide for the formation, registration and winding-up of co-operatives and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of Namibia, as follows:-

1. Definitions

In this Act, unless the context indicates otherwise -

"**Advisory Board**" means the Co-operatives Advisory Board established by section 84;

"**annual general meeting**", in relating to a co-operative, means an annual general meeting referred to in section 41;

"**board**", in relations to a co-operative, means the board of the co-operative concerned referred to in section 29, by whatever name it may in terms of the by-laws of the co-operative be known;

"**by-laws**" means the by-laws of a co-operative, by whatever name it may be called by the co-operative concerned, referred to in section 11 and approved by the Registrar in terms of section 16(1)(c)(iii), and includes any amendment of such by-laws made by the co-operative and approved by the Registrar in terms of section 12;

"**chief executive officer**", in relation to a co-operative, means the person appointed by a co-operatives as provided in section 26(2), by whatever designation he or she may in terms of the by-laws of the co-operative concerned be called;

"**co-operative**" means -

(a) a workers' co-operative; or

(b) a service co-operative,

formed as provided in section 10 and registered, whether provisionally or fully, as a co-operative in terms of section 16, and includes, for purposes of the provisions of sections 12 and 17(1)(a) and (d) Parts V, VI, VII, VIII, IX, X, XI, XII, XV, XVI and XVII, an external co-operative;

"**dispute**" means a dispute in relation to -

(a) an alleged contravention of, or a failure to comply with, any provision of this Act or the by-laws or rules regulating the internal affairs of a co-operative;

(b) the suspension or expulsion of a member of a co-operative;

"**external co-operative**" means a co-operative of a level higher than the level of a primary co-operative and which has been registered outside Namibia;

"**general meeting**", in relation to a co-operative, means any ordinary or extraordinary meeting referred to in section 42, and includes an annual general meeting;

"**liquidator**", in relation to a co-operative being wound-up, means a person appointed under section 77 to carry out the winding-up of the co-operative;

"**Minister**" means the Minister of Agriculture, Water and Rural Development;

"**Ministry**" means the Ministry of Agriculture, Water and Rural Development;

"**net surplus**", in relation to a co-operative, means the surplus which results from the operations of the co-operative concerned during a financial year;

"**official stamp of the Registration Office of Co-operatives**" means the official stamp of the Registration Office for Co-operatives determined under section 4(b);

"**Permanent Secretary**" means the Permanent Secretary: Agriculture, Water and Rural Development;

"**person**" includes a natural person, a corporate body or an unincorporated association of persons;

"**prescribe**" means prescribed by regulation or under this Act;

"**primary co-operative**" means a co-operative formed as provided in section 10(3);

"**register of co-operatives**" means the register of co-operatives referred to in section 5;

"**registered office**", in relation to a co-operative, means the place where its head office is situated;

"**Registration Office for Co-operatives**" means the Registration Office for Cooperatives referred to in section 2;

"**Registrar**" means the Registrar of Co-operatives appointed under paragraph (a) of subsection (1) of section 3, and includes an acting Registrar of Co-operatives appointed under paragraph (b) of that subsection and the Deputy Registrar of Co-operatives appointed under paragraph (c) of that subsection, if any;

"**repealed Ordinance**" means the Co-operative Societies Ordinance, 1946 (Ordinance 15 of 1946), repealed by section 110;

"**seal of the Registrar**" means the seal of the office of the Registrar referred to in section 4(a);

"**secondary co-operative**" means a co-operative formed as provided in section 10(4)(a);

"**service co-operative**" means any co-operative referred to in paragraph (b) of subsection (1) of section 8 which enters into at least 51 per cent of its transactions with its members;

"**special resolution**", in relation to a co-operative, means a special resolution passed at a general meeting of the co-operative by a majority of votes of at least two-thirds of the members present at such meeting;

"**supervisory committee**", in relation to a co-operative, means the supervisory committee, if any, of the co-operative concerned referred to in section 37;

"**this Act**" includes the regulations made thereunder;

"**Tribunal**" means the Co-operatives Tribunal established by section 93;

"**workers' co-operative**" means a co-operative referred to in paragraph (a) of subsection (1) of section 8 of which -

(a) all its members are working, in their capacity as members, in the co-operative; and

(b) at least 70 percent of the persons working on a full time basis in the co-operative, whether as employees or in their capacity as members, are persons who are members of that co-operative.

Part I – Administration of Act

2. Registration Office for Co-operatives

The office established by section 3(2) of the repealed Ordinance for the registration of co-operative societies and companies and for the other purposes of that Ordinance shall, notwithstanding the repeal of that Ordinance, continue to exist and shall be the Registration Office for Co-operatives for purposes of the registration of co-operatives in terms of, and for the other purposes of, this Act and shall be under the control of a person to be known as the Registrar of Co-operatives.

3. Appointment of Registrar of Co-operatives, Deputy Registrar of Co-operatives and acting Registrar of Co-operatives

(1) Subject to the laws governing the Public Service, the Minister -

(a) shall appoint a person as the Registrar of Co-operatives, who shall exercise and perform the powers, duties and functions conferred or imposed upon the Registrar by or under the provisions of this Act or any other law;

(b) may appoint a person as acting Registrar of Co-operatives to exercise or perform the powers, duties and functions of the Registrar referred to in paragraph (a) during the absence or incapacity of the Registrar to exercise or perform such powers, duties and functions;

(c) may appoint a person to be known as the Deputy Registrar or Cooperatives who may, subject to the control and directions of the Registrar, exercise or perform any of the powers, duties and functions of the Registrar referred to in paragraph (a).

(2) The Permanent Secretary may from time to time designate such other officers in the Ministry as may be necessary to assist the Registrar in the performance of the functions imposed upon the Registrar by or under this Act or any other law.

4. Seal on Registrar and official stamp for Registration Office for Co-operatives

The Minister shall determine -

(a) a seal of office for the Registrar of Co-operatives, which shall be impressed on certificates of registration of co-operatives and, in so far as it may be required in terms of any provision of this Act or otherwise deemed necessary by the Registrar, any other document issued by the Registrar in terms of this Act; and

(b) an official stamp for the Registration Office for Co-operatives, which shall be used as provided for in this Act.

5. Register of co-operatives

(1) The Registrar shall keep a register, to be known as the register of co-operatives, in which he or she shall enter the name and the prescribed paticulars of every co-operative registered in terms of this Act.

[The word "particulars" is misspelt in the Government Gazette, as reproduced above.]

(2) The register of co-operatives or any extract or copy of that register signed by the Registrar shall be prima facie proof of all particulars recorded therein.

(3) The register of co-operative companies and societies kept by the Registrar of Co-operative Societies under section 3(3) of the repealed Ordinance shall be deemed to be part of the register referred to in subsection (1).

6. Inspection of register of co-operatives or other documents, and making of copies or extracts thereof

(1) Any person may on payment, effected by way of revenue stamps cancelled by the Registrar of the prescribed fees, if any -

(a) inspect the register of co-operatives or any document received or kept by the Registrar in terms of this Act;

(b) obtain a certificate from the Registrar as to the contents or part of the contents of the said register or any such document;

(c) obtain a copy of, or an extract from, the said register or any such document.

(2) If any inspection or any certificate, copy or extract referred to in subsection (1) is requested for the purposes of research by or under the control of an educational institution, the Registrar may permit such inspection, or issue or make available such certificate, copy or extract, without payment of any fees referred to in that subsection.

7. Annual report by Registrar

(1) The Registrar shall submit to the Minister, not later than 31 March in every year or such later date as may from time to time be determined in writing by the Minister, a report on his or her activities in terms of this Act during the immmediately preceding year which ended on 31 December.

[The word "immediately" is misspelt in the Government Gazette, as reproduced above.]

(2) The Minister shall lay a copy of the report referred to in subsection (1) upon the Tables of the National Assembly within 14 days after receipt of such report, if the National Assembly is then in session, or, if the National Assembly is not then in session, within 14 days after the commencement of its next ensuing session.

Part II – Categories and types of, and persons who may form, co-operatives

8. Categories and types of co-operatives

(1) Two categories of co-operatives may be formed and registered in terms of this Act, namely -

(a) workers' co-operatives; and

(b) service co-operatives, having the general characteristics or serving the purposes of any one or a combination of the following types of co-operatives, namely -

(i) marketing and supply co-operatives;

(ii) consumer co-operatives;

(iii) housing co-operatives;

(iv) savings and credit co-operatives;

(v) such other types of co-operatives as may from time to time be determined by the Minister by notice in the Gazette.

(2) A co-operative referred to in subsection (1) shall be a primary cooperative or may, subject to the provisions of this Act, be a secondary cooperative or a co-operative of any level higher than secondary level.

9. Objects of, and co-operatives principles applicable to, co-operatives

A co-operative shall -

(a) have as its objects the promotion of the economic and social interest of its members by providing effective services to its members according to sound business principles; and

(b) subject to the provisions of this Act, carry out its objects according to the co-operative principles that -

(i) membership of a co-operative shall be voluntary and, irrespective of race, colour, ethnic origin, creed, religion, gender, political ideo-logy or social or economic status, open to any person who is able to contribute to, and benefit from, the activities of the co-operative, and who complies, subject to the co-operative's capacity and economic means to admit new members, with the requirements for membership as provided in this Act and the by-laws of the co-operative;

[The word "ideology" contains an unnecessary hyphen.]

(ii) a co-operative shall be democratic and controlled by its members;

(iii) in the case of a primary co-operative, every member shall have one vote, irrespective of the number of shares held by him or her;

(iv) services shall be rendered primarily to members;

(v) dividends on share capital shall be limited;

(vi) any surplus of the co-operative shall be utilized for the development of the business or services of the co-operative or, with due regard to amounts set aside as a reserve as contemplated in section 58, for purposes of distributing any such surplus amongst the members of the co-operative or for both such purposes in proportion to the transactions entered into by such members with such co-operative and their resultant contribution to such surplus;

(vii) ongoing membership education be provided in relation to the administration and management of the co-operative and the nature and extent of the rights, duties, liabilities and obligations of its members; and

(viii) in order to best serve the interests of its members and its community, a co-operative should actively co-operate with other co-operatives.

10. Persons who may form, and become members of, co-operatives

(1) Subject to subsections (2), (3) and (4) and section 9(b)(i), any person may participate in forming a co-operative or of becoming a member of a co-operative.

(2) No natural person shall be qualified to form or to participate in the forming of a co-operative or of becoming a member of a co-operative, unless such person -

(a) is at least 18 or, in the case of a co-operative of which all its members are learners at a school, 14 years of age; and

(b) in the case of a minor, is assisted by his or her parent or guardian;

(c) is a citizen of, or otherwise ordinarily resident in, Namibia;

(d) complies with such other requirements as may be prescribed by the by-laws of such co-operative.

(3) Subject to the provisions of this Act, at least seven -

(a) natural persons who are qualified in terms of subsection (2); or

(b) Namibian corporate bodies or unincorporated associations of persons, but excluding any secondary co-operative or a co-operative of any level higher than a secondary level; or

(c) persons consisting of any combination of persons referred to in paragraph (a) and (b),

may form a co-operative which for the purposes of this Act shall be a primary co-operative.

(4) For the purposes of this Act -

(a) two or more primary co-operatives may form a co-operative which shall be a secondary co-operative;

(b) two or more secondary co-operatives may form a co-operative which shall be of a level higher than a secondary co-operative;

(c) two or more co-operatives formed by a secondary co-operative as contemplated by paragraph (b) may form a co-operative which shall be of a level higher than that of such co-operatives;

(d) any one co-operative of a level contemplated in subsection (3) and one other co-operative referred to in paragraph (a), (b) or (c) may form a co-operative which shall be of a level higher than the level contemplated in the said paragaph (c).

[The word “paragraph” is misspelt in the Government Gazette in its second use in paragraph (d), as reproduced above.]

Part III – Provisions relating to by-laws of co-operatives

11. Contents of by-laws of co-operatives

(1) The by-laws of a co-operative shall be divided into paragraphs numbered consecutively and shall, in such order as the co-operative concerned may deem fit, set forth -

(a) its name, expressed as contemplated in section 27(1);

(b) its postal address and the street address of its registered office or, if no street address exists, a description of the place where such office is situated;

(c) whether it is a workers’ co-operative or service co-operative and, in the case of a service co-operative, its type or types, and whether it is a primary co-operative, a secondary co-operative or a co-operative of any level contemplated in section 10(4)(b), (c), or (d);

(d) its objects;

(e) the nature of the business and other activities carried on by it;

(f) the place where its main business is situated, the area in which it carries on business and the place where it has established or intends to establish any branch or depot;

(g) if it is formed for a limited period, the period for which it is so formed;

(h) subject to the provisions of sections 9(b)(i) and 10 and of Part V -

(i) the manner in which members shall be admitted, and the requirements and conditions of admission of members, including the fees, if any, payable on admission or in respect of membership and the circumstances under which membership is terminated;

(ii) whether the liability of its members is unlimited or limited;

(iii) the rights, duties, liabilities and obligations of members of the co-operative;

(i) subject to the provisions of Part VII -

(i) the manner of election, terms of office, suspension and removal from office of members of its board, and of its supervisory committee, if any, and the filling of casual vacancies by way of election or appointment in such board and supervisory committee;

(ii) provisions relating to the holding of meetings of, or the procedure at, meetings of its board and supervisory committee, if any;

(iii) the powers, duties and function of -

(aa) its board and, if provision is made for the establishment of subcommittees of such board, of such subcommittees, and of the members performing the functions ordinarily performed by a chairperson, secretary and treasurer;

(bb) the person, if any, to perform the functions ordinarily performed by a chief executive officer;

(j) subject to the provisions of Part VIII -

(i) provisions relating to the holding of general meetings -

(aa) of its members;

(bb) of delegates appointed or otherwise elected by its members on a regional or area basis;

(cc) in the case of a secondary co-operative or a co-operative of any level higher than secondary level, of delegates,

to consider any matter which may be or is required in terms of any provision of this Act or the by-laws to be considered at such meetings, and the procedure at such meetings;

(ii) for purpose of the election or appointment of delegates referred to in subparagraph (i) (bb) or (cc), provisions relating to the holding of the necessary meetings, the manner of election or appointment, the qualifications, the terms of office and the voting rights of such delegates;

(k) subject to the provisions of Part IX -

(i) the amount of its share capital and the division thereof into shares of a fixed amount;

(ii) the manner in which its share capital may be increased or reduced;

(iii) the minimum number of, and the manner of payment for, shares which each member shall be required to hold in it, and the repayment of amounts paid in respect of such shares upon termination of membership;

(iv) the purposes for which its funds may be utilized;

(v) the manner in which its net surplus shall be distributed by way of dividends or otherwise;

(vi) the condition on which loans may be obtained by or made to it;

(vii) the manner in which funds not required for immediate use may be invested;

(l) subject to the provisions of Part X, the keeping and auditing of accounts, books and records;

(m) the manner in which and the person by whom any of its officers or employees may be authorized to sign documents on its behalf;

(n) subject to subsection (2), the matters on which rules regulating its internal affairs may be made;

(o) any matter which is required by this Act to be prescribed in the bylaws of a co-operative,

and may contain any other matter not inconsistent with the provisions of this Act which is necessary or expedient in order to achieve its objects.

(2) Any rules regulating the internal affairs of a co-operative referred to in paragraph (n) of subsection (1) -

(a) shall not be inconsistent with any provision of this Act or the bylaws of the co-operative;

(b) shall be approved by special resolution by the co-operative.

12. Amendment of by-laws

(1) A co-operative may amend its by-laws by special resolution, but such amendment shall not be of any force or effect unless such amendment has, upon an application made to the Registrar in terms of subsection (2), been approved by the Registrar, and shall come into operation on the date on which it is so approved or on such other date (which may be a date prior to the date of approval) as may be specified in the special resolution.

(2) An application referred to in subsection (1) for the approval of the Registrar of an amendment of the by-laws of a co-operative shall be made to the Registrar, in such form as may be determined by the Registrar, within 30 days as from the date on which the special resolution referred to in that subsection has been passed or such longer period as the Registrar may in a particular case, on good cause shown, allow.

(3) An application in terms of subsection (2) shall be accompanied by -

(a) a statement by the person who acted as chairperson of the general meeting at which the special resolution referred to in subsection (1) has been passed -

(i) that the said meeting was held on a date mentioned in the statement;

(ii) that he or she has satisfied himself or herself that proper notice of such meeting and the proposed amendment has been given to the members of the co-operative; and

(iii) that such special resolution was passed by a majority of votes of two-thirds of its members present at such meeting;

(b) an explanation of the reasons for the amendment;

(c) two copies of the special resolution in which the amendment is set out;

(d) revenue stamps to the value of such amount as may be determined in terms of section 106 in respect of applications made in terms of this section, and which shall be cancelled by the Registrar upon the granting of the application.

(4) If the Registrar is satisfied that the provisions of this Act and the bylaws of the co-operative concerned have been complied with in respect of an application in terms of subsection (2), he or she

shall approve the amendment and make an endorsement on one copy of the special resolution in question to the effect that it has been approved by the Registrar and affix the official stamp of the Registration Office for Co-operatives on each page of the special resolution.

(5) The copy of the special resolution, endorsed as provided in subsection (4), shall be handed over or forwarded by certified post within a period of two months from the date of such endorsement to the co-operative concerned, and the other copy of such special resolution shall be retained by the Registrar in the Registration Office for Co-operatives.

(6) If the by-laws of a co-operative is amended in order to alter the name of the co-operative or an abbreviation of such name, the Registrar shall -

(a) enter the new name or abbreviation of such name in the register of co-operatives in the place of the name so altered; and

(b) issue within a period of two months from the date of such entry a certificate to such co-operative in which it is declared that the name of such co-operative or the abbreviation of such name has been altered in accordance with this Act and in which the new name or abbreviation of such name is mentioned.

(7) The Registrar shall, if an application in terms of subsection (2) is refused, within a period of two months from the date of such refusal, by notice in writing inform the co-operative concerned of such refusal setting forth his or her reasons for such refusal.

(8) An amendment or substitution which alters the name of a co-operative shall not affect any right or obligation of the co-operative or its members or past members, and any legal proceedings pending may be commenced or continued by or against such co-operative under its new name.

(9) The provisions of this section, in so far as they relate to the approval of the Registrar, shall not apply in relation to an amendment of the bylaws of a co-operative in terms of which -

(a) the minimum number of shares which every member of a co-operative is required to hold in the co-operative is increased;

(b) the postal address or the street address of the registered office of the co-operative or the description of the place where such office is situated, is changed.

Part IV – Registration of co-operatives

13. Co-operatives' formation committees

(1) Any person who is qualified in terms of section 10 to form a co-operative and who proposes to form and register a co-operative shall convene a meeting at which shall be present -

(a) in the case of a proposed formation of a primary co-operative, at least seven persons who are so qualified or, if any one or more of such persons are primary co-operatives, corporate bodies, or unincorporated associations of persons, one natural person in respect of each such co-operative, corporate body, or unincorporated association of persons, who is duly authorized in writing by such co-operative, corporate body, or unincorporated association of persons;

(b) in the case of a proposed formation of a co-operative of a level higher than the level of a primary co-operative, at least two natural persons duly authorized by each co-operative that so proposes to form any such co-operative.

(2) The persons referred to in subsection (1) present at a meeting convened in terms of that subsection, shall elect from amongst their number a formation committee consisting of at least seven or, in the case of a proposed co-operative of any level higher than the level of a primary co-operative, four natural persons.

(3) The formation committee referred to in subsection (2) shall -

(a) elect from amongst their number at least three persons to perform the functions ordinarily performed by a chairperson, secretary and treasurer;

(b) cause minutes of its proceedings to be kept and maintained.

(4) The functions of a formation committee referred to in subsection (2) shall be -

(a) in the case of an intended application for provisional registration of a proposed co-operative -

(i) to convene meetings in order to advise prospective members on the proposed objects of the proposed co-operative and the nature of the business to be carried on by it and its other activities and the contents of its proposed by-laws;

(ii) to prepare, with due regard to the provisions of section 11, proposed by-laws for such proposed co-operative;

(iii) to take any such other steps as may be necessary for purposes of such intended application;

(b) in the case of an intended application for full registration of a proposed co-operative, in addition to the function referred to in paragraph (a) -

(i) to compile a list of its prospective members and an estimate of the share capital and subscriptions of such prosposed cooperative;

[The word "proposed" is misspelt in the Government Gazette, as reproduced above.]

(ii) to undertake a feasibility study on the nature, extent and economic potential of the proposed business of such proposed co-operative;

(iii) to compile an estimate of revenue and expenditure and a cash flow forecast for at least the first three years, or such shorter period as the Registrar may on good cause shown in any particular case allow, of the business of such proposed co-operative.

14. Co-operatives' founders meetings

(1) A formation committee referred to in section 13 shall, after having complied with the relevant provisions of that section, convene a founders meeting of persons qualified as provided in section 10 and who desire to become members of the proposed co-operative.

(2) At a meeting convened in terms of subsection (1) at which the required number of persons prescribed by section 10 are present who are in favour of the formation of the proposed co-operative -

(a) there shall be submitted -

(i) in the case of an intended application for provisional registration of the co-operative, the proposed by-laws referred to in section 13(4)(a)(ii); and

(ii) in the case of an intended application for full registration of the co-operative, in addition to the said proposed by-laws, the list, feasibility study, estimate of revenue and expenditure and cash flow forecast referred to in section 13(4)(b)(iii);

(b) a written declaration shall be prepared and signed by the persons present at such meeting in which it is declared that it has been resolved to form such proposed co-operative;

(c) the proposed by-laws of such proposed co-operative shall be considered and approved with or without amendments by a majority of votes of at least two-thirds of the persons referred to in subsection (1) present at such meeting;

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(d) a register of members shall be opened and signed by the persons who are so present and who wish to become members of such proposed co-operative;

(e) there shall, subject to subsection (3), be elected by simple majority by secret ballot a number of natural persons mentioned in the proposed by-laws to be the members of the first board and the first supervisory committee, if any, of such proposed co-operative; and

(f) there shall be kept minutes of the proceedings.

(3) No person shall participate in any election in terms of subsection (2)(e), unless he or she has signed the register of members of the proposed cooperative concerned.

15. Applications for registration of co-operatives

(1) Subject to the provisions of this Act, an application for provisional or full registration as a co-operative shall be made to the Registrar, in such form as may be determined by the Registrar, by not less than the required number of persons referred to in section 10 within a period of two months as from the date on which the founders meeting referred to in section 14(1) was held or such longer period as the Registrar may allow.

(2) Any application referred to in subsection (1) shall be accompanied by -

(a) in the case of an application for the provisional registration of a cooperative -

(i) the written declaration referred to in section 14(2)(b);

(ii) the by-laws of such co-operative approved as provided in section 14(2)(c) containing on each page thereof the initials, and on the last page thereof the signatures, of at least three persons elected in terms of section 14(2)(e) as the members of the first board of such co-operative;

(iii) a list of the persons who have in terms of section 14(2)(d) signed the register of members as first members of such cooperative;

(iv) a description of the proposed business and other activities of such co-operative;

(v) a list of the names and addresses, identity numbers and occupations of the persons elected in terms of section 14(2)(e) as the members of the first board and the first supervisory committee, if any, of such co-operative; and

(vi) the minutes of the proceedings of the founders meeting referred to in section 14(2)(f);

(b) in the case of an application for full registration of a co-operative, in addition to the documents referred to in paragraph (a), also the list, feasibility study, estimate of revenue and expenditure and cash flow forecast referred to in section 14(2)(a)(ii);

(c) such other documents or information as the Registrar may require; and

(d) revenue stamps to the value of such amount as may be determined in terms of section 106 in respect of applications made in terms of this section, and which shall be cancelled by the Registrar upon the granting of the application.

(3) The Registrar may, for purposes of the consideration of an application made to him or her in terms of subsection (1), at any time visit any premises of the proposed co-operative concerned or cause such meetings as the Registrar may deem necessary or expedient for purposes of discussing or determining any matter relating to such application to be convened at a place mutually agreed upon between the Registrar and the persons elected in terms of section 14(2)(e) as the first members of the board of that proposed co-operative.

16. Registration of co-operatives

(1) Within a period of two months as from the date on which an application referred to in section 15 has been received in the Registration Office for Co-operatives, or such longer period as the Permanent Secretary may upon good cause shown approve in writing, the Registrar shall consider such application and -

(a) shall grant or, subject to subsection (2), refuse such application;

(b) shall, if such application is refused under paragraph (a), by notice in writing inform the persons concerned of such refusal setting forth his or her reasons for such refusal;

(c) shall, if such application is granted under paragraph (a) -

(i) provisionally or fully register, as the case may be, the cooperative concerned by entering in the register of co-operatives the particulars of such co-operative as required by section 5(1);

(ii) issue, in such form as may be determined by the Registrar, a certificate of registration that the co-operative concerned is provisionally or fully registered, as the case may be, and on which the seal of the Registrar is impressed and to which a number has been allotted;

(iii) approve, with or without any amendments, the by-laws of such co-operative and make an endorsement on each page of such by-laws to the effect that such by-laws have been approved by him or her and affix the official stamp of the Registration Office for Co-operatives on each such page;

(d) may, if, in the case of an application for full registration as a cooperative, he or she is satisfied that he or she would have provisionally registered such co-operative had the application been an application for provisional registration, in consultation with the persons who made the application in question, provisionally register the co-operative mutatis mutandis in accordance with the provisions of paragraph (c).

(2) An application for provisional or full registration of a co-operative shall not be granted -

(a) if the Registrar is satisfied -

(i) that the provisions of this Act have not been complied with in relation to such application; or

(ii) that the by-laws of such co-operative are inconsistent with the provisions of this Act;

(b) unless and until such time as the Registrar is satisfied that the members of the first board of such co-operative elected in terms of section 14(2)(e) have sufficient knowledge of the by-laws of such co-operative and, in the case of an application for full registration, of the business and activities of the co-operative as reflected in the documents submitted in relation to the application, and the Registrar may from time to time postpone his or her decision on the application until he or she is so satisfied;

(c) unless, in the case of an application for full registration, the Registrar is satisfied that the co-operative is likely to be economically viable and that its registration will be in the interest of its members.

(3) (a) The certificate of registration issued in terms of subparagraph (ii) of paragraph (c) of subsection (1) and the by-laws endorsed as provided in subparagraph (iii) of that paragraph shall be handed over or forwarded by certified post to the co-operative registered in terms of subparagraph (i) of that paragraph, and a copy of such certificate and by-laws shall be retained by the Registrar in the Registration Office for Co-operatives.

(b) A certificate of registration of a co-operative referred to in subparagraph (ii) of paragraph (c) of subsection (1) or a certified copy thereof shall upon its mere production be prima facie

proof that the requirements of this Act in respect of its registration have been complied with and that the co-operative is a registered co-operative.

17. Effect of registration of co-operatives

(1) As from the date on which a co-operative is provisionally or fully registered in terms of section 16 -

(a) such co-operative shall become a corporate body;

(b) such co-operative shall be entitled to commence with its activities;

(c) every person who is qualified in terms of section 10 to become a member of a co-operative and who has, at the founders meeting referred to in section 14, signed the register of members shall be a member of the co-operative;

(d) the by-laws shall bind the co-operative and every member of the co-operative referred to in paragraph (c) and every member admitted as member on or after that date in terms of the by-laws of such cooperative (including an executor, a trustee or other administrator of the estate of a member) to the same extent as if it were signed by every such member, to observe, subject to the provisions of this Act, all the provisions of the by-laws;

(e) the persons elected in terms of section 14(2)(e) to be the first board and the first supervisory committee, if any, of the co-operative shall become the first board and first supervisory committee, as the case may be, of that co-operative.

(2) (a) Subject to paragraphs (b) and (c), the provisional registration of a co-operative in terms of section 16 shall lapse after the expiry of a period of one year as from the date of such registration.

(b) (i) The provisional registration of a co-operative may, upon an application made to the Registrar in such form as may be determined by the Registrar, at any time before the expiry of the period of one year referred to in paragraph (a), be renewed by the Registrar on not more than four occassions for periods not exceeding one year at a time.

[The word “occasions” is misspelt in the Government Gazette, as reproduced above.]

(ii) An application referred to in subparagraph (i) shall be accompanied by such documents and information as the Registrar may require, and may be granted by the Registrar, if he or she is satisfied –

(aa) that the co-operative has during the currency of its provisional registration complied with the provisions of this Act and its by-laws;

(bb) that the co-operative has shown good cause why it is not yet able to comply with the requirements for full registration;

(cc) that the co-operative has the ability to comply with such requirements within a reasonable period.

(iii) The Registrar may, for purposes of the consideration of an application contemplated in subparagraph (ii), at any time visit any premises of the co-operative concerned or cause such meetings as the Registrar may deem necessary or expedient for purposes of discussing or determining any matter relating to such application to be convened at a place mutually agreed upon between the Registrar and the members of the board of the co-operative concerned.

(c) Where the provisional registration of a co-operative has lapsed or an application for the renewal of its provisional registration has been refused, such a co-operative shall for purposes of this Act be deemed to have been wound-up in terms of an order given under section 77.

(3) The Registrar may at any time during the currency of the provisional registration of a co-operative and upon application of such co-operative, in such form as may be determined by the Registrar, withdraw its provisional registration and fully register such co-operative in accordance with the provisions of section 16(1) if he or she is satisfied that such co-operative complies with the requirements for full registration as a co-operative.

18. Written contracts entered into on behalf of co-operative before registration

Any written contract entered into by any person purporting therein to have been so entered into on behalf of a co-operative before it has been registered under section 16 may, if such contract is within the objects and powers of such co-operative, be ratified and adopted by such co-operative after its registration, whereupon such contract shall be enforceable by or against such co-operative as if it were entered into by such co-operative.

19. Registration of external co-operatives in Namibia

(1) No external co-operative shall establish a place of business in Namibia, unless it has -

(a) as its member at least one co-operative registered under section 16(1)(c)(i); and

(b) been registered as provided in this section.

(2) (a) An external co-operative that wishes to be registered as a cooperative in terms of this Act shall apply, in such form as may be determined by the Registrar, to the Registrar for such registration: Provided that no external co-operative shall be registered in terms of this Act as a primary co-operative.

(b) An application referred to in paragraph (a) shall be accompanied by -

(i) a certified copy of the by-laws of such external co-operative, and, if such by-laws are not in the official language, a translation thereof in English;

(ii) a notice of its proposed postal address and the street address of its proposed registered office in Namibia;

(iii) the name and address of its proposed auditor in Namibia;

(iv) a notice of its financial year;

(v) a list containing the full names and surnames, nationality, occupation, residential, business and postal addresses and the date of appointment or election of each member of its board and of its chief executive officer;.

(vi) a list containing the names of its members;

(vii) a written statement showing its objects, its business prospects and particulars showing that, if registered, it will be able to carry out its objects;

(viii) the particulars of the co-operative referred to in subsection (1)(a);

(ix) revenue stamps to the value of such amount as may be determined in terms of section 106 in respect of an application made in terms of this section, and which shall be cancelled by the Registrar upon the granting of the application.

(3) If the Registrar is satisfied that the provisions of subsection (2) have been complied with he or she shall submit the application, a copy of the by-laws and his or her recommendation to the Minister together with such other documents as may be required by the Minister.

(4) (a) Subject to paragraph (b), the Minister may, on the recommendation of the Advisory Board, approve or reject an application submitted to him or her in terms of subsection (3) or he or she may, before he or she approves or rejects it, direct the Registrar to refer the by-laws back

to the external co-operative concerned for consideration of such modification thereof or additions thereto as may be proposed by the Minister.

(b) The Minister shall not approve an application under paragraph (a), un-less he or she is satisfied that the registration of the external cooperative concerned is in the interest of co-operative development in Namibia.

[The word "unless" contains an unnecessary hyphen.]

(5) If the Minister approves an application made in terms of subsection (2)(a), the Registrar shall -

(a) (i) provisionally register the external co-operative concerned if in the Registrar's opinion the nature of the business and other activities of such co-operative are not clearly defined and some doubts exists as to the achievability of the business or activities concerned;

(ii) fully register the co-operative concerned if in the Registrar's opinion the nature of the business and other activities of such co-operative are clearly defined and achievable,

by entering in the register of co-operatives the particulars of such co-operative as required by section 5(1);

(b) issue, in such form as may be determined by the Registrar, a certificate of registration that the co-operative concerned is provisionally or fully registered, as the case may be, and on which the seal of the Registrar is impressed and to which a number has been allotted; and

(c) approve the by-laws of such co-operative and make and endorsement on each page of such by-laws to the effect that such by-laws have been approved by him or her and affix the official stamp of the Registration Office for Co-operatives on each such page.

(6) (a) The certificate of registration issued in terms of paragraph (b) of subsection (5) and the by-laws endorsed as provided in paragraph (c) of that subsection shall be handed over or forwarded by certified post to the external co-operative registered in terms of paragraph (a) of that subsection, and a copy of such certificate and by-laws shall be retained by the Registrar Office for Co-operatives.

(b) A certificate of registration of a co-operative referred to in paragraph (b) of subsection (5) or a certified copy thereof shall upon its mere production be prima facie proof that the requirements of this Act in respect of its registration have been complied with and that the external co-operative is a registered external co-operative.

Part V – Membership and liabilities of members of co-operatives

20. Registers of members of co-operatives

(1) A co-operative shall keep and maintain at its registered office a register of members -

(a) in which shall, in so far as it may be applicable, be entered -

(i) the names, identity numbers and addresses of its members or, if any one of such persons is a co-operative or a corporate body, its registration number;

(ii) the date on which each member became a member;

(iii) the number of shares held by each member;

(iv) the value of each share so held;

(v) the date on which the membership of any such member has terminated;

(vi) the date on which any shares held by a member have been transferred and the person to whom it has so been transferred;

(vii) any such other particulars as may be prescribed or which are in terms of its by-laws required to be so entered;

(b) to which shall be attached, in the case of an unincorporated association of persons, its constitution.

(2) The register of members shall be prima fade proof of all matters recorded therein or attached thereto in accordance with the provisions of subsection (1) and the by-laws of the co-operative.

21. Termination of membership of co-operatives and suspension of members

(1) Subject to subsections (2) and (3) -

(a) a member of a co-operative may by such notice in writing to the coope-rative and subject to such conditions as may be determined in the by-laws of the co-operative, terminate his or her or its membership of the co-operative;

[The second use of the word "co-operative" contains an unnecessary hyphen.]

(b) a member of a co-operative who has contravened or failed to comply with a provision of this Act or the by-laws of the co-operative on more than two occasions or who refuses to comply with an obligation he or she or it has undertaken or who or which has committed misconduct towards the co-operative -

(i) may, with a view to disciplinary action to be taken, be suspended as a member by the board for any period not extending beyond the date of the first annual general meeting held subsequent to such suspension; or

(ii) may, by special resolution passed at a general meeting of the co-operative -

(aa) be suspended for a period not exceeding a period as provided in the by-laws of the co-operative, but may at any time be reinstated by the board; or

(bb) be expelled from the co-operative.

(2) A member of a co-operative who wishes to terminate its membership of a co-operative in terms of paragraph (a) of subsection (1) shall not be required to give notice which exceeds a period of -

(a) in the case of a primary co-operative, one year; and

(b) in the case of a co-operative of a level higher than the level of a primary co-operative, two years.

(3) (a) The by-laws of a co-operative shall contain provisions relating to -

(i) the acts or omissions which constitute misconduct towards the co-operative;

(ii) the maximum period for which a member may be suspended by special resolution under subsection (1)(b)(ii)(aa);

(iii) the disciplinary steps which may or shall be taken against a member, whether or not such member has been suspended under subsection (1)(b)(ii)(aa).

(b) A member of a co-operative shall not be expelled under subsection (1)(b)(ii)(bb), unless he or she or it has been -

(i) given prior notice in writing of at least two months of the grounds on which his or her or its expulsion is being considered;

(ii) afforded an opportunity in a manner provided for in the bylaws of the co-operative to adduce facts or circumstances in rebuttal of any allegation against him or her or it or to show cause why he or she or it ought not be expelled.

22. Liability of members of co-operatives

In a co-operative limited by shares the liability of a member shall be limi-ted to an amount equal to the nominal value of the shares in the cooperative held by him or her or it in so far as the amount has not been paid up.

[The word "limited" contains an unnecessary hyphen.]

23. Imposition of fines upon members for contraventions of, or failures to comply with, by-laws or internal rules of co-operatives

(1) A member of a co-operative may be fined by the co-operative for any contravention of, or failure to comply with, a provision of the bylaws or any rule of the co-operative referred to in paragraph (n) of subsection (1) of section 11, or failure to perform any duty imposed upon him or her or it by the co-operative under this Act or the by-laws or any such rule, or which he or she or it undertook to perform.

(2) A fine referred to in subsection (1) shall be imposed subject to the by-laws of the co-operative and shall not exceed a maximum amount determined in such by-laws.

(3) A fine shall not be imposed in terms of subsection (1), unless the member concerned has been given prior notice in writing of the charge and particulars of the alleged contravention or failure and afforded an opportunity in a manner provided for in the by-laws of the co-operative to adduce facts or circumstances in rebuttal of the charge or to show cause why such a fine ought not to be imposed upon him or her or it.

(4) A fine imposed under subsection (1) shall constitute a debt in favour of the co-operative.

24. Preference of co-operatives as creditors in respect of certain debts owing by members

Notwithstanding anything to the contrary contained in the Insolvency Act, 1936 (Act 24 of 1936), a co-operative shall in respect of a debt owing to it by any member for -

(a) any thing supplied or any service rendered by it to such member for purposes of producing or manufacturing any product or article which is marketed by means of or through the co-operative;

(b) any amount of money advanced to such member for any such purpose by the co-operative,

have a preferent claim against any balance of the free residue of such member's insolvent estate after the expenditure referred to in sections 96 to 102, inclusive, of that Act have been provided for as contemplated in those sections.

25. Agreements entered into with co-operatives by members who are minors

A member of a co-operative who is a minor may, without the permission or assistance of his or her parent or guardian -

(a) enter into any agreement with the co-operative of which he or she is a member in relation to any matter in respect of which a member may in terms of the by-laws of the co-operative enter into an agreement with it;

(b) enforce in any competent court of law or otherwise any rights acquired under any such agreement,

and shall enjoy all rights and privileges and be subject to all obligations, terms and conditions contained in or connected with such agreement as if such agreements were entered into by him or her with the assistance of his or her parent or guardian.

Part VI – Administration of co-operatives

26. Postal addresses and registered offices, and chief executive officers, of cooperatives

(1) A co-operative shall have in Namibia -

(a) a postal address to which communications and notices may be addressed; and

(b) a registered office where process may be served and where the documents referred to in section 28 shall be kept.

(2) A co-operative may appoint, on such conditions as may be determined by it, a natural person as chief executive officer who shall be responsible under the direct authority of the board for the conduct of its business as a co-operative and who may, with the concurrence of the board, appoint such other natural persons as may be necessary to assist the chief executive officer in the discharge of his of her functions.

[The word "of" should be "or" in the phrase "his of her functions".]

(3) A co-operative shall inform the Registrar in writing of any change of its postal address, the street address of its registered office or the description of the place where its registered office is situated and of its chief executive officer within 14 days of such change, and the Registrar shall make an appropriate entry of such change in the register of co-operatives.

27. Use and publication of names by co-operatives

(1) A co-operative shall have -

(a) the word "co-operative" or its equivalent in a language other than English, as part of its name, and if its equivalent in such other language is used as part of its name the word "Co-operative" shall follow in brackets; and

(b) the word "limited" or its abbreviation "Ltd" at the end of its name, if it is a co-operative having limited liability for its members.

(2) A co-operative shall -

(a) display its name in a conspicuous position and in characters easily legible on the outside of every place or office in which its business is carried on;

(b) include its name, postal address, address or place of its registered office and the number allocated to its certificate of registration on all letters and other documents addressed or issued by the co-operative and its seal or any date or other stamp on which the cooperative's names is displayed;

(c) in the case of a co-operative that is provisionally registered, include on all letters and documents and seal or stamp referred to in paragraph (b) and indication by the words ''provisionally registered" the fact that it is provisionally registered;

(d) display its certificate of registration or a copy thereof certified to be a true and correct copy at a conspicuous place at its registered office.

28. Copies of this Act, by-laws and internal rules of co-operatives and registers of members of co-operatives to be open to inspection

A co-operative shall keep a copy of this Act, its by-laws, the rules regulating its internal affairs and the register of its members referred to in section 20 open to inspection to its members or auditor or to the Registrar, free of charge, at all reasonable times at its registered office.

Part VII – Boards and supervisory committees

29. Boards of co-operatives

(1) The affairs of a co-operative shall be managed and controlled by a board, which shall, subject to the directions and control of the decisions of the members taken at general meetings -

(a) exercise and perform the powers, duties or functions conferred or imposed upon it or the co-operative by or under this Act or the bylaws or rules regulating the internal affairs of the co-operative; and

(b) prepare and submit, for consideration and approval, to the members of the co-operative at the annual general meeting of the cooperative, a management report on its activities in relation to the management of the affairs of the co-operative, including the audited financial statements for the preceding year and a program of activities and an estimate of revenue and expenditure for the cooperative in respect of its next ensuing financial year.

(2) (a) Subject to section 30 and paragraph (b) of this subsection, a board shall consist of such number of persons, but not fewer than three, as may be determined in the by-laws of the co-operative, who shall be elected as provided for in subsection (3).

(b) If, in the case of a co-operative that has more than five women as members or if more than one-third of its members are women, whichever is the lesser, no woman is elected as a member of its board, the board shall, at its first meeting held after such election has taken place, appoint a woman who is a member of the co-operative and who has been designated at the annual general meeting or who is otherwise selected by the board, as a member of the board, and any such woman shall have all the rights, duties, liabilities and obligations as if she were so elected.

(3) (a) Subject to paragraph (b), the members of the board of a cooperative shall be elected, unless the by-laws of the co-operative provide otherwise, by secret ballot at a general meeting of the cooperative for such period as may be determined by the by-laws of the co-operative.

(b) At the last ordinary meeting of a board before each annual general meet-ing of the co-operative, such members of the board as may be determined in accordance with requirements laid down in the by-laws of the co-operative, but which shall not be fewer than one-third or more than two-thirds of the total number of members of that board, shall retire as members of the board, but shall -

[The word “meeting” contains an unnecessary hyphen.]

(i) subject to paragraph (c), be eligible for re-election as any such members;

(ii) remain in office until such time as any of them or their successors have been re-elected or elected, as the case may be.

(c) A member shall not be eligible for re-election for a period exceeding nine consecutive years, but shall again be eligible after the elapse of a period of two years after such period of nine years.

(4) A member of the board shall receive no remuneration or allowances in respect of his or her services as such a member other than a honorarium authorized by a resolution passed at any general meeting of the co-operative, but the board may, in accordance with its estimates of revenue and expenditure, authorize the payment to any member of the board of any actual expenditure incurred in connection with any journey undertaken by him or her in connection with the functions of the board.

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30. Qualifications of members of boards

A person shall not hold office as a member of a board -

(a) unless he or she is a member of the co-operative;

(b) unless he or she is 18 years of age or older or, in the case of a registered co-operative of which all its members are learners at a school, at least 14 years of age;

(c) if such person is the chief executive officer or any other officer in the employ of the co-operative;

(d) if such person is a corporate body or an unincorporated association of persons: Provided that a corporate body or an unincorporated association of persons may be represented on the board by any natural person duly elected thereto in the manner contemplated in section 29(3) from persons nominated, in such manner as may be prescribed in the relevant by-laws, by such corporate body or unincorporated association or persons;

(e) if he or she is a member of the National Assembly, the National Council, a regional authority or local authority;

(f) if he or she is in the service of any governmental body established by or under any law which is funded, whether partly or wholly, out of funds appropriated by Parliament and he or she has not obtained the necessary permission to hold such office from the governmental body concerned;

(g) if his or her estate is sequestrated;

(h) if he or she has at any time been removed from an office of trust on account of misconduct;

(i) if he or she has at any time been convicted of any contravention of any provision of this Act in relation to the formation or management of a co-operative or any offence involving dishonesty;

(j) if he or she has within a period of five years prior to the date of election or appointment of members of the board been dismissed fairly as an employee of a co-operative;

(k) if he or she has at any time been expelled as provided in section 21(1)(b)(ii)(bb) as a member of a co-operative;

(l) if he or she is not qualified by virtue of the by-laws of the co-operative concerned to hold such office.

31. Vacation of offices by members of boards, and filling of casual vacancies

(1) A member of the board shall cease to hold office as a member of such board if he or she -

(a) becomes incompetent in terms of section 30 to hold such office as member of such board;

(b) has absented himself or herself from three consecutive meetings of that board without the leave of the board;

(c) resigns by notice in writing;

(d) accepts any remuneration or allowances from the co-operative other than a honorarium authorized as provided in section 29(4);

(e) is removed from office under subsection (2).

(2) A member of the board may at any time be removed from office by special resolution by the co-operative and in respect of which due notice has been given of the intention to move such a resolution

(3) Any vacancy on the board arising from a circumstance referred to in subsection (1) and every vacancy caused by the death of a member may be filled by the appointment of any other competent person by the board in such manner as may be provided in the by-laws, and every member so

appointed shall hold office for the unexpired portion of the period of office of the vacating members.

32. Office bearers of boards

(1) One member of the board elected in terms of section 29(3) shall, in such manner as may be provided in the by-laws of the co-operative, be elected as the chairperson, and two other such members shall be so elected as the vice-chairperson and secretary of the board.

(2) When the chairperson of the board is absent or is unable to perform his or her functions as chairperson, the vice-chairpeson shall act as chairperson during the absence or incapacity of the chairperson, or, if both the chairperson and the vice-chairperson are absent or unable to perform the functions of the chairperson, the board may elect any other member to act as chairperson during such absence or incapacity, and such member shall, while he or she so acts, have all the powers and shall perform all the duties and functions of the chairperson.

[The word "vice-chairperson" is misspelt in the Government Gazette in its first use in subsection (2), as reproduced above.]

(3) (a) The chairperson of the board of a co-operative shall, subject to his or her remaining a member of the board, retire as chairperson at the first meeting of the board held subsequent to an annual general meeting, but shall be eligible for re-election.

(b) The provisions of paragraph (a) shall mutatis mutandis apply to the vice-chairperson and secretary of the board.

33. Meetings of boards

(1) (a) Subject to paragraph (b), a meeting of the board of a co-operative shall be held on at least four occasions during the financial year of the co-operative at a time and place determined by the chairperson.

(b) The chairperson shall on a reasoned request in writing by at least one-third of the members of the board or by the supervisory committee of the co-operative convene a special meeting of the board.

(2) A majority of all the members of a board of a co-operative, or such larger number of such members as may be determined in the by-laws of a co-operative, shall form a quorum for a meeting of the board.

(3) A decision of the majority of the members of the board present and voting at a meeting of the board, or such larger number of such members so present and voting as may be determined in the by-laws of the co-operative, shall be a decision of the board: Provided that in the event of an equality of votes the chairperson shall, in addition to his or her deliberative vote, have a casting vote.

(4) No decision taken by the board or act performed under the authority of the board shall be invalid by reason only of -

(a) a vacancy on the board;

(b) the fact that a person who is not entitled to sit as a member sat as a member;

(c) the fact that a person who was entitled to be elected, appointed or co-opted was not so elected or appointed or co-opted,

at the time when the decision was taken or the act was authorized, if the decision was taken or the act was authorized by the requisite majority of the members who were present at the time and entitled to sit as members.

34. Minutes of meetings of boards

(1) The board shall cause minutes to be kept of all proceedings at its meetings, to be entered as soon as may be possible, but not later than the date of its next consecutive ordinary meeting, in one or more books to be kept for that purpose at the registered office of the co-operative.

(2) The minutes of any meeting of the board signed by the chairperson of the board shall in any court be prima facie proof of the taking place of anything which according to such minutes took place at such meeting.

35. Liability of members of boards

A member of the board or its chief executive officer or other officer of the co-operative shall not be liable to any person in his or her personal capacity for any loss or damage which may occur in or in connection with the performance of his or her duties, unless -

(a) the loss or damage is due to his or her wilful misconduct, dishonesty or gross negligence or to the fact that he or she wilfully contravened or that he or she refused to comply with a provision of this Act or the by-laws or rules regulating the internal affairs of the cooperative and such loss or damage is not covered by a fidelity guarantee policy or any other similar policy taken out by the co-operative; or

(b) the loss or damage is due to his or her reckless conduct, or conduct which is or was intended to defraud any person or for any other fraudulent purpose,

in which case he or she shall be liable in his or her personal capacity without any limitations or liability.

36. Subcommittees of boards

(1) If provision is made in the by-laws of a co-operative for the establishment and constitution of subcommittees of the board, any such subcommittee shall -

(a) have at least one member of the co-operative who is not a member of the board;

(b) in the case of a co-operative that has more than 20 women as members or if more than one-third of its members are women or the members who are women represent more than three percent of the total number of its members, whichever is the lesser, have at least one woman,

as a member of such subcommittee.

(2) If no woman is, in terms of paragraph (b) of subsection (1), elected or appointed as a member of the subcommittee, the subcommittee shall, at its first meeting held after such election or appointment has taken place, appoint a woman who is a member of the co-operative, and such woman shall have all rights, duties, liabilities and obligations as if she was so elected or appointed.

37. Supervisory committees of co-operatives

(1) A co-operative that has 40 or more members shall, and a cooperative that has less than 40 members may, provide in its by-laws for the establishment of a supervisory committee which shall consist of a chairperson and at least two other members of the co-operative, or if any such member is a corporate body or an unincorporated association of persons, a natural person to represent such member, elected by it at a general meeting mutatis mutandis in the manner determined in its by-laws for the election of members of the board.

(2) A member of the board or the chief executive officer or any other officer in the employ of a co-operative shall not be eligible for election as a member of the supervisory committee.

(3) The provisions of sections 29(3)(b) and (4) shall apply mutatis mutandis in relation to members of the supervisory committee.

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38. Functions of supervisory committees

(1) It shall be the functions of a supervisory committee -

(a) to monitor, as a body independent from the board, the activities of the board; and

(b) to report at least once in every financial year to the members of the co-operative at the annual general meeting of the co-operative on the manner in which the board or any of its members or the chief executive officer or any other officer in the employ of the co-operative have exercised their powers or performed their duties or functions and whether or not such powers, duties or functions have been exercised or performed effectively and in the interest of the cooperative.

(2) For purposes of the performance of its functions the supervisory committee shall have -

(a) access to all registers, records and other documents kept by the co-operative in connection with its management, members, administration and business;

(b) the right to -

(i) be furnished with all such documents and information submitted to or at the disposal of the board;

(ii) make use, out of moneys made available for such purpose, of the services of an expert or specialised institution for a particular period;

(iii) to attend a meeting of the board convened at its request in terms of section 33(1)(b), and may, on special request or invitation by the board, be present at any other meetings of the board;

(c) such other powers as may be conferred upon it by or under any provision of this Act or the by-laws or the rules regulating the internal affairs of the co-operative.

(3) The board shall cause the minutes of meetings of the board to be made available to every member of the supervisory committee at the same time as such minutes are made available to the members of the board.

39. Meetings of supervisory committees

(1) A meeting of the supervisory committee shall be convened by its chairperson at the request of the majority of its members.

(2) The chairperson shall cause minutes to be kept of the proceedings at a meeting of the supervisory committee which shall from time to time be made available to the board.

40. Notification to Registrar of certain information relating to members of boards and supervisory committees

A co-operative shall inform the Registrar in writing of -

(a) the names, identity numbers, occupations and addresses of the members of its board and its supervisory committee, if any, and the Registrar shall keep and maintain a register of such members;

(b) any changes in relation to such members within 14 days of such change, whereupon the Registrar shall make an appropriate entry of such change in the register referred to in paragraph (a).

Part VIII – Meetings of members of co-operatives

41. Annual general meetings

(1) A co-operative may, as soon as possible after its registration, and shall thereafter and within six months or such shorter period as may be required by its by-laws after the end of each financial year of the co-operative, hold an annual general meeting of the members of the co-operative so as to -

(a) consider and approve or issue, in accordance with the provisions of this Act and the by-laws of the co-operative, such other directives as it may deem necessary or expedient -

(i) with due regard to the report of the supervisory committee prepared in terms of section 38(1)(b) and the report of the auditor referred to in section 66, the financial state of affairs of the co-operative;

(ii) the management report, the programme of activities and the estimate of revenue and expenditure of the co-operative prepared by the board in terms of section 29(1)(b);

(b) dispose of any other matters which shall or may in terms of this Act or the by-laws of the co-operative be disposed of at an annual general meeting.

(2) (a) An annual general meeting shall, subject to subsection (1), be held at a time and place determined by the board and shall be convened on the authority of the board by giving each member of the co-operative at least 21 days written notice of the meeting.

(b) A notice referred to in paragraph (a) shall, in addition to the time and place of the meeting, state such business as may be determined by the board to be considered at such meeting.

(c) No business other than the business stated in the notice referred to in paragraph (a) or business in respect of which notice has been given, not later than seven days before the time referred to in paragraph (a), to the board by at least 10 members of the co-operative shall be considered at an annual general meeting, except with the approval of at least two-thirds of the members present at such annual general meeting.

(3) If the board fails to convene an annual general meeting as provided for in this section, the supervisory committee shall have the power to convene an annual meeting as if it were the board and its chairperson were the chairperson of the board.

42. Ordinary and extraordinary general meetings

(1) A co-operative may, in addition to its annual general meeting, from time to time hold ordinary general meetings and extraordinary general meetings of its members in order to dispose of any matter relating to the affairs of the co-operative which is not a matter to be disposed of at an annual general meeting or of any matter dealt with but not disposed of, at an annual general meeting.

(2) An ordinary general meeting may as a routine procedure from time to time be convened by the board of the co-operative as provided in the bylaws of the co-operative.

(3) An extraordinary general meeting shall be convened by the chairperson of the board on a reasoned request in writing by -

(a) at least one-third of the members of the board of the co-operative;

(b) the supervisory committee of the co-operative;

(c) in the case of a primary co-operative, at least one-tenth of all the members of the co-operative or, if the co-operative has more than 400 members, by at least 40 of its members, whichever is the lesser;

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(d) in the case of a secondary co-operative or a co-operative of a level higher than the level of a secondary co-operative, at least two or more members of the co-operative constituting one-tenth of all the members of the co-operative,

and shall be so convened by giving each member of the co-operative at least 14 days' written notice of the meeting.

43. Appointment of proxies

A member of a co-operative that has more than 1000 members may, if authorized thereto by the by-laws of the co-operative, appoint, in a form approved by the Registrar, any member who is competent to become a member of the board as his or her proxy to attend, speak and vote in his or her stead at a general meeting of the co-operative: Provided that -

(a) a member shall not be entitled to appoint more than one proxy;

(b) the same member shall not act as proxy to more than seven members.

44. Quorum for general meetings

(1) Unless the by-laws of a co-operative require a larger quorum, a quorum for a general meeting of a co-operative shall be constituted by at least -

(a) one-half of its first 20 members; and

(b) if the co-operative has more than 20 but not more than 100 members, a further one-quarter of the number of its members above 20 in addition to the quorum referred to in paragraph (a); and

(c) if the co-operative has more than 100 but fewer than 1000 members, a further one-twentieth of the number of its members above 100 in addition to the quorum referred to in paragraphs (a) and (b); and

(d) if the co-operative has more than 1000 members, a further onefiftieth of the number of its members above 1000 in addition to the quorum referred to in paragraphs (a), (b) and (c),

or, in the case of a general meeting of delegates, a quorum for any such general meetings shall be a majority of the delegates elected or appointed as provided in its by-laws.

(2) If within one hour from the time appointed for any general meeting of a co-operative a quorum for such meeting is not present, a second general meeting shall be deemed to be adjourned to a time, not later than 15 days thereafter, determined by the chairperson of the board.

(3) If within one hour from the time determined for an adjourned meeting referred to in subsection (2) a quorum for such meeting is not present, the members present, not being fewer than five, in the case of a primary co-operative, or two, in the case of a secondary co-operative or a co-operative of a level higher than the level of a secondary co-operative, shall be deemed to constitute a quorum for such meeting: Provided that no resolution shall be passed at such a meeting relating to the conversion of the co-operative into a company or close corporation, the winding up of the co-operative, or a matter referred to in section 60.

45. Chairperson of general meetings

(1) The chairperson of the board of a co-operative shall act as the chairperson of any general meeting.

(2) When the chairperson of the board is absent from a general meeting referred to in subsection (1) or is unable to perform his or her functions as chairperson, the vice-chairperson of the board shall act as chairperson during the absence or incapacity of the chairperson, and if both the chairperson and the vice-chairperson are absent or unable to perform the functions of the chairperson, the meeting may elect any other member of the board to act as chairperson during such absence or incapa-city,

and such member shall, while he or she so acts, have all the powers and shall perform all the duties and functions of the chairperson.

[The word "incapacity" contains an unnecessary hyphen.]

46. Minutes of general meetings

A co-operative shall cause minutes to be kept of all proceedings at its general meetings and to be entered as soon as may be possible, but not later than the date of the next annual general meeting or ordinary or extraordinary general meeting, as the case may be, of the members of the co-operative, in one or more books to be kept for that purpose at the registered office of the co-operative.

47. Voting rights of members

(1) Every member of a co-operative who is not temporarily suspended as a member in terms of the provisions of section 21(1)(b) shall have the right to vote at a general meeting of the co-operative.

(2) A member present at a general meeting of a co-operative and entitled to vote thereat shall have -

(a) in the case of a primary co-operative where a vote is taken by way of the show of hands or secret ballot, one vote irrespective of the number of shares he or she or it holds;

(b) in the case of a secondary co-operative or a co-operative of a level higher than secondary level, subject to the provisions of subsection (3), as many votes as may be provided for in the by-laws of that co-operative.

(3) If the by-laws of a co-operative referred to in paragraph (b) of subsection (2) provide for a different number of delegates in respect of its different members, the number of delegates, each having one vote, of each co-operative entitled to vote as a member at a general meeting of any such co-operative shall not exceed a number equal to three times the lowest number of delegates so provided for.

48. Meetings of members held on area or regional basis

(1) If provision is made in the by-laws of a co-operative for the holding of meetings of members on the basis of different regions or areas followed by a general meeting of delegates elected or appointed at meetings held on such regional or area basis, a meeting so held on a regional or area basis shall be held at least 10 days before each general meeting and shall be attended by at least one member of the board.

(2) Unless the by-laws of a co-operative determine otherwise, any recommendation made or descision taken at a meeting held on an area or regional basis shall be valid notwithstanding the number of members who were present at such meeting.

[The word "decision" is misspelt in the Government Gazette, as reproduced above.]

(3) In respect of each meeting held on a regional or area basis there shall be elected or appointed as provided in the by-laws of the co-operative two persons charged with the powers, duties and functions ordinarily exercised or performed by a chairperson and a secretary.

(4) The provisions of this Act relating to general meetings shall mutatis mutandis apply in respect of meeting of delegates referred to in subsection (1).

Part IX – Financial matters of co-operatives

49. Funds of co-operatives

The funds of a co-operative shall comprise -

(a) moneys obtained by way of shares issued to members of the co-operative;

(b) moneys received by way of fees charged in terms of the by-laws of the co-operative on admission of members;

(c) moneys set aside in terms of the provisions of this Act or the bylaws of the co-operative by way of capital reserve funds or deferred expenditure funds out of the net surplus of the co-operative;

(d) grants and donations;

(e) moneys borrowed by way of loans from any person;

(f) any other moneys received by the co-operative from any source.

50. Share capital of co-operatives

(1) (a) Subject to subsection (2), a co-operative may, subject to such limitations as may set out in its by-laws, issue as many shares as it may deem fit.

(b) A share in a co-operative shall come into being when issued and shall lapse when cancelled under section 54.

(c) The share capital of a co-operative shall be the total nominal value of the shares issued in terms of its by-laws by such co-operative.

(2) (a) A share shall not be issued by a co-operative at a value of less than one Namibia dollar, and every member shall hold at least one share.

(b) No member other than a member which is a co-operative shall hold more than one-fifth of the share capital of any co-operative.

51. Share certificates

(1) Every member of a co-operative shall be entitled to a share certificate in respect of shares issued or share certificates in respect of shares issued from time to time to him or her or it, signed by at least one member of the board of such co-operative and an officer duly authorized thereto by such co-operative, specifying the name of the member to whom it has been issued, the number of shares in the co-operative of which such member is the holder and the nominal value of such shares.

(2) A share certificate referred to in subsection (1) may be signed by affixing to such share certificate the signature of the member of the board and officer concerned by autographic or mechanical means.

(3) A share certificate referred to in subsection (1) held by a member of a co-operative shall be prima facie proof of the title of such member to the shares specified therein.

(4) A share certificate which has been lost or destroyed shall be replaced by the co-operative against payment of an amount prescribed by or under the by-laws or the rules regulating the internal affairs of such co-operative.

52. Payment for shares

(1) A share in a co-operative shall not be issued -

(a) at an amount other than the nominal value thereof;

(b) for any consideration other than money.

(2) If authorized thereto by its by-laws, a co-operative may issue shares not fully paid up, and such shares shall be paid for in such manner, at such times and on such conditions as may be set out in the by-laws: Provided that -

(a) no share shall be issued unless at least one-tenth of the nominal value of the shares has been paid to the co-operative;

(b) an amount payable by a co-operative to a member in respect of bonuses or dividends on shares may be set off by the co-operative against any arrears on shares held by such a member;

(c) a co-operative may, if it deems fit, accept from a member an amount due, but not yet payable, on such members' shares.

53. Bonus shares

(1) The by-laws of a co-operative may provide for the allocation of bonus shares to the members of the co-ooperative in accordance with the patronage proportion as determined in the by-laws.

[The word "co-operative" is misspelt in the Government Gazette in its second use in subsection (1), as reproduced above.]

(2) Any bonus shares allocated as provided in subsection (1) shall not be withdrawn or transferred, except -

(a) after such period, but not less than five years, as may be determined in the by-laws of a co-operative; or

(b) upon the sequestration of the estate or the death or winding-up, as the case may be, of a member.

54. Cancellation of shares

(1) A share in a co-operative issued to a member may, subject to the provisions of the by-laws of such co-operative, be cancelled -

(a) if such member dies;

(b) in the case of a member which is a corporate body, if it is wound up;

(c) if the estate of such member is sequestrated;

(d) if such member terminates his or her membership under paragraph (a) of subsection (1) of section 21;

(e) if such member is expelled as a member from the co-operative under section 21(1)(b);

(f) if such member no longer qualifies to remain a member of the co-operative;

(g) on any other ground set out in the by-laws of such co-operative.

(2) The amount paid up on shares cancelled under subsection (1) shall be refunded by the co-operative to the person who was the holder of the cancelled shares, in such manner and at such time or over such period as set out in the by-laws of the co-operative.

(3) A person who was the holder of shares immediately before the cancellation thereof under subsection (1) shall not by reason only of such cancellation be released from any liability in respect of such shares until the date on which the amount referred to in subsection (2) has been refunded.

55. Transfer of shares

(1) A member of a co-operative shall not transfer any share held by him or her or it, unless such share is transferred, in such manner and subject to such limitations as may be determined by the by-laws of the co-operative, to the co-operative, a member of the co-operative or a person whose application for membership has been accepted by the co-operative.

(2) Any transfer of shares shall take effect when such transfer is registered in the register of members referred to in section 20.

56. Restriction on loans and investment of funds of co-operatives

(1) The board shall not, in terms of the by-laws of a co-operative, obtain any loan exceeding an amount determined by resolution at a general meeting of the co-operative, except with the prior approval of the members granted by resolution at a general meeting.

(2) The board shall not, in terms of the by-laws of a co-operative, invest any amount exceeding an amount determined by resolution at a general meeting of members of the co-operative, except with the prior approval of the members granted by resolution at a general meeting.

57. Provisions relating to grants, donations or other contributions made to co-operative

(1) (a) Any person who makes any grant, donation or other contribution of whatever nature to a co-operative shall within two months after such grant, donation or contribution has been so made, notify the Registrar in writing of the nature and purpose of such grant, donation or contribution, and shall at the same time submit a copy of such notice to the co-operative concerned.

(b) The provisions of paragraph (a) shall not be construed as requiring a person referred to in that paragraph to consult the Registrar before making such grant, donation or contribution.

(2) A co-operative to which any grant, donation or contribution referred to in subsection (1) has been made shall, in such form as may be determined by the Re-gistrar, notify the Registrar in writing of the nature of any such grant, donation or contribution, and shall at the same time submit a copy of such notice to the person who has made such grant, donation or contribution.

[The first use of the word “Registrar” in subsection (2) contains an unnecessary hyphen.]

58. Co-operatives may maintain capital reserve funds or deferred expenditure funds

(1) A co-operative may, subject to subsection (2), set aside in a capital reserve fund or a deferred expenditure fund or in a capital reserve fund and a deferred expenditure fund as a reserve any amount or amounts out of its net surplus.

(2) A co-operative shall not distribute to its members out of its net surplus an amount equal to at least 20 percent of such net surplus, but -

(a) shall -

(i) issue bonus shares in respect of such amount to its members; or

(ii) set aside an amount equal to at least five percent of such amount in any one or both funds referred to in subsection (1); or

(b) may utilize the balance of the amount referred to in paragraph (a)(ii) as capital in the business of the co-operative, or cause it to be invested in a manner approved by resolution by the members of the co-operative at a general meeting.

59. Distribution of net surplus

(1) Subject to subsection (2), the balance of the net surplus of a co-operative remaining after the 20 percent referred to in subsection (2) of section 58 has been utilized as provided in that subsection and any surplus carried forward from preceding years may be utilized in one or more of the following ways, namely -

(a) to pay bonuses to each member of the co-operative in such proportion as the proportion which the value of the transactions conducted by each such member with the co-operative during the financial year in question bears to the value of the transactions conducted by all members with the co-operative during such financial year ;

(b) to pay interest to the members of the co-operative on amounts paid up on shares which shall not exceed the rate of interest determined in terms of section 35(a) of the State Finance Act, 1991 (Act 31 of 1991) in respect of loans granted as a charge against the State Revenue Fund;

(c) to pay incentive bonuses to the employees of the co-operative;

(d) to fund any special funds established by or under the by-laws of the co-operative;

(e) to make grants, donations or other contributions to charitable institutions to a total amount not exceeding 10 percent of the net surplus derived in the immediately preceding financial year of the co-operative;

(f) to pay honoraria authorized as provided in section 29(4) to members of the board;

(g) to pay up bonus shares for allocation to the members of the co-operative in accordance with the provisions of section 53;

(h) for any other purpose provided for in the by-laws.

(2) If a loss is incurred during any financial year the net surplus in any succeeding financial year or years shall not be distributed to members until such time as such loss has been recovered.

60. Restriction on granting financial assistance

A co-operative shall not -

(a) advance money to a co-operative of which it is member;

(b) indemnify its members or any such co-operative against damage or loss; or

(c) become a surety or give security on behalf of its members or any such co-operative,

except under the authority of a special resolution.

61. Restriction relating to borrowing money

(1) A co-operative shall not borrow or raise money or overdraw a banking account for an amount exceeding one half of the aggregate of its share capital and general reserve, except under the authority of a special resolution.

(2) Money standing to the credit of members in a members' fund administered by a co-operative shall for the purposes of subsection (1) not be deemed to be money borrowed or raised by such co-operative.

Part X – Accounting records, annual financial statements and auditing

62. Financial year

The financial year of a co-operative shall, unless its by-laws provide otherwise, be a year ending on the last day of February.

63. Keeping of accounting records

(1) Subject to subsection (3), a co-operative shall keep, in accordance with general accepted accounting principles, such accounting records as are necessary fairly to reflect the state of affairs and business of the co-operative and to explain the transactions and financial position of the business of the co-operative, including -

(a) records showing the assets and liabilities of the co-operative;

(b) a register of fixed assets showing in respect of each asset the date of acquisition, the cost price or, if it stands in the co-operative's books at a valuation, the amount of the valuation, depreciation, if any, the date of disposal and the consideration received in respect thereof, and in the case of immovable property a valuation may be done once every three years, and in the intermediate 2 years an estimate shall be sufficient;

(c) records containing daily entries in sufficient detail of all cash received and paid out and of the matters in respect of which cash is received and paid out;

(d) where the business of the co-operative involved dealings in goods, records of all goods sold and purchased;

(e) where the business of the co-operative involved dealings with members and non-members, separate accounts in respect of business with members and non-members; and

(f) statements of an annual stocktaking.

(2) The accounting records referred to in subsection (1) may be kept either by making entries in bound books or by recording the matters in question in any other manner, and where such records are not kept by making entries in bound books, adequate precautions shall be taken for guarding against falsification and for facilitating its discovery.

(3) The Registrar may, on application made to him or her by any co-operative and if he or she is satisfied that, having regard to the nature and extent of the business transactions carried on by it, such co-operative is unable to keep its accounting records in the form and manner as provided in subsection (1) or that it is impractical for such co-operative to keep such accounting records, authorize such co-operative to keep such other accounting records as may be determined or approved by him or her.

(4) The accounting records referred to in subsection (1) shall be kept at the registered office of the co-operative or at such other place as may be determined by the co-operative and shall at all times be available for inspection by any member of the board or its auditor.

64. Annual financial statements

(1) A co-operative shall in respect of each financial year of the co-operative cause financial statements to be made out.

(2) The financial statements required to be made out in terms of subsection (1) shall consist of -

(a) a balance sheet dealing with the assets and liabilities of the co-operative;

(b) an income statement or any similar financial statement dealing with the surplus or losses of the co-operative;

(c) a board's report in accordance with section 29(1)(b); and

(d) an auditor's report in accordance with section 68(3).

(3) The annual financial statements referred to in subsection (2) shall not be issued, sent out or made available for inspection, unless the original or a copy thereof signed by -

(a) at least two members of the board duly authorized thereto by the board; and

(b) the auditor of the co-operative,

has been filed at the registered office of the co-operative.

65. Rights of members to inspect annual financial statements

Unless copies of the annual financial statements were sent to every member of the co-operative at least 14 days before the annual general meeting at which such statements are to be dealt with, the co-operative

shall for a period of at least 14 days before the said meeting make copies of the said statements available at the registered office and every branch of the co-operative for inspection by the members of the co-operative.

66. Annual auditing of co-operatives

(1) A co-operative shall cause its accounting records and annual financial statements to be audited annually within a period of four months or, with the prior approval in writing of the Registrar, five months after the end of its financial year.

(2) (a) A co-operative shall at its first and at every subsequent annual general meeting appoint a person or persons as the co-operative's auditor or auditors.

(b) Unless the Registrar in the case of any particular co-operative and upon good cause shown determines otherwise, a person appointed under paragraph (a) shall be a person who is registered in terms of the Public Accountants' and Auditors' Act, 1951 (Act 51 of 1951) as an accountant and auditor and is engaged in private practice or a firm of such accountants and auditors.

(c) A person shall not hold office as auditor of a co-operative if -

(i) he or she is or at any time during the financial year in question was a member of the board, employee or member of the co-operative;

(ii) he or she is related in the first degree of consanguinity or affinity to a member of the board of the co-operative concerned.

(d) An auditor appointed under paragraph (a) shall hold office until the conclusion of the first annual general meeting of the co-operative in question, held subsequent to his or her appointment.

(e) A person holding office as auditor of a co-operative at the commencement of any annual general meeting of the co-operative shall be deemed to be reappointed as auditor at such meeting without any resolution being passed, unless -

(i) he or she has given the co-operative notice in writing that he or she is not prepared to be reappointed as the co-operative's auditor; or

(ii) a resolution is passed at the meeting that he or she be not reappointed as auditor of the co-operative.

(f) A casual vacancy in the office of auditor of a co-operative -

(i) shall, if there is one incumbent, be filled by the board of the co-operative within 60 days;

(ii) may, if there are two or more incumbents, be filled by the board as it deems fit.

(g) Any person appointed in a vacancy under paragraph (f) shall hold office until the conclusion of the first annual general meeting held subsequent to his or her appointment.

67. Rights of auditor

An auditor of a co-operative shall have -

(a) the right of access to the accounting records, all previous and current annual financial statements and all other books and documents of the co-operative, and may demand such information and explanations from the board and employees of the co-operative as he or she may think necessary in performing his or her duties as auditor;

(b) the right to attend any general meeting of the co-operative and to receive all notices of and other communications relating to any general meeting which a member of the co-operative is entitled to receive and, subject to such reasonable limitations as may be imposed by a general meeting, to be

heard at any such meeting at tended by him or her on any part of the business of the meeting which concerns him or her as auditor.

68. Powers and duties of auditor

(1) It shall be the duty of the auditor of a co-operative -

(a) to examine the co-operative's annual financial statements referred to in section 64(2)(a), (b) and (c);

(b) to satisfy himself or herself that proper accounting records in accordance with the requirements of this Act have been kept by the co-operative and that the proper returns, adequate for the purposes of his or her audit, have been received from branches and depots, if any, not visited by him or her;

(c) to satisfy himself or herself that the books of minutes of meetings contemplated in section 34 and 46 are in good order;

(d) to examine, or satisfy himself or herself as to the existence of, any securities of the co-operative;

(e) to obtain all the information and explanations which to the best of his or her knowledge and belief are necessary for the purpose of carrying out his or her duties;

(f) to satisfy himself or herself that the co-operative's annual financial statements are in agreement with its accounting records;

(g) to examine the accounting records of the co-operative and carry out such tests in respect of such records and such other auditing procedures as he or she may consider necessary in order to satisfy himself or herself that the annual financial statements fairly reflect the financial state of affairs of the co-operative and the results of its operations in conformity with generally accepted accounting practice applied on a basis consistent with that of the preceeding year;

[The word "preceding" is misspelt in the Government Gazette, as reproduced above.]

(h) to satisfy himself or herself that statement made by the board in its report do not conflict with a fair interpretation or distort the meaning of the annual financial statements and accompanying notes;

(i) to perform any other duty that may be prescribed by or imposed on him or her by this Act;

(j) to comply with any applicable requirements of the Public Accountants' and Auditors' Act, 1951; and

(k) to satisfy himself or herself that the co-operative has complied with the provisions of this Act, in so far as they relate to the carrying out of its objects, and the provisions of its by-laws.

(2) The auditor may at any time during the audit consult the supervisory committee of the co-operative concerned, and shall inform the chairperson of the board and the supervisory committee of the findings of his or her work after completion of the audit.

(3) When the auditor of a co-operative has complied with the provisions of subsection (1) he or she shall make a report regarding his or her audit to the members of the co-operative which shall include -

(a) if the auditor is of the opinion that the annual financial statements referred to in section 64(2)(a), (b) and (c) fairly reflect the financial state of affairs of the co-operative and the results of its activities in the manner required by this Act, a certificate to that effect;

(b) if the auditor is unable to give the said certificate or to give it without qualification, a statement to that effect and the facts or circumstances which prevent him or her from giving the said certificate or from giving it without qualification, as the case may be;

(c) any other matter which in terms of any provision of this Act may be, or is required to be, dealt with in an auditor's report.

(4) An auditor's report shall be available for inspection before and during an annual general meeting and shall be formally submitted for discussion at an annual general meeting.

69. Submission of annual reports and auditors' reports

A co-operative shall, as soon as practicable, but not later than one month after the end of the annual general meeting, submit to the Registrar an annual report, in such form as may be determined by the Registrar, on its activities during its financial year, together with two certified copies of the audited financial statements of the co-operative and the auditor's report for that year after they have been approved by the annual general meeting.

70. Enquiries into affairs of co-operatives by or on authority of Registrar or supervisory committees

(1) The Registrar or the supervisory committee -

(a) may of his or her or its own accord; or

(b) shall upon -

(i) a request in writing of at least 10 percent of the members of a co-operative;

(ii) a request by way of a resolution passed at a general meeting; or

(iii) a request by way of a resolution passed by the board,

enquire into the affairs of the co-operative in so far as it relates to the by-laws of the co-operative or its management, control, or its organization or financial position.

(2) For purposes of an enquiry referred to in subsection (1), the Registrar or the supervisory committee, as the case may be -

(a) shall, in the case of a request referred to in subsection (1), commence such enquiry within a period of two months as from the date of receipt of such request;

(b) may cause such enquiry to be carried out by a committee of enquiry appointed by the Registrar or supervisory committee, as the case may be, consisting of not less than two persons of whom, in the case of a request referred to in subsection (1), at least one shall be designated by the persons who have made such request.

(3) After the conclusion of an enquiry referred to in subsection (1) -

(a) in the case of an enquiry held by or on the authority of the Registrar, the Registrar shall communicate the outcome of such enquiry to the co-operative;

(b) in the case of an enquiry held by or on the authority of the supervisory committee, the supervisory committee shall convene a general meeting of members of the co-operative in order to inform such members of the outcome of such enquiry and to decide upon any steps, if any, which may in consequence of such outcome be taken in accordance with the provisions of the Act of the by-laws of the co-operative.

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71. Powers of Registrar on account of reports or in consequence of enquires

(1) The Registrar may if he or she is on account of any report submitted to him or her in terms of this Act or an enquiry so held satisfied that a co-operative has failed to comply with any provision of this Act or its bylaws -

(a) direct any such co-operative by notice in writing -

(i) to submit to the Registrar, within such period as may be specified in such notice, such information as may be so specified in order to enable the Registrar to determine in which manner such co-operative is carrying on its business or the manner in which it intends to carry on such business in order to ensure compliance by such co-operative with such provisions;

(ii) to take, within such period as may be specified in such notice, or to refrain from taking such steps as may be so specified which may in his or her opinion ensure compliance by the co-operative with such provisions or may in his or her opinion be necessary in the inte-rests of the members of the co-operative;

[The word "interests" contains an unnecessary hyphen.]

(b) prohibit any such co-operative by notice in writing as from such date as may be specified in such notice from entering into any transaction until such time as such co-operative complies with such provisions;

(c) take, subject to the provisions of this Act, within such period as may be specified in such notice, such other steps, so specified, as may in his or her opinion be necessary in order to ensure compliance by the co-operative of such provisions or may be so necessary in the interest of the members of the co-operative.

(2) (a) Any steps contemplated in paragraph (a) of subsection (1) may include a direction in terms of which the co-operative concerned is direc-ted -

[The word "directed" contains an unnecessary hyphen.]

(i) to realize, within a period specified in the notice in question, any asset of such co-operative so specified and to utilize the proceeds of such realization in such manner or for such purpose as may be so specified;

(ii) to conduct, within a period or for a period specified in the notice in question, the business carried on by it in such manner as may be determined by the Registrar and specified in such notice.

(b) If a co-operative referred to in paragraph (a) which has been directed to realize any of its assets and to utilize the proceeds of such realization in a particular manner, fails to comply with the direction in question within the period specified, the Registrar may himself or herself realize such assets and may sign any documents required in respect of such realization as if he or she were the owner of such assets and to utilize the proceeds of such realization in the manner specified in the notice in question.

72. Expenses incurred in connection with enquires held under this Act

The expenses incurred in connection with any enquiry held under this Act shall be paid -

(a) by the persons who requested such enquiry to the extent and in the proportion determined by the Registar having regard to the fact whether or not the request was in the opinion of the Registrar justified or unreasonable or of a frivolous nature; or

[The word "Registrar" is misspelt in the Government Gazette in its first use in paragraph (a), as reproduced above.]

(b) in the case of a co-operative in respect of which a notice as provided in section 71 is issued, by the co-operative concerned.

Part XI – Amalgamation, transfer, division and conversion of co-operatives

73. Amalgamation of co-operatives

(1) (a) Subject to praragraph (b), any two or more co-operatives intending to amalgamate may, in such form as may be determined by the Registrar, apply to the Registrar to be amalgamated.

[The word "paragraph" is misspelt in the Government Gazette, as reproduced above.]

(b) Subject to paragraph (c), an application referred to in paragraph (a) shall not be made except on the authority of a special resolution passed by each of such co-operatives at a general meeting convened for such purpose.

(c) A special resolution referred to in paragraph (b) shall not be passed, unless at least three months' notice of the intended amalgamation has been given to the creditors of each of the co-operatives concerned who shall, on demand, be entitled to payment of any amounts owing to any of them on the date immediately before the amalgamated co-operative is registered.

(2) An application referred to in subsection (1)(a) shall be accompanied by -

(a) a declaration by each of the persons who acted as the chairperson of the general meeting at which the special resolution referred to in subsection (1)(b) was passed -

(i) that the meeting of which he or she was the chairperson was held on a date mentioned in the declaration;

(ii) that he or she has satisfied himself or herself that proper notice of the meeting and the proposed special resolution has been given to the members of the co-operative;

(iii) that proper notice has been given to the creditors of the co-operatives concerned and that any such creditors who demanded payment of any amounts owing to them have been paid, or will be paid before the registration of the proposed amalgamated co-operative; and

(iv) that the special resolution was passed by the requisite majority;

(b) a copy of each of the relevant special resolutions and an explanation of the reasons for the proposed amalgamation;

(c) the proposed by-laws, containing provisions referred to in subsection (3), for the amalgamated co-operative approved by the respective co-operatives at a general meeting; and

(d) revenue stamps to the value of such amount as may be determined in terms of section I 06 in respect of the application made in terms of this section, and which shall be cancelled by the Registrar upon the granting of the application.

(3) The by-laws of an amalgamated co-operative shall contain provisions so as to effectively accomplish the amalgamation of the co-operatives concerned, and shall in particular provide for -

(a) the appointment of the first members of the board of the amalgamated co-operative;

(b) the issue of shares in the amalgamated co-operative to the members thereof in the place of the shares which the said members held in the previous co-operatives; and

(c) the application of any net surplus which may have resulted from the operations of the previous co-operatives in respect of a period immediately preceding the amalgamation: Provided that any net surplus (or portion thereof) of the previous co-operatives in respect

of the said period may be separately determined and be distributed amongst the persons who immediately before the amalgamation were members of such a co-operative in the same proportion as the proportion in which such surplus (or portion) would have been distributed among the said persons had the co-operative still existed.

(4) If the Registrar is satisfied that the provisions of this Act have been complied with in respect of an application referred to in subsection (2) and that the proposed by-laws and the registration of the proposed amalgamated cooperative are not in conflict with the provisions of this Act, he or she shall -

(a) grant such application and register the amalgamated co-operative by entering in the register of co-operatives such particulars of such co-operative as provided in terms of section 5;

(b) approve, with or without any amendments, the by-laws of the amalgamated co-operative and make an endorsement on each page of such by-laws to the effect that such by-laws have been approved by him or her, and affix the official stamp of the Registration Office for Co-operatives on each such page;

(c) strike the names and other particulars of the co-operatives referred to in subsection (1)(a) off the register of co-operatives and enter the name and other particulars of the amalgamated co-operative in that register; and

(d) issue, in such form as may be determined by the Registrar, a certificate of registration that the amalgamated co-operative concerned is registered and on which the seal of the Registrar has been impressed and to which a number has been allotted.

(5) The certificate of registration issued in terms of paragraph (d) of subsection (4) and the by-laws endorsed as provided in paragraph (b) of that subsection shall be handed over or forwarded by certified post to the amalgamated co-operative registered in terms of paragraph (a) of that subsection, and a copy of such certificate and by-laws shall be retained by the Registrar in the Registration Office for Co-operatives.

(6) As from the date on which the amalgamated co-operative concerned has been registered in terms of subsection (4) -

(a) the co-operatives referred to in subsection (1)(a) shall cease to exist;

(b) the amalgamated co-operative shall become a juristic person;

(c) subject to subsection (8), the persons who at the said date were members of the said co-operatives shall ipso facto become members of the amalgamated co-operative;

(d) all assets, rights, liabilities and obligations of the said co-operatives shall, subject to the provisions of subsection (7), vest in the amalgamated co-operative;

(e) the by-laws shall bind the co-operative and each member (including an executor, a trustee, or other administrator of a member's estate) to the same extent as if it has been signed by each member, to observe, subject to the provisions of this Act, all the provisions of the by-laws.

(7) (a) Any property which vests, by virtue of the provisions of paragraph (d) of subsection (6), in the amalgamated co-operative shall be transferred, without payment of transfer duty, stamp duty or any other fee or charge, to the amalgamated co-operative.

(b) The registrar of deeds shall upon production to him or her of the title deed of immovable property which is as provided in paragraph (a) transferred to the amalgamated co-operative concerned, endorse the title deed to the effect that the immovable property described therein vests in the amalgamated co-operative and shall make the necessary entries in his or her registers, and thereupon that title deed shall serve and avail for all purposes as proof of the title of that amalgamated co-operative to the propety in question.

[The word "property" is misspelt in the Government Gazette in its third use in paragraph (b), as reproduced above.]

(8) Any member of a co-operative referred to in subsection (1)(a) may, not withstanding anything to the contrary contained in the by-laws of that cooperative, by notice in writing, given within at least one month after the meeting on which the special resolution referred to in subsection (1)(b) has been passed, terminated his or her membership of such co-operative on the date immediately before the date on which the amalgamated co-operative is registered in terms of paragrah (a) of subsection (4).

[The word "paragraph" is misspelt in the Government Gazette, as reproduced above.]

74. Division of co-operatives

(1) (a) Subject to paragraph (b), any co-operative may in such form as may be determined by the Registrar, apply to the Registrar for approval to divide itself into two or more co-operatives.

(b) Subject to paragraph (c), an application for the approval of the Registrar referred to in paragraph (a) shall not be made except on the authority of a special resolution passed by the co-operative concerned at a general meeting convened for such purpose.

(c) A special resolution referred to in paragraph (b) -

(i) shall not be passed, unless at least three months' notice of the intended division has been given to the creditors of the co-operative concerned who shall, on demand, be entitled to payment of any amounts owing to any of them on the date immediately before the co-operatives into which the co-operative concerned has been divided, is registered;

(ii) shall -

(aa) set out particulars of the manner in which the assets, rights, liabilities and obligations of the co-operative concerned shall be divided between the co-operatives into which it is to be divided;

(bb) specify the members of the co-operative concerned who shall constitute each co-operative into which such first mentioned co-operative is to be divided; and

(cc) describe the area in which each co-operative into which the co-operative concerned is to be divided shall carry on business.

(2) A special resolution referred to in subsection (1)(b) shall be submitted to all members of the co-operative concerned.

(3) An application referred to in subsection (1)(a) shall be accompanied by -

(a) a declaration by the person who acted as the chairperson of the general meeting at which the special resolution referred to in sub section (1)(b) was passed -

(i) that the meeting of which he or she was the chairperson was held on a date mentioned in the declaration;

(ii) that he or she has satisfied himself or herself that proper notice of the meeting and the proposed special resolution has been given to the members of the co-operative;

(iii) that proper notice has been given to the creditors of the co-operative and that any such creditors who demanded payment of any amounts owing to them have been paid or will be paid before the co-operatives into which the co-operative concerned is to be divided, is registered; and

(iv) that the special resolution was passed by the requisite majority;

(b) a copy of the special resolution in question and an explanation of the reasons for the proposed division;

(c) the proposed by-laws of each proposed co-operative into which the co-operative concerned is to be divided;

(d) such other documents and information in respect of each co-operative into which the co-operative concerned is to be divided as required in terms of section 15 for registration of a co-operative and as may be determined by the Registrar;

(e) revenue stamps to the value of such amount as may be determined in terms of section 106 in respect of applications made in terms of this section, and which shall be cancelled by the Registrar upon the granting of the applicaiton.

[The word "application" is misspelt in the Government Gazette, as reproduced above.]

(4) If the Registrar is satisfied that the provisions of this Act have been complied with in respect of an application referred to in subsection (2) and that the proposed by-laws and the registration of each of the proposed co-operatives are not in conflict with the provisions of this Act, he or she shall -

(a) grant the application and register the respective co-operatives into which the co-operative concerned has been divided by entering in the register of co-operatives such particulars of such co-operatives as provided in terms of section 5;

(b) approve, with or without any amendments, the by-laws of each such co-operative and make an endorsement on each page of such bylaws to the effect that such by-laws have been approved by him or her and affix the official stamp of the Registration Office for Co-operatives on each such page;

(c) strike the name and other particulars of the co-operative referred to in subsection (1)(a) off the register of co-operatives and enter the names and other particulars of the co-operatives into which such co-operative has been divided in that register; and

(d) issue, in such form as may be determined by the Registrar, in respect of each such co-operatives a certificate of registration that the co-operatives concerned are registered and on which the seal of the Registrar is impressed and to which a number has been allotted.

(5) The certificate of registration issued in terms of paragraph (d) of subsection (4) and the by-laws endorsed as provided in paragraph (b) of that subsection shall be handed over or forwarded by certified post to each of the co-operatives registered in terms of paragraph (a) of that subsection, and a copy of such certificate and by-laws shall be retained by the Registrar in the Registration Office of Co-ope-ratives.

[The word "Co-operatives" contains an unnecessary hyphen.]

(6) As from the date on which the co-operatives concerned have been registered in terms of subsection (4) -

(a) the co-operative referred to in subsection (1)(a) shall cease to exist;

(b) the co-operatives into which such co-operative has been divided shall become juristic persons;

(c) subject to subsection (8), the persons who at the said date were members of the said co-operative shall ipso facto become members of the co-operatives so registered to the extent specified in the special resolution as provided in paragraph (c)(ii)(bb) of subsection (1);

(d) all assets, rights, liabilities and obligations of the said co-operative shall, subject to the provisions of subsection (7), vest in the co-operatives so registered to the extent specified in the special resolution as provided in paragraph (c)(ii)(aa) of subsection (1);

(e) the by-laws shall bind each such co-operative and each member (including an executor, a trustee or other administrator of a member's estate) to the same extent as if it had been signed by each member, to observe, subject to the provisions of this Act, all the provisions of the by-laws.

(7) (a) Any property which vests, by virtue of the provisions of paragraph (d) of subsection (6), in the co-operatives concerned shall be transferred, without payment of transfer duty, stamp duty or any other fee or charge, to each such co-operative.

(b) The registrar of deeds shall upon production to him or her of the title deed of immovable property which is as provided in paragraph (a) transferred to the co-operative concerned endorse the title deed to the effect that the immovable property described therein vests in that co-operative and shall make the necessary entries in his or her registers, and thereupon that title deed shall serve and avail for all purposes as proof of the title of the co-operative to the property in question.

(8) Any member of a co-operative referred to in subsection (1)(a) may, notwithstanding anything to the contrary contained in the by-laws of that co-operative, by notice in writing, given within at least one month after the meeting on which the special resolution referred to in subsection (1)(b) has been passed, terminate his or her membership of such co-operative on the date immediately before the date on which the co-operative ceases to exist in terms of paragraph (a) of subsection (6).

75. Transfer of assets and liabilities of co-operative to any other co-operative

(1) (a) Subject to paragraph (b), any co-operative may in such form as may be determined by the Registrar apply to the Registrar for approval to transfer its assets and liabilities by mutual agreement to any other co-operative.

(b) Subject to paragraph (c), an application for the approval of the Registrar referred to in paragraph (a) shall not be made except on the authority of a special resolution passed by the co-operative concerned at a general meeting convened for such purpose.

(c) A special resolution referred to in paragraph (b) shall not be passed, unless at least three months' notice of the intended transfer of assets and liabilities has been given to the creditors of the co-operative concerned who shall, on demand, be entitled to payment of any amounts owing to any of them on the date immediately before the co-operative concerned ceases to exist in terms of subsection (4)(a).

(2) An application referred to in subsection (1)(a) shall be accompanied by -

(a) a declaration by the person who acted as the chairperson of the general meeting at which the special resolution referred to in subsection (1)(b) was passed -

(i) that the meeting of which he or she was the chairperson was held on a date mentioned in the declaration;

(ii) that he or she has satisfied himself or herself that proper notice of the meeting and the proposed special resolution has been given to the members of the co-operative;

(iii) that proper notice has been given to the creditors of the co-operative concerned and that any such creditors who demanded payments of any amounts owing to them have been paid or will be paid before the co-operative ceases to exists in terms of subsection (4)(a); and

(iv) that the special resolution was passed by the requisite majority;

(b) a copy of the special resolution in question and an explanation of the reasons for the prosposed tansfer;

[The words "proposed" and "transfer" are misspelt in the Government Gazette, as reproduced above.]

(c) revenue stamps to the value of such amount as may be determined in terms of secion 106 in respect of applications made in terms of this section, and which shall be cancelled by the Registrar upon the granting of the application.

[The word "section" is misspelt in the Government Gazette in its first use in paragraph (c), as reproduced above.]

(3) If the Registrar is satisfied that the provisions of this Act have been complied with in respect of an application referred to in subsection (2), he or she shall -

(a) grant such application;

(b) strike the name and other particulars of the co-operative referred to in subsection (1)(a) off the register of co-operatives.

(4) As from the date on which the application for transfer of assets and liabilities has in terms of paragraph (a) of subsection (3) been granted -

(a) the co-operative referred to in subsection (1)(a) shall cease to exist;

(b) all assets and liabilities of the co-operative concerned shall, subject to subsection (5), vest in the co-operative to which such assets and liabilities are transferred;

(c) subject to subsection (6), the persons who at the said date were members of the said co-operative shall ipso facto become members of the co-operative to whom the assets and liabilities have been transferred.

(5) (a) Any property which vests, by virtue of the provisions of paragraph (b) of subsection (4), in the co-operative concerned shall be transferred, without payment of transfer duty, stamp duty or any other fee or charge, to that co-operative.

(b) The registrar of deeds shall upon production to him or her of the title deed of immovable property which is as provided in paragraph (a) transferred to the co-operative concerned endorse the title deed to the effect that the immovable property described therein vests in that co-operative and shall make the necessary entries in his or her registers, and thereupon that title deed shall serve and avail for all purposes as proof of the title of that co-operative to the property in question.

(6) Any member of a co-operative referred to in subsection (1)(a) may, notwithstanding anything to the contrary contained in the by-laws of that co-operative, by notice in writing, given within at least one month after the meeting on which the special resolution referred to in subsection (1)(b) has been passed, terminate his or her membership of such co-operative on the date immediately before the date on which the application for transfer of assets and liabilities has in terms of paragraph (a) of subsection (3) been granted.

76. Conversion of co-operative to any other kind or form of juristic person or to unincorporated association of persons

(1) (a) Subject to paragraph (b), any co-operative that has passed as special resolution authorizing the conversion of the co-operative into any other kind or form of corporate body or, in the case of a provisionally registered co-operative, into an unincorporated association of persons may apply to the Registrar, in such form as may be determined by the Registrar, to cancel its registration as a co-operative.

(b) An application for the cancellation of the registration as a co-operative referred to in paragraph (a) shall not be made -

(i) except with the consent in writing of at least two-thirds of all its members;

(ii) unless at least three months' notice of the intended conversion has been given to the creditors of the co-operative concerned, who shall, on demand, be entitled to payment

of any amounts owing to any of them on the date immediately before the registration of the co-operative is cancelled.

(2) An application referred to in subsection (1)(a) shall be accompanied by -

(a) a declaration by the chairperson of the board of the co-operative concerned -

(i) that the consent in writing of the requisite number of the members of the co-operative have been obtained for the proposed conversion;

(ii) that proper notice has been given to the creditors of that co-operative and that any such creditors who demanded payment of any amounts owing to them have been paid or will be paid before the registration of the co-operative is cancelled;

(b) revenue stamps to the value of such amount as may be determined in terms of section 106 in respect of applications in terms of this section, and which shall be cancelled by the Registrar upon the granting of the application.

(3) The Registrar may require a co-operative referred to in subsection (1)(a) to submit to him or her such proof as may be determined by him or her in respect of any matter contained in a declaration referred to in paragraph (a) of subsection (2).

(4) If the Registrar is satisfied that the provisions of this Act have been complied with in respect of an application referred to in subsection (2), he or she shall cancel the registration of the co-operative referred to in subsection (1)(a) and strike the name and other particulars of that co-operative off the register of co-operatives.

(5) As from the date on which the registration of co-operative has been cancelled under subsection (4) -

(a) such co-operative shall cease to exist;

(b) all assets, rights, liabilities and obligations of such co-operative shall, subject to the provisions (6), vest in the coporate body into which the co-operative is converted, or, if it is by virtue of its constitution capable of owning property separate from its members, the unincorporated associaton of persons into which the co-operative is converted.

[The words “corporate” and “association” are misspelt in the Government Gazette, as reproduced above.]

(6) (a) Any property which vests, by virtue of the provions of paragraph (b) of subsection (5), in the corporate body or unincorporated association of persons concerned shall be transferred, without payment of transfer duty, stamp duty or any other fee or charge, to that corporate body or unincorporated association of persons, as the case may be.

[The word “provisions” is misspelt in the Government Gazette, as reproduced above.]

(b) The registrar of deeds shall upon production to him or her of the title deed of immovable property which is as provided in paragraph (a) transferred to the corporate body or unincorporated association of persons concerned, endorse the title deed to the effect that the immovable property described therein vests in that corporate body or unincorporated association of persons and shall make the necessary entries in his or her registers, and thereupon that title deed shall serve and avail for all purposes as proof of the title of that corporate body or unincorporated association of persons to the property in question.

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Part XII – Winding-up of co-operatives

77. Winding-up of co-operatives and appointment of liquidator

(1) The Registrar may order that a co-operative be wound up -

(a) either on his or her own accord or after an enquiry held in terms of section 71, if -

(i) the membership of such co-operative has reduced to less than the number as provided in section 10(3) or (4);

(ii) it has not transacted business during a continuous period of six months;

(iii) it was formed for a particular period and that period has expired; or

(iv) the Registrar is of the opinion -

(aa) that the registration of the co-operative was obtained through fraud;

(bb) that the co-operative does not carry out its objects according to the co-operative principles referred to in section 9; or

(cc) that it is just and equitable that the co-operative should be wound-up; or

(b) upon a request in writing of two-thirds of all the members of the co-operative,

and shall appoint a liquidator in respect of such co-operative.

(2) If a liquidator ceases to hold office, the Registrar shall appoint another person to fill the vacancy.

(3) A liquidator shall after his or her appointment forthwith publish a notice in the Gazette and in a newspaper circulating in the area in which the registered office of the co-operative concerned is situated in which his or her appointment, name and address are made known.

(4) A liquidator shall be entitled to such reasonable remuneration for his or her services as may be determined by the Registrar.

78. Commencement of winding-up of co-operative

The winding-up of a co-operative shall commence on the day on which the Registrar's order in terms of section 77(1) that the co-operative be wound-up is received by the co-operative concerned, and in any case such commencement shall not be later than 14 days after the day on which that order was forwarded by certified post to the co-operative concerned.

79. Effect of winding-up on status of co-operative and legal proceedings

(1) A co-operative being wound-up shall continue to be a corporate body, but shall as from the date of commencement of its winding-up cease to carry out its objects except in so far as it is necessary for the purposes of its winding-up.

(2) The functions of the board of a co-operative being wound-up shall terminate at the commencement of the winding-up of the co-operative except in so far as the continuation thereof has been approved by the Registrar or liquidator.

(3) After the commencement of the winding-up of a co-operative any attachment or execution put into force against an asset of such co-operative under a judgement given by a court before the commencement of the windingup shall be void.

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80. Powers of liquidator

(1) Subject to section 81, the liquidator appointed by the Registrar under section 77 shall have the power -

(a) to recover and take into his or her possession all the assets of the co-operative and all books, records and other documents pertaining to its business;

(b) to realize such assets and apply the proceeds thereof for purposes of the winding-up of such co-operative;

(c) to continue, as far as may be possible, to carry out the objects of such co-operative in so far as is necessary for its beneficial winding-up;

(d) to determine by notice in the Gazette and a newspaper circulating in the area in which the registered office of the co-operative is situated a date before which creditors are required to prove any amounts owing by the co-operative to them;

(e) to report a dispute and, with the approval of the Registrar, institute defend or take any action or other civil proceedings in the name and on behalf of the co-operative;

(f) to give such directions in regard to the collection and realisation of assets as may be necessary in the course of winding-up the co-operative;

(g) to investigate all claims against the co-operative and, subject to the provisions of this Act, decide by order questions of priority arising between claimants;

(h) to pay claims against the co-operative, including interest payable up to date of the winding-up order given in terms of section 77, according to the respective priorities, if any, in full or to such extent as the assets of such co-operative permit;

(i) with the prior approval of the Registrar, to compromise any claim by or against the co-operative;

(j) to call such meetings of members as may be necessary for the proper conduct of the liquidation, giving not less than 15 days notice of every such meeting;

(k) to decide by order, subject to any by-law limiting the liability of members, the contributions to be made by members or previous members or by the estates of deceased members of the co-operative to its assets;

(l) to arrange for the distribution of the assets of the co-operative in a convenient manner in accordance with a scheme of distribution approved by the Registrar;

(m) to order by what persons and in what proportions the costs of the liquidation are to be borne.

(2) A liquidator shall deposit the funds and other assets of a co-operative wound-up under section 77 which are collected by him or her or which come into his or her possession as liquidator, in such manner and at such place as may from time to time be determined by the Registrar.

(3) A liquidator shall, once in every three months, submit to the Registrar a report stating the progress made in winding-up the affairs of the co-operative, and shall, on completion of the liquidation proceedings, submit a final report and hand over to the Registrar all books, registers and accounts relating to such proceedings kept by him or her.

(4) A liquidator appointed under this Act shall, in so far as such powers are necessary for carrying out the purposes of this section, have power to summon and enforce the attendance of parties and witnesses, and to compel the production of documents by the means and, so far as may be, in the same manner as is provided in the case of a court of law.

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81. Powers of Registrar to control liquidation

A liquidator shall exercise his or her powers subject to the control and supervision of the Registrar, who may -

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

(b) remove a liquidator from office;

(c) call for all books, documents and assets of the co-operative;

(d) by order in writing limit the powers of a liquidator granted under section 80;

(e) require accounts to be rendered to him or her by the liquidator;

(f) cause the liquidator's accounts to be audited and authorize the distribution of the assets of the co-operative;

(g) make an order for the remuneration of the liquidator, which remuneration shall be included in the costs of liquidation and shall be payable out of the assets in priority to all other claims.

82. Disposal of assets on liquidation

Upon winding-up of a co-operative, the assets, including the capital reserve fund and deferred expenditure fund referred to in section 58(1), shall be applied first to the costs of liquidation, then to the discharge of all preferent claims, then to the discharge of an deposit liabilities to its depositors, then to the discharge of all other liabilites of the co-operative, then to the payment of share capital held by members and then, provided that the by-laws of the co-operative permit, to the payment of a dividend or bonus at a rate not exceeding that as laid down in the by-laws of the co-operative for any period during which no dividend or bonus was in fact paid.

[The word "liabilities" is misspelt in the Government Gazette, as reproduced above.]

83. Cancellation of registration

(1) When the affairs of a co-operative, in respect of which a liquidator has been appointed, have been wound-up, the Registrar shall -

(a) cancel the registration of such co-operative and strike the name and other particulars of that co-operative off the registrer of co-operatives; and

[The word "register" is misspelt in the Government Gazette, as reproduced above.]

(b) publish in the Gazette a notice of closure of liquidation and the date of cancellation of registration of that co-operative.

(2) As from the date on which the registration of the co-operative concerned has been cancelled, the co-operative shall cease to exist.

(3) The claim of a creditor or a member of the co-operative who has not received what is due to him or her under the approved scheme of distribution shall be prescribed when two years have elapsed from the date of cancellation of registration.

(4) Any moneys remaining after the application of the funds as provided in section 82 and any sums unclaimed after two years under subsection (3) shall be divided among the members who were registered as such during the date of cancellation of registration.

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Part XIII – Co-operatives Advisory Board

[The spacing of this heading differs from the spacing of the headings of most of the other parts.]

84. Establishment of Co-operatives Advisory Board

There is hereby established a board to be known as the Co-operatives Advisory Board.

85. Functions of Advisory Board

(1) The functions of the Advisory Board shall be to make such investigations as it may deem necessary, and to advise the Minister generally or in respect of any particular matter, and to make recommendations to him or her, in relation to -

(a) an appeal lodged in terms of section 98 with the Minister against a decision or order of the Registrar;

(b) any dispute between, on the one hand, a co-operative or proposed co-operative, the board of a co-operative or a member of a co-operative and, on the other hand, the Registrar;

(c) the policy which may be followed in relation to co-operative development in Namibia, and the manner in which such policy is or may be implemented;

(d) the amendment or application of provisions of this Act or any other law on matters relating to co-operatives;

(e) any matter referred to the Advisory Board by the Minister under subsection (2).

(2) Where the Minister is required to exercise or perform any power, duty or function or to take any decision under or for the purpose of this Act, the Minister may, before doing so, request the Advisory Board to advise him or her in relation to the exercise or performance of such power, duty or function or the taking of such decision.

(3) The expenditure incidental to the performance of the functions of the Advisory Board shall be defrayed out of moneys appropriated for that purpose by Parliament.

86. Members of Advisory Board

(1) The Advisory Board shall comprise -

(a) a person designated by the Minister;

(b) seven persons selected and appointed by the Minister from persons nominated by co-operatives in Namibia, by virtue of an invitation made in terms of subsection (2), and of whom -

(i) one shall represent the interests of workers' co-operatives;

(ii) one shall represent the interests of marketing and supply co-operatives;

(iii) one shall represent the interests of consumer co-operatives;

(iv) one shall represent the interests of housing co-operatives;

(v) one shall represent the interests of savings and credit co-operatives; and

(vi) two shall represent any type of co-operative and co-operatives in general;

(c) three persons selected and appointed by the Minister from persons nominated by organizations, other than governmental organizations, actively involved in co-operative development, by virtue of an invitation made in terms of subsection (2); and

(d) two persons selected by the Minister from persons nominated by development corporations established by or under any law, by virtue of an invitation made in terms of subsection (2).

(2) For purposes of the nomination of persons referred to in subsection (1) or to fill any casual vacancies which may have occurred in the membership of the Advisory Board, the Minister shall by notice in writing invite any co-operatives, organizations and corporations referred to in that subsection to make such nominations as may be specified in such notice within such period as may be so specified.

(3) If no such co-operative, organization or corporation exists, ceases to exist or fails to comply with any invitation referred to in subsection (2) within the period referred to in that subsection, the Minister may, with due regard to the provisions of subsection (1), appoint as a member of the Advisory Board a person who in his or her opinion represents the interests of co-operatives.

(4) The Advisory Board may, with the concurrence in writing of the Minister and on such conditions as may on the recommendation of the Advisory Board be determined by the Minister, co-opt in an advisory capacity -

(a) one or more, but not more than six, persons designated by such other Minister or Ministers as may in the discretion of the Minister have an interest in any matter dealt with the Advisory Board;

(b) any one or more other persons,

as an additional member or members of the Advisory Board, whether for a particular period or in relation to a particular matter dealt with by the Advisory Board, and such an additional member or members may participate in the proceedings of the Advisory Board during any such period or in relation to such matter, but shall not be entitled to vote on any matter.

(5) The Minister shall on the recommendation of the Board appoint a member as chairperson and a member as vice-chairperson from the members referred to in paragraphs (a), (b) and (c) of subsection (1).

87. Committees of Advisory Board

(1) The Advisory Board may from time to time establish committees to advise or assist it in the performance of any of its functions.

(2) A committee established under subsection (1) -

(a) shall consist of such members or other persons appointed by the Advisory Board as the Advisory Board may deem fit, to be members of such committee, and of whom one shall be designated by the Advisory Board to be the chairperson of the committee;

(b) shall meet at such times and places as may be determined by the chairperson of that committee.

(3) A member of a committee established under subsection (1) who is not a member of the Advisory Board or is not employed in the public service on a full-time basis shall be paid out of moneys appropriated by laws for that purpose such remuneration and allowances, if any, and in respect of a journey undertaken for purposes of the business of the committee, such subsistence and travelling allowances as the Minister may, with the concurrence of the Minister of Finance, determine.

88. Terms of office and conditions of service of members of Advisory Board

(1) Subject to section 89, a member of the Advisory Board referred to in paragraph (b), (c) or (d) of subsection (1) of section 86 shall hold office for a period not exceeding three years, but may, if nominated as provided in subsection (2) of the said section 86, be reappointed at the expiration of that period.

(2) A member of the Advisory Board who is not employed in the Public Service on a full-time basis shall be paid out of moneys appropriate by law for that purpose such remuneration and, allowances, if any, and in respect of a journey undertaken for purposes of the business of the advisory Board, such subsistence and travelling allowances as the Minister may, with the concurrence of the Minister of Finance, determine.

(3) The remuneration and allowances determined under subsection (2) may differ according to the office on the Advisory Board held by a member of the Advisory Board concerned, or the functions performed by him or her.

89. Vacation of offices by members of Advisory Board

(1) A member of the Advisory Board shall vacate his or her office, if -

(a) such member is by reason of his or her physical or mental illness or for any other reason incapable of acting as a member of the Advisory Board;

(b) such member is convicted of an offence and sentenced to imprisonment without the option of a fine;

(c) such member, in writing under his or her hand addressed and delivered to the chairperson of the Advisory Board, resigns from his or her office as a member of the Advisory Board;

(d) such member has absented himself or herself from three consecutive meetings of the Advisory Board without the leave of the chairperson of the Advisory Board.

(2) Any casual vacancy on the Advisory Board caused by the death or vacation of office by any member of the Advisory Board shall, with due regard to the provisions of section 86, be filled for the unexpired portion of the period of office of the member of the Advisory Board who has died or vacated his or her office, as the case may be.

90. Meetings of Advisory Board

(1) Subject to subsection (2), a meeting of the Advisory Board shall be held at such a time and place as may be determined by the chairperson of the Advisory Board.

(2) The chairperson of the Advisory Board shall at the request of the Minister or on a reasoned request in writing of at least four members of the Advisory Board convene a special meeting of the Advisory Board.

(3) The majority of the members of the Advisory Board shall form a quorum for a meeting of the Advisory Board.

(4) The chairperson of the Advisory Board shall preside at all meetings of the Advisory Board at which he or she is present.

(5) When the chairperson of the Advisory Board is absent from a meeting of the Advisory Board the members of the Advisory Board present shall elect a person from amongst their number to act as chairperson at that meeting, and while such member so acts he or she shall have all the powers and shall perform all the duties and functions of the chairperson.

(6) The decision of a majority of members of the Advisory Board present at the meeting of the Advisory Board shall be a decision of the Advisory Board: Provided that in the event of an equality of votes the person presiding at the meeting shall have a casting vote in addition to his or her deliberative vote.

(7) The person presiding at a meeting of the Advisory Board shall cause -

(a) any decision of the Advisory Board and the reasons for such decision; and

(b) upon the request of any member who has voted against such decision, his or her reasons for voting against such decision,

to be conveyed to the Minister.

(8) No decision taken by the Advisory Board or act performed under the authority of the Advisory Board shall be invalid by reason only of a vacancy on the Advisory Board, or by reason only that any person who is not entitled to sit as a member of the Advisory Board sat as a member of the Advisory Board when the decision was taken or the act was authorised, if the decision was taken or the act was authorised by the requisite majority of the members of the Advisory Board who were present at the time and were entitled to sit as such members.

(9) The Advisory Board shall cause minutes to be kept of the proceedings of the meetings of the Advisory Board.

(10) The Advisory Board may make rules in relation to the holding of, and procedure at, meetings of the Advisory Board.

91. Performance of administrative functions of Advisory Board

(1) The administrative work relating to the functions of the Advisory Board shall be performed by staff members of the Ministry made available by the Permanent Secretary for that purpose.

(2) The Permanent Secretary may designate a staff member referred to in subsection (1) as secretary of the Advisory Board.

(3) The Advisory Board may, after consultation with the Permanent Secretary and on such conditions as may be mutually agreed upon, obtain the services of such persons as it may deem necessary to advise it in connection with the performance of its functions.

92. Expenses in connection with functions of Advisory Board

The expenditure incidental to the performance of the functions of the Advisory Board shall, subject the State Finance Act, 1991 (Act 31 of 1991), be defrayed from moneys appropriated by law for that purpose.

Part XIV – Co-operatives Tribunal

93. Establishment of Co-operatives Tribunal

There is hereby established a tribunal to be known as the Co-operatives Tribunal.

94. Functions of Tribunal

(1) The functions of the Tribunal shall be -

(a) to enquire into any question relating to the subject matter of any dispute reported in terms of section 99(1)(a); and

(b) to make such decision or to give such order as it may consider equitable relating to any dispute referred to in praragraph (a).

[The word “paragraph” is misspelt in the Government Gazette, as reproduced above.]

(2) A decision made or order given by the Tribunal shall be final and each party to the dispute shall abide and comply with such decision or order in accordance with its terms.

95. Members of Tribunal

(1) The members of the Tribunal shall comprise -

(a) the Registrar or an officer designate by him or her, who shall be the chairperson of the Tribunal; and

(b) two other persons, of whom -

(i) one shall be a person appointed by mutual agreement by the parties to a dispute referred to in section 99(1)(a) or, in the absence of such agreement, by the Registrar from a list of persons compiled in terms of subsection (2)(a) of this section; and

(ii) one shall be a person who has been admitted or is entitled to be admitted as a legal practitioner in terms of the laws of Namibia on the admission of legal practitioners and appointed by such parties by mutual agreement or, in the absence of any such agreement, by the Registrar, from a list of persons compiled in terms of subsection (2)(b).

(2) The Registrar shall, with the concurrence of the Advisory Board, from time to time compile -

(a) for purposes of the appointment of members in terms of sub-paragraph (i) of paragraph (b) of subsection (1), a list containing the names of persons who in his or her opinion are, on account of their special knowledge and experience of the administration and management of the affairs of co-operatives or similar bodies, fit and proper persons; and

[The word "sub-paragraph" appears in paragraph (a) with a hyphen, but all other instances of the word in this Act appear as "subparagraph", without a hyphen.]

(b) for purposes of the appointment of members in terms of subparagraph (ii) of the said paragraph (b), a list containing the names and qualifications of persons contemplated in that subparagraph who in his or her opinion are, on account of their special knowledge and experience of the laws on the administration and management of the affairs of co-operatives or similar bodies, fit and proper persons,

to serve as members of the Tribunal.

(3) A member of the Tribunal who is not in the full-time employment of the Public Service shall, from moneys appropriated by law for that purpose, be paid such remuneration and allowances as the Minister, with the concurrence of the Minister of Finance, may determine.

(4) All administrative work relating to the functions of the Tribunal shall be performed by officers in the Ministry made available by the Permanent Secretary for that purpose.

(5) Any meeting of the Tribunal shall be held at a time and place determined by the chairperson of the Tribunal.

(6) All three members of the Tribunal shall form a quorum for a meeting of the Tribunal.

(7) The decision of two of the members of the Tribunal shall be a decision of the Tribunal.

96. Powers and duties of Tribunal

(1) In the performance of its functions in terms of this Act, the Tribunal may in relation to a dispute referred to in section 99(1)(a) -

(a) subject to the provisions of any law or the common law regulating the privileges or immunities of any person, itself or by way of any person determined by mutual agreement between the parties concerned and authorized by the Tribunal thereto, enter at any time, after such notice as the Tribunal may deem sufficient or appropriate, any building or premises of any part of any building or premises, except any building or premises or any part thereof used as a private home, and make such enquiries therein or thereon, and put such

questions to any person employed thereon or finds himself or herself in or on such building or premises as the Tribunal or person deems necessary in connection with any such dispute;

(b) request particulars and information from any person which the Tribunal may deem necessary in connection with such dispute.

(2) Subject to the provisions of this Act, the provisions of sections 14, 15, 16, 17, 20, 22, 23, 24, 25, 30, 32 and 33 of the Arbitration Act, 1965 (Act 42 of 1965), shall apply mutatis mutandis in relation to the proceedings which may be followed by the Tribunal as if the Tribunal were an arbitration tribunal referred to in that Act and its decision or order were an award made by such arbitration tribunal.

(3) No costs shall be awarded by the Tribunal in relation to the expenses incurred by the parties in relation to any proceedings before the Tribunal, except in so far as the parties to the dispute have by mutual agreement determined otherwise.

(4) The provisions of this section shall not be construed as precluding the jurisdiction of any competent court to adjudicate on any subject matter relating to any dispute referred to in subsection (1).

97. Representation of parties to a dispute

A party to any proceedings before the Tribunal may appear in person or, in the case of a co-operative, by way of a member of the board or member or employee authorized thereto by the board, or be represented by a legal representative admitted as a legal practitioner in terms of the laws of Namibia governing the admission of legal practitioners.

Part XV – Disputes between co-operatives or members of co-operatives and Registrar or such co-operatives or members and person other than Registrar

98. Appeals against decisions or orders of Registrar

(1) Any person or, in the case of a winding-up order given under section 77, at least one-tenth of all the members of the co-operative or 40 of such members, whichever is the lesser, who feels aggrieved by any decision made or order given by the Registrar in terms of any provision of this Act may, within 30 days as from the date on which such decision or order was made known to such person or members, as the case may be, in writing lodge an appeal with the Minister against such decision or order.

(2) A notification referred to in subsection (1) -

(a) shall contain the subject matter of the appeal and the facts and circumstances which gave rise to the appeal; and

(b) shall be accompanied by such written representations as the person or members referred to in subsection (1) may wish to make in regard to the appeal in question.

(3) The Registrar shall on request by the Minister forward to the Minister a statement of his or her reasons for the decision or order against which the appeal is made, together with such written representations as he or she may wish to make in regard thereto.

(4) The Minister may on the recommendation of the Advisory Board made at a meeting at which any person other than the Registrar acted as the chairperson while such recommendation was considered, and subject to such conditions or directions, if any, as the Minister may determine, confirm, set aside or amend any decision or order against which the appeal has been made.

(5) The Registrar shall give effect to any decision made and conditions or directions, if any, determined by the Minister in terms of subsection (4),

(6) The operation of a winding-up order given by the Registrar in terms of section 77 shall not be suspended pending the outcome of an appeal under subsection (1).

99. Reporting of disputes

(1) Any co-operative, the board of a co-operative or member of a co-operative who is party to a dispute may -

(a) in the case of a dispute between, on the one hand, itself or himself or herself and, on the other hand, any person other than the Registrar, in writing report such dispute to the Registrar;

(b) in the case of dispute between, on the one hand, itself or himself or herself and, on the other hand, the Registrar, in writing, report such dispute to the Minister,

and shall submit a copy of that written notification to all parties involved in the dispute.

(2) A notification referred to in subsection (1) shall contain -

(a) an indication whether the dispute in question is a dispute between the co-operative or member of a co-operative concerned and the Registrar or any person other than the Registrar;

(b) if the dispute in question is a dispute between such co-operative or member and person other than the Registrar, the name and address of such person;

(c) the subject matter of the dispute and the facts and circumstances which gave rise to the dispute;

(d) the steps, if any, which have been taken to resolve or settle the dispute.

100. Disputes between co-operatives or members of co-operatives and persons other than Registrar

(1) Subject to subsection (2), the Registrar shall, upon the receipt of a notification referred to in subsection (1) of section 99 in relation to a dispute referred to in paragraph (a) of that subsection, as soon as practicable, convene a meeting of the Tribunal.

(2) The Registrar shall not convene a meeting of the Tribunal as provided in subsection (1) unless he or she is satisfied that the parties have taken all reasonable steps to resolve or settle the dispute in question or until such time as he or she is so satisfied.

101. Disputes between co-operatives or members of co-operatives and Registrar

(1) The Minister shall, upon the receipt of a notice referred to in subsection (1) of section 99 in relation to a dispute referred to in paragraph (b) of that subsection, after consultation with the Advisory Board, enquire into and determine any question relating to the subject matter of any such dispute and make such decision or give such order as he or she may consider equitable.

(2) A decision made or order given by the Minister under subsection (1) shall be final and each party to the dispute shall abide and comply with such decision or order in accordance with its terms.

Part XVI – Offences and penalties

102. Prohibition of use of word “co-operative”

Any person other than a co-operative who trades or carries on business under a name or title of which the word “co-operative” is part without the approval of the Registrar shall be guilty of an offence and on

conviction liable to a fine not exceeding N$100 000 or to imprisonment for a period not exceeding five years or to both such fine and imprisonment.

103. False statements

Any person who in any application, return, report or other document under this Act wilfully furnished information or makes a statement which is false in any material respect shall be guilty of an offence and on conviction be liable to the penalty which may be imposed by law for the crime of forgery and uttering.

104. Offences and penalties

Any person who contravenes or fails to comply with any provision of section 19(1), 20(1), 27(3), 28, 29, 41, 42(1), 47, 57, 58, 59(2), 61, 62, 64(1) or (4), 65(1) or (3), 66, 67 or 70, shall be guilty of an offence and on conviction be liable to a fine not exceeding N$100 000 or to imprisonment for a period not exceeding five years or to both such fine and imprisonment.

Part XVII – Miscellaneous provisions

105. Closed co-operatives

(1) The Registrar may upon the submission to him or her of the annual financial statements of a co-operative in respect of its financial year, declare such co-operative to have been a closed co-operative for possible tax benefits, if any, in respect of that financial year, if he or she is satisfied -

(a) in the case of a service co-operative, that at least 70 percent of the transactions of the co-operative have been entered into with its members;

(b) in the case of a workers' co-operative, that 70 percent or more of its workforce have been members of the co-operative.

(2) The Registrar shall issue to every co-operative declared under subsection (1) to be a closed co-operative, a certificate to that effect.

106. Determination of fees

(1) The Minister may be notice in the Gazette determine the fees payable in respect of any application made to the Registrar in terms of this Act.

(2) Different fees may be determined under subsection (1) in respect of different types of such applications.

107. Regulations

The Minister may make regulations -

(a) as to any matter which is required or permitted to be prescribed by regulation under this Act; and

(b) prescribing, generally, any matter which he or she considers necessary or expedient to prescribe in order to that the objects of this Act may be better achieved.

108. Delegation of powers

(1) The Minister may delegate to any staff member employed in the Ministry any power conferred upon him or her other than the powers referred to in this section and sections 7, 8, 30, 85, 106 and 107.

(2) No delegation under subsection (1) shall prevent the exercise of the re-levant power by the Minister himself or herself.

[The word "relevant" contains an unnecessary hyphen.]

109. Application of Act 23 of 1965 to co-operatives

(1) Subject to subsection (2), no provision of the Banks Act, 1965 (Act 23 of 1965), shall apply in relation to a co-operative.

(2) The Minister may, in consultation with the Minister of Finance, by notice in the Gazette declare that any provision of the Banks Act, 1965, shall apply in relation to any co-operative named in such notice with such modifications as he or she may determine, and the Minister may amend or withdraw any such notice.

[The Banks Act 23 of 1965 has been replaced by the Banking Institutions Act 2 of 1998.]

110. Repeal of laws, and savings

(1) The laws specified in the Schedule are hereby repealed.

(2) Anything done under a provision of the repealed Ordinance which may be done under a provision of this Act shall be deemed to have been done under the last-mentioned provision.

(3) Subject to the provisions of subsection (4), a co-operative agricultural society, co-operative agricultural company, farmers' special co-operative company and co-operative trading society registered or deemed to be registered in terms of the repealed Ordinance which existed on the date immediately before the promulgation of this Act, shall be deemed to be a co-operative formed and registered in terms of this Act, and the regulations of any such society or company shall for such purposes be deemed to be by-laws approved in terms of this Act.

(4) (a) A co-operative agricultural society, co-operative agricultural company, farmers' special co-operative company and co-operative trading society referred to in subsection (3) shall -

(i) within a period of three months as from the date of promulgation of this Act or such longer period as may on good cause shown be allowed by the Registrar, furnish the Registrar with a notice in writing in which it is declared that it wishes to continue to carry on business in Namibia as a co-operative;

(ii) within a period of one year as from such date or such longer period as may on good cause shown be allowed by the Registrar, submit its by-laws, adapted, in so far as it may be necessary, in accordance with the provisions of this Act, to the Registrar for his or her approval.

(b) A co-operative referred to in paragraph (a) that fails to comply with the provisions of that paragraph shall cease to be registered as provided in subsection (3), whereupon its affairs shall be wound-up in accordance with the provisions of Part XII as if it were ordered to be wound-up as contemplated in that Part.

111. Interpretation of certain expressions

Any reference in any law to a co-operative agricultural society, co-operative agricultural company, farmers' special co-operative company or co-operative trading society shall be construed as a reference to a co-operative as defined by section 1.

112. Short title

This Act shall be called the Co-operatives Act, 1996.

Schedule

LAWS REPEALED

(Section 110)

Number and year of law	Short title of law
Ordinance 15 of 1946	Co-operative Societies Ordinance, 1946
Proclamation R.124 of 1969	
Act 7 of 1980	Co-operative Societies Amendment Act, 1980
Act 6 of 1982	Co-operative Societies Amendment Act, 1982