



Australian Capital Territory

# **Co-operative Societies Act 1939 No 9**

## **Republication No 5**

Republication date: 13 September 2002

Last amendment made by Act 2001 No 44

Amendments incorporated to 13 September 2002

Authorised by the ACT Parliamentary Counsel

## About this republication

### The republished law

This is a republication of the *Co-operative Societies Act 1939* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 13 September 2002. It also includes any amendment, repeal or expiry affecting the republished law to 13 September 2002.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

### Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

### Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication does not include amendments made under part 11.3 (see endnote 1).

### Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

### Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

### Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.



Australian Capital Territory

# Co-operative Societies Act 1939

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Amendments incorporated to  
13 September 2002



Australian Capital Territory

## **Co-operative Societies Act 1939**

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An Act relating to cooperative trading societies and cooperative housing  
and services societies

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## Part 1 Preliminary

### 1 Name of Act

This Act is the *Co-operative Societies Act 1939*.

### 4 Interpretation for Act

(1) In this Act:

*Note* A definition applies except so far as the contrary intention appears (see *Legislation Act 2001*, s 155).

**accounts** means profit and loss accounts and balance sheets and includes statements, reports and notes, other than auditors' reports and directors' reports, attached to or intended to be read with any of those profit and loss accounts or balance sheets.

**administrator** means a person appointed to be an administrator under section 58B.

**authorised bill of exchange** means a bill—

- (a) that has been accepted by a bank, being a bank within the meaning of the *Banking Act 1959* (Cwlth); and
- (b) that is payable on demand or not more than 200 days after the day it is transferred to a society; and
- (c) in relation to which the society, on the transfer of the bill to it, becomes a holder in due course; and
- (d) that has only been endorsed (if at all), before its transfer to the society, by—
  - (i) an excluded corporation within the meaning of the Corporations Law, section 65 (1); or
  - (ii) a building society.

**bond** includes debenture.

**commission** means the Australian Securities and Investment Commission.

**contributory**, in relation to a society, means—

- (a) a person liable as a member or past member to contribute to the property of the society in the event of its being wound up; and
- (b) before the final determination of the persons who are contributories under paragraph (a)—a person alleged to be such a contributory.

**deadline**, in relation to a financial year of a society, means the end of the 14th day before the last day of the period within which the society is required to hold an annual general meeting in relation to that financial year.

**financial year**, in relation to a society, means the period in relation to which the accounts of the society are made up.

**group**, in relation to a holding society at the end of a financial year, means—

- (a) the society; and
- (b) its subsidiary at the end of the financial year.

**group accounts**, in relation to a society, means, if the society is a group holding society at the end of the financial year concerned—

- (a) a set of consolidated accounts for the group; or
- (b) 2 or more sets of consolidated accounts together covering the group; or
- (c) separate accounts for each subsidiary in the group; or
- (d) the combination of 1 or more sets of consolidated accounts, and one or more sets of separate accounts, together covering the group.

**holding society** means a society that has another society or other corporation as a subsidiary.

***housing and services society*** means a society formed under section 14J.

***inspector*** means an inspector under section 5A.

***member*** means a member of a society.

***mortgage*** includes lien, charge or other security over property.

***mortgage-backed security*** means—

- (a) a security specified in the regulations as a mortgage-backed security; and
- (b) a security included in a class of securities specified in the regulations as a class of mortgage-backed securities.

***officer*** includes director, secretary, treasurer or other person empowered under the rules to give directions in regard to the business of a society.

***prescribed bill of exchange*** means a bill of exchange—

- (a) that is drawn by a society in favour of itself; and
- (b) that has been accepted by the person on whom it is drawn; and
- (c) under which the date for payment is either fixed or determinable at the time the bill is drawn.

***promoter***, in relation to a society, means a person who signed the application for membership on the formation of the society.

***registered*** means registered under this Act.

***registrar*** means the Registrar of Co-operative Societies under section 5.

***related corporation***, in relation to a society, means a corporation (including a registered society) that would be a related corporation in relation to the society under the Corporations Act, section 50 if a society were a corporation within the meaning of that Act.

***society*** means a society registered under this Act.

***special resolution***—see section 48.

***the board*** means the board of directors of the society in relation to which the term is used.

***the court*** means the Supreme Court.

***trading society*** means a society formed under section 13.

***the rules*** means the rules of the society in relation to which the term is used.

***the secretary*** means the secretary of the society in relation to which the term is used.

***withdrawable funds***, in relation to a society, means the aggregate of—

- (a) the amount of the paid up capital of the society; and
  - (b) the amount of the deposits held by the society otherwise than as deposits made by members of the society in consideration for shares for which the members were, under the rules of the society, required to subscribe as a condition to obtaining loans from the society.
- (2) For this Act, the surplus arising in a financial year of a society from the business of the society shall be calculated—
- (a) after making proper allowance for depreciation in value of the property of the society and for contingent liability for loss; and
  - (b) after making proper allowance for the tax payable by the society under the *Income Tax Assessment Act 1936* (Cwlth) in relation to the income of the society for that financial year.
- (3) For this Act, a corporation shall, subject to subsection (5), be deemed to be a subsidiary of a society if the society—
- (a) controls the composition of the board of directors of the corporation; or

- (b) is in a position to cast, or control the casting of, more than  $\frac{1}{2}$  of the maximum number of votes that might be cast at a general meeting of the corporation; or
  - (c) holds more than  $\frac{1}{2}$  of the issued share capital of the corporation (excluding any part of that issued share capital that carries no right to participate beyond a specified amount in a distribution of either profits or capital).
- (4) Without limiting by implication the circumstances in which the composition of a corporation's board of directors is to be taken to be controlled by a society, the composition of a corporation's board of directors shall be taken to be controlled by a society if the society, by the exercise of some power exercisable whether with or without the consent or concurrence of any other person by the society, can appoint or remove all or a majority of the directors, and, for this subsection, the society shall be deemed to have power to make such an appointment if—
- (a) a person cannot be appointed as a director without the exercise in that person's favour by the society of such a power; or
  - (b) a person's appointment as a director follows necessarily from that person being a director or other officer of the society.
- (5) In determining whether a corporation is a subsidiary of a society—
- (a) any shares held or power exercisable by the society in a fiduciary capacity shall be treated as not held or exercisable by it; and
  - (b) subject to paragraphs (c) and (d), any shares held or power exercisable—
    - (i) by any person as a nominee for the society (except if the society is concerned only in a fiduciary capacity); or

(ii) by, or by a nominee for, a subsidiary of the society, other than a subsidiary that is concerned only in a fiduciary capacity;

shall be treated as held or exercisable by the society; and

(c) any shares held or power exercisable by any person under the provisions of any debentures of the corporation, or of a trust deed for securing any issue of any such debentures, shall be disregarded; and

(d) any shares held or power exercisable by, or by a nominee for, the society (other than held or exercisable as mentioned in paragraph (c)) shall be treated as not held or exercisable by the society if the shares are held or the power is exercisable only by way of security given for the purposes of a transaction entered into in the ordinary course of business in connection with the lending of money.

(6) In subsections (3), (4) and (5):

***corporation*** means—

(a) a society; or

(b) a corporation within the meaning of the Corporations Act.

## Part 2 Administration

### 5 Registrar

- (1) There may be a Registrar of Co-operative Societies.
- (2) The registrar shall exercise the functions as are prescribed by the regulations.
- (3) The chief executive shall create and maintain an office in the public service the duties of which include exercising the functions of the registrar.
- (4) The registrar shall be the public servant for the time being exercising the duties of the public service office referred to in subsection (3).
- (5) The registrar shall have a seal of office.
- (6) All certificates, rules and documents required to be registered under this Act or to be transmitted to the registrar for record shall be kept in the office of the registrar.

### 5AA Deputy registrar

- (1) There may be a Deputy Registrar of Co-operative Societies.
- (2) The deputy registrar may exercise any function of the registrar, subject to any direction of the registrar.
- (3) The chief executive shall create and maintain an office in the public service the duties of which include exercising the functions of the deputy registrar.
- (4) The deputy registrar shall be the public servant for the time being exercising the duties of the public service office referred to in subsection (3).

### 5A Inspectors

- (1) There may be 1 or more inspectors for this Act.

- (2) An inspector shall exercise the functions for this Act as the registrar directs, subject to section 5B.
- (3) The chief executive shall create and maintain 1 or more offices in the public service the duties of which include exercising the functions of an inspector.
- (4) An inspector shall be any public servant for the time being exercising the duties of a public service office referred to in subsection (3).

### **5B Inspections**

- (1) The registrar or an inspector may, at any reasonable time, inspect and make copies of books, documents and records relating to the affairs of a society.
- (2) For the purpose of exercising his or her powers under subsection (1), the registrar or an inspector may—
  - (a) enter any premises occupied by a society; or
  - (b) require a person who has custody or control of any books, records or documents relating to the affairs of a society to produce them to the registrar or inspector.
- (3) A person shall not refuse or fail to comply with a requirement made under subsection (2).

Maximum penalty: 50 penalty units.

- (4) A person shall not obstruct, threaten or intimidate the registrar or an inspector in the exercise of his or her powers under this section.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (5) In this section:

*society* includes a subsidiary corporation of a society.



**6 Registrar may require certain information or evidence to be given**

- (1) On any application for registration of a society or of any rules or documents, the registrar may require the applicant to give any information or evidence that is reasonable for the determination of whether the application should be granted.
- (2) The registrar may require any society to give proper and sufficient evidence—
  - (a) that the society is bona fide carrying on business in accordance with this Act; and
  - (b) in relation to all matters required to be done and in relation to the entries in any document required to be given to the registrar under this Act.

**7 Special meeting and inquiry**

- (1) The registrar shall, on the application of the majority of the board, or of not less than  $\frac{1}{3}$  of the members of any society—
  - (a) call a special meeting of the society; or
  - (b) hold an inquiry into the affairs of the society;as the application requires.
- (2) The application shall be supported by any evidence that the registrar directs for the purpose of showing that the applicants have good reason for requiring the meeting or inquiry and that the application is made without malicious motive.
- (3) The registrar shall forthwith give notice of the application to the society.
- (4) The applicants shall give any security for payments of the expenses of the meeting or inquiry that the registrar directs.
- (5) The registrar shall direct at what time and place the meeting shall be held and the matters that shall constitute the business of the meeting

and shall give to members any notice of the meeting that he or she considers appropriate.

- (6) The meeting shall have all the powers of a meeting called in accordance with the rules of the society and, notwithstanding any rule of the society to the contrary, shall have power to elect its own chairperson.
- (7) The expense of, or incidental to, any meeting or inquiry held because of an application under this section shall be defrayed—
  - (a) by the applicants; or
  - (b) by the society; or
  - (c) by any officer or member, or former officer or member; or
  - (d) by some or all of them in proportions determined by the registrar;as the registrar directs.
- (8) The registrar may, although no application has been made under this section, hold an inquiry into the working and financial condition of a society and may require, from any bank where funds of the society are deposited or invested, a statement of the amount of the deposit or investment and any further particulars specified in the requirement.
- (9) The registrar may, for any inquiry under this section, appoint an inspector to examine and report on the minutes, books, documents, stock, securities and affairs of any society.
- (10) Any inspector appointed under this section may require the production of all or any of the books and documents of the society, and may examine on oath any officer, member, agent or employee of the society and may administer an oath accordingly.
- (11) On the completion of any inquiry under this section the registrar may, if the registrar considers appropriate, call a special general meeting of the society.

- (12) Subsections (5), (6) and (7) apply to a special general meeting called under subsection (11).

## **8 Certificate about cost of inquiry etc**

If any special meeting, inquiry or inspection is conducted under section 7, the registrar shall certify the amount of the expenses of and incidental to it, and that amount shall constitute a debt due to the Territory and recoverable in any court of competent jurisdiction.

### **8A Registrar may require bank to give information**

- (1) The registrar may serve on the manager, or other person in charge, of a bank a written demand signed by the registrar requiring the manager or that other person to permit the registrar or an inspector specified in the demand to inspect and make copies of the documents or records of the bank relating to a bank account kept by or on behalf of the society specified in the demand.
- (2) The manager, or other person in charge, of a bank shall comply with a requirement made in accordance with subsection (1).

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

## **9 Inspection of documents**

Any person may—

- (a) inspect at the office of the registrar the registration and rules of a society; and
- (b) obtain from the registrar a certificate of the registration of a society and a certified copy of its rules; and
- (c) with the permission of the registrar, inspect at the registrar's office and obtain from the registrar a certified copy of any other registered document or part of it.

*Note* A fee may be determined under s 80C (Determination of fees) for this section.

**10 Registrar may administer oath etc**

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

**11 Appeal from decisions of registrar**

- (1) If the registrar—
- (a) refuses to register a society; or
  - (b) refuses to register a society's rules; or
  - (c) refuses to register a change of a society's name; or
  - (d) directs a change of a society's name;

the registrar shall give notice to the society of the grounds of that decision, if required by the society.

- (2) If subsection (1) applies in relation to a society, the society may apply to the Supreme Court for a review of the relevant decision.
- (3) The Supreme Court may direct any fact to be determined in the way it considers appropriate and may make any order, including an order about costs, that it considers proper in the circumstances.

## **Part 3 Cooperative trading societies**

### **13 Objects**

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

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

### **14 Prescribed trading societies**

In their application to trading societies, sections 22A, 35, 36, 37, 46 and 47 apply only to the trading societies that are prescribed by regulation.

## Part 3C                      Cooperative housing and    services societies

### 14J    Objects

A housing and services society may be formed for all or any of the following objects—

- (a) to acquire land on which to erect a building or buildings suitable for residential purposes, or on which such a building has been or is being erected, and to dispose of or lease that land or let part of such a building; and
- (b) to erect on a member's land, or to erect on its own land for sale or letting, buildings suitable for residential purposes; and
- (c) to provide services in relation to land acquired by the society; and
- (d) to provide and maintain on land acquired by the society buildings and grounds for any purpose incidental to the use of that land for residential purposes.

## Part 4 Incorporation

### 15 Liability and membership

- (1) A society shall be formed with limited liability.
- (2) Unless otherwise provided by the rules, every person shall be qualified to become a member of a society.
- (3) If a member is under 18 years old, he or she may execute all necessary instruments and give all necessary acquittances, but shall not be competent to vote or hold any office in the society or to be one of the 7 or more persons by whom a society may be formed.

### 16 Formation and registration of society

- (1) A society may be formed by any 7 or more persons who are over 18 years old and are qualified to be members of a society.
- (2) No society shall be registered unless there has been a meeting, where there have been present 7 or more such persons, and the meeting has been conducted in accordance with the requirements of this section.
- (3) There shall have been presented at the meeting—
  - (a) a written statement setting out the objects of the society and the reasons for believing that, when registered, it will be able to carry out its objects successfully; and
  - (b) a copy of the rules that it is proposed to tender for registration.
- (4) If at the same, or any subsequent or adjourned meeting, after consideration of the statement and rules, 7 or more persons, qualified to form a society, approved the rules with or without amendment and sign an application form for membership, they shall proceed to elect the first directors of the society in accordance with the rules as so approved.

- (5) Within 2 months after the election of directors an application shall be made in the prescribed way to the registrar for registration of the society.
- (6) The application for registration shall be accompanied by—
- (a) a statutory declaration from the chairman and the secretary of the meeting about compliance with the requirements of this section; and
  - (b) a copy of the statement submitted at that meeting; and
  - (c) 2 copies of the proposed rules signed by not less than 7 applicants for membership, each of whose signatures shall be attested by a witness; and
  - (d) a list containing the full name and the occupation and address of each director; and
  - (e) a list containing the full name and the occupation and address of each applicant for membership and showing the number of shares subscribed for by each applicant; and
  - (f) any other particulars prescribed.
- (7) The statutory declaration accompanying the application for registration may be accepted by the registrar as sufficient evidence of compliance with the requirements of this section as mentioned in it.
- (8) Subject to this part, the registrar shall, if satisfied that the society has complied with the provisions of this Act and that the proposed rules of the society are not contrary to this Act, register the society and its rules and shall issue a certificate that the society is incorporated under this Act.
- Note* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including regulations (see *Legislation Act 2001*, s 104).
- (9) If an application for the registration of a society is made in accordance with this section and the proposed rules of the society



are amended, under a requisition by the registrar, and 2 copies of the proposed rules, as so amended, are lodged with the registrar within 30 days after the date of the requisition, those copies of the proposed rules shall be deemed, for the section, to have accompanied the application.

- (10) The registrar shall not register a society if he or she is of the opinion that—
- (a) the proposed society has no reasonable prospects of carrying out its objects successfully; or
  - (b) the proposed society is not designed or intended to serve equitably the interests of its members and prospective members.
- (11) Notwithstanding any other provision of this section, an association or union may be registered as prescribed.
- (12) The expenses of and incidental to the formation of a society, association or union may be paid either out of capital or income.

#### **16AA Prohibited names**

- (1) A society shall not be registered under a name that is—
- (a) undesirable, in the registrar’s opinion; or
  - (b) not available to the society under the Corporations Law, section 367;
- except with the consent of the Ministerial Council.

- (2) In this section:

*Ministerial Council*—see the Corporations Law.

#### **16A Powers of registered societies**

- (1) A society has power to do all things necessary for the purpose of carrying out its objects and, for that purpose, a society may, if so authorised by its rules—

- (a) raise money (whether on loan or by negotiating prescribed bills of exchange) or obtain other financial accommodation; and
- (b) receive money on deposit; and
- (c) acquire shares in another society.

## **17 Change of name**

- (1) A society may, by special resolution and with the approval of the registrar, change its name to a name by which the society could be registered without contravention of section 16AA.
- (2) If the name of a society is (whether through inadvertence or otherwise and whether originally or by change of name) a name by which the society could not be registered without contravention of section 16AA, the registrar may, by written notice, direct the society to change its name to a name by which the society could be registered without contravention of that section.
- (3) If a society has been registered under this Act by the same name since before the commencement of this section, the registrar shall not direct the society to change that name unless directed to do so by the Minister.
- (4) A society to which a notice under subsection (2) is given that does not change its name as directed by the notice within the time specified in the notice commits, unless the Minister by written order annuls the direction, an offence, which offence shall be deemed to continue until the name of the society is so changed.

Maximum penalty: 25 penalty units.

- (5) A society that has been directed under this section to change its name may change its name, for the purpose of complying with the direction, without obtaining the approval of the registrar.
- (6) If a society changes its name, it shall forward to the registrar notice of the change of name and its certificate of incorporation.

*Note* A fee may be determined under s 80C (Determination of fees) for this section.

- (7) The registrar shall, on notice of a society's change of name, register the change, and either note the change on the certificate of incorporation or issue to the society a new certificate of incorporation.

*Note* If a form is approved under s 80D (Approved forms) for a certificate of incorporation, the form must be used.

- (8) A change in the name of a society shall be advertised in the prescribed way.
- (9) No right or obligation of a society, or of any member or any other person, shall be affected by a change in the name of the society, and no legal proceedings by or against the society shall be rendered defective by the change.
- (10) Any legal proceedings that might have been continued or begun against a society by its former name may be continued or begun against it by its changed name.

## 18 Amalgamation

- (1) Any 2 or more registered trading societies may, by special resolution of both or all the societies apply in the prescribed way for registration as an amalgamated society, with or without any winding up or any division of the funds of the societies or any of them.
- (2) An application under this section shall be accompanied by—
- (a) 2 copies of the proposed rules of the amalgamated society;
  - (b) any other particulars prescribed.

*Note* A fee may be determined under s 80C (Determination of fees) for this section.

- (3) If the registrar is satisfied that the applicant societies have complied with this Act and that the proposed rules of the amalgamated society are not contrary to this Act, the registrar must—
- (a) register the amalgamated society and its rules; and

- (b) issue a certificate that the society is incorporated as an amalgamated society; and
- (c) prepare a written notice about the incorporation of the amalgamated society.

*Note* If a form is approved under s 80D (Approved forms) for a notice, the form must be used.

- (4) The notice is a notifiable instrument.

*Note* A notifiable instrument must be notified under the *Legislation Act 2001*.

## **19 Property to vest on amalgamation**

- (1) On notification under the *Legislation Act 2001* of a notice about the incorporation of an amalgamated society, the property of the societies that have amalgamated shall, as from the date of that notification because of this Act, without any transfer, conveyance or assignment, except as otherwise provided in this section, vest in the amalgamated society.
- (2) For this section the property of the societies shall include all estates and interests in property, whether real or personal, vested or contingent, including all rights and choses in action, whether by law assignable or not, that at the date of the notification under the *Legislation Act 2001* of the incorporation belonged to, or were vested in, any trustee or person for the use or benefit of any of the societies, or to which any trustee or person was contingently entitled for the use and benefit of any of the societies.
- (3) For any property of the societies a transfer of which is required by law relating to that property to be registered, that property shall not vest in the amalgamated society until the appropriate transfer is executed and registered so that the property is duly transferred.
- (4) For any property that is only transferable in books kept by a corporation, company, or other body, or in a way directed by or under a law relating to that property, the property shall not vest in the amalgamated society until it is duly transferred.

- (5) If any property does not vest under this section until transfer or registration, the amalgamated society shall have the right to require a transfer of the property to itself or to any person that the board directs and to sue for or recover the property.
- (6) Any property which is vested in or transferred to an amalgamated society under this section shall be subject to any debt, liability or obligation specially charged on or affecting the same.
- (7) All debts and liabilities, whether certain or contingent, and whether then existing or capable of arising at a future time, to or with which any of the societies that have been incorporated as an amalgamated society, or any trustee or person for and on account of any of those societies, is, at the date of notification under the *Legislation Act 2001* of that incorporation, liable or charged, shall become and be debts of the amalgamated society.
- (8) The amalgamation of any societies shall not prejudice the rights of any creditor of a society that is a party to the amalgamation.

## 20 Certificate of incorporation

- (1) A certificate of incorporation under this Act shall be in accordance with the nature and objects of the society, and shall contain a statement that the incorporation does not imply any approval by the registrar of the policy of its rules or any guarantee of its good management or its financial stability.

*Note* If a form is approved under s 80D (Approved forms) for a notice, the form must be used.

- (2) The certificate shall be conclusive evidence that all the requirements of this Act in relation to registration have been complied with.
- (3) However, subsection (2) does not affect any provisions of this Act for the winding-up or dissolution of the society or the cancellation of its registration.
- (4) If a certificate of incorporation under this Act is lost, stolen, destroyed or defaced, the person to whom it was issued may apply to

the registrar for the issue of a replacement certificate in the same terms.

- (5) An application mentioned in subsection (4) must be accompanied by a statement signed by the applicant setting out the reasons for the application.

*Note* A fee may be determined under s 80C (Determination of fees) for this section.

- (6) If the registrar receives an application in accordance with this section, he or she shall issue the replacement certificate to the applicant.

## **21 Members**

- (1) The members of a society formed under this Act shall be the persons who sign the application for membership on the formation of the society and any other persons admitted to membership in accordance with the rules.
- (2) The members of an amalgamated society shall be the persons who at the date of amalgamation were members of any of the societies parties to the amalgamation, together with any persons admitted to membership in accordance with the rules of the amalgamated society.
- (3) No rights of membership shall be exercised by any member of a society who has not made any payment to the society or acquired any share or interest that is provided for by the rules of that society.
- (4) A person shall cease to be a member of a society in any of the following circumstances:
- (a) if the member's share is transferred to another person in accordance with the rules of the society and the transferee is registered as holder of the share;
  - (b) if the member's share is forfeited in accordance with the rules of the society;

- (c) if, under a power given by the rules of the society, the member's share is sold by the society and the purchaser is registered as holder of the share;
- (d) if, under this Act, the society purchases the member's share;
- (e) if the member is expelled in accordance with the rules of the society;
- (f) if the member becomes bankrupt and the trustee disclaims under the *Bankruptcy Act 1966* (Cwlth), section 133;
- (g) on death, provided that the member's estate shall remain liable until the member's nominee, executor or administrator or some other person is registered as holder in the member's place, or until the society pays the value of the member's share in accordance with the provisions of this Act;
- (h) if the contract of membership is rescinded on the ground of misrepresentation or mistake;
- (i) if the value of the member's share is repaid to him or her in accordance with the rules of the society.

## 22 Shares

- (1) In this section:

***fixed share***, in relation to a society, means a share in the share capital of a society that, under the society's rules (subject to this Act)—

- (a) is not withdrawable by the member owning the share; or
- (b) is not withdrawable by that member except at the direction of the society or with the society's approval;

but does not include a share prescribed by the regulations.

***withdrawable share***, in relation to a society, means a share in the share capital of the society that—

- (a) under the rules of the society (subject to this Act), is withdrawable by the member owning the share; or
  - (b) is prescribed by the regulations.
- (2) The capital of a society shall vary in amount according to the nominal value of shares from time to time subscribed.
- (3) The capital shall be divided into shares of a fixed amount that shall be specified in the rules.
- (4) Subject to this section, the shares shall be of one class, all ranking equally.
- (5) A society may, if authorised by the rules, issue different classes of shares described in the rules.
- (6) The rules of a society may provide for—
  - (a) the payment of different rates of dividend or interest; and
  - (b) different conditions relating to issue;as determined from time to time by the board of the society in relation to the different classes of shares that the society may issue.
- (7) If different classes of shares have been issued by a society, in the event of the winding-up of the society—
  - (a) all fixed shares shall rank equally; and
  - (b) all withdrawable shares shall rank equally; and
  - (c) withdrawable shares shall rank in priority to fixed shares.
- (8) Any balance unpaid in relation to shares at the time of allotment shall be paid by periodic subscriptions or in the way specified in the rules of the society.
- (9) No member shall hold more than  $\frac{1}{5}$  of the shares of a society or more than any less proportion of the shares prescribed in the rules of the society.



- (10) A member shall subscribe for any minimum number of shares specified in the rules of the society and the number may be determined by the use made by the member of the society or in any way specified in those rules.
- (11) Any dividend, rebate or bonus to a member shall be applied to paying off any subscription or calls on shares that at the same time the dividend, rebate or bonus becomes payable are due by the member and unpaid.
- (12) A share may be held by 2 or more persons jointly.
- (13) A share in a society shall not be sold without the consent of the board.

## **22A Reserves**

- (1) A society shall, at the end of each financial year of the society, subject to subsection (3), transfer to a reserve fund, out of the surplus arising in that financial year from the business of the society, the amount required to be transferred under this section.

Maximum penalty: 10 penalty units.

- (2) The amount required to be transferred to a reserve fund by a society in relation to a financial year of the society is—
    - (a) an amount that is not less than—
      - (i) if the society does not have a reserve fund—the required amount for that financial year; or
      - (ii) if the society has a reserve fund but the fund is less than the required reserve amount for that financial year—
        - (A) the required amount for that financial year; or
        - (B) the amount necessary to increase the reserve fund to the required reserve amount for that financial year;
- whichever is the lesser; or

- (b) subject to subsection (5), an amount that is not less than the amount that would result in the proportion that the reserve fund for that financial year bears to the withdrawable funds of the society at the end of that financial year being not less than the proportion that the reserve fund in relation to the immediately previous financial year had to the withdrawable funds of the society at the end of the immediately previous financial year;
- whichever is the greater.
- (3) Notwithstanding subsection (1), if a society is unable to comply with that subsection—
- (a) the society shall forthwith notify the registrar of the reasons for its inability so to comply; and
- (b) the registrar shall, as soon as possible after being so notified, by written notice given to the society, direct that the transfer required by subsection (1) be made by the society—
- (i) from the funds of the society specified in the notice; and
- (ii) within the period specified in the notice, being a period of not less than 7 days from the date the notice is given to the society.
- (4) A society shall comply with a direction of the registrar given under subsection (3).
- Maximum penalty: 50 penalty units.
- (5) Nothing in this section requires a society to transfer to a reserve fund at the end of a financial year of the society an amount that would result in the reserve fund exceeding the required reserve amount for that financial year.
- (6) Money transferred to a reserve fund of a society under this section shall not be distributed among the members of the society except in the event of the winding-up of the society.

- (7) Money transferred to a reserve fund of a society under this section may at any time be applied for any purpose for which the capital of the society may be applied.
- (8) It is a defence to a prosecution for an offence against subsection (1) if the society proves—
  - (a) that it has notified the registrar in accordance with subsection (3) (a); and
  - (b) that it has not received a notice under subsection (3) (b) or, if it has received a notice under that paragraph, that the period specified in the notice has not ended.
- (9) In this section:

*required amount*, in relation to a financial year of a society, means an amount equal to—

- (a) 0.3% of the withdrawable funds of the society at the beginning of that financial year; or
- (b) 0.3% of the withdrawable funds of the society at the end of that financial year;

whichever is the lesser.

*required reserve amount*, in relation to a financial year of a society, means an amount equal to 2.5% of the withdrawable funds of the society at the end of that financial year.

## 23 Surplus from operations

- (1) Subject to section 22A, any part of the surplus arising in a financial year of a society from the business of the society may, if authorised by the rules of the society—
  - (a) be paid to a member by way of dividend in relation to the shares held by him or her; or
  - (b) be paid to a member by way of bonus or rebate on the business done by him or her with the society; or

- (c) be credited to an employee who is not a member, but is qualified to be a member, by way of bonus in proportion to the employee's salary or wages at a rate equal to the rate of bonus or rebate paid to a member on the business done by the member with the society; or
  - (d) be credited to a person who is not a member, but is qualified to be a member, by way of bonus or rebate in proportion to the business done by the person with the society.
- (2) A bonus or rebate shall only be credited to an employee or person who is not a member if the amount credited does not exceed the nominal value of the minimum number of shares for which a member is required by the rules to subscribe and is to be applied in or towards payment for that minimum number of shares to be issued to him or her on application in accordance with the rules of the society.
  - (3) Nothing in this section precludes the payment of a bonus to an employee in accordance with the terms of his or her employment.
  - (4) Subject to section 22A, a society may, if authorised by its rules, apply an amount not exceeding 10% of the surplus arising in a financial year of the society from the business of the society to a charitable purpose or for promoting community cooperation and advancement.
  - (5) For this section, the surplus arising in a financial year of a society from the business of the society does not include any funds that have been transferred under section 22A to a reserve fund of the society.

## **24 Liability of members of society**

A member shall be liable to a society for the amount (if any) unpaid on his or her shares, together with any fees or charges payable by the member to the society in accordance with its rules.

## **25 Purchase or repayment of shares**

- (1) Subject to subsection (2), a society may, if so authorised by the rules—
  - (a) purchase a share of a member of the society; or
  - (b) with the consent of a member of the society, repay the value of his or her shares ascertained in accordance with the rules.
- (2) A society shall not, without the consent of the registrar, make any purchase or repayment referred to in subsection (1) if the society has received from any person who is not a member of the society any money on loan or deposit that is not secured by mortgage and has not been repaid.
- (3) The registrar shall not consent to a proposed purchase or repayment if the registrar is satisfied that the purchase or repayment would be prejudicial to the interests of—
  - (a) members of the society other than the member referred to in subsection (1) (a) or (b); or
  - (b) prospective members of the society; or
  - (c) creditors of the society.

## **26 Cancellation and reissue of shares**

A society may cancel or sell and reissue any share purchased by or forfeited to the society in accordance with the provisions of this Act.

## **28 Charge and set-off against member**

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

**29 Death of member**

- (1) On the death of a member, the board shall (subject to this section) transfer the member's share or interest to—
  - (a) the member's nominee; or
  - (b) if there is no nominee—the member's executor or administrator; or
  - (c) a person specified by—
    - (i) the member's nominee; or
    - (ii) if there is no nominee—the member's executor or administrator;by written notice to the society within 3 months of the member's death.
- (2) The board shall only transfer a deceased member's interest to a person who—
  - (a) is qualified to be a member of the society; and
  - (b) does not already hold the number of shares that the transfer would increase his or her holding in the society beyond the proportion permitted by this Act.
- (3) If no eligible person is willing to accept the transfer of a deceased member's share or interest, the board may (notwithstanding section 25) purchase the shares and pay their purchase price to—
  - (a) the member's nominee; or
  - (b) if there is no nominee—the member's executor or administrator.
- (4) The board may defer payment under subsection (3) until all money due from the deceased member or his or her estate have been paid to the society.
- (5) The share or interest of the deceased member shall, for this section, include any credit balance due to the member and the value of the

share or interest shall be ascertained in accordance with the rules of the society.

- (6) The nominee of a member shall not be an officer or employee of the society unless the officer or employee is the husband, wife, father, mother, child, brother, sister, nephew or niece of the member.
- (7) A nomination is only valid if—
  - (a) it is made in the way prescribed by the regulations; and
  - (b) at the date of nomination, the member is at least 16 years old; and
  - (c) at the date of the member's death, the value of his or her share or interest is \$400 or less.
- (8) A nomination may be varied or revoked in the prescribed way but shall not be revocable or variable by will or codicil.
- (9) A nomination shall be revoked by the marriage of the nominator, unless expressed to be made in contemplation of marriage and in favour of the intended spouse.
- (10) Notwithstanding subsection (9), if the board makes any transfer or payment to a nominee in ignorance of a marriage contracted by the nominator after the date of the nomination—
  - (a) the receipt of the nominee is a valid discharge to the society; and
  - (b) the society is under no liability to any other person claiming the share or interest.
- (11) Any transfer or payment made by the board in accordance with this section is valid and effectual against any demand made on the society by any other person.

### **30 Death of intestate**

- (1) If any member or person, entitled, in relation to any share in, loan to, or deposit with, a society, to a sum of money not exceeding \$200, dies intestate, the board may, on the evidence it considers sufficient,

pay the money to any person who appears to the board to be entitled to obtain a grant of administration of the estate of the deceased and the person so paid shall hold the money on the same trusts as if he or she had obtained such a grant.

- (2) This section applies in relation to any surplus, not exceeding \$200, arising on the sale by the society as mortgagee of any property mortgaged by the deceased to the society.
- (3) Nothing in this section shall affect the rights of a nominee under any nomination made by a member and then subsisting.
- (4) Any payment made by the board in accordance with this section is valid and effectual against any demand made on the society by any other person.

### **31 Society a body corporate**

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

### **32 Use of the word 'cooperative'**

- (1) In this section:

*exempt body* means—

- (a) a society; or
- (b) a company in relation to which the Minister has given consent under section 38A (4); or
- (c) a building society or a credit union; or
- (d) a company or society in relation to which an exemption under subsection (6) is in force.



- (2) A person, other than an exempt body, shall not—
- (a) trade or carry on business under any name or title including the word cooperative, or any other word importing a similar meaning; or
  - (b) hold out in any way that its trade or business is cooperative in nature.

Maximum penalty: 50 penalty units.

- (3) If a body corporate contravenes subsection (2), each person involved in the management of that body who knowingly or wilfully authorises or permits the contravention commits an offence against that subsection.
- (4) A company or society formed or incorporated elsewhere than in the ACT may apply to the registrar to become an exempt body.
- (5) An application must be in writing.

*Note* A fee may be determined under s 80C (Determination of fees) for this section.

- (6) On application in accordance with subsection (5), the registrar shall issue a certificate of exemption to the applicant if he or she is satisfied on reasonable grounds that the applicant trades or carries on business for the purpose of promoting the economic interests of its members in accordance with cooperative principles.
- (7) The registrar may issue a certificate of exemption for the period, and subject to the conditions, the registrar considers appropriate.
- (8) A person shall not, without reasonable excuse, contravene a condition of a certificate of exemption.

Maximum penalty: 50 penalty units.

## 34 Property

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

**35 Granting of securities**

- (1) If a society is authorised by its rules to raise money (whether on loan or by negotiating prescribed bills of exchange) or to obtain other financial accommodation the society, unless it is also expressly authorised to receive money on deposit, shall not be deemed to be authorised to receive money on deposit, but—
  - (a) if the society is authorised to raise money on loan—may so raise money by mortgage of any of its real or personal property or of its uncalled capital or by the issue of bonds or otherwise; and
  - (b) if the society is authorised to raise money by negotiating prescribed bills of exchange—may give any security to, or enter into any arrangement with, the person on whom it proposes to draw, or has drawn, a bill of exchange for the purpose of raising money by the negotiation of the bill that the society could give or enter into under paragraph (a) in connection with the raising of money by it on loan; and
  - (c) if the society is authorised to obtain financial accommodation (otherwise than in a way referred to in paragraph (a) or (b))—may so obtain that accommodation in any way the board considers appropriate.
- (2) Without limiting how, under subsection (1) (c), financial accommodation may be obtained by a society, the board may determine that that accommodation may be obtained—
  - (a) by legal or equitable mortgage charged on the undertaking of the society or on all or any of the property of the society, including its uncalled or unpaid capital subscriptions, loan payments and other money; and
  - (b) by dealing with promissory notes and mortgage-backed securities; and
  - (c) by arrangements involving—
    - (i) the issue of letters of credit; and

- (ii) the indemnification of any person or body in relation to a payment made under a letter of credit, whether or not the indemnification is secured by a legal or equitable mortgage or otherwise.
- (3) Bonds issued by a society shall be issued and transferred in the prescribed way, and, for loss or destruction of a bond, a new bond may be issued in the prescribed way and subject to the prescribed conditions.

*Note* If a form is approved under s 80D (Approved forms) for bonds, the form must be used.
- (4) For subsection (3), a bond does not include any instrument that makes any property liable, whether specifically or otherwise, to any bank or any financial trading corporation or liable specifically to any other person as security—
  - (a) for money raised on loan; or
  - (b) in connection with a prescribed bill of exchange; or
  - (c) for money received on deposit.
- (5) The Corporations Act applies, mutatis mutandis and with any modifications prescribed by regulation, in relation to any mortgage or charge created, or bond issued, by a society.

### **36 Raising of money etc**

- (1) If a society is authorised by its rules to raise money (whether on loan or by negotiating prescribed bills of exchange), to obtain other financial accommodation or to receive money on deposit, the society—
  - (a) shall not raise, obtain or receive money except in accordance with the limits provided in this section; and
  - (b) shall apply any money so raised, obtained or received for the purposes of the society; and

- (c) for money raised on loan or received on deposit—may so raise or receive the money at interest.
- (2) The aggregate of the amounts remaining unpaid by a society in relation to loans made to, or deposits received by, the society, the amounts payable under prescribed bills of exchange negotiated by the society and the amounts payable by the society in relation to other financial accommodation obtained by it shall not at any time exceed the sum ascertained by deducting  $\frac{1}{2}$  the amount of debts owing by the society from the aggregate of the following amounts—
- (a)  $\frac{1}{2}$  of the capital of the society for the time being unpaid inclusive of the contingent liability (if any) attached to the shares; and
- (b)  $\frac{4}{5}$  of the amount for the time being secured to the society by mortgages from its members or other persons; and
- (c)  $\frac{1}{2}$  of the amount shown in the last audited balance sheet as the value of any other assets of the society exclusive of goodwill.
- (3) Notwithstanding subsection (2), the aggregate of—
- (a) the amounts remaining unpaid by a society in relation to loans made to, or deposits received by, the society; and
- (b) the amounts payable under prescribed bills of exchange negotiated by the society; and
- (c) the amounts payable by the society in relation to other financial accommodation obtained by it;
- may be the sum that the society considers proper if the society has not issued bonds to or received deposits from any person other than a member holding fully paid shares in the society to the value of \$10 or more.
- (4) In calculating the amount for the time being secured to a society by mortgages from its members, the following amounts shall be disregarded:

- (a) the amounts secured on any property in relation to which the payments were upwards of 12 months in arrear at the date of the last annual account and statement of the society; and
  - (b) the amount secured on any property of which the society has been 12 months in possession at the date of that account and statement.
- (5) A society shall not raise money on loan so that it has on loan at any one time an aggregate amount exceeding \$2 000 unless a higher aggregate amount has been approved by special resolution of the society.
- (6) A society shall not raise money by negotiating prescribed bills of exchange so that, at any one time, the aggregate of the amounts payable under those bills exceeds \$2 000 unless a higher aggregate amount has been approved by special resolution of the society.
- (7) A society shall not obtain financial accommodation (excluding money referred to in subsection (5) or (6)) so that, at any one time, the aggregate of the amounts payable by the society in relation to that accommodation exceeds \$2 000 unless a higher aggregate amount has been approved by special resolution of the society.
- (8) A society shall not accept money on deposit except on terms that not less than 1 month's notice may be required by the board before repayment.
- (9) Every deposit book and every acknowledgment or security of any kind given by a society for a loan or deposit or in connection with a prescribed bill of exchange shall have printed or written in or on it a statement that the society is only entitled to raise money or receive deposits within the limits provided in this section, and every deposit book or other form of acknowledgment of a deposit shall have printed or written in or on it a statement that the society is not entitled to accept money on deposit except on terms that not less than 1 month's notice may be required by the board before repayment.

- (10) A person who lends or pays money to, or deposits money with, a society is not bound—
- (a) to see to its application; or
  - (b) to see that the society has not exceeded the limits provided in relation to the society for the borrowing or raising of money by it or for the obtaining of other financial accommodation by it.

### 37 Investments

- (1) A society may invest its funds—
- (a) in any securities authorised by law for the investment of trust funds; and
  - (b) by deposit with a bank, including a savings bank, carrying on business in Australia; and
  - (c) by deposit with—
    - (i) a building society or a credit union; or
    - (ii) a housing and services society; or
    - (iii) a prescribed trading society;  
that is authorised by its rules to receive deposits from corporations; and
  - (d) in authorised bills of exchange; and
  - (e) in a prescribed security.
- (2) A society may (if authorised by its rules) make a defined advance out of its reserve fund to a member on the security of the member's shares in the society.
- (3) In subsection (2):
- defined advance*** means an advance not exceeding 50% of the amount paid on the relevant shares.

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

### **38 Voluntary transfer of engagements—trading societies**

- (1) A registered trading society may, by special resolution, transfer its engagements to another registered trading society that undertakes to fulfil the engagements of the firstmentioned society.
- (2) A transfer of engagements under this section shall not prejudice any right of a creditor of any society that a party to the transfer.

### **38AA Transfer of engagements by direction**

- (1) The registrar may, with the approval of the Minister—
  - (a) direct a society to transfer its engagements to a financial institution approved by the registrar that has undertaken to fulfil those engagements; and
  - (b) require the society, within a specified period, to enter into an agreement approved by the registrar to give effect to the direction.
- (2) The registrar shall not give a direction under subsection (1) unless the registrar has reasonable grounds for believing, and certifies, that:
  - (a) the number of members of the society is reduced to less than 7; or
  - (b) the society—
    - (i) has not begun business within 6 months of registration; or
    - (ii) has not carried on any business for a period of more than 6 months; or
  - (c) the society has, after notice by the registrar of any contravention of this Act or its rules—

- (i) failed, within the time specified in the notice, to remedy the contravention; or
    - (ii) committed any further contravention of a kind specified in the notice; or
  - (d) there are, and have been for 1 month immediately before the date of the certificate, insufficient directors of the society to constitute a quorum as provided by the rules of the society; or
  - (e) as a result of an inquiry under section 7 into the affairs of the society, it is in the interests of its members, depositors or creditors that the society should transfer its engagements; or
  - (f) the transfer has been recommended by an administrator of the society; or
  - (g) in the interests of members, depositors or creditors of the society, it is expedient for the society to transfer its engagements.
- (3) If a society fails to comply with a direction referred to in subsection (1) (a), the registrar may notify the society that he or she has elected to treat the certificate given under subsection (2) in relation to the society as—
- (a) a certificate given under section 58B (2); or
  - (b) a certificate given under section 59 (3).
- (4) If the registrar gives notice of election to a society under subsection (3), this Act applies in relation to the society, from and including the day when the notice was given, as if the certificate specified in the notice had been duly given by the registrar.
- (5) The registrar may, with the approval of the Minister, revoke a direction referred to in subsection (1) (a) in relation to a society at any time before the society has entered into an agreement under subsection (1) (b).



- (6) Notwithstanding section 38 (1) or the rules of a society, a society may, by resolution of the board, accept a transfer of engagements under this section.
- (7) Section 19 applies mutatis mutandis to a transfer of engagements under this section by a society to a financial institution and for that purpose—
- (a) a reference to amalgamation is a reference to transfer of engagements; and
  - (b) a reference to property is a reference to the engagements transferred; and
  - (c) a reference to the amalgamated society is a reference to the institution to which the engagements are transferred; and
  - (d) a reference to societies that have amalgamated is a reference to the bodies that are parties to the transfer of engagements; and
  - (e) a reference to the notification under the *Legislation Act 2001* of a notice about an incorporation and to the date of notification is a reference to the notification under the *Legislation Act 2001* of a notice about the transfer of engagements (the **transfer notification**) and to the date stated in the transfer notification as the day the transfer takes effect.
- (8) If the engagements of a society are transferred to another society (**the transferee society**), notwithstanding anything contained in this Act or the rules of the transferee society, the transferee society may, in conducting such of its affairs as relate to the transfer of engagements—
- (a) raise money or obtain other financial accommodation; or
  - (b) receive money on deposit;
- in the amounts that the transferee society, with the approval of the registrar, determines.
- (9) On the transfer of the engagements of a society under this section, the registrar may cancel its registration.

- (10) Before cancelling the registration of a society, the registrar shall give written notice of the registrar's intention to do so to the institution to which the engagements are transferred.
- (11) An officer of a society to which a direction has been given or requirement made under subsection (1) shall not—
- (a) fail to take all reasonable steps to secure compliance by the society with that direction or requirement; or
  - (b) by a wilful act or omission, cause a failure by the society to comply with that direction or requirement.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (12) If the engagements of a society are transferred to another society under this section, the members of that other society shall be—
- (a) the persons who immediately before the transfer took effect were members of the societies; and
  - (b) any other persons who are admitted after the transfer to membership of that society in accordance with its rules.

- (13) In this section:

*engagements*, in relation to a society, includes the property of the society.

*financial institution* means—

- (a) a building society; or
- (b) a credit union; or
- (c) a bank within the meaning of the *Banking Act 1959* (Cwlth).

### **38A Registration of society as a company**

- (1) A society may, by special resolution, determine that the society shall apply to be registered as a company under the Corporations Act.

- (2) If, under section 38AA (1), the registrar directs a society to transfer its engagements to an institution other than a society, the registrar may apply to have the society registered as a company under the Corporations Act.
- (3) Before an application is made under this section, the society, by special resolution, or the registrar—
  - (a) shall determine the name under which registration of the society as a company is sought (which name may be different from the name of the society); and
  - (b) shall adopt a memorandum of association for the company; and
  - (c) shall adopt articles of association if such articles are required by the Corporations Act and may adopt articles of association in any other case.
- (4) A society shall not, except with the consent of the Minister, be registered as a company under a name that includes the word ‘cooperative’ or any other word importing a similar meaning.
- (5) A memorandum or association adopted under this section—
  - (a) shall be in accordance with the Corporations Act; and
  - (b) shall state as the objects of the company the objects of the society; and
  - (c) when lodged for registration shall have as signatories at least 7 persons who are members of the society.
- (6) The Corporations Act applies in relation to—
  - (a) the necessity for articles of association; and
  - (b) the applicability of the regulations contained in the Corporations Law, schedule 1; and
  - (c) any articles of association adopted for the company.
- (7) For a society the liability of whose members is limited by shares, the memorandum of association and the articles of association (if any)

adopted under this section shall not impose on the members of the company who were members of the society at the date of its registration as a company any greater or different liability to contribute to the assets of the company than the liability to which they were subject as members of the society.

- (8) The memorandum of association or articles of association as so adopted shall not deprive any member of the company of any preferential rights in relation to dividend or capital to which he or she was entitled as a member of the society at the date of its registration as a company.
- (9) A society may apply to be registered as a company under the Corporations Act as follows:
- (a) the society shall register with the registrar a copy of the special resolutions passed by the society under subsections (1) and (3); and
  - (b) the society shall lodge with the commission—
    - (i) an application by the society under its common seal to be registered under the Corporations Act; and
    - (ii) a copy of the special resolutions verified under the hand of the registrar; and
    - (iii) the memorandum of association adopted for the company and the articles of association (if any); and
    - (iv) a list, verified by a statutory declaration of a director of the society, showing the names, addresses and occupations of all persons who, on a day specified in the list (being not more than 6 clear days before the day of lodgment), were members of the society and, in relation to each person, the number and nominal amount of, and amount credited as paid up on, any shares held by that person in the society.

- (10) An application by the registrar for a society to be registered as a company—
- (a) shall be lodged with the commission; and
  - (b) shall be accompanied by the memorandum of association adopted for the company and the articles of association (if any); and
  - (c) shall be accompanied by a list, verified by a statutory declaration of the registrar, showing the names, addresses and occupations of all persons who, on a day specified in the list (being not more than 6 clear days before the day of lodgment), were members of the society and, in relation to each person, the number and nominal amount of, and amount credited as paid up on, any shares held by that person in the society.
- (11) The commission shall keep and register the memorandum of association and articles of association (if any), and shall certify under its common seal that the company is incorporated, and, for a limited company, that the company is limited.
- (12) The registration, certificate and memorandum of association and articles of association (if any) shall have the same operation and effect, and the provisions of the Corporations Act shall apply to the company and the members, contributories and creditors of the company, as if the company had been registered in the way prescribed by the Corporations Act.
- (13) When a society is registered as a company it shall cease to be registered as a society under this Act.
- (14) The commission shall give notice of every registration of a company effected under this section to the registrar, who shall remove the name of the society from the register of societies under this Act.
- (15) On the registration of the society as a company all persons who were members of the society at the date of the registration shall be deemed to become members of the company, and their names shall be entered on the register of members of the company.

- (16) Every member of the society at the date of the registration who held shares in the society shall be deemed to be the holder of shares in the capital of the company equal in number and nominal value to the shares of which the member was then registered as the holder in the register of members of the society, and entry shall be made in the register of members of the company accordingly.
- (17) On entry in a company register under subsection (16), each member of the company is liable for the amount (if any) unpaid on his or her shares and the register of the company shall be prima facie evidence of the amount of his or her liability.
- (18) If no persons are named as directors of the company in the articles of association of the company when a society is registered as a company under this section, the persons who were directors of the society at the date of the registration shall be the first directors of the company.
- (19) A certificate of incorporation of a society as a company given by the commission is conclusive evidence of compliance with all the relevant requirements under this section and the Corporations Act for registration under the Corporations Act.
- (20) When a society is registered as a company under this section the corporation constituted by the company as so registered shall, for all purposes, be deemed to be the same entity as the corporation constituted by the society.
- (21) Without restricting subsection (20), on the registration of a society as a company under this section—
- (a) all property and proprietary and other rights whatsoever of the society shall become vested in and exercisable and enforceable by the company; and
  - (b) all liabilities and obligations of the society, whether certain or contingent and whether then existing or capable of arising at a future time, and whether contractual or other, and all rights against the society and all penalties incurred by the society, shall be enforceable and recoverable against the company.

### **39 Contracts**

- (1) Contracts on behalf of a society may be made, varied and discharged as provided in this section.
- (2) Any contract that, if made between private persons, would by law be required to be in writing and under seal, may be made on behalf of the society in writing under the common seal of the society and the contract may, in the same way, be varied or discharged.
- (3) Any contract that, if made between private persons, would by law be required to be in writing and signed by the party to be charged with it, may be made on behalf of the society in writing signed by any person acting under the express or implied authority of the society, and the contract may, in the same way, be varied or discharged.
- (4) Any contract that, if made between private persons, would by law be valid, although made by parol only and not reduced into writing, may be made by parol on behalf of the society by any person acting under the express or implied authority of the society and the contract may, in the same way, be varied or discharged.
- (5) Any contract made according to the provisions of this section shall be effectual in law and shall be binding on the society and all other parties to it.

### **40 Name and address of society**

- (1) The name of a society shall include the word 'cooperative' as part of its name and the word 'limited' shall be the last word of its name.
- (2) The requirements of subsection (1) in relation to the word 'limited' may be satisfied by the use of the contraction 'Ltd.' in its stead.
- (3) The name of a society shall be inscribed in legible characters on its seal and shall be stated in legible characters in all notices, advertisements, and other official publications of the society, and in all bills of exchange, cheques, promissory notes, endorsements, orders for money or goods, waybills, invoices, receipts and other documents required in the business of the society.

- (4) The name of the society, with a statement that the society is registered under this Act, shall be painted or attached and kept painted or attached, on the outside of its office, in a conspicuous place, in letters that are clearly legible.
- (5) The office of the society shall be registered as prescribed and notice of any change of address shall be transmitted to the registrar within 14 days after the change.

*Note* A fee may be determined under s 80C (Determination of fees) for this section.

#### **40A Service of documents on society**

A document, including a summons, notice, order or other legal process, may be served on a society—

- (a) by leaving it at the registered office of the society with some person apparently in the service of the society; or
- (b) by sending it by post enclosed in a prepaid registered letter addressed to the society at its registered office.

#### **41 Effect of rules**

A society's rules bind the society, each member and any person claiming through a member as if—

- (a) each member had signed and sealed the rules; and
- (b) there were a covenant in the rules on the part of each member and his or her legal representatives to comply with the rules, subject to this Act.

#### **42 Registers and records**

- (1) A society shall keep such registers as are prescribed.
- (2) The registers shall include the following:
  - (a) a register of directors, members and shares;



- (b) a register of loans raised by the society and securities given by it in connection with those loans;
  - (c) a register of bills of exchange negotiated by the society for the purpose of raising money and securities given by it in connection with those bills;
  - (d) a register of bonds issued by the society;
  - (e) a register of deposits received by the society;
  - (f) a register of any loans made or guaranteed by the society and of any securities taken by the society;
  - (g) a register of any nominees to whom any share or interest is to be transferred or the value of it paid on the death of a member.
- (3) The registers shall be kept in the way and shall contain the particulars that are prescribed.
- (4) No notice of any trust, express, implied or constructive, shall be entered in any register or be received by the registrar.

#### **42A Accounts**

- (1) A society shall keep accounts in accordance with this section.
- (2) The accounts of a society shall be kept in accordance with such of the prescribed requirements as are relevant to those accounts.
- (3) Subject to subsection (2), the accounts of a society shall be kept in accordance with such of the accounting standards as are relevant to those accounts, as in force from time to time, and as applied to the society.
- (4) The accounting standards apply to the accounts of a society in the prescribed way.
- (5) If the accounts of a society would not, if kept in accordance with a prescribed requirement or an accounting standard as applied to the society, give a true and fair view of the financial affairs of a society, the society—

- (a) is not required to comply with that requirement or standard, to the extent that such compliance would fail to give such a true and fair view; and
  - (b) shall add the information and explanations to the accounts that will give such a true and fair view.
- (6) In this section:

*accounting standards* means an accounting standard referred to in of the *Corporations Act 1989* (Cwlth), section 32.

*accounts*, in relation to a society that is a holding society, includes the group accounts of the society.

#### **42B Statement to be attached to accounts**

- (1) The directors of a society shall attach to the society's accounts for a financial year a statement complying with this section and section 42D.
- (2) The statement shall state whether or not, in the directors' opinion—
  - (a) the profit and loss account gives a true and fair view of the society's profit or loss for the financial year; and
  - (b) the balance sheet gives a true and fair view of the society's state of affairs as at the end of the financial year.
- (3) In forming their opinion for subsection (2), the directors shall have regard to circumstances that have arisen, and information that has become available, since the end of the financial year and that would, if the accounts had been kept when the statement is made, have affected the determination of an amount or particular in them.
- (4) If adjustments have not been made in the accounts to reflect circumstances or information of a kind referred to in subsection (3) that are or is relevant to understanding the accounts or an amount or particular in them, the statement shall include the information and explanations that will prevent the accounts, or that amount or particular, from being misleading because adjustments have not been so made.

- (5) The statement shall state whether or not, in the directors' opinion, there are, when the statement is made, reasonable grounds to believe that the society will be able to pay its debts as and when they fall due.
- (6) The statement shall state whether or not the accounts have been kept in accordance with all applicable accounting standards.
- (7) If the accounts have not been made out in accordance with a particular applicable accounting standard, the statement shall—
  - (a) state why the accounts, if kept in accordance with that accounting standard, would not have given a true and fair view of the matters with which they are required to deal; and
  - (b) give particulars of the quantified financial effect on the accounts of failing to keep them in accordance with that accounting standard.
- (8) If the society has been dormant throughout the period beginning at the start of the financial year and ending on the day the statement is made, the statement shall state that the society has so been dormant.

**42C Statement to be attached to holding society accounts**

- (1) The directors of a society that is a holding society at the end of a particular financial year shall attach to the group accounts included in the society's accounts for the financial year a statement that complies with this section and section 42D.
- (2) The statement shall state whether or not, in the directors' opinion, the group accounts give a true and fair view of—
  - (a) the group's profit or loss for; and
  - (b) the group's state of affairs as at the end of;that financial year and the corresponding financial years of the subsidiaries in the same group, so far as the profit or loss and state of affairs concern members of the society.

- (3) In forming their opinion for subsection (2), the directors shall have regard to circumstances that have arisen, and information that has become available, since—
- (a) for circumstances or information about the society—the end of the financial year; or
  - (b) for circumstances or information about a subsidiary in the same group—the end of the corresponding financial year of that society;
- and that would, if the group accounts had been kept when the statement is made, have affected the determination of an amount or particular in them.
- (4) If adjustments have not been made in the group accounts to reflect circumstances or information of a kind referred to in subsection (3) that are or is relevant to understanding the accounts or an amount or particular in them, the statement shall include the information and explanations that will prevent the accounts, or that amount or particular, from being misleading because adjustments have not been so made.
- (5) The statement shall state whether or not the group accounts have been kept in accordance with all applicable accounting standards.
- (6) If the group accounts have not been kept in accordance with a particular applicable accounting standard, the statement shall—
- (a) state why the accounts, if kept in accordance with that accounting standard, would not have given a true and fair view of the matters with which they are required to deal; and
  - (b) give particulars of the quantified financial effect on the group accounts of failing to keep them in accordance with that accounting standard.

(7) If—

- (a) the society has been dormant throughout the period beginning at the start of the financial year and ending on the day the statement is made; and
- (b) a subsidiary of the society at any time during the financial year has been dormant throughout each period since the start of the financial year during which it was a subsidiary of the society;

the statement shall state that the society and each such subsidiary have so been dormant.

#### **42D Statements in relation to financial year of society**

A statement required by section 42B or 42C in relation to a financial year of a society shall—

- (a) be made in accordance with a resolution of the directors; and
- (b) be made not later than 42 days before the day of the deadline after the financial year; and
- (c) specify the day when it was made; and
- (d) be signed by at least 2 directors.

#### **42E Directors report on society other than holding society**

- (1) The directors of a society that is not a holding society at the end of a particular financial year shall make a report complying with this section and sections 42G and 42H.
- (2) If at the end of the financial year the society was a wholly-owned subsidiary of another society the report need not comply with subsection (4) (e), (f), (g) and (h).
- (3) Subsection (1) does not apply in relation to a society in relation to a financial year if the society is dormant throughout the period beginning at the start of, and ending at the deadline after, the financial year.

- (4) The report shall—
- (a) state the names of the directors in office on the day the report is made; and
  - (b) state the society's principal activities in the course of the financial year and any significant change in the nature of those activities that occurred during the year; and
  - (c) state the net amount of the society's profit or loss for the financial year after provision for income tax; and
  - (d) state the amount (if any) that the directors recommend should be paid by way of dividend; and
  - (e) state the amounts (if any) that have been paid or declared by way of dividend since the start of the financial year, indicating which (if any) of those amounts have been shown in a previous report under this Act or a corresponding law; and
  - (f) contain a review of the society's operations during the financial year and of the results of those operations; and
  - (g) give particulars of any significant change in the society's state of affairs that occurred during the financial year; and
  - (h) give particulars of any matter or circumstance that has arisen since the end of the financial year and has significantly affected, or may significantly affect—
    - (i) the society's operations; or
    - (ii) the results of those operations; or
    - (iii) the society's state of affairs;in later financial years; and
  - (i) refer to—
    - (i) likely developments in the society's operations; and

- (ii) the expected results of those operations; and
- in later financial years.

**42F Directors report on group holding society**

- (1) The directors of a society that is a holding society at the end of a particular financial year shall make a report complying with this section and sections 42G and 42H.
- (2) If at the end of the financial year the society was a wholly-owned subsidiary of another society the report need not comply with subsection (4) (e), (f), (g) and (h).
- (3) Subsection (1) does not apply in relation to a society in relation to a financial year if—
  - (a) the society is dormant throughout the period beginning at the start of, and ending at the deadline after, the financial year; and
  - (b) each subsidiary of the society at any time during the financial year is dormant throughout so much of each period during which it is a subsidiary of the society as falls within the period referred to in paragraph (a).
- (4) The report shall—
  - (a) state the names of the directors in office on the day the report is made; and
  - (b) state the principal activities of the group during the financial year and any significant change in the nature of those activities that occurred during the financial year; and
  - (c) state the net amount of the consolidated profit or loss of societies in the same group for the financial year after—
    - (i) provision for income tax; and
    - (ii) deducting any amounts that should properly be attributed to a person other than a subsidiary in the group; and

- (d) state the amount (if any) that the directors recommend should be paid by way of dividend; and
- (e) state the amounts (if any) that have been paid or declared by way of dividend since the start of the financial year, indicating which (if any) of those amounts have been shown in a previous report under this Act or a corresponding law; and
- (f) contain a review of the group's operations during the financial year and of the results of those operations; and
- (g) give particulars of any significant change in the group's state of affairs that occurred during the financial year; and
- (h) give particulars of any matter or circumstance that has arisen since the end of the financial year and has significantly affected, or may significantly affect—
  - (i) the group's operations; or
  - (ii) the results of those operations; or
  - (iii) the group's state of affairs;in later financial years; and
- (i) refer to—
  - (i) likely developments in the group's operations; and
  - (ii) the expected results of those operations;in later financial years.

#### **42G Report may omit prejudicial information**

If, in the directors' opinion, it would prejudice the society's interests to include in the report particular information, being some or all of the information that section 42E (i) or 42F (i) requires to be so included—

- (a) the firstmentioned information need not be so included; and



- (b) if it is not so included—the report shall state that some or all, as the case requires, of the information required by that paragraph has not been so included.

#### **42H Reports generally**

A report that is required under section 42E, 42F or 42G in relation to a financial year of a society shall—

- (a) be made out in accordance with a resolution of the directors; and
- (b) be made out not more than 42 days before the day of the deadline after the financial year; and
- (c) specify the day when it was made out; and
- (d) be signed by at least 2 directors.

#### **43 Inspections of documents by members and creditors**

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

- (a) a copy of this Act; and

*Note* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including regulations (see *Legislation Act 2001*, s 104).

- (b) a copy of the rules of the society; and
- (c) a copy of the last balance sheet and profit and loss account for the time being, together with the report of the auditors; and
- (d) the prescribed register of directors, members and shares; and
- (e) the prescribed register of loans raised by the society and securities given by it in connection with those loans; and
- (f) the prescribed register of bills of exchange negotiated by the society for the purpose of raising money and securities given by it in connection with those bills; and

(g) the prescribed register of bonds issued by the society.

#### **44 Returns**

- (1) A society shall, within 14 days after any change in the composition of the board of directors of the society, give the registrar notice of the change.

*Note 1* A fee may be determined under s 80C (Determination of fees) for this section.

*Note 2* If a form is approved under s 80D (Approved forms) for a notice, return or other provision of information under this section, the form must be used.

- (2) A society shall, within 3 months after the end of each financial year of the society, or within any further period that the registrar authorises, give the registrar the following returns:

- (a) a list of directors for the year then current;
- (b) for a society that is not a subsidiary corporation of a society—a list of members of the society at the end of that financial year;
- (c) a statement of the assets and liabilities of the society at the end of that financial year and of the accounts of the society for that financial year;
- (d) a copy of any report by the auditor on those accounts;
- (e) any other prescribed particulars.

- (3) The registrar may—

- (a) on his or her own initiative; or
- (b) on application by the society;

authorise an extension of the period within which a society is to give the registrar a return referred to in subsection (2).

- (4) If the society gives information of any change in membership since the date the previous list of members was given, it shall be deemed to have complied with the requirements of subsection (2) (b).

- (5) In this section:  
*society* includes a subsidiary corporation of a society.

#### **45 Dealings with members and applicants**

- (1) A society may (if authorised by its rules) make a contract with a member—
- (a) in relation to specified dealings between the member and the society for a fixed period; and
  - (b) with provision for payment by the member to the society of specified sums as liquidated damages for the breach of any term of the contract.
- (2) A contract under subsection (1) may require a member to sell products through or to the society, or to obtain supplies or services through or from the society.
- (3) For section 28, a sum referred to in subsection (1) (b) is a debt due from the member to the society.
- (4) A contract under subsection (1) is binding on the society and all other parties to the contract notwithstanding that (except for this Act) the contract would be invalid as being in restraint of trade.
- (5) If a society is authorised by its rules to have any dealings with a member, the society shall, unless the rules otherwise provide, be deemed to be authorised to have similar dealings with any person who applies and is qualified to be a member.

#### **46 Charges payable by members**

- (1) A society shall give any person intending to become a member a list of the charges payable by a member of the society.
- (2) A member of a society is liable to pay only—
- (a) the charges referred to in the list given to the member under subsection (1); and

- (b) any charges that are imposed by any subsequent alteration in the rules of the society.
- (3) The charges referred to in this section may be altered by special resolution.
- (4) The charges and any alteration of the charges shall be subject to approval by the registrar.

#### **47 Fines**

- (1) A society may impose a fine on a member for any infringement of the society's rules.
- (2) No fine exceeding \$1 is to be imposed until—
  - (a) the society has given the member written notice of its intention to impose the fine, accompanied by a statement of its reasons; and
  - (b) the member is given the opportunity of—
    - (i) appearing before the board in person, with or without witnesses; or
    - (ii) giving the board a written statement;for the purpose of showing cause why the fine should not be imposed.
- (3) The society may set off the whole or any part of the fine against any money due to the member in relation to any produce delivered by him or her to the society, but no part of the fine shall be set off against any advance due to the member by the society in accordance with the rules against produce so delivered.
- (4) The member shall not be deemed to have infringed the rules of a society by a failure to deliver produce to the society if the failure was due to the fact that under the rules of another society the member had been previously bound to deliver produce to that society and had actually so delivered the produce.

## 48 Special resolution

- (1) For this Act, a special resolution means a resolution that is passed by a majority of not less than  $\frac{2}{3}$  of the members of the society entitled under its rules to vote that are present in person or, if the rules allow proxies, by proxy, at any general meeting of the society of which notice specifying the intention to propose the resolution has been duly given in accordance with the rules.
  - (2) At any general meeting to which this section applies a declaration by the chairperson that the special resolution has been carried shall, unless a poll is demanded, be conclusive evidence of the carrying of the resolution.
  - (3) A copy of a special resolution that is duly carried shall be—
    - (a) signed by the chairperson of the meeting; and
    - (b) countersigned by the secretary of the society; and
    - (c) given to the registrar.
- Note* A fee may be determined under s 80C (Determination of fees) for this section.
- (4) On receipt of a copy of a special resolution signed, countersigned and given in accordance with subsection (3), the registrar shall register the resolution.
  - (5) A special resolution shall have no force or effect until registered under this section.

## Part 5 Rules, management and disputes

### 49 Rules

- (1) The rules of a society shall be divided into paragraphs numbered consecutively and shall set out—
  - (a) the name of the society with the word ‘cooperative’ as part of the name and the word ‘limited’ as the last word of the name; and
  - (b) that the liability of the members is limited; and
  - (c) where the office of the society is to be situated; and
  - (d) the objects of the society; and
  - (e) whether the society intends to avail itself of any powers authorised by this Act as incidental to its objects and, for powers authorising the raising of money, within what limits not exceeding the prescribed limits; and
  - (f) how the capital of the society is to be raised; and
  - (g) how the funds of the society are to be managed, and, in particular, the mode of drawing and signing cheques, drafts, bills of exchange, promissory notes, and other negotiable instruments for and on behalf of the society; and
  - (h) the purposes to which the funds of the society are to be applied and how they are to be invested; and
  - (i) for any society that is authorised to make an advance—
    - (i) how an application for an advance is to be made; and
    - (ii) the conditions with which an applicant is to comply; and
    - (iii) how an advance is to be made and repaid; and

- (iv) the deduction (if any) for premium; and
- (v) the conditions on which a borrower may redeem the amount due before the end of the period for which the advance was made; and
- (vi) the terms on which a mortgage may be redeemed; and
- (j) how any gain or surplus that may result from the transactions of the society is to be distributed among the members; and
- (k) how any loss that may result from the transactions of the society is to be provided for; and
- (l) the mode and conditions of admission to membership, and the payment to be made or the share or interest to be acquired before the exercise of the rights of membership; and
- (m) the rights and liabilities of members, and of the estates of deceased members and of members whose estates have been sequestrated or assigned; and
- (n) how the share or interest of members may be transferred; and
- (o) the circumstances in which members may be expelled and the rights and liabilities of expelled members; and
- (p) the number of directors, the qualification of directors, the way of electing, remunerating and removing directors and filling a vacancy in the directorate, whether directors are to be elected annually or half-yearly, the period for which directors are to hold office, and whether directors are to retire by rotation or otherwise; and
- (q) the powers and duties of the board, the requisite notice of meetings, the quorum for meetings, and the procedure at meetings, of the board; and
- (r) the intervals between general meetings of the society, the way of calling special and general meetings, the requisite notices of meetings and the quorum of meetings, of the society; and

- (s) the procedure at meetings of the society, including the rights of members in voting at meetings, the way of voting, and the majority necessary for carrying resolution; and
- (t) the way of appointing, remunerating and removing officers of the society, the powers and duties of officers and the security to be given by any officer having the receipt or charge of any money belonging to the society; and
- (u) whether the accounts of the society are to be audited annually or more frequently; and
- (v) the way of appointing, remunerating and removing auditors, the powers and duties of auditors, and, in particular, their powers and duties in relation to the inspection of securities belonging to the society; and
- (w) provision for the custody of securities belonging to the society; and
- (x) the charges, including any charges on admission or for working expenses or otherwise, that are to be payable by a member of the society; and
- (y) the circumstances in which fines and forfeitures may be imposed on members of the society and the amount of the fines, not exceeding the prescribed maximum; and
- (z) whether disputes between the society and any of its members, or any person claiming by or through any member, under the rules, are to be settled by reference to arbitration or by some other specified way; and
- (za) the way of altering and rescinding the rules and making additional rules; and
- (zb) provision for the device, custody and use of the seal of the society; and
- (zc) how the society may be wound up; and
- (zd) the nominal value of each share in the society; and



- (ze) the maximum proportion of the shares that may be held by a member, not exceeding the prescribed proportion; and
  - (zf) the periodic subscriptions by which or the way in which shares are to be paid for; and
  - (zg) the maximum amount that may be paid to a member in the form of a dividend in relation to the shares held by him or her, not exceeding the prescribed maximum; and
  - (zh) provision for the forfeiture of shares on expulsion or on failure to pay any subscription or call, the extent to which members whose shares have been forfeited shall remain liable for any amount still unpaid in relation to them, and the sale or cancellation of forfeited shares; and
  - (zi) how shares may be transferred; and
  - (zj) any other prescribed matters.
- (2) The rules of a society may provide for the imposition of a fine (not exceeding an amount prescribed by the regulations) on a member for any infringement of the rules.
- (3) The rules of a society may require a member to have any specified dealings with the society for a fixed period and to enter into a contract for that purpose notwithstanding that, apart from this Act, any such provision or contract might be invalid as in restraint of trade.
- (4) Any person shall be entitled to obtain from a society a copy of its rules on payment of a sum not exceeding \$0.25.

## **50 Alteration of rules**

- (1) The rules of a society shall not be altered unless the alteration has been approved by a special resolution.
- (2) If an alteration of the rules has been so approved, the society shall, within 1 month after the date of approval, apply, in the prescribed way, to the registrar to register the alteration.

- (3) The application for registration of the alteration shall be accompanied by—
- (a) a statutory declaration from the chairperson and secretary of the meeting at which the special resolution of alteration was passed about compliance with the requirements of this section; and
  - (b) 2 copies of the alteration signed by the secretary and 3 or more members.

*Note* A fee may be determined under s 80C (Determination of fees) for this section.

- (4) If the alteration alters part of a rule only, a copy of the alteration shall mean a copy of the rule as altered.
- (5) If the registrar is satisfied that the rules as altered are not contrary to this Act, he or she shall register and certify the alteration as prescribed.

*Note* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including regulations (see *Legislation Act 2001*, s 104).

- (6) The alteration shall not have any force or effect until it is registered and certified in accordance with subsection (5).
- (7) The rules of the society shall be read subject to all alterations so registered and certified.
- (8) For this Act, an addition to, rescission of, or a substitution of, a rule shall be deemed to be an alteration of a rule.

## **51 Board of directors**

- (1) The business and operations of a society shall be managed and controlled by a board of directors and, for that purpose, the board, except as provided in this section, shall have and may exercise the powers of the society as if they had been expressly given to the board by a general meeting of the society.
- (2) The powers of the board shall be subject to any restrictions that this Act or the rules of the society impose.

- (3) Every director acting in the business or operations of the society under a resolution duly passed by the board shall be deemed to be the agent of the society for all purposes within the objects of the society.
- (4) The acts of a director shall be valid notwithstanding any defect that may afterwards be discovered in his or her appointment or qualification.
- (5) A director shall not be held liable to the society for any loss the society may sustain unless the loss was due to his or her wilful misconduct or gross failure to comply with any of the provisions of this Act or the rules of the society.

*Note* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including regulations (see *Legislation Act 2001*, s 104).

- (6) The directors of a society shall be elected—
  - (a) at a general meeting of the society in accordance with its rules; or
  - (b) for the first such election—at the meeting for the formation of the society.
- (7) The number of directors shall be not less than 3, and no person shall be qualified to be a director unless he or she is a member of the society.
- (8) Meetings of the board shall be held as often as may be necessary for properly conducting the business and operations of the society, but shall be held at least quarterly, and a quorum of a meeting of the board shall be as specified in the rules of the society but shall not, in any case, be less than  $\frac{1}{2}$  of the number of directors.
- (9) The chairperson of the board may be elected either by the board or at a general meeting of the society, and shall be elected, hold office, and retire, and may be removed from office, in the way specified in the rules of the society.

- (10) The directors of a society shall hold office and retire and may be removed from office in the way specified in the rules of the society.
- (11) The office of a director shall be vacated in the circumstances (if any) specified in the rules of the society and in any of the following cases:
- (a) if he or she becomes bankrupt or assigns his or her estate for the benefit of, or compounds with, his or her creditors;
  - (b) if he or she becomes mentally incapable;
  - (c) if he or she is convicted of any offence under this Act, or if he or she is convicted of any offence and sentenced to any period of imprisonment without the option of a fine;
  - (d) if he or she is absent from 3 consecutive ordinary meetings of the board without its leave;
  - (e) if he or she ceases to be a member of the society;
  - (f) if he or she gives 1 month's written notice to the board of his or her intention to resign from office and his or her resignation is accepted by the board;
  - (g) if he or she is removed from office by resolution of a general meeting of the society;
  - (h) if he or she has a direct or indirect pecuniary interest in an agreement to which the society is a party, being an interest derived otherwise than as a director or member of, and in common with, the other directors or members (as the case requires) of—
    - (i) another society, a building society or a credit union; or
    - (ii) a body incorporated under a law of a State or another Territory providing for the formation, registration or incorporation of cooperative societies; or

- (iii) a company incorporated in the ACT, a State or another Territory;  
having not less than 25 members.
- (12) Subsection (11) (h) does not apply in relation to—
- (a) a loan to a director made or guaranteed by the society in accordance with a special resolution; or
  - (b) a purchase by a director from the society in accordance with a special resolution; or
  - (c) any of the following dealings, if made in good faith in the ordinary course of business of the society and on the terms that are usual and proper in such dealings:
    - (i) a purchase of goods by the director from the society;
    - (ii) a sale of agricultural products or livestock by the director to the society;
    - (iii) a loan (whether by deposit or otherwise) by the director to the society;
    - (iv) a guarantee by the director for the repayment of a loan to the society;
    - (v) a dealing between the director and the society of a type authorised by the objects of the society;
    - (vi) a dealing prescribed by regulation.
- (13) A director of a society has no power to vote on any question in which he or she has any direct or indirect pecuniary interest, other than—
- (a) an interest held as a member and in common with the other members of the society; or
  - (b) an interest in relation to a dealing referred to in subsection (12) (c) (iii) to (vi).

- (14) Any vacancy occurring on the board shall be filled in the way provided in the rules of the society.

## 52 Meetings

- (1) Every society shall hold an annual general meeting within 3 months after the close of its financial year or within any further time that is prescribed or is authorised by the registrar.
- (2) The registrar may—
- (a) on his or her own initiative; or
  - (b) on application by the society;

authorise an extension of the time within which a general meeting of a society shall be held.

*Note* A fee may be determined under s 80C (Determination of fees) for this section.

- (3) Meetings of a society, other than its annual general meeting shall be held or may be called at the times and in the way specified in its rules.
- (4) At any meeting of a society no item of business shall be transacted unless a quorum of members as specified in its rules is present during the time when the meeting is considering that item.

## 53 Votes of members

- (1) Except as otherwise provided in this Act or by the rules of the society, every question for decision by a meeting of a society shall be determined by a majority of members present in person and, unless a poll is demanded by at least 5 members, the question shall be decided by a show of hands.
- (2) On a poll held at a general meeting of a society, each member has 1 vote, subject to this section and the rules of the society.

- (3) On a poll held at a general meeting of a society, a member is entitled to an additional allotment of 1 or 2 votes if the society's rules provide—
  - (a) for such an additional allotment to be made on the basis of the value of goods purchased from the society by the member during the previous financial year; or
  - (b) if the member is obliged by the rules to subscribe for shares in proportion to the use made by the member of the society—for such an additional allotment to be made on the basis of the shares held by the member.
- (4) The allotment of any additional vote to a member shall be determined in the way and time specified in the rules of the society.
- (5) Notwithstanding any other provision of this section a member who has borrowed from the society any money that is still unpaid shall not be entitled to vote on any question in relation to which his or her right to vote is excluded by the rules of the society and, if the member votes on any such question, his or her vote shall not be counted.
- (6) On a poll held at a general meeting of a society—
  - (a) a member may vote personally or (if authorised by the rules of the society) by proxy; and
  - (b) only a member may act as a proxy; and
  - (c) no person may act as a proxy for more than 5 members.

#### **54 Minutes**

Minutes of every meeting of the board and of the society shall be kept and confirmed as prescribed.

#### **55 Officers**

- (1) A director or other officer of a society shall not borrow from it and the society shall not lend to a director or other officer except under a special resolution of the society, and if any loan is made in

contravention of this section the members of the board who authorised the loan shall be jointly and severally liable for any loss on the loan occasioned to the society.

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

## **56 Accounts and audit**

- (1) The accounts of a society shall be audited annually and in addition at the other times (if any) provided by its rules.
- (2) The auditor of a society's accounts shall be some competent person approved by the registrar but shall not be an officer of the society.
- (3) Every auditor shall have a right of access to all books, accounts, vouchers and documents of the society whose accounts he or she is auditing, and may require from the directors and other officers of the society the information and explanations that are necessary for the exercise of his or her duties as auditor.
- (4) In making his or her report to the members of a society and in signing any statement of assets and liabilities or of accounts to be presented to the members or transmitted to the registrar, the auditor of the society shall state—
  - (a) whether the auditor has obtained all information and explanations as required; and
  - (b) whether in the auditor's opinion the accounts are properly drawn up so as to exhibit a true and fair view of the financial position of the society according to the information at the auditor's disposal and explanations given to the auditor and as shown by the books of the society; and
  - (c) whether the accounts are drawn up in accordance with this Act; and



- (d) whether the provisions of this Act and the rules relating to the administration of the funds of the society have been observed.
- (5) A copy of a society's accounts (duly audited), together with a copy of the auditor's report to the members of the society—
  - (a) shall be given to each member with the notice of the annual general meeting of the society; or
  - (b) if, in accordance with the society's rules, the notice of the annual general meeting given to members includes a notice that those accounts and that report are available for inspection by members at the office of the society during a specified period before that meeting—shall be made available accordingly.
- (6) Any member may inspect his or her own account in the books of the society at any reasonable time on payment of a fee not exceeding \$0.20.

## **57 Financial year**

- (1) The financial year of a society shall end on 30 June or, if the registrar has given written consent to the financial year of the society ending on another date, being a date not earlier than 31 May and not later than 30 September, on that other date.
- (2) If a society is registered in any year on a date between 1 July and 31 December, the first financial year of the society shall be deemed to be from that date to the next 30 June.
- (3) If a society is registered in any year between 1 January and 30 June, the first financial year of the society shall end on the next 30 June.

## **58 Disputes**

- (1) Every dispute between a member, in his or her capacity as a member, and the society shall, except as otherwise provided in this section, be determined in the way specified in the rules of the society.

- (2) For a dispute in relation to a prescribed trading society or a housing and services society, a party to the dispute may refer it to the registrar—
  - (a) if the dispute has not been referred to arbitration; or
  - (b) if the dispute has been referred to arbitration—if no award has been made within 1 month after referral.
- (3) If a dispute is referred to the registrar, the registrar shall hear and determine the dispute, and may order the expenses to be paid out of the funds of the society or by the party to the dispute that the registrar considers appropriate.
- (4) For the purposes of hearing a dispute, the registrar may—
  - (a) administer an oath or affirmation; or
  - (b) by order, require—
    - (i) the attendance of any party or witness; or
    - (ii) the production of any book or document relating to the dispute.
- (5) Any determination or order under this section, whether made on a reference to the registrar or otherwise, shall be binding and conclusive on all parties without appeal, and shall not be removable into any court or be restrainable by injunction.
- (6) A determination or order under this section may, on application by any party interested, be enforced by the Magistrates Court.
- (7) The Magistrates Court may give the relief and make the orders, including an order about costs, and give the directions that it considers appropriate in relation to any matter brought before it under this section.
- (8) Any order made or direction given under this section by the Magistrates Court may be enforced by any process or procedure that would be applicable if the order had been made on the hearing of an

action in the court or by the process or procedure that the court directs.

- (9) Nothing in this section shall extend to any dispute about the construction or effect of any mortgage or of any contract contained in any document other than the rules of the society.
- (10) In this section:

*member* includes—

- (a) a person who was a member within 3 months before the relevant dispute arose; and
- (b) any person claiming through or under a member or a person referred to in paragraph (a).

*registrar*, in relation to the hearing of a dispute, includes a person deputed by the registrar for the purposes of the hearing.

*society* includes the board and each officer of a society.

## Part 6                                      Suspension, administration and winding-up

### 58A    Suspension of operations

(1) If, in relation to a society, the registrar considers it expedient to do so in the interests of—

- (a) persons who are or may become members of the society; or
- (b) persons who have deposited or may deposit money with the society;

the registrar may, with the approval of the Minister, by written notice given to the society, direct the society not to do any 1 or more of the following:

- (c) make any money available on loan to members or other persons;
- (d) accept the deposit of any money;
- (e) borrow any money;
- (f) raise money by negotiating prescribed bills of exchange;
- (g) accept any payment on account of share capital, other than a payment that fell due before the direction was given;
- (h) repay any money paid on shares;
- (i) repay any money on deposit or loan;
- (j) dispose of or otherwise deal with any of its property;
- (k) acquire any property.

(2) A society to which a direction has been given under subsection (1) may make representations to the Minister in relation to the direction and the Minister may direct the registrar to withdraw or amend the direction.

- (3) The registrar may, and shall if directed by the Minister, withdraw or amend any direction given to a society under subsection (1).
- (4) A society shall comply with a direction given to it under subsection (1).
- (5) If a society fails to comply with subsection (4), a director or other officer who is concerned in, or takes part in, the management of the society shall be taken to have committed an offence.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (6) In subsection (1):

*continuing credit arrangement* means an agreement by which a society:

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

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

**58B Administrator**

- (1) The registrar may, with the approval of the Minister, appoint an administrator to conduct the affairs of a society.
- (2) The registrar shall not appoint an administrator of a society unless the registrar has reasonable grounds for believing, and certifies, that—
  - (a) a ground referred to in section 38AA (2) (a), (b), (c) or (d) exists in relation to the society; or
  - (b) as a result of an inquiry under section 7 into the affairs of the society, it is in the interests of its members, depositors or creditors that an administrator should be appointed to conduct the affairs of the society; or
  - (c) in the interests of members, depositors or creditors of the society, it is expedient that an administrator should be appointed to conduct the affairs of the society.
- (3) On the appointment of an administrator of a society, other than an appointment under subsection (8):
  - (a) the directors of that society cease to hold office;
  - (d) any delegation made by the board of that society is revoked.
- (4) The administrator of a society may, if the administrator is of the opinion that it is necessary to preserve the viability of the society, terminate—
  - (a) any contract of employment with that society; and
  - (b) any contract for the provision of secretarial or administrative services for that society.
- (5) An administrator of a society has the powers, authorities, duties and functions that the board would, apart from this section, have had.
- (6) Notwithstanding anything contained in this Act or the rules of a society, an administrator may, in the conduct of the affairs of the society—

- (a) raise money or obtain other financial accommodation; or
  - (b) receive money on deposit;
- in the amounts that the administrator, with the approval of the registrar, determines.
- (7) Except as provided by subsection (8), a director of a society shall not be appointed or elected while the appointment of an administrator is in force.
  - (8) Before revoking the appointment of an administrator of a society, the registrar shall—
    - (a) appoint another person as administrator; or
    - (b) ensure that directors of that society have been elected in accordance with its rules at a meeting called by the administrator in accordance with those rules; or
    - (c) appoint directors of that society.
  - (9) A director elected or appointed under subsection (8)—
    - (a) takes office on revocation of the appointment of the administrator; and
    - (b) if the director was appointed—holds office until—
      - (i) he or she ceases to hold office in accordance with this Act or the rules of the society; or
      - (ii) the annual general meeting of the society after the revocation of that appointment;
- whichever first occurs.
- (10) The expenses of and incidental to the conduct of the affairs of a society by an administrator are payable from the funds of the society.
  - (11) An administrator who is not a public servant shall be paid the remuneration determined by the registrar.

- (12) If an administrator is a public servant, the registrar shall certify an amount that represents the remuneration of the administrator referable to the conduct by the administrator of the affairs of the society and that amount is recoverable as a debt due to the Territory.
- (13) A person who is or was an administrator of a society is not liable to an action (other than an action for negligence) or other proceeding for or in relation to an act done or omitted to be done in good faith in exercise or purported exercise of any function, given to the person as administrator.
- (14) The registrar is not liable for any loss sustained by a society as a result of an act done or omitted to be done by an administrator, whether or not the administrator is liable.
- (15) In this section:
- expenses* includes:
- (a) in relation to an administrator who is not a public servant, the remuneration of the administrator; and
  - (b) in relation to an administrator who is a public servant, the amount certified under subsection (12).

## **59 Winding-up**

- (1) A society may be wound up—
- (a) voluntarily; or
  - (b) by the court; or
  - (c) subject to the supervision of the court; or
  - (d) on the certificate of the registrar.
- (2) For a winding-up voluntarily, by the court or subject to the supervision of the court, the society may, subject to this part, be wound up in the same way and in the same circumstances in which a company formed and registered under the Corporations Law may be so wound up.



- (3) For a winding-up on the certificate of the registrar, the society may be wound up if the registrar certifies that—
- (a) the number of members is reduced to less than 7; or
  - (b) the society has not begun business within a year of registration or has suspended business for more than 6 months; or
  - (c) the period (if any) fixed for the duration of the society in its rules has ended; or
  - (d) an event (to be specified in the certificate) on the occurrence of which the regulations or the rules provide that the society shall be wound up, has occurred; or
  - (e) the registration of the society has been obtained by mistake or fraud; or
  - (f) the society exists for an illegal purpose; or
  - (g) the society has wilfully and after notice from the registrar violated the provisions of this Act or the rules of the society; or
  - (h) as a result of an inquiry under section 7 into the affairs of the society, it is in the interests of its members or creditors that the society should be wound up.
- Note* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including regulations (see *Legislation Act 2001*, s 104).
- (4) The registrar shall not issue a certificate under this section unless the truth of the matter to be certified is proved to his or her satisfaction and unless, for a matter specified in subsection (3) (e), (f) or (g), the Minister consents to the issue of the certificate.
- (5) On the issue of a certificate by the registrar under this section, the registrar may appoint a person to be the liquidator of the society and, in the event of a vacancy in that office, may appoint a person to fill the vacancy.
- (6) The liquidator of a society shall give the security, and is entitled to the fees, that are prescribed.

- (7) The winding-up of a society on the certificate of the registrar begins at the time the certificate is issued.
- (8) The liquidator of a society must prepare a written notice of the beginning of the winding-up of the society.
- (9) The notice under subsection (8) is a notifiable instrument.  
*Note* A notifiable instrument must be notified under the *Legislation Act 2001*.
- (10) The notice under subsection (8) must also be published in a newspaper published and circulating in the ACT.

## **60 Application of Corporations Law in winding-up**

- (1) The Corporations Law, parts 5.4, 5.5 and 5.6 (except section 544), sections 597 and 598 and section 1289 (2) apply in relation to the winding-up of a society, subject to this part.
- (2) The Corporations Law, part 9.4 applies in relation to the winding-up of a society to the extent necessary to enforce any provisions of the Corporations Law or the Corporations Regulations applying (because of this Act) in relation to that winding-up.

*Note* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including regulations (see *Legislation Act 2001*, s 104).

- (3) In the application of the Corporations Law in relation to the winding-up of a society—
  - (a) a reference to a company is a reference to the society; and
  - (b) a reference in the Corporations Law, section 541, 597 or 598 or part 9.4 to a corporation is a reference to the society; and
  - (c) a reference to a special resolution is a reference to a special resolution as defined by this Act, section 48; and
  - (d) a reference to the commission is a reference to the registrar; and
  - (e) a reference to the articles of a company is a reference to the rules of the society; and

- (f) a reference to a contributory, to a promoter or to a related corporation is a reference to a contributory, a promoter or a related corporation, respectively, within the meaning of this Act; and
- (g) the following section is substituted for the Corporations Law, sections 516 and 517:

**‘516 Limit on members’ contributions**

A contribution shall not be required from a member of a society in excess of the sum of the following amounts:

- (a) any amount unpaid on the shares in relation to which he or she is liable as a member or past member;
- (b) the amount of any contingent liability attached to those shares;
- (c) the amount of any charge payable by the member to the society in accordance with the society’s rules.’; and
- (h) nothing in the Corporations Law, section 545 shall be taken to affect the operation of this Act, section 44 in relation to the society;
- (i) the references in the Corporations Law, sections 577 (3) and (4) to the Minister are references to the Minister administering this Act;
- (j) the words ‘to be dealt with under part 9.7’ are omitted from section 577 (4); and
- (k) for a winding-up on the certificate of the registrar—the winding-up shall be deemed to be a voluntary winding-up and, without in any way limiting the generality of any provision of this part, the Corporations Law, sections 507, 508 and 509 apply in relation to the winding-up as if it were a members’ voluntary winding-up within the meaning of that Law.

**60A Filling vacancy in position of liquidator—voluntary winding-up**

If—

- (a) a society is being wound up voluntarily; and
- (b) a vacancy occurs in the office of liquidator of the society; and
- (c) the registrar is of the opinion that the vacancy is unlikely to be filled in the way provided by the Corporations Law as applied by this Act, section 60;

the registrar may appoint a person to fill the vacancy.

**61 Dissolution**

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

**62 Cancellation**

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

## Part 7 Evidence and offences

### 63 Certificates and documents

- (1) Any certificate of incorporation of a society given by the registrar shall be received in evidence as if it were the original certificate.
- (2) Every certificate of registration or other official document relating to a society signed by or bearing the seal of the registrar shall be received in evidence without further proof.
- (3) Judicial notice shall be taken of the signature and seal of any person who holds or has held the office of registrar if the signature or seal purports to be attached to any certificate or other official document.
- (4) The provisions of this section shall extend to any copy of the rules of a society certified by the registrar to be a true copy of its registered rules.

### 64 Rules

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

### 65 Registers

The register of directors, members and shares of a society shall be evidence of the particulars directed or authorised by or under this Act to be inserted in it.

### 66 Minutes

- (1) Every entry in the minutes purporting to be a minute of the business transacted at a meeting of the society or of its board, and to be signed by the chairperson at a subsequent meeting, shall be evidence that the business as recorded in it was transacted at the meeting and that the meeting was duly called and held.

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

## 67 Entries

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

## 68 Defaults by society

- (1) A society that fails—
- (a) to paint, attach or keep painted or attached, the name of the society on the outside of its office as prescribed by this Act; or
  - (b) to keep any register or account, or to make any entry in it, in accordance with the requirements of this Act; or
  - (c) to have at its office and open for inspection a copy of—
    - (i) this Act; and
    - (ii) the rules of the society; and
    - (iii) the last balance sheet or profit and loss account together with the report of the auditor; and
    - (iv) any register;as required by this Act; or

*Note* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including regulations (see *Legislation Act 2001*, s 104).

(d) to give the registrar any notice or return as required by this Act; commits an offence.

Maximum penalty: 25 penalty units.

- (2) A society that refuses or wilfully neglects to give any information lawfully required by the registrar, or by any other person authorised under this Act to make the requirement, commits an offence.

Maximum penalty: 250 penalty units.

- (3) If a society commits an offence against subsection (1) or (2), every director and officer of the society who knowingly and wilfully authorises or permits the default shall commit an offence.

Maximum penalty: 5 penalty units.

## **69 Restrictions on powers**

- (1) A society that contravenes any restriction imposed by this Act on its power to carry on business, and, in particular, that raises money, whether on loan or by negotiating prescribed bills of exchange, or receives deposits except as authorised by its rules and within the prescribed limits, shall commit an offence.

Maximum penalty: 50 penalty units.

- (2) If a society commits an offence against subsection (1), every director and officer of the society who knowingly and wilfully authorises or permits the contravention shall be guilty of an offence.

Maximum penalty: 50 penalty units.

## **70 Too few members**

- (1) If a society carries on business after the number of its members is reduced to less than 7 for a period of 1 month after its membership is so reduced, every director who is aware that the society is so carrying on business commits an offence.

Maximum penalty: 5 penalty units.

- (2) Any person who commits an offence against subsection (1) shall be liable to satisfy all obligations of the society incurred during the period when the society carried on business with less than 7 members and may be sued therefor without any other member being joined in the action.

## **71 Name**

- (1) A society that uses any name other than its registered name shall be guilty of an offence.

Maximum penalty: 250 penalty units.

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

Maximum penalty: 5 penalty units.

- (3) Any person who commits an offence against subsection (2) in relation to the signature of any bill of exchange, cheque, promissory note, or order for money or goods, shall be personally liable for the amount to the holder of it unless it is duly paid by the society.

## **72 Seal**

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

Maximum penalty: 5 penalty units.



**73 Allotment of shares**

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

Maximum penalty: 30 penalty units.

**74 False copies of rules**

Any person who—

- (a) gives to any member of a society or to any person intending or applying to become a member of the society a copy of any rules or any alteration of the rules other than those that have been duly registered representing that the rules or alteration is binding on members of the society; or
- (b) makes any alterations in any of the rules of the society after they are registered and circulates the altered rules falsely representing them to have been duly registered;

commits an offence.

Maximum penalty: 30 penalty units.

**75 Falsification**

Any person who wilfully makes, orders or allows to be made any entry or erasure in, or omission from, any balance sheet of a society or any contribution or collecting book or any return or document required to be sent, produced or delivered for this Act with intent to falsify it or to evade any provision of this Act, commits an offence.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

**76 Fraud or misappropriation**

- (1) Any person who, by false representation or imposition, obtains possession of any property of a society, or who, having property of a society in his or her possession, withholds or misapplies it or

wilfully applies any part of it to purposes other than those specified or authorised in the rules of the society or in this Act, commits an offence.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) A person found guilty of an offence against subsection (1) shall, if so ordered by the court by which the person was convicted, deliver up all property and repay all money in relation to which the offence was committed and, in default of delivery and repayment as ordered, shall be liable to imprisonment for 3 months.
- (3) Nothing in this section shall prevent any person from being proceeded against by indictment if he or she has not previously been convicted of the same offence against this Act.

## **77 Commission**

- (1) Any officer of a society who accepts any commission, fee or reward, whether pecuniary or otherwise, from any person for or in connection with a transaction of that person with the society commits an offence.

Maximum penalty: 50 penalty units, imprisonment for 6 months, or both.

- (2) An officer of a society who incurs a penalty under subsection (1) shall pay to the society an amount equal to twice the value of the relevant fee, commission or reward.

## **78 Contravention of Act**

Any person who fails to comply with any requirements of this Act within the time or in the way prescribed or commits any other contravention of its provisions commits an offence and shall, if no other penalty is prescribed, be liable to a maximum penalty of 10 penalty units.

## 79 Recovery of penalties

- (1) Every penalty or fine imposed by this Act or by the rules of any society shall be recoverable summarily.

*Note* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including regulations (see *Legislation Act 2001*, s 104).

- (2) A penalty or fine, if imposed by this Act, shall be recoverable at the suit of the registrar or any person aggrieved and, if imposed by the rules of a society, shall be recoverable at the suit of the society.

## 80 Civil remedies

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

## Part 8                      Miscellaneous

### 80A    Review of decisions

- (1) Application may be made to the administrative appeals tribunal for the review of a decision of the registrar to refuse consent to a proposed purchase or repayment of shares under section 25 (2).
- (2) Application may be made to the administrative appeals tribunal for a review of a decision of an administrator to terminate a contract under section 58B (4).

### 80B    Notification of decisions

- (1) If the registrar makes a decision referred to in section 80A (1), he or she shall give written notice to the society whose interests are affected by the decision.
- (2) If an administrator makes a decision referred to in subsection 80A (2), the administrator shall give written notice to the person whose interests are affected by the decision.
- (3) A notice under subsection (1) or (2) shall be in accordance with the requirements of the code of practice in force under the *Administrative Appeals Tribunal Act 1989*, section 25B (1).

**80C Determination of fees**

- (1) The Minister may, in writing, determine fees for this Act (including the Corporations Law in its application under this Act).

*Note* The *Legislation Act 2001* contains provisions about the making of determinations and regulations relating to fees (see pt 6.3).

**Examples of matters for which fees may be determined**

- 1 Lodgment of a document with the registrar
- 2 Supply of a document by the registrar
- 3 Sealing of a document by the registrar

*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see *Legislation Act 2001*, s 126 and s 132).

- (2) A determination is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

**80D Approved forms**

- (1) The Minister may, in writing, approve forms for this Act.
- (2) If the Minister approves a form for a particular purpose, the approved form must be used for that purpose.

*Note* For other provisions about forms, see *Legislation Act 2001*, s 255.

- (3) An approved form is a notifiable instrument.

*Note* A notifiable instrument must be notified under the *Legislation Act 2001*.

- (4) In the regulations, a reference to a form by a letter is a reference to an approved form identified with the letter.

**81 Regulation-making power**

- (1) The Executive may make regulations for this Act.

*Note* Regulations must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

- (2) The regulations may prescribe offences for contraventions of the regulations and prescribe maximum penalties of not more than 10 penalty units for offences against the regulations.

## Endnotes

1 About the endnotes

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## Endnotes

### 1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

If the republished law includes penalties, current information about penalty unit values appears on the republication inside front cover.

### 2 Abbreviation key

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	p = page
cl = clause	par = paragraph
def = definition	pres = present
dict = dictionary	prev = previous
disallowed = disallowed by the Legislative Assembly	(prev...) = previously
div = division	prov = provision
exp = expires/expired	pt = part
Gaz = Gazette	r = rule/subrule
hdg = heading	reg = regulation/subregulation
IA = Interpretation Act 1967	renum = renumbered
ins = inserted/added	reloc = relocated
LA = Legislation Act 2001	R[X] = Republication No
LR = legislation register	s = section/subsection
LRA = Legislation (Republication) Act 1996	sch = schedule
mod = modified / modification	sdiv = subdivision
No = number	sub = substituted
num = numbered	SL = Subordinate Law
o = order	<u>underlining</u> = whole or part not commenced or to be expired
om = omitted/repealed	

### 3 Legislation history

This Act was originally a Commonwealth ordinance—the *Co-operative Trading Societies Ordinance 1939* No 9 (Cwlth).

This ordinance was renamed as the *Co-operative Societies Ordinance 1939* by the *Co-operative Societies Ordinance 1956*.

The *Australian Capital Territory (Self-Government) Act 1988* (Cwlth), s 34 (4) converted most former Commonwealth ordinances in force in the ACT into ACT enactments. This allowed the ACT Legislative Assembly to amend and repeal the laws. This Act was converted into an ACT enactment on 11 May 1989 (self-government day).

As with most ordinances in force in the ACT, the name was changed from *Ordinance* to *Act* by the *Self-Government (Citation of Laws) Act 1989* No 21, s 5 on 11 May 1989 (self-government day).

Before 11 May 1989, ordinances commenced on their notification day unless otherwise stated (see *Seat of Government (Administration) Act 1910* (Cwlth), s 12).

After 11 May 1989 and before 10 November 1999, Acts commenced on their notification day unless otherwise stated (see *Australian Capital Territory (Self-Government) Act 1988* (Cwlth) s 25).

#### Legislation before becoming Territory enactment

##### **Cooperative Societies Act 1939 No 9**

notified 31 August 1939

commenced 31 August 1939

as amended by

##### **Cooperative Trading Societies Ordinance 1946 No 1**

notified 28 March 1946

commenced 28 March 1946

##### **Cooperative Trading Societies Ordinance 1950 No 14**

notified 21 December 1950

commenced 21 December 1950

##### **Companies Ordinance 1954 No 14**

notified 20 August 1954

commenced 1 October 1954

##### **Cooperative Societies Ordinance 1956 No 10**

notified 4 October 1956

commenced 4 October 1956



## Endnotes

3 Legislation history

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**Cooperative Societies Ordinance 1958 No 18**

notified 2 October 1958  
commenced 2 October 1958

**Cooperative Societies Ordinance 1962 No 3**

notified 29 March 1962  
commenced 29 March 1962

**Companies Ordinance 1962 No 7**

notified 21 June 1962  
commenced 1 July 1962

**Cooperative Societies Ordinance 1963 No 10**

notified 9 May 1963  
commenced 9 May 1963

**Cooperative Societies Ordinance 1966 No 18**

notified 23 December 1966  
commenced 23 December 1966

**Cooperative Societies Ordinance 1972 No 6**

notified 24 February 1972  
commenced 24 February 1972

**Cooperative Societies Ordinance 1973 No 16**

notified 25 May 1973  
commenced 25 May 1973

**Cooperative Societies Ordinance (No 2) 1973 No 29**

notified 19 July 1973  
commenced 19 July 1973

**Cooperative Societies Ordinance 1974 No 35**

notified 25 September 1974  
commenced 25 September 1974

**Ordinances Revision (Age of Majority) Ordinance 1974 No 47**

notified 24 October 1974  
commenced 1 November 1974

**Cooperative Societies Ordinance 1975 No 13**

notified 16 May 1975  
commenced 16 May 1975

**Cooperative Societies Ordinance (No 2) 1975 No 15**

notified 23 June 1975  
commenced 23 June 1975

**Cooperative Societies (Amendment) Ordinance 1977 No 14**

notified 15 June 1977  
commenced 15 June 1977

**Ordinances Revision Ordinance 1978 No 46**

notified 28 December 1978  
commenced 28 December 1978

**Cooperative Societies (Amendment) Ordinance 1979 No 35**

notified 28 November 1979  
commenced 28 November 1979

**Commonwealth Functions (Statutes Review) Act 1981 No 74 (Cwlth)  
ss 34-40**

assented to 18 June 1981  
s 1, s 2 commenced 18 June 1981  
ss 34-40 repealed before commencement by Law Reform  
(Miscellaneous Provisions) Act 1999 No 66 sch 2

**Ordinances Revision (Companies Amendments) Ordinance 1982  
No 38**

notified 30 June 1982  
commenced 1 July 1982

**Cooperative Societies (Amendment) Ordinance 1982 No 89**

notified 17 November 1982  
commenced 17 November 1982

**Cooperative Societies (Amendment) Ordinance (No 2) 1982 No 90**

notified 17 November 1982  
commenced 17 November 1982

**Cooperative Societies (Amendment) Ordinance 1984 No 11**

notified 11 April 1984  
commenced 11 April 1984

**Cooperative Societies (Amendment) Ordinance 1985 No 4**

notified 25 February 1985  
commenced 25 February 1985

## Endnotes

3 Legislation history

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**Cooperative Societies (Amendment) Ordinance (No 2) 1985 No 38**

notified 20 August 1985  
commenced 21 August 1985

**Magistrates Court Ordinance 1985 No 67 sch pt 1**

notified 19 December 1985  
commenced 1 February 1986 (s 2 and Cwlth Gaz 1986 No G3)

**Cooperative Societies (Amendment) Ordinance (No 2) 1985 No 74 (as am by 1986 No 75)**

notified 20 December 1985  
commenced 20 December 1985

**Cooperative Societies (Amendment) Ordinance 1986 No 9**

notified 28 May 1986  
commenced 28 May 1986

**Cooperative Societies (Amendment) Ordinance (No 2) 1986 No 10**

notified 28 May 1986  
commenced 28 May 1986

**Sex Discrimination (Miscellaneous Amendments) Ordinance 1986 No 31**

notified 31 July 1986  
commenced 1 August 1986

**Cooperative Societies (Amendment) Ordinance (No 3) 1986 No 40**

notified 20 August 1986  
commenced 20 August 1986 (Cwlth Gaz 1986 No S412)

**Cooperative Societies (Amendment) Ordinance (No 4) 1986 No 75**

notified 19 November 1986  
commenced 19 November 1986

**Cooperative Societies (Amendment) Ordinance 1987 No 7**

notified 2 April 1987  
commenced 2 April 1987

**Cooperative Societies (Amendment) Ordinance (No 2) 1987 No 8**

notified 2 April 1987  
commenced 2 April 1987

**Cooperative Societies (Amendment) Ordinance (No 3) 1987 No 42**

notified 19 August 1987  
commenced 19 August 1987

**Cooperative Societies (Amendment) Ordinance (No 4) 1987 No 68**

notified 17 December 1987  
commenced 11 September 1987

**Cooperative Societies (Amendment) Ordinance 1988 No 40**

notified 13 July 1988  
commenced 13 July 1988

**Cooperative Societies (Amendment) Ordinance (No 2) 1988 No 46**

notified 3 August 1988  
commenced 3 August 1988

**Cooperative Societies (Amendment) Ordinance 1989 No 9**

notified 8 March 1989  
commenced 8 March 1989

**Self-Government (Consequential Amendments) Ordinance 1989  
No 38 sch 1**

notified 10 May 1989 (Cwlth Gaz 1989 No S160)  
s 1, s 2 commenced 10 May 1989 (s 2 (1))  
sch 1 commenced 11 May 1989 (s 2 (2) and see Cwlth Gaz 1989  
No S164)

**Legislation after becoming Territory enactment****Cooperative Societies (Amendment) Act 1991 No 33**

notified 26 August 1991 (Gaz 1991 No S83)  
commenced 26 August 1991

**Financial Institutions (Consequential Amendments) Act 1992 No 30  
sch 1**

notified 1 July 1992 (Gaz 1992 No S92)  
s 1, s 2 commenced 1 July 1992 (s 2 (1))  
sch 1 commenced 1 July 1992 (s 2 (2) and see Gaz 1992 No S92)

**Mental Health (Consequential Provisions) Act 1994 No 45 sch**

notified 7 September 1994 (Gaz 1994 No S177)  
s 1, s 2 commenced 7 September 1994 (s 2 (1))  
sch commenced 6 February 1995 (s 2 (2) and see Gaz 1995 No S33)

## Endnotes

3 Legislation history

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**Administrative Appeals (Consequential Amendments) Act 1994 No 60 sch 1**

notified 11 October 1994 (Gaz 1994 No S197)  
s 1, s 2 commenced 11 October 1994 (s 2 (1))  
sch 1 commenced 14 November 1994 (s 2 (2) and see Gaz 1994 No S250)

**Statute Law Revision (Penalties) Act 1994 No 81 sch**

notified 29 November 1994 (Gaz 1994 No S253)  
s 1, s 2 commenced 29 November 1994 (s 2 (1))  
sch commenced 29 November 1994 (s 2 (2) and Gaz 1994 No S269)

**Statutory Offices (Miscellaneous Provisions) Act 1994 No 97 sch pt 1**

notified 15 December 1994 (Gaz 1994 No S280)  
s 1, s 2 commenced 15 December 1994 (s 2 (1))  
sch pt 1 commenced 15 December 1994 (s 2 (2) and Gaz 1994 No S293)

**Annual Reports (Government Agencies) (Consequential Provisions) Act 1995 No 25 sch**

notified 5 September 1995 (Gaz 1995 No S212)  
commenced 5 September 1995 (s 2)

**Statute Law Revision Act 1995 No 46 sch**

notified 18 December 1995 (Gaz 1995 No S306)  
amnds commenced 18 December 1995 (s 2)

**Statute Law Revision (Penalties) Act 1998 No 54 sch**

notified 27 November 1998 (Gaz 1998 No S207)  
s 1, s 2 commenced 27 November 1998 (s 2 (1))  
sch commenced 9 December 1998 (s 2 (2) and Gaz 1998 No 49)

**Financial Sector Reform (ACT) Act 1999 No 33 sch**

notified 25 June 1999 (Gaz 1999 No S34)  
s 1, s 2, dict commenced 25 June 1999 (s 2 (1))  
sch commenced 1 July 1999 (s 2 (2) and Cwith Gaz 1999 No S283)

**Legislation (Consequential Amendments) Act 2001 No 44 pt 82**

notified 26 July 2001 (Gaz 2001 No 30)  
s 1, s 2 commenced 26 July 2001 (IA s 10B)  
pt 82 commenced 12 September 2001 (s 2 and see Gaz 2001 No S65)

## 4 Amendment history

### Title

title am 1956 No 10; 1992 No 30 sch 1

### Repeal

s 2 om 2001 No 44 amdt 1.861

s 3

sub 1956 No 10

am 1963 No 10

om 1974 No 35

### Interpretation for Act

s 4

am 1954 No 14; 1956 No 10; 1962 No 7; 1974 No 35; 1975 No 15; 1979 No 35; Cwlth Act 1981 No 74 s 35 (never commenced); 1982 No 38; 1984 No 11; 1985 No 4; 1985 No 38; 1986 No 9; 1987 No 8; 1987 No 42; 1989 No 9; 1991 No 33 s 3; 1992 No 30 sch 1; 2001 No 44 amdt 1.862; ss renum R4 LA

def **authorised bill of exchange** am 1992 No 30 sch 1

def **building society** sub 1992 No 30 sch 1

om 1999 No 33 sch

def **commission** am 1992 No 30 sch 1

def **Companies Act** om 1992 No 30 sch 1

def **credit society** om 1992 No 30 sch 1

def **credit union** ins 1992 No 30 sch 1

om 1999 No 33 sch

def **deadline** ins 1991 No 33 s 3

def **Financial Institutions (ACT) Code** ins 1992 No 30 sch 1

om 1999 No 33 sch

def **group** ins 1991 No 33 s 3

def **group accounts** ins 1991 No 33 s 3

def **holding society** ins 1991 No 33 s 3

def **inspector** sub 1994 No 97 sch pt 1

def **insurance corporation** om 1992 No 30 sch 1

def **permanent building society** om 1992 No 30 sch 1

def **prescribed period** om 1992 No 30 sch 1

def **primary loan** om 1992 No 30 sch 1

def **primary object** om 1992 No 30 sch 1

def **registrar** sub 1994 No 97 sch pt 1

def **related corporation** am 1992 No 30 sch 1

def **relevant date** om 1992 No 30 sch 1

def **secondary object** om 1992 No 30 sch 1

def **special resolution** ins 1992 No 30 sch 1

om 1999 No 33 sch

### Registrar

s 5

am 1994 No 97 sch pt 1; ss renum R4 LA

## Endnotes

### 4 Amendment history

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#### **Deputy registrar**

s 5AA ins 1994 No 97 sch pt 1

#### **Inspectors**

s 5A ins 1975 No 15; 1992 No 30 sch 1  
sub 1994 No 97 sch pt 1

#### **Inspections**

s 5B ins 1975 No 15  
am 1986 No 9; 1992 No 30 sch 1; 1994 No 81 sch; 1995 No 46  
sch; ss renum R4 LA

#### **Access by insurance corporation to registrar's records**

s 5C ins 1984 No 11  
am 1985 No 38  
om 1992 No 30 sch 1

#### **Registrar may require certain information or evidence to be given**

s 6 am 1992 No 30 sch 1

#### **Special meeting and inquiry**

s 7 am 1992 No 30 sch 1

#### **Registrar may require bank to give information**

s 8A ins 1975 No 15  
am 1994 No 81 sch

#### **Inspection of documents**

s 9 am 1985 No 38; 1992 No 30 sch 1; 2001 No 44 amdt 1.863,  
amdt 1.864

#### **Appeal from decisions of registrar**

s 11 am 1992 No 30 sch 1

#### **Annual reports**

s 12 sub 1992 No 30 sch 1  
om 1995 No 25 sch

#### **Cooperative trading societies**

pt 3 hdg om Cwlth Act 1981 No 74 s 36 (never commenced)

#### **Objects**

s 13 om Cwlth Act 1981 No 74 s 36 (never commenced)

#### **Prescribed trading societies**

s 14 sub 1956 No 10  
om Cwlth Act 1981 No 74 s 36 (never commenced)  
sub 1982 No 89; 1992 No 30 sch 1

pt 3A hdg

ins 1956 No 10  
om 1992 No 30 sch 1

#### **General**

pt 3A div 1 hdg ins 1986 No 9 s 5  
om 1992 No 30 sch 1

**Objects**

s 14A ins 1956 No 10  
sub 1986 No 9 s 6  
om 1992 No 30 sch 1

**Restrictions applicable in relation to objects**

s 14AA ins 1986 No 9 s 6  
om 1992 No 30 sch 1

**Association of assets with primary object**

s 14AB ins 1986 No 9 s 6  
am 1987 No 68  
om 1992 No 30 sch 1

**Association of assets with primary object—exemption**

s 14ABA ins 1988 No 46 s 3  
am 1989 No 38 sch 1  
om 1992 No 30 sch 1

**Requirements relating to loans for residential purposes**

s 14AC ins 1986 No 9 s 6  
om 1992 No 30 sch 1

**Loan limit**

s 14AD ins 1986 No 9 s 6  
om 1992 No 30 sch 1

s 14B ins 1956 No 10  
am 1973 No 16; 1973 No 29; 1975 No 15; 1984 No 11; 1989  
No 9  
om 1992 No 30 sch 1

s 14C ins 1956 No 10  
am 1966 No 18; 1987 No 7  
om 1992 No 30 sch 1

s 14CA ins 1963 No 10  
am 1966 No 18  
om 1992 No 30 sch 1

s 14CB ins 1963 No 10  
am 1966 No 18  
om 1992 No 30 sch 1

s 14CC ins 1963 No 10  
am 1966 No 18  
sub 1984 No 11  
om 1992 No 30 sch 1



## Endnotes

### 4 Amendment history

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- s 14CD           ins 1963 No 10  
                  sub 1984 No 11  
                  om 1992 No 30 sch 1
- s 14CE           ins 1963 No 10  
                  am 1966 No 18; 1979 No 35  
                  om 1987 No 42
- s 14CF           ins 1963 No 10  
                  om 1987 No 42

#### **Capital adequacy**

- pt 3A div 2 hdg   ins 1986 No 9 s 7  
                  om 1992 No 30 sch 1

#### **Interpretation**

- s 14CG           ins 1986 No 9 s 7  
                  om 1992 No 30 sch 1

#### **Maintenance of capital adequacy**

- s 14CH           ins 1986 No 9 s 7  
                  om 1992 No 30 sch 1

#### **Notification of failure to maintain capital adequacy**

- s 14CJ           ins 1986 No 9 s 7  
                  om 1992 No 30 sch 1

#### **Statement relating to capital adequacy**

- s 14CK           ins 1986 No 9 s 7  
                  om 1992 No 30 sch 1

#### **Direction to restore capital adequacy**

- s 14CL           ins 1986 No 9 s 7  
                  om 1992 No 30 sch 1

- pt 3B hdg       ins 1956 No 10  
                  om 1992 No 30 sch 1

- s 14D           ins 1956 No 10  
                  om 1992 No 30 sch 1

- s 14E           ins 1956 No 10  
                  om 1992 No 30 sch 1

- s 14F           ins 1956 No 10  
                  om 1992 No 30 sch 1

s 14G           ins 1956 No 10  
                  am 1966 No 18; 1972 No 6  
                  sub 1977 No 14  
                  am 1982 No 90; 1986 No 10  
                  om 1992 No 30 sch 1

**Valuation of securities**

s 14GA           ins 1986 No 10 s 4  
                  om 1992 No 30 sch 1

s 14H           ins 1956 No 10  
                  om 1992 No 30 sch 1

**Cooperative housing and services societies**

pt 3C hdg       ins 1974 No 35

**Objects**

s 14J           ins 1974 No 35

pt 3D hdg       ins 1975 No 13  
                  om 1992 No 30 sch 1

s 14K           ins 1975 No 13  
                  om 1992 No 30 sch 1

s 14L           ins 1975 No 13  
                  om 1992 No 30 sch 1

s 14M           ins 1975 No 13  
                  om 1992 No 30 sch 1

s 14N           ins 1975 No 13  
                  om 1992 No 30 sch 1

s 14P           ins 1975 No 13  
                  am 1975 No 15  
                  om 1992 No 30 sch 1

s 14Q           ins 1975 No 13  
                  om 1992 No 30 sch 1

s 14R           ins 1975 No 13  
                  om 1992 No 30 sch 1

**Liability and membership**

s 15            am 1974 No 47; 1992 No 30 sch 1

## Endnotes

### 4 Amendment history

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#### **Formation and registration of society**

s 16 am 1946 No 1; 1962 No 3; 1974 No 35; 1974 No 47; 1978 No 46; 1985 No 38; 1992 No 30 sch 1; 2001 No 44 amdts 1.865-1.868; ss renum R4 LA

#### **Prohibited names**

s 16AA ins 1962 No 3  
sub 1962 No 7  
am 1982 No 38  
sub 1992 No 30 sch 1

#### **Powers of registered societies**

s 16A ins 1956 No 10  
am 1979 No 35  
sub 1984 No 11  
am 1986 No 9; 1992 No 30 sch 1

#### **Change of name**

s 17 am 1962 No 3; 1966 No 18; 1985 No 38; 1989 No 38 sch 1; 1992 No 30 sch 1; 1998 No 54 sch; 2001 No 44 amdts 1.869-1.872; ss renum R4 LA

#### **Amalgamation**

s 18 am 1956 No 10; Cwlth Act 1981 No 74 s 37 (never commenced); 1985 No 38; 1992 No 30 sch 1; 2001 No 44 amdts 1.873-1.875

#### **Property to vest on amalgamation**

s 19 am 2001 No 44 amdt 1.876, amdt 1.877

#### **Certificate of incorporation**

s 20 am 1985 No 38; 2001 No 44 amdts 1.878-1.880; ss renum R4 LA

#### **Members**

s 21 am 1992 No 30 sch 1

#### **Shares**

s 22 am 1958 No 18; 1985 No 4; 1989 No 9; 1992 No 30 sch 1; ss renum R4 LA

#### **Reserves**

s 22A ins 1975 No 15  
am 1994 No 81 sch

#### **Surplus from operations**

s 23 sub 1975 No 15  
am 1992 No 30 sch 1

s 23A ins 1975 No 15  
am 1979 No 35; 1982 No 38; 1985 No 4  
om 1992 No 30 sch 1

**Liability of members of society**

s 24 am 1992 No 30 sch 1; 1995 No 46 sch

**Purchase or repayment of shares**

s 25 sub 1985 No 4  
am 1985 No 74; 1992 No 30 sch 1

s 27 om 1985 No 4

**Death of member**

s 29 am 1966 No 18; 1986 No 31; 1992 No 30 sch 1; ss renum R4  
LA

**Death of intestate**

s 30 am 1966 No 18; 1992 No 30 sch 1

**Use of the word 'cooperative'**

s 32 am 1950 No 14; 1966 No 18; Cwith Act 1981 No 74 s 38 (never  
commenced); 1985 No 38; 1989 No 38 sch 1  
sub 1992 No 30 sch 1  
am 1994 No 81 sch; 1999 No 33 sch; 2001 No 44 amdt 1.881;  
pars renum R4 LA

**Fees**

s 33 sub 1975 No 15  
am 1985 No 4  
om 2001 No 44 amdt 1.882

**Granting of securities**

s 35 am 1956 No 10; 1962 No 7; 1979 No 35; 1982 No 38; 1986  
No 9; 1992 No 30 sch 1; 2001 No 44 amdt 1.883, amdt  
1.884; ss renum R4 LA

**Raising of money etc**

s 36 am 1966 No 18; 1979 No 35; 1986 No 9; ss renum R4 LA

**Investments**

s 37 am 1956 No 10; 1975 No 15; 1982 No 89; 1984 No 11; 1986  
No 75; 1992 No 30 sch 1; ss renum R4 LA

**Investments in corporations**

s 37A ins 1985 No 4 s 9  
am 1985 No 74; 1986 No 75  
om 1992 No 30 sch 1

**Investment by A.C.T. Credit Union Association Co-operative Limited**

s 37B ins 1985 No 4 s 9  
om 1992 No 30 sch 1

**Voluntary transfer of engagements—trading societies**

s 38 am 1956 No 10; Cwlth Act 1981 No 74 s 39 (never  
commenced); 1992 No 30 sch 1

## Endnotes

### 4 Amendment history

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#### **Transfer of engagements by direction**

s 38AA ins 1987 No 42  
am 1988 No 40; 1992 No 30 sch 1; 1994 No 81 sch; 2001  
No 44 amdt 1.885, amdt 1.886; ss renum R4 LA

#### **Registration of society as a company**

s 38A ins 1950 No 14  
am 1956 No 10; 1962 No 7; 1982 No 38; 1987 No 42; 1989  
No 38 sch 1; 1992 No 30 sch 1; ss renum R4 LA

#### **Power of society to act as agent**

s 39A ins 1986 No 9 s 11  
om 1992 No 30 sch 1

#### **Name and address of society**

s 40 am 1946 No 1; 1985 No 38; 1986 No 40; 2001 No 44 amdts  
1.887-1.889; ss renum R4 LA

#### **Service of documents on society**

s 40A ins 1956 No 10

#### **Effect of rules**

s 41 sub 1992 No 30 sch 1

#### **Registers and records**

s 42 am 1979 No 35; 1986 No 9; 1991 No 33 s 4; 1992 No 30 sch 1;  
pars renum R4 LA

#### **Accounts**

s 42A ins 1991 No 33 s 5

#### **Statement to be attached to accounts**

s 42B ins 1991 No 33 s 5

#### **Statement to be attached to holding society accounts**

s 42C ins 1991 No 33 s 5

#### **Statements in relation to financial year of society**

s 42D ins 1991 No 33 s 5

#### **Directors report on society other than holding society**

s 42E ins 1991 No 33 s 5

#### **Directors report on group holding society**

s 42F ins 1991 No 33 s 5

#### **Report may omit prejudicial information**

s 42G ins 1991 No 33 s 5

#### **Reports generally**

s 42H ins 1991 No 33 s 5

#### **Inspections of documents by members and creditors**

s 43 am 1979 No 35; 2001 No 44 amdt 1.890, amdt 1.891

**Returns**

s 44 am 1956 No 10; 1975 No 15; 1985 No 38; 1986 No 9; 1986 No 40; 2001 No 44 amdts 1.892-1.896; ss renum R4 LA

**Dealings with members and applicants**

s 45 am Cwlth Act 1981 No 74 s 40 (never commenced); 1992 No 30 sch 1; ss renum R4 LA

**Charges payable by members**

s 46 am 1992 No 30 sch 1

**Fines**

s 47 am 1966 No 18; 1992 No 30 sch 1; 1995 No 46 sch

**Special resolution**

s 48 am 1985 No 38; 1992 No 30 sch 1; 2001 No 44 amdt 1.897, amdt 1.898; ss renum R4 LA

**Rules**

s 49 am 1956 No 10; 1966 No 18; 1979 No 35; 1992 No 30 sch 1; pars renum R4 LA

**Alteration of rules**

s 50 am 1985 No 38; 1986 No 40; 1992 No 30 sch 1; 2001 No 44 amdts 1.899-1.905

**Board of directors**

s 51 am 1978 No 46; 1988 No 46; 1992 No 30 sch 1; 1994 No 45 sch; 2001 No 44 amdt 1.906, amdt 1.907

**Meetings**

s 52 am 1985 No 38; 2001 No 44 amdt 1.908, amdt 1.909; ss renum R4 LA

**Votes of members**

s 53 am 1992 No 30 sch 1

**Officers**

s 55 am 1992 No 30 sch 1

**Accounts and audit**

s 56 am 1966 No 18; 1989 No 9; 1992 No 30 sch 1; pars renum R4 LA

**Financial year**

s 57 am 1956 No 10; 1992 No 30 sch 1

**Disputes**

s 58 am 1982 No 89; 1985 No 67; 1989 No 38 sch 1; 1992 No 30 sch 1; ss renum R4 LA

**Suspension, administration and winding-up**

pt 6 hdg sub 1987 No 42

## Endnotes

### 4 Amendment history

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#### **Suspension of operations**

s 58A ins 1987 No 42  
am 1992 No 30 sch 1; 1994 No 81 sch; pars renum R4 LA

#### **Administrator**

s 58B ins 1987 No 42  
am 1988 No 40; 1989 No 38 sch 1; ss renum R4 LA

#### **Winding-up**

s 59 am 1956 No 10; 1962 No 7; 1982 No 38; 1987 No 42; 1989 No 38 sch 1; 1992 No 30 sch 1; 2001 No 44 amdts 1.910-1.912

#### **Application of Corporations Law in winding-up**

s 60 sub 1956 No 10  
am 1962 No 7; 1982 No 38  
sub 1987 No 8  
am 1992 No 30 sch 1; 2001 No 44 amdt 1.913, amdt 1.914; ss and pars renum R4 LA

#### **Filling vacancy in position of liquidator—voluntary winding-up**

s 60A ins 1956 No 10  
am 1962 No 7; 1982 No 38; 1992 No 30 sch 1

#### **Defaults by society**

s 68 am 1966 No 18; 1994 No 81 sch; 1998 No 54 sch; 2001 No 44 amdt 1.915, amdt 1.916

#### **Restrictions on powers**

s 69 am 1966 No 18; 1979 No 35; 1994 No 81 sch

#### **Too few members**

s 70 am 1966 No 18; 1994 No 81 sch; 1998 No 54 sch

#### **Name**

s 71 am 1966 No 18; 1994 No 81 sch

#### **Seal**

s 72 am 1966 No 18; 1994 No 81 sch

#### **Allotment of shares**

s 73 am 1966 No 18; 1994 No 81 sch

#### **False copies of rules**

s 74 am 1966 No 18; 1994 No 81 sch

#### **Falsification**

s 75 am 1966 No 18; 1994 No 81 sch

#### **Fraud or misappropriation**

s 76 am 1956 No 10; 1966 No 18; 1992 No 30 sch 1; 1994 No 81 sch

#### **Commission**

s 77 am 1966 No 18; 1992 No 30 sch 1; 1994 No 81 sch

**Contravention of Act**

s 78 am 1966 No 18; 1994 No 81 sch

**Recovery of penalties**

s 79 am 2001 No 44 amds 1.917-1.919

**Interpretation**

s 80AA ins 1989 No 38 sch 1  
om 1994 No 60 sch 1

**Review of decisions**

s 80A ins 1985 No 4  
am 1987 No 7; 1988 No 40; 1989 No 38 sch 1; 1992 No 30 sch  
1; 1994 No 60 sch 1

**Notification of decisions**

s 80B ins 1985 No 4  
am 1985 No 74; 1987 No 7; 1988 No 40; 1989 No 38 sch 1;  
1992 No 30 sch 1; 1994 No 60 sch 1

**Determination of fees**

s 80C ins 1985 No 4  
sub 2001 No 44 amdt 1.920

**Approved forms**

s 80D ins 1985 No 38  
sub 2001 No 44 amdt 1.920  
(5)-(8) exp 12 September 2002 (s 80D (8))

**Fees under applied provisions of the Corporations Law (mortgages, charges and bonds)**

s 80E ins 1985 No 38  
sub 1992 No 30 sch 1  
om 2001 No 44 amdt 1.920

**Fees payable**

s 80F ins 1985 No 38  
om 2001 No 44 amdt 1.920

**Regulation-making power**

s 81 am 1966 No 18; 1975 No 15; 1985 No 38; 1986 No 9; 1987  
No 8; 1989 No 38 sch 1; 1992 No 30 sch 1; 1998 No 54 sch  
sub 2001 No 44 amdt 1.920



## Endnotes

5 Earlier republications

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### 5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (\*) in column 1. Except for the footer, electronic and printed versions of an authorised republication are identical.

Republication No	Amendments to	Republication date
1	Ord 1989 No 38	30 June 1991
2	Act 1992 No 30	31 August 1992
3	Act 1995 No 46	1 January 1996
4	Act 2001 No 44	31 July 2002

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