

eSwatini

Co-operative Societies Act, 1964

Act 28 of 1964

Legislation as at 1 December 1998

FRBR URI: /akn/sz/act/1964/28/eng@1998-12-01

There may have been updates since this file was created.

PDF created on 21 February 2024 at 15:57.

Collection last checked for updates: 1 December 1998.

[Check for updates](#)



About this collection

The legislation in this collection has been reproduced as it was originally printed in the Government Gazette, with improved formatting and with minor typographical errors corrected. All amendments have been applied directly to the text and annotated. A scan of the original gazette of each piece of legislation (including amendments) is available for reference.

This is a free download from the Laws.Africa Legislation Commons, a collection of African legislation that is digitised by Laws.Africa and made available for free.

www.laws.africa
info@laws.africa

There is no copyright on the legislative content of this document.
This PDF copy is licensed under a Creative Commons Attribution 4.0 License (CC BY 4.0). Share widely and freely.

Co-operative Societies Act, 1964
 Contents

Part I – Preliminary 1

 1. Short title 1

 2. Interpretation 1

Part II – Registration 2

 3. Appointment of Commissioner and Assistant Commissioners 2

 4. Societies which may be registered 2

 5. Conditions of registration 2

 6. Application for registration 2

 7. Registration 3

 8. Incorporation 3

 9. Evidence of registration 3

 10. Probationary societies 3

Part III – Duties and privileges of societies 4

 11. Amendment of Bye-laws 4

 12. Address of society 5

 13. What is to be open for inspection 5

 14. Disposal of produce to or through a registered society 5

 15. Charge and set-off in respect of shares 5

 16. Creation of charges in favour of registered societies 6

 17. Non-liability to attachment or sale of shares etc. 6

 18. Notice of intention to sue society 6

 19. Transfer of interest on death of member 6

 20. Register of members 7

 21. Proof of entries in book of society 7

 22. Amalgamation or transfer of societies 7

 23. Division of societies 8

 24. Conversion of company into society 9

Part IV – Rights and liabilities of members 10

 25. Qualification for membership 10

 26. Exercise of rights 10

 27. Restriction as to membership 10

 28. Votes of members 10

 29. Representation by proxy 10

 30. Contract between members who are minors and society 10

| | |
|---|----|
| 31. Maximum shareholding | 10 |
| 32. Restrictions on transfer of share or interest | 11 |
| 33. Liability of past member and estate of deceased member for debts of society | 11 |
| Part V – Management of societies | 11 |
| 34. General meeting | 11 |
| 35. Powers of committee | 11 |
| 36. Payment of committee | 11 |
| 37. Compliance with Commissioner’s directions in a report | 11 |
| 38. Dissolution of committee | 12 |
| Part VI – Properties and funds of a registered society | 13 |
| 39. Financial provisions | 13 |
| 40. Loans made by a registered society | 13 |
| 41. Deposits and loans received by a registered society | 14 |
| 42. Restrictions on transactions with non-members | 14 |
| 43. Investment of funds | 14 |
| 44. Disposal of profits | 14 |
| Part VII – Audit, inspection and inquiry | 15 |
| 45. Audit | 15 |
| 46. Power of Commissioner to inspect societies’ books | 15 |
| 47. Inquiry and inspection | 15 |
| 48. Penalties for failure to furnish information or perform other acts | 16 |
| Part VIII – Liquidation | 16 |
| 49. Liquidation | 16 |
| 50. Liquidation due to lack of membership | 17 |
| 51. Appointment of liquidator | 17 |
| 52. Liquidator’s powers | 17 |
| 53. Power of Commissioner to control liquidation | 18 |
| 54. Appeal against decision, etc. of liquidator | 18 |
| 55. Enforcement of orders, etc. | 18 |
| 56. Power of Commissioner to surcharge | 19 |
| 57. Limitation of jurisdiction of court | 19 |
| 58. Competition of liquidation | 19 |
| 59. Cancellation of registration | 20 |
| Part IX – Disputes | 20 |
| 60. Settlement of disputes | 20 |

| | |
|--|----|
| 61. Case stated on question of law | 20 |
| Part X – Miscellaneous | 21 |
| 62. Regulations | 21 |
| 63. Prohibition of use of word "co-operative" | 22 |
| 64. Recovery of sums due to Government | 22 |
| 65. Power to exempt society from requirements as to registration | 22 |
| 66. Power to exempt societies from provision of Act | 23 |
| 67. Licences | 23 |
| 68. Power to exempt from stamp duty and registration fees | 23 |
| 69. Exemption from certain taxes and duties | 23 |
| 70. Compulsion to market to or through a registered society | 24 |
| 71. Penalty for soliciting violation of contract | 24 |
| 72. Nomination to committee of registered society | 24 |

eSwatini

Co-operative Societies Act, 1964

Act 28 of 1964

Commenced on 1 August 1964

[This is the version of this document at 1 December 1998.]

[The word "Registrar" replaced by the word "Commissioner" in entire Act, except in the expression "Registrar of Deeds" – K.O.I.C. 2/1975]

An Act to make provision for co-operative societies.

Part I – Preliminary

1. Short title

This Act may be cited as the Co-operative Societies Act, 1964.

2. Interpretation

(1) In this Act, unless the context otherwise requires—

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

"**Bye-laws**" means registered Bye-laws, or amendments of them, made by a society in the exercise of any power conferred by this Act;

"**Commissioner**" means the Commissioner for Co-operative Development appointed in terms of [section 3](#) or any person exercising such powers of the Commissioner as may have been conferred on him under such section;

[Added K.O-I-C. 2/1975]

"**committee**" means governing body of a registered society to which the management of its affairs is entrusted;

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

"**legal representative**", in relation to a person who is dead, means person who in law, or under Swazi law and custom, whichever may be applicable, represents the estate of that person;

"**magistrate's court**" means court constituted under the Magistrate's Courts Act, [No. 66 of 1938](#);

"**member**" includes person or registered society joining in the application for the registration of a society or person or registered society admitted to membership after registration in accordance with the Bye-laws;

"**Minister**" means the Minister for Agriculture;

"**officer**" includes president, chairman, secretary, treasurer, manager, member of committee, or other person empowered under the Regulations or Bye-laws to give directions in regard to the business of a registered society;

"**prescribed**" means prescribed by Regulation;

"**primary society**" means registered society all of the members of which are individuals who are qualified under [section 25](#);

"**probations society**" is a society entitled to operate as a registered society under [section 10](#);

"**registered**" means registered under this Act;

"**registered society**" means—

- (a) society registered under [section 7](#); or
- (b) society or company deemed, by section 73(2)(a), to be so registered;

"**secondary society**" means registered society other than a primary society.

- (2) Where this Act provides that an officer of a society which is in default shall be guilty of an offence, "officer in default" means an officer of the society who knowingly authorizes or permits the default.

Part II – Registration

3. Appointment of Commissioner and Assistant Commissioners

- (1) The Minister, shall, by notice published in the *Gazette*, designate a public officer to be a Commissioner of co-operative societies for Swaziland.
- (2) The Minister may appoint persons from amongst the public officers to assist the Commissioner and confer on any such person any of the powers of the Commissioner in terms of this Act.

4. Societies which may be registered

Subject to the provisions of this Act, a society which has as its object the promotion of the economic interest of its members in accordance with co-operative principles; or the facilitating of the operations of such a society; may be registered in terms of this Act, with or without limited liability:

Provided that the liability of a society which included at least one registered society among its members shall be limited.

5. Conditions of registration

- (1) No society, other than a society of which a member is a registered society, shall be registered in terms of this Act unless it consists of at least ten individuals, qualified in terms of [section 25](#), for membership.
- (2) The word "co-operative" shall form part of the name of every registered society.
- (3) The word "limited" shall be the last word in the name of every registered society with limited liability.
- (4) When, for the purposes of this section, any question arises as to the qualification of any person for membership of any society, that question shall be decided by the Commissioner whose decision shall be final.

6. Application for registration

- (1) An application for registration in terms of this Act shall be made to the Commissioner and shall be signed—
 - (a) in the case of a society of which no member is a registered society, by at least ten persons qualified in terms of [section 25](#);

- (b) in the case of a society of which a member is a registered society, by a duly authorized person on behalf of every such registered society and, where all other members of the society are not registered societies, by ten other members or, where there are less than ten other members, by all of them.
- (2) The application shall be accompanied by the prescribed number of copies of the proposed Bye-laws of the society, and the person by whom or on whose behalf the application is made shall furnish such information in regard to the society as the Commissioner may require.

7. Registration

- (1) If the Commissioner is satisfied that—
 - (a) a society has complied with this Act;
 - (b) the proposed Bye-laws of a society are adequate for its proper running and are not contrary to this Act;
 - (c) a society is *bona fide*;
 - (d) there is a reasonable expectation of benefit to the members of a society;
 - (e) the name of a society is not identical with that of a registered society, or does not so nearly resemble such a name as to be calculated to confuse or deceive;
 - (f) there is no registered society in the same locality which is substantially performing similar activities for persons of the same class or occupation; and
 - (g) proper provision has been made for the financing of a society;he may, if he thinks fit, and on payment by the society of the prescribed fee, register the society and its Bye-laws and issue, under his hand, a certificate of registration in the prescribed form.
- (2) Where the Commissioner refuses to register a society, an appeal shall lie to the Minister, notice of which shall be given within one month from the date of the refusal.
- (3) The decision of the Minister given on an appeal under subsection (2) is final.

8. Incorporation

Upon registration of a society it shall be a body corporate under its registered name with perpetual succession and power to hold property, to enter into contracts, institute and defend suits and other legal proceedings and to do all things necessary for the purpose of its Bye-laws.

9. Evidence of registration

A certificate of registration under the hand of the Commissioner shall be conclusive evidence that the society therein mentioned is duly registered, unless it is proved that the registration of the society has been cancelled.

10. Probationary societies

- (1) If, by reason of [section 7](#), the Commissioner is unable to register a society but is of the opinion that steps can be and will be taken with diligence, by the persons by whom or on whose behalf application is made for registration, to comply with any provision with which compliance is necessary in order to enable him to register the society, the Commissioner may, in his absolute discretion, by notice in writing (hereinafter referred to as a notice of deferment), defer registration of that society subject to its compliance with such conditions and provisions as may be specified by him in such notice.

- (2) Such notice shall be transmitted to the persons by whom or on whose behalf application is made and shall, subject to this section, entitle the society in respect of which it is issued to operate as a registered society.
- (3) A probationary society shall be a body corporate with perpetual succession, and with power to hold movable and immovable property of every description, to enter into contracts, institute and defend suits and other legal proceedings and to do all things necessary for the purpose for which it was constituted.
- (4) When a probationary society is registered its certificate of registration shall supersede the notice of deferment which shall thereupon cease to have effect and the society shall be deemed for all purposes to have been registered from the date its notice of deferment was issued by the Commissioner.
- (5) The Commissioner may, in his absolute discretion, cancel the notice of deferment by notice in writing addressed to the probationary concerned and the cancellation shall, from the date thereof, operate as a refusal to register the society under [section 7](#):

Provided that the cancellation shall not affect the validity of any transaction entered into by or with the society while its notice of deferment was in force.
- (6) Where the notice of deferment of a probationary society is cancelled under subsection (5), the Commissioner may appoint a competent person to be liquidator of the society.
- (7) The provisions of the proviso to section 4, 5(3), 8, 9, 11, 44(5), 49, 58, 59, 69 and 70 shall not apply to a probationary society.
- (8) Subject to subsection (7), any reference in any law, to a registered society shall, unless the context otherwise requires, include a reference to a probationary society.
- (9) A probationary society shall cause the fact that it is a probationary society to be stated, in legible Roman letters, in all billheads, letter paper, notices, advertisements and other official publications of the society and on a signboard in a conspicuous position outside any premises in which it operates.
- (10) A probationary society which contravenes subsection (9) and every officer of a probationary society which contravenes those provisions shall be guilty of an offence and liable, on conviction, to a fine not exceeding one hundred emalangeni and, in the case of a continuing offence, a further fine not exceeding ten emalangeni for each day the default continues.

Part III – Duties and privileges of societies

11. Amendment of Bye-laws

- (1) Subject to the provisions of this Act, a registered society may add to or amend its Bye-laws including any Bye-law which declares the name of the society.
- (2) No amendment of the Bye-law of a registered society is valid unless that amendment has been registered in terms of this Act; for which purpose the prescribed number of copies of the amendment shall be forwarded to the Commissioner.
- (3) Where the Commissioner is satisfied that such an amendment of the Bye-laws of a registered society is not contrary to this Act and that, after such an amendment, the requirements of [section 7\(1\)\(b\), \(c\), \(d\) and \(e\)](#) are still met, he may, if he thinks fit, register the amendment.
- (4) Where the Commissioner refuses to register an amendment, an appeal shall lie to the Minister, notice of which shall be given within one month from the date of the refusal.
- (5) The decision of the Minister given on an appeal under subsection (4) shall be final.

- (6) An amendment which changes the name of a society shall not affect any right or obligation of the society or of any of its members or past members and any legal proceeding pending may be continued by or against the society under its new name.
- (7) Where the Commissioner registers an amendment of the Bye-laws of a registered society, he shall, under his hand, issue to the society a certified copy of the amendment which shall be accepted as conclusive evidence that the amendment has been duly registered.

12. Address of society

- (1) A registered society shall have an address registered in the prescribed manner, to which all notices and communications may be sent, and shall send to the Commissioner notice of every change of that address.
- (2) If a society fails to comply with subsection (1), an officer in default shall be guilty of an offence and is liable, on conviction, to a fine not exceeding twenty emalangeni or, in the case of a continuing offence, a further fine not exceeding four emalangeni for each day the offence continues.

13. What is to be open for inspection

- (1) A registered society shall keep a copy of this Act, the Regulations, its Bye-laws and a list of its members for inspection by the public free of charge at all reasonable times at the registered address of the society.
- (2) If a society fails to comply with subsection (1), an officer in default shall be guilty of an offence and is liable, on conviction, to a fine not exceeding twenty emalangeni or, in the case of a continuing offence, a further fine not exceeding four emalangeni for each day the offence continues.

14. Disposal of produce to or through a registered society

- (1) A registered society which has, as one of its objects, the disposal of a commodity produced or obtained by the work or industry of its members, whether the produce of agriculture, animal husbandry, forestry, fisheries, handicrafts, mining or otherwise, may provide in its Bye-laws or may otherwise contract with its members that—
 - (a) every such member who produces or obtains any such article shall dispose of the whole or any specified amount, proportion or description thereof to or through the society; and
 - (b) any member who is proved or adjudged in such manner as may be prescribed to be guilty of a breach of the Bye-law or contract shall pay to the society as liquidated damages a sum ascertained or assessed in such manner as may be prescribed.
- (2) No contract entered into under this section shall be contested in any court of law on the ground only that it constitutes a contract in restraint of trade.

15. Charge and set-off in respect of shares

A registered society shall have a charge upon the share or other interest in the capital of the society and on the deposits of a member or past member or deceased member upon any dividend, bonus or profits payable by the society to a member or past member or to the estate of a deceased member in respect of any debt due to the society from that member or past member or estate and may set off any sum credited or payable to a member or past member or estate of a deceased member in or towards payment of such a debt.

16. Creation of charges in favour of registered societies

Subject to any prior claim of the Government on the property of the debtor and to the lien or claim of a landlord in respect of rent or any money recoverable as rent and in the case of immovable property to any prior registered charges thereon—

- (a) any debt or outstanding demand payable to a registered society by any member or past member shall be a first charge on all crops or other agricultural produce, felled timber or other forest produce, fish, livestock, fodder, agricultural, industrial and fishing implements, plant, machinery, boats, tackle, nets, raw materials, stock in trade, and generally all produce of labour and things used in connexion with production raised, purchased or produced in whole or in part from any loan, whether in money or in goods, given him by the society:

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

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

17. Non-liability to attachment or sale of shares etc.

Subject to [section 15](#), the share or other interest of a member in the capital of a registered society shall be not liable to attachment or sale under decree or order of a court of law in respect of a debt or liability incurred by such a member, and neither his trustee or assignee in insolvency nor a *curator bonis* duly appointed shall be entitled to, or have any claim on, such a share or other interest.

18. Notice of intention to sue society

No civil summons shall be issued out of any court of law against a registered society unless the party applying for the summons has given at least seven days' written notice to the Commissioner of his intention to do so.

19. Transfer of interest on death of member

- (1) Subject to this section, a registered society may, on the death of a member, either—
 - (a) transfer his membership and share or other interest in the capital of the society to the person nominated in accordance with the Regulations; or
 - (b) pay to that nominee or, if there is no person so nominated, to the legal representative of that deceased member, a sum representing the value of the share or other interest of that member in the capital of the society ascertained in accordance with the Regulations or with the Bye-laws of the society.
- (2) In the case of a society without limited liability, that nominee or legal representative, as the case may be, may require payment by the society of the value of the share, or other interest, in the capital of the society of the deceased member ascertained as stated in subsection (1).
- (3) In the case of a society with limited liability, the society may transfer the membership, and share or other interest in the capital of the society, of the deceased member to a nominee who is qualified in accordance with the Regulations and the Bye-laws of the society for membership of the society or, on the application of a nominee, within six months of the death of the deceased member, to any person specified in the application who is so qualified.
- (4) A registered society shall pay to the legal representative all other moneys due to the deceased member from the society.

- (5) All transfers and payments made by a registered society in accordance with the provisions of this section shall be valid and effectual against any demand made upon the society by any other person.

20. Register of members

A Register or list of members kept by any registered society shall be *prima facie* evidence of any of the following particulars entered therein—

- (a) the date at which the name of any person was entered in the Register or list as a member; and
- (b) the date at which such a person ceased to be a member.

21. Proof of entries in book of society

- (1) A copy of an entry in a book of a registered society regularly kept in the course of business shall, if certified in the prescribed manner, be received in any legal proceedings, civil or criminal, as *prima facie* evidence of the existence of that entry and shall be admitted as evidence of the matters, transactions and accounts therein recorded in every case where, and to the same extent as, the original entry itself is admissible.
- (2) No officer of any registered society shall, in any legal proceedings to which the society is not a party, be compelled to produce any of the books of the society, the contents of which can be proved in terms of subsection (1), or to appear as a witness to testify upon any matters, transactions or accounts therein recorded unless the court, for special reasons, so directs.

22. Amalgamation or transfer of societies

- (1) Any two or more registered societies may, with the approval of the Commissioner, by a resolution passed by a three-fourths majority of the members present at a special general meeting of each of the societies held for the purpose, amalgamate as a single society:

Provided that each member has had at least fifteen days' notice of the resolution and the date of the meeting published in the customary manner.

- (2) Such an amalgamation may be effected without a dissolution, or a division of the funds of the amalgamating societies.
- (3) Upon due compliance by the amalgamated society with [section 6](#), the Commissioner shall register the society and, upon the registration, the assets and liabilities of the amalgamating societies shall vest in the amalgamated society.
- (4) A society may, by a resolution passed in accordance with subsection (1), transfer its assets and liabilities to any other society which is prepared to accept them:

Provided that when an amalgamation involves the transfer of assets and liabilities by any society to any other society, the transfer shall not be made without giving three months' notice of the intended transfer to all the creditors of each society concerned; and

Provided further that, if any creditor of any of the societies concerned objects to the amalgamation or transfer of assets and liabilities and gives written notice to that effect to the society concerned one month before the date fixed for the amalgamation or transfer, the amalgamation or transfer shall not be made until the dues of the creditor or creditors have been satisfied.

- (5) The Commissioner shall cancel the registration of—
 - (a) the amalgamating societies upon the registration of the amalgamated society in terms of subsection (3); or
 - (b) the society or societies whose assets and liabilities have been transferred in terms of subsection (4).

- (6) The Registrar of Deeds, upon the production to him of a duplicate of any document filed with him relating to any society concerned and—
 - (a) certified copies of the resolutions of the amalgamating societies and a certificate under the hand of the Commissioner as to the registration of the amalgamated society; or,
 - (b) as the case may be, certified copies of the resolutions of the society which has resolved to transfer its assets and liabilities and of the society which has resolved to accept them and a certificate under the hand of the Commissioner that subsection (4) has been complied with, shall make, free of charge or stamp duty, such endorsement upon the document and duplicate and such entries in the registers in his office as may be necessary to give effect to the transfer of assets and liabilities in terms of this section.

23. Division of societies

- (1) Any society may, with the approval of the Commissioner, by a resolution passed by a three-fourth majority of the members present at a special general meeting of the society held for the purpose, resolve to divide itself into two or more societies:

Provided that each member has had at least fifteen days notice of the resolution and the date of the meeting, published in the customary manner.
- (2) The resolution (in this section referred to as a preliminary resolution) shall contain proposals for the division of the assets and liabilities of the society among the new societies into which it is proposed to divide and may define the area of operation of, and specify the members who will constitute, each of the new societies.
- (3) A copy of the preliminary resolution shall be sent to all creditors of the society.
- (4) Notice of the preliminary resolution shall also be given to all other persons whose interests will be affected by the division of the society.
- (5) Notwithstanding any Bye-law to the contrary, a member may, within three months from the date of the special general meeting at which the preliminary resolution was passed, by notice given to the society intimate his intention not to become a member of any of the new societies.
- (6) A creditor of the society may, notwithstanding any agreement to the contrary, by notice given to the society within a period of three months from his receipt of the preliminary resolution, intimate his intention to demand a return of the amount due to him.
- (7) Any other person whose interest will be affected by the division may by notice given to the society object to the division unless his claim is satisfied.
- (8) After the expiry of three months from the receipt of the preliminary resolution by all the creditors of the society and of the notice given to other persons under subsection (4), another special general meeting of the society, of which at least fifteen clear days' notice shall be given to its members, shall be convened for the consideration of the preliminary resolution.
- (9) If, at the meeting mentioned in subsection (8), the preliminary resolution is confirmed by a resolution passed by a majority of not less than two-thirds of the members present, either without changes or with such changes as in the opinion of the Commissioner are not material, he may, subject to [section 7\(13\)](#), register the new societies and their Bye-laws.
- (10) Upon such registrations, the registration of the old society shall be deemed to be cancelled and the society shall be deemed to be dissolved from the date of the cancellation.
- (11) The opinion of the Commissioner as to whether the changes made in the preliminary resolution are or are not material shall be final.

- (12) At the special general meeting referred to in subsection (8) provision shall be made by another resolution for—
- (a) repayment of the share capital of all members who have given notice under subsection (5);
 - (b) satisfaction of the claims of all creditors who have given notice under subsection (6);
 - (c) satisfaction of the claims of such of the other persons who have given notice under subsection (7) as the Commissioner may decide or for securing their claims in accordance with the directions of the Commissioner:

Provided that no member or creditor or other person shall be entitled to any repayment or satisfaction until the preliminary resolution is confirmed as provided in subsection (9).

- (13) The Commissioner may refuse to register the new societies until all payments and satisfaction of claims have been made as required by subsection (12).
- (14) The registration of the new societies shall be sufficient to vest the assets and liabilities of the original society in the new societies in the manner specified in the preliminary resolution confirmed under subsection (9).
- (15) The Registrar of Deeds, upon the production of the duplicate of any document relating to a society, which has been divided, a certified copy of the resolution to divide the assets and liabilities confirmed in accordance with the provisions of subsection (9) and a certificate, under the hand of the Commissioner, as to the registration of the society concerned, shall make, free of charge or stamp duty, such endorsement upon the document and duplicate and such entries in the registers in his office as may be necessary to give effect to the transfer of the assets and liabilities.

24. Conversion of company into society

- (1) A company incorporated and registered under the Companies Act [No. 7 of 1912](#) may, by special resolution, determine to convert itself into a registered society.
- (2) A resolution for the conversion of a company into a registered society shall be accompanied by a copy of the Bye-laws of the society therein referred to, and shall appoint ten members of the company, who, together with the secretary, shall sign the Bye-laws, and who may either be authorized to accept any alterations made by the Commissioner therein, without further consulting the company, or may be required to lay all such alterations before the company in general meeting for acceptance as the resolution may direct.
- (3) With the Bye-laws a copy of the special resolution for conversion of the company into a registered society shall be sent to the Commissioner, who shall thereupon proceed to deal with the resolution as if it were an application for registration under [section 6](#).
- (4) A copy of the resolution for the conversion of the company into a registered society under the seal of the company, together with the certificate of registration, issued by the Commissioner, and the appropriate fee prescribed under the Companies Act [No. 7 of 1912](#) shall be sent to the Commissioner of companies under that Act who shall register the resolution and certificate, whereupon the conversion shall take effect.
- (5) Upon the conversion of a company into a registered society, the registration of the company under the Companies Act [No. 7 of 1912](#) shall become void, and shall be cancelled by the Commissioner of companies; but the registration of a company as a registered society shall not affect any right or claim for the time being subsisting against the company, or any penalty for the time being incurred by the company, and, for the purpose of enforcing any right, claim, or penalty, the company may be sued and proceed against in the same manner as if it had not become registered as a society.
- (6) Every such right or claim, and the liability to such a penalty, shall have priority as against the property of the society over all other rights or claims against, or liabilities of, the society.

Part IV – Rights and liabilities of members

25. Qualification for membership

In order to be qualified for membership of a co-operative society a person, other than a registered society, shall—

- (a) if an individual, be not less than eighteen years of age; and
- (b) be resident within, own, or be in occupation of land within, the area of operation of the society as described by the Bye-laws of the society.

26. Exercise of rights

No member of a registered society shall exercise the rights of a member unless he has made such payment to the society in respect of membership, or acquired such share or other interest in the capital of the society, as may be prescribed or set out in the Bye-laws of the society.

27. Restriction as to membership

Except with the sanction of the Commissioner, no person shall be a member of more than one registered society of which the liability is not limited or the primary objects include the granting of loans.

28. Votes of members

- (1) Subject to this section, no member of any registered society shall have more than one vote in the conduct of the affairs of the society.
- (2) In the case of an equality of votes, the chairman shall have a casting vote in addition to his deliberative vote.
- (3) In the case of societies of which a registered society is a member, that registered society may have such voting powers as are prescribed or as are provided in the Bye-laws of the society of which that registered society is a member.

29. Representation by proxy

Unless the Bye-laws so provide or except with the written sanction of the Commissioner, which may be withdrawn at any time, voting by proxy shall not be allowed:

Provided that a registered society, which is a member of any other registered society, may, subject to the Bye-laws of that other registered society, appoint any of its members as delegates to vote in the conduct of the affairs of the other registered society.

30. Contract between members who are minors and society

- (1) The minority of a person duly admitted as a member of any registered society shall not debar that person from executing any instrument or giving any acquittance necessary to be executed or given under this Act, and shall not be a ground for invalidating or avoiding any contract entered into by such a person with the society.
- (2) Such a contract entered into by such a person with the society, whether as principal or as surety, shall be enforceable at law against such a person notwithstanding his minority.

31. Maximum shareholding

No member, other than a registered society, shall hold more than one-fifth of the share capital of any co-operative society.

32. Restrictions on transfer of share or interest

- (1) The transfer or charge of the share or other interest of a member or past member in the capital of a registered society shall be subject to such conditions as to maximum holding as may be prescribed by this Act.
- (2) In the case of a society registered with unlimited liability, a member shall not transfer any share held by him or his other interest in the capital of the society or any part thereof unless—
 - (a) he has held that share or interest for not less than one year; and
 - (b) the transfer or charge is made to the society, or to a member of the society, or to a person whose application for membership has been accepted by the society.

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

- (1) The liability of a past member for the debts of a registered society as they existed on the date on which he ceased to be a member shall not continue for a period of more than two years from that date.
- (2) The estate of a deceased member shall not be liable for the debts of a registered society, as they existed on the date of his decease, for a period of more than one year reckoned from the date of his decease.
- (3) This section shall not be deemed to create a liability in excess of the unpaid amounts due on shares or interest in a society with limited liability.

Part V – Management of societies**34. General meeting**

The control of the affairs of a registered society is hereby vested in the general meeting of the members summoned in accordance with the Bye-laws of the society and the Regulations.

35. Powers of committee

- (1) The committee shall exercise all the powers necessary for the full and proper administration of the society subject to the Regulations, the Bye-laws of the society and any restrictions passed at a general meeting.
- (2) The committee shall appoint such officers to discharge such duties as are imposed by this Act on a registered society.

36. Payment of committee

Subject to any express provision in the Regulations, members of the committee shall not, except with the written permission of the Commissioner, hold any office of profit under the society, or receive any honorarium upon retirement or relinquishment of office or on any other occasion.

37. Compliance with Commissioner's directions in a report

- (1) Subject to subsection (2), the committee shall, within fourteen days of receipt of the report by the society, comply with any direction of the Commissioner arising out of, or contained in, an inspection report or in an audit report and relevant to the inspection or audit, as the case may be.
- (2) The committee may, in respect of such a direction, make representation to the Commissioner within that period and may defer compliance with such a direction until the Commissioner has considered the representation.

- (3) The committee shall forthwith comply with any direction, or modified direction, given by the Commissioner after he has considered any representation made under subsection (2).
- (4) Where the committee fails to comply with any direction of the Commissioner under this section each member thereof shall be guilty of an offence and liable on conviction to a fine not exceeding fifty emalangeni or, in the case of a continuing offence a further fine not exceeding four emalangeni for each day the offence continues.

38. Dissolution of committee

- (1) If, after an inspection under [section 47](#) has been made, the Commissioner is of the opinion that the committee is not performing its duties properly he may, subject to subsection (8) and after giving the committee the opportunity to state its objections, if any, to its dissolution and after considering those objections at a general meeting called by him, by order in writing—
 - (a) dissolve the committee; and
 - (b) direct that the affairs of the society shall be managed and administered by a suitable person or persons appointed under this section.
- (2) Any direction under subsection (1)(b) shall have effect for such period not exceeding two years as may be specified in the order containing the direction.
- (3) The Commissioner may, in his discretion, amend the order for the purpose of extending the period during which the direction is to have effect:

Provided that the aggregate of such period shall not exceed four years.
- (4) Where an order is made under subsection (1), the Commissioner shall, by the same or subsequent order, appoint one or more fit and proper persons to manage and administer the affairs of the society and may, with or without replacing him remove a person so appointed.
- (5) Subject to the general direction and control of the Commissioner, any person appointed under subsection (4) may—
 - (a) recover the assets and discharge the liabilities of the society and take such other steps as may be necessary in its interests; and
 - (b) exercise all the powers, rights and privileges of a duly constituted committee.
- (6) The Commissioner may fix the remuneration payable to any person appointed by him under this subsection (4).
- (7) The amount of the remuneration and any other expenses, incurred in the management of the society shall be payable from its funds.
- (8) Any person appointed under subsection (4) holding office immediately prior to the date on which the direction under subsection (1)(b) ceases to have effect, shall arrange, prior to that date, for the appointment of a new committee in accordance with the Bye-laws of the society.
- (9) If the registered society is indebted to a bank or any other financial institution, no order under subsection (1) shall be made by the Commissioner, in respect of that society, except after prior consultation with the bank or financial institution in regard to the dissolution of the committee and to the persons by whom the affairs of the society are to be managed and administered.
- (10) Nothing in this section shall be deemed to affect the power of the Commissioner, under Part VIII, to order liquidation of the society.

Part VI – Properties and funds of a registered society

39. Financial provisions

- (1) The Bye-laws of a registered society may, with the approval of the Commissioner, provide for the raising of funds to finance its activities by the issue of shares or by levy on agricultural or other products, handicrafts or minerals marketed through the society or by a combination of any of these methods or by other means.
- (2) Where the funds of a registered society to finance its activities are obtained by the issues of shares, the following provisions apply—
 - (a) the share capital shall not be reduced without the consent of the Commissioner;
 - (b) unless the Commissioner otherwise directs in writing, a fund, called the Share Transfer Fund, shall be formed and maintained to meet expenditure which may be incurred by the society in purchasing the shares of members whose membership has terminated with the consent of the committee;
 - (c) no payment from the Share Transfer Fund shall be made for the purchase of the shares of a member whose membership has terminated without the consent of the committee;
 - (d) no purchase of the shares of a member whose membership has terminated by reason of any cause other than death shall be made otherwise than with moneys then available in the Share Transfer Fund;
 - (e) the amount standing to the credit of a Share Transfer Fund shall include the value of any unallocated shares purchased from members under the foregoing provisions, and the amount shall not exceed ten per centum of the subscribed share capital;
 - (f) where the share of a member is purchased by the society under the foregoing provisions, the amount paid therefor shall not exceed the par value of the share, and the society may pay such sum less than the par value as it considers reasonable, regard being had to the financial position of the society at the time of purchase; and
 - (g) the shares of members so purchased shall be re-issued before any new allocation is made.

40. Loans made by a registered society

- (1) Except as provided in [section 43](#), a registered society shall not make a loan to any person who is not a member:

Provided that, with the consent of the Commissioner, a registered society may make loans to another registered society.
- (2) Except with the permission of the Commissioner, a registered society shall not lend money on the security of any movable property other than produce or goods in which the society is authorized to deal.
- (3) The Minister may, by general or special notice in the *Gazette*, prohibit or restrict the lending of money, by any registered society, on any description of mortgage of any immovable property.
- (4) A registered society whose objects include the supply of commodities to its members shall not make any loans nor allow any credit without the sanction of the Commissioner who may impose such limits on loans and credit as he thinks fit.
- (5) A registered society which markets the agricultural, mineral, handicrafts or any other products of its members shall not, except with the sanction of the Commissioner, give loans or make advances in excess of seventy-five per centum of the local price, as estimated by the committee, of the products delivered to the society for marketing.

41. Deposits and loans received by a registered society

A registered society may receive deposits and loans from persons who are not members to such extent and under such conditions as may be prescribed by Regulation or by the Bye-laws of the society.

42. Restrictions on transactions with non-members

Save as provided in sections [40](#) and [41](#), transactions of a registered society with persons other than members shall be subject to such prohibitions and restrictions as may be prescribed.

43. Investment of funds

A registered society may invest or deposit its funds—

- (a) with the Post Office Savings Bank of Swaziland, a bank licensed under a law relating to the licensing of banks or such other bank as the Commissioner may approve for the purpose; or
- (b) with such other registered society as the Commissioner may approve for the purpose; or
- (c) in any security issued or guaranteed by the Government of such country as the Minister may approve for the purpose; or
- (d) in such other manners as the Commissioner may approve.

44. Disposal of profits

- (1) Subject to this section, at least one-fourth of the net profits of a registered society as ascertained by the audit carried out in terms of [section 45](#) shall be carried to a fund, called the reserve fund, which shall be employed in the manner prescribed.
- (2) The remainder of the profits mentioned in subsection (1), and any profits of past years available for distribution, may be divided among the members by way of dividend or bonus or be allocated to any fund constituted by the society to such extent or under such conditions as may be prescribed by Regulation or by the Bye-laws of the society.
- (3) Except with the special permission of the Commissioner, no society shall pay a dividend or bonus or distribute any part of its accumulated funds before the balance sheet has been certified by the Commissioner and the amount of the dividend, bonus or distribution, as the case may be, has been approved by the Commissioner.
- (4) No society shall pay a dividend to its members exceeding the maximum rate prescribed, which rate shall not in any case exceed ten per centum per annum.
- (5) No society without limited liability, which advances money or goods to any member in excess of money or goods deposited by him, shall, without the specific sanction of the Commissioner, pay a dividend before the lapse of ten years from the date of its registration.
- (6) A registered society may, with the sanction of the Commissioner and after the approved proportion of the net profits in any year has been carried to the reserve fund, contribute towards a charitable purpose or to a common welfare fund an amount not exceeding ten per centum of the remaining net profits.
- (7) In the case of a registered society that does not normally make a profit from its business with or on behalf of its members, the society shall create a fund, which shall be deemed to be a reserve fund, consisting of the proceeds of such amount and manner of charge on that business as the society may determine and the Commissioner may approve.

Part VII – Audit, inspection and inquiry

45. Audit

- (1) At least once a year, the Commissioner shall himself audit the accounts of every registered society or cause them to be audited or in writing permit any person nominated by the society for that purpose of whom, he approves to audit them, and he may operate any prescribed fund for the purpose of collecting and paying any charges thereby incurred.
- (2) Any audit under subsection (1) shall include an examination of any overdue debts, and a report on the method used to establish the value of the assets and liabilities of the registered society as shown in the balance sheet.
- (3) The Commissioner or any other person auditing the accounts of a society may—
 - (a) at the time of the audit, summon any officer, agent, servant or member of the society who he has reason to believe can give material information in regard to any transaction of the society or the management of its affairs; or
 - (b) require the production and take possession of, a book or document relating to the affairs of, or any cash or securities belonging to, the society by the officer, agent, servant or member in possession of the book, document, cash or securities.
- (4) The accounts of a society which have been audited and adopted by a general meeting of the society and approved by the Commissioner are conclusive, save as regards any error discovered within three months after the date of approval by the Commissioner; and any allegation of fraud.
- (5) Where such an error is discovered within that period, the accounts shall forthwith be corrected and if discovered after that period shall be corrected in the accounts for the ensuing period of audit and thereafter are conclusive save as regards any allegation of fraud.

46. Power of Commissioner to inspect societies' books

- (1) The Commissioner, or any person authorized by general or special order in writing by the Commissioner, shall at all times have access to, and, if he sees fit, may take possession of and remove, any of the books, accounts, papers and securities of a registered society.
- (2) The Commissioner, or the person so authorized, may inspect the cash in hand, and every officer or employee of the society shall furnish such information in regard to the transactions and working of the society as the person making the inspection may require.

47. Inquiry and inspection

- (1) The Commissioner may, of his own motion, and shall, on the application of a majority of the committee, or of not less than one-third of the members of a registered society, hold an inquiry, or direct some person authorized by him in writing so to do, into the constitution, working and financial condition of a registered society; and all officers and members of the society shall furnish such information in regard to the affairs of the society and produce the cash in hand and such books, accounts, papers and securities of the society as the Commissioner or the person authorized by him may require.
- (2) The Commissioner shall, on the application of a creditor of the registered society, inspect or direct some person, authorized by him in writing in that behalf, to inspect the books of the society if the applicant—
 - (a) satisfies him that an ascertained sum of money is then due to him and that he has demanded payment thereof and has not received satisfaction within a reasonable time; and

- (b) deposits with the Commissioner such sum as security for the costs of the proposed inspection as the Commissioner may require.
- (3) The Commissioner shall communicate the results of such an inspection to the creditor, and such inquiry or inspection to the society in respect of which the inquiry or inspection has been made.
- (4) Subject to subsection (5) the society shall, within fourteen days of receipt by it of the communication referred to the subsection (3), comply with any direction of the Commissioner arising out of, or contained in, such communication and relevant to the inquiry or inspection.
- (5) The society may make representations to the Minister with regard to such direction, within such period and may defer compliance with such direction until the Minister has considered such representations.
- (6) The society shall forthwith comply with any direction, or modified direction, given by the Minister after he has considered any representation made under subsection (5).
- (7) Where the society fails to comply with any direction under subsection (6) each member of the committee shall be guilty of an offence and liable on conviction to the penalties mentioned in [section 37\(4\)](#).
- (8) Where an inquiry is held in terms of subsection (1) or an inspection is made in terms of subsection (2), the Commissioner may apportion the costs, or such part of the costs as he may think just, between the registered society and, as appropriate, the members demanding an inquiry, the officers or former officers of the society and the creditor on whose application the inspection was made.
- (9) A sum awarded by way of costs against a society or person under this section may, on application to a magistrate's court having jurisdiction in the place where the registered address of the society is situated or, as the case may be, the person resides or carries on business for the time being, be recovered in like manner as a fine imposed by a magistrate's court.

48. Penalties for failure to furnish information or perform other acts

- (1) No registered society or an officer, agent, servant or member thereof shall wilfully refuse or fail to furnish any return or other information required, for the purposes of this Act, by a person authorized thereto under this Act.
- (2) No person shall wilfully, or without reasonable excuse, disobey a summons, requisition or lawful written order issued under the provisions of this Act.
- (3) No registered society, or an officer or member thereof shall, wilfully make a false return or furnish false information required by a person authorized thereto under this Act.
- (4) No person shall act or purport to act as a committee member when not entitled to do so.
- (5) No registered society or officer, agent, servant or member thereto shall, wilfully perform an act which requires the consent or approval of the Commissioner without having first obtained such consent or approval.
- (6) Any society or person who contravenes this section shall be guilty of an offence and liable on conviction to a fine not exceeding four hundred emalangeneni or to imprisonment for a period not exceeding one year, or both.

Part VIII – Liquidation

49. Liquidation

- (1) If the Commissioner, after an inquiry has been held or an inspection made in terms of [section 47](#) or on receipt of an application made by three-fourths of the members of a registered society, is of the

opinion that the society ought to be wound up, he may, in writing, order the society to be wound up.

- (2) A member of a registered society may, within six weeks from the date of an order made under subsection (1), appeal from that order to the Minister.
- (3) The decision of the Minister given on appeal under subsection (2) is final.
- (4) Where an appeal is—
 - (a) not presented within six weeks of the marketing of an order under subsection (1), the order shall take effect on the expiry of that period; and
 - (b) presented within that period, the order shall not take effect unless it is confirmed.
- (5) No registered society shall be wound up save by order of the Commissioner in terms of this Part.

50. Liquidation due to lack of membership

- (1) The Commissioner may, in writing, order the winding-up of a registered society, other than a society which includes among its members one or more registered societies, if at any time it is proved to his satisfaction that the number of the members has been reduced to less than ten.
- (2) An order made under subsection (1) shall take effect from the date thereof.

51. Appointment of liquidator

- (1) Where an order is made for the winding-up of a registered society in terms of [section 49](#) or [section 50](#), the Commissioner may, either before or after the order takes effect, also make an order appointing one or more persons to be, subject to his direction and control, liquidator or liquidators of the society.
- (2) With effect from the date of the order made under subsection (1), the movable and immovable property and the rights and liabilities of the registered society shall vest in the liquidator or liquidators appointed under that subsection:

Provided that, if an appeal under [section 49\(2\)](#) is upheld and the order for the winding-up of the society is set aside, then the appointment of any liquidator or liquidators shall cease forthwith and the property, rights and liabilities of the registered society shall forthwith vest in the registered society, without prejudice to the validity of any acts lawfully performed by the liquidator or liquidators in terms of this Act.

52. Liquidator's powers

- (1) A liquidator appointed in terms of [section 51](#) may, subject to any limitations imposed by or under that section—
 - (a) take possession of the books, documents and assets of the society;
 - (b) appoint a day, by notice published in the *Gazette*, before which creditors whose claims are not already recorded in the books of the society shall state their claims for admission or be excluded from any distribution made before they have proved them;
 - (c) call such general meetings of members as may be necessary for the proper conduct of the liquidation;
 - (d) carry on the business of the society so far as may be necessary for winding it up beneficially:
Provided that nothing herein contained shall entitle the liquidator of a society to issue a loan;
 - (e) give such directions in regard to the collection and distribution of assets as may be necessary in the course of winding-up the society;

- (f) sell the property of the society;
 - (g) subject to [section 58](#), decide in accordance with the law relating to insolvency, any question of priority which arises between creditors;
 - (h) refer disputes to arbitration and institute and defend suits and other legal proceedings on behalf of the society by his name or office;
 - (i) compromise any claim by or against the society provided the sanction of the Commissioner has first been obtained;
 - (j) determine the contributions to be made, by members and past members or by the estate of deceased members of the society, to the assets of the society;
 - (k) decide by what persons and in what proportions the costs of liquidation are to be borne; and
 - (l) arrange for the distribution of the assets of the society in a convenient manner when a scheme of distribution has been approved by the Commissioner.
- (2) Subject to any Regulations, any liquidator appointed under this Act may, in so far as the powers are necessary for carrying out the purposes of this section, summon and enforce the attendance of parties and witnesses, examine witnesses on oath and compel the production of documents by the same means and, so far as possible, the same manner as in an action in a magistrate's court.

53. Power of Commissioner to control liquidation

A liquidator shall exercise his powers subject to the control and revision of the Commissioner who may—

- (a) by order in writing, rescind or vary any action, decision or direction of a liquidator in terms of [section 52](#) and do whatever the Commissioner considers is required;
- (b) by order in writing, remove a liquidator from office;
- (c) by order in writing, call for all books, documents and assets of the society;
- (d) by order in writing, limit the powers of a liquidator under [section 52](#);
- (e) require the liquidator to render to him all the accounts;
- (f) procure the auditing of the accounts of the liquidator and authorize the distribution of the assets of the society;
- (g) make an order for the remuneration of the liquidator; and
- (h) refer to arbitration a subject of dispute between the liquidator and any third party if that party has consented in writing to be bound by the decision of the arbitrator.

54. Appeal against decision, etc. of liquidator

- (1) Any person aggrieved by any action, decision or direction of a liquidator in terms of [section 52](#) may appeal in writing to the Commissioner within twenty-one days of the date on which he had notice of the action, decision or direction.
- (2) The decision of the Commissioner given on an appeal under subsection (1) shall be final.

55. Enforcement of orders, etc.

Any action, decision or direction of a liquidator in terms of [section 52](#) or an order made in terms of [section 53](#) or a decision under [section 54](#) may be enforced, by a court of law having jurisdiction, in the same manner as a judgment of the court.

56. Power of Commissioner to surcharge

- (1) Where, in the course of the winding-up of a registered society, it appears that a person who has taken part in the organization or management of the society, or a past or present officer of the society, has misapplied or retained or become liable or accountable for any money or property of the society, or has been guilty of misconduct or a breach of trust in relation to the society, the Commissioner may, on the application of the liquidator or of any contributory, investigate his conduct and make an order, in writing, requiring him to repay or restore the money or property or any part thereof with interest at such rate as the Commissioner thinks just or to contribute such sum to the estate of that society, by way of compensation in regard to the misapplication, retention, misconduct or breach of trust, as the Commissioner thinks just.
- (2) This section applies notwithstanding that the offence is one for which the offender may be criminally liable.
- (3) A person aggrieved by an order of the Commissioner made under subsection (1) may appeal to the Minister within twenty-one days from the date of the order.
- (4) The decision of the Minister given on an appeal under subsection (3) shall be final.
- (5) Where no appeal is made to the Minister under subsection (3) or such an appeal is abandoned or withdrawn, the order made under subsection (1) shall be enforced in the same manner as if the order had been a judgement of a court of law.
- (6) Where the Commissioner is satisfied that any person with intent to defraud or delay the execution of any order which may be made against him under subsection (1) or of any decision which may be given in a dispute referred to the Commissioner or to any arbitrators under this Act is about to dispose of the whole or any part of his property, the Commissioner may, unless adequate security is furnished, order the conditional attachment of that property, and the attachment shall have the same effect as if made by a competent court of law.

57. Limitation of jurisdiction of court

Subject to this Act, no court of law shall have any jurisdiction in respect of any matter concerned with the winding-up of a registered society.

58. Competition of liquidation

- (1) On the winding-up of a society, the funds, including the reserve fund, shall be applied first to the costs of winding-up, then to the discharge of the liability of the society, then to the payment of the share capital and then, provided the Bye-laws of the society permit, to the payment of a dividend at a rate not exceeding ten per centum for any period for which no disposal of profits was made.
- (2) Where the winding-up of a society has been completed and a creditor of that society has not claimed or received what is due to him under the scheme of distribution, the Commissioner shall publish in the *Gazette* notice of the completion of the winding-up.
- (3) All claims against the funds of the society wound up shall be barred after the lapse of two years from the date of publication of the notice under subsection (2).
- (4) Any surplus, remaining after the application of the funds to the purposes specified in subsection (1) and the payment of claims due under the scheme of distribution, shall not be divided among the members but shall be devoted to any object or objects described in the Bye-laws of the society the registration of which has been cancelled, and, where no object is so described, shall be available for use by the Commissioner for any co-operative purpose selected by him.
- (5) On the completion of his duties, the liquidator shall hand over to the Commissioner all the books and records of the society, and the Commissioner may, after a period of three years from the date of

the cancellation, under [section 59](#), of the registration of that society, cause those books and records to be destroyed.

59. Cancellation of registration

- (1) Where the affairs of a society have been completely wound up in terms of this Part and, where applicable, the period referred to in [section 58\(3\)](#) has elapsed, the Commissioner shall cancel the registration of the society and publish notice of the cancellation in the *Gazette*.
- (2) Where the Commissioner has reasonable cause to believe that a registered society has not commended, or has ceased, to carry on business, he may, after the expiry of three months from the date of publication of a notice by him to that effect in the *Gazette*, cancel the registration of the society.

Part IX – Disputes

60. Settlement of disputes

- (1) Where an internal dispute concerning the business of a registered society arises—
 - (a) among members, past members and persons claiming through members, past members and deceased members; or
 - (b) between a member, past member or person claiming through a member, past member or deceased member and the society, its committee or any officer of the society; or
 - (c) between the society or its committee and an officer of the society; or
 - (d) between the society and any other registered society;that dispute shall be referred to the Commissioner for decision under this section.
- (2) A claim by a registered society, for a debt or demand due to it from a member, past member of the nominee or legal representative of a deceased member, shall be deemed to be an internal dispute concerning the business of the society under this section.
- (3) The Commissioner may, on receipt of a reference in terms of subsection (1) decide the dispute himself; or refer it for award to an arbitrator or arbitrators.
- (4) A party aggrieved by the award of the arbitrator or arbitrators under subsection (3) may appeal therefrom to the Commissioner within such period and in such manner as may be prescribed.
- (5) A decision of the Commissioner under subsection (3) or on appeal under subsection (4) is final and shall be enforced by a court of law having jurisdiction in the same manner as if the award had been a judgment of that court.
- (6) The award of the arbitrator or arbitrators under subsection (3) is, if no appeal is made to the Commissioner under subsection (4), or if such an appeal is abandoned or withdrawn, final and shall be enforced by a court having jurisdiction in the same manner as if the award had been a judgment of that court.

61. Case stated on question of law

Notwithstanding [section 60](#), the Commissioner, at any time after a dispute has been referred to him in terms of that section or the Minister, at any time after an appeal has been referred to him against any decision of the Commissioner under this Act, may state a question of law arising out of the dispute or decision, as the case may be, for the opinion of the High Court and the opinion of that court shall be final.

Part X – Miscellaneous

62. Regulations

- (1) The Minister may, by notice published in the *Gazette*, make such Regulations as may be necessary for the purpose of giving effect to this Act.
- (2) Regulations made under this section may, for example—
 - (a) prescribe the forms to be used, the fees to be paid and the conditions to be complied with in applying for the registration of a society and the procedure in the matter of an application;
 - (b) prescribe the conditions to be complied with by persons applying for admission, or admitted as members, and provide for the election and admission of members, from time to time, and the payment to be made and interest to be acquired before exercising rights of membership;
 - (c) subject to [section 31](#), prescribe the maximum number of shares or portion of the capital of a registered society which may be held by a member;
 - (d) prescribe the extent to which a registered society may limit the number of its members;
 - (e) provide for the withdrawal and expulsion of members and for the payments to be made to members who withdraw or are expelled and for the liabilities of past members;
 - (f) provide for general meetings of the members and for the procedure at those meetings and the powers to be exercised at those meetings;
 - (g) provide for the appointment, suspension and removal of the members of the committee and other officers and for the powers to be exercised and the duties to be performed by the committee and other officers;
 - (h) prescribe the matters in respect of which a society may, or shall, make Bye-laws and for the procedure to be followed in making, altering and rescinding Bye-laws and the conditions to be fulfilled prior to the making, alteration or rescission;
 - (i) regulate the manner in which funds may be raised by means of shares, debentures or otherwise;
 - (j) prescribe the payments to be made, the conditions to be complied with and the forms of the bonds, instruments or other documents to be executed by members applying for loans or cash credits, the period for which loans may be made or credit granted and the maximum amount which may be lent and the maximum credit which may be allowed to individual members with or without the consent of the Commissioner;
 - (k) provide for the mode in which the value of the interest of a deceased member shall be ascertained and for the nomination of a person to whom that interest may be paid or transferred;
 - (l) provide for the mode in which the value of the interest of a member, who has become of unsound mind and incapable of managing himself or his affairs, shall be ascertained and for the nomination of a person to whom that interest may be paid or transferred;
 - (m) provide for the formation and maintenance of reserve funds and the objects to which those funds may be applied and for the investment of any funds under the control of a registered society;
 - (n) prescribe the conditions under which the profits may be distributed to the members of a society without limited liability and the maximum rate of dividend which may be paid by societies;

- (o) prescribe the accounts and books to be kept by a registered society and for the periodical publication of a balance sheet showing the assets and liabilities of a registered society;
 - (p) provide for the audit of the accounts of registered societies and for the charges, if any, to be made for the audit, provide for the levy of contributions from all or any registered societies for a fund to be used for audit and supervision of existing societies and for co-operative propaganda and provide for the administration of such a fund;
 - (q) prescribe the returns to be submitted to the Commissioner by registered societies and the persons by whom, and the form in which, they are to be made;
 - (r) provide for the persons by whom and the form in which copies of entries in books of registered societies may be certified;
 - (s) provide for the formation and maintenance of a Register of Members and, where the liability of members is limited by shares, of a register of shares;
 - (t) provide for the inspection of documents and registers at the office of the Commissioner and the fees to be paid therefor and for the issue of copies of documents or registers;
 - (u) prescribe the manner in which any question as to the breach of any Bye-law or contract relating to the disposal of produce to, or through, a society may be determined and the manner in which the liquidated damages for the breach may be ascertained or assessed;
 - (v) prescribe the procedure to be followed by a liquidator appointed in terms of [section 51](#) and the cases in which appeals shall lie from the orders of the liquidator; and
 - (w) prescribe the forms to be used and fees to be paid, the procedure to be observed and all other matters connected with or incidental to the presentation and disposal of appeals under this Act.
- (3) Regulations made under this section may provide that any person contravening a Regulation shall be guilty of an offence and on conviction liable to a fine not exceeding one hundred emalangeni or imprisonment for a period not exceeding six months or both.

63. Prohibition of use of word "co-operative"

- (1) No person other than a registered society shall, without the approval of the Minister, trade or carry on business under any name or title of which the word "co-operative", or its equivalent in siSwati or any other language, is part.
- (2) A person who contravenes this section shall be guilty of an offence and liable, on conviction, to a fine not exceeding twenty emalangeni and, in the case of a continuing offence a further fine not exceeding four emalangeni for each day of the offence continues.

64. Recovery of sums due to Government

- (1) All sums due from a registered society, or from an officer or member or past member of a registered society as such, to the Government may be recovered in the manner provided by law for the recovery of debts due to the Government.
- (2) Sums due from a registered society to the Government and recoverable under subsection (1) may be recovered first, from the property of the society, secondly, in the case of a society of which the liability of the members is limited, from the members subject to the limit of their liability, and, thirdly, in the case of other societies, from the members.

65. Power to exempt society from requirements as to registration

Notwithstanding anything contained in this Act, the Minister may, in his discretion, by written order in each case, under subject to such conditions as he may impose, exempt any society from any of the requirements of this Act as to registration.

66. Power to exempt societies from provision of Act

The Minister may, in his discretion, by special or general written order, exempt a registered society or class of registered society from any of the provisions of this Act, or may direct that those provisions shall apply to a registered society or class of registered society with effect from such date, or with such modifications, as may be specified in the order.

67. Licences

- (1) The provisions of the law relating to trading licences shall apply to a registered society for the fulfilment of its registered objects except where the trading of the society is confined to members of the society.
- (2) The Minister may, under such circumstances as he deems fit, by notice published in the *Gazette*, exempt a registered society, or class of registered society from the provisions of the law mentioned in subsection (1).
- (3) Where a registered society is exempted under subsection (2), the Minister may prescribe such fees, annual charges or other payments as he deems fit in respect of a trade, business or occupation undertaken by the registered society for the fulfilment of its registered objects.

68. Power to exempt from stamp duty and registration fees

- (1) The Minister may, by notice published in the *Gazette*, in the case of a registered society or class of registered society, remit—
 - (a) the stamp duty with which, under any law, instruments executed by or on behalf of a registered society, or by an officer or member and relating to the business of the society, or any class of those instruments, are respectively chargeable; or
 - (b) any fee payable under any law as to registration of documents.
- (2) A notice exempting a registered society or class of registered society from the fees referred to subsection (1)(b) may provide for the withdrawal of such an exemption.

69. Exemption from certain taxes and duties

- (1) Notwithstanding anything contained in any law, a registered society is hereby exempted from—
 - (a) any taxes or duty chargeable upon income, profits, dividends, turnover or capital other than interest or rent accruing from investments by the society outside its normal course of business;
 - (b) any auction duties chargeable in respect of agricultural produce and livestock sold by or on behalf of a registered society;
 - (c) any licence duties chargeable in respect of turnover of capital; and
 - (d) any other taxes or duties of a like nature to those mentioned in paragraphs (a), (b) and (c):
Provided that where the operations of a society during a year result in a loss, any income derived from interest or rent accruing from moneys invested by it outside its normal course of business shall not be subject to taxation except in so far as that income exceeds that loss.
- (2) The exemption from taxes or duties in the terms of this section shall not apply in respect of any business conducted by the society for, or on behalf of, non-members of the society.

70. Compulsion to market to or through a registered society

- (1) Upon application by a registered society which can show that its membership in Swaziland or in a district or other areas of Swaziland comprises seventy-five per centum of all the producers of any kind of commodity mentioned in [section 14](#), producing seventy-five per centum of the total output of that commodity in that district or area, the Minister may, by notice published in the *Gazette* declare that each producer of that commodity, in Swaziland, or in the district or other area, named in the notice, as the case may be, shall sell that commodity produced by him to or through the society, whether he is a member thereof or not.
- (2) A producer, to whom any order made under subsection (1) applies, who is not a member of the registered society in respect of which the order is made, while the order applies shall to him be subject to all the conditions and obligations to which he would be subject if he were a member, other than a obligation to pay any membership fee or share subscription.
- (3) If such a producer, who is otherwise qualified for membership, wishes to become a member of the registered society, the society shall admit him to membership on payment of the share subscription sufficient to qualify him for membership and of any membership fee.
- (4) The Minister may, by notice published in the *Gazette*, amend or withdraw any notice given under subsection (1).
- (5) A producer, to whom any order made under subsection (1) applies and who sells, barter, gives in exchange for labour or otherwise disposes of the commodity in question otherwise than through the named society shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred emalangeni.

71. Penalty for soliciting violation of contract

- (1) An individual, firm or company, having knowledge or notice of the existence of a contract described in [section 14](#) of an obligation upon producers referred to in [section 70](#), who solicits or persuades a person to sell or deliver a commodity in violation of that contract or obligation, shall be guilty of an offence and liable on conviction, to a fine not exceeding two hundred emalangeni.
- (2) A person, firm or company, shall be deemed to have knowledge or notice of the existence of such a contract or of such an obligation if the society has notified the existence of the contract, or of the obligation, in the *Gazette* and in one newspaper circulating in Swaziland.

72. Nomination to committee of registered society

- (1) Upon the application of a registered society or of his own motion, the Minister may nominate a member of a committee of a registered society and may remove or replace a member so nominated.
- (2) The member so nominated shall be additional to those elected at a general meeting of the society or appointed in accordance with the Bye-laws of the society and shall not be subject to any of the obligations of a member elected in terms of this Act.
- (3) The member so nominated may take part in all discussions of the affairs of the society but he shall have no vote in any decision on a motion.
- (4) The presence of such member at any meeting shall not be taken into account with regard to any quorum of the committee required under the Bye-laws of the society.