

NORTHERN TERRITORY OF AUSTRALIA

CREDIT UNIONS ACT
No. 72 of 1982
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NORTHERN TERRITORY OF AUSTRALIA

No. 72 of 1982

AN ACT

To provide for the formation, registration,
administration and control of credit unions and
for other related purposes

[Assented to 27 October 1982]

BE it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

PART I - PRELIMINARY

1. SHORT TITLE

This Act may be cited as the *Credit Unions Act 1982*.

2. COMMENCEMENT

This Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

3. REPEAL

Part IIIA of the *Co-operative Societies Act* is repealed.

4. TRANSITIONAL

(1) This section is in addition to, and not in derogation of, Part III of the *Interpretation Act*.

(2) Unless the contrary intention appears in this Act, all persons, things and circumstances appointed or created by or under the *Co-operative Societies Act* or existing or continuing under the *Co-operative Societies Act* and in force immediately before the commencement of this Act shall, under and subject to this Act continue to have the same status, operation and effect as they respectively would have had if this Act had not come into operation.

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(3) Without affecting the generality of subsection (2), unless the contrary intention appears, this Act does not disturb the continuity of status, operation or effect of an order, rule, regulation, scale of fees, appointment, conveyance, mortgage, charge, deed, agreement, resolution, direction, approval, application, requisition, instrument, document, memorandum, article, incorporation, nomination, affidavit, call, forfeiture, minute, assignment, register, registration, transfer, list, licence, certificate, security, duty, obligation, proceeding, matter or thing made, done, effected, given, issued, passed, taken, validated, entered into, executed, lodged, filed, accrued, incurred, existing, pending or acquired by or in respect of the *Co-operative Societies Act* before the commencement of this Act.

5. DEFINITIONS

In this Act, unless the contrary intention appears -

"Act" includes the Regulations made under this Act;

"Advisory Committee" means the Credit Union Advisory Committee constituted under section 7;

"authorized bill of exchange" means a bill of exchange which is payable on demand or not more than 200 days from the date on which it is acquired by a credit union and which, if brought for value by the credit union, would give the credit union as holder in due course a right of recourse against a bank for an amount equal to the face value of the bill;

"bank" means a bank as defined by section 5 of the *Banking Act* 1959 of the Commonwealth;

"bankers' books" means -

(a) books of a banker;

(b) cheques, orders for payment of money, bills of exchange and promissory notes in the possession or under the control of a banker; and

(c) securities or documents of title to securities in the possession of or under the control of a banker whether by way of pledge or otherwise;

"board", in relation to a credit union, means the board of directors of the credit union and includes the committee of management of the credit union;

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"books" includes a register or other record of information and an account or accounting record, however compiled, recorded or stored, and includes a document;

"building society" means a building society within the meaning of the *Building Societies Act*;

"certified" means -

- (a) in relation to a copy of or extract from a document - certified by a statement in writing to be a true copy of or extract from the document; or
- (b) in relation to a translation of a document - certified by a statement in writing to be a correct translation of the document into the English language;

"corporation" means a body corporate, whether formed or incorporated within or outside the Territory;

"credit union" means a credit union (other than a foreign credit union) registered under this Act and includes an amalgamated credit union so registered;

"debenture" has the same meaning as in the *Companies Act*;

"director", in relation to a credit union, includes -

- (a) a person occupying, or acting in, the position of director of the credit union, by whatever name called and whether or not validly appointed to occupy or duly authorized to act in the position; and
- (b) a person in accordance with whose directions or instructions the directors of the credit union are accustomed to act;

"document" includes a summons, order, legal process, notice and a register;

"foreign credit union" means a credit union formed and registered or deemed to be formed and registered under a law of a State or of another Territory of the Commonwealth;

"member", in relation to a credit union, means a shareholder of the credit union;

"mortgage" includes a lien, charge and any other security over property;

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"officer", in relation to a credit union, means a director, secretary, treasurer or manager of the credit union and any other person empowered by the rules of the credit union or by this or any other Act to give directions in relation to the business of the credit union;

"registered company auditor" means a person registered as an auditor, or deemed to be registered as an auditor, under the *Companies Act* and, in relation to a foreign credit union, includes a person qualified to act as the auditor of the credit union under the law of the place where the credit union is formed;

"Registrar" means the Registrar of Credit Unions appointed under section 8;

"rules", in relation to a credit union, means the registered rules of a credit union as in force from time to time;

"share" means a share in the share capital of a credit union;

"surplus", in relation to a credit union, means a surplus after making proper allowance or provision -

- (a) for depreciation in the value of property;
- (b) for contingent liability for loss;
- (c) for income tax;
- (d) in accordance with the rules of the credit union, or rules made by the Minister and published in the *Gazette*, for future losses in respect of loans made by it; and
- (e) for such other matters as are prescribed.

6. APPLICATION OF *COMPANIES ACT*

(1) Subject to this Act, the *Companies Act* does not apply to or in relation to -

- (a) a credit union; or
- (b) a foreign credit union registered under Part VII.

(2) Where in this Act provisions of the *Companies Act* are stipulated to be applicable to acts, matters, circumstances or things of or relating to credit unions or to foreign credit unions, a reference to the applied

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provisions shall be construed as including a reference to the rules and regulations made under the *Companies Act* and the provisions of those rules and regulations shall, subject to the necessary changes, apply accordingly.

PART II - ADMINISTRATION AND INSPECTION

7. CREDIT UNION ADVISORY COMMITTEE

(1) There shall be a committee entitled the Credit Union Advisory Committee.

(2) The Committee shall consist of 3 persons appointed by the Minister of whom -

(a) one shall be the Registrar, who shall be the Chairman of the Committee; and

(b) 2 shall be persons who are, in the opinion of the Minister, suitably qualified to represent the interests of credit unions.

(3) The Minister may appoint a suitable person to be the alternate of a member of the Committee, and such person may, in the absence of the member of whom he has been appointed as an alternate, act as a member of the Committee.

(4) The functions of the Committee are -

(a) to submit recommendations to the Minister on the effective operations of credit unions;

(b) to make recommendations to the Minister in relation to the Regulations under this Act;

(c) to keep under review the legislation relevant to the operation of credit unions and, where appropriate, recommend amendments;

(d) to advise the Minister or the Registrar upon matters referred to the Committee for advice; and

(e) to perform such other functions as may be prescribed.

(5) The Chairman may at any time convene a meeting of the Committee and at any meeting of the Committee and subject to this Act and the Regulations, the procedure to be followed shall be that from time to time determined by the Committee.

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8. OFFICERS AND STAFF

(1) For the purposes of this Act, the Minister may appoint -

- (a) a Registrar of Credit Unions; and
- (b) such Deputy Registrars of Credit Unions as he thinks fit.

(2) The persons appointed to the offices referred to in sub-section (1) shall be employees within the meaning of the *Public Service Act*.

(3) The Registrar, in the performance of his functions and the exercise of his powers, is subject to the written directions of the Minister.

9. ACTING APPOINTMENTS

(1) The Minister may appoint a person to act as the Registrar or as a Deputy Registrar -

- (a) during a vacancy in the office of the Registrar or in the office of a Deputy Registrar, as the case may be, whether or not an appointment has previously been made to the office; or
- (b) during a period, or during all periods, when the Registrar or a Deputy Registrar is absent from duty or from the Territory or is, for any reason, unable to perform the functions of his office,

but a person appointed to act during a vacancy shall not continue so to act for more than 12 months continuously.

(2) An appointment of a person under sub-section (1) may be expressed to have effect only in such circumstances as are specified in the instrument of appointment.

(3) Where a person is acting as the Registrar or as a Deputy Registrar in accordance with this section and the office of the Registrar or of a Deputy Registrar becomes vacant while that person is so acting then, subject to sub-section (2), that person may continue so to act until the Minister otherwise directs, the vacancy is filled or a period of 12 months from the date on which the vacancy occurred expires, whichever first occurs.

(4) The Minister may, at any time, terminate the appointment of a person appointed to act in accordance with this section.

(5) The appointment of a person under this section ceases to have effect if he resigns his appointment by writing signed by him and delivered to the Minister.

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(6) While a person is acting as the Registrar or as a Deputy Registrar in accordance with this section, he shall perform all the functions and may exercise all the powers of the Registrar or of a Deputy Registrar, as the case may be.

(7) The validity of anything done by a person purporting to act in accordance with this section shall not be called in question on the ground that the occasion for his appointment had not arisen, that there is a defect or irregularity in or in connection with his appointment, that the appointment had ceased to have effect or that the occasion for him to act had not arisen or had ceased.

10. POWERS AND FUNCTIONS OF DEPUTY REGISTRAR

A Deputy Registrar may, subject to the directions of the Registrar, perform a function and exercise a power of the Registrar.

11. JUDICIAL NOTICE

(1) A court shall take judicial notice of -

- (a) the official signature or seal of a person who holds or has held, or is acting or has acted in, the office of the Registrar; and
- (b) the fact that that person holds or has held, or is acting or has acted in, that office,

if the signature purporting to be the signature of that person appears on a document.

(2) In this section, a reference to a court shall be construed as including a reference to -

- (a) a judge; and
- (b) a person authorized by law or by consent of parties to receive evidence,

and, in relation to a person referred to in paragraph (b), the reference to taking judicial notice shall be construed as a reference to taking the like notice as would be taken by a court.

12. SECRECY

(1) Subject to this section, a person who is, or has at any time been -

- (a) appointed for the purposes of this Act;
- (b) engaged as a member of the staff of the Registrar; or

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- (c) authorized to perform a function or exercise a power of the Registrar on behalf of the Registrar,

shall not, except to the extent necessary to perform his official duties, or to perform a function or exercise a power, either directly or indirectly, make a record of, or divulge or communicate to a person, information that is or was acquired by him by reason of his being or having been so appointed, engaged or authorized, or make use of such information, for purposes other than the performance of his official duties or the performance of a function or exercise of a power.

Penalty: \$4,000 or imprisonment for 2 years.

(2) Nothing in sub-section (1) precludes a person from -

- (a) producing a document to a court in the course of any proceedings under this Act or any other Act;
- (b) divulging or communicating to a court in the course of proceedings referred to in paragraph (a) a matter or thing coming under his notice in the performance of his official duties or in the performance of a function or the exercise of a power referred to in that sub-section;
- (c) producing a document or divulging or communicating information to a person to whom, in the opinion of the Registrar, it is in the public interest that the document be produced or the information be divulged or communicated; or
- (d) producing a document or divulging or communicating information that is required or permitted by an Act to be produced, divulged or communicated, as the case may be.

PART III - OBJECTS AND POWERS OF CREDIT UNIONS

13. OBJECTS OF CREDIT UNION

The objects of a credit union shall be -

- (a) to raise funds by subscription, or otherwise, as authorized by this Act;
- (b) to apply those funds, subject to this Act and the rules, in making loans to members; and
- (c) to provide such advice and services for its members as in the opinion of its board may assist its members to meet their financial needs and obligations.

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14. POWERS OF CREDIT UNION

Subject to this Act, a credit union shall have and may exercise such powers, incidental to its objects, as are prescribed or conferred by its rules and this Act and without limiting the powers which may be so conferred, the rules may confer all or any of the powers -

- (a) to raise money for any of its objects on loan or by the negotiation of bills of exchange that have been accepted by a bank or a prescribed corporation;
- (b) to receive money on deposit from its members;
- (c) to make and enter arrangements for the provision of loan insurance and life insurance;
- (d) to join or become a member of a mutual aid or stabilization fund, approved by the Minister, being a fund which has been created for the purpose of protecting and stabilizing credit unions in financial difficulties and assisting in the payment of losses suffered by members, and ancillary objects;
- (e) to arrange insurance on behalf of its members; and
- (f) to render advisory or other services to its members.

15. PROPERTY

A credit union may acquire by lease, purchase, donation, devise, bequest or otherwise such real or personal property as it thinks fit for the carrying out of any of the objects of the credit union and may sell, develop, subdivide, mortgage, exchange or lease any such real or personal property.

16. RAISING OF MONEY

(1) Subject to this section, a credit union may, if authorized by its rules, and within the limits provided by this section -

- (a) raise money on loan, or receive money on deposit, at interest; or
- (b) raise money by negotiation of bills of exchange that have been accepted by a bank or a prescribed corporation,

to be applied for the purposes of the credit union.

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(2) Without limiting the manner in which a credit union may raise money on loan, money may be raised by legal or equitable mortgage charged upon the undertaking of the credit union or upon all or any part of the property and rights (both present and future) including its share capital, subscriptions, loan payments and other moneys or by the issue of bonds.

(3) A credit union shall not in any month raise on loan or by negotiation of bills of exchange an amount that, if added to the amount owing as at the last day of the last preceding month by it in respect of all loans made to it and all bills of exchange negotiated by it in pursuance of this section, would produce an amount greater than 25% of the sum of -

- (a) the amount of its share capital; and
- (b) the amount of the deposits by its members,

as at that day.

Penalty: \$2,000.

(4) Notwithstanding sub-section (3), a credit union may, where the Registrar has approved such terms and conditions, raise money on loan or by negotiation of bills of exchange contrary to the provisions of that sub-section where the period of 4 years next succeeding the day on which it was first registered under the *Co-operative Societies Act* or under this Act has not expired.

(5) Subject to this Act and the rules of the credit union, a credit union may raise funds by accepting deposits from its members.

(6) A member or other person lending money to or depositing money with a credit union shall not be bound to see to the application thereof or be in any way affected or prejudiced by the fact that the credit union in borrowing the money or receiving the deposit has contravened this Act or the rules of the credit union.

17. APPLICATION OF COMPANIES ACT IN RELATION TO MORTGAGES, &c., BY CREDIT UNIONS

(1) Divisions 4 and 7 of Part IV of the *Companies Act* shall, with the necessary changes, and with prescribed modifications, if any, extend to any mortgage or charge created by a credit union, not being a mortgage, charge or encumbrance of specific lands required by law to be registered under any other Act.

(2) For the purposes of the extension of provisions prescribed in sub-section (1), a reference in either of those Divisions -

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- (a) to the Registrar of Companies shall be construed as a reference to the Registrar under this Act; and
- (b) to a company shall be construed as a reference to a credit union.

(3) Part VIII of the *Companies Act* shall, with the necessary changes, and with prescribed modifications, if any, extend to and in respect of the appointment of a receiver or manager of a credit union, to and in respect of a receiver or manager appointed and to and in respect of a credit union of whose property a receiver or manager has been appointed.

(4) For the purpose of the extension of provisions prescribed in sub-section (3), a reference in that Part -

- (a) to the Registrar of Companies shall be construed as a reference to the Registrar under this Act; and
- (b) to a company shall be construed as a reference to a credit union.

18. DISPOSAL OF CERTAIN SECURITIES

Property to which a credit union has become absolutely entitled by foreclosure, surrender or other extinguishment of the right of redemption shall, as soon afterwards as is reasonable and conveniently practicable, be sold or converted into money.

19. STAFF SUPERANNUATION

A credit union shall have power to create, operate and maintain or join or make arrangements with any other persons or body of persons in, or for the creation, operation and maintenance of, a fund or scheme for the purpose of providing pension and superannuation benefits for the officers and employees of the credit union and for their dependants.

20. CONTRACTS

(1) A contract which, if made between private persons, would by law be required to be in writing and under seal, may be made in the name, and on behalf, of a credit union in writing under the common seal of the credit union and the contract may in the same manner be varied or discharged.

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

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

(4) A contract made according to this section shall be effectual and shall be binding upon the credit union and all other parties thereto.

21. CREDIT UNION AS AGENT

(1) A credit union may act as a collecting agent on behalf of a corporation, building society, credit union, person or body of persons, for the collection and payment to such corporation, building society, credit union, person or body of persons, of any premiums payable by a member in respect of a policy of insurance for a loan to the member in respect of a life, endowment, sickness or accident policy taken out by a member as a result of a term or condition imposed upon the granting of a loan or under an arrangement entered into by the member whereby the proceeds of the policy are payable to the credit union in repayment of the whole or part of the member's liability to the credit union.

(2) A credit union may, as agent for another credit union (referred to in this sub-section as the "principal") -

- (a) receive moneys payable to the principal by its members; or
- (b) pay moneys payable by the principal to its members.

22. BILLS OF EXCHANGE AND LETTERS OF CREDIT

(1) A credit union may draw bills of exchange on a building society, bank or prescribed corporation and, after the bills have been accepted by the respective building society, bank or prescribed corporation on which they have been drawn, endorse, discount or otherwise negotiate them.

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- (2) A credit union may join with -
 - (a) a credit union;
 - (b) a credit union or association of credit unions formed and registered in a State or in another Territory of the Commonwealth under a law of that State or Territory; or
 - (c) a bank,

for the purpose of providing letter of credit facilities for members.

23. POWER TO JOIN ASSOCIATIONS

A credit union may, with the consent of the Registrar, join an association, whether incorporated or unincorporated and whether or not it is registered under any other Act or under a law of a State or of another Territory of the Commonwealth, if in the opinion of the directors membership will assist the credit union in carrying on its business.

PART IV - INCORPORATION

Division 1 - Formation and Registration

24. FORMATION OF CREDIT UNION

(1) Subject to this Act, 25 or more persons who are not infants (which number is, or such smaller number of persons as the Registrar allows are, in this section referred to as the "minimum number") may form a credit union.

(2) A credit union shall be formed in the following manner:

- (a) not less than the minimum number shall be present at a meeting called for the purpose of forming the credit union and at every subsequent and adjourned meeting called or adjourned for that purpose (which meeting is in this Division referred to as the "credit union formation meeting");
- (b) at the credit union formation meeting there shall be presented -
 - (i) a written statement showing the objects of the credit union, the ways and means proposed to be adopted to finance the credit union and the reasons for believing that, if registered, it will be able to carry out its objects successfully;

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- (ii) a written statement showing the full particulars of any contract, agreement or arrangement entered into or proposed to be entered into by the credit union after registration, in relation to the purchase of land or the taking of a lease or licence of land by the credit union; and
- (iii) a copy of the rules that it is proposed to tender for registration; and
- (c) if, after consideration of the rules at the credit union formation meeting, not less than the minimum number -
 - (i) approve the rules with or without amendment; and
 - (ii) sign applications for membership and shares,

the persons referred to in paragraph (c) shall proceed to elect the first directors of the proposed credit union in accordance with the rules as so approved and thereupon may proceed to appoint the members of such committees as are provided for in the rules.

25. APPLICATION FOR REGISTRATION OF CREDIT UNION

(1) An application for registration of a credit union shall be made to the Registrar within 2 months, or such further period as the Registrar allows, after the election of the directors under section 24.

(2) An application referred to in sub-section (1) shall be accompanied by -

- (a) a statutory declaration by the chairman and secretary of the credit union formation meeting as to the compliance with the requirements of section 24;
- (b) a copy of the written statements presented to the credit union formation meeting pursuant to section 24(2)(b)(i) and (ii) signed by the chairman and secretary of the meeting;
- (c) 2 copies of the proposed rules of the credit union signed by the chairman and secretary of the credit union formation meeting and certified by them as being the rules approved in accordance with section 24(2)(c);
- (d) a list containing the full name and the occupation and residential address of each director and the proposed secretary;

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- (e) a list containing the full name and the occupation and address of each person who attended the credit union formation meeting and applied for membership and shares; and
- (f) such other particulars as are prescribed.

26. REGISTRATION OF CREDIT UNIONS

- (1) If the Registrar is satisfied -
 - (a) that the credit union has complied with the provisions of this Act in respect of matters precedent to its registration;
 - (b) that the proposed rules of the credit union are not contrary to this Act, are adequate for its proper conduct and operation and are such as may reasonably be registered by him;
 - (c) that there are no reasonable grounds for believing that the credit union, if registered, will not be able to carry out its objects successfully; and
 - (d) that there is no reasonable cause why the credit union and its proposed rules should not be registered,

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

(2) The statutory declaration mentioned in section 25(2)(a), may be accepted by the Registrar as sufficient evidence of compliance with the requirements of this Act in respect of matters precedent and incidental to the registration of the credit union.

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

27. CERTIFICATE OF INCORPORATION CONCLUSIVE

A certificate of incorporation under the hand and seal of the Registrar is conclusive evidence that all the requirements of this Act in respect of registration of a credit union and of matters precedent and incidental to its registration have been complied with, and that the credit union referred to therein is duly incorporated under this Act.

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28. BODY CORPORATE

On and from the date specified in the certificate of incorporation, and subject to this Act, a credit union shall -

- (a) be a body corporate by the name under which it is registered, with perpetual succession and a common seal;
- (b) in its corporate name be capable of suing and being sued;
- (c) have power to enter into contracts;
- (d) have the powers, rights, duties and functions conferred, imposed or prescribed by or under this Act or the rules; and
- (e) have power to do or suffer all such other acts and things as are necessary to achieve its objects.

29. APPEAL FROM DECISIONS OF REGISTRAR

(1) Where the Registrar refuses to register a credit union or any of its proposed rules or proposed alterations of its rules or requires the revision or alteration of a rule or directs a change of name of the credit union, and the credit union, within 14 days of the receipt by it of notification of the refusal, requirement or direction requires the Registrar so to do, the Registrar shall specify in writing under his hand within one month after the receipt of the requisition, the grounds upon which the refusal, requirement or direction was made or given.

(2) Within 21 days after the receipt by it of the writing specifying the grounds of the Registrar's refusal, requirement or direction, the credit union may, unless the grounds of the Registrar's refusal, requirement or direction are that the credit union would be, or is, registered by a name, or a name of a kind, that the Minister has directed the Registrar not to accept for registration, apply to a magistrate for a review of the refusal, requirement or direction.

(3) On the review referred to in sub-section (2) -

- (a) the Registrar may be represented and may oppose any modification or reversal of the refusal, requirement or direction; and
- (b) the magistrate may confirm, modify or reverse the refusal, requirement or direction and make such further order in the matter (including an order as to costs) as he thinks fit.

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(4) The magistrate at the hearing of an appeal may, in respect of a matter not dealt with by this Act or the Regulations, give directions as to the procedure to be followed at or in connection with the hearing.

30. REGISTRATION OF EXISTING SOCIETIES

(1) On and by force of the coming into operation of this Act each body the name of which appears in Schedule 1 shall cease to be a co-operative society registered under the *Co-operative Societies Act* and shall be registered as a credit union under this Act.

(2) As soon as practicable after the coming into operation of this Act a body the name of which appears in Schedule 1 shall surrender to the Registrar the acknowledgement of registration issued to that body under the *Co-operative Societies Act* and, on surrender to him of that acknowledgement or production to him of such evidence as to the loss of that acknowledgement as he requires, he shall issue a certificate of incorporation in such form as he thinks fit.

(3) On and by force of the coming into operation of this Act the rules, as then in force, of a body the name of which appears in Schedule 1 shall be registered as the rules of a credit union under this Act.

Division 2 - Rules

31. RULES

(1) The rules of a credit union shall, in addition to rules otherwise required by this Act to be included, include rules not inconsistent with this Act relating to the matters set out in Schedule 2.

(2) The Minister may, by notice in the *Gazette*, approve a set of model rules for a credit union which shall include rules not inconsistent with this Act.

32. COPY OF RULES

A credit union shall furnish a person with a copy of its rules on request on payment by that person of the fee specified in the rules which shall not exceed \$5.

33. MEMBERS AND CREDIT UNION BOUND BY RULES

The rules shall, when registered, bind the credit union and its members and all persons claiming under those members.

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34. ALTERATIONS OF RULES

(1) The rules shall not be altered unless the alteration has been approved by a special resolution of the credit union.

(2) Where the alteration of the rules has been approved by special resolution, the credit union shall, within the prescribed time and in the prescribed manner, apply to the Registrar to have the alteration registered and shall furnish with the application such documents and particulars as are prescribed.

(3) If the Registrar is satisfied that the alteration of the rules is not contrary to this Act and is such as may reasonably be approved by him and that there is no reasonable cause why the alteration should not be registered, the Registrar shall register the alteration as prescribed.

(4) An alteration of the rules shall not have any force or effect until it is registered in accordance with this section.

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

(6) If within the period specified in an instrument notified under sub-section (5) the credit union fails to alter its rules as required by the instrument, the Registrar may, by notation upon the registered copy of the rules, alter the rules.

(7) The Registrar shall give notice to a credit union of any alteration of its rules made by him under sub-section (6).

Division 3 - Name

35. NAMES OF CREDIT UNIONS

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

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

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(3) A credit union shall not be registered by a name that contains the word "co-operative" or any other word importing a similar meaning if, in the opinion of the Registrar, its rules do not contain provisions having a similar effect to the provisions that are required to be contained in the memorandum and articles of association of a company, society or association applying for registration as a company under Part VI of the *Companies Act* and having in its name or title the word "co-operative".

(4) Sub-section (3) does not apply to a credit union registered under this Act by virtue of section 30 if, immediately before the coming into operation of this Act, the name of that credit union contained the word "co-operative".

(5) A credit union shall have the word "Limited" or the abbreviation "Ltd" as part of, and at the end of, its name and shall include in its name the words "credit union", or the words "credit society", in that consecutive form.

(6) No description of a credit union shall be taken to be inadequate or incorrect by reason of the use of -

- (a) the abbreviation "Ltd" in lieu of the word "Limited";
- (b) the symbol "&" in lieu of the word "and"; or
- (c) a word specified in paragraph (a) or (b) in lieu of the corresponding abbreviation or symbol,

contained in the name of the credit union.

36. UNREGISTERED CREDIT UNIONS

(1) Subject to this Act, no person or body of persons, whether incorporated or unincorporated, other than a credit union or a foreign credit union registered under this Act shall -

- (a) trade or carry on business, including -
 - (i) establishing or using an office for the receipt of share capital, deposits or loan funds;
 - (ii) advertising for share capital, deposits or loan funds; or

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- (iii) the making of loans to members residing in the Territory,

whether by servants or agents or otherwise, under any name or title of which the words "credit union" or the words "credit society" or any other words importing a similar meaning, form part;

- (b) trade or carry on business as a credit union; or
(c) in any manner hold out that its trade or business is that of a credit union.

(2) Sub-section (1) does not prevent an association of credit unions, credit union officers or credit union employees, formed in the Territory from using the words "credit union" or any other words importing a similar meaning, in its name or title, if that association or union has been approved by the Registrar for the purpose of this sub-section and that approval has not been revoked.

(3) A person contravening sub-section (1) and, in the case of a corporation or an unincorporated body of persons contravening sub-section (1), every director or other person having the control and management of the affairs of the corporation or unincorporated body of persons who knowingly and wilfully authorizes or permits the contravention, is guilty of an offence.

Penalty: \$2,000. Default penalty: \$200.

37. CHANGE OF NAME

(1) Subject to this section, a credit union may, by an alteration of its rules in the manner provided by this Act, change its name to a name by which it could be registered under this Act without contravention of section 35(1) or (3).

(2) If a credit union, through inadvertence or otherwise, is registered by a name by which the credit union could not be registered without contravention of section 35(1) or (3) it shall, if the Registrar with the approval of the Minister so directs, change its name to a name by which the credit union could be registered without contravention of that section.

(3) Upon registration of an alteration of the name of a credit union in pursuance of this section, the Registrar shall register the change of name and either note the change on the certificate of incorporation or, upon surrender to the Registrar of the certificate of incorporation or production of such evidence as to its loss as the Registrar may require, issue a new certificate of incorporation in lieu of that certificate.

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(4) Where a change of name of a credit union has been registered under this section, its name last registered shall be the registered name and a reference in this Act to the registered name of a credit union shall, in relation to the credit union, be construed as a reference to its new name last registered under this section.

(5) A change of name of a credit union shall be published, at the expense of the credit union, in the manner prescribed.

(6) A change of name of a credit union shall not affect a right or obligation of the credit union or of any member or other person or render defective any legal proceedings by or against the credit union.

(7) After a credit union has changed its name under this section, any legal proceedings that might have been continued or commenced against the credit union by its former name may be continued or commenced against it by its name last registered.

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

38. PUBLICATION OF NAME OF CREDIT UNION

Every credit union shall -

- (a) paint or affix, and keep painted or affixed, on the outside of every office or place in which the business of the credit union is carried on, in a conspicuous position and in letters easily legible, its registered name and also, in the case of the registered office, the words "Registered Office";
- (b) have its registered name inscribed in legible characters on its seal; and
- (c) have its registered name inscribed in legible characters on all business letters, statements of account, invoices, notices, advertisements, and other official publications of the credit union and on all bills of exchange, cheques, promissory notes, or other negotiable instruments, endorsements, orders for money or goods,

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waybills, invoices, receipts, letters of credit and other documents used in the business of the credit union.

Penalty: \$1,000. Default penalty: \$100.

39. CREDIT UNION USING OTHER THAN REGISTERED NAME

(1) Subject to section 35(6) a credit union shall not use any name or title other than its registered name or an abbreviation or elaboration of that name approved in writing by the Registrar to be used for a specified purpose.

Penalty: \$1,000. Default penalty: \$100.

(2) If an officer of a credit union or a person on its behalf -

- (a) issues or authorizes the issue of a business letter, statement of account, invoice, notice, advertisement or other official publication of the credit union wherein its name does not appear in legible characters; or
- (b) signs, issues or authorizes to be signed or issued a bill of exchange, cheque, promissory note or other negotiable instrument, endorsement, order for money or goods, waybill, invoice, receipt, letter of credit or other document used in the business of the credit union wherein its name does not appear in legible characters; or
- (c) uses, or authorizes the use of, a seal purporting to be the seal of the credit union, whereon the name of the credit union does not appear in legible characters,

he is guilty of an offence and where he has signed or authorized to be signed or issued on behalf of the credit union a bill of exchange, cheque, promissory note or other negotiable instrument or an endorsement thereon or order wherein that name is not so mentioned, he shall in addition be liable to the holder of the instrument or order for the amount due thereon unless it is paid by the credit union.

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

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Division 4 - Office and Service of Documents

40. REGISTERED OFFICE

(1) A credit union shall from the date of its incorporation have a registered office within the Territory to which all communications and notices may be addressed, and its registered office shall, subject to this section, be situated -

- (a) in the case of a credit union registered under section 30 - at the address of its registered office under the *Co-operative Societies Act*, immediately before the coming into operation of this Act; or
- (b) in the case of any other credit union - at the address specified in the rules as the address of its first registered office.

(2) A credit union shall immediately after a change in the address of its registered office, lodge with the Registrar, in the prescribed manner, notice of the change of address and the Registrar shall thereupon register the new address as the address of its registered office.

(3) The address specified in the notice lodged under sub-section (2), as from the date specified in the notice as the date on which the change of address occurs or the date of lodgement of the notice, whichever is the later, shall be the address of the registered office of the credit union.

41. SERVICE OF DOCUMENTS

(1) A document may be served on a credit union by leaving it at the registered office of the credit union or by sending it by post to the credit union at its registered office.

(2) A document may be served on a director or other officer of a credit union by sending it by post to the director or other officer at the last address of the director or other officer as disclosed in returns transmitted to the Registrar under this Act.

(3) Where a liquidator of a credit union has been appointed, a document may be served on the credit union -

- (a) by leaving it at the office of the liquidator at the last address thereof, notice of which has been lodged with the Registrar; or
- (b) by sending it by post to the credit union or to the liquidator, at the address referred to in paragraph (a).

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Division 5 - Amalgamation and Transfer of Engagements

42. POWER TO REGULATE

Regulations may be made regulating the amalgamation of credit unions and the transfer of the engagements of credit unions and providing for matters supplementary or incidental to such amalgamations and transfers.

43. TRANSFER OF ENGAGEMENTS BY DIRECTION OF REGISTRAR

(1) Subject to the Regulations, the Registrar may, with the approval of the Minister -

- (a) direct a credit union to transfer its engagements to another credit union; and
- (b) at the same time, require the credit union, within a period specified by the Registrar when giving the direction, or within such further period as the Registrar allows, to enter into an agreement approved by the Registrar, to give effect to the transfer of engagements directed.

(2) An officer of a credit union who -

- (a) fails to take all reasonable steps to secure compliance by the credit union with a direction given or a requirement made under sub-section (1); or
- (b) by a wilful act or omission is the cause of a failure by the credit union to comply with a direction given or a requirement made under sub-section (1),

is guilty of an offence.

Penalty: \$1,000 or imprisonment for 6 months.

(3) The Registrar, with the approval of the Minister, may revoke a direction under sub-section (1).

(4) Where a credit union has transferred its engagements in compliance with a direction given, or a requirement made, under sub-section (1), the Registrar shall, in relation to the credit union -

- (a) cancel its certificate of incorporation;
- (b) remove its name from the Register; and
- (c) advise, by notice in the Gazette, that that credit union has been dissolved.

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PART V - MEMBERS AND FUNDS

Division 1 - Membership

44. MEMBERSHIP

(1) The members of a credit union formed under this Act shall be those persons who signed an application for membership and shares on the formation of the credit union, and such other persons who are admitted to membership in accordance with the rules of the credit union.

(2) The members of an amalgamated credit union shall be the persons who, at the date of amalgamation, were members of the credit unions that are parties to the amalgamation and such other persons who are admitted to membership in accordance with the rules of the amalgamated credit union.

(3) The members of a credit union registered under section 30 shall be the persons who were members immediately before the coming into operation of this Act and such other persons who are admitted to membership in accordance with the rules.

(4) Subject to sub-section (5) no rights of membership of a credit union shall be exercised by a person unless or until he has made such payments in respect of membership, or acquired such shares or interests, as are required by its rules to be made or acquired before those rights may be exercised.

(5) Notwithstanding sub-section (4), if the rules so allow, a member may deposit money with a credit union without making the payments, or acquiring the shares or interests, referred to in that sub-section.

45. DELEGATION - ADMISSION OF MEMBERS

(1) Where the rules so provide, a board may delegate any or all of its powers to admit persons to membership of a credit union to a person or a body of persons.

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

(3) Notwithstanding a delegation under the rules, a board may continue to exercise or perform all or any of the powers so delegated.

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

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

46. CORPORATE BODY AS A MEMBER

(1) Where a corporation is a member of a credit union it may from time to time, by notice in writing served on the credit union, appoint a person to represent it at a meeting of members of the credit union and may by notice served on the credit union revoke such an appointment.

(2) A person appointed under sub-section (1) -

- (a) shall be entitled to receive notice of all meetings in the same manner as other members of the credit union and shall be entitled to exercise the same rights of voting as a natural person who is a member of the credit union; and
- (b) shall be eligible to be elected or appointed to the board of the credit union if the corporation holds such qualifications, other than those relating to age and being a natural person, as may be requisite for holding the office of director.

47. MINORS AS MEMBERS

Unless otherwise provided by the rules and subject to this section an infant may be a member of a credit union and may, to the extent required by reason of his membership, execute all instruments and give all necessary acquittances, which instruments and acquittances shall be as binding and sufficient in law for all purposes as if he had not been an infant at the time he executed the instruments, or gave the acquittances in question.

48. CESSATION OF MEMBERSHIP

The rules shall specify the circumstances in which membership thereof shall cease.

Division 2 - Share Capital

49. SHARE CAPITAL

(1) The share capital of a credit union shall be divided into shares of the same nominal value.

(2) The nominal value of the shares issued, or to be issued, by a credit union shall be specified in its rules.

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(3) The shares of a credit union shall be of one class ranking equally.

(4) Each member shall hold the same number of shares and no shares shall be allotted to a member unless the full nominal value thereof has been paid.

(5) The rules shall not provide for share capital to be repaid in priority to funds of a credit union consisting of deposits made with the credit union.

(6) Subject to sub-section (7) and approval by the Registrar, the rules may provide for the cancellation of shares or the withdrawal of share capital.

(7) A member shall not be entitled to withdraw any share capital from a credit union, unless he has given one month's notice of his intention so to do.

(8) A share may be held by 2 or more persons jointly.

(9) A share may not be sold or transferred without the approval of the board.

(10) Any document that constitutes a receipt for the repayment of a share, or subscription for a share, shall contain a clear acknowledgement that it constitutes such a receipt.

50. CANCELLATION OF SHARES

A credit union shall cancel a share forfeited to it in accordance with the rules or in respect of which it has repaid to the member the whole amount paid up thereon.

51. REPAYMENT OF CAPITAL

(1) Subject to section 52 and the rules, a credit union may, with the consent of a member, repay at any time the whole or any part of an amount paid up on a share held by the member.

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

52. CHARGE AND SET OFF

(1) A credit union shall have a charge upon the share or interest in the capital, and on the credit balance, of a member or past member and upon any dividend, interest or rebate payable to a member or past member in

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respect of a debt due from the member or past member to the credit union and may set off any amount paid on account of that share or otherwise, or any amount credited or payable to the member or past member, in or towards payment of the debt.

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

53. DECEASED MEMBERS - PAYMENT PRIOR TO ADMINISTRATION OR PROBATE

(1) If a member or other person entitled in respect of a share in, loan to or deposit with a credit union dies intestate, the board may, upon such evidence as it thinks fit and subject to sub-section (4), pay the money or transfer the shares to a person appearing to the board to be entitled to obtain a grant of letters of administration of the estate of the deceased member, and that person shall hold the money or shares on the same trusts as if he had obtained such a grant.

(2) If a member or other person entitled in respect of a share in, loan to or deposit with a credit union dies testate, the board may, upon such evidence as it thinks fit and subject to sub-section (4), pay the money or transfer the shares to a person appearing to the board to be entitled under the will of the deceased member or other person.

(3) This section shall, subject to sub-section (4), extend to any surplus arising on the sale by a credit union as mortgagee of property mortgaged by the deceased member to the credit union or by a credit union exercising as a transferee the powers of a mortgagee of property mortgaged by the deceased member to a credit union.

(4) Sub-section (1), (2) or (3) does not authorize a payment or a transfer of any assets of a deceased member or other person, the total value of which, together with the total value of any other assets of that deceased member or other person already paid or transferred under any of those sub-sections, exceeds \$5,000.

(5) A payment or transfer made by the board in accordance with this section shall be valid and effectual against a demand made upon the credit union by any other person.

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

Division 3 - Funds

54. INVESTMENTS OF SURPLUS FUNDS

(1) A credit union may, if authorized by its rules, invest its funds not immediately required for its objects or purposes -

- (a) upon deposit with a bank;
- (b) in authorized bills of exchange;
- (c) in debentures, stocks and bonds that are either issued by the Government of the Commonwealth, a State or the Territory or another Territory of the Commonwealth or are issued by a public statutory authority and guaranteed by such a government;
- (d) in a manner and subject to the same conditions in which a trustee may invest funds under the *Trustee Act* in the shares of, or on deposit with, a building society;
- (e) in a loan to a corporation that is declared to be an authorized dealer in the short term money market in pursuance of section 38(7)(b) of the *Companies Act*;
- (f) in the shares of a corporation registered under an Act or other enactment of the Territory a State or another Territory of the Commonwealth that has agreed to render special services to the credit union, in the furtherance of its objects;
- (g) with the consent of the Registrar, in the purchase of debts from another credit union;
- (h) with the consent of the Registrar, in a loan to another credit union;
- (j) in such other manner from time to time approved by the Registrar for the purposes of this section.

(2) Nothing in this section shall affect the validity of an investment made by a credit union before the coming into operation of this Act but a re-investment of the funds in question shall be made only in conformity with this section.

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(3) No credit union shall make investments pursuant to sub-section (1) in excess of any limitations as to amount that may be prescribed which limitations may vary in relation to the term of the investment, the class or form of investment or the person or class of persons with whom the investment is made.

55. DISTRIBUTION OF SURPLUS

(1) Subject to this section and section 64, a credit union may, if authorized by its rules, from the surplus arising in a financial year from the business of the credit union -

- (a) pay to a member a dividend on shares held by him; and
- (b) pay to a member who has borrowed money from the credit union a rebate of the interest paid or due by the member during that financial year, such rebate being based on the business done by the member with the credit union during that financial year.

(2) Subject to the rules of a credit union, payment of a dividend or rebate may be made directly to a member or by crediting the dividend or rebate to the member's deposit account or in reduction or repayment of an amount owed to it by the member.

(3) The rate of dividend or rebate to be paid under this section, if any, shall be declared to an annual general meeting of the credit union, but shall not exceed the rate recommended by the board.

(4) Subject to section 64, where the rules -

- (a) authorize the application for a charitable purpose, or for promoting community advancement, of a part of the surplus arising in a financial year from the business of the credit union; and
- (b) limit the amount that may be so applied to a specified proportion of that surplus,

a credit union may so apply a part of that surplus that does not exceed the proportion thereof so specified.

(5) Subject to sub-section (6), the proper allowance for contingent liability for loss referred to in sub-section (6) in respect of a loan made by a credit union shall be -

- (a) where a payment on the loan is due and unpaid for a period of 3 months or more but less than 6 months - not less than 40%;

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- (b) where a payment on the loan is due and unpaid for a period of 6 months or more but less than 9 months - not less than 60%;
- (c) where a payment on the loan is due and unpaid for a period of 9 months or more but less than 12 months - not less than 80%; or
- (d) where a payment on the loan is due and unpaid for a period of 12 months or more - 100%,

of the sum of the principal of the loan remaining unpaid and any interest in respect of the loan due and unpaid as at any time the allowance is made.

(6) The period or rates, or periods and rates, or any of them, specified in sub-section (5) may be varied as prescribed.

56. DORMANT ACCOUNTS

(1) Subject to this Act, a credit union may classify an account in which there have been no transactions for a period of not less than 3 years as a dormant account.

(2) Before an account is classified under sub-section (1), a credit union shall give to a member notice of its intention to classify the account dormant and of the subsequent action proposed by the credit union, and the notice shall be given -

- (a) by post to the member's last known address; or
- (b) by advertisement in a newspaper circulating generally throughout the Territory.

(3) Unless within one month of the posting of the letter or publication of the advertisement, whichever is the later, a member gives notice in writing to a credit union of his desire to remain a member, the credit union may, subject to this section -

- (a) cancel the membership of the member; and
- (b) transfer the share capital and funds of the member to a special account (entitled "the suspense account") established by it for the purposes of this section.

(4) Money held by a credit union in its suspense account shall not attract interest.

(5) A person whose membership has been cancelled under this section may, within 6 years after the date of cancellation, require the credit union to refund to him

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moneys held in the suspense account representing the value of shares formerly held by that person and the amount formerly held on deposit on his behalf.

(6) Where a member fails to claim a refund under sub-section (5), the credit union shall pay the moneys to the Treasurer in accordance with the *Companies (Unclaimed Assets and Moneys) Act*, and those moneys shall thereafter be dealt with under that Act.

Division 4 - Loans

57. LOANS TO MEMBERS

(1) Except as otherwise provided in this Act, a credit union shall not make a loan to a person except a natural person who is a member.

(2) A member desiring a loan shall make application in writing to a credit union in the manner provided by the rules and such application shall state -

- (a) the amount required and the purpose for which it is to be used;
- (b) the term for which the loan is required; and
- (c) such other particulars as the board, or the rules, of the credit union requires.

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

(4) Where the security for a loan provides that any property covered by the security shall be insured and kept insured against an insurable risk, a board shall take all reasonable steps to ensure that the provision is complied with.

(5) Where a loan to a member is approved under this section, a credit union shall at the time of approval of the loan, or as soon as practicable thereafter, give to the member a statement of the interest payable on the loan which shall -

- (a) where the rate of interest for the term of the loan is a fixed rate - specify the total amount computed at that rate; or

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- (b) where, under the rules of the credit union, the rate of interest may be varied - include a copy of the relevant rule and specify an amount of interest computed at the rate current at the time of approval.

58. LOAN LIMITS

The Regulations may make provision for and in relation to -

- (a) the maximum amount that may be lent by a credit union to any of its members by way of unsecured loan;
- (b) the maximum amount that may be lent by a credit union to any of its members by way of secured loan;
- (c) the maximum term for which an unsecured loan may be made by a credit union to any of its members;
- (d) the maximum term for which a secured loan may be made by a credit union to any of its members; and
- (e) the maximum amount that may, in the aggregate, be lent by a credit union to its members during the period specified in the notice.

59. LOANS TO MINORS

A credit union shall not lend money to a member who has not attained the age of 18 years unless -

- (a) the loan is made jointly to the member and his parent or guardian; and
- (b) a condition of the loan agreement is that the member and that parent or guardian are jointly and severally liable.

60. GENERAL PROVISIONS AS TO LOANS

(1) The terms or conditions providing for the repayment of the indebtedness to a credit union of a member shall include such terms or conditions as are required by the Regulations as to the amount of each instalment and the intervals at which instalments are to be paid.

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

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(3) Where, under the rules or pursuant to this Act, a loan is required to be secured, a promissory note or a guarantee or an indemnity given by a natural person in respect of the loan shall not of itself constitute adequate security for the loan.

61. DEFAULT BY BORROWER

(1) The whole of the principal and interest, together with an amount referred to in section 62, in respect of a loan by a credit union to a member, shall forthwith become due and payable in such circumstances as are specified in the rules.

(2) Where a loan becomes repayable under sub-section (1), the credit union or a person authorized by it, with such assistance as may be required, may at any reasonable time during the day enter into or upon any land or premises upon which any property subject to a lien or charge in respect of the loan in favour of the credit union may be, and may seize, remove and sell such property, or any part thereof, by public auction or private contract.

(3) A purchaser on a sale under this section shall not be concerned to inquire whether the sale is authorized by this section or the power is regularly and properly exercised, or to see to the application of the purchase money, and the title of the purchaser shall not be impeachable on the ground that no case had arisen to authorize the sale or that the power was improperly or irregularly exercised.

(4) The proceeds of a sale under this section shall be applied in the first place in paying and reimbursing the credit union all such moneys as may be due, owing and accruing under the terms of the loan, and all costs and expenses that may have been incurred by the credit union in consequence of the default, neglect or failure of the member to pay those moneys or any of them.

(5) Any surplus that remains after the proceeds of a sale under this section have been applied in accordance with sub-section (3) shall be payable to the member or other person entitled.

62. LIABILITY OF BORROWER

A person to whom a credit union has made a loan shall be liable not only for the payment of the amount of the loan and interest thereon, but also for the proper charges and costs of collection of that amount and that interest.

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Division 5 - Liquidity and Reserves

63. LIQUIDITY

(1) Subject to this section, a credit union shall maintain not less than the prescribed proportion of its withdrawable funds as liquid funds.

(2) In this section -

(a) the expression "liquid funds" means the aggregate of -

- (i) cash at bank (after allowing for cheques and other bills of exchange drawn but not presented for payment) or in hand;
- (ii) investments in securities authorized by law for the investment of trust funds (not being securities by way of mortgage over real or leasehold property) that are redeemable within 2 years of their acquisition;
- (iii) the value of authorized bills of exchange;
- (iv) an amount due to a credit union by way of deductions that have been made by an employer approved by the Registrar from the wages or salaries of members but have not yet been transmitted to the credit union;
- (v) funds invested in accordance with section 54(1)(a), (c), (d) or (e); and
- (vi) investments in securities from time to time approved by the Registrar for the purposes of this section,

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

- (vii) of the amount necessary to satisfy a lien or charge specifically on those funds or investments;
- (viii) in the case of the funds or investments referred to in sub-paragraph (v), that they may only be withdrawn on more than 3 months notice or, where some other period of notice is prescribed in respect of all or any of them, on more than that period of notice; or

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- (ix) where the Regulations so provide, that the amount of any of those funds or investments specified by the Regulations exceeds an amount prescribed by, or calculated as prescribed by, the Regulations;
- (b) unless some other percentage is prescribed the expression "prescribed proportion" means 10%; and
- (c) the expression "withdrawable funds" means the aggregate of -
 - (i) the amount of the share capital of the credit union; and
 - (ii) the amount of the deposits held by the credit union,but does not include such deposits that are fixed for a term of more than 2 years.
- (3) For the purpose of calculating the amount of liquid funds held by a credit union, investments referred to in the definition of "liquid funds" in sub-section (2) shall be assessed at current market value.
- (4) A credit union shall not make a loan of an amount that, if deducted from the amount of its liquid funds, would produce an amount that bears to the sum of -
 - (a) the amount of the share capital of the credit union; and
 - (b) the amount held by the credit union on deposit,as at that day, a proportion less than the prescribed proportion for that credit union.
- (5) This section shall not, during the period of one year after the coming into operation of this Act, apply to or in relation to a credit union registered under section 30.

64. RESERVES

- (1) Subject to sub-section (3), a credit union shall, at the end of each financial year of the credit union, transfer to a capital reserve account, out of the surplus arising in that financial year from the business of the credit union, the amount required to be transferred under this section.

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(2) The amount required to be transferred to a reserve account by a credit union in respect of a financial year of the credit union is -

(a) an amount that is not less than -

- (i) where the credit union does not have a capital reserve account - the required amount for that financial year; or
- (ii) where the credit union has a capital reserve account but the account is less than the required reserve amount for that financial year -
 - (A) the required amount for that financial year; or
 - (B) the amount necessary to increase the capital reserve account to the required reserve amount for that financial year,

whichever is the lesser; or

- (b) subject to sub-section (5), an amount that is not less than the amount that would result in the proportion that the capital reserve account for that financial year bears to the mean assets of the credit union at the end of that financial year being not less than the proportion that the capital reserve account in respect of the immediately preceding financial year bore to the mean assets of the immediately preceding financial year,

whichever is the greater.

(3) Notwithstanding sub-section (1), if a credit union is unable to comply with that sub-section in respect of a financial year -

- (a) the credit union shall forthwith notify the Registrar of the reasons for its inability so to comply; and
- (b) the Registrar may, by notice in writing given to the credit union, direct that the transfer required by sub-section (1), or such part thereof as is specified in the notice, be made by the credit union -
 - (i) from such accounts of the credit union as are specified in the notice; and

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- (ii) within such period as is specified in the notice, being a period not less than 7 days from the date on which the notice is given to the credit union.

(4) A credit union shall comply with a direction of the Registrar given under sub-section (3).

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

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

(7) Moneys transferred to a capital reserve account of a credit union in pursuance of this section may at any time be applied for a purpose for which the capital of the credit union may be applied.

(8) If default is made in complying with sub-section (1) or (4), a credit union and every officer of the credit union who is in default shall be guilty of an offence.

Penalty: \$1,000. Default penalty: \$100.

(9) It is a defence to a prosecution for an offence under sub-section (1) if a credit union proves -

- (a) that it had notified the Registrar in accordance with sub-section (3)(a); and
- (b) that it had not received a notice under sub-section (3)(b), or if it had received a notice under that sub-section, that the period specified in the notice had not expired.

(10) For the purposes of this section -

- (a) the mean assets of a credit union for a financial year shall be determined according to the formula -

$$\frac{a + b}{2}$$

where -

"a" represents the total assets of the credit union at the end of that financial year; and

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"b" represents the total assets of the credit union at the end of the immediately preceding financial year;

- (b) "required amount", in relation to a financial year of a credit union, means an amount equal to 0.5% of the mean assets of the credit union for that financial year except where some other percentage is prescribed for the purposes of this paragraph in which case the expression means that other percentage of those mean assets; and
- (c) "required reserve amount", in relation to a financial year of a credit union, means an amount equal to 7.5% of the mean assets of the credit union for the financial year except where some other percentage is prescribed for the purposes of this paragraph in which case the expression means that other percentage of those mean assets.

PART VI - MANAGEMENT

Division 1 - Directors and Officers

65. BOARD OF DIRECTORS

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

(2) A director acting in the business or operations of a credit union in pursuance of this Act and the rules or a resolution duly passed by a board shall be deemed to be the agent of the credit union for all purposes within the objects of the credit union.

(3) The powers of a board shall be subject to any restrictions imposed by a resolution of a general meeting of a credit union.

66. ELECTION OR APPOINTMENT OF DIRECTORS

(1) Subject to this Act, the directors of a credit union shall be elected or appointed, hold or vacate office, or be removed from office, in such manner as may be specified in the rules.

(2) A credit union shall have not less than 5 directors.

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

(4) At a meeting of a credit union, a motion for the election or appointment of 2 or more persons as directors by a single resolution shall not be made unless a resolution that it shall be so made has first been agreed to by the meeting without any vote being given against it, but notwithstanding the passing of such a resolution, no such motion shall be made if one of the directors to whom the motion would relate is a director required to be appointed in accordance with section 69(6).

(5) A resolution passed in pursuance of a motion made in contravention of sub-section (4) shall be void, whether or not its being so moved was objected to at the time, and where such a resolution is so passed no provision for the automatic re-election of retiring directors in default of another election shall apply.

(6) For the purposes of this section, a motion for approving a person's election or for nominating a person for election shall be treated as a motion for his election.

(7) Nothing in this section shall apply to a resolution altering the rules, or prevent the election of 2 or more directors by ballot or poll.

(8) The rules may provide that an employee of a credit union may be elected at a meeting of the credit union as a director of that credit union.

(9) An employee of a credit union shall not be elected as a director where the election would result in more than 2 employees of the credit union holding office as directors of that credit union at the one time.

(10) A director who is an employee of a credit union shall not be eligible to be elected as chairman of the board of that credit union.

(11) Notwithstanding this Act or anything contained in the rules of a credit union -

- (a) a person shall not, after the coming into operation of this Act, be appointed a director of the credit union for a term exceeding 3 years; and
- (b) in the case of a credit union registered under this Act by virtue of section 30 where, immediately prior to the commencement of this Act, a person held office as a director for life, for

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an indefinite term or for a term not due to expire within the expiration of 3 years after that date, the term of office of that person as a director shall, unless sooner determined, determine at the expiration of 3 years immediately following that date,

but nothing in this sub-section renders a person whose term of office as director expires or determines ineligible for re-appointment.

67. QUALIFICATIONS OF DIRECTORS

(1) A person shall not be qualified to be elected or appointed as a director of a credit union unless at the time of election or appointment -

- (a) he is a member of a credit union and a resident of the Territory; and
- (b) by reason of section 46(2)(b) he is eligible for election or appointment.

(2) A person who has been convicted in the Territory or elsewhere -

- (a) on indictment of an offence in connection with the promotion, formation or management of a corporation;
- (b) of an offence involving fraud or dishonesty punishable by imprisonment for 3 months or longer; or
- (c) of an offence referred to in section 122(1)(c) of the *Companies Act*,

is not qualified to be elected or appointed as a director of a credit union within a period of 5 years after -

- (d) his conviction;
- (e) if he was sentenced to imprisonment, his release from prison; and
- (f) if he is a person who -
 - (i) is an undischarged bankrupt;
 - (ii) has assigned his remuneration for the benefit of, or has compounded with, his creditors and is bound by the assignment or composition; or

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- (iii) is applying for, or taking, the benefit of a law for the relief of bankrupt or insolvent debtors,

is not qualified to be elected or appointed as a director of a credit union.

(3) A person who, if he were a director, would be required under section 68(1) (other than paragraph (a) or (c) of that sub-section) to vacate his office is not qualified to be elected or appointed as a director of a credit union.

(4) Sub-section (1) does not authorize the election of an employee of a credit union as a director of that credit union unless that employee is eligible to be elected in accordance with the rules of the credit union made under section 66(8).

68. VACATION OF OFFICE

(1) The office of a director of a credit union shall be vacated in such circumstances, if any, as may be prescribed by the rules of the credit union and, in any event, shall become vacant in any of the following circumstances, that is to say -

- (a) if he becomes bankrupt, applies to take the benefit of a law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit;
- (b) if, through mental or physical infirmity or sickness, he is unable satisfactorily to carry out the duties and perform the functions of the office;
- (c) if he is convicted in the Territory or elsewhere of an offence referred to in section 67(2)(a);
- (d) if he absents himself from 3 consecutive ordinary meetings of the board without its leave;
- (e) if within 2 months after any money becomes due from him to the credit union he does not pay the same;
- (f) if, in the case of a director who was qualified for election or appointment under section 67(1)(a), he ceases to be a member of the credit union or ceases to hold the shareholding qualification, if any, requisite for holding the office of director or he ceases to reside in the Territory;

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- (g) if, in the case of a director who was qualified for election or appointment under section 67(1)(b) -
 - (i) he ceases to be the appointed representative of the corporation in question; or
 - (ii) the corporation in question ceases to hold the qualifications requisite for holding the office of director;
- (h) if he resigns in writing, whereupon such vacation shall have effect upon the day of receipt by the credit union of the resignation in writing sent or given by the director or, where some date subsequent thereto is specified for that purpose in the resignation, that later date;
- (j) if he is removed from office by resolution of a general meeting of the credit union;
- (k) if he, his partner, a person in his employment or his employer acts as accountant (otherwise than as accountant exclusively to the credit union), solicitor, valuer or auditor to the credit union;
- (m) if he is, or becomes, an employee of the credit union (other than an employee who is a director under rules made under section 66(8)) or he is, or becomes, employed by a director; or
- (n) if, having been elected as a director under section 66(8), he ceases to be an employee of the credit union.

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

69. ACTING AS DIRECTOR AFTER OFFICE VACATED

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

Penalty: \$1,000 or imprisonment for 6 months.
Default penalty: \$100.

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70. MEETINGS OF THE BOARD

(1) A meeting of a board shall be held as often as may be necessary for properly conducting the business and operations of the credit union and shall be held at least monthly.

(2) A director shall not vote at a meeting of a board upon a question in which he, or a corporation of which he is the appointed representative, has a direct or indirect pecuniary interest other than an interest common to all members of the credit union and if he does so vote his vote shall not be counted.

71. QUORUM

A quorum of a meeting of a board shall be 3 directors or more as specified in the rules of the credit union.

72. DISCLOSURE OF INTEREST

(1) Subject to this section, a director of a credit union who is in any way, directly or indirectly, interested in a contract or proposed contract (which expression shall not include loans to directors) with the credit union shall declare the nature of his interest to the board in accordance with this section.

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

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

as the case may require.

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

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(4) For the purposes of this section, a general notice in writing given by a director to all other directors to the effect that he is a member of a specified corporation or firm and is to be regarded as interested in any contract which may, after the date of the notice, be made with that corporation or firm is a sufficient declaration for the purposes of this section of the interest of the director by whom it is given in any contract made after that date with that corporation or firm.

(5) A director need not make a declaration or give a notice under this section by attending in person at a meeting of the directors, if he takes reasonable steps to ensure that the declaration or notice is brought up and read at the meeting.

(6) Nothing in this section shall be taken to prejudice the operation of any rule of law restricting directors of a credit union from having an interest in contracts with the credit union or affecting the obligation of a director to account for any profits arising from any such contract.

(7) A declaration made in pursuance of this section shall be recorded by the secretary in the minutes of the meeting at which it is made and shall be reported by the directors to members at the next annual general meeting.

(8) A director who fails to comply with subsection (1) is guilty of an offence.

Penalty: \$1,000 or imprisonment for 6 months.

Default penalty: \$100.

73. REMUNERATION OF DIRECTORS

No director of a credit union shall be paid any remuneration for his services as a director other than such fees, concessions and other benefits as may be approved at a general meeting of the credit union.

Division 2 - Officers of a Credit Union

74. DUTIES AND LIABILITIES OF OFFICERS

(1) A director shall at all times act honestly and use reasonable diligence in the discharge of the duties of his office.

(2) An officer of a credit union shall not make use of information acquired by virtue of his position as an officer to gain directly or indirectly an improper advantage for himself or to cause detriment to the credit union.

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(3) A person who commits a breach of this section is -

- (a) liable to the credit union for a profit made by him or for damage suffered by the credit union as a result of the breach; and
- (b) guilty of an offence.

Penalty: \$1,000 or imprisonment for 6 months.

(4) This section is in addition to and not in derogation of any other enactment or rule of law relating to the duty or liability of a director or officer of a credit union.

75. PROVISIONS INDEMNIFYING OFFICERS

(1) A provision, whether contained in the rules or in a contract with a credit union or otherwise, for exempting an officer of the credit union from, or indemnifying him against, a liability which by law would otherwise attach to him in respect of negligence, default, breach of duty, or breach of trust of which he may be guilty in relation to the credit union is void.

(2) Notwithstanding anything in this section, a credit union may under its rules or otherwise indemnify an officer against liability incurred by him in defending proceedings, whether civil or criminal, in which judgment is given in his favour or in which he is acquitted or in connection with an application in relation thereto in which relief is granted under this Act.

76. BONDING OF OFFICERS

No officer or other person shall be employed by a credit union to have the receipt or charge of money of the credit union unless security as prescribed for rendering a just and true account of all money received and paid by such officer or person for the credit union and for payment of all money due from him to the credit union has first been obtained.

77. CERTAIN DEALINGS PROHIBITED

(1) An officer of a credit union, whether on his own account or in partnership with another person or body of persons shall not, without the approval of a majority of the directors -

- (a) sell real or personal property to, or act as agent in respect of the sale of real or personal property to, a member who proposes to pay for the real or personal property (in whole or in part) out of a loan by the credit union;

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- (b) undertake the erection of a building for a member of the credit union who proposes to pay for the building (in whole or in part) out of a loan made by the credit union; or
- (c) accept as payment (in whole or in part) of moneys due to him by a member of the credit union, the whole or part of a loan made by the credit union to that member.

(2) For the purposes of this section, anything done by a company which is a proprietary company within the meaning of the *Companies Act* and in which an officer is a shareholder shall be deemed to have been done by the officer.

(3) A director of a credit union shall not borrow from the credit union and the credit union shall not make an advance to a director, except by special resolution of the credit union and, if an advance is made in contravention of this sub-section, the directors who authorized the advance are jointly and severally liable for any loss suffered by the credit union in respect of such advance.

(4) A credit union shall not make an advance to an officer of the credit union who is not a director unless the making of the advance has first been approved at a meeting of the board.

(5) A person who contravenes a provision of this section is guilty of an offence.

Penalty: \$1,000 or imprisonment for 6 months.

78. MEETINGS OF CREDIT UNIONS

(1) The annual general meeting of a credit union shall be held once within each calendar year and within 3 months after the close of the financial year or the credit union's financial year, or within such further time as may be allowed by the Registrar on application prior to the time or times provided in this sub-section.

(2) Other meetings of a credit union shall be held, or may be called, as provided by the rules.

(3) At a meeting of a credit union no business shall be transacted unless a quorum of members, as provided by the rules, is present at the time the meeting is considering that business.

(4) Notice of a meeting of a credit union shall be given by individual notice to each member or by advertisement in a newspaper circulating generally throughout the Territory or such other methods as determined by its board.

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(5) Where a credit union seeks to call an extraordinary general meeting of its members, notice is sufficient if given not less than 7 days before the date of the meeting.

(6) A notice advertising a meeting shall set out the general nature of the business to be transacted at the meeting.

79. VOTING

(1) Except as is otherwise provided in this Act, or by the rules, a question calling for a decision at a meeting of a credit union shall be determined by a majority of those members entitled to vote who are present at the meeting and, unless a poll is demanded by at least 5 members, the question shall be determined by a show of hands.

(2) A member who is present at a meeting of a credit union shall have one vote.

(3) At a meeting of the members of a credit union the chairman of the meeting shall, in the event of an equality of votes, be entitled to exercise a casting vote in addition to any other vote to which he may be entitled.

80. SPECIAL RESOLUTIONS

(1) For the purposes of this Act, a special resolution is a resolution passed by a majority of not less than two-thirds of those persons who, being present at a meeting and entitled to register their vote, vote in favour of the resolution.

(2) At a meeting at which a special resolution is submitted, a declaration of the chairman that the resolution is carried is, unless a poll is demanded, conclusive evidence of the fact.

(3) A credit union shall, immediately following a meeting at which a special resolution has been passed, submit the resolution to the Registrar for registration.

(4) A special resolution shall not have effect until registered.

81. MINUTES OF PROCEEDINGS

(1) A credit union shall -

(a) cause minutes of all proceedings of general meetings and of meetings of its directors to be entered within 7 days after the relevant meeting is held, in books kept for that purpose; and

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- (b) cause those minutes to be signed by the chairman of the meeting at which the proceedings took place or by the chairman of the next succeeding meeting.

(2) A minute that is so entered and purports to be signed as provided by sub-section (1)(b) is prima facie evidence of the proceedings to which it relates.

(3) Where minutes have been entered and signed under this sub-section, then, unless the contrary is proved -

- (a) a meeting shall be deemed to have been duly held and convened;
- (b) all proceedings that are recorded in the minutes as having taken place at the meeting shall be deemed to have duly taken place; and
- (c) all appointments of officers and auditors that are recorded in the minutes as having been made at the meeting shall be deemed to have been validly made.

(4) If a credit union fails to comply with this section, the credit union and each director or officer of the credit union are each guilty of an offence.

Penalty: \$1,000 or imprisonment for 6 months.

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

Division 3 - Records and Accounts

82. FINANCIAL YEAR

(1) Subject to sub-section (2), a credit union's financial year shall end on the last day of June in each year or on such other day as is provided for by the rules.

(2) The first financial year of a credit union may, subject to its rules, extend from the date of its registration to a day not later than 18 months from the date of registration.

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83. ACCOUNTS TO BE KEPT

(1) A credit union shall -

(a) keep such accounting records as correctly record and explain the transactions of the credit union (including any transactions as trustee) and the financial position of the credit union; and

(b) keep its accounting records in such a manner as will enable -

(i) the preparation from time to time of true and fair accounts of the credit union; and

(ii) the accounts of the credit union to be conveniently and properly audited in accordance with this Act.

(2) A credit union shall retain in an accessible manner the accounting records kept under this section or under a corresponding provision of a previous law of the Territory for a period of 7 years after the completion of the transactions to which they relate.

(3) A credit union shall keep its accounting records at the registered office of the credit union or such place or places within the Territory as the directors think fit.

(4) Where the accounting records of a credit union are kept at a place other than the registered office of the credit union the directors shall notify the Registrar of the address where such accounting records are kept.

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

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

(7) If default is made in complying with this section -

(a) a credit union;

(b) a director of the credit union who failed to take all reasonable steps to secure compliance by the credit union with this section; and

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- (c) each officer of the credit union who is in default,

is guilty of an offence.

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

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

84. BALANCE SHEETS AND PROFIT AND LOSS ACCOUNTS

(1) The directors of a credit union shall, not less than 14 days before an annual general meeting of the credit union, cause to be made out a profit and loss account for the last financial year of the credit union, being a profit and loss account that gives a true and fair view of the profit or loss of the credit union for that financial year.

(2) The directors of a credit union shall, not less than 14 days before an annual general meeting of the credit union, cause to be made out a balance sheet as at the end of the last financial year of the credit union, being a balance sheet that gives a true and fair view of the state of affairs of the credit union as at the end of that financial year.

(3) The directors of a credit union shall do all things necessary to ensure that the accounts of the credit union are audited as required by this Act not less than 14 days before the annual general meeting of the credit union.

(4) The directors of a credit union shall cause to be attached to, or endorsed upon, the accounts in relation to the credit union the auditor's report relating to those accounts that is furnished to the directors in accordance with section 90.

(5) The directors shall, before the profit and loss account and balance sheet referred to in sub-sections (1) and (2) are made out, take all necessary steps -

- (a) to ascertain what action has been taken in relation to the writing off of bad debts and the making of provisions for doubtful debts and to cause all known bad debts to be written off and adequate provision to be made for doubtful debts;

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- (b) to ascertain whether any current assets, other than current assets to which paragraph (a) applies, are unlikely to realize in the ordinary course of business their value as shown in the accounting records of the credit union and, if so, to cause -
 - (i) those assets to be written down to an amount that they might be expected so to realize; or
 - (ii) adequate provision to be made for the difference between the amount of the value as so shown and the amount that they might be expected so to realize; and
 - (c) to ascertain whether any non-current asset is shown in the books of the credit union at an amount that, having regard to its value to the credit union as a going concern, exceeds the amount that it would have been reasonable for the credit union to expend to acquire that asset as at the end of the financial year and, unless adequate provision for writing down that asset is made, to cause to be included in the accounts such information and explanation as will prevent the accounts from being misleading by reason of the overstatement of the amount of that asset.
- (6) Without affecting the generality of the preceding provisions of this section, the directors of a credit union shall ensure that the accounts of the credit union comply with such of the prescribed requirements as are relevant to those accounts, but where accounts prepared in accordance with those requirements would not otherwise give a true and fair view of the matters required by this section to be dealt with in the accounts, the directors of the credit union shall add such information and explanation as will give a true and fair view of those matters.
- (7) The directors of a credit union shall cause to be attached to any accounts required by section 87 to be laid before a credit union at its annual general meeting, before the auditor reports on the accounts under this Division, a statement made in accordance with a resolution of the directors and signed by not less than 2 directors stating whether, in the opinion of the directors -
- (a) the profit and loss account is drawn up so as to give a true and fair view of the profit or loss of the credit union for the financial year;
 - (b) the balance sheet is drawn up so as to give a true and fair view of the state of affairs of the credit union as at the end of the financial year; and

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- (c) there are reasonable grounds to believe that the credit union will be able to pay its debts and other commitments and when they fall due.

85. DIRECTORS' REPORTS

(1) The directors of a credit union shall, not less than 14 days before the annual general meeting of the credit union or, if no annual general meeting of the credit union is held within the period within which it is required by section 78 to be held, not less than 14 days before the end of that period, cause to be made out in respect of the last financial year of the credit union a report, made in accordance with a resolution of the directors and signed by not less than 2 of the directors with respect to the profit or loss of the credit union for that financial year and the state of the credit union's affairs as at the end of that financial year, stating -

- (a) the names of the directors in office at the date of the report;
- (b) the principal activities of the credit union in the course of the financial year and any significant change in the nature of those activities during that period;
- (c) the net amount of the profit or loss of the credit union for the financial year after provision for income tax;
- (d) the amounts and particulars of any material transfers to or from reserves or provisions during the financial year;
- (e) the amount, if any, that the directors recommend should be paid by way of dividend, and any amounts that have been paid or declared by way of dividend since the end of the previous financial year, indicating which of those amounts, if any, have been shown in a previous report under this sub-section or sub-section (2) or under a corresponding law of the Territory;
- (f) whether the directors, before the profit and loss account and balance sheet were made out, took reasonable steps to ascertain what action had been taken in relation to the writing off of bad debts and the making of provision for doubtful debts, and to cause all known bad debts to be written off and adequate provision to be made for doubtful debts;
- (g) whether, at the date of the report, the directors are aware of any circumstances that would render the amount written off for bad

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debts or the amount of the provision for doubtful debts inadequate to any substantial extent and, if so, giving particulars of the circumstances;

- (h) whether the directors, before the profit and loss account and balance sheet were made out, took all necessary steps to ascertain whether any current assets, other than current assets to which paragraph (g) applies, were unlikely to realize in the ordinary course of business their value as shown in the accounting records of the credit union and, if so, to cause -
 - (i) those assets to be written down to an amount that they might be expected so to realize; or
 - (ii) adequate provision to be made for the difference between the amount of the value as so shown and the amount that they might be expected so to realize;
- (j) whether, at the date of the report, the directors are aware of any circumstances that would render the values attributed to current assets in the accounts misleading and, if so, giving particulars of the circumstances;
- (k) whether there exists at the date of the report -
 - (i) any charge on the assets of the credit union that has arisen since the end of the financial year which secures the liabilities of any person and, if so, giving particulars of the charge and, so far as practicable, of the amount secured; and
 - (ii) any contingent liability that has arisen since the end of the financial year and, if so, stating the general nature of the liability and, so far as practicable, the maximum amount, or an estimate of the maximum amount, for which the credit union could become liable in respect of the liability;
- (m) whether any contingent or other liability has become enforceable, or is likely to become enforceable, within the period of 12 months after the end of the financial year, being a liability that, in the opinion of the directors, will or may substantially affect the ability of the credit union to meet its obligations when they fall due and, if so, giving particulars of that liability;

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- (n) whether at the date of the report the directors are aware of any circumstances not otherwise dealt with in the report or accounts that would render an amount stated in the accounts misleading and, if so, giving particulars of the circumstances;
 - (p) whether the results of the credit union's operations during the financial year were, in the opinion of the directors, substantially affected by any item, transaction or event of a material and unusual nature and, if so, giving particulars of that item, transaction or event and the amount or the effect of that item, transaction or event, if known or reasonably ascertainable; and
 - (q) whether there has arisen in the interval between the end of the financial year and the date of the report any item, transaction or event of a material and unusual nature likely, in the opinion of the directors, to affect substantially the results of the union's operations for the next succeeding financial year and, if so, giving particulars of the item, transaction or event.
- (2) In sub-section (1) the expression "any item, transaction or event of a material and unusual nature" includes but is not limited to -
- (a) any change in accounting principles adopted since the last report; and
 - (b) any material item appearing in the accounts for the first time or not usually included in the accounts.

86. MEMBERS OF CREDIT UNION ENTITLED TO BALANCE SHEET, &c.

(1) A credit union shall, not less than 14 days before each annual general meeting, send a copy of all accounts that are to be laid before the members of the credit union at the meeting, accompanied by a copy of the statement required under section 84(7), a copy of the directors' report required under section 96 and a copy of the auditor's report or reports required by section 94, to all persons entitled to receive notice of general meetings of the credit union.

(2) A credit union shall furnish to a member of the credit union, whether or not he is entitled to have sent to him copies of the accounts, to whom copies have not been sent, on request in writing being made by him to the credit union, as soon as practicable and without charge, a

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copy of the last accounts laid or to be laid before the credit union at its annual general meeting, together with copies of the other documents required under sub-section (1) to accompany those accounts.

(3) It is a defence to a prosecution for a failure to comply with sub-section (1) or (2) if the defendant proves that the person in relation to whom the failure occurred had, before the failure occurred, been furnished with a copy of the accounts and all documents referred to in those sub-sections.

87. ACCOUNTS AND REPORTS TO BE LAID BEFORE ANNUAL GENERAL MEETING

The directors of a credit union shall cause to be laid before each annual general meeting of the credit union held in accordance with section 78 -

- (a) a copy of the profit and loss account made out in accordance with section 84(1) for the last financial year of the credit union;
- (b) a copy of the balance sheet made out in accordance with section 84(2) as at the end of the last financial year of the credit union;
- (c) in the case of a credit union - a copy of the directors' report made out in accordance with section 85 in respect of that financial year;
- (d) a copy of the auditor's report required by section 90 to be attached to the accounts of the credit union; and
- (e) a copy of the statement by the directors required by section 84(7) to be attached to the accounts of the credit union.

Division 4 - Audit

88. APPOINTMENT OF AUDITOR

(1) An auditor of a credit union shall be a registered company auditor.

(2) A board of directors of a credit union shall, within one month of the registration of the credit union under this Act, appoint an auditor of the credit union.

(3) An auditor appointed under sub-section (2) shall, subject to this Division, hold office until the first annual general meeting of the credit union.

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(4) A credit union shall -

- (a) at its first annual general meeting appoint an auditor of the credit union; and
- (b) at each subsequent annual general meeting if there is a vacancy in the office of auditor of the credit union appoint an auditor to fill the vacancy.

(5) Within one month after a vacancy occurs in the office of auditor of a credit union, a board of directors shall appoint (unless the credit union at an annual general meeting has already appointed) an auditor to fill the vacancy.

(6) A credit union shall not appoint a person as auditor of the credit union unless that person or firm has, prior to the appointment, consented in writing given to the credit union or to its board of directors to act as auditor and has not withdrawn his or its consent by notice in writing given to the credit union or to the board.

89. REMOVAL OF AUDITORS

(1) An auditor of a credit union may be removed from office by special resolution of the credit union at a general meeting of which notice has been given, but not otherwise.

(2) Where notice of a special resolution to remove an auditor is received by a credit union, it shall immediately send a copy of the notice to the auditor and lodge a copy of the notice with the Registrar.

90. POWERS AND DUTIES OF AUDITORS AS TO REPORTS ON ACCOUNTS

(1) An auditor of a credit union shall report to the members on the accounts required to be laid before the credit union at its annual general meeting and on the credit union's accounting records and other records relating to those accounts.

(2) A report by an auditor of a credit union under sub-section (1) shall be furnished by the auditor to the directors of the credit union in sufficient time to enable the credit union to comply with the requirements of section 95 in relation to that report.

(3) An auditor shall, in a report under this section, state -

- (a) whether the accounts are in his opinion properly drawn up -

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- (i) so as to give a true and fair view of the matters required by section 95, to be dealt with in the accounts; and
 - (ii) in accordance with the provisions of this Act;
- (b) whether the accounting records and other records and the registers required by this Act to be kept by the credit union have been, in his opinion, properly kept in accordance with the provisions of this Act;
 - (c) any defect or irregularity in the accounts and any matter not set out in the accounts without regard to which a true and fair view of the matters dealt with by the accounts would not be obtained; and
 - (d) if he is not satisfied as to any matter referred to in paragraph (a), (b) or (c), his reasons for not being so satisfied.
- (4) It is the duty of an auditor of a credit union to form an opinion as to each of the following matters:
- (a) whether he has obtained all the information and explanations that he required;
 - (b) whether the proper accounting records and other records, including registers, have been kept by the credit union as required by this Act; and
 - (c) whether the returns received from branch offices of the credit union are adequate,
- and he shall state in his report particulars of any deficiency, failure or shortcoming in respect of any matter referred to in this sub-section.
- (5) An auditor of a credit union has a right of access at all reasonable times to the accounting records and other records, including registers, of the credit union, and is entitled to require from any officer of the credit union such information and explanations as he desires for the purposes of audit.
- (6) An auditor's report shall be attached to or endorsed on the accounts and shall, if a member so requires, be read before a credit union at the annual general meeting, and is open to inspection by a member at any reasonable time.
- (7) An auditor of a credit union or his agent authorized by him in writing for the purpose is entitled to attend any general meeting of the credit union and to

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receive all notices of, and other communications relating to, any general meeting that a member is entitled to receive, and to be heard at any general meeting that he attends on any part of the business of the meeting that concerns the auditor in his capacity as auditor, and is entitled so to be heard notwithstanding that he retires at that meeting or a resolution to remove him from office is passed at that meeting.

(8) If an auditor of a credit union becomes aware that the credit union or its directors has or have made default in complying with section 88 or the provisions of section 90 relating to the laying of accounts before the annual general meeting of the credit union, the auditor shall immediately inform the Registrar by notice in writing and, if accounts have been prepared and audited, send to the Registrar a copy of the accounts and of his report on the accounts.

(9) Except in a case to which sub-section (8) applies, if an auditor, in the course of the performance of his duties as auditor of a credit union, is satisfied that -

- (a) there has been a contravention of, or failure to comply with, any of the provisions of this Act; and
- (b) the circumstances are such that in his opinion the matter has not been or will not be adequately dealt with by comment in his report on the accounts or by bringing the matter to the notice of the directors of the credit union,

he shall forthwith report the matter to the Registrar by notice in writing.

91. RETIREMENT OF AUDITOR

(1) An auditor of a credit union may not retire or resign from his position as auditor of the credit union unless he obtains the Registrar's consent to the retirement or resignation.

(2) An auditor of a credit union may, by notice in writing to the Registrar, apply to the Registrar for the Registrar's consent to the auditor's retirement or resignation from his position as auditor of that credit union.

(3) An auditor of a credit union who applies under sub-section (2) shall send a copy of the notice to the credit union.

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(4) The Registrar shall as soon as practicable after receiving a notice from an auditor under sub-section (2) notify the auditor and the credit union whether he consents to the retirement or resignation.

(5) A statement made by an auditor in an application to the Registrar under sub-section (2) or in answer to an inquiry by the Registrar relating to the reasons for the application -

- (a) is not admissible in evidence in civil or criminal proceedings against the auditor; and
- (b) may not be made the grounds of a prosecution action or suit against the auditor,

and a certificate signed by the Registrar that the statement was made in the application or in answer to the inquiry by the Registrar shall be conclusive evidence that the statement was so made.

(6) A person aggrieved by a decision of the Registrar in relation to the retirement or resignation of an auditor of a credit union may, within one month after the date of the decision, appeal to a magistrate from the refusal and the magistrate, after hearing the parties, may confirm or reverse the decision and may make such further order in the matter as he thinks fit.

(7) Subject to an order of a magistrate under sub-section (6), the retirement or resignation of an auditor takes effect -

- (a) on the date (if any) specified for the purpose in his notice of resignation;
- (b) on the date on which the Registrar gives his consent to the resignation; or
- (c) on the date (if any) fixed by the Registrar for the purpose,

whichever last occurs.

92. AUDITORS ENTITLED TO QUALIFIED PRIVILEGE

A person does not, in the absence of ill-will to the person concerned or other improper motive on his or its part, incur a liability as for defamation in respect of the publication of defamatory matter in the course of his duties as auditor of a credit union.

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Division 5 - Registers and Inspections

93. REGISTERS

(1) A credit union shall keep the following registers:

- (a) a register of directors;
- (b) a register of members and their respective shareholdings;
- (c) a register of deposits received;
- (d) a register of loans raised and of securities issued;
- (e) a register of any loans made, or guaranteed, by the credit union and of any securities taken by the credit union in respect of any such loan or guarantee; and
- (f) a register of investments made by the credit union.

(2) The registers shall, except as provided by this section, be kept at the registered office of the credit union and shall be kept in such manner, and contain such particulars, as may be prescribed.

(3) With the consent in writing of the Registrar, the registers referred to in this section may be kept in any office of the credit union other than its registered office.

(4) Subject to sub-section (5), no notice of any trust, express, implied or constructive, shall be entered in any register or account kept by a credit union or be received by the credit union or the Registrar.

(5) Where the rules of a credit union so provide, an entry in a register or account kept by the credit union in respect of any shares in the credit union or moneys deposited with the credit union may, in the circumstances and in the manner authorized by the rules, be made so as to indicate that the shares or moneys are held by or vested in a person on trust.

94. INSPECTION

(1) A credit union shall keep at its registered office and at each branch office open for inspection without fee by members of the credit union, persons eligible for membership of the credit union and its creditors -

- (a) a copy of this Act and the Regulations;

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- (b) a copy of the rules of the credit union;
- (c) a copy of the last balance sheet and profit and loss account of the credit union, together with a copy of the report of the auditor thereon; and
- (d) the register of directors or a certified copy thereof.

(2) A credit union shall, at the request of a member, furnish that member with any information to which that member is entitled by this Act or the Regulations.

95. RETURNS

(1) A credit union shall, immediately after any change in the membership of the board of directors, inform the Registrar in writing of the change.

(2) A credit union shall, within 4 months after the close of each financial year, or within such further time as the Registrar may allow, transmit to the Registrar the following returns:

- (a) a list of directors for the financial year then current;
- (b) a statement in the prescribed form of the assets and liabilities of the credit union at the end of its financial year and of the accounts of the credit union for that financial year;
- (c) a copy of the report by the auditor in respect of the accounts;
- (d) a return in the prescribed form in respect of every property that has been sold by the credit union in the exercise of its powers as mortgagee, and every mortgage in respect of which the credit union has assigned its interest as mortgagee to any other mortgagee during the financial year last ended; and
- (e) a return containing such other particulars as may be prescribed.

(3) The Registrar may by instrument in writing require a credit union to furnish such further returns relevant to its financial position or to the directors or members of the credit union as he requires.

(4) The returns required under sub-section (3), shall contain the information stipulated in the instrument and shall be furnished as frequently as is required by the instrument.

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(5) A credit union shall, when transmitting to the Registrar the returns referred to in sub-section (2), include a statement showing the amount of any loans made by the credit union during the financial year -

- (a) to any officer of the credit union;
- (b) to any person who, after the making of the loan, became an officer of the credit union;
- (c) to a company or other body corporate in which an officer of the credit union is interested; or
- (d) to a company or other body corporate in which an officer of the credit union held any interest at the time when the loan was made.

PART VII - FOREIGN CREDIT UNIONS

96. APPLICATION AND INTERPRETATION OF THIS PART

(1) Except where the contrary intention appears, this Part applies to a foreign credit union only if it has a place of business or is carrying on business within the Territory.

(2) In this Part, unless the contrary intention appears -

"agent" means the person named in the memorandum of appointment or power of attorney lodged under section 98(3) or (10);

"carrying on business" includes -

- (a) establishing or using a share transfer or share registration office;
- (b) establishing or using an office for the receipt of share capital, deposits or loan funds;
- (c) advertising for share capital, deposits or loan funds; or
- (d) making loans to members residing in the Territory,

and "to carry on business" has a corresponding meaning.

(3) Notwithstanding sub-section (2), a foreign credit union shall not be regarded as carrying on business within the Territory for the reason only that within the Territory it -

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- (a) is or becomes a party to any action or suit or any arbitration proceeding or effects settlement of an action, suit or proceeding or of any claim or dispute;
- (b) holds meetings of its directors or shareholders or carries on other activities concerning its internal affairs;
- (c) maintains any bank account;
- (d) effects any sale through an independent contractor;
- (e) solicits or procures any offer that becomes a binding contract only if such offer is accepted outside the Territory;
- (f) creates evidence of any debt or creates a charge on real or personal property;
- (g) secures or collects any of its debts or enforces its rights in regard to any securities relating to such debts;
- (h) conducts an isolated transaction that is completed within a period of 31 days, but not being one of a number of similar transactions repeated from time to time; or
- (j) invests any of its funds or holds any property.

(4) Sub-section (1) applies to a foreign credit union which, immediately before the date of the coming into operation of this Act, had a place of business or was carrying on business within the Territory and, on that date, had a place of business or was carrying on business within the Territory, as if it established that place of business or commenced to carry on that business on that date.

97. POWER OF FOREIGN CREDIT UNIONS TO HOLD LAND

A foreign credit union registered under this Part has power to hold land in the Territory.

98. DOCUMENTS, &c., TO BE LODGED

(1) A foreign credit union which intends to establish a place of business or commence to carry on business within the Territory, shall notify the Registrar of its intention at least 30 days before the proposed establishment or proposed commencement.

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(2) Where a foreign credit union notifies the Registrar under sub-section (1), it shall seek the approval of the Registrar on the availability of its name and reserve that name.

(3) A foreign credit union shall, immediately after it establishes a place of business or commences to carry on business within the Territory, lodge with the Registrar for registration -

- (a) a certified copy of the certificate of its incorporation or registration in its place of incorporation or origin, or a document of similar effect;
- (b) a certified copy of its rules or other instrument constituting or defining its constitution;
- (c) a list of its directors containing similar particulars with respect to its directors as are by this Act required to be contained in the register of the directors of a credit union formed and registered under this Act;
- (d) where the list includes directors resident in the Territory who are members of a local board of directors, a memorandum duly executed by or on behalf of the foreign credit union stating the powers of the local directors;
- (e) a memorandum of appointment or power of attorney under the seal of the foreign credit union or executed on its behalf in such manner as to be binding on the credit union and, in either case, verified in the prescribed manner, stating the name and address of one or more persons resident in the Territory (not including a body corporate incorporated outside the Territory) authorized to accept on its behalf service of process and any notices required to be served on the credit union; and
- (f) notice of the situation of its registered office in the Territory,

and the Registrar may register the credit union under this Part by registration of the documents.

(4) Where a memorandum of appointment or power of attorney lodged with the Registrar in pursuance of sub-section (3)(e) is executed by a person on behalf of a credit union, a copy of the deed or document by which that person is authorized to execute the memorandum of appointment or power of attorney, verified by statutory declaration in the prescribed manner, shall be lodged with the Registrar and the copy shall for all purposes be regarded as an original.

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(5) A foreign credit union shall have a registered office within the Territory to which all communications and notices may be addressed.

(6) An agent, unless he ceases to be such in accordance with sub-section (8) -

(a) continues to be the agent of the credit union; and

(b) is answerable for the doing of all such acts, matters and things as are required to be done by the credit union, for any contravention of this Act unless he satisfies the Supreme Court hearing the matter that he should not be so liable.

(7) A foreign credit union or its agent may lodge with the Registrar a notice in writing stating that the agent has ceased to be the agent or will cease to be the agent on a date specified in the notice.

(8) An agent in respect of whom a notice has been lodged ceases to be the agent on the expiration of a period of 21 days after the date of lodgement of the notice or on the date of the appointment of another agent the memorandum of whose appointment has been lodged in accordance with sub-section (9) whichever is the earlier, but if the notice states a date on which he is to so cease and the date is later than the expiration of that period, he shall so cease on that date.

(9) Where an agent ceases to be the agent and a credit union is then without an agent in the Territory or the credit union continues to carry on business or has a place of business in the Territory it shall within 21 days after the agent ceases to be such, appoint an agent and lodge a memorandum of his appointment and a statutory declaration in accordance with sub-section (3) and, if not already lodged in pursuance of sub-section (4), a copy of the deed or document or power of attorney referred to in that sub-section verified in accordance with that sub-section.

(10) On the registration of a foreign credit union under this Part, or the lodging with the Registrar of particulars of a change or alteration in a matter referred to in section 110(c), (d) or (f), the Registrar shall issue a certificate in the prescribed form under his hand and seal which certificate is prima facie evidence in all courts of the particulars mentioned in the certificate.

(11) Where a foreign credit union commits an offence under section 36 and the foreign credit union becomes registered under this Part then, if the offence was committed within the period of 3 months immediately

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preceding the date of its registration under this Part, the foreign credit union shall be deemed not to have committed the offence.

99. RETURN TO BE FILED WHERE DOCUMENTS, &c., ALTERED

Where any change or alteration is made in -

- (a) the rules of a foreign credit union or other instrument lodged under section 98(3)(b) with the Registrar;
- (b) the directors of the foreign credit union;
- (c) the agent or agents of the foreign credit union or the address of any agent;
- (d) the situation of the registered office of the foreign credit union in the Territory;
- (e) the address of the registered office of the foreign credit union in its place of incorporation or origin;
- (f) the name of the foreign credit union; or
- (g) the powers of any directors resident in the Territory who are members of a local board of directors of the foreign credit union,

the foreign credit union shall immediately after the change or alteration lodge with the Registrar particulars of the change or alteration and such documents as the Regulations require.

100. BALANCE SHEETS

(1) Subject to this section, a foreign credit union shall, within the period of 4 months, or such extended period as the Registrar may allow, next after the end of each financial year, lodge with the Registrar a copy of its balance sheet made up to the end of its last financial year in such form and containing such particulars and including copies of such documents as the credit union is required to prepare by the law for the time being applicable to that credit union in the place of its incorporation or origin together with a statutory declaration verifying that the copies are true copies of the documents so required.

(2) The Registrar may, if he is of the opinion that the balance sheet and other documents referred to in sub-section (1) do not sufficiently disclose the credit union's financial position, require the credit union to lodge a balance sheet within such period, in such form and

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containing such particulars and including such documents as the Registrar by notice in writing to the credit union requires.

(3) Sub-section (2) does not authorize the Registrar to require a balance sheet to contain any particulars or include any documents that would not be required to be furnished if the credit union were a credit union formed and incorporated under this Act.

(4) Where a foreign credit union is not required by the law of the place of its incorporation or origin to prepare a balance sheet the credit union shall prepare and lodge with the Registrar a balance sheet within such period, in such form and containing such particulars and accompanied by such documents as the credit union would have been required to prepare if the credit union were a credit union formed and incorporated under this Act.

101. OBLIGATION TO STATE NAME OF FOREIGN CREDIT UNION

- (1) A foreign credit union shall -
 - (a) conspicuously exhibit outside its registered office and a place of business established by it in the Territory the name of the credit union and the place where it is formed or incorporated;
 - (b) cause its name and the place where it is formed or incorporated to be stated in legible characters in all its business letters, statements of account, invoices, notices, advertisements or other official publications of the credit union wherein the name of the credit union does not appear in legible characters; or
 - (c) if the liability of its members is limited (unless the last word of its name is the word "Limited" or the abbreviation "Ltd.") cause notice of that fact -
 - (i) to be stated in legible characters in every advertisement issued by it and in all its business letters, statements of account, invoices, notices, advertisements or other official publications of the credit union wherein the name of the credit union does not appear in legible characters in the Territory; and
 - (ii) to be exhibited outside its registered office and every place of business established by it in the Territory.

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(2) If a foreign credit union is being wound up every invoice, order for goods or business letter issued by or on behalf of the credit union, or a liquidator of the credit union or a receiver or manager of the property of the credit union, being a document on or in which the name of the credit union appears, shall have the words, "In liquidation" added after the name of the credit union where it first appears therein.

(3) If default is made in complying with subsection (2), the credit union, and every officer of the credit union who is in default, shall be guilty of an offence.

Penalty: \$1,000.

102. SERVICE OF NOTICE

A document required to be served on a foreign credit union shall be sufficiently served -

- (a) if addressed to the foreign credit union and left at or sent by post to its registered office in the Territory; or
- (b) if addressed to an agent of the credit union and left at or sent by post to his registered address.

103. CESSATION OF BUSINESS IN THE TERRITORY

(1) If a foreign credit union ceases to have a place of business or to carry on business in the Territory it shall, immediately after so ceasing, lodge with the Registrar notice of that fact, and as from the day on which the notice is so lodged its obligation to lodge any document (not being a document that ought to have been lodged before that day) with the Registrar shall cease, and the Registrar shall upon the expiration of 12 months after the lodging of the notice remove the name of that foreign credit union from the register.

(2) If a foreign credit union goes into liquidation or is dissolved in its place of incorporation or origin -

- (a) each person who immediately prior to the commencement of the liquidation proceedings was an agent shall, within one month after the commencement of the liquidation or the dissolution or within such further time as the Registrar in special circumstances allows, lodge or cause to be lodged with the Registrar notice of that fact and, when a liquidator is appointed, notice of such appointment; and

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- (b) the liquidator shall, until a liquidator for the Territory is duly appointed by the Supreme Court, have the powers and functions of a liquidator for the Territory.
- (3) A liquidator of a foreign credit union appointed for the Territory by the Supreme Court or a person exercising the powers and functions of such a liquidator -
 - (a) shall, before any distribution of the foreign credit union's assets is made, by advertisement in a newspaper circulating generally in each State or Territory of the Commonwealth where the foreign credit union had been carrying on business prior to the liquidation, if no liquidator has been appointed for that place with the consent of the Supreme Court, invite all creditors to make their claims against the foreign credit union within a reasonable time prior to the distribution;
 - (b) shall not, without obtaining an order of the Supreme Court, pay out any creditor to the exclusion of any other creditor of the foreign credit union; and
 - (c) shall, unless otherwise ordered by the Supreme Court, only recover and realize the assets of the foreign credit union in the Territory and shall pay the net amount so recovered and realized to the liquidator of that foreign credit union for the place where it was formed or incorporated.
- (4) Where a foreign credit union has been wound up, so far as its assets in the Territory are concerned and where there is no liquidator for the place of its incorporation or origin the liquidator may apply to the Supreme Court for directions as to the disposal of the net amount recovered in pursuance of sub-section (3).
- (5) On receipt of a notice from an agent that a foreign credit union has been dissolved the Registrar shall remove the name of the credit union from the register.
- (6) Where the Registrar has reasonable cause to believe that a foreign credit union has ceased to carry on business or to have a place of business in the Territory the provisions of this Act relating to the striking off the register of the names of defunct credit unions shall with such adaptations as are necessary extend and apply accordingly.

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104. RESTRICTION ON USE OF CERTAIN NAMES

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

(2) Except with the consent of the Minister, any change in the name of a foreign credit union shall not be registered if, in the opinion of the Registrar, the new name of the credit union is undesirable or is a name, or a name of a kind, that the Minister has directed the Registrar not to accept for registration, notwithstanding that particulars of the change have been lodged in accordance with section 101.

(3) No foreign credit union to which this Part applies shall use in the Territory any name other than that under which it is registered under this Part or under any other Act.

(4) If default is made in complying with subsection (3) the foreign credit union, every officer of the credit union who is in default and every agent of the credit union who knowingly and wilfully authorizes or permits the default shall be guilty of an offence.

Penalty: \$2,000. Default penalty: \$100.

105. PENALTIES

If default is made by any foreign credit union in complying with any provision of this Part, other than a provision in which a penalty or punishment is expressly mentioned, the credit union, every officer of the credit union who is in default and every agent of the credit union who knowingly and wilfully authorizes or permits the default shall be guilty of an offence.

Penalty: \$2,000. Default penalty: \$100.

106. WINDING UP OF FOREIGN CREDIT UNION

The provisions of Division 5 of Part X of the *Companies Act* apply, with the necessary changes, to the winding up of a foreign credit union registered under this Part and such a credit union may be wound up accordingly.

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PART VIII - OFFICIAL ADMINISTRATION OF A CREDIT UNION

107. SUPERVISION OF CREDIT UNION

- (1) Where -
 - (a) a credit union is unable to pay its debts as and when they fall due;
 - (b) the Registrar is satisfied -
 - (i) that a credit union is financially unsound;
 - (ii) that the affairs of a credit union are being conducted in an improper or financially unsound manner;
 - (iii) that a credit union is trading at a loss;
 - (iv) that a credit union has failed to maintain adequate reserves in accordance with this Act; or
 - (v) that a credit union or an officer of the credit union has committed any other serious irregularity that indicates the desirability of supervision;
 - (c) a credit union has failed to lodge with the Registrar a document required to be filed under this Act; or
 - (d) a credit union has requested the Registrar to declare it to be subject to supervision by an administrator,

the Registrar may, by giving notice in writing to the credit union, declare the credit union to be subject to supervision by an administrator and appoint a person to be the administrator of the credit union.

(2) Where the Registrar appoints a person to be an administrator of a credit union under sub-section (1), he shall appoint a person who is -

- (a) a registered company auditor; or
- (b) a registered liquidator,

within the meaning of the *Companies Act*.

108. DURATION OF SUPERVISION

Where the Registrar declares a credit union to be subject to supervision, the credit union remains subject to supervision by the administrator until -

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- (a) the credit union applies, in writing, to the Registrar to be released from supervision, stating reasons in support of its application, and the Registrar approves the application;
- (b) the credit union is wound up; or
- (c) the Registrar releases the credit union from his supervision.

109. APPEAL

- (1) A credit union may -
 - (a) within 15 days after it is given notice of the declaration of the Registrar that it is subject to supervision; or
 - (b) within 15 days after the Registrar has refused an application by the credit union to be released from its supervision and has given notice to the credit union,

appeal against the determination or refusal of the Registrar to a magistrate.

- (2) The determination of the Registrar shall not be stayed by the appeal.
- (3) A magistrate may determine an appeal under this section in such manner as he considers just and may confirm, vary or revoke the decision of the Registrar.

110. SUPERVISORY POWERS

Where a credit union is subject to the supervision of an administrator, the administrator may -

- (a) exercise the powers conferred on the Registrar under this Act such as the Registrar confers on the administrator with respect to the credit union;
- (b) supervise the affairs of the credit union and make inquiries of its officers, members and employees;
- (c) order an audit of the affairs of the credit union by an auditor approved by the Registrar at the expense of the credit union;
- (d) require the credit union to correct any practices that in the opinion of the administrator are undesirable or unsound;

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- (e) prohibit or restrict the raising or lending of funds by the credit union or the exercise of any other powers of the credit union; or
- (f) stipulate principles in accordance with which the affairs of the credit union are to be conducted.

111. APPOINTMENT OF ADMINISTRATOR

(1) Where the Registrar appoints an administrator to conduct the affairs of a credit union, the administrator -

- (a) has all the powers of the board of the credit union;
- (b) may order an officer or employee of the credit union to leave, and remain away from, the offices of the credit union; and
- (c) shall report regularly to the Registrar and the board upon his administration.

(2) Upon the appointment of an administrator of a credit union, unless otherwise determined by the Registrar, directors of the credit union cease to hold office.

(3) Before terminating the appointment of an administrator of a credit union, the Registrar shall -

- (a) ensure that directors of the credit union have been elected in accordance with the rules of the credit union at a meeting convened by the administrator in accordance with those rules; or
- (b) appoint directors of the credit union.

(4) Directors elected or appointed under subsection (3) -

- (a) take office upon revocation of the appointment of the administrator; and
- (b) in the case of appointed directors, hold office until the annual general meeting of the credit union that next succeeds revocation of the appointment.

(5) An administrator appointed by the Registrar shall, upon the termination of his appointment, fully account to the Registrar for his administration of the credit union.

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(6) Unless the Registrar otherwise orders within 30 days after the accounting, the administrator is, upon completion of the accounting, released from all claims by -

- (a) the credit union or a member; or
- (b) a person claiming under the credit union or a member,

other than claims arising out of fraud, dishonesty or his wilful failure to comply with the provisions of this Act.

PART IX - WINDING UP

112. WINDING UP

(1) A credit union may be wound up voluntarily or by the Supreme Court upon a certificate of the Registrar.

(2) Part X of the *Companies Act* applies with the necessary changes to the winding up of a credit union voluntarily or by the court, with such exclusions, additions or modifications as may be prescribed.

(3) In the case of a winding up upon a certificate of the Registrar, a credit union may be wound up if the Registrar certifies -

- (a) that the number of members of the credit union is reduced to less than 25 or the minimum number approved under section 24 (but this paragraph does not apply to a body whose name appears in Schedule 1);
- (b) that the credit union has not commenced business within one year of registration or has suspended business for a period of more than 3 months;
- (c) that the registration of the credit union has been obtained by mistake or fraud;
- (d) that the credit union has, after notice by the Registrar of any breach of or non-compliance with this Act or the rules of the credit union, failed, within the time referred to in the notice, to remedy the breach;
- (e) that there are, and have been for a period of one month immediately before the date of the Registrar's certificate, insufficient directors of the credit union to constitute a quorum as provided by the rules of the credit union; or

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- (f) that an inquiry pursuant to the provisions of this Act into the affairs of the credit union or the working and financial condition of the credit union discloses that in the interests of members or creditors of the credit union, the credit union should be wound up.

(4) Where the Registrar grants a certificate under this section he may appoint a person to be the liquidator of the credit union, and the liquidator shall give such security as may be prescribed and be entitled to receive such fees as shall be fixed by the Registrar.

(5) The Registrar shall, within 21 days after appointing a liquidator of a credit union, give notice of that appointment by notice in the *Gazette*.

(6) A winding up on the certificate of the Registrar -

(a) shall be deemed to commence on the day that the certificate is given; and

(b) shall be carried out in the prescribed manner.

113. VACANCY IN OFFICE OF LIQUIDATOR

Where a credit union is being wound up voluntarily and a vacancy occurs in the office of liquidator that, in the opinion of the Registrar, is unlikely to be filled in the manner provided by the *Companies Act*, the Registrar may appoint a person to be liquidator.

PART X - MISCELLANEOUS

114. EVIDENTIARY PROVISIONS

(1) A document purporting to be a certificate of incorporation of a credit union issued by the Registrar under this Act shall be accepted in legal proceedings as proof of the incorporation and registration of the credit union, in the absence of proof to the contrary.

(2) A document purporting to be a copy of the rules of a credit union and to be certified by the Registrar as a true copy of the rules of that credit union shall be accepted in legal proceedings as a true copy of those rules, in the absence of proof to the contrary.

(3) A document purporting to be a copy of, or extract from, a record of a credit union, and to be certified to be a true copy of, or extract from, such a record by the secretary of the credit union shall be accepted in any legal proceedings to be a true copy of, or extract from, that record, in the absence of proof to the contrary.

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(4) A document purporting to bear the common seal of a credit union shall be accepted in legal proceedings as a document that bears the common seal, duly affixed, of that credit union, in the absence of proof to the contrary.

115. CERTAIN ACTS PROHIBITED IN RELATION TO LOANS

(1) If any person -

- (a) seeks, claims or receives any commission, fee or reward (whether pecuniary or otherwise) from any person as a consideration or charge for procuring or obtaining, or offering or attempting to procure or obtain, for any person a loan from any credit union; or
- (b) advertises or otherwise holds himself out as being able to arrange or obtain finance for any person or persons through or from any credit union,

he shall be guilty of an offence.

Penalty: \$1,000 or imprisonment for 6 months.

(2) If any officer or employee of a credit union accepts any commission, fee or reward (whether pecuniary or otherwise) from any person for or in connection with a transaction with the credit union, he shall be guilty of an offence.

Penalty: \$1,000 or imprisonment for 6 months.

116. DEFAULT BY CREDIT UNION

(1) Subject to this Act, if a credit union or an officer contravenes or fails to comply with -

- (a) any provision of this Act that does not provide a penalty for such contravention or failure to comply; or
- (b) any rule of the credit union,

the credit union or officer shall be guilty of an offence.

Penalty: \$500.

(2) If a credit union refuses or neglects to furnish any return or information lawfully required, or refuses to comply with a direction given under this Act by the Registrar it shall be guilty of an offence.

Penalty: \$1,000.

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117. DEFAULT BY CREDIT UNION EXTENDED TO OFFICERS

Where a credit union is guilty of an offence against this Act, every officer of that credit union shall be guilty of an offence unless he proves that the offence was committed without his knowledge or that he used all due diligence to prevent the commission of the offence.

118. PROCEEDINGS

Proceedings for an offence against this Act shall be disposed of summarily.

119. DEFAULT PENALTIES

(1) Where in any section or part of a section of this Act there appears the expression "Default penalty", that expression signifies that any person who is convicted of an offence against this Act in relation to that section or part shall be guilty of a further offence against this Act if the offence continues after he is so convicted and liable to an additional penalty for each day during which the offence so continues of not more than the amount expressed in the section or part as the amount of the default penalty.

(2) Where an offence is committed by a person by reason of his failure to comply with any provisions of this Act by or under which he is required or directed to do anything within a particular period, that offence, for the purposes of sub-section (1), shall be deemed to continue so long as the thing so required or directed to be done by him remains undone, notwithstanding that the period has elapsed.

120. FALSE INFORMATION

(1) A person who, in or in relation to an application or demand for money made to or on a credit union -

- (a) gives information or makes a statement, knowing it to be false, to the credit union or a servant or an agent of the credit union; or
- (b) proffers information or a statement provided by another person, knowing it to be false, to a credit union or a servant or an agent of a credit union,

is guilty of an offence.

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

(2) Where a person has been convicted of an offence against sub-section (1), the credit union from which money has been obtained by the person in relation to the

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commission of the offence may, in respect of a mortgage or other security given to it by the person to secure the repayment of the money to the credit union, exercise all such rights under the mortgage or other security as it could exercise if there were a breach of a covenant of the mortgage or a term of any contract by which the security was given, as the case may be, whether the mortgage or other security was executed by the person alone or by the person and another person or persons.

121. FALSE STATEMENTS

A credit union which or person who makes or causes to be made any false entry or statement in a document which -

- (a) is required by or under this Act to be made or kept or to be sent to the Registrar; or
- (b) is required to be made or kept pursuant to the rules of the credit union,

is guilty of an offence.

Penalty: \$1,000.

122. SAVING

If a credit union contravenes or fails to comply with this Act or the rules, the rights and liabilities of the credit union, or any other person, under this Act, or any other Act or law, shall not be, except where the contrary is expressly provided by this Act or those rules, affected or prejudiced thereby.

123. ADVERTISEMENT BY CREDIT UNIONS

(1) A person shall not, by advertisement in any form, seek members, capital or deposits in or for a proposed credit union unless the contents of the advertisement have first been approved in writing by the Registrar.

Penalty: \$1,000.

(2) A credit union registered after the commencement of this Act shall not commence to advertise until it has first obtained the written approval of the Registrar.

Penalty: \$1,000.

(3) A credit union shall, upon receiving a direction in writing to that effect by the Registrar, discontinue the publication or issue of any advertisement which, in the opinion of the Registrar -

- (a) is not a correct statement of fact; or

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(b) is not in the public interest.

(4) Any person whose name appears as a proposed officer of a credit union in an advertisement issued in contravention of sub-section (1) shall be guilty of an offence, unless he proves that the advertisement was issued without his knowledge or that he used all due diligence to prevent the issue of the advertisement.

124. SPECIAL MEETING AND INQUIRY

(1) The Registrar shall, on the application of a majority of the board of a credit union or of not less than one-third of the members or of his own volition but with the approval of the Minister -

(a) call a special meeting of the credit union; or

(b) hold an inquiry into the affairs including the working and financial conditions of the credit union.

(2) An application under sub-section (1) shall be supported by such evidence as the Registrar directs for the purpose of showing that the applicants have good reason for requiring the meeting or inquiry and that the application is made in good faith.

(3) Notice of the application made under sub-section (2) shall be given to the credit union as the Registrar directs.

(4) The applicants shall give such security for the expenses of the meeting or inquiry requested under sub-section (1) as the Registrar directs.

(5) The Registrar may direct at what time and place a meeting or inquiry is to be held and what matters are to be discussed and determined and shall give such notice to members of the holding of the meeting or inquiry as he thinks fit, notwithstanding a provision in the rules as to the giving of such notice.

(6) A meeting held under this section shall have all the powers of a meeting called in accordance with the rules and shall have power to appoint its own chairman, notwithstanding any rule to the contrary.

(7) The Registrar or a person nominated by him may attend and address a meeting held under this section.

(8) Expenses of and incidental to a meeting or inquiry shall be defrayed by the applicants or out of the funds of the credit union or by an officer or member, or former officer or former member, in such proportion as the Registrar directs and may be recovered in an action for debt in a court of competent jurisdiction.

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(9) Where an inquiry is held under this section the Registrar may exercise his powers of inspection under section 125.

(10) The Registrar may direct -

(a) an officer; or

(b) such other person as he thinks fit,

to attend a meeting or inquiry.

125. INSPECTIONS

(1) For the purposes of ascertaining whether a credit union or a person who is or has been an officer or employee of a credit union is complying or has complied with the provisions of this Act and the rules the Registrar may require the production of, and inspect and make copies of, any bankers' books in so far as they relate to the business of the credit union and any books of the credit union and any books of a person in so far as those books record affairs of the credit union.

(2) The Registrar may require a bank in which funds have been deposited by a credit union to furnish him with particulars of the amount of those funds and of any dealing with or disposition of those funds by the credit union.

(3) A person shall not -

(a) hinder the Registrar or any Deputy Registrar in carrying out an inspection under this section; or

(b) refuse or fail to comply with a requirement under this section.

Penalty: \$2,000.

126. ANNUAL REPORT

(1) The Registrar shall furnish to the Minister, not later than 31 December in each year, a report on his operations during the immediately preceding financial year.

(2) The Minister shall cause a copy of each report furnished to him under this section to be tabled in the Legislative Assembly within 6 sitting days of the Legislative Assembly after the report has been so furnished.

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127. REGULATIONS

(1) The Administrator may make regulations, not inconsistent with this Act, prescribing all matters required or permitted by this Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Without limiting the generality of subsection (1), the Regulations may -

- (a) prescribe model rules for credit unions;
- (b) prescribe forms for the purposes of this Act;
- (c) prescribe, and provide for the recovery of, fees in respect of applications under this Act;
- (d) require credit unions, or credit unions of a prescribed class, to keep their offices open to the public throughout prescribed periods;
- (e) make any provision in relation to the administration of a credit union by an administrator appointed under this Act, or the winding up of a credit union;
- (f) require credit unions to furnish the Registrar with prescribed returns; and
- (g) prescribe penalties for breach of, or non-compliance with, any Regulations, not exceeding \$2,000.

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SCHEDULE 1

Sections 4 and 112(3)(a)

Nhulunbuy Co-operative Credit Society Limited
Public Service Co-operative Credit Society (N.T.) Limited

SCHEDULE 2

Section 31

MATTERS TO BE INCLUDED IN RULES

- (a) The name of the credit union and the location of its first registered office.
- (b) The objects of the credit union.
- (c) The powers of the credit union, in particular and without affecting the generality of this clause -
 - (i) the powers to borrow money;
 - (ii) the powers to raise money on deposit and the manner in which the board may regulate the withdrawal of such deposits,and any limitation on any of the powers of the credit union.
- (d) The manner in which investments may be made.
- (e) The manner in which the funds of the credit union are to be managed and in particular the mode of drawing and signing drafts, bills of exchange, cheques, promissory notes and other negotiable instruments for and on behalf of the credit union.
- (f) The manner in which any gain or surplus which may result from the transactions of the credit union is to be distributed among members.
- (g) The number of directors, the qualifications of directors and the manner of electing, appointing, remunerating and removing directors and filling a vacancy.

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- (h) The powers and duties of the board, the requisite notices of meetings and the quorum for meetings.
 - (j) The intervals between general meetings of the credit union, the manner of calling general and special meetings, the requisite notices of meetings, the method of giving such notices and the quorum for meetings of the credit union.
 - (k) The procedures for the conduct of meetings of the credit union and all matters relating to voting at meetings, including the voting rights of members, the right of the chairman to a casting vote, the manner of voting and the majority necessary for carrying resolutions.
 - (m) The frequency at which the accounts of the credit union are to be audited.
 - (n) The manner of appointing, remunerating and removing auditors, the powers and duties of auditors and in particular their powers and duties with respect to the inspection of securities belonging to the credit union.
 - (p) The manner of altering or rescinding the rules and of making additional rules.
 - (q) The device, custody and use of the seal of the credit union.
 - (r) The manner in which the credit union may be wound up.
 - (s) The bond of association of members eligible to borrow from the credit union.
 - (t) The minimum shareholding in respect of membership, or as qualifying for office as a director, of the credit union.
 - (u) The circumstances in which the whole of the principal and interest, and any other amount that may lawfully be added thereto, in respect of a loan by the credit union to a member shall forthwith become due and payable.
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