

NORTHERN TERRITORY OF AUSTRALIA
CREDIT UNIONS (AMALGAMATION AND TRANSFER
OF ENGAGEMENTS) REGULATIONS

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NORTHERN TERRITORY OF AUSTRALIA

Regulations 1986, No. ⁴²*

Regulations under the *Credit Unions Act*

I, ERIC EUGENE JOHNSTON, the Administrator of the Northern Territory of Australia, acting with the advice of the Executive Council, hereby make the following Regulations under the *Credit Unions Act*.

Dated this 31st day of October, 1986.

E. E. JOHNSTON

Administrator

By His Honour's Command

T. HARRIS

Minister for Health acting for and on behalf of the
Treasurer

CREDIT UNIONS (AMALGAMATION AND TRANSFER OF
ENGAGEMENTS) REGULATIONS

1. CITATION

These Regulations may be cited as the Credit Unions (Amalgamation and Transfer of Engagements) Regulations.

2. COMMENCEMENT

These Regulations shall come into operation at the expiration of 14 days from the date on which their making is notified in the *Gazette*.

* Notified in the *Northern Territory Government Gazette* on 12 NOV, 1986.

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3. DEFINITIONS

"Register Book" means the Register Book referred to under Part V of the *Real Property Act*;

"Registrar-General" has the same meaning as in the *Registration Act*.

4. AMALGAMATION

(1) Subject to this regulation -

(a) any 2 or more credit unions may apply to the Registrar to be registered as an amalgamated credit union with or without any winding up or any division of the funds of the credit unions or any of them; and

(b) the power of a credit union to amalgamate shall be deemed incidental to the objects of that credit union in accordance with section 14 of the Act.

(2) An application under subregulation (1) shall not be made -

(a) unless the amalgamation and its terms are approved by a special resolution of each of the credit unions; or

(b) if the amalgamation is disapproved in writing by the holders of not less than one-third of the whole of shares of an amalgamating credit union, and, where the statement referred to in regulation 6(1) has been sent in pursuance of the requirements of that regulation, the disapprovals are received by the credit union in question before the expiration of a period of one month commencing on the date on which the statement is last sent to a member or members of the credit union in question pursuant to regulation 6(1), unless the amalgamation is confirmed pursuant to regulation 6(5).

(3) An application shall be in accordance with Form 1 and shall be accompanied by -

(a) 2 copies of the proposed rules of the amalgamated credit union;

(b) a certified copy of the special resolution passed by each of the credit unions approving of the terms of the amalgamation; and

(c) a statutory declaration by the secretary of each of the amalgamating credit unions in accordance with Form 2.

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(4) If the Registrar is satisfied that the credit unions applying under subregulation (1) for registration have complied with the provisions of the Act and these Regulations in relation to the application and that the proposed rules of the amalgamated credit union are not contrary to the Act, are adequate for the proper conduct and operation of the amalgamated credit union and are such as may reasonably be approved by him, the Registrar shall, upon the surrender to him of the certificates of incorporation of the amalgamating credit unions or production of such evidence as to the loss of any of them as he may require -

- (a) register the amalgamated credit union, and its rules;
- (b) issue a certificate in accordance with Form 3 that the credit union is incorporated as an amalgamated credit union under the Act; and
- (c) notify the issue of the certificate in the Gazette.

(5) The Registrar may, following the issue of a certificate under subregulation (4), remove from the register the name of any of the credit unions that have so amalgamated but before so doing the Registrar shall give notice of his intention so to do to the amalgamated credit union.

(6) An amalgamation of credit unions shall not prejudice any right of a creditor of any credit union which is a party to the amalgamation.

(7) Upon the issue of a certificate pursuant to subregulation (4)(b) the property of each credit union that is a party to the amalgamation shall, on and from the date of amalgamation, without any conveyance, transfer or assignment, vest in the amalgamated credit union.

(8) For the purposes of this regulation, the property of the credit unions that are parties to an amalgamation shall include all estates and interests in property, whether real or personal, vested or contingent.

(9) Upon production to the Registrar-General of a certificate of the Registrar, a Certificate of Title or other instrument of title, and such other documents as are required by the Registrar-General, the Registrar-General shall make such entries or notations in the Register Book and do such other things as are necessary to evidence the vesting of an estate or interest in land in the amalgamated credit union.

(10) Any property that is vested in or transferred to an amalgamated credit union under this regulation shall be subject to any debt, liability or obligation specially charged on or affecting it immediately before the vesting or transfer.

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(11) All debts and liabilities, whether certain or contingent, and whether then existing or capable of arising at a future time, to or with which any credit union that is a party to an amalgamation is, at the date of the certificate of incorporation of the amalgamated credit union, liable or charged, shall become and be the debts and liabilities of the amalgamated credit union.

5. TRANSFER OF ENGAGEMENTS

(1) Subject to this regulation -

- (a) a credit union may by special resolution transfer its engagements to another credit union to fulfil those engagements; and
- (b) the power of a credit union to transfer such engagements shall be deemed incidental to the objects of that credit union in accordance with section 14 of the Act.

(2) For the purposes of subregulation (1), a credit union may -

- (a) by special resolution; or
- (b) with the consent of the Registrar, by resolution of a general meeting or of the board,

undertake to fulfil the engagements of another credit union.

(3) A transfer of engagements between a credit union and another credit union under this regulation shall not have effect -

- (a) unless a special resolution of the transferor credit union has been registered; or
- (b) where the holders of not less than one-third of the whole number of shares of the transferee credit union or the transferor credit union have disapproved in writing of the transfer, and, where the statement referred to in regulation 6(1) has been sent in pursuance of the requirements of that regulation the disapprovals were received by the transferee credit union or transferor credit union before the expiration of a period of one month commencing on the date on which the statement was last sent to a member or members of the credit union in question pursuant to regulation 6(1), unless the transfer has been confirmed pursuant to regulation 6(5).

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(4) The Registrar, before registering a special resolution of a transferor credit union, may require such evidence as he thinks necessary to ensure that -

- (a) the transferee credit union has by means authorised by this regulation undertaken to fulfil the engagements of the transferor credit union;
- (b) the statement referred to in regulation 6(1) has (unless exemption has been granted by the Registrar pursuant to that subregulation) been sent in accordance with that regulation; and
- (c) the transfer has not been disapproved as specified in subregulation (3) (unless the Registrar has, pursuant to regulation 6(5), confirmed the transfer).

(5) Within one month after the passing of a resolution under subregulation (2)(b), the secretary of the transferee credit union shall, by declaration in accordance with Form 4, notify the Registrar that the resolution has been passed.

Penalty: \$500.

(6) The provisions of regulation 4(6) to (11) inclusive apply, with the necessary changes, to a transfer of engagements where a credit union transfers the whole of its engagements to another credit union, and for the purposes of that application a reference to -

- (a) amalgamation shall be construed as a reference to transfer of engagements;
- (b) property shall be construed as a reference to the engagements transferred;
- (c) the amalgamated credit union shall be construed as a reference to the credit union to which the engagements are transferred;
- (d) a credit union that is a party to the amalgamation shall be construed as a reference to the credit union transferring its engagements; and
- (e) the issue of the certificate of incorporation shall be construed as a reference to the registration of the special resolution of the transferor credit union referred to in subregulation (1).

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(7) The Registrar may, following the registration of a special resolution of a transferor credit union for the transfer of the whole of its engagements, remove from the register the name of that credit union but before so doing the Registrar shall give notice of his intention so to do to the transferee credit union.

6. SUPPLEMENTARY PROVISIONS AS TO AMALGAMATION OR TRANSFER OF ENGAGEMENTS

(1) A credit union -

- (a) desiring to amalgamate with one or more other credit unions;
- (b) desiring to transfer its engagements to another credit union; or
- (c) desiring to undertake to fulfil the engagements of another credit union,

shall, unless exempted in writing by the Registrar, send to each of its members a statement the contents of which have been approved by the Registrar concerning -

- (d) in respect of each of the parties to the proposed amalgamation or transfer of engagements -
 - (i) the financial position of the credit union;
 - (ii) any interest that the directors of the credit union may have in the amalgamation or transfer of engagements;
 - (iii) the compensation or other consideration proposed to be paid to the directors or other officers of the credit union;
 - (iv) the payments to be made to members of the credit union in consideration of the amalgamation or transfer of engagements; and
 - (v) such other matters as the Registrar may direct; and
- (e) in respect of the credit union sending the statement -
 - (i) the right of its members to disapprove of the amalgamation or transfer of engagements and the effect of disapproval by holders of not less than one-third of the whole number of shares of the credit union where such disapprovals are received before the

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expiration of a period of one month commencing on the date on which the statement in question is last sent to a member or members pursuant to this regulation; and

- (ii) such other matters as the Registrar may direct.

(2) A statement under subregulation (1) shall be sent so that it will in due course of post reach each member not later than the time at which he would receive notice of the meeting called to pass the special resolution referred to in regulation 4(2) or regulation 5(1) or (2), as the case may require.

(3) A credit union may apply to the Registrar to confirm an amalgamation or transfer of engagements notwithstanding that the amalgamation or transfer of engagements has been disapproved in writing by the holders of not less than one-third of the whole number of shares of that credit union and, where the statement referred to in subregulation (1) has been sent in pursuance of this regulation, the disapprovals have been received before the expiration of the period specified in paragraph (e)(i) of that subregulation.

(4) Where an application is made under subregulation (3), the credit union shall give notice of the application in such manner, at such times and in such newspapers as the Registrar may direct.

(5) The Registrar shall consider the application and, after hearing the credit union, and any other person he considers entitled to be heard, either confirm or refuse the amalgamation or transfer of engagements.

(6) Subject to any applicable provisions expressed to apply to the transfer of the whole of the engagements of a credit union, the provisions of this regulation and regulation 5 apply to and in relation to a transfer of all its engagements and to a transfer of any of them.

7. TRANSFER BY DIRECTION UNDER SECTION 43

(1) The Registrar shall not give a direction under section 43(1) of the Act unless he certifies as to a ground or matter specified in section 112(3) (other than paragraph (c) that subsection) of the Act which, for the purposes of this regulation, is to be construed as if -

- (a) the words "The Registrar shall not give a direction under section 43(1) of the Act unless" were substituted for "In the case of a winding up upon a certificate of the Registrar, a credit union may be wound up if"; and

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- (b) in paragraph (f) the words "the credit union should transfer its engagements" were substituted for "the credit union should be wound up",

(2) The Registrar shall not certify under subregulation (1) unless the ground or matter to be certified has been proved to his satisfaction.

(3) Where a credit union fails to comply with a direction given under of section 43(1)(a) of the Act, the Registrar may notify the credit union that he has elected to treat the certificate given under subregulation (1) in relation to the credit union as -

- (a) a certificate to the satisfaction of one of the matters contained in section 107(1)(b) of the Act; or
- (b) a certificate given under section 112(3) of the Act.

(4) Where the Registrar notifies a credit union as provided by subregulation (3), the Act applies to and in relation to the credit union as from the time when the notice is given as if the certificate that, pursuant to subregulation (3)(a) or (b) was specified in the notice, has been duly given by the Registrar.

(5) Regulations 5 and 6 do not apply to a transfer of engagements under section 43 of the Act.

(6) Regulation 4(6) to (11) inclusive apply, with the necessary changes, to a transfer of engagements under section 43 of the Act where a credit union transfers the whole of its engagements to another credit union, and for the purposes of that application a reference to -

- (a) amalgamation shall be construed as a reference to transfer of engagements;
- (b) property shall be construed as a reference to the engagements transferred;
- (c) the amalgamated credit union shall be construed as a reference to the credit union to which the engagements are transferred;
- (d) a credit union that is a party to the amalgamation shall be construed as a reference to the credit union transferring its engagements; and
- (e) the issue of the certificate of incorporation shall be construed as a reference to the notification of the transfer of engagements in the Gazette in pursuance of subregulation (7).

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(7) A transfer of engagements under section 43 of the Act takes effect on a day notified by the Registrar in the *Gazette*.

(8) On the transfer of the whole of its engagements under section 43 of the Act, the Registrar may remove from the register the name of the transferor credit union but before so doing the Registrar shall give notice of his intention so to do to the transferee credit union.

(9) Subject to any applicable provisions expressed to apply to the transfer of the whole of the engagements of a credit union the provisions of this regulation apply to and in relation to a transfer of all its engagements and to a transfer of any of them.

8. REPRESENTATIONS TO ADVISORY COMMITTEE

Where a direction is given to a credit union under section 43 of the Act the credit union may, not later than 14 days after the direction is given, make representations to the Advisory Committee in relation to the direction and, where such representations are made, the Advisory Committee shall report on them to the Minister.

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SCHEDULE

FORM 1

Regulation 4(3)

Credit Unions Act

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APPLICATION TO REGISTER AN AMALGAMATED CREDIT UNION
(To be submitted in duplicate)

Name of Credit Union

We, the Chairman of Directors and Secretaries of the
under-mentioned credit unions apply for registration of
the above credit union which has been formed by the
amalgamation of such credit unions.

- (1)
- (2)
- (3)

Attached are -

- (a) a certified copy of the special resolution
passed by each of the credit unions approving
of the terms of the amalgamation;
- (b) 2 copies of the proposed rules of the amal-
gamated credit union signed by its Chairman
and Secretary;
- (c) a statutory declaration by the Secretary of
each of the amalgamating credit unions in
accordance with Form 2; and
- (d) the certificates of incorporation of the
amalgamating credit unions.

The registered office of the credit union is
.....

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Dated at this day
of, 19....

Chairman	Secretary
Credit Union	
Chairman	Secretary
Credit Union	
Chairman	Secretary
Credit Union	

The applicant credit union is hereby registered this
..... day of, 19....

.....
Registrar of Credit Unions

FORM 2

Regulation 4(3)

Credit Unions Act

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DECLARATION TO ACCOMPANY AN APPLICATION TO REGISTER
AN AMALGAMATED CREDIT UNION

I, of
do solemnly and sincerely declare:

1. The, of which I am the
(name of credit union)
Secretary, on the day of, 19...,
passed a special resolution approving of the terms
of the amalgamation of the credit union with
the
2. The provisions of the Act, the Regulations and the
rules of the credit union that are relevant to the
application for the registration of an amalgamated
credit union have been duly complied with.

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AND I make this solemn declaration by virtue of the
Oaths Act conscientiously believing the statements
contained in this declaration to be true in every
particular.

Declared at)
this) Secretary
day of, 19....)
.....
Credit Union

Before me
(Justice of the Peace or other
qualified person)

NOTE: A person wilfully making a false statement in a
statutory declaration is liable to a penalty of
\$1,000 or imprisonment for 6 months, or both.

FORM 3

Regulation 4(4)

Credit Unions Act

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CERTIFICATE OF INCORPORATION OF AMALGAMATED
CREDIT UNION

I certify that formed by the
amalgamation of and
is on and from the day of, 19....
incorporated under the *Credit Unions Act*.

Given under my hand and seal at this
..... day of, 19....

.....
Registrar of Credit Unions

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FORM 4

Regulation 5(5)

Credit Unions Act

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DECLARATION BY SECRETARY OF CREDIT UNION ACCEPTING
TRANSFER OF ENGAGEMENTS

Name of Credit Union

I,
of
Secretary of the abovenamed Credit Union do solemnly and
sincerely declare that:

- * By resolution of a general meeting
- * By resolution of the board

passed on the day of, 19....,
this Credit Union has undertaken to fulfil engagements of
the Credit Union known as
.....
as set out hereunder:

±
.....

And I make this solemn declaration by virtue of the Oaths
Act conscientiously believing the statements contained in
this declaration to be true in every particular.

Declared at
this Secretary
day of, 19....

.....
Credit Union

Before me
(Justice of the Peace or other
qualified person)

- * Strike out whichever is not applicable.
- ± If the whole of the engagements are to be
accepted insert "Whole of engagements".

NOTE: A person wilfully making a false statement in a
statutory declaration is liable to a penalty of
\$1,000 or imprisonment for 6 months, or both.