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OBJECTS AND REASONS

This Bill would amend the *Co-operative Societies Act, Cap.378A* to

- (a) permit minors to become members of a credit union and to restrict individuals who are non-members from making deposits;
- (b) make different provision in respect of the capitalization level of credit unions;
- (c) make different provision in respect of the management and investment of the funds of societies;
- (d) give the Registrar power to make guidelines to ensure the safety and soundness of the funds of societies;
- (e) make provision for an annual budget to be prepared by the directors of credit unions;
- (f) clarify the duties and liabilities of directors and officers of credit unions;
- (g) to permit societies to pay returns other than dividends on shares for the purpose of treating shares as liabilities as required by the new International Accounting Standard (IAS 32) since shares are withdrawable; and
- (h) generally, to clarify the law and make better provision for the regulation of credit unions.

*Arrangement of Sections**Section*

1. Short title
2. Amendment of section 2 of Cap. 378A.
3. Amendment of section 4 of Cap. 378A.
4. Amendment of section 10 of Cap. 378A.
5. Repeal and replacement of section 10A of Cap. 378A.
6. Amendment of section 30 of Cap. 378A.
7. Amendment of section 34 of Cap. 378A.
8. Insertion of new section 34A into Cap. 378A.
9. Repeal and replacement of section 36 of Cap. 378A.
10. Repeal and replacement of section 38 of Cap. 378A.
11. Amendment of section 39 of Cap. 378A.
12. Amendment of section 50 of Cap. 378A.
13. Repeal and replacement of section 52 of Cap. 378A.
14. Repeal and replacement of section 57 of Cap. 378A.
15. Amendment of section 58 of Cap. 378A.
16. Repeal and replacement of section 61 of Cap. 378A.
17. Amendment of section 68 of Cap. 378A.
18. Amendment of section 71 of Cap. 378A.
19. Amendment of section 72 of Cap. 378A.

Section

20. Amendment of section 82 of Cap. 378A.
21. Insertion of new section 82A into Cap. 378A.
22. Amendment of section 93 of Cap. 378A.
23. Repeal of sections 94 and 95 of Cap. 378A.
24. Amendment of section 110 of Cap. 378A.
25. Insertion of new section 111A into Cap. 378A.
26. Amendment of section 112 of Cap. 378A.
27. Amendment of section 117 of Cap. 378A.
28. Amendment of section 145 of Cap. 378A.
29. Amendment of section 146 of Cap. 378A.
30. Amendment of section 150 of Cap. 378A.
31. Amendment of section 152 of Cap. 378A.
32. Amendment of section 163 of Cap. 378A.
33. Amendment of section 164A of Cap. 378A.
34. Amendment of section 172 of Cap. 378A.
35. Insertion of sections 192A, 192B, 192C and 192D into Cap. 378A.
36. Amendment of section 193 of Cap. 378A.
37. Amendment of section 195 of Cap. 378A.
38. Insertion of new section 196A into Cap. 378A.

Section

39. Amendment of section 197 of Cap. 378A.
40. Repeal and replacement of section 203 of Cap. 378A.
41. Repeal and replacement of section 206 of Cap. 378A.
42. Amendment of section 208 of Cap. 378A.
43. Amendment of section 228 of Cap. 378A.
44. Amendment of section 250 of Cap. 378A.
45. Insertion of new section 250A into Cap. 378A.
46. Repeal and replacement of section 253 of Cap. 378A.
47. Insertion of new section 263A into Cap. 378A.
48. Repeal of section 264 and 265.
49. Amendment of section 266 of Cap. 378A.
50. Amendment of section 269 of Cap. 378A.
51. Insertion of Schedule into Cap. 378A.

SCHEDULE

BARBADOS

A Bill entitled

An Act to amend the *Co-operative Societies Act*.

ENACTED by the Parliament of Barbados as follows:

1. This Act may be cited as the *Co-operative Societies (Amendment) Act, 2007*. Short title.

2. Section 2 of the *Co-operative Societies Act*, in this Act referred to as the principal Act, is amended by Amendment of section 2 of Cap. 378A.

- (a) deleting the words "in proportion to their patronage with the society;" appearing in the definition of "bonus" and substituting the words "in proportion to the business done by each member with the society;"; and

(b) inserting the following definitions in the appropriate alphabetical order:

" "Caribbean Community" means the Caribbean Community established by the Treaty;

"qualifying shares" means the minimum number of shares required for membership in a registered society, such minimum to be prescribed by bye-laws in accordance with section 10(1)(a)(v);

"Treaty" means the Revised Treaty of Chaguaramas Establishing the Caribbean Community, including the CARICOM Single Market and Economy,

(a) that was signed in the Bahamas on the 5th day of July, 2001; and

(b) to which Barbados is a party

as amended by the Protocol signed at Paramaribo, Suriname on 17th February, 2005."

Amendment
of section 4
of
Cap. 378A.

3. Section 4 of the principal Act is amended in paragraph (f)(iv) by deleting the words "in proportion to their patronage with the society," and substituting the words "in proportion to the business done by each member with the society;"

4. Section 10 of the principal Act is amended by deleting subsection (1)(a)(v) and substituting the following:

Amendment
of section 10
of
Cap. 378A.

"(v) the qualifying shares that must be held by each member, the minimum value being not less than such amount as may be prescribed in the regulations;"

5. Section 10A of the principal Act is deleted and the following is substituted:

Repeal and
replacement
of section
10A of
Cap. 378A.

"Amend-
ment of
by-laws.

10A. (1) Subject to this Act and the by-laws, the members of a society may at any annual general meeting or any special meeting, amend by special resolution, the by-laws, including the by-law which declares the name of the society, if notice of the proposed amendment together with notice of the meeting

(a) is given to each member by mail; or

(b) is given to members by the publication of a notice in not less than two issues of at least one newspaper published and circulated in Barbados.

(2) No amendment of the by-laws of a registered society shall be valid until it has been registered under this section.

(3) For the purposes of subsection (2), three copies of the amendment and a copy of the resolution shall be forwarded to the Registrar and the amendment shall be certified to be true by the secretary and the president.

(4) Where the Registrar is satisfied that any amendment of the by-laws is not contrary to this Act, to the regulations or the guidelines, and that the amendment is not likely to affect the financial soundness of the society, he shall register the amendment.

(5) Where the Registrar registers an amendment of the by-laws of a registered society, he shall issue to the society a copy of the amendment certified by him, which shall be conclusive evidence of the fact that the amendment has been duly registered.

(6) Where the Registrar refuses to register an amendment,

(a) the Registrar shall notify the society in writing of that fact as well as the reasons for the refusal and shall also notify the society of its right to appeal under paragraph (b); and

(b) the society may within 21 days of the notice of refusal, appeal to the Co-operative Societies Appeals Tribunal.

(7) It is the duty of the board to submit an amendment of the by-laws to the Registrar for registration.

(8) For the purposes of this Act, the expression "amendment" includes the making of a new by-law and the alteration, substitution or revocation of a by-law."

Amendment
of section 30
of
Cap. 378A.

6. Section 30 of the principal Act is amended by adding the following new subsection after subsection (2):

"(3) A society may pay a dividend or any other return on shares as it sees fit."

7. Section 34 of the principal Act is amended by

Amendment
of section 34
of
Cap. 378A.

- (a) deleting paragraph (b) of subsection (1) and substituting the following:

"(b) shall establish and maintain a reserve fund in accordance with section 197;"

- (b) deleting the words "or bonus" appearing in paragraph (c) of subsection (1);

- (c) deleting subsection (2);

- (d) inserting the following words at the end of subsection (6):

"but does not include business relating to shares";

- (e) adding the following new subsection after subsection (8):

"(9) Subsections (7) and (8) do not apply in the case of credit unions."

8. The principal Act is amended by inserting the following new section after section 34:

Insertion of
new section
34A into
Cap. 378A.

"Investment of funds. 34A. (1) The funds of a society, including the reserve may

- (a) be deposited in
- Cap. 324A. (i) a bank registered under the *Financial Institutions Act*;
- (ii) a society registered under this Act; or
- (b) be invested in
- (i) securities issued by the Government of Barbados;

- (ii) securities, the payment of interest on which is guaranteed by the Government of Barbados;
- (iii) subject to subsection (2), securities issued in Barbados by a company incorporated in Barbados and listed by the Barbados Stock Exchange, if the company has paid a dividend on its shares for the preceding 5 consecutive years;
- (iv) subject to subsection (2), securities issued in a member state of the Caribbean Community by a company incorporated in that member state and listed by the Stock Exchange of a member state of the Community, if the company has paid a dividend on its shares for the preceding 5 consecutive years;
- (v) subject to subsection (2), securities issued in a member state of the Caribbean Community by a credit union that is registered in a member state of the Caribbean Community in accordance with the laws of that state;
- (vi) real property, but subject to the provisions of section 196A where the society is a credit union;
- (vii) subject to subsection (2), any other manner approved by the Registrar.

(2) The investments referred to in subparagraphs (iii), (iv) and (v) of subsection (1) shall not exceed in aggregate 10 per cent of the statutory reserve of any credit union.

(3) Where the funds of a society are invested in a manner that is not in accordance with subsections (1) and (2), no action shall be taken against that society for a period of one year after the commencement of this Act."

Repeal and replacement of section 36 of Cap.378A.

9. Section 36 of the principal Act is deleted and the following is substituted:

"Applica-
tion of
bonus or
dividend
declared
by
society.

36. The by-laws may provide that in each year, all or any part of the bonus or dividend declared pursuant to section 34 that the directors consider reasonable is to

- (a) be applied to the purchase of shares of the society from the society by a member; or
- (b) be lent to or retained by the society on any terms and for any period of time that the directors may determine."

Repeal and replacement of section 38 of Cap. 378A.

10. Section 38 of the principal Act is deleted and the following is substituted:

"Non-
payment
of small
dividends
or bonus.

38. The by-laws may provide that where the bonus or dividend that would otherwise be payable or allocatable to any person with respect to the operations of a society in a financial year is less than or equal to \$10 or any smaller amount that may be specified in the by-laws, the society shall credit the amount to the person's account."

Amendment of section 39 of Cap. 378A.

11. Section 39 of the principal Act is amended by adding the following words at the end thereof:

"as well as any other amount payable in respect of the share".

Amendment
of section 50
of
Cap. 378A.

12. Section 50(1)(b) of the principal Act is amended by deleting the words "subsection (2)" and substituting the words "subsection (3)".

Repeal and
replacement
of section 52
of
Cap. 378A.

13. Section 52 of the principal Act is deleted and the following is substituted:

"Multiple
member-
ship.

52. (1) No person shall be a member of more than one credit union unless the credit unions have agreed in writing thereto.

(2) Where a person becomes a member of more than one credit union, the second or any subsequent credit union shall so inform the Registrar within 14 days of the grant of membership."

Repeal and
replacement
of section 57
of
Cap. 378A.

14. Section 57 of the principal Act is deleted and the following is substituted:

"Qualifica-
tions of
directors
and
officers.

57. An individual is not eligible to be a director or an officer if he

- (a) is less than 18 years of age or, in the case of a junior co-operative, he is less than 10 years of age;
- (b) is of unsound mind and has been so found by a court in Barbados;
- (c) is not a member of the society or a duly appointed representative of a member society;
- (d) is convicted of an offence involving fraud or dishonesty;
- (e) is convicted of an offence under this Act;
- (f) is the auditor of the society;

- (g) is convicted on indictment of an offence in connection with the promotion, formation or management of a body corporate;
- (h) makes an arrangement with his creditors;
- (i) becomes bankrupt; or
- (j) is not in good financial standing with a registered society."

15. Section 58 of the principal Act is amended by

Amendment
of section 58
of
Cap. 378A.

- (a) deleting the marginal note and substituting the following:

"Additional powers of directors.";

- (b) deleting the opening words of subsection (1) and substituting the following:

"Subject to the by-laws and the regulations, directors of a society may without the authorisation of the members,".

16. Section 61 of the principal Act is deleted and the following is substituted:

Repeal and
replacement
of section 61
of
Cap. 378A.

"Ceasing
to hold
office.

61. (1) A director or an officer of a society ceases to hold office when he

- (a) dies or resigns;
- (b) is removed in accordance with this Act; or
- (c) is no longer qualified pursuant to section 57.

(2) A resignation of a director or an officer becomes effective

- (a) with immediate effect where that person indicates to the members present at an annual general meeting that he is resigning;
- (b) at the time specified in a written resignation; or
- (c) where no time is specified in a written resignation, at the time the resignation is received by the society."

Amendment
of section 68
of
Cap. 378A.

17. Section 68 of the principal Act is amended by inserting the following new subsection after subsection (3):

"(4) For the purposes of this section, remuneration includes any honorarium or any other payment, however designated."

Amendment
of section 71
of
Cap. 378A.

18. Section 71 of the principal Act is amended by renumbering that section as subsection (1) of that section and inserting the following new subsections:

"(2) A person who has acquired confidential information concerning a credit union or a member of a credit union

- (a) as a director, officer, employee or auditor of the credit union;
- (b) as a liquidator, receiver or manager of the credit union; or
- (c) as an officer referred to in section 183,

shall not disclose that information except as permitted under subsection (3), or use that information for any personal benefit not related to the duties through which the information was acquired.

(3) Subsection (2) does not apply to the giving of confidential information where that information is

- (a) given in the course of that person's duty;
- (b) a general credit rating of a person that is supplied by a director, officer or employee of the credit union following a *bona fide* business request;
- (c) given with the written authorisation of a member of a credit union or his legal representative or with the written authorisation of a credit union;
- (d) required to be disclosed by law or by an order of the High Court.

(4) Any person who contravenes subsection (2) is guilty of an offence."

19. Section 72(1) of the principal Act is amended by adding the following new paragraph:

Amendment of section 72 of Cap. 378A.

"(g) a transaction which is contrary to section 70;"

20. Section 82(2) of the principal Act is amended by inserting the words "but has attained the age of 16 years" immediately after the words "under the age of 18 years".

Amendment of section 82 of Cap. 378A.

21. The principal Act is amended by inserting the following new section after section 82:

Insertion of new section 82A into Cap. 378A.

"Member-ship of minors.

82A. (1) Where the society is a credit union, an individual who has not yet attained the age of 16 years may be admitted as a member and subject to subsection (3), may enjoy all the rights of membership and be subject to all the liabilities of membership.

(2) Where a member referred to in subsection (1) is required to execute any instrument or give any receipt, he may only do so by his parent or guardian.

(3) A member who has not attained the age of 16 years is not entitled

(a) to obtain credit from a society; or

(b) to vote except in the case of a junior co-operative society."

Amend-
ment of
section 93 of
Cap. 378A. **22.** Section 93(10) of the principal Act is amended by inserting the words "the proposal from" after the words "for the society to omit".

Repeal of
sections 94
and 95 of
Cap. 378A. **23.** Sections 94 and 95 of the principal Act are deleted.

Amendment
of section
110 of
Cap. 378A. **24.** Section 110(2)(b) of the principal Act is amended by deleting the words ", if any,".

Insertion of
new section
111A into
Cap. 378A. **25.** The principal Act is amended by inserting the following new section after section 111:

"Annual
budget.

111A. (1) The directors of a credit union shall

(a) prepare a budget in respect of each financial year;
and

(b) on the request of a member, provide him with a copy of the budget prepared under paragraph (a).

(2) The directors of a credit union shall submit a copy of the budget referred to in subsection (1) to the Registrar not later than 30 days after the annual general meeting."

26. Section 112 of the principal Act is amended,

Amendment
of section 11
of
Cap. 378A.

(a) in subsection (1), by inserting the words "and subsection (4)" immediately after the words "under subsection (2)";

(b) in subsection (2), by

- (i) renumbering paragraphs (b) and (c) as paragraphs (c) and (d) respectively; and
- (ii) inserting as paragraph (b), the following new paragraph immediately after paragraph (a):

"(b) that individual,

- (i) is in good standing as a member of an association of chartered or public accountants or other similar body; and
- (ii) is authorised to practise in Barbados;"

27. Section 117 of the principal Act is amended by deleting the words "section 118" and substituting the words "section 119".

Amendment
of section
117 of Cap.
378A.

28. Section 145 of the principal Act is amended by deleting subsection (9) and substituting the following:

Amendment
of section
145 of Cap.
378A.

"(9) The trustees named or appointed pursuant to subsection (8) shall

(a) deposit the money in

Cap. 324A.

- (i) a bank registered under the *Financial Institutions Act*;
- (ii) a society registered under this Act; or

(b) invest the money in

- (i) securities issued by the Government of Barbados;
- (ii) securities the payment of interest on which is guaranteed by the Government of Barbados; or
- (iii) any other manner approved by the Registrar."

Amendment
of section
146 of
Cap. 378A.

29. Section 146(2) of the principal Act is amended by deleting the words "section 145(2)" appearing therein and substituting the words "section 145(5)".

Amendment
of section
150 of
Cap. 378A.

30. Section 150 of the principal Act is amended by deleting subsection (1) and substituting the following:

"(1) Where a society has been dissolved pursuant to this Part, any interested person may apply to the Registrar to have the society revived by submitting to the Registrar

- (a) an application for revival in such form as the Registrar approves; and
- (b) such other information as the Registrar requires."

Amendment
of section
152 of
Cap. 378A.

31. Section 152 of the principal Act is amended by

- (a) deleting the full stop at the end of paragraph (c) and substituting a semi-colon; and
- (b) adding the following new paragraph after paragraph (c):

"(d) the registration of a society is cancelled by the Registrar under this Act."

32. Section 163(4) of the principal Act is amended by deleting the words "subject to the approval of the Registrar, the society or the trustees appointed by the Registrar shall distribute those moneys in accordance with section 145(8) or the by-laws" and substituting the words "the society or the trustees appointed by the Registrar shall dispose of those moneys in accordance with section 159(2) or the by-laws."

Amendment
of section
163 of
Cap. 378A.

33. Section 164A of the principal Act is amended by

Amendment
of section
164A of
Cap. 378A.

(a) deleting the words "Every officer of the registered society shall furnish" appearing at the beginning of subsection (2) and substituting the words "Every officer, employee or agent of a registered society shall furnish, at such time as the Registrar fixes,";

(b) adding the following new subsection after subsection (3):

"(4) A director, officer, employee or agent of a society who

(a) with intent to deceive, makes any false or misleading statement or entry in a book, account, record, report or statement of the society or omits a statement or entry that should be made therein;

(b) obstructs any person who is carrying out an examination under this Act; or

(c) obstructs the examination of a society undertaken under this Act,

is guilty of an offence and is liable on conviction

(i) on indictment to a fine of \$25 000 or imprisonment for 5 years, or to both;

(ii) by a court of summary jurisdiction to a fine of \$5 000 or imprisonment for 2 years, or to both."

Amendment
of section
172 of
Cap. 378A.

34. Section 172 of the principal Act is amended by

(a) adding the following new subsections after subsection (3):

"(3A) Any person who is aggrieved by any decision of the Registrar under this Act or the regulations may appeal to the Co-operative Societies Appeals Tribunal.

(3B) Where the Registrar makes a decision

(a) against any person; or

(b) which affects the interest of any person,

the Registrar shall, on giving his decision, inform that person of his right to appeal under this Act."; and

(b) deleting subsection (4) and substituting the following:

Schedule. "(4) The *Schedule* shall have effect with respect to the jurisdiction and procedure of the Tribunal and otherwise in relation thereto."

Insertion of
sections
192A, 192B,
192C and
192D into
Cap. 378A.

35. The principal Act is amended by inserting the following new sections after section 192:

"Rectifi-
cation
and
correc-
tions.

192A. (1) Where there is an error in the by-laws, a notice, a certificate or any other document, the directors or members must, on the request of the Registrar,

(a) pass any necessary resolutions;

(b) send to the Registrar the relevant documents required to comply with this Act; and

(c) take any other steps that the Registrar may reasonably require,

in order that the Registrar may correct the by-laws, notice, certificate or document.

(2) Before proceeding under subsection (1), the Registrar must be satisfied that the correction would not prejudice any of the members or creditors of the society.

(3) The Registrar may, at the request of a society or of any other interested person, accept a correction to any of the documents referred to in subsection (1) if

- (a) the correction is approved by the directors of the society or the members, as the case may be; and
- (b) the Registrar is satisfied that the correction would not prejudice any of the members or creditors of the society.

(4) If in the view of

- (a) the Registrar;
- (b) the society; or
- (c) any interested person who wishes a correction,

a correction to any of the documents referred to in subsection (1) would prejudice any of the members or creditors of a society, the Registrar, the society or the person, as the case may be, may apply to the court for an order that the document be corrected and for an order determining the rights of the members or creditors.

(5) An applicant under subsection (4) must give the Registrar notice of the application, and the Registrar is entitled to appear and to be heard in person or by counsel.

(6) A corrected document must bear the date of the document it replaces.

(7) If a corrected certificate materially amends the terms of the original certificate, the Registrar must without delay give notice of the correction in the *Gazette* and in a newspaper published and circulated in Barbados.

(8) The Registrar may on his own initiative correct any

- (a) linguistic error;
- (b) error of transcription;
- (c) clerical error; or
- (d) mistake where the error is made by the Registrar or where the error is not substantive in nature.

Registrar
may give
directives.

192B. (1) Where

- (a) after an examination of a credit union or on the receipt of any other information, the Registrar is of the opinion that the funds of the credit union are not being properly managed or protected;
- (b) the Registrar has reason to believe that a credit union is likely to take any action that would affect the financial soundness of the credit union,

the Registrar may

- (i) by notice in writing, direct the board within such period as the Registrar specifies, to cease engaging in any behaviour or practice or to take such measures as the Registrar considers necessary to protect the funds of the credit union or the interest of the members of the credit union as the case requires;
- (ii) with the approval of the Minister, appoint a person who in the opinion of the Registrar has the necessary experience and training to advise the credit union on the action to be taken to remedy the situation.

(2) A person appointed under subsection (1) shall be paid such remuneration as the Registrar may determine, and the remuneration shall be charged to the credit union concerned.

(3) Notwithstanding sections 250 and 266, where it appears to the Registrar that a requirement in this Act, the regulations or the by-laws is being contravened, but the circumstances are not such as to justify the taking of action under section 250 or the suspension of registration under section 266, the Registrar may give such directives to the society or the person, as the case may be, as seems appropriate.

(4) A credit union or a person that is required to take any action under this section, may within 21 days of the service of the notice by the Registrar, make representation in writing to the Registrar as to why the action required should not be taken.

Immunity. **192C.** Neither the Registrar nor any member of his staff shall be liable in damages for anything done or omitted in the discharge or purported discharge of that officer's respective functions under this Act, unless it is shown that the act or omission was in bad faith.

Guidelines. **192D.** (1) The Registrar may, with the approval of the Minister and after consultation with registered societies, issue guidelines in respect of

- (a) prudential standards to be observed by societies to ensure the safety and soundness of the funds of societies;
- (b) the management and investment of the funds of societies;
- (c) the calculation and management of doubtful loans; and

(d) self insurance arrangements.

(2) Where the Registrar intends to make any substantive modification to the guidelines, the Registrar shall consult with registered societies.

(3) The Registrar shall

(a) make the guidelines and all amendments thereto available for inspection by the public; and

(b) on payment of any prescribed fee, provide copies of the guidelines and all amendments thereto to the public.

(4) The Registrar shall at such intervals as the Registrar determines, review any guidelines for the time being in force.

(5) The guidelines and any substantive amendment to the guidelines shall be published in the *Gazette*.

(6) For the purposes of this Act, "guidelines" means the guidelines made under this section."

Amendment
of section
193 of
Cap. 378A.

36. Section 193 of the principal Act is amended by deleting paragraph (a) and substituting the following:

"(a) "credit union" means a society, established for promoting thrift among its members, and providing a source of credit for its members for provident and productive purposes;".

37. Section 195(2) of the principal Act is amended by deleting the opening words and substituting the following:

Amendment
of section
195 of
Cap. 378A.

"Notwithstanding sections 22(3) and 269(d), no credit union shall".

38. The principal Act is amended by inserting the following new section after section 196:

Insertion of
new section
196A into
Cap. 378A.

"Real
property
in
relation
to credit
unions.

196A. (1) Subject to subsection (2), a credit union may not acquire or hold real property where the market value of the property to be acquired would cause the aggregate value of the real property in which the credit union holds a fee simple or leasehold interest to exceed 6 per cent of the stated assets of the credit union.

(2) Notwithstanding subsection (1), the Registrar may, if satisfied that the circumstances require it, grant approval to a credit union to purchase real property in excess of the value specified in subsection (1).

(3) Subsection (1) does not apply where the credit union exercises its legal right in respect of any property which is the security for any debt, but in that case, the property shall not be retained for a period in excess of 5 years without the permission of the Registrar.

(4) For the purposes of this section "acquire" in relation to property means to purchase, lease or otherwise acquire such property.

(5) Nothing in subsection (1) shall be interpreted as requiring a credit union

(a) to dispose of any real property that was acquired or held by the credit union before the commencement of the *Co-operative Societies (Amendment) Act, 2007*;

- (b) to terminate any agreement to acquire or hold any real property where the agreement was entered into before the commencement of the Act referred to in paragraph (a),

by reason of the fact that the ownership or other interest in the real property would cause the credit union to be in contravention of that subsection."

39. Section 197 of the principal Act is amended by deleting subsection (2) and substituting the following:

Amendment
of section
197 of
Cap. 378A.

"(2) Every society shall be required to establish and maintain reserves consisting of the greater of one half of one per cent of assets or 25 per cent of surplus until the capital of the society equals 10 per cent of the total assets of the society.

(3) Where the Registrar is satisfied that a society would not be able to comply with subsection (2), the Registrar may fix such amount as is appropriate in the particular circumstances.

(4) Where arising from an examination or the receipt of any other information, the Registrar is satisfied that it is necessary to increase the amount referred to in subsection (2), the Registrar may by notice in writing, fix such amount of the surplus, not exceeding 40 per cent or 1% of the total assets of the society, that must be paid into the fund; and the notice shall specify the time in which the sum is payable.

(5) For the purposes of subsection (2), "capital" means the share capital and reserves of the society."

40. The principal Act is amended by deleting section 203 and substituting the following:

Repeal and replacement of section 203 of Cap. 378A.

203. (1) After one year of the commencement of the *Co-operative Societies (Amendment) Act, 2007*, credit unions may not accept deposits from non-members except as provided under subsection (2).

"Acceptance of deposits.

(2) A credit union may accept deposits

(a) from co-operative societies; and

(b) with the approval of the Registrar, from bodies corporate,

that are not members of the credit union.

(3) The Registrar may in any special case extend the period granted under subsection (1).

(4) Deposits may be accepted in the manner and form and on any condition that may be prescribed in the regulations."

41. The principal Act is amended by deleting section 206 and substituting the following:

Repeal and replacement of section 206 of Cap. 378A.

206. The credit committee shall

"Duties of the credit committee.

(a) consider all applications for loans which are not considered pursuant to section 208(2);

(b) make recommendations to the board in respect of the loan policy of the credit union; and

(c) perform such duties as are prescribed under this Act, the regulations and the by-laws of the credit union."

Amendment
of section
208 of
Cap. 378A.

42. Section 208 of the principal Act is amended by

(a) deleting subsection (1) and substituting the following:

"(1) The board shall determine the terms and conditions upon which the credit committee shall approve loans to members.";

(b) deleting the words "subsection (1) or (2)" appearing in subsection (3) and substituting the words "subsection (2)";

(c) deleting the words "subsection (1)" appearing in subsection (4) and substituting the words "subsection (2)".

Amendment
of section
228 of
Cap. 378A.

43. Section 228 of the principal Act is amended by deleting subsection (3) and substituting the following:

"(3) Section 34A shall apply to housing societies."

Amendment
of section
250 of
Cap. 378A.

44. Section 250 of the principal Act is amended by deleting the words "or the regulations" appearing in subsection (1)(a) and subsection (2).

Insertion of
new section
250A into
Cap. 378A.

45. The principal Act is amended by inserting the following new section after section 250:

"Offences
relating
to
sections 57
and 68.

250A. (1) Any person who contravenes paragraph (c), (d), (e), (f) or (g) of section 57 is guilty of an offence and is liable on summary conviction to a fine of \$10 000 or to imprisonment for 2 years, or to both.

(2) Any person who contravenes section 68 is guilty of an offence and is liable on conviction

(a) on indictment to a fine of \$25 000 or to imprisonment for 5 years, or to both;

(b) by a court of summary jurisdiction to a fine of \$5 000 or to imprisonment for 2 years, or to both."

46. The principal Act is amended by deleting section 253 and substituting the following:

Repeal and replacement of section 253 of Cap. 378A.

"General penalty etc.

253. (1) Every person who

(a) is found guilty of an offence under this Act for which no penalty is specifically provided; or

(b) fails to give any notice or fails to send any return or document that is required for the purposes of this Act is guilty of an offence and,

is liable on summary conviction to a fine of \$5 000.

(2) Regulations made under this Act may annex to an offence created thereunder, a punishment by way of a fine of \$2 000.

(3) An offence referred to in subsection (2) shall be punishable by way of summary conviction."

47. The principal Act is amended by inserting the following new section after section 263:

Insertion of new section 263A into Cap. 378A.

"Applica-
tion of
sections
211 to
217 to all
societies.

263A. Sections 211 to 217 which relate to the supervisory committee shall apply to all registered societies."

48. Sections 264 and 265 of the principal Act are deleted.

Repeal of section 264 and 265.

49. Section 266 (1) of the principal Act is amended by

Amendment of section 266 of Cap. 378A.

(a) deleting the word "or" at the end of paragraph (c);

(b) deleting the full stop at the end of paragraph (d) and substituting the words "; or"; and

(c) adding the following as paragraph (e):

"(e) the society has failed to comply with any direction given by the Registrar under section 192B."

50. Section 269 of the principal Act is amended by

Amendment
of section
269 of
Cap. 378A.

(a) inserting the words "subject to sections 22(3) and 195(2)," at the beginning of paragraph (d);

(b) deleting the word "and" at the end of paragraph (e);

(c) deleting the full stop at the end of paragraph (f) and substituting the words "; and"; and

(d) inserting the following new paragraph after paragraph (f):

"(g) generally for giving effect to and for the efficient operation of this Act."

51. The principal Act is amended by inserting the *Schedule* contained in this Act as the *Schedule* to that Act.

Insertion of
Schedule
into
Cap. 378A.
Schedule.

SCHEDULE

(Section 51)

"SCHEDULE

(Section 172(4))

Co-operative Societies Appeal Tribunal

1. The Minister may appoint a member as Chairman.
2. A member may at any time resign his membership by notice in writing addressed to the Minister.
3. (1) If the Minister is satisfied that a member
 - (a) is incapacitated by physical or mental illness; or
 - (b) is otherwise unable or unfit to discharge the functions of a member,

the Minister may by notice published in the *Gazette*, declare the office of the member to be vacant and, thereupon, the office shall become vacant.

(2) In case of the temporary absence or inability of a member to act, the Minister may by notice published in the *Gazette*, appoint a suitable person to act in that member's place.

4. The Minister shall publish in the *Gazette*, notice of the appointment and cessation of appointment of a member.

5. The Tribunal may, at the discretion of the Chairman, sit in private where it appears expedient that the Tribunal should do so.

6. The validity of any proceedings of the Tribunal shall not be affected by any vacancy among the members or by any defect in the appointment of a member.

Cap. 121.

7. (1) In the hearing and determination of any matter before it, the Tribunal may act without regard to technicalities and legal form and shall not be bound to follow the rules of evidence stipulated in the *Evidence Act*; but the Tribunal may inform itself on any matter in such manner as it thinks just and may take into account opinion evidence and such facts as it considers relevant and material, but in any such case, the parties to the proceedings shall be given the opportunity, if they so desire, of adducing evidence.

(2) The parties to the proceedings shall be entitled to appear in person or may be assisted in the preparation of their respective cases by counsel or by a duly authorised representative, but the Tribunal shall not award costs to any party to a proceeding before the Tribunal other than sums in respect of the reasonable costs incurred in any one or more of the following:

- (a) the filing of documents;
- (b) the obtaining of any expert report;
- (c) the enforcement of an award of the Tribunal;

and any such award of costs shall be in the discretion of the Tribunal.

8. Subject to this *Schedule*, the Tribunal shall regulate its own procedure and may make rules for that purpose.

9. Without prejudice to the generality of paragraph 8, the Tribunal, as respecting the attendance and examination of witnesses, the production and inspection of documents and all other matters necessary for the exercise of its jurisdiction, shall have all such powers as are vested in a magistrate's court in an action in that court."