

Bill No. 14 Cooperative Societies (Amendment) Bill 2016

THE COOPERATIVE SOCIETIES (AMENDMENT) BILL, 2016.

MEMORANDUM

1. Policy and principles of the Bill

The objective of this Bill is to amend the Cooperative Societies Act Cap112; to strengthen regulation and supervision of all types of cooperatives, improve safety and soundness of savings and credit cooperatives, enhance cooperative identity and solidarity, promote member empowerment and improve governance within cooperatives for sustainability of cooperative enterprises and for other related matters.

2. Defects in the existing law

The Cooperative Societies Act was enacted in 1991. During the 1990s, the Government liberalized the economy which led to the rapid adoption and inadequate understanding of a market based economy, treated cooperatives as part of the public sector which experienced changes in the approach of its role.

The reforms which were undertaken by the Government witnessed a disappointed in the cooperative sector which could not respond to the new economic dispensation and this decreased their relevance since they were not yet ready to act as their own autonomous entities.

More so, decentralization created a splinter between district cooperative offices and the Cooperative Development Department of the Ministry of Trade, Industry and Cooperatives; this resulted into gaps in the delivering service to cooperatives at the local government level.

Finally, the rapid growth of Savings and Credit Cooperative Societies (SACCOs) has led to the urgent need of strengthening the Cooperative Societies Act, in order to cater for the supervision, safety, soundness and development of the sector, as such currently there are 12,615 registered cooperatives and 47 percent of the registered cooperatives are SACCOs.

Despite the growth in the number of registered SACCOs, there have been numerous occurrences of mismanagement, poor governance, under capitalization, low cooperative knowledge and financial indiscipline by the governing bodies of the cooperative societies.

3. Remedies

This Bill therefore seeks to amend the Cooperative Societies Act Cap 112 to address the challenges which have emerged over time as the cooperative sector continues to diversify and grow.

The Bill makes specific provision for different types of cooperative societies namely- savings and credit cooperative societies, transport cooperative societies, housing cooperative societies, energy cooperative societies; health cooperative societies, consumer cooperative societies, industrial cooperative societies and multipurpose cooperative societies; by making provision for regular audits of operations of the registered societies especially Savings and Credit Cooperative Organizations(SACCOs), to enable them contribute effectively to the national development in a harmonized and transparent manner.

Finally the Bill seeks to give effect to the National Cooperative Policy, by strengthening the legal frame work to cater for the diversification, growth and expansion of the cooperative movement.

4. Provisions of the Bill

Clause 1 of the Bill seeks to amend section 1 of the Cooperative Societies Act Cap 112 to re-define the phrases used in the Act.

Clause 2 seeks to amend section 2 (2) of the principal Act by giving the registrar power to deregister cooperative societies.

Clause 3 seeks to amend section 3 of the principal Act by substituting for the head note the following "Registration of societies".

Clause 4 seeks to amend section 4 of the principal Act by clarifying the conditions for registering an apex society. The apex society established shall serve as the sole apex society for all the registered cooperative societies.

Clause 5 seeks to amend section 5(3) of the principal Act by increasing the number of copies of the proposed bye law of the society, which are Attached to the application for registration of a cooperative society from three to four.

Clause 6 seeks to amend section 6(2) of the principal Act by requiring the registrar to register a society permanently, where the society complies with the conditions prescribed by the Regulations.

Clause 7 seeks to amend the principal Act by inserting a new section 6A to provide for pre- registration contracts.

Clause 8 seeks to amend section 9 of the principal Act by repealing subsection (9) and (10) for purposes of removing appellat powers from the board concerning matters of amendment of bye laws of registered societies.

Clause 9 seeks to amend section 13 of the principal Act by lowering the age of being a member of a cooperative society from the age of eighteen years to twelve years.

Clause 10 seeks to substitute section 16 of the principal Act to provide for the rights and obligations of a member in a registered society.

Clause 11 seeks to repeal section 17 of the principal Act to remove the restriction of membership in more than one registered society, so that members can derive maximum benefit from the membership in various cooperative societies.

Clause 12 seeks to amend the principal Act by inserting new sections 18A and 18B to make provision for, leadership and management of a registered society and to provide for the election of a supervisory board at the annual general meeting, which board is answerable to the registrar.

Clause 13 seeks to amend the principal Act by inserting a new section 21A relating to records management of a registered society in accordance with the National Records and Archives Act, 2001, Act No. 12 of 2001.

Clause 14 seeks to amend section 22 of the principal Act to give the registrar the mandate to cause regular audits of operations of Savings and Credit Cooperative Organizations (SACCOs) and to carry out audits of a registered society where the registrar is appointed or where a registered society has no capacity to cause its accounts to be audited.

Clause 15 seeks to amend section 23 of the principal Act to have a person who has previously served as an assistant registrar of a cooperative society to qualify as an auditor for accounts of a registered society, whether or not they are a member of a recognized accounting body.

Clause 16 seeks to amend section 25 of the principal Act by substituting for subsection (3) for purposes of clarifying what happens to assets and liabilities upon amalgamation of registered societies.

Clause 18 seeks to replace section 36 of the principal Act to clarify the extent of liability of a past member for debts of a registered society.

Clause 19 seeks to amend section 38 (1) of the principal Act by repealing paragraph (a) and redrafting paragraph (b) to provide for a uniform standard for all registered societies in respect of transfer of interest on death of a member.

Clause 20 seeks to repeal section 46(3) of the principal Act to remove any restrictions on payment of dividends to members of a registered society, as a motivation to increase the contribution of capital and decrease external loans by members.

Clause 21 seeks to repeal section 47 of the principal Act which provided for establishment of a reserve and provident fund by a registered society.

Clause 22 seeks to amend section 49(1) of the principal Act by increasing the percentage contribution to the cooperative member education fund from 1 percent to 5 percent.

Clause 23 seeks to amend the principal Act by inserting a new section 49A to grant the commissioner cooperative development the responsibility of carrying out cooperative member education, and to empower him or her to accredit such registered societies or individuals as non academic training bodies.

Clause 24 seeks to amend section 52 of the principal Act to grant the registrar power to hold an inquiry into the constitution, working and financial conditions of a registered society without consulting the board.

Clause 25 seeks to amend the principal Act by inserting a new Part VIIA, to make special provision relating to different types of cooperative societies—

- (a) insertion of new sections 55A -55V to provide for savings and credit cooperative societies, how they shall be regulated and the establishment of a cooperative central finance fund into which every savings and credit cooperative society shall make a contribution;
- (b) insertion of section 55W to provide for agricultural production and marketing cooperative societies;

- (c) insertion of new section 55X to provide for transport cooperative societies;
- (d) insertion of new section 55Y to provide for housing cooperative societies;
- (e) insertion of new section 55Z to provide for energy cooperative societies;
- (f) insertion of new section 55AA to provide for health cooperative societies;
- (g) insertion of new section 55AB to provide for consumer cooperative societies;
- (h) insertion of new section 55AC to provide for industrial cooperative societies; and
- (i) insertion of new section 55AD to provide for multipurpose cooperative societies.

Clause 26 seeks to replace section 75 of the principal Act, to provide for application of judicial review, if a person is aggrieved by the decision of the registrar.

Clause 27 seeks to amend section 79(1) of the principal Act to make provision for the Minister, on the advice of the registrar, to make regulations for carrying out the provisions of the Act.

Clause 29 seeks to amend the principal Act by inserting a new Third Schedule to provide for the statement on cooperative identity.

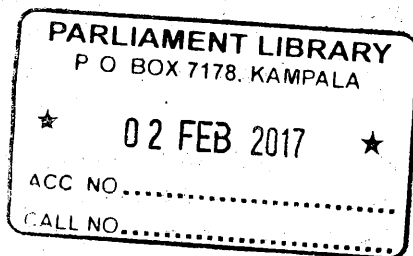
AMELIA KYAMBADDE (MP),
Minister of Trade, Industry and Cooperatives.

THE COOPERATIVE SOCIETIES (AMENDMENT) BILL, 2016

ARRANGEMENT OF CLAUSES

Clause

1. Amendment of section 1 of the principal Act
2. Amendment of section 2 of the principal Act
3. Amendment of section 3 of the principal Act
4. Amendment of section 4 of the principal Act
5. Amendment of section 5 of the principal Act
6. Amendment of section 6 of the principal Act
7. Insertion of new section 6A
8. Amendment of section 9 of the principal Act
9. Amendment of section 13 of the principal Act
10. Substitution of section 16 of the principal Act
11. Repeal of section 17 of the principal Act
12. Insertion of new sections 18A and 18B
13. Insertion of new section 21A
14. Amendment of section 22 of the principal Act
15. Amendment of section 23 of the principal Act
16. Amendment of section 25 of the principal Act
17. Amendment of section 29 of the principal Act
18. Amendment of section 36 of the principal Act
19. Amendment of section 38 of the principal Act
20. Amendment of section 46 of the principal Act
21. Amendment of section 47 of the principal Act
22. Amendment of section 49 of the principal Act
23. Insertion of new section 49A
24. Amendment of section 52 of the principal Act
25. Insertion of new Part VII A
26. Amendment of section 73 of the principal Act
27. Substitution of section 75 of the principal Act
28. Amendment of section 79 of the principal Act
29. Insertion of Third Schedule



A BILL for an ACT

ENTITLED

THE COOPERATIVE SOCIETIES (AMENDMENT) ACT, 2016

An Act to amend the Cooperative Societies Act, to strengthen the regulation and supervision of all types of cooperatives, improve safety and soundness of savings and credit cooperatives, enhance cooperative identity and solidarity, promote member empowerment and improve governance within cooperatives for sustainability of cooperative enterprises, and for other related matters.

Be it enacted by Parliament as follows:

1. Amendment of the Cooperative Societies Act.

Section 1 of the Cooperative Societies Act, in this Act referred to as the principal Act is amended—

- (a) in paragraph (b) by substituting for the words “cooperative unions” the words “secondary and tertiary cooperatives societies”;
- (b) by substituting for paragraph (c) the following—

“(c) “board” means the governing body of a cooperative society elected by the members at a general meeting”;

- (c) in paragraph (f) by substituting for the words “deputy commissioner” the words “assistant commissioners”;
- (d) by inserting immediately after paragraph (k) the following—

“(k)(a) “loan loss provision” means an expense or allowance a lender sets aside to recognize that a borrower may be unable to repay a loan in part or in total”;

- (e) in paragraph (h) by substituting for the words “primary societies” for the words “secondary societies and tertiary societies”;
- (f) by inserting immediately after paragraph (m) the following—

“(m)(a) “multipurpose society” means a primary cooperative society that engages in two or more different types of enterprises”;

- (g) by inserting immediately after paragraph (r) the following—

- (i) “(r)(a) “secondary society” means a registered society under this Act, the membership of which is restricted to primary society”;
- (ii) “(r)(b) “social audit” means the process by which a cooperative society can account for its social performance report on and improve that performance”;
- (iii) “(r)(c) “tertiary societies” means a registered society under this Act, the membership of which consists of at least two secondary societies”.

2. Amendment of section 2 of the principal Act.

Section 2 of the principal Act is amended in subsection (2) by inserting immediately after the word “registration” the word “deregistration”.

3. Amendment of section 3 of the principal Act.

Section 3 of the principal Act is amended by substituting for the head note the following—

“3. Registration of societies”.

4. Amendment of section 4 of the principal Act.

Section 4 of the principal Act is amended—

(a) in subsection (1) by substituting for paragraph (d) the following—

“(d) in the case of an apex society, it consists of two or more secondary or tertiary societies”;

(b) by substituting for subsection (2) the following—

“(2) There shall be only one apex society for all registered cooperative societies”;

(c) by substituting for subsection (3) the following—

“(3) A cooperative society shall incorporate in its proposed bye laws a statement on cooperative identity as specified in the Third Schedule”;

(d) by inserting immediately after subsection (3) the following—

“(4) For the avoidance of doubt a society shall not be registered with unlimited liability”.

5. Amendment of section 5 of the principal Act.

Section 5 of the principal Act is amended in subsection (3) by substituting for the word “three” the word “four”.

6. Amendment of section 6 of the principal Act.

Section 6 of the principal Act is amended—

- (a) by substituting for the head note the following—

“6. Registration on probation”;

- (b) by substituting for subsection (2) the following—

“(2) If at the expiration of twenty four months the Registrar is satisfied with the performance of the society, he or she shall register the society permanently, if the society complies with the conditions prescribed by regulations”.

7. Insertion of new section 6A.

The principal Act is amended by inserting immediately after section 6 the following—

“6A. Pre-registration contracts.

(1) A contract which purports to be made on behalf of a cooperative society before the cooperative society is formed, has effect, as one made with the person purporting to act for the cooperative society.

(2) A cooperative society may adopt a pre-incorporation contract with its formation and registration made on its behalf without a need for novation.

(3) In all cases where the cooperative society adopts a pre-incorporation contract, the liability of the promoter of that cooperative society shall cease”.

8. Amendment of section 9 of the principal Act.

Section 9 of the principal Act is amended by repealing subsection (9) and subsection (10).

9. Amendment of section 13 of the principal Act.

Section 13 of the principal Act is amended—

(a) in subsection (1) by substituting for paragraph (a) the following—

“(a) have attained the age of twelve years”; and

(b) by repealing subsection (2).

10. Substitution of section 16 of the principal Act.

For section 16 of the principal Act there is substituted the following—

“16. Rights and obligations of members.

(1) A member of a registered society shall not exercise any of the rights of a member until he or she has made such payment to the society in respect of membership or has acquired such interest in the society as may be prescribed by regulations made under this Act or by the byelaws of the society.

(2) A member of a cooperative society shall have a right—

(a) to attend, participate and vote for decisions taken at all general meetings of the society;

(b) to be elected to organs of the society subject to its bye laws, policies and resolutions of the general meeting;

(c) to enjoy the use of all facilities and services of the society subject to the society bye laws, policies and resolutions of the general meeting; and

- (d) to access all legitimate information relating to the society, including, internal regulations, registers, minutes of general meetings, supervisory committee reports, investigation and accounts at the society head office.

(3) A member shall—

- (a) observe and comply with all the society bye laws and decisions taken by the relevant organs of the cooperative society in accordance with the byelaws of the society;
- (b) pay up for shares or make any other payments provided for in the bye laws of the society; and
- (c) meet the debts of the society in case of bankruptcy in accordance with the provisions of this Act and the bye laws of the society.”

11. Repeal of section 17 of the principal Act.

Section 17 of the principal Act is repealed.

12. Insertion of new sections 18A and 18B.

The principal Act is amended by inserting immediately after section 18 the following—

“18A. Leadership and management of a society.

(1) Every society shall have a board consisting of an odd number of members not less than five and not exceeding nine.

(2) The board shall be the governing body of the society and shall, subject to any direction from the general meeting or the bye laws of the society, direct the affairs of the society with powers to-

- (a) enter into contracts;
- (b) institute and defend suits and other legal proceedings brought in the name of or against the society; and
- (c) do all other things necessary to achieve the society's objects in accordance with its bye laws.

(3) In the conduct of affairs of a cooperative society the members of the board shall exercise the prudence and diligence of an ordinary person of business and shall be held, jointly and severally, liable for any losses sustained through any of their acts which are contrary to the Act, regulations, bye laws or directions of any general meeting of the cooperative society.

(4) The board shall have the responsibility to appoint management who they shall monitor and supervise for the proper management of the society.

(5) A person appointed under subsection (4) to the management of a cooperative society shall be subjected to a fit and proper test.

(6) A person seeking election in a cooperative society shall be subjected to a vetting process by a vetting committee.

(7) A fit and proper test shall be done on all those vying to be board members of a cooperative society in accordance with the statement on cooperative identity and the laws of Uganda.

(8) Subject to subsections (5) and (6), the test shall be done through a vetting committee whose terms of service shall be spelt out in the regulations made under this Act.

(9) Other than the qualifications that may be set with the approval of the registrar, a person shall be a member of a board if he or she—

- (a) is a member of the cooperative society;
- (b) is above the age of 18 years;
- (c) is able to read and write;
- (d) has not been adversely named by the registrar in an inquiry report adopted by a general meeting for mismanagement or corrupt practices while a member of the board;
- (e) is not a member of parliament, district council, county council, sub county council, or city authority except where the society membership is composed of only such membership;
- (f) is not an under charged bankrupt;
- (g) is of sound mind;
- (h) is not of blood relations with another person on the same board up to the second degree;
- (i) is not a joint account holder in the case of a savings and credit cooperative society;
- (j) has not served on the board of a society for two consecutive terms of two years each;
- (k) has not been serving on the board for an equivalent number of years he or she previously served;
- (l) is not part of a board which has failed to prepare accounts within the specified period as required by this Act, Regulations and the bye laws.

(10) For purposes of subsection (9) (a) (viii) a second degree relationship means a grandchild, grandmother or grandfather.

(11) A person shall automatically lose membership on the board of a secondary, tertiary or apex society, where his or her society ceases to be a member of that secondary, tertiary or apex society”.

“18B. Supervisory board.

(1) Save for the board of a cooperative society provided for in section 18A of this Act, the annual general meeting shall be responsible for electing a supervisory board of three persons, which shall make, or cause to be made, regular examination of the accounts, records, and affairs of the society and review the action of the officers, board, and credit committee for conformity with the law, regulations, bye laws, and policies of the society and is answerable to the annual general assembly.

(2) The supervisory board in consultation with the registrar may call a special general meeting of the members to consider any violation of the Act, regulations or bye laws, or any practice of the cooperative society considered by the board to be unsafe or unsound.

(3) The supervisory board shall be required to make a record of all its activities available for inspection by the registrar and the society’s auditors and shall present a report of its activities to the general meeting.

(4) Members of the supervisory board shall be subjected to the same provisions under section 18A sub section (9)(a).

(5) The supervisory committee shall inform the registrar in writing within five working days of any recommendations on the management of the society”.

13. Insertion of new section 21A.

The principal Act is amended by inserting immediately after section 21 the following—

“21A. Records management of a registered society.

(1) Records management in a society shall be done in accordance with the National Records and Archives Act, 2001, Act No.12 of 2001.

(2) There shall be a cooperative archive in the ministry responsible for cooperatives.”

14. Amendment of section 22 of the principal Act.

Section 22 of the principal Act is amended—

- (a) by inserting immediately after subsection (1) the following—

“(1a) Notwithstanding subsection (1) the registrar may cause regular audits of operations of Savings and Credit Cooperative Organizations (SACCOs)”.

“(1b) Notwithstanding subsection (1) the registrar may be appointed to carryout audits of a registered society”.

“(1c) The registrar may also cause to be audited societies which have no capacity to audit and in that case the registrar shall be the auditor”.

“(1d) Every society shall give to the registrar statistics of operations as may be required by the registrar”.

- (b) by inserting immediately after subsection (2) the following—

“(2a) In addition to regular audits, social audits shall be conducted annually to examine the following components—

- (a) organization; a measurement of a cooperative society’s fulfillment of its vision, mission and goals, feedback mechanisms, code of good governance and ethical standards;
- (b) membership; a measurement on how the cooperative society responds to the needs of members, observed governance practices, considered provision for benefits of members, and involved members in the affairs of the cooperative;
- (c) staff or employees; an assessment of the cooperative’s fulfillment of the needs and welfare of the employees in terms of safety of workplace and sanitation, including the provision for compensation and benefits;
- (d) cooperation among cooperatives; a measurement of the cooperative society’s affiliations and linkages to federations or unions, the apex society and other cooperatives;
- (e) community and nation; to determine the involvement of the cooperative society and its contributions to the community and nation, in general;
- (f) network alliance and linkages namely; an assessment of how the cooperative society relates to other organizations and its collaborative programs”.

15. Amendment of section 23 of the principal Act.

The principal Act is amended in section 23 by inserting immediately after subsection (1) the following—

“(1a) The registrar may in certain circumstances appoint an auditor for a limited period, a person who has previously served as an assistant registrar of a cooperative society.”

16. Amendment of section 25 of the principal Act.

Section 25 of the principal Act is amended by substituting for subsection (3) following—

“(3) Upon amalgamation of registered societies into a society, the societies shall cease to exist but there shall be division of assets and liabilities in accordance with the agreement governing the amalgamation.”

17. Amendment of section 29 of the principal Act.

Section 29 of the principal Act is amended by substituting for the words “Board of Directors of the Uganda Cooperative Alliance Ltd” the words “board of the apex society.”

18. Substitution of section 36 of the principal Act.

Section 36 of the principal Act, is amended by substituting for it the following—

“36. Liability of past member.

The liability of a past member for the debts of a registered society as they existed at the time when he or she ceased to be a member shall continue for two years from the date of his or her ceasing to be member and if the first audit of the accounts of the society after his or her being a member disclose a credit balance in favour of that society, the financial liability of the past member shall forthwith cease”.

19. Amendment of section 38 of the principal Act.

Section 38 of the principal Act is amended in subsection (1)—

- (a) by repealing paragraph (a);
- (b) by repealing the words “In the case of a society with limited liability” of paragraph (b).

20. Amendment of section 46 of the principal Act.

Section 46 of the principal Act is amended by repealing subsection (3).

21. Repeal of section 47 of the principal Act.

Section 47 of the principal Act is repealed

22. Amendment of section 49 of the principal Act.

Section 49 of the principal Act is amended—

- (a) in subsection (1) by substituting for the figure “1” the figure “5”;
- (b) by repealing subsections (2), (3) and (4).

23. Insertion of new section 49A.

The principal Act is amended by inserting immediately after section 49 the following—

“49A. Cooperative member education.

(1) The commissioner cooperative development shall carry out cooperative member education to members of registered societies.

(2) The history, philosophy and practices as cooperatives and their role as a factor in the national economy shall be disseminated both in formal and non-formal education.

(3) The role of private sector, non-governmental organizations and individuals engaged in cooperative promotion organization, research and education shall be accredited by the Registrar.

(4) The registrar may accredit such bodies or individuals under subsection (3) as non-academic training bodies.

(5) The registrar shall publish such a list from time to time.

(6) Notwithstanding subsections (1),(2),(3),(4) and (5), every registered cooperative society shall provide for five percent of its annual turnover in its budgets, funds for cooperative member education.

(7) Subject to subsection (1), every cooperative society shall file annual education plans for the society to the registrar three months before the end of the financial year”.

24. Amendment of section 52 of the principal Act.

Section 52 of the principal Act is amended in subsection (1) by repealing the words “in consultation with the board”.

25. Insertion of new Part VII A.

The principal Act is amended by inserting immediately after Part VII following—

“PART VII A—SPECIAL PROVISIONS RELATING TO DIFFERENT TYPES
OF COOPERATIVE SOCIETIES

55A. Savings and credit cooperative societies.

(1) A savings and credit cooperative society is a registered society for promoting and mobilizing savings and extending credit and financial services to its members.

(2) The word savings and credit cooperative or organization shall form part of the name of a society formed for the purpose described in subsection (1).

(3) All savings and credit cooperative societies shall be registered, developed, or deregistered under this Act, by the registrar.

(4) A savings and credit cooperative society shall discharge any or all of the following functions—

- (a) acquire, lease, hold, assign, pledge, mortgage, discount or dispose of property or assets;
- (b) enter into contracts;
- (c) institute and defend against lawsuits and other legal proceedings;
- (d) mobilise deposits and borrow in an aggregate amount not exceeding a multiple of capital as prescribed in the regulations made under this Act;
- (e) accept member deposits , provide loans and other financial services to its members;
- (f) operate an office that shall be open for inspection by the Registrar or a representative of the Registrar at all designated working hours;
- (g) collect, receive and disburse monies in connection with the provision of money transfers, and other money instruments and the provision of services through automated devices for the benefit or convenience of its members, and charge fees for such services;
- (h) act as a trustee, accept and hold in trust real and personal property;
- (i) purchase or make available various forms of insurance or risk;

- (j) manage programs for its members, either on an individual or group basis in compliance with relevant laws; and
- (k) exercise such incidental powers as may be necessary to enable it to carry out effectively the purposes for which it is established.

55B. Prudence and diligence.

(1) In the conduct of the affairs of a savings and credit cooperative society the board shall exercise the necessary prudence and diligence and shall be held jointly and severally liable for any losses sustained through any of their acts which are contrary to this Act, regulations and the bye-laws of the society or the decisions of any general meeting.

(2) An officer of the savings and credit cooperative society shall not participate in the deliberation or determination of any question affecting that person's pecuniary interest or the pecuniary interest of any member of the immediate family of that person or of any company or organization other than the savings and credit cooperative society in which that person has an interest, in which case the person shall disclose any conflict of interest to the board.

55C. The credit committee.

(1) The board shall appoint a credit committee among its members consisting of an odd number of not less than three persons, on such terms and conditions as the byelaws provide.

(2) The credit committee shall be responsible for the general supervision of loans to members, subject to policies established by the board, and approved at the annual general meeting.

(3) The credit committee shall meet as often as required to consider loan applications.

(4) A loan shall not be granted unless it is approved by a majority of the committee except if approved by an officer delegated in subsection (5).

(5) The board may appoint officers and delegate to them the power to approve certain loans whose limits shall be set in their credit policies.

(6) Any action taken by an officer delegated under subsection (5) shall be reported to the credit committee.

(7) A member whose loan application is not approved may appeal against the decision to the board whose decision shall be final.

(8) A member of the credit committee who defaults on his or her loan obligations, shall cease to be a member of the committee.

55D. Savings

(1) A savings and credit cooperative society may receive savings from members with demand or fixed term accounts.

(2) The terms, rates and conditions of the savings under subsection (1) shall be determined by the board.

(3) A savings and credit cooperative society shall maintain deposits in a bank or financial institution supervised by the Bank of Uganda or in securities issued by the Government or by the Bank of Uganda, for an amount of not less than twenty percent of its total savings and deposits.

55E. Joint accounts.

Two or more members of a savings and credit cooperative society may open up a joint account and such accounts shall be treated as group accounts.

55F. Charge against shares and savings.

(1) A savings and credit cooperative society shall have a first charge against savings and shares off and upon any dividend or interest payable to the member, for any debt due to the society from the member, either as a guarantor or endorser of a loan or any other obligation.

(2) A savings and credit cooperative society may offset any sum credited or payable to a member that is in arrears.

(3) A savings and credit cooperative society may refuse to allow withdrawals from any savings account where an account holder is in arrears on a debt to the society.

55G. Dormant accounts.

(1) Where there has been no activity on a savings account for two years, the board may impose a reasonable maintenance fee on the account.

(2) The society shall give notice of this action under subsection (1) to member, or known interested parties, at the last known address, allowing at least ninety calendar days for a response.

(3) A maintenance fee may be fixed at a rate that covers administrative costs, but shall not reduce a member's interest in the society.

(4) The society shall maintain a separate accounting record of all such accounts.

(5) Share and savings accounts, dividends, interest, and other sums due to a member or other person and held by the society may be presumed abandoned, unless the owner has within five years contacted the society in person or in writing, or otherwise indicated an interest in the funds.

(6) The board may credit the abandoned funds to a special reserve fund of the society and thereafter dividends or interest shall not accrue to a member or other person to whom the property is owing to the last address shown on the records of the society.

(7) A member or other person may reclaim the abandoned funds by proper judicial proceedings began within eight years after the society has credited the funds to the special reserve fund, and thereafter the unclaimed money shall remain in the reserve fund.

55H. Purpose and conditions of loans.

(1) A society may lend money to members for provident or productive purposes, under conditions provided by the byelaws, lending policies and regulations.

(2) The board may establish written policies approved at the annual general meeting, regarding the granting of loans including the terms and conditions of repayment, maximum amounts that may be borrowed, and the acceptable form of security.

(3) A loan shall not be extended to non members.

55I. Loan limits and security.

(1) Loans may either be secured or unsecured.

(2) In addition to generally accepted forms of security, endorsement of a note by a guarantor or co-guarantor, assignment of an interest in real or personal property, deposits or wages may be deemed as security.

(3) The maximum amount that any member and related parties may borrow in the aggregate shall not exceed ten percent of total assets or twenty five percent of institutional capital, to be amended from time to time in preserve of the quality of the society assets.

(4) The maximum amount that a savings and credit cooperative society may lend to its staff and board in aggregate shall not exceed a pre-determined percentage of the cooperative society's total assets set out in the regulations made under this Act.

(5) All loans to staff and board members should be reported to the full board and disclosed on the face of the financial statements.

(6) A society, association, partnership, company or other forms of organizations applying for a loan in a society shall have its directors or leaders pledge as security property held by them in their individual capacity or some other form of acceptable security.

55J. Interest and other charges on loans.

(1) The interest rates on loans shall be determined by the board subject to the limitations imposed by the registrar.

(2) In addition to interest charged on loans, a savings and credit cooperative society may charge members reasonable expenses in connection with making, closing, disbursing, extending, collecting, or renewing of loans.

(3) A savings and credit cooperative society may also assess charges to members, in accordance with the bye laws, for failure to repay loans in the manner agreed upon.

(4) A savings and credit cooperative society may participate in any guaranteed loan program of the Government under the terms and conditions specified in the law providing for such a program.

55K. Loans to society officials.

(1) Board members and officers shall be subjected to the same loan policy.

(2) All society employees shall not be advanced loans from the society other than salary advances in accordance with the human resource policy of the society.

(3) Board members, employees, and members of the supervisory committee shall not act as guarantors of loans to members.

55L. Loan loss provisions and write-offs.

(1) Loan loss provisions and write offs shall be made in accordance with the generally acceptable industrial standards for loans.

(2) Notwithstanding subsection (1) a savings and credit cooperative society shall put in place stringent collection efforts.

(3) Subject to subsection (3) all security seized shall be pledged and auctioned to recover the loan in default.

55M. Investment of society funds.

(1) The funds of the society may be invested in—

- (a) securities or other debt instruments issued or guaranteed by the Government or any agency of the Government;
- (b) deposits or other account of deposit taking institutions under the Financial institutions Act 2004, Act No. 2 of 2004; or
- (c) shares, stocks, deposits in securities and loans to any cooperative society.

(2) An investment made under this section shall not in the aggregate exceed such proportion of the total core capital and savings of a society as the registrar may prescribe.

(3) A society shall not purchase or acquire any land or any interest or right in land except as may be reasonably necessary for the purpose of conducting its savings taking business and where such investments exist they shall not exceed such proportion of the total assets of the society as the registrar may prescribe.

55N. Reporting to the registrar.

(1) Notwithstanding section 22 of this Act, a savings and credit cooperative shall furnish quarterly reports to the Registrar on portfolio, operational self sufficiency, risk analysis and sustainability.

(2) A savings and credit cooperative society that contravenes subsection (1) is liable to a civil penalty not exceeding two hundred shillings payable to the registrar.

55O. The cooperative central finance fund.

(1) There shall be a cooperative central finance fund into which every registered savings and credit cooperative shall contribute five percent of its total equity.

(2) The cooperative central finance fund shall compensate members of the savings and credit cooperative society upon liquidation.

(3) The fund shall be administered by the registrar.

(4) The fund shall be invested in a commercial bank or such other mode as the registrar may approve.

(5) Where the fund has been in existence for three years, a registered savings and credit cooperative may borrow from the fund on terms and conditions determined by the board from time to time.

55P. Functions of the cooperative central finance fund.

The functions of the cooperative central finance fund are—

- (a) to accumulate and prudently manage the liquidity of members of a savings and credit cooperative society through inter lending and investment services;
- (b) to act as an intermediary for savings and credit cooperative society funds between members and other central finance funds;
- (c) to obtain liquid funds from other savings and credit cooperative society, financial intermediaries and other sources; and
- (d) to provide payment systems and other services of benefit to its members as may be authorized by its bye laws.

55Q. Sources of finance for the cooperative central finance fund.

The cooperative central finance fund may be financed through the following means—

- (a) moneys contributed to the cooperative central finance fund by savings and credit societies as shall be approved by the Registrar;
- (b) investment income accruing to the cooperative central finance fund;
- (c) moneys borrowed for the purposes of the cooperative central finance fund; or
- (d) moneys received as donations or grants to the cooperative central finance fund.

55R. Powers and privileges of the cooperative central finance fund.

The cooperative central finance fund may exercise the powers and privileges of any other saving and credit cooperative society registered under this Act, except that it may only serve member organizations and not individuals.

55S. Exemption of cooperative central finance fund from maintaining reserve fund.

(1) The cooperative central finance fund shall be exempted from the requirement of maintaining a reserve fund as provided under the regulations made under this Act.

(2) Notwithstanding subsection (1) the cooperative central finance fund shall be required to establish and maintain special reserves in accordance with regulations made by the Minister.

55T. Voluntary liquidation.

(1) Subject to the provisions of this Act relating to liquidation, a savings and credit cooperative society may liquidate voluntarily and wind its affairs as provided in the regulations.

(2) Subject to subsection (1) the board—

- (a) shall the adopt a resolution recommending to the members that the savings and credit cooperative society be liquidated for the reasons indicated but no such liquidation shall be done without notification to the registrar;
- (b) shall on recommendation of the registrar issue an order temporarily suspending the savings and credit cooperative society's operations for up to thirty calendar days, if it appears that a savings and credit cooperative society is bankrupt or insolvent, or that it has willfully contravened this Act, or it is operating in an unsafe or unsound manner;

- (c) shall be given written notice of the suspension, which shall include a list of the reasons for the suspension and upon receipt of the notice, the savings and credit cooperative society shall cease all operations, except those allowed by the registrar; and
- (d) may request a hearing to present a plan of proposed corrective action if it desires to resume operation of the savings and credit cooperative society, or it may request that the savings and credit cooperative society, be immediately placed into liquidation and a liquidator shall be appointed.

55U. Involuntary liquidation.

(1) If the registrar considers that a savings and credit cooperative society is not viable in the long term, and that there is no suitable or willing merger partner, the registrar may issue an order and appoint a liquidator for purposes of winding up the savings and credit cooperative society.

(2) Upon being placed under involuntary liquidation, a savings and credit cooperative society shall cease all deposit transactions and granting of loans.

(3) Under the liquidator, a savings and credit cooperative society shall continue in existence in order to discharge its debts, pay expenses, collect money owed to it and perform all acts required to wind off its affairs.

(4) The liquidator shall distribute the assets of the savings and credit cooperative society or proceeds of disposing the assets as provided in the regulations.

55V. Dispute resolution in savings and credit cooperative societies.

(1) Subject to the provisions of this Act relating to arbitration under settlement of disputes under Part X of the Act, the following shall also apply to savings and credit cooperative societies—

- (a) where there is a dispute and the issues involve loan defaults, fraud or misappropriations, the case shall be immediately referred to the courts by the society
- (b) the Registrar shall prescribe the qualifications of arbitrators to resolve issues in savings and credit cooperative societies;
- (c) the board in consultation with the members shall identify the persons to be appointed as arbitrators under paragraph (b).

55W. Agricultural production and marketing cooperative societies.

(1) An agricultural production and marketing cooperative society is a society registered for the purpose of animal or crop production, purchasing, processing, marketing, distribution and any such activity for its members as may be provided for in regulations and byelaws made under this Act

(2) An agricultural production and marketing cooperative society is a form of cooperative society registered to help farmers gain market power by joining as a group to market their crops; increase their bargaining power by increasing economies of scale and or purchase supplies and services.

55X. Transport cooperative societies.

(1) A transport cooperative society is a society registered to provide transport and transport related services to its members.

(2) A transport cooperative society shall discharge any or all of the following functions—

- (a) organize transport facilities along those routes or in those areas in which or in which, the society may be permitted to operate by the competent authority;

- (b) purchase, hire or sell and maintain in an efficient condition vehicles and motor cycles for the purpose mentioned above;
- (c) establish service and repair shops, run petrol pumps and stock motor vehicles and motor cycles, accessories, spare parts, oils, equipment ;
- (d) operate bus stops which may be entrusted to the society;
- (e) to arrange for the insurance of the society's vehicles against damage, passenger or third party risk;
- (f) own, purchase, erect, repair or take on rent buildings, workshops, stands, godowns, office premises as may be necessary to carry out the objects of the society, and to acquire land for the purpose;
- (g) manage, sell, improve, develop, mortgage, lease, dispose of, take into account or otherwise deal with all or any part of the property, movable or immovable over which the society has power of disposal;
- (h) enter into any agreement with the government or authority including an agreement to supply motor transport vehicles on hire to such authorities and to obtain from them all rights, concessions and privileges, that may seem useful to the society's objects or any of them and to give any guarantee or indemnity as may be expedient for the above purpose;
- (i) undertake welfare activities particularly for the members and employees and their children for the promotion of their moral, educational and physical improvement; and

- (j) undertake other measures designed to encourage in the members the spirit and practice of thrift, self help and mutual help, and to do all such things as are incidental or conducive to the attainment of any or all of the foregoing objects.

55Y. Housing cooperative societies.

(1) A housing cooperative society is a society registered to provide housing facilities and housing related needs for its members.

(2) A housing cooperative society shall discharge any or all of the following functions—

- (a) buy or acquire land and property by purchase, lease exchange, gift or otherwise;
- (b) lay out land to suit the requirements of the society in the form of roads, parks, play grounds, schools, hospitals, markets, post offices, cinemas and other social amenities, in accordance with the governing laws;
- (c) lay out land sites for the benefit of the members of the society;
- (d) construct or cause to be constructed buildings or other works of a common utility to the society, namely—
 - (i) build houses for members on land owned by them and recover the cost in installments;
 - (ii) build or cause to be built residential houses or other buildings for the members;
 - (iii) purchase land for members, build houses on it; and

- (iv) build houses on land belonging to the society for purposes of renting or leasing them to members;
- (e) hold, sell, mortgage, lease out on hire or hire –purchase system, or otherwise dispose of land, houses, house sites, buildings and all other properties moveable and immovable as may be necessary for carrying out of the objectives of the society;
- (f) raise and borrow funds required for the business of the society;
- (g) repair, alter or otherwise deal with the building of the society;
- (h) establish and maintain social, recreational , educational, public health or medical institutions for the benefit of the members;
- (i) encourage in members a spirit and practice of thrift, mutual help and self-help; and
- (j) do all such things as are incidental or conducive to the attainment of any or all of the above objects.

(3) The functions of the Housing Cooperative Society under this Act are subject to the land Act Cap 227, National Environment Act Cap 153, Condominium Property Act, 2001, Act No. 4 of 2001, Electricity Act, 1999, Cap 145 and any other law with direct or indirect relation with housing.

55Z. Energy cooperative society.

(1) An energy cooperative society is a registered society formed for the purpose of generating, transmitting, distributing, sale or use of energy or power; both on-grid and off-grid, amongst its members.

(2) An energy cooperative society shall discharge any or all of the following functions—

- (a) provide a framework for the efficient and sustainable production, distribution and marketing of both on grid and off grid energy to members;
- (b) promote generation of energy at household level and consumption of such energy for improved social economic livelihoods;
- (c) improve access to quality, reliable and affordable energy services for members' economic, social and household uses;
- (d) promote energy efficiency and conservation among members;
- (e) promote diversification of energy supply sources amongst the members;
- (f) harness opportunities offered under clean development mechanisms and other mechanisms including, but not limited to, carbon credit trading to promote the development and exploitation of renewable energy sources;
- (g) identify areas in which new and renewable energy products and services need to be deployed;
- (h) ensure that prudent environmental, social, health and safety considerations are factored in the operations of the society; and
- (i) perform any other function that is incidental or consequential to the fore going functions, or as may be conferred on it by any other law.

55AA. Health cooperative societies.

(1) A health cooperative society is a society registered to establish and operate plans or programs for health care, including hospital care, for its members and the members' dependents through contracts with physicians, medical societies, chiropractors, optometrists, dentists, dental societies, hospitals, podiatrists, and other health operators.

(2) A health cooperative society shall discharge any or all of the following functions—

- (a) establish, maintain, and operate health, dental, or vision care plan or plans;
- (b) construct, operate, and maintain hospitals or other facilities where health care is given, dental, or vision care, is provided to its members and to other persons or groups of persons who become subscribers to the plans, under contracts;
- (c) to provide access to medical, surgical, chiropractic, vision, dental, or hospital care, other health care services;
- (d) to provide appliances, and supplies, by physicians and surgeons, podiatrists, optometrists chiropractors, dentists and other health care providers in their offices, in hospitals, in other facilities, and in the home, through contracts with the healthcare providers.

55AB. Consumer cooperative societies.

(1) A consumer cooperative society is a society registered for the purpose of purchasing, procuring, processing, exchanging, hiring and dealing in goods, wares and merchandise including food, clothing, household goods, fuel and other necessities for individual or family consumption or use, as well as agricultural inputs for sale for its members.

(2) A consumer cooperative society shall discharge any or all of the following functions—

- (a) collect and disseminate necessary marketing intelligence for the benefit of its members and to undertake research work and studies in connection with the consumer cooperative movement;
- (b) render technical guidance and assistance to its members in grading, packaging, standardization, bulk-buying, storing, pricing, account keeping, other business techniques and management methods to improve and increase their operation and management efficiency;
- (c) establish testing laboratories for testing of consumer goods in general and making such services available for members;
- (d) hold seminars, conferences, meetings and to undertake publicity, propaganda and similar activities that shall facilitate the development of consumers' cooperative movement in the country;
- (e) establish trade connections with manufacturers, their authorized distributors and dealers and to undertake purchase, sale and supply of agricultural commodities, manufactured and value added items and other consumer goods;
- (f) undertake supply of goods in wholesale and retail to its members;
- (g) establish, run or sponsor processing of agricultural commodities and manufacturing units for the production of consumer goods, where necessary, in collaboration with other agencies;

- (h) secure from the Government or other sources requisite facilities, assistance and financial aid, for its members; and
- (i) acquire property and equipment for its activities;
- (j) act as agents of cooperative institutions or any other business enterprises for the purpose of sale, storage and distribution of consumer goods;
- (k) to organize cooperative education programs for members; and
- (l) do all such things and take such steps as are incidental or conducive to the attainment of any or all the objects, in cooperation with other cooperatives and other agencies, where necessary, within and outside Uganda.

55AC. Industrial cooperative societies.

(1) An industrial cooperative society is a society registered to produce, prepare, process or manufacture of goods, wares and merchandise for direct sale or under contract and may include artisans, craftsmen, contracting societies and producers of natural products.

(2) An industrial cooperative society shall discharge any or all of the following functions—

- (a) produce, prepare, adapt, process or manufacture goods, wares and merchandise from materials of every description for direct sale or under contract;
- (b) undertake contracts or sub-contracts by providing labour and technical services, materials, and equipment for land clearance or reclamation, and construction, construction of industrial plants, public utilities or facilities for the development of natural resources, and for the maintenance of buildings, plants and public utilities;

- (c) provide, the necessary materials, equipment, facilities and services to enable members and their families to produce, prepare, adapt or process goods, wares and merchandise in their homes either for individual sale by each member or for sale by or through the society; and
 - (d) render services to its members as contractors or as producers, processors and manufacturer of goods, wares and merchandise which are ancillary to their operations or activities.
- (3) Industrial cooperative societies for natural products shall perform the following functions—
- (a) purchase, hire or otherwise acquire, maintain and operate boats and other equipment to be used in group fishing by all or each member on an individual basis and market fish and fish products;
 - (b) obtain or provide equipment contracts and management services for the production and marketing of pulp wood, fuel wood, timber, lumber and other forest products delivered wholly or particularly from them;
 - (c) obtain prospect, exploration and mining licenses and obtain or provide equipment, contracts and management services to provide for development, utilization and disposal of the products of any mine.

55AD. Multipurpose cooperative societies.

(1) For purposes of carrying out more than one activity or objective, a society may be registered by the registrar as a multipurpose cooperative society.

(2) A society referred to in subsection (1) shall clearly state in its proposed byelaws the activities and objects at registration.

(3) A society registered with more than one objective may by majority vote at an annual general meeting amend its objectives to multipurpose.

55AE. Formation of other cooperatives.

For the avoidance of doubt, this Part shall not prejudice the formation of cooperatives other than those mentioned.

26. Amendment of section 73 of the principal Act.

Section 73 of the principal Act is amended—

- (a) by substituting for the words “the general secretary of the Uganda Cooperative Alliance Ltd” occurring in subsections (5), (7) and (17) the word “registrar.”
- (b) by substituting for the word “board” in subsection (9) the word “registrar”

27. Substitution of section 75 of the principal Act.

The principal Act is amended in section 75 by substituting for the following—

“75. Application to Court

A person aggrieved by the decision of the registrar under section 73 or by virtue of any other provisions of this Act may apply to court for redress”.

28. Amendment of section 79 of the principal Act.

Section 79 of the principal Act is amended in subsection (1) by substituting for the words “in consultation with the board” the words “on the advice of the registrar.”

29. Insertion of new Third Schedule to the Principal Act.

The principal Act is amended by inserting immediately after the Second Schedule the following—

“Third Schedule

section 4(3)”

STATEMENT ON COOPERATIVE IDENTITY.

1. Definition

A cooperative is an autonomous association of persons united voluntarily to meet their common economic, social, and cultural needs and aspirations through a jointly owned and democratically controlled enterprise.

2. Values.

(1) Cooperatives are based on the values of self help, self responsibility, democracy, equality, equity and solidarity.

(2) In the tradition of their founders, cooperative members believe in the ethical values of honesty, openness, social responsibility and caring for others.

3. Principles.

The cooperative principles are guidelines by which cooperatives put their values into practice and these include the following—

- (a) voluntary and open membership; whereby cooperatives are voluntary organizations, open to all persons able to use their services and willing to accept the responsibilities of its membership, without gender, social, racial, political or religious discrimination;
- (b) democratic member control; whereby cooperatives are democratic organizations controlled by their members, who actively participate in setting their policies and making decisions namely—
 - (i) men and women serving as elected representatives are accountable to the membership; and

- (ii) in primary cooperatives members have equal voting rights of one member, one vote and cooperatives at other levels are also organized in a democratic manner;
- (c) member economic participation; whereby members contribute equitably to, and democratically control, the capital of their cooperative such that—
 - (i) part of the capital is usually the common property of the cooperative;
 - (ii) members usually receive limited compensation if any, on capital subscribed as a condition of membership;
 - (iii) members allocate surpluses for any or all of the following purposes such as developing their cooperative by setting up reserves part of which at least would be indivisible, benefit members in proportion to their transactions with the cooperative and support other activities approved by the membership.
- (d) autonomy and independence; whereby cooperatives are autonomous, self-help organizations controlled by their members. If they enter into agreements with other organizations, including governments, or raise capital from external sources, they do so on terms that ensure democratic control by their members and maintain their cooperative autonomy;
- (e) education, training and information; whereby cooperatives provide education and training for their members, elected representatives, managers, and employees so that they can contribute effectively to the development of their cooperatives and also inform the general public particularly young people and opinion leaders about the nature and benefits of cooperation;

- (f) cooperation among cooperatives; whereby cooperatives serve their members most effectively and strengthen the cooperative movement by working together through local, national, regional and international structures; and
- (g) concern for community; whereby cooperatives work for the sustainable development of their communities through policies approved by their members”.

