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## CHAPTER 256

### CREDIT UNIONS

Act 14 of 1999

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## CREDIT UNIONS

To provide for the creation, registration and regulation of credit unions, and for related purposes.

### PART 1 – PRELIMINARY

#### 1. Interpretation

In this Act, unless the contrary intention appears:

“account” in relation to a credit union, means an account maintained by a person with the credit union to which is accredited money received on deposit by the credit union from or on behalf of that person;

“by-laws” mean the standard by-laws or any supplementary by-laws made by a credit union;

“central finance facility” means the facility formed by the League under section 58(2)(f);

“credit union” means a co-operative non-profit organisation registered under this Act;

“dividend” means a share of the surplus or bonus declared by a credit union divided among its members in proportion to the amounts in their share accounts;

“gross income” of a credit union means all monies earned by the credit union, before any deductions or disbursements;

“League” means the Credit Union League established by section 57;

“member” means a member of a credit union;

“membership share” means the minimum amount required to be paid to a credit union by a person to become a member of the credit union;

“officer”, in relation to a credit union, means:

- (a) a member of the board of directors of the credit union; or
- (b) a member of the supervisory committee or any other committee of the credit union; or
- (c) a person who occupies the position of manager of the credit union (howsoever described) or any other employee who exercises senior management functions;

“person” means an individual or a statutory body, company or any other body corporate or unincorporate;

“Registrar” means the Registrar of Credit Unions referred to in section 2;

“regulations” means the regulations made under this Act;

“savings account”: an account is a savings account if the money in the account is payable on call;

“share account”: an account is a share account if the money in the account is payable on notice;

“standard by-laws” means the by-laws made under section 4;

“supplementary by-laws” means ancillary by-laws of a credit union made in accordance with section 18.

## **PART 2 – REGISTRAR OF CREDIT UNIONS**

### **2. Registrar**

- (1) The Financial Services Commissioner is the Registrar of Credit Unions.
- (2) The Registrar must administer this Act and perform all the functions assigned to the Registrar by or under this Act.
- (3) The Registrar must perform his or her functions in accordance with any general policy directions given by the Minister in writing.
- (4) However, the Minister must not give directions that are inconsistent with this Act, the regulations or the standard by-laws.
- (5) The Minister must table a copy of any direction in the Parliament within 15 sitting days after the direction is given.

### **3. Register of credit unions**

- (1) The Registrar must establish a register of credit unions registered under this Act and keep the register up to date.
- (2) The register must contain particulars of the registration of each credit union and a copy of its supplementary by-laws.
- (3) The register must be kept in the form that the Registrar determines.
- (4) The register is to be open for inspection by members of the public during normal business hours on payment of the fee prescribed by the regulations.

### **4. Standard by-laws**

- (1) The League must:
  - (a) make standard by-laws not inconsistent with the provisions of this Act or the regulations; and
  - (b) submit them to the Registrar for approval.
- (2) The standard by-laws:
  - (a) apply to all credit unions registered under this Act; and
  - (b) may be made for and in relation to the administration, management or operations of credit unions or any other any matter relevant to credit unions.
- (3) Standard by-laws may be made prescribing penalties not exceeding VT 2,500 for offences against, or a contravention of, any of the standard by-laws.
- (4) The Registrar must supply a copy of the standard by-laws to any person who requests a copy for any purpose relating to a credit union or the formation of a credit union.

## **PART 3 – REGISTRATION OF CREDIT UNIONS**

### **Division 1 – Procedures before application for registration**

**5. Signing of memorandum of association**

- (1) Any 50 or more citizens of Vanuatu who want to associate themselves together as a credit union must each sign a memorandum of association in duplicate.
- (2) A person who signs the memorandum must do so in the presence of a witness.

- (3) The memorandum must be in the form set out in Schedule 1 and can be either printed or typed.

**6. Contents of memorandum**

The memorandum of association must set out the following:

- (a) the name of the proposed credit union;
- (b) the group of persons to whom membership is to be restricted;
- (c) the address in Vanuatu at which the registered office of the proposed credit union is to be situated;
- (d) the value of a membership share of the proposed credit union;
- (e) the name, address and qualification of each person who signed the memorandum.

**7. Preliminary meeting**

The people who signed the memorandum in accordance with section 5 must hold a meeting for the following purposes:

- (a) to make the supplementary by-laws (if any) of the proposed credit union;
- (b) to complete the application to be registered as a credit union;
- (c) to elect the first directors of the proposed credit union in accordance with:
- (i) the supplementary by-laws so made; or
- (ii) the standard by-laws if supplementary by-laws are not made;
- (d) any other purposes associated with the formation of the proposed credit union.

**Division 2 – Application for registration of credit union**

**8. Application to be registered as a credit union**

(1) An application to be registered as a credit union must:

- (a) be made in writing to the Registrar by the League on behalf of the proposed credit union; and
- (b) be in such form as is specified by the Registrar.

(2) The application must be accompanied by the following:

- (a) one copy of the memorandum of association signed in accordance with section 5;
- (b) a copy of a report of the preliminary meeting held in accordance with section 7;
- (c) a copy of the supplementary by-laws (if any);
- (d) a statement from the League supporting the application;

- (e) the fee prescribed by the regulations which must not exceed VT 10,000.

**9. Registration**

- (1) The Registrar must register the credit union and its supplementary by-laws (if any) and issue a certificate of registration as set out in Schedule 2 if satisfied that:
  - (a) the application for registration meets the requirements of section 8; and
  - (b) the objects of the proposed credit union are consistent with the objects referred to in section 15; and



- (c) the membership of the proposed credit union is restricted to people who have particular qualifications and a common bond exists between those members.
- (2) Without limiting the qualifications for membership of a credit union, the following are qualifications that are appropriate to a credit union:
  - (a) undertaking a particular occupation;
  - (b) living in a particular place;
  - (c) being employed by a particular employer;
  - (d) working in a particular location.
- (3) If the Registrar refuses to register a credit union, the Registrar must:
  - (a) give written reasons for the refusal to the League; and
  - (b) return the application fee to the League.

**10. Effect of registration**

- (1) On the issue of a certificate of registration, the credit union:
  - (a) is a body corporate with perpetual succession; and
  - (b) has a common seal; and
  - (c) may sue and be sued in the name under which it is registered.
- (2) A certificate of registration is conclusive evidence that all requirements of this Act in relation to registration and matters precedent or incidental to registration have been complied with.
- (3) Any act of a credit union after registration is not invalid because of a defect in the registration procedure.

**11. Registrar to forward certificate of registration and other documents**

- (1) On registering a credit union, the Registrar must send to the credit union the following:
  - (a) its certificate of registration;
  - (b) a copy of its registered supplementary by-laws (if any);
  - (c) a copy of the standard by-laws;
  - (d) a copy of this Act and the regulations.
- (2) The Registrar may charge the credit union the reasonable costs incurred in supplying such copies.
- (3) The Registrar must publish details of the registration of a credit union in the *Gazette* as soon as possible.

**Division 3 – Other registration matters**

**12. Offence for unregistered credit union**

- (1) A person carrying on business must not use the words “credit union” in the name, description or title under which the person carries on business, unless the person is the League or a credit union registered under this Act.
- (2) A person who contravenes subsection (1) is guilty of an offence punishable on conviction:

- (a) if the person is an individual – by a fine not exceeding VT 100,000 or 2 years imprisonment, or both; or
- (b) in any other case – by a fine not exceeding VT 500,000.

**13. Persons currently carrying out credit union activities**

- (1) This section applies to a person who was carrying on business under a name, description or title that included the words “credit union” immediately before the commencement of this Act.
- (2) Section 12 does not apply to the person for 6 months starting on commencement.
- (3) The person must apply under section 8 to be registered as a credit union.

**14. Restriction of name**

A credit union must not be registered under a name that:

- (a) is identical to the name of a credit union already registered under this Act; or
- (b) so closely resembles the name of a credit union registered under this Act that it is likely to deceive the public.

**PART 4 – CREDIT UNIONS**

**Division 1 – General matters**

**15. Objects**

The objects of a credit union are:

- (a) to promote thrift among its members; and
- (b) to create a source of credit at a fair and reasonable rate of interest primarily for provident and productive purposes; and
- (c) to provide an opportunity for its members to use and control their own money in order to improve their social and economic well-being; and
- (d) to invest securely the deposits of its members.

**16. Credit union to be member of League**

A credit union registered under this Act must:

- (a) become a member of the League within 28 days after the credit union is registered; and
- (b) continue to be a member while the credit union is registered under this Act.

**17. Register of members**

- (1) A credit union must keep and maintain in up to date form a register of members.
- (2) The register must contain the following information:

- (a) the name and address of each member;
  - (b) the date on which the member joined the credit union;
  - (c) if the member ceases to be a member of the credit union – the date on which it happened.
- (3) The register of members is conclusive evidence of the particulars entered in it.

**18. Supplementary by-laws**

- (1) Subject to subsections (2) and (3), a credit union must make or amend supplementary by-laws of the credit union by a two-thirds vote of the members present at a general meeting called for that purpose.
- (2) A supplementary by-law must not be inconsistent with a standard by-law.
- (3) Supplementary by-laws must not be made prescribing penalties for offences against, or a contravention of, any of the supplementary by-laws.
- (4) A supplementary by-law or an amendment to a supplementary by-law is of no effect until it has been approved in writing by the League.

**Division 2 – Financial matters**

**19. Investments**

For the purpose of carrying out its objects, a credit union may in accordance with the by-laws:

- (a) invest in the League; or
- (b) invest or deposit its funds with:
  - (i) any bank licensed in Vanuatu; or
  - (ii) the central finance facility; or
  - (iii) a person approved at a general meeting of members called for that purpose; or
  - (iv) a person approved by the League.

**20. Borrowing powers**

- (1) A credit union must not borrow money unless it has obtained the prior approval in writing of the League and the Registrar.
- (2) A credit union may borrow money only for the carrying out of its objects and the performance of its functions.

**21. Prohibitions**

A credit union must not lend money to, or accept deposits from, a person who is not a member of the credit union.

**Division 3 – Funds and dividends**

**22. Reserve fund**

- (1) A credit union must establish a Reserve Fund.
- (2) Subject to subsection (3), a credit union must transfer at least 30 percent of its gross income for each financial year to the Reserve Fund within 3 months after the end of the financial year.
- (3) A credit union may cease transferring income to the Reserve Fund:
  - (a) if the credit union has assets of VT 10 million or less – when the value of the Reserve Fund is equal to 15 percent of the value of those assets; or

- (b) if the credit union has assets exceeding VT 10 million – when the value of the Reserve Fund is equal to 10 percent of the value of those assets.
- (4) Monies in the Reserve Fund may:
  - (a) be invested in accordance with section 19; or

- (b) be utilised to meet bad loans and related losses other than operating deficits; or
  - (c) be used to pay for costs associated with the dissolution of the credit union; or
  - (d) be used to pay amounts on the withdrawal, expulsion or death of a member in accordance with section 31 or 32.
- (5) A credit union must in its annual forecast and budget, as provided for in the standard by-laws, aim and work towards a surplus and subsequent retention of profits for the Reserve Fund.

**23. Fund for bad loans**

A credit union must establish in accordance with the standard by-laws a separate fund as part of its Reserve Fund for loans to members that have not been repaid.

**24. Dividends**

- (1) A credit union may in respect of a financial year pay as dividends:
- (a) the net surplus of the credit union that remains after the transfer (if any) is made for that year under section 22 and operational expenditure for that year is met; and
  - (b) undistributed surpluses from previous financial years.
- (2) A dividend may be paid directly into a member's share account.

**PART 5 – MEMBERS OF CREDIT UNIONS**

**25. Membership shares**

- (1) A membership share in a credit union must not be less than VT 1,000.
- (2) A member of a credit union must not hold more than one membership share in the credit union.
- (3) A membership share in a credit union is not transferable.

**26. Qualifications for membership**

- (1) A person must not be a member of a credit union unless the person:
- (a) is at least 18 years of age; and
  - (b) satisfies the qualifications for membership of the credit union so that a common bond exists between the person and the other members.
- (2) A person may be a joint member of a credit union with another person.
- (3) A credit union must not be a member of another credit union.

**27. Rights and liabilities**

- (1) A member of a credit union cannot exercise the rights of a member unless the member has paid his or her membership share.

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- (2) The liability of a member of a credit union for the debts of the credit union is limited to the amount of his or her membership share.

**28. Deposits and loans**

- (1) A member may deposit money with a credit union in a share account or a savings account, or both.
- (2) A credit union may grant loans to its members for productive and provident purposes.



(3) However, the total amount of loans made by a credit union to its members must not exceed at any time 75 percent of the total of the amounts in the share accounts of all members of the credit union.

(4) A credit union may require a member to whom a loan is given to provide security for the loan in accordance with the by-laws.

**29. Debts**

(1) Any money payable by a member to a credit union is a debt due from the member to the credit union and is recoverable as such in any court of competent jurisdiction in Vanuatu.

(2) A credit union has a lien on a member's membership share and the money in his or her savings and share account for:

(a) any debt due from the member to the credit union; and

(b) any loan made to the member by the credit union; and

(c) any loan made by the credit union for which the member is a guarantor.

**30. Deductions for members' debts**

(1) Subject to this section, an employer must, on receiving a written request from a credit union, make deductions from the wages, salaries or other allowances of an employee who is a member of the credit union for the satisfaction of debts incurred by the member in respect of any outstanding loan with the credit union.

(2) The deductions must not exceed 25 percent of the total remuneration of the member at any one time.

(3) An employer who makes deductions must remit them to the credit union within 5 working days after making the deductions.

(4) The member must have consented in writing to such deductions at the time of signing the loan agreement.

(5) The credit union must give the employer a copy of the member's loan agreement confirming the member's consent to the deductions.

(6) The credit union and the employer must each keep up to date statements of account of the deductions.

(7) The member may request in writing a copy of the statement of account from the credit union or the employer, or both. The request must be complied with as soon as possible.

(8) Any such deductions are not a bar to any further action by the credit union to recover any outstanding sums of money from the member.

**31. Withdrawal and expulsion**

(1) A member may withdraw from a credit union at any time by giving a notice of withdrawal of membership as required by the by-laws.

- (2) The board of directors of a credit union may by unanimous vote at a meeting of the board expel a member of the credit union.
- (3) The expulsion of a member takes effect on the day on which the decision is made to expel the member.
- (4) The credit union must give the expelled member written notice of his or her expulsion within 7 days after the date on which the member was expelled.

- (5) A credit union must pay to a member who is expelled or withdraws from the credit union within 7 days after the expulsion or withdrawal:
- (a) the amount of his or her membership share; and
  - (b) any other amounts in the member's share account and savings account; and
  - (c) any related dividends or interest.
- (6) A member who is expelled or withdraws from a credit union has no further rights in the credit union. However, the expulsion or withdrawal does not release the member from any liability to the credit union (including contingent liability) whether as borrower, guarantor or otherwise.

**32. Death of a member**

- (1) On the death of a member, a credit union must transfer to his or her personal representative within 3 months after the death:
- (a) the amount of his or her membership share; and
  - (b) any other amounts in the member's share account and savings account; and
  - (c) any related dividends or interest.
- (2) The death of a member does not release the member and his or her personal representative from any liability to the credit union (including contingent liability) whether as borrower, guarantor or otherwise.

**PART 6 – AUDIT AND INVESTIGATION**

**33. Audit**

- (1) The accounts of a credit union for each financial year of the credit union must be audited within 3 months after the end of the financial year.
- (2) An audit is to be undertaken by:
- (a) a suitably qualified person appointed by the League if the credit union has assets of VT 10 million or less throughout the year; or
  - (b) an independent and qualified auditor approved by the Registrar in any other case.
- (3) On completion of an audit of a credit union, the auditor must send his or her report to the credit union and a copy of the report to the League.
- (4) The League must give a copy of the report to the Registrar within 14 days after receiving it.

**34. Power of Registrar to inspect books**

- (1) A credit union must keep the accounts and other documents prescribed by the by-laws for 6 years.

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- (2) The Registrar, or any person authorised in writing by the Registrar, may inspect the accounts, securities and any other documents of a credit union at all times during normal business hours.
  - (3) The person undertaking an inspection must give at least 24 hours written notice to the credit union of the inspection.
  - (4) An officer of a credit union must give such information relating to the business of the credit union as the person making an inspection may require.

**35. Investigation**

- (1) The Registrar must investigate, or order a person to investigate, a credit union if the Registrar:
- (a) has reason to believe that:
    - (i) the credit union is unable to meet its obligations; or
    - (ii) an offence under this Act, the regulations or standard by-laws has been, or is likely to be, committed by the credit union or any of its members; or
    - (iii) the interests of the members of the credit union are otherwise in danger; or
  - (b) receives a request signed by at least one quarter of the members of the credit union for an investigation to be held into the affairs of the credit union; or
  - (c) receives a request signed by all members of the credit union's supervisory committee or a majority of the board of directors of the credit union for an investigation to be held into the affairs of the credit union; or
  - (d) receives a request in writing from the League for an investigation of the credit union.
- (2) The Registrar must consult with the League and give a credit union a reasonable opportunity of making representations before investigating or ordering an investigation of the credit union.
- (3) The Registrar may require the persons making a request under subsection (1)(b) or (1)(c) to furnish security in such amount as the Registrar considers sufficient to meet the expenses that may be incurred by the credit union and the Registrar in respect of the investigation.
- (4) The Registrar, or the person carrying out an investigation, must prepare a written report of the investigation and send a copy of the report to the board of directors of the credit union, its supervisory committee and the League. If the investigation was conducted pursuant to a request made under subsection (1)(b), a copy of the report must also be sent to each of the persons who made the request.
- (5) If, after considering a report, the Registrar is of the opinion that a request was made under subsection (1)(b) or (1)(c) without reasonable cause, the Registrar may order that the whole or any part of the amount furnished as security under subsection (3) be forfeited and paid to the credit union or the Registrar in order to defray the costs incurred by them.

**36. Winding up of credit union following investigation**

- (1) The Registrar may wind up a credit union if, as a result of a report of an investigation of the credit union made under section 35, the Registrar considers that it is necessary in the interests of the members that the registration of the credit union be cancelled.
- (2) The Registrar must give the credit union a reasonable opportunity of making representations and obtain the written approval of the League before winding up the credit union.

(3) Part 9 applies to a winding up under this section.

**37. Offence to obstruct investigation**

A person who obstructs an investigation that is being conducted under this Part is guilty of an offence punishable on conviction by a fine not exceeding VT 20,000 or imprisonment for not more than one year, or both.

## **PART 7 – ORGANISATION AND MANAGEMENT**

### **Division 1 – Meetings and directors**

#### **38. Meetings**

- (1) A credit union must hold its first annual general meeting within 12 months after it is registered under this Act. Any subsequent general meeting must be held at such time as is provided for by the by-laws.
- (2) Special general meetings of a credit union must be convened in accordance with the by-laws.
- (3) If the board of directors of a credit union has not convened an annual general meeting within 12 months after the last annual general meeting of the credit union, the League must call a meeting for that purpose.
- (4) A new board and supervisory committee must be elected at that meeting.

#### **39. Directors**

- (1) The directors of a credit union elected at its preliminary meeting held in accordance with section 7 hold office until the first annual general meeting of the credit union.
- (2) At the first annual general meeting of a credit union, the members of the credit union must elect a new board of directors of at least 5 members.
- (3) A director of a credit union elected at an annual general meeting holds office for 2 years and is eligible for re-election. However, a director cannot hold office for more than 3 consecutive terms.
- (4) A board must hold its first meeting within 28 days after the board is elected.

#### **40. Matters affecting directors dealt with by standard by-laws**

The standard by-laws may make provision for the following in relation to the board of directors of a credit union:

- (a) the disclosure of financial interests by directors;
- (b) the removal of directors from the board;
- (c) the filling of vacancies on the board;
- (d) the procedures for meetings of the board;
- (e) the appointment of a chairperson and deputy chairperson of the board;
- (f) the appointment of members of a credit union to act if a director is absent or unavailable;
- (g) any other matter relating to the operations of the board.

#### **41. Appointment of officers**

- (1) The board of directors of a credit union must appoint from their own number:
  - (a) a president;
  - (b) a vice president;

- (c) a secretary;
  - (d) a treasurer;
  - (e) an assistant treasurer.
- (2) The appointments must be made at a board's first meeting after it has been elected.
- (3) A person appointed under this section holds office for so long as the person is a director of the credit union.
- (4) If there has been a vacancy among the members of a board, the board must, at its first meeting after the vacancy has been filled, appoint an office holder or holders referred to in subsection (1) as required.

**42. Duties of board of directors**

- (1) The board of directors of a credit union has the general management of the affairs of the credit union.
- (2) Without limiting subsection (1), the board must in relation to the credit union:
- (a) decide upon applications for membership and on the expulsion of members; and
  - (b) determine the maximum value of a membership share; and
  - (c) determine interest rates on loans to members and on the deposits of members; and
  - (d) determine whether dividends are payable; and
  - (e) prepare an annual income and expenses budget for approval by the annual general meeting; and
  - (f) fill casual vacancies on the board in accordance with the standard by-laws; and
  - (g) perform such other duties as are required by this Act, the regulations or by-laws.
- (3) The board may appoint a manager and such other employees of the credit union on such remuneration as it thinks fit having regard to the income of the credit union.
- (4) Without limiting subsection (3), a credit union may employ a person responsible for the day-to-day administration of loans to members.

**Division 2 – Committees**

**43. Election of committees**

- (1) At the first annual general meeting of a credit union, it:
- (a) must elect a supervisory committee of 3 members; and



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- (b) may elect such other committees as it considers necessary for the performance of its functions.
- (2) Without limiting subsection (1)(b), a credit union may elect a committee that has the general supervision of all loans to members of the credit union.
- (3) A director of a credit union must not be a member of its supervisory committee.
- 44. Functions of supervisory committee**
- (1) The supervisory committee of a credit union must:
- (a) make an examination of the affairs of the credit union at least quarterly and verify the books of account whenever it considers it necessary to do so; and
- (b) provide to the board of directors a written report of an examination.
- (2) The supervisory committee may:
- (a) suspend an officer of the credit union and call a special general meeting to consider the suspension; or

- (b) call a special general meeting to consider any matter reported to it by another committee of the credit union;

if the supervisory committee considers it is necessary to do so to protect the interests of the members of the credit union.

- (3) The supervisory committee must fill casual vacancies of the committee from the members of the credit union in accordance with the by-laws.

### **Division 3 – Other matters**

#### **45. Remuneration**

A member of the board of directors, the supervisory committee or any other committee of a credit union is not to be paid any remuneration or allowances.

#### **46. Returns to Registrar**

A credit union must file a record of the name and address of:

- (a) each director of the credit union; and
- (b) each member of its supervisory committee and any other committee; and
- (c) each other officer;

with the Registrar within 30 days after their election or appointment.

#### **47. Restrictions**

- (1) A director of a credit union, a member of its supervisory committee or any other committee, or any other officer, must not:

- (a) borrow in excess of the combined value of his or her membership share and deposits; or
- (b) act as a guarantor for a loan to a member of the credit union.

- (2) All applications for loans made by directors, committee members or other officers must be:

- (a) considered after all other loan applications; and
- (b) dealt with in the same way as loan applications of members.

#### **48. Persons prohibited from appointment**

A member of a credit union must not be elected or appointed to the board of directors, the supervisory committee or any other committee of the credit union if:

- (a) the member has previously been expelled from such a position in the credit union; or
- (b) the member has been convicted of a criminal offence in the last 5 years; or
- (c) the member is insolvent or an undischarged bankrupt.

**PART 8 – AMALGAMATIONS**

**49. Procedure for amalgamation**

- (1) Two or more credit unions may apply to the Registrar for approval to amalgamate.
- (2) An application for amalgamation must:
  - (a) be made in writing to the Registrar; and
  - (b) be in such form as is specified by the Registrar; and

- (c) be accompanied by a plan agreed to by the board of directors of each credit union applying to amalgamate and approved by a majority of the members of each of those credit unions voting on the matter.
- (3) The Registrar must:
- (a) approve or reject the application for amalgamation within 28 days after receiving it; and
  - (b) give written notice of his or her decision to each credit union within 14 days after making it.
- (4) An amalgamation takes effect:
- (a) on the day specified by the Registrar in the notice; or
  - (b) if the Registrar does not specify a day – 28 days after the Registrar approves the application.
- (5) If the Registrar has approved an application for amalgamation, each credit union must display a copy of the Registrar's approval at its registered office and in every branch for at least 14 days.
- (6) The Registrar may, on the advice of the League, direct the amalgamation of a credit union with one or more other credit unions. The direction must be in writing.
- (7) A credit union directed to amalgamate under subsection (6) must comply with the direction as soon as possible.

**50. Effect of amalgamation**

- (1) Subsection (2) applies to any deed, agreement or instrument that was in force and to which a credit union (the "original credit union") was a party when it amalgamated with another credit union (the "amalgamated credit union").
- (2) On and after the amalgamation, the deed, agreement or instrument has effect as if a reference in the deed, agreement or instrument to the original credit union were a reference to the amalgamated credit union.
- (3) Subsection (4) applies to any proceedings or cause of action that was pending and to which a credit union (the "original credit union") was a party when it amalgamated with another credit union (the "amalgamated credit union").
- (4) On and after the amalgamation, the amalgamated credit union is substituted for the original credit union in the proceedings or cause of action.

**51. Disputes as to assets and liabilities**

- (1) If a dispute arises concerning the operation, assets or liabilities of any credit union amalgamating with another credit union, any of those credit unions may, in writing, request the Registrar to appoint an arbitrator to arbitrate the dispute.
- (2) The Registrar must comply with the request as soon as reasonably practicable.
- (3) A decision by the arbitrator is final and conclusive.

**PART 9 – DISSOLUTION**

**52. Dissolution**

(1) The Registrar may, on the advice of the League, cancel the registration of a credit union if the Registrar is satisfied that:

- (a) the number of members of the credit union is less than 50; or

- (b) the registration of the credit union was obtained by fraud; or
  - (c) the credit union has contravened any provisions of this Act, the regulations or by-laws.
- (2) If the Registrar intends to cancel the registration of a credit union, the Registrar must:
- (a) give the credit union notice in writing that it intends to cancel the credit union's registration; and
  - (b) give the credit union an opportunity to submit to the Registrar, within 14 days after the date of receipt of the notice, reasons why its registration should not be cancelled.
- (3) The Registrar must take into account any such submissions in deciding whether or not to cancel the credit union's registration.
- (4) The Registrar must give a credit union written notice of the cancellation of its registration.
- (5) A cancellation takes effect:
- (a) on the date specified by the Registrar in the notice mentioned in subsection (4); or
  - (b) if the Registrar does not specify a date – on the date of receipt of that notice by the credit union.
- (6) A credit union whose registration is cancelled must cease operations as a credit union.
- (7) If the Registrar cancels the registration of a credit union, the Registrar may also make an order for the safe custody of the documents and securities of the credit union, and for the protection of the assets of the credit union.
- (8) The Registrar must publish notice of the cancellation of the registration of a credit union in the *Gazette*.
- (9) The notice must be published:
- (a) if an appeal against the cancellation is not made – as soon as possible after the period for making an appeal expires; or
  - (b) if an appeal is made (see section 53) and the Minister confirms the cancellation – as soon as possible after the date of the confirmation of the cancellation.

**53. Appeals against cancellation**

- (1) A credit union may, by notice in writing, appeal to the Minister against the cancellation of its registration within 2 months after the cancellation takes effect. The notice of appeal must be signed by at least 10 members of the credit union.
- (2) The Minister may confirm or revoke the cancellation and must give written notice of his or her decision to the credit union within 7 days after making it.

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- (3) The Minister must consult with the Registrar and the League in deciding whether to confirm or revoke the cancellation.

**54. Appointment and powers of liquidator**

- (1) The Registrar may appoint one or more suitably qualified persons to liquidate a credit union whose registration has been cancelled.
- (2) A liquidator is under the Registrar's direction and control.

- (3) In making an appointment, the Registrar may impose such limitations on the powers of the liquidator as the Registrar thinks necessary.
- (4) On the date of appointment of a liquidator of a credit union, all of the property of whatever description (including books and documents) of the credit union vests in the liquidator.
- (5) The liquidator must:
  - (a) decide the contributions to be made to the assets of the credit union by members, past members and the estates of deceased members who are in debt to the credit union; and
  - (b) specify a day by which all creditors of the credit union must prove their debts or be excluded from any distribution of assets; and
  - (c) decide any question of priority that may exist between creditors of the credit union; and
  - (d) institute or defend legal proceedings on behalf of the credit union; and
  - (e) decide by whom and in what proportions the costs of liquidation are to be paid; and
  - (f) give such directions as to the collection and distribution of assets of the credit union as may be necessary; and
  - (g) compromise any claims by or against the credit union; and
  - (h) call such meetings of members or creditors of the credit union as may be necessary for the proper conduct of the liquidation; and
  - (i) take possession of all documents, securities, accounts and other assets of the credit union; and
  - (j) sell the property of the credit union; and
  - (k) prepare a scheme of distribution of the assets of the credit union and submit it to the Registrar for approval; and
  - (l) direct such persons as the liquidator thinks necessary to give evidence and produce documents and things relevant to the liquidation.
- (6) If the Registrar approves a scheme of distribution of the assets of a credit union prepared by the liquidator under subsection (5)(k), the liquidator must arrange for the distribution of the assets of the credit union accordingly.
- (7) Subject to any other Act or law, a person must comply with a direction of a liquidator given under subsection (5)(l).
- (8) Any action taken by the liquidator under this section may be enforced by the Supreme Court.

**55. Powers of Registrar to control the liquidation**

- (1) The Registrar may do all or any of the following in relation to a liquidator:



- (a) revoke or vary any order made by the liquidator, and make new orders;
  - (b) remove the liquidator from office and appoint a new liquidator;
  - (c) take possession of all documents, securities, accounts and other assets of the credit union;
  - (d) require the liquidator to produce the accounts of the credit union;
  - (e) arrange for the auditing of the liquidator's accounts;
  - (f) determine the remuneration of the liquidator.
- (2) Any order made by the Registrar under this section may be enforced by the Supreme Court.

**56. Effect of liquidation**

- (1) In the liquidation of a credit union, the funds of the credit union, including any money in the Reserve Fund, must be applied in descending order of priority as follows:
- (a) to pay the costs of the liquidation;
  - (b) to repay members' deposits in equal proportions;
  - (c) to pay the liabilities of the credit union.
- (2) The liquidator must publish notice of the closure of the liquidation in the *Gazette*. All claims against the credit union cease 6 months after the date of publication of the notice.

**PART 10 – THE LEAGUE OF CREDIT UNIONS**

**Division 1 – Establishment, functions and powers**

**57. League of credit unions**

- (1) The League of Credit Unions is established.
- (2) The League:
- (a) is a body corporate with perpetual succession; and
  - (b) is to have a common seal; and
  - (c) may sue and be sued in its corporate name.

**58. Purpose and functions of the League**

- (1) The purpose of the League is to promote and protect the interests of credit unions and their members.
- (2) The League has the following functions:

- (a) to promote and organise new credit unions and to protect their interests for future growth;
  - (b) to supervise the day to day activities of credit unions and assist credit unions in the proper conduct of their business;
  - (c) to provide leadership, management and operations training for credit unions;
  - (d) to operate as a supply depot for operating forms and other material for credit unions;
  - (e) to exercise general supervision and guidance in relation to credit unions;
  - (f) to form and administer a central finance facility in order to assist credit unions with investments;
  - (g) subject to the approval of the Registrar, to determine the fees payable by credit unions for membership of the League and the method of paying such fees;
  - (h) to verify and approve the budget and operational plans of the League;
  - (i) to determine the general policies of the League;
  - (j) such other functions as are conferred on it by or under this Act or any other law;
  - (k) such other functions as the Minister may prescribe by notice in the *Gazette*.
- (3) A credit union must pay all fees payable under a determination made under subsection (2)(g).
- (4) In the performance of its functions, the League must have regard to the policy of the government in relation to credit unions.

#### **59. Powers of the League**

- (1) The League has power to do all things necessary or convenient to be done for or in connection with the performance of functions.
- (2) Without limiting subsection (1), the powers include the following:
- (a) to enter into contracts;
  - (b) to acquire, hold and dispose of real and personal property;
  - (c) to do anything incidental to any of the powers specified in this subsection or otherwise conferred on the League.

#### **Division 2 – Board of directors**

#### **60. Board of directors**

- (1) The board of directors of the League consists of 5 directors each of whom is to be elected at the annual general meeting of the League.
- (2) The board is responsible for the administration and management of the affairs of the League.
- (3) A director:
  - (a) holds office for 2 years and is eligible for re-election; and
  - (b) may resign at any time from the board by giving his or her resignation in writing to another director; and
  - (c) is not to be paid any remuneration or allowances (other than a sitting allowance to be prescribed by the regulations); and
  - (d) may hold office concurrently with any other office.
- (4) A person is ineligible for election as a director if he or she:
  - (a) is a member of Parliament; or
  - (b) is insolvent or an undischarged bankrupt; or
  - (c) is a person having professional qualifications and is disqualified or suspended from practising his or her profession for misconduct.
- (5) The board may appoint a person to act as a director if the director is absent from Vanuatu or is for any reason unable to perform his or her duties. A person must not be appointed to act for more than 6 months.

**61. Chairperson and Deputy Chairperson**

- (1) The directors of the League must select a director to be the Chairperson and another director to be the Deputy Chairperson.

- (2) The Chairperson and Deputy Chairperson each hold office for a term of 2 years and are eligible for reappointment.
- (3) The Chairperson and Deputy Chairperson may resign his or her office by giving a written resignation to the League.

**62. Removal and resignation of directors**

The board of directors of the League may remove a director if he or she:

- (a) becomes a member of Parliament; or
- (b) is convicted of an offence and sentenced to imprisonment for 3 months or longer; or
- (c) is absent from 3 consecutive meetings without the leave of the board; or
- (d) becomes insolvent or an undischarged bankrupt; or
- (e) is a person having professional qualifications and is disqualified or suspended for misconduct from practising his or her profession.

**63. Disclosure of interests**

A director of the League who:

- (a) has a personal business interest in a matter under consideration by the League; or
- (b) is likely to have a conflict of interest in relation to the matter;

must disclose that interest to the League in accordance with section 16 of the Leadership Code [Cap. 240].

**64. Meetings of the board and other procedures**

- (1) The board must hold such meetings as are necessary for the performance of its functions. At a meeting a quorum consists of 5 members.
- (2) Questions arising at a meeting are to be determined by a majority of the votes of the directors present and voting. If the voting at a meeting is equal, the person presiding at the meeting has a casting vote.
- (3) Subject to this Act, the board may determine and regulate its own procedures.

**Division 3 – Managing director and other staff**

**65. Managing director**

- (1) The board of directors of the League must appoint a person as the managing director of the League.
- (2) The board is to appoint the managing director on merit for a period of at least 4 years and the managing director may be reappointed.
- (3) The board must determine the terms and conditions of appointment of the managing director.

- (4) The duties of the managing director are:
- (a) to manage the staff and other resources of the League; and
  - (b) to implement the policies and decisions of the board; and
  - (c) to service the meetings of the board and committees formed by the board; and

(d) to undertake such other duties as the board directs.

**66. Other staff of the League**

- (1) The board of directors of the League must appoint on merit such other staff of the League as are necessary to enable the League to perform its functions.
- (2) The board may also:
- (a) second staff from ministries, departments or agencies of the government; and
  - (b) engage other persons who are funded by organisations other than the government.

**Division 4 – Committees and funding**

**67. Committees**

- (1) The board of directors may establish such committees as it considers necessary to assist the board in the exercise of its duties.
- (2) The board may determine the membership of any committee it establishes.
- (3) A member of a committee is not to be paid any remuneration or allowances.
- (4) A committee is to determine its own procedures.

**68. Funds of the League**

- (1) The funds of the League consist of:
- (a) money received by way of fees and charges paid to the League; and
  - (b) any other money received by the League from any other source.
- (2) The funds of the League are to be applied:
- (a) in payment or discharge of the expenses, charges and obligations incurred or undertaken by the League in the performance of its functions or the exercise of its powers; and
  - (b) in payment of any remuneration payable by the League.
- (3) The League may invest any money that is not required for the performance of its functions.
- (4) The League must keep proper accounting records in relation to its financial affairs, and must have annual statements of account prepared for each financial year.
- (5) The League's accounts for each financial year must be audited within 3 months after the end of the financial year by an independent and qualified auditor approved by the Registrar.

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**PART 11 – MISCELLANEOUS**

**69. Fraud or misappropriation**

(1) A person who:

- (a) obtains possession of any property or funds of a credit union by false or misleading representations; or
- (b) has any property or funds of a credit union in his or her possession and withholds it for purposes other than those provided for by this Act, the regulations or by-laws, or misappropriates any part of it;

is guilty of an offence punishable on conviction by a fine not exceeding VT 20,000 or imprisonment for not more than one year, or both.

- (2) A person convicted of an offence under subsection (1) must deliver the property or repay all the money misappropriated to the credit union in question.

**70. Offence for failing to comply with requests etc.**

- (1) A credit union or an officer of a credit union who fails to do any act, or to furnish any information, required for the purposes of this Act by the Registrar or any person authorised by the Registrar is guilty of an offence punishable on conviction by a fine not exceeding VT 20,000 or imprisonment for not more than one year, or both.

- (2) If a person:

- (a) fails to comply with any written direction, order or instruction made under this Act; or
- (b) fails to furnish any information lawfully required from him or her under this Act;

the person is guilty of an offence punishable on conviction by a fine not exceeding VT 10,000 or imprisonment for not more than 6 months, or both.

**71. Regulations**

- (1) The Minister may, by Order in writing, make regulations prescribing all matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

- (2) Regulations may be made prescribing penalties not exceeding VT 5,000 or a term of imprisonment not exceeding 3 months, or both, for offences against or a contravention of any of the regulations

**72. Certain Acts not to apply**

The Companies Act [Cap. 191], the Banking Act [Cap. 63]\*, the Financial Institutions Act [Cap. 254], the Trade Unions Act [Cap. 161], and the Co-operative Societies Act [Cap. 152] do not apply to a credit union unless specifically provided for by or under this Act or any other law.

**73. Tax exemptions**

Subject to the provisions of this Act, a credit union is exempt from:

- (a) the payment of all taxes, levies and fees on its income and operations; and
- (b) the payment of all taxes, duties and rates on its property and documents.

<sup>□</sup> Editor's Note: Cap. 63 has since been repealed.



**SCHEDULE 1**

(Section 5)

**THE CREDIT UNIONS ACT**  
**MEMORANDUM OF ASSOCIATION**

1. The people whose signatures appear below want to be registered as a credit union under the provisions of the Credit Unions Act.
2. Membership is restricted to the following persons: *(description may be given by occupation or area of residence)*
3. The name of the credit union is to be *(insert name proposed)* Credit Union.
4. The registered office of the credit union is situated at: *(address)*
5. The value of each membership share is      Vatu.
6. The name, address and qualification of each person whose signature appears below is as follows:

<b>Name</b>	<b>Address</b>	<b>Qualification</b>
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Signed at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_.

Signature:

Witness:

**SCHEDULE 2**

(Section 9)

**THE CREDIT UNIONS ACT**  
**CERTIFICATE OF REGISTRATION**

The \_\_\_\_\_ Credit Union having complied with the requirements of this Act is registered under the Credit Unions Act [Cap. 256].