

CHAPTER 490

THE CO-OPERATIVE SOCIETIES ACT

SUBSIDIARY LEGISLATION

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THE CO-OPERATIVE SOCIETIES RULES

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SCHEDULE —

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THE CO-OPERATIVE SOCIETIES RULES

[Legal Notice 123 of 2004, Legal Notice 3 of 2008, Legal Notice 87 of 2013]

1. Citation

These Rules may be cited as the Co-operative Societies Rules, 2004 and shall come into operation on the 5th November, 2004.

2. Interpretation

In these Rules, unless the context otherwise requires—

"Board" means the Board of Representatives of a co-operative union or apex society established under rule 24;

"Committee" has the meaning assigned to it under section 2 of the Act;

"Fund" means the Management and Supervision Fund established by rule 18;

"liquidation account" means the Co-operative Societies Liquidation Account established by rule 49;

"NACO" means any registered National Co-operative Organization and shall include the Co-operative Holdings, Cooperative Insurance Society, Kenya Union of Savings and Credit Cooperative Organization, National Co-operative Housing Union, Kenya Rural Savings and Credit Co-operative Societies Union, Kenya Cooperative Coffee Exporters, New Kenya Co-operative Creameries, Kenya Planters Co-operative Union and Co-operative Development Information Centre;

"register" means the register of co-operative societies kept under rule 3;

"supervisory committee" has the meaning assigned to under section 2 of the Act.

[L.N. 87/2013, r. 2.]

3. Register of co-operative societies

(1) The Commissioner shall keep or cause to be kept at his office a record called the register of co-operative societies wherein shall be entered particulars relating to the registration of societies and their by-laws and any amendments thereto.

(2) Every entry in the register shall be made by, or under direction of, the Commissioner and shall be signed by him and every alteration, interlineation or erasure shall be initialed by the Commissioner.

4. Application for registration

An application for the registration of a society under section 6 of the Act shall be made to the Commissioner in Form I set out in the schedule to these Rules and shall be accompanied by an appraisal in writing of the viability of the society and a non-refundable fee of five hundred shillings.

5. Certificate of registration

Upon registration of a society and payment of a fee of three thousand shillings, the Commissioner shall forward to the society—

- (a) a certificate of registration in Form IIA set out in the schedule to these Rules or certificate of provisional registration in Form IIB, as the case may be;
- (b) a copy of the by-laws of the society as registered by him and certified under his hand as having been registered by him;
- (c) a copy of the Act and the Rules made thereunder;
- (d) a copy of the application for registration.

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6. Notification of refusal to register a society

(1) Where the Commissioner refuses to register a proposed Notific society or its by-laws, he shall give the applicants his reasons in writing register a society for such refusal within sixty days of the refusal.

(2) A person aggrieved by the Commissioner's refusal under sub-rule(l) may appeal against the refusal to the Cabinet Secretary on paying a filing fee of one thousand shillings.

7. Power to make by-laws

(1) A co-operative society shall make by-laws in respect of the following matters—

- (a) its name;
- (b) its registered office and postal address;
- (c) its area of operation and membership common bond;
- (d) the objects of the society;
- (e) the purposes to which its funds may be applied;
- (f) the disposal of its accumulated funds;
- (g) the qualification for membership, the terms of admission of members and the mode of their admission;
- (h) the withdrawal and expulsion of members and the payment, if any, to be made to such members and the time within which such payment shall be made;
- (i) the rights, liabilities and obligations of members, including the minimum share holding and produce delivery;
- (j) the transfer of the shares or interests of the members;
- (k) the manner of raising funds, including the maximum rate of interest on deposits;
- (l) its general meetings, the procedure and quorum of such meetings, power of such meetings and representation and voting at such meetings;
- (m) the appointment, suspension and removal of members of the Committee and officers and the powers and duties of the Committee and officers;
- (n) the period of its financial year;
- (o) the authorization of officers to sign documents on its behalf;
- (p) the settlement of disputes; and
- (q) such other matters as may be expedient for the better carrying out the provisions of these Rules.

(2) If the objects of the society include the creatforfof funds to be lent to its members, by-laws shall also be made in respect of the conditions and other requirements on which loans and advances may be made to members including—

- (a) the rate of interest;
- (b) the maximum amount which may be lent to a member;
- (c) the extension, renewal and recovery of loans;
- (d) the period and purpose of loans;
- (e) the security for loans; and
- (f) the consequences of default in the repayment of any sum due.

8. Amendment of by -laws

(1) Any amendment of the registered by-laws of a co-operative society under section 8 of the Act shall be made by a resolution of members at general meeting in respect of which at least fifteen clear days notice of the proposed amendment shall have been given to the members of the society.

(2) No resolution under sub-rule (1) shall be valid and effective unless—

- (a) in the case of a co-operative society with unlimited liability, half of the members of the society are present at the meeting and three quarters of them vote in favour of the resolution; or
- (b) in the case of a co-operative society with limited liability, a majority of the members of the society present at the meeting or in writing vote in favour of the resolution:

Provided that when written votes are used, the following conditions shall apply—

- (i) all members of the society shall have been sent by the secretary or manager of the society voting papers to enable the members within reasonable time before the meeting to record their votes and return them to the secretary or manager; and
- (ii) the votes shall have been examined, counted and the results notified to members by the committee.

(3) When in pursuance of the provisions of section 8(2) of the Act, amendment is sent to the Commissioner, it shall be accompanied by a certification in Form III set out in the Schedule to these Rules together with a copy of the amendment in quadruplicate.

(4) Upon registration of such amendment of by-laws, the Commissioner shall issue a copy duly signed by him on payment of a fee of one thousand shillings.

9. Membership of society

(1) No co-operative society shall fix any limit to the number of its members

(2) Any member of a co-operative society who ceases to qualify for membership of the society under section 14 of the Act, or under these Rules or the by-laws of the society, shall forthwith cease to be a member of the society and the Committee shall direct the secretary or manager to strike his name off the register of members.

10. Transfer of shares

(1) Subject to the provisions of section 20 of the Act and subrule (3) of this rule, and subject to the approval of the Committee, a member may transfer his share or shares in a co-operative society to any other member of the society or to any person whose membership of the society has been approved by the Committee.

(2) No transfer of a share in a co-operative society shall be valid and effective until such transfer has been recorded in the register of the society.

(3) No transfer of a share or shares in a co-operative society shall be valid and effective if made by a member indebted to a society whether such debt is due for payment or not.

(4) When for any reason other than death, a member of a co-operative society registered with limited liability holding deposit from non-members ceases to be a member, he may, subject to section 20 of the Act, transfer his share or shares in such society to another member, or to a proposed member approved by the Committee of such society, but he shall not be entitled to repayment from the society of any money paid by him in respect of such share or shares.

11. Rights of a member

Subject to the provisions of the Act, these Rules and the registered by-laws of the co-operative society, a member of a society may transfer his membership to another registered society.

12. Approved budget

No society shall operate without a budget approved by a general meeting.

13. Books to be kept by a registered society

(1) A co-operative society shall keep up-to-date and in proper businesslike manner such accounts and such books as the Commissioner may from time to time direct either generally or in respect of any particular society or class of societies.

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(2) Notwithstanding the provisions of sub-rule (1), every co-operative society shall keep

- (a) a register of members showing in respect of each member—
 - (i) the name, age, date of application for membership, postal address and occupation;
 - (ii) the date he was admitted to membership;
 - (iii) the date on which he ceased to be a member;
 - (iv) the appointment, if any, of his nominees in accordance with rule 32 of these Rules;
- (b) a minute book giving details of the proceedings at general meetings;
- (c) a minute book giving details of the proceedings at Committee meetings;
- (d) a cash book showing details of all moneys received and expended or paid out in any way by the society;
- (e) a ledger containing such accounts as are necessary to properly record the transactions of the business;
- (f) a personal ledger showing transactions of each member with the society including details of produce delivered to the society by each member and the payment made therefor;
- (g) an assets register;
- (h) a stock control ledger;
- (i) a register of charges showing in respect of every charge created by the society the amount of the charge and the person entitled thereto;
- (j) a register of loans to members showing in respect of each loan the name of the borrower, the amount borrowed, the purpose of the loan, the due date of repayment, and the date the repayment is made;
- (k) a ledger showing deposits and withdrawals by members; and
- (l) such other books as the Committee may decide or the Commissioner may prescribe.

14. Annual returns

The annual return required to be filed pursuant to section 25 of the Act, shall be in Form IVA set out in the Schedule to these Rules and shall be filed with the Commissioner within four months after the closure of the financial year.

15. Display of audited accounts

Every co-operative society shall cause its audited accounts to be displayed in a conspicuous place at its registered office and branches at least two weeks before presentation of the accounts to its members at the general meeting.

16. Approval of auditors

(1) A person qualified under the Accountants Act (Cap. 531) wishing to be considered to audit co-operative societies shall make an application in writing to the Commissioner and shall pay a fee of three thousand shillings and such application may be made annually.

(2) The Commissioner may cause the list of auditors approved audit co-operative societies to be published in the *Kenya Gazette*.

17. Submission of audited accounts to Commissioner

(1) The audited accounts required to be submitted to the Commissioner pursuant to section 25 (7) of the Act shall be in six copies and shall—

- (a) have the following minimum disclosures—
 - (i) correct name of the society as registered must appear on all accounts along with its registration number;

- (ii) share capital disclosed separately;
 - (iii) statutory reserve computed separately;
 - (iv) one total only disclosed for each main group of assets and liabilities;
 - (v) specified loans as short term if repayment period is less than five years and long term if repayment period is more than five years;
 - (vi) provision for dividends, bonus or honorarium disclosed under current liabilities;
 - (vii) a detailed schedule of depreciation of fixed assets under "notes to accounts";
 - (viii) details of all investments disclosed under "notes of accounts";
 - (ix) stocks and cash balances stated indicating whether verified or otherwise;
 - (x) the balance sheet signed by the chairman and two other Committee members;
 - (xi) separate accounts prepared in respect of each activity;
 - (xii) no material amount written off except with a resolution of the general meeting of the society accompanied by a satisfactory explanation.
- (b) include a statement of management responsibility; and
- (c) be submitted together with—
- (i) an extract of minutes of the general meeting in support of appointment of the auditor; and
 - (ii) a banker's cheque of the relevant audit and supervision fee.

(2) The audited accounts shall be read together with Commissioner's comments thereon, if any.

18. Establishment of the Fund

(1) There is hereby established a fund to be known as the Management and Supervision Fund and every registered society shall, unless exempted in writing by the Commissioner, pay into it annually an audit and supervision fee.

(2) The Commissioner shall administer the Fund and the balance of the Fund shall be kept with the accounting officer who shall be authorized to accept receipts and to make payments in accordance with the provisions of these Rules:

Provided that the accounting officer shall not make any payment from the Fund unless he holds a cash balance on behalf of the Fund sufficient to cover the payment.

- (3) The receipts to the fund shall consist of—
- (a) fees under sub-rule (1) as fixed by the Commissioner for the better carrying out of the provisions and purposes of section 25 of the Act;
 - (b) ten per centum of the audit fees paid by the society to the auditor in respect of the annual accounts in question; and
 - (c) fees paid under rules 16 and 17(2).
- (4) Expenditure charged to the Fund may include expenditure for—
- (a) purchases of specialized stationery, office machinery and equipment for use by the Commissioner in the administration of co-operative societies and the Fund;
 - (b) repairs of office machinery and equipment purchased from the management fund;
 - (c) temporary extra clerical assistance, authorized by the Commissioner as necessary from time to time in connection with the audit and supervision of co-operative societies;

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- (d) payment of professional audit fees which shall be subsequently recovered wholly or in part from co-operative societies concerned;
- (e) liquidation expenses including legal fees and costs where no moneys are available to the liquidator and where in the opinion of the Commissioner such expenditure should be incurred for the proper carrying out of the liquidation; and
- (f) any other expenditure approved by the Treasury including the investment of funds surplus to requirements.

19. Accounts of the Fund

(1) Fifty per cent of the annual receipts received by the Fund shall be payable half yearly to the Government as appropriations-in-aid.

(2) All expenditure from the Fund shall be supported by vouchers and authorized by the Commissioner in the same manner as for other Government expenditure.

(3) The Fund shall be audited annually by the Controller and Auditor General.

20. Quorum at general meetings

(1) The quorum of general meetings of a co-operative society shall be as laid down in the by-laws.

(2) Where a meeting is convened by the Commissioner under provisions of section 27(8) of the Act, members present at such meetings shall be deemed to constitute a quorum.

21. Presiding over general meetings

(1) At all general meetings of a co-operative society the Chairman or in his absence the vice chairman or such other person as provided for in the by-laws shall preside and in their absence, any person elected by a majority of those present shall preside.

(2) The Commissioner or his representative may preside at any meeting convened under the provisions section 27(8) of the Act but shall not be entitled to vote.

22. Voting at general meetings

(1) Unless otherwise provided for in the Act, these Rules or by-laws of a co-operative society, any question referred to the members present at a meeting shall be decided by a majority of votes.

(2) The Chairman shall declare whether every resolution put to the vote has been carried or lost and shall cause an entry to that effect to be made in the minute book of the society which when signed by him shall be conclusive evidence of anything contained therein.

(3) The Chairman shall have one vote only and no casting vote.

(4) A resolution on which the voting is equal shall be postponed to a subsequent meeting.

23. Conduct of affairs of a Committee

(1) The majority members of a Committee may for good cause suspend the Committee member subject to ratification by a general meeting.

(2) If during the term of office of a Committee, a vacancy occurs in the Committee, the Committee shall, if the number of members drop below five, co-opt a member of the society to serve on the Committee until the next general meeting of the society.

(3) Elected members of a Committee shall be removed only by a two-thirds majority of members of the society present and voting at a general meeting.

(4) If a general meeting removes a member of a Committee, it shall forthwith elect a new member who shall hold office for the remainder of the term of the member so removed and where the entire committee is removed from office, the general meeting may decide to elect or fix a day for election of an interim committee of not more than five members to hold office for a period not exceeding ninety days.

(5) The quorum at a Committee meeting shall be as laid down in the by-laws.

(6) The Committee of a registered society shall hold regular meetings at which—

- (i) the minutes of its previous meeting shall be considered and confirmed;
- (ii) the accounts, bank books and cash in hand shall be scrutinized and checked, and the Committee's observations thereon recorded in the minutes;
- (iii) any current business shall be considered.

(7) A person elected into a Committee of a co-operative union or apex society on the basis of his elected position at the affiliate primary co-operative society shall cease to be a Committee member of the co-operative union or apex society upon being replaced or voted out at the primary co-operative society.

24. Board of Representatives

(1) Every co-operative union and apex society shall have a Board of Representatives consisting of at least one delegate from each affiliated society elected at its annual general meeting.

(2) No member serving on the Committee of a co-operative union may be elected to serve on the Board.

(3) A chairman shall be chosen for each meeting from amongst the representatives in attendance at the meeting.

(4) Every representative shall hold office until the next annual general meeting after his election but shall be eligible for re-election.

(5) If during the currency of office of the board a vacancy occurs such vacancy may be filled by a nominee of the committee of the affiliated society concerned.

(6) The quorum at Board meetings shall be two-thirds of the total number of representatives.

25. Duties and powers of the Board

The Board shall be empowered to give directions in regard to the business of a co-operative society to the extent that it shall have authority to convene a special general meeting of the society when in disagreement with its Committee.

26. Meetings of the Board

(1) The Board may hold a regular quarter yearly meeting at which the minutes of the previous meeting shall be considered and confirmed.

(2) The secretary of the co-operative society shall be secretary at all Board meetings.

(3) The Committee of the co-operative society shall send to each member of the Board agenda and minutes of all meetings of the registered society and communications in respect thereof.

(4) The Board shall send to the Committee of the registered society agenda and notice specifying date, hour and place of board meetings and may require the attendance of the Committee or any officer of the co-operative society at such meetings.

(5) The Board shall send to the Commissioner or his representative at the proper time, notice and agenda of every meeting, all minutes and communications in respect thereof and its recommendations, if any.

27. Appointment and duties of manager and other employees

(1) Where a co-operative society, pursuant to section 27(5) of the Act, employs a manager, his duties shall include—

- (a) general management of the society;
- (b) maintenance and custody of society books, accounts, assets, registers, certificates, society seal, cheque books and other accountable documents; and
- (c) counter-signing societies' cheques, contracts and other documents.

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(2) All employees of a co-operative society shall be appointed in accordance with the terms and conditions of service approved by the Commissioner.

(3) The Committee of a co-operative society may, if it deems it fit, require the manager or any other officer, on appointment, to give such security as it may determine.

28. Supervisory committee

(1) Every society shall have a supervisory committee consisting of three members each elected at a general meeting for a period of three years and one member of the supervisory committee shall retire annually.

(2) Notwithstanding the provision of sub-rule (1), any member of the supervisor/committee may be removed by a resolution of a general meeting.

(3) The duties of the supervisory committee shall include—

- (a) verification of all transactions of the society;
- (b) writing periodic reports of its findings to be tabled at management committee meetings;
- (c) submission of its reports to the Commissioner;
- (d) presenting its reports to the general meeting.

(4) Notwithstanding the provisions of sub-rule (3), the supervisory committee shall not perform the duties or exercise any of the powers of the Committee of the society.

29. Committee members to file indemnity

(1) Every Committee member shall, pursuant to section 27(b) of the Act, file an indemnity in Form V set out in the Schedule to these rules whose amount shall be determined by the general meeting and which shall be lodged with the Commissioner within fourteen days of selection to the Committee.

(2) A Committee member who fails to comply with the requirements of this rule shall automatically cease to be a member of the Committee.

30. Society to have first charge

Where a society intends to exercise its right of set-off under section 34 of the Act, the society shall give fourteen days' notice of such intention to the member or past member concerned.

31. Authorization of deductions

Pursuant to section 35(1) of the Act, every—

- (a) member of a co-operative society may fill a deduction authorization form in Form VIA set out in the Schedule to these Rules.
- (b) co-operative society receiving deductions from employers shall file monthly remittance returns to the Commissioner not later than the 15th day of every month in Form VIB set out in the Schedule to these Rules.

31A. Deduction to the apex society

(1) There shall be an annual subscription fee payable to the apex society as follows -

- (a) Twenty five shillings from every registered primary society on each of its active individual members in the register;
- (b) A 0.05 percentage of the gross income or annual turnover of every Co-operative Union provided that the remittance shall not exceed one million shillings; and
- (c) A 0.05 percentage of the gross income or annual turnover of each NACO.

[L.N. 87/2013, r. 3.]

32. Appointment of nominees

(1) Every member of a society may appoint his nominee or nominees for the purposes of section 39 of the Act.

(2) No member of a co-operative society shall be entitled to appoint more than one nominee unless that member holds more than one share.

(3) Where more than one nominee is appointed by any member, the number of shares to be transferred to each of these nominees shall specified at the time of the appointment.

(4) Every appointment of a nominee by any member of a co-operative society shall be made in writing and signed by the member in the presence of two witnesses and shall be in Form VII set out in the schedule to these Rules.

(5) Every appointment of nominee shall be acknowledged by the society.

(6) For the purpose of transfer to a nominee, the value of any share or interest shall be represented by the sum actually paid for that share or interest by the member holding it unless the by-laws of the society otherwise provide.

(7) Where the deceased member is in credit with the society, any nominee under this rule may be paid all dues on evidence of death being produced without awaiting lawful administration of the estate.

(8) Where any money is paid to a nominee who is a minor, a receipt given either by the minor or by his guardian shall be sufficient discharge to the society.

(9) If for any reason on the death of a member a nominee does not exist, the society may pay any money due to the deceased member to the personal representative or recognized heirs of that deceased member.

(10) In the event of any person so nominated dying or of the member desiring to cancel any such nomination, the member may from time to time nominate in writing another person in the same manner, and the necessary alteration shall be made in the register of members.

33. Copies of entries

For the purpose of section 40 of the Act a copy of an entry in any book of a co-operative society may be certified as a true copy of such entry by the Chairman and one other officer authorized by the Committee.

34. Limitation of borrowing powers

(1) A co-operative society which under its by-laws has power to borrow money shall from time to time at a general meeting fix the maximum liability which it may incur in loans or deposits from non members.

(2) Notification of the maximum liabilities fixed shall be sent to the Commissioner in Form VIII set out in the Schedule to these Rules.

(3) The maximum liabilities fixed shall be subject to the approval of the Commissioner who may at any time reduce it or impose such conditions as he may deem necessary.

(4) Any member of the society may appeal against the decision of the Commissioner made under sub-rule (3) to the Cabinet Secretary within thirty days of such decision.

35. Restriction on borrowing

A co-operative society other than a society with authorization under these Rules to operate front office services, may receive deposits and loans from persons who are not members if—

- (a) the general meeting is satisfied that the society needs the deposit or loan;
- (b) the general meeting is satisfied that the terms of the deposit or loan and the rate of interest are reasonable;
- (c) repayment of the deposit or loan is secured to the satisfaction of the general meeting;
- (d) the maximum liability fixed under rule 34 of these Rules is not exceeded; and

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- (e) the general meeting has given specific approval for the deposit or loan.

36. Investment of society funds

Where the society invests in real estate other than for its own accommodation, it shall not hold more than twenty per cent of the equity in the investment or expend a sum exceeding twenty five per cent of its share capital in such venture.

37. Duty to maintain reserve fund

(1) Every co-operative society shall pay into the reserve fund maintained in pursuance to the provisions of section 47 of the Act, one-fifth of any net surplus resulting from the operations of the society during a financial year.

(2) The reserve fund of a society shall be invested or deposited in the manner provided for in section 45 of the Act and these Rules.

(3) No withdrawals shall be made from the reserve fund of a co-operative society without the consent in writing of the Commissioner and any such withdrawals shall be made good from the net available funds accruing to the society if the Commissioner so directs.

(4) The reserve fund shall be indivisible and no member shall be entitled to claim a specified share of it.

(5) The reserve fund shall be kept in separate account to be known as the reserve fund account.

(6) The society shall cause an annual audit of the reserve fund account.

38. Application of reserve fund

(1) On the dissolution of a co-operative society the assets represented by the reserve fund shall be applied in the discharge of the liabilities of the society.

(2) Any assets that may remain after discharging the liabilities of the society, including repayment of share capital representing a balance of the reserve fund, may be applied to some object of local or public utility as may have been selected by a general meeting of the society:

Provided that—

- (i) if within three months of the dissolution of the society a general meeting fails to select an object, the Commissioner shall cause the funds to be deposited in a bank and on the registration of a new society in substantially the same area as that in which the dissolved society operated, the Commissioner may credit all or part of the funds to the new society; and
- (ii) if within a period of three years from the date of deposit of the funds in a bank no such new co-operative society is formed, the Commissioner may apply the funds to an object of local or public utility to be approved by the Cabinet Secretary.

39. Loans to members

No loan shall be made to a member of a co-operative society save in accordance with the conditions laid down for the making of such loans in the society's by-law.

40. Form of particulars of charge

The particulars of charge required to be filed pursuant to section 51 of the Act shall be in Form IX set out in the Schedule to these Rules and shall be accompanied by the instrument creating the charge or a copy thereof, certified to be a true copy under the seal of the society or under the hand of some person interested therein otherwise than on behalf of the society.

41. Register and chronological index

The register and chronological index required to be kept pursuant to section 52 (4) of the Act shall be in Form XA and Form XB respectively set out in the Schedule to these Rules.

42. Certificate of registration of charges

Upon registration of a charge, the society shall be issued with a certificate of registration of a charge as set out in Form XI set out in the Schedule to these Rules upon payment of a fee of two thousand five hundred shillings.

43. Certificate of satisfaction of charges

The certificate of satisfaction of charges shall be in Form XII set out in Schedule to these Rules.

44. Remuneration of a receiver or manager

where a receiver or manager is appointed pursuant to section 54 Of the Act, the Commissioner shall determine his remuneration.

45. Inspection of documents

(1) The by-laws, annual returns, audited accounts and balance sheets of every co-operative society and the register of charges shall be open to the public for inspection at the office of the Commissioner, on payment of a fee for one thousand shillings for each inspection.

(2) For every inspection made pursuant to section 57(1) of the Act the fee payable shall be one thousand shillings.

(3) The Commissioner shall upon request and on payment of a fee to be determined by him and not exceeding two thousand shillings for each copy, supply certified copies of the by-laws, annual returns, audited accounts and balance sheet of a co-operative society.

46. Inquiry by the Commissioner

(1) Any inquiry held pursuant to section 58 of the Act shall not be conducted continuously for a period exceeding sixty days.

(2) The Commissioner, may pursuant to section 58(4) of the Act, appoint a chairman of the interim Committee.

(3) The Committee shall implement the inquiry report and prepare for society elections.

(4) A copy of the inquiry report may be issued on application therefore and upon payment of a fee of two thousand shillings.

(5) A person may appeal to the Cabinet Secretary against the rejection of his application for copy of an inquiry report within thirty days of such refusal and a fee of one thousand shillings shall be paid on the filing of such an appeal.

47. Impromptu Inspections

Where the Commissioner exercises powers pursuant to section 60A of the Act, a report of the inspection shall be filed with the anagement Committee within fourteen days of the conclusion of the spection and the Committee shall act in accordance with the commendations, if any.

48. Publication of notice requiring claims to be submitted to the liquidator

A liquidator appointed under section 65 of the Act shall ublish in the *Gazette* and in at least one newspaper circulating in the ea in which the society whose registration has been cancelled, operates, a notice requiring claims against such society to be submitted him within two months from the date of such publication.

49. Liquidation account

(1) There is hereby established an account to be known as the co-operative Societies Liquidation Account which shall be administered by the Commissioner or his representative.

(2) The following shall be paid into the liquidation account:—

- (a) all moneys realized in the liquidation where a bank account does not exist at the commencement of the liquidation;

Co-operative Societies

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- (b) any unpaid claims on closure of a liquidation; and
- (c) any surplus balance on closure of a liquidation.

(3) The following may be paid from the liquidation account—

- (a) claims, previously unpaid, subject to certification by the Commissioner or a person nominated by him for the purpose, within a period of two years from the date of the closure of liquidation;
- (b) distribution in any liquidation under paragraph (a) of this subrule.

(4) The Commissioner may authorize, after the expiration of two years from the date of closure of any liquidation, payment of balances of unpaid claims and surpluses from the liquidation account into the Fund.

50. Investment in non core business

No co-operative society shall invest its funds in non-core business, except with the approval of the Commissioner and by the general meeting through a special resolution.

51. Suspension of operations

(1) Where upon inspection or inquiry, the Commissioner considers that a co-operative society accepting deposits from its members is bankrupt or insolvent, or that it has willfully violated the Act, or is operating in an unsafe or unsound manner, the Commissioner may issue an order temporarily suspending such operations for a period not exceeding thirty days.

(2) The Committee shall be given written notice of the spension, which shall include a list of the reasons for the suspension and upon receipt of the notice, the society shall cease all operations, except those allowed by the Commissioner.

(3) The Committee may within the time specified by the Commissioner, show cause why the suspension of its operations should not continue.

(4) The Committee may request for a hearing and may present its proposals to remedy the situation in order to resume operation of taking deposits from members.

(5) Upon receipt of evidence that the conditions causing the suspension have been corrected, the Commissioner may revoke the suspension and permit the society to resume normal operations.

(6) If the Commissioner after providing an opportunity for a hearing, rejects the society's plan to continue operation, he may issue an order of involuntary liquidation and appoint a liquidator and where the society fails to answer the suspension notice or to request a hearing within the prescribed time, the Commissioner may issue an order of involuntary liquidation and appoint a liquidator and liquidate the society.

52. Establishment of front office

(1) Every co-operative society operating or intending operate front office services, shall after a resolution of the general meetings apply in writing to the Commissioner for authorization.

(2) In considering an application for authorization made under sub-rule (1), the Commissioner shall take into account the—

- (a) location of the front office;
- (b) minimum capital (capital base) of the society;
- (c) risk management systems;
- (d) size of membership;
- (e) human resources;
- (f) security;
- (g) liability; and
- (h) such other factors as may be necessary.

- (3) All co-operative societies operating front office services shall-
- (a) maintain a minimum liquidity at ten per cent of the deposits;
 - (b) maintain a minimum capital adequacy and reserves at ten per centum of its total liabilities;
 - (c) maintain such other prudential standards as may be directed by the Commissioner in writing from time to time;
 - (d) make provision for bad and doubtful debts before any surplus is declared;
 - (e) ensure that the provision for bad and doubtful debts made under paragraph (a) of this sub-rule complies with such guidelines as may be prescribed by the Commissioner.
- (5) The Commissioner may—
- (a) require a co-operative society to submit statistics regularly; and
 - (b) collect such data and other information as may be necessary for the protection of members funds.

53. Inspection of front office

(1) The Commissioner may of his own accord, and, shall on the so directing of the Cabinet Secretary, cause a front office operation to be inspected by any person authorized by him in writing, on any cooperative society and of its books, accounts and records.

(2) When an inspection is made under sub-rule (1) the cooperative society and every officer and employee thereof shall produce all the books, accounts, records and other documents of the cooperative society and such correspondence, statements and information relating to the society, its business and the conduct thereof as the person making the inspection may in writing require.

(3) All information obtained in the course of the inspection shall be treated as confidential and used solely for the purposes of the Rules and by-laws made under the Act.

(4) The person carrying out an inspection shall submit his report to the Commissioner; and the report shall draw attention to any breach or non-observance of the requirements of the Act, rules and by-laws made thereunder any irregularity in the manner of conduct of the business of the co-operative society inspected any apparent mismanagement of the business or lack of management skills in that society and any matter revealed or discovered in the course of the inspection warranting, in the opinion of the person making the inspection, remedial action or further investigation.

54. Remedial measures

(1) If, at any time, the Commissioner has reason to believe that the business of a co-operative society is being conducted in a manner contrary to or not in compliance with the requirements of the Act or these rules or in a manner detrimental to the interests Of its members, the Commissioner may—

- (a) make recommendations to the co-operative society with regard to the conduct of its business generally;
- (b) issue directives regarding measures to be taken to improve the management or business methods of the co-operative society or to secure or improve compliance; or
- (c) appoint a person suitably qualified and competent, to advise and assist the society generally or for the purposes of implementing any directions under paragraph (b) and such officer shall be paid from the funds of the society.

55. Revocation of L.N. 157/1998

The Co-operative Societies Rules, 1998 are hereby revoked.

Co-operative Societies

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SCHEDULE

FORMS

FORM 1 (r. 4)

**THE CO-OPERATIVE SOCIETIES ACT
APPLICATION FOR REGISTRATION OF A CO-OPERATIVE SOCIETY**

TO: The Commissioner for Co-operative Development
P.O. Box 40811
Nairobi
Name of proposed co-operative society
Area of operation
Type of society
Whether limited or unlimited liability is desired.....
Language in which the books and account will be kept.....
Name of person appointed to perform the duties of the secretary of the
society
Registered office and postal address of the society

We the undersigned hereby apply for the registration of the above society under
the Act, and enclose four copies of the proposed by-laws in English.

Name	Occupation	Age	Address	Signature
------	------------	-----	---------	-----------

Form IIA (r. 5(a))

**THE CO-OPERATIVE SOCIETIES ACT
CERTIFICATE OF REGISTRATION**

REGISTRATION NO

I hereby certify that the co-operative society under the name of and its
by-laws have this day been provisionally registered by me in the Register of Co-
operative Societies, in pursuance to the provisions of the Act and the Rules made
thereunder.

Given under my hand at Nairobi, this.....
day of 20.....

.....
Commissioner for Co-operative Development.

Form IIB (r. 5 (a))

**THE CO-OPERATIVE SOCIETIES ACT
CERTIFICATE OF PROVISIONAL REGISTRATION**

REGISTRATION No

I hereby certify that the Co-operative Society under the name ofand its
by-laws have this day been provisionally registered by me in the Register of Co-
operative Societies, in pursuance to the provisions of the Act and the Rules made
thereunder.

Given under my hand at Nairobi, this.....
day of..... 20

.....
Commissioner for Co-operative Development.

FORM III (r. 8(3))

**THE CO-OPERATIVE SOCIETIES ACT
CERTIFICATE OF AMENDMENT OF BY-LAWS**

We

Chairman and secretary of*

Co-operative Society Limited hereby certify—

(i) that the enclosed amendment for the by-laws was made at a general meeting held on

(ii) that on that date there members' voted society of whom present in the meeting.

(iii) thatmembers voted for the amendment.

(iv) that proper notice of the meeting and the proposed amendment were issued to all members of the society.

***(v)* that a voting paper was duly issued to every member.

***(vi)* that the amendment has received the prior approval of the Commissioner for Co-operative Development.

.....

Chairman

Date

.....

Secretary

*insert name of society.

**to be deleted in all cases except those in which voting papers have been used by a society of limited liability.

*** delete if not applicable.

FORM IVA (r. 14)

THE CO-OPERATIVE SOCIETIES ACT

ANNUAL RETURN FOR THE YEAR.....

(to be submitted within four months of the end of the financial year)

1. Name of the co-operative society.....
2. Registration numberDate of registration.....
3. Registered address.....
4. Type of society.....
5. The liability of members is *
- (a) limited to the nominal value for each share held;
- (b) limited to.....times the nominal value of each share held;
- (c) unlimited.
6. The number of members of the society is
7. The number of shares issued is
8. The nominal value of one share is KSh.....
9. The maximum liability which the society may incur in loans or deposits is KSh.
10. The total indebtedness of the society secured by registered charges is KSh.....
11. The date the last annual general meeting was held
12. Particulars of offices for the financial year from to are as follows:

<i>Title of Office</i>	<i>Name of Holder</i>
Chairman	<i>Chairman</i>
Vice Chairman
Committee members:
(a)
(b)

Co-operative Societies

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(c)

A certified true copy of the audited accounts and balance sheet is filed herewith.

Dated this..... day of20.....

(Signed) Secretary/ Manager

*Delete as necessary.

FORM V (r. 29(1)) THE CO-OPERATIVE SOCIETIES ACT INDEMNITY TO A CO-OPERATIVE SOCIETY

To:

.....

In consideration of your giving or continuing to give an indemnity of..... KSh.

Ijointly and severally for myself and my legal personal representatives, successors and assigns hereby:

(a) agree to keep you indemnified against all actions, proceedings, liability, claims, losses, damages, costs and expenses arising from action and omissions as a consequence of my role in the mismanagement of the resources of the co-operative society in my capacity as a member of the Committee/Board;

(b) irrevocably authorise you to offset the liability, losses, damages, costs and expenses by attaching my shares, deposits, personal property and other personal assets without prior reference to me;

(c) irrevocably authorise you to make any payments and comply with any demands which may be claimed from or made upon you under the said indemnity without any further reference to or further authority from me and agree that it shall not be incumbent upon you to inquire whether or not any dispute exists between myself and the beneficiary of the said indemnity and further agree that any payment in accordance or purporting to be in accordance with the said indemnity shall be binding on me and shall be accepted by me as conclusive evidence, that you were liable to make such payments or comply with such demands, and further that you may at any time determine the said indemnity; and

(d) irrevocably authorize you to—

(i) debit my share/deposit account with KSh..... and to hold this amount as security margin against your liability under the said indemnity until such time as the same may discharge;

(ii) and/or agree to undertake to deposit with you upon request made by you at any time until the same indemnity shall have been released such or other securities as may be acceptable to you in full or, part of your liability under the same indemnity.

Signed this day of..... 20.....

Deponed by me,.....

Before.....

Commissioner for Oaths.

Form VIA (r. 31(a))
THE CO-OPERATIVE SOCIETIES ACT
DEDUCTION AUTHORIZATION FORM

To:

.....

.....

..... (employer)

Date

DEDUCTIONS FROM MY SALARY/PROCEEDS

I I/D No. P/No of P.O. Box hereby authorize you to make deductions from my salary/proceeds of KSh..... to be remitted to Co-operative Society Ltd. to be credited towards my-shares account. From time to time the said society may advise you on any other deductions. The society's instructions sh be taken as if given under my hand. These instructions shall remain in force unle altered by me in concurrence with the said society.

Given under my hand this day of 20.....

.....

Name I/D No. Signature

Cc: Chairman,

..... Co-operative Society Ltd,

P.O. Box

.....

FORM VIB (r. 31(b))
THE CO-OPERATIVE SOCIETIES ACT
REMITTANCE RETURNS

TO:

The Commissioner for Co-operative Development,

P.O. Box 40811,

Nairobi.

Name of the co-operative society

Registration number

Type of society

Province/district.....

Name of employer

Last payroll deduction remitted (month & year)

Number of months in arrears.....

Amount expected for current payroll deduction KSh.....

Amount remitted as per (8) above KSh.....

Shortage Excess (8-9) KSh.

Amount out-standing with employer (cumulative) KSh.

Co-operative Societies

[Subsidiary]

Dated Signed

Chairman/Manager.

Form VII (r. 32(4)) THE CO-OPERATIVE SOCIETIES ACT NOMINATION FORM

To: The Chairman, Co-operative Society Ltd, P.O. Box

I I/D No. of Post office Box member of Co-operative Society Ltd; being member No..... hereby nominate the following nominee(s) to inherit my shares or interest in the said Society in the following manner:

Table with 3 columns: Name of nominees(s), Relationship, % of Share/Interest. Rows 1-6.

Witnessed by:

- 1. ID/No Address.....Signature.....
2.ID/No Address..... Signature.....

Given under my hand this Day of 20.....

Signature.....

FORM VIII (r. 34(2)) THE CO-OPERATIVE SOCIETIES ACT NOTIFICATION OF LIMITATION BORROWING POWERS

The Commissioner for Co-operative Development P.O. Box 30547 Nairobi.

Name of the Co-operative society

Registration

Number.....

This to inform you that at a duly convened annual general meeting of the above society held on theday of..... 20

The following resolution was passed:

That the maximum liability which the society may incur in loans or deposits from non members shall be shillings (in words).....

on the date of the annual general meeting members the society had..... dully paid members and there were..... members present at the meeting of whom.....voted in favour of the resolution and..... against.

whereby certify that the particulars contained above are correct.

Signed
Secretary/Manager

FORM IX (r. 40)
THE CO-OPERATIVE SOCIETIES ACT
PARTICULARS OF CHARGE CREATED BY A CO-OPERATIVE SOCIETY

TO: The Commissioner for of Co-operative Development
P.O. Box 30547
Nairobi.

Name of the co-operative society.....
Registration Number.....

Date and description of the instrument creating or evidencing the mortgage or charge.....

Amount secured by the mortgage or charge KSh.....

Short particulars of the property mortgaged or charged:

.....

Land registry particulars:

.....

Name, addresses and description of the mortgages or persons entitled to the charge:

.....

.....

.....

Dated this day of 20

.....
Secretary/Manager.

FORM XA (r. 41)
THE CO-OPERATIVE SOCIETIES ACT
REGISTER OF CHARGES

Name of the co-operative society.....

Registration number.....

Date of charge.....

Date of acquisition of property.....

Amount secured by charge.....

Particulars of properties charged.....

Person entitled to charge.....

Date of resolution authorizing issue of series debentures:.....

Date of covering deed.....

Name of trustees of debenture holders:

Date of registration..... Signature memorandum of satisfaction.....

Date of discharge.....

Dated this day of 20.....

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.....
Commissioner

FORM XB _____ (r. 41)
THE CO-OPERATIVE SOCIETIES ACT
CHRONOLOGICAL INDEX OF CHARGES

Serial No.....
Register of charges folio No.....
Date charged.....
Amount of charge.....
Particulars of charge.....
Person entitled to charge.....
Name of society creating the charge.....
Date of registration

Remarks.....

FORM XI _____ (r. 42)
THE CO-OPERATIVE SOCIETIES ACT
CERTIFICATE OF REGISTRATION OF A CHARGE

To:
.....
.....

Name of the co-operative society.....

Registration number.....

Date and description of the instrument creating or evidencing the mortgage or charge
amount secured by the

mortgage or charge KSh.....

Amount secured by the mortgage or charge KSh.....

Short particulars of the property mortgaged or charged:

.....

Land Registry particulars:

name, addresses and description of the mortgages or persons entitled to the charge:

.....

.....

Dated this day of 20

.....
Commissioner for Co-operative Development.

Form XII _____ (r. (43))
THE CO-OPERATIVE SOCIETIES ACT
CERTIFICATE OF SATISFACTION OF CHARGE

To: The Secretary,

..... Co-operative Society Ltd,

P.O. Box

.....

Name of the co-operative society.....

.....

Registration number.....

Date and description of the instrument creating or evidencing the mortgage or charge

Amount secured by the mortgage or charge KSh.....

Short particulars of the property mortgaged or charged:.....

.....

.....

Land registry particulars:

.....

.....

Name, addresses and description of the mortgages or persons entitled to the charge:

.....

.....

.....

Date of discharge.....

Dated this day of20

.....
Commissioner for Co-operative Development.

THE CO-OPERATIVE TRIBUNAL (PRACTICE AND PROCEDURE) RULES

ARRANGEMENT OF RULES

Rule

1. Citation
 2. Interpretation
 3. Saving of the inherent power of the Tribunal
 4. Disregard of technicalities
 5. Forms and fees
 6. Application of Civil Procedure Rules (Cap. 21 Sub. Leg.)
 7. Powers of chairman and deputy chairman
 8. Appeals
 9. Statement of claim
 10. Service of statement of claim
 11. Interlocutory applications
 12. Mode of service
 13. List of documents
 14. Setting down claim for hearing
 15. Substitution and addition of parties
 16. Hearing of claims
 17. Setting aside judgement, order or award
 18. Costs
 19. Interest
 20. Registers
 21. Principal registry
 22. Savings provisions
 23. Amendment of rules
-

THE CO-OPERATIVE TRIBUNAL (PRACTICE AND PROCEDURE) RULES

[Legal Notice 59 of 2009]

1. Citation

These Rules may be cited as the Co-operative Tribunal (Practice and Procedure) Rules.

2. Interpretation

In these Rules, unless the context otherwise requires—

“chairman” means the chairman of the Co-operative Tribunal;

“Tribunal” means the Co-operative Tribunal established under the Act.

3. Saving of the inherent power of the Tribunal

Nothing contained in these Rules shall limit or otherwise affect the inherent power of the Tribunal to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the Tribunal.

4. Disregard of technicalities

The Tribunal shall have power and discretion to decide all matters before it with due speed and dispatch without undue regard to technicalities of procedure.

5. Forms and fees

The Tribunal may prescribe such forms and fees as it may deem necessary, for purposes of these Rules.

6. Application of Civil Procedure Rules (Cap. 21 Sub. Leg.)

The provisions of the Civil Procedure Rules (Cap. 21, Sub. Leg.) shall apply in respect of the proceedings of the Tribunal.

7. Powers of chairman and deputy chairman

(1) The chairman or the deputy chairman shall have the power to give directions for—

- (a) furnishing of further particulars or supplementary statement;
- (b) filing and exchange of documents;
- (c) framing of issues,

and other directions as are necessary to enable the parties to prepare for the hearing or to assist the Tribunal to determine the issues.

(2) The chairman or the deputy chairman, in matters before the Tribunal, shall have the same power as is vested in the Registrar or Deputy Registrar where similar matters are before the High Court and shall exercise the power, *mutatis mutandis*, in accordance with the Civil Procedure Rules (Cap. 21, Sub. Leg.).

8. Appeals

(1) Every appeal to the Tribunal shall be in the form of a memorandum of appeal signed in the same manner as a pleading.

(2) The memorandum of appeal shall set forth concisely and under distinct heads the grounds of objection to the decision appealed against, without any argument or narrative, and such grounds shall be numbered consecutively.

(3) At the time of filing the memorandum of appeal or before setting down the appeal for hearing, the Appellant shall file a record of appeal in five sets and serve all parties. The record of appeal, properly indexed and paginated, shall contain—

- (a) the memorandum of appeal;
- (b) the inquiry order;

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- (c) the inquiry and/or inspection report;
- (d) the minutes of the general meeting whose decision is appealed against;
- (e) the notice of intention to surcharge;
- (f) the surcharge order; and
- (g) any other relevant documents.

9. Statement of claim

A claim, other than an appeal under the Act, shall be instituted by way of a statement of claim signed by the claimant or his advocate or other duly authorized agent, setting out concisely the nature of the claim and the grounds upon which it is based, supported by a verifying affidavit signed by the claimant.

10. Service of statement of claim

(1) The statement of claim together with the verifying affidavit and summons to enter appearance shall be served on the respondent.

(2) The respondent shall file a memorandum of appearance within fifteen days of service with the documents stated under sub-rule (1) and a statement of defence within a further fifteen days.

11. Interlocutory applications

(1) All interlocutory applications made to the Tribunal shall be by Chamber Summons or Notice of Motion signed by the claimant, his advocate or a duly authorized agent, supported by an affidavit.

(2) A party served with a Chamber Summons or Notice of Motion may file a replying affidavit or grounds of opposition. However, any party who desires to be heard and appears to the Tribunal to be a proper party to be heard, may be heard, despite failure to file replying affidavit or grounds of opposition.

12. Mode of service

The mode of service shall, unless the Tribunal otherwise directs, be personal and in every case, an affidavit of service shall be filed as evidence of the service by an authorized process server.

13. List of documents

At the close of pleadings, every party to the claim shall within thirty days, or before setting down the suit for hearing, file with the Tribunal, five sets of all documents that the party intends to rely on and serve all the parties to the claim at least fourteen days before the hearing.

14. Setting down claim for hearing

The claimant may, at any time after close of pleadings, and upon giving reasonable notice to every respondent who has appeared, set the suit down for hearing.

15. Substitution and addition of parties

Subject to section 76 of the Act, the Tribunal shall have the discretion to add or strike out parties to the claim.

16. Hearing of claims

At the hearing, the evidence shall be in narrative form but the Tribunal shall be at liberty to take down questions and answers verbatim.

17. Setting aside judgement, order or award

A judgement, order or award made *ex parte* under this Rules may, on application, be set aside on such terms as may be just.

18. Costs

Subject to any provisions of any law for the time being in force, the Tribunal shall have the power to determine the party or person to bear costs, or out of which property and to what extent, the costs shall be paid:

Provided that the costs of any claim or issue shall follow the event unless the Tribunal shall for good reason otherwise order.

19. Interest

(1) Where and in so far as a decree is for the payment of money, the Tribunal may, in the decree, order interest at such rate as the tribunal deems reasonable to be paid on the principal sum adjudged from the date of filing the claim to the date of the decree, plus any interest accruing on the principal from the period before the institution of the suit, and on the aggregate sum so adjudged, such further interest from the date of the decree to the date of full payment or to such earlier date as the Tribunal thinks fit.

(2) Where such a decree is silent with respect to the payment of further interest on such aggregate sums as aforesaid from the date of the decree to the date of payment or other earlier date, the Tribunal shall be deemed to have ordered interest at the prevailing court rates.

20. Registers

The Tribunal shall cause to be prepared a register with regard to any disputes or appeals before the Tribunal containing the following particulars—

- (a) the names of the parties;
- (b) the serial number;
- (c) date of claim or appeal;
- (d) the relief sought; and
- (e) the final determination or order and the date thereof.

21. Principal registry

(1) The principal registry of the Tribunal shall be at Nairobi.

(2) There shall be provincial registries at Mombasa, Kisumu, Nakuru, Nyeri, Embu, Kakamega, Garissa and such other place as the Chairman in his discretion determine from time to time.

(3) The tribunal shall conduct sessions or hearings at the principal registry and any of the other registries.

22. Savings provisions

(1) All the proceedings pending before the Tribunal immediately before the commencement of these Rules may be continued and concluded as if they had been commenced under or by virtue of these Rules.

(2) Every decree, order or award of the Tribunal which immediately before the commencement of these Rules had not been executed or enforced shall be executed or enforced in the same manner as if it were a decree or order of the Tribunal made in accordance with these Rules.

23. Amendment of rules

These Rules may be amended from time to time as the Tribunal may direct.
