



THE REPUBLIC OF KENYA

LAWS OF KENYA

SACCO SOCIETIES ACT

NO. 14 OF 2008

Revised Edition 2012 [2008]

Published by the National Council for Law Reporting
with the Authority of the Attorney-General

www.kenyalaw.org

NO. 14 OF 2008

SACCO SOCIETIES ACT
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CONDUCT OF THE AFFAIRS OF THE BOARD

NO. 14 OF 2008

SACCO SOCIETIES ACT

[Date of assent: 24th December, 2008.]

[Date of commencement: 26th September, 2009.]

An Act of Parliament to make provision for the licensing, regulation, supervision and promotion of Sacco societies, to establish the Sacco Societies Regulatory Authority and for connected purposes

[Act No. 14 of 2008, L.N. 153/2009.]

PART I – PRELIMINARY

1. Short title

This Act may be cited as the Sacco Societies Act.

2. Interpretation

In this Act, unless the context otherwise requires—

“associate” means—

- (a) in relation to a company or other body corporate—
 - (i) its non-operating holding company or its subsidiary;
 - (ii) a subsidiary of its non-operating holding company;
 - (iii) a holding company of its subsidiary;
 - (iv) any person who controls the company or body corporate whether alone or with his associates or with other associates of it;
- (b) in relation to an individual—
 - (i) any member of his family;
 - (ii) any company or other body corporate controlled, directly or indirectly, by him whether alone or with his associates; and

a person shall be deemed to be a member of a family if he is the parent, spouse, brother, sister, child, uncle, aunt, nephew, niece, stepfather, stepmother, stepchild and adopted child of the person concerned, and in case of an adopted child his adopter or adopters;

“Board” means the Board of the Authority constituted under section 6;

“board of directors” has the meaning assigned thereto in the Co-operative Societies Act (Cap. 490);

“Board of Trustees” means the board of trustees established by section 56 of this Act;

“by-laws” has the meaning assigned thereto in the Co-operative Societies Act, 1997 (Cap. 491);

“Central Bank” means the Central Bank of Kenya established by the Central Bank of Kenya Act;

“chief executive officer” means the chief executive officer of the Authority;

“Commissioner” has the meaning assigned thereto in the Co-operative Societies Act (Cap. 490);

“control” in relation to the term **“associate”** includes—

- (i) ability to influence, whether directly or indirectly, the composition of the board of directors of a deposit-taking Sacco society; or
- (ii) holding, directly or indirectly, whether personally or through a holding company or subsidiaries thereof, or in any other way, an aggregate of twenty five *per centum* or more of the voting power of a company or body corporate, whether alone or with associates or of the body corporate;

“co-operative society” has the meaning assigned to it in the Co-operative Societies Act (Cap. 490);

“core capital” means the fully paid up members’ shares, capital issued, disclosed reserves, retained earnings, grants and donations all of which are not meant to be expended unless on liquidation of the Sacco society;

“deposit” means a sum of money received or paid on terms under which it shall be repaid, with or without interest or premium, and either on demand or at a time or in circumstances agreed by or on behalf of the person making the payment and the person receiving it;

“Deposit Guarantee Fund” means the Deposit Guarantee Fund established by section 55;

“deposit-taking business” means—

- (a) a Sacco business in which the person conducting the business holds himself out as accepting deposits on a day-to-day basis; and
- (b) any other activity of the Sacco business which is financed, wholly or to a material extent, by lending or extending credit for the account and at the risk of the person accepting the deposit, including the provision of short-term loans to members;

“director” has the meaning assigned to it in the Co-operative Societies Act (Cap. 490);

“dormant account” means savings or current account maintained by a Sacco society which is not operational, or has had no transaction by the depositor within the maximum period prescribed;

“General Fund” means the fund established by section 16;

“international financial reporting standards” means the international accounting standards set by the International Accounting Standards Board;

“land” includes freehold and leasehold land in Kenya and all buildings and permanent improvements and premises thereon;

“levy” means the levy imposed under section 15

“licence” means a licence granted under section 25;

“member” has the meaning assigned to it in the Co-operative Societies Act (Cap. 490);

“Minister” means the Minister for the time being responsible for matters relating to Sacco societies;

“non-deposit taking business” means Sacco business, other than deposit-taking business;

“officer” in relation to a Sacco society, means a director or any other person, by whatever name or title he may be called or described, who carries out or is empowered to carry out functions relating to the overall direction in Kenya of that deposit-taking Sacco society or takes part in the general management thereof in Kenya;

“place of business” means a Sacco society’s head office, branch, or outlet, including a mobile unit, marketing office, automated teller machines or agency of a Sacco society and which is open to the public;

“Sacco business” means financial intermediation and any other activity by a Sacco society based on co-operative principles and in accordance with this Act, by way of—

- (a) receipt of withdrawable deposits, domestic money transfer services, loans, advances and credit facilities; or
- (b) receipt of non-withdrawable deposits from members and which deposits are not available for withdrawal for the duration of the membership of a member in a Sacco society and may be used as collateral against borrowings and domestic money transfer services;

“Sacco society” means a savings and credit co-operative society registered under the Co-operative Societies Act (Cap. 490);

“share capital” means members’ equity in the form of issued and fully paid up shares of common stock;

“total capital” means the total sum of core capital and supplementary capital of a Sacco society;

“total deposit liabilities” means the total deposits in Kenya in any Sacco society which are repayable on demand or after a fixed period or after notice under agreed terms and conditions;

“Tribunal” has the meaning assigned to it in the Co-operative Societies Act (Cap. 490);

“trustees” means the trustees of the board of trustees of the Deposit Guarantee Fund constituted under section 57.

3. Application

- (1) This Act shall apply to—
- (a) every deposit-taking business;
 - (b) specified non-deposit taking business, in the manner specified in subsection (2).
- (2) For the purposes of subsection (1)(b), the Minister may make regulations—
- (a) specifying the non-deposit taking business to which that subsection applies; and
 - (b) prescribing measures for the conduct of the specified business.

PART II – THE SACCO SOCIETIES REGULATORY AUTHORITY**4. Establishment of the Authority**

(1) There is established an Authority to be known as the Sacco Societies Regulatory Authority.

(2) The Authority shall be a body corporate with perpetual succession and a common seal and shall be capable, in its corporate name, of—

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging, and disposing of both movable and immovable property;
- (c) borrowing or lending money;
- (d) entering into contracts; and
- (e) doing or performing all such other things or acts necessary for the furtherance of the provisions of this Act.

5. Objects and functions of the Authority

The objects and functions of the Authority shall be to—

- (a) license Sacco societies to carry out deposit-taking business in accordance with this Act;
- (b) regulate and supervise Sacco societies;
- (c) hold, manage and apply the General Fund of the Authority in accordance with the provisions of this Act;
- (d) levy contributions in accordance with this Act;
- (e) do all such other things as may be lawfully directed by the Minister; and
- (f) perform such other functions as are conferred on it by this Act or by any other written law.

6. Board of the Authority

(1) The oversight function and management of the Authority shall vest in a Board of the Authority which shall comprise—

- (a) the chairman to be appointed by the Minister from amongst the members appointed under paragraph (e);

- (b) the Permanent Secretary to the Treasury or his representative;
- (c) the Commissioner or his representative;
- (d) the Governor of the Central Bank or his representative;
- (e) four members, not being public officers, appointed by the Minister by virtue of their knowledge, and possession of a minimum of ten years experience, in co-operative practice and management, law, finance or economics; and
- (f) the chief executive officer appointed under section 12.

(2) A member of the Board appointed under subsection (1)(e) shall hold office for a term of three years and shall be eligible for re-appointment for one more term of up to three years.

(3) The members of the Board appointed under subsection (1)(e) shall be appointed at different times so that the respective expiry dates of their terms shall fall at different times.

(4) A person shall not be qualified for appointment as a member of the Board, if that person is—

- (a) a member of the National Assembly or of a local authority;
- (b) a director or employee of a Sacco society or of a co-operative society;
- (c) auditor of a Sacco society or of a co-operative society; and
- (d) a person who is prohibited from being a director or to take part in the management of a cooperative or financial institution by the Commissioner under the Co-operative Societies Act (Cap. 490) or by the Central Bank of Kenya respectively.

(5) A member of the Board appointed under subsection (1)(e) may be removed from office by the Minister, if that member—

- (a) accepts any office the holding of which, if he were not a member of the Board, would make him ineligible for appointment to the office of a member of the Board;
- (b) fails to discharge the functions of his office whether arising from infirmity of body or mind or any other cause;
- (c) conducts himself in a manner not befitting a member of the Board; and
- (d) becomes subject to any disqualification set out in subsection (4)(d).

(6) A member of the Board appointed under subsection (1)(e) may resign office by giving a fourteen days notice to the Minister.

7. Powers of the Board

The Board shall have all the powers necessary for the performance of its functions under this Act and, in particular, shall have the power to—

- (a) supervise, control and administer the assets of the Authority in such manner and for such purposes as would best promote the objects and functions for which the Authority is established;

- (b) open and operate bank accounts;
- (c) determine provisions to be made for the Authority's capital and recurrent expenditure and for the reserves of the Authority;
- (d) award contracts;
- (e) enter into association with other bodies or organizations within or outside Kenya as the Board may consider desirable or appropriate and in furtherance of the purpose for which the Authority is established;
- (f) invest funds of the Authority not currently required for its purpose in the manner provided in section 19; and
- (g) receive grants or donations and make legitimate disbursements therefrom for the furtherance of the objects and functions for which the Authority is established.

8. Committees and delegation of powers

(1) The Board may appoint committees from among its own members or otherwise, to carry out such general or special functions as may be specified by the Board.

(2) The Board may, by resolution, either generally or in any particular case, delegate to any committee of the Board or to any member, officer, employee, or agent of the Authority, the exercise of any of the powers or the performance of any of the functions or duties of the Authority under this Act or under any other written law.

(3) Except for purposes of the performance of his duties or the exercise of his powers under this Act, or where required under any other law to do so, any officer or any other employee or agent of the Authority shall not disclose any information which he has acquired in the course of the performance of his duties or the exercise of his powers in accordance with this Act.

(4) Any person who contravenes subsection (3) commits an offence and is liable on conviction to a fine not exceeding one hundred thousand shillings, or to imprisonment for a term not exceeding one year, or to both such fine and imprisonment.

9. Common seal of the Board

(1) The common seal of the Authority shall be kept in such custody as the Board may direct and shall not be used except on the order of the Board.

(2) The common seal of the Authority when affixed to a document and duly authenticated shall be judicially and officially noticed and unless and until the contrary is proved, any necessary order or authorization by the Board under this section shall be presumed to have been duly given.

(3) The common seal of the Authority shall be authenticated by the signature of the chief executive officer and the chairperson of the Board or any one other officer authorized by the Board in that behalf.

(4) All documents, other than those required by law to be under seal, made by, and all decisions of, the Authority may be signified under the hand of the

chairperson, in the case of a decision taken at a meeting at which the chairperson is not present, under the hand of the person presiding at such meeting.

10. Remuneration of the Board members

The Authority, in consultation with the Minister, shall pay members of the Board such remuneration or allowances for their services and expenses as it may determine.

11. Meetings and procedure of the Board

The conduct of the business of the Board shall be as provided in the Schedule, but subject thereto, the Board may regulate its own procedure.

12. Appointment and remuneration of the chief executive officer

(1) There shall be a chief executive officer who shall be appointed by the Board, in consultation with the Minister, and whose terms and conditions of service shall be determined by the Board in the instrument of appointment or otherwise in writing from time to time.

(2) No person shall be appointed as the chief executive officer of the Authority unless he has at least ten years experience in financial management, co-operative practice and management, law, finance or economics.

(3) The chief executive officer shall be an *ex officio* member of the Board but shall have no right to vote at any meeting of the Board.

(4) The term of office of the chief executive officer shall be four years but may be renewed for one more term of not more than four years.

(5) The chief executive officer shall, subject to the general policy set by the Board, be responsible for the operations and management of the day-to-day affairs of the Authority.

(6) In the event of the chief executive officer being absent or being incapacitated by reason of sickness or other cause, the Board may with the approval of the Minister, appoint a person to act as the chief executive officer during the period of that absence or incapacitation.

(7) The Board with the approval of the Minister may remove the chief executive officer if, for any reason, the chief executive has become incapable of properly performing the functions of his office or is incompetent.

13. Appointment and remuneration of staff

(1) The Board may appoint such other officers and employees as it considers necessary for the efficient discharge of its duties and responsibilities.

(2) The officers and employees appointed under subsection (1) shall be remunerated in such manner and at such rates, and shall be subject to such conditions of service, as may be determined by the Board.

(3) Every officer or employee appointed under subsection (1) shall, subject to this Act, exercise such powers and functions and perform the duties and responsibilities assigned to him from time to time by the chief executive officer.

14. Protection from liability

(1) No matter or thing done by an officer or an employee of the Authority shall, if the matter or thing is done *bona fide* for executing the functions, powers or duties of the Authority, render the officer or employee so acting, personally liable for any action, claim or demand.

(2) Subsection (1) shall not relieve the Authority from liability to pay compensation or damages to any person for any injury to that person, or other loss caused by the exercise of any power conferred by this Act or any other written law or by the failure of any works of the Authority.

15. The Sacco societies levy

(1) The Authority may by order published in the *Gazette*, impose a levy to be known as the Sacco societies levy on the deposits held in deposit-taking Sacco societies, or on such other base as the Authority may determine in the case of Sacco societies carrying out non-deposit taking business specified under section 3(2).

(2) A levy imposed under this section shall be payable at such rate as may be specified in the order.

(3) An order under this section may contain provisions as to the time at which the amount payable by way of the levy shall become due.

(4) All moneys received in respect of the levy shall be paid into the General Fund.

(5) If a person fails to pay any amount payable by him by way of the levy on or before the date prescribed by the order under subsection (1), a sum equal to five *per centum* of the amount shall be added to the amount due for each month or part thereof during which the amount due remains unpaid.

(6) If any moneys required to be paid within the time prescribed under subsection (3) is not paid on or before the date prescribed by the order, the amount due and any sum payable under subsection (5) shall be a civil debt recoverable summarily by the Authority.

16. The Authority's General Fund

(1) There is established a fund of the Authority to be known as the General Fund of the Authority which shall vest in the Authority.

(2) There shall be paid into the General Fund—

- (a) all proceeds of the levy;
- (b) such moneys or assets as may accrue to or vest in the Authority in the course of the exercise of its powers or the performance of its functions under this Act;
- (c) such sums as may be payable to the Authority pursuant to this Act or any other written law;
- (d) such sums as may be granted to the Authority pursuant to subsection (3); and
- (e) all moneys from any other source provided for or donated or lent to the Authority.

(3) There shall be made to the Authority out of moneys provided by Parliament for that purpose, grants towards the expenditure incurred by the Board in the exercise of its powers of the performance of its functions under this Act.

(4) There shall be paid out of the General Fund such sums of money required to defray the expenditure of the Authority incurred by the authority in the discharge of its functions under this Act.

17. Investment of funds of the Authority

(1) The Authority may invest its funds in any securities which for the time being are authorized for trust funds or in any other securities which the Minister may from time to time, approve.

(2) The Authority may place on deposits with such bank or banks as it may determine, any moneys not immediately required for the purposes of the Authority.

18. Financial year

The financial year of the Authority shall be the period of twelve months ending on the thirtieth of June in each year.

19. Annual estimates

(1) The Authority shall, at least three months before the commencement of the financial year, prepare estimates of revenue and expenditure for that year.

(2) The estimates prepared under subsection (1) shall include provision for—

- (a) salaries, allowances and other charges in respect of the officers and staff of the Authority;
- (b) pensions, gratuities and other charges in respect of the retirement benefits which are payable out of the funds of the Authority;
- (c) the maintenance, repair and replacement of the assets of the Authority;
- (d) funds to meet future or contingent liabilities;
- (e) authorized payments to members of the Board; and
- (f) any other matter that the Authority may, with the approval of the Ministers deem appropriate.

(3) The estimates prepared under this section shall be submitted by the Authority to the Minister for approval before the start of the financial year.

20. Accounts and audit

(1) The Authority shall cause to be kept proper books and records of accounts of the income, expenditure, assets and liabilities of the Authority.

(2) The Authority shall within three months of the closure of the financial year submit to the Controller and Auditor-General—

- (a) a statement of income and expenditure during that period;
- (b) a statement of the assets and liabilities of the Authority on the last day of that year.

(3) The accounts of the Authority shall be audited and reported upon in accordance with the Public Audit Act (Cap. 412B).

21. Submission and publication of annual reports

(1) The Authority shall within four months of the closure of the financial year, submit to the Minister a report on the operations of the Authority during that year.

(2) The Authority shall, after submission of the report to the Minister under subsection (1), publish the report in the *Gazette* and in at least one newspaper of national circulation.

22. Preparation, etc., of Sacco societies performance report

The Authority shall within four months of the closure of the financial year prepare and submit to the Minister a report on the operations and performance of the Sacco societies under this Act during that year.

PART III – LICENSING OF SACCO SOCIETIES

23. Carrying out of deposit-taking business

(1) No person shall carry out deposit-taking business within the meaning of this Act, unless such person—

- (a) is a Sacco society registered under the Co-operative Societies Act, (Cap. 490); and
- (b) holds a valid licence issued under this Act.

(2) A person who contravenes the provisions of this section commits an offence and shall be liable, on conviction, to a fine not exceeding five hundred thousand shillings, or to imprisonment for a term not exceeding three years, or to both such fine and imprisonment.

24. Application for licence

(1) A Sacco society intending to transact the deposit-taking business in Kenya shall, before commencing such business, apply in writing, to the Authority for a licence, in the prescribed form.

(2) An application under subsection (1) shall be accompanied by—

- (a) a copy of the certificate of registration and the by-laws of the Sacco society;
- (b) evidence that the Sacco society meets the minimum capital requirements prescribed in the Second Schedule;
- (c) information relating to the place of business, indicating that of the head office, and branches, if any;
- (d) the prescribed fees;
- (e) a report by the Sacco society, covering the following—
 - (i) objectives of the deposit-taking Sacco society business;
 - (ii) membership and share capital;
 - (iii) economic and financial environment;

- (iv) organisational structure and management; and
- (v) financial and risk analysis;
- (f) such other requirements as the Authority may prescribe.

(3) A Sacco society may appeal to the Minister in reference to refusal to grant a licence within thirty days after receipt of notification of refusal.

(4) The Minister may reverse the decision of the Authority only if—

- (a) the Authority failed to follow required procedures in making its decision;
- (b) the Authority's decision was contrary to the Act and the regulations;
- (c) there was no factual basis for the Authority's decision; or
- (d) based on a review of the record the Authority committed a manifest error in its assessment of facts, or abused its discretion in taking its decision.

(5) The Authority shall, in consultation with the Minister make regulations providing for further requirements to be fulfilled before the grant of licence to a Sacco society.

25. Issuance of licence

(1) The Authority shall consider every application made under section 24 and may, if satisfied that the applicant meets the requirements of this Act, grant a licence to the applicant upon payment of the prescribed fee.

(2) The Authority shall upon the payment by the applicant of the prescribed fee, issue a licence to a Sacco society to carry out deposit-taking Sacco society business.

(3) The licence referred to in subsection (2) shall, where the other requirements of this section are fulfilled, be issued within fourteen days from the date of payment of the prescribed fee.

(4) Every Sacco society shall be required to pay an annual licence fee of such amount and within such time as may be prescribed by the Authority.

(5) A Sacco society which fails to pay the annual fee by the date on which such payment is due shall in addition to any action by the Authority under section 27 be liable to pay such penalty as the Authority may prescribe.

(6) A Sacco society which fails to commence deposit-taking Sacco business within twelve months of the grant of a licence under this Act shall, if it still proposes to operate such business, make fresh application under section 24.

(7) The Authority may grant or refuse an application made under subsection (6) and its decision shall be final.

26. Conditions of a licence

(1) The Authority shall endorse on a licence granted under this Act such conditions as it considers necessary and may from time to time add, vary or substitute such conditions as it deems appropriate.

(2) Where it appears to the Authority that there are reasonable grounds for the revocation of a licence, but that the circumstances are such as that the revocation would not be expedient or would be unjust to the members, the Authority may restrict the licence in accordance with subsection (3).

(3) A licence may be restricted by imposing—

- (a) a limit on the duration of the licence for a period, not exceeding one year; or
- (b) such additional conditions for the protection of depositors as the Authority may deem necessary.

27. Revocation of licence

(1) The Authority may, by notice in writing to a Sacco society, revoke the licence if the Sacco society—

- (a) ceases to carry on deposit-taking business in Kenya or goes into liquidation or is wound up or is otherwise dissolved or deregistered under the Co-operative Societies Act (Cap. 490);
- (b) fails to comply with this Act, or any rules, regulations, orders or directions issued under the Act or any condition of the licence;
- (c) fails to pay the annual licence fee as required under section 25(3);
- (d) does not hold at least fifty percent of the capital requirements prescribed in section 30 and the Second Schedule; or
- (e) has knowingly engaged in serious criminal or fraudulent acts that are likely to cause insolvency, substantial dissipation of assets or earnings or may otherwise weaken the deposit-taking Sacco society's condition or seriously prejudice the interests of the deposit-taking Sacco society's members.

(2) The Authority shall, before revoking a licence, give to the Sacco society not less than fourteen days' notice in writing of its intention, and shall consider any representations made to it in writing by the Sacco society within that period before revoking the licence.

(3) The Authority shall cause the name of every Sacco society whose licence is revoked under this section to be published forthwith in the *Gazette* and at least one newspaper of national circulation.

(4) Where the licence of a Sacco society is revoked or cancelled, the Sacco society shall not be entitled to any refund of the licence fee in respect of any unexpired period of the licence.

(5) An aggrieved Sacco society may appeal to the Minister in respect of a revocation of its licence within thirty days after being notified of the revocation.

(6) An appeal shall not have the effect of suspending the actions of the Authority while the appeal is being pursued.

(7) The Tribunal may reverse the decision of the Authority only if—

- (a) the Authority failed to follow required procedures in making its decision;
- (b) the Authority's decision was contrary to this Act and the regulations;

- (c) there was no factual basis for the Authority's decision; or
- (d) based on a review of the record, the Authority committed a manifest error in its assessment of facts, or abused its discretion in taking its decision.

28. Publication of Sacco societies

The Authority shall cause the list of all Sacco societies to be published once every year in the *Gazette* and at least in one newspaper of national circulation.

PART IV – GOVERNANCE OF SACCO SOCIETIES**29. Minimum capital requirements**

All Sacco societies shall comply with and maintain at all times the minimum capital requirements as may be prescribed by the Authority.

30. Minimum liquid assets

(1) A Sacco society shall maintain such minimum holding of liquid assets of its members' deposits and borrowings as may be prescribed by the Authority.

(2) Every Sacco society shall calculate the average monthly balance of its deposits and borrowings at the close of business on such day as may be prescribed by the Authority.

(3) A Sacco society which does not comply with the requirements of subsection (1), within such period as the Authority may prescribe, shall be liable to pay, on being called upon to do so by the Authority, a penalty interest charge not exceeding one percent of the amount of the deficiency, for every day during which the offence continues.

31. Prohibited business

A Sacco society shall engage only in such business as the Authority shall prescribe.

32. Place of business

(1) No Sacco society may open in Kenya a branch or a new place of business or change the location of a branch or the existing place of business in Kenya without the approval of the Authority.

(2) A person who contravenes the provisions of this section commits an offence and shall be liable, on conviction, to a fine not exceeding one hundred thousand shillings, or to imprisonment for a term not exceeding three years, or to both such fine and imprisonment.

33. Application for loan or credit facility

(1) Any member of a Sacco society may apply to the Sacco society for a loan or credit facility in writing.

(2) A person who applies for a loan or credit facility under subsection (1) shall provide evidence of his or her ability to repay the loan or credit facility.

(3) Every Sacco society shall prescribe in writing—

- (a) a loans policy and procedures manual specifying the criteria and procedures applicable in the evaluation, processing, approval, documentation and release of loans or credit facilities;
- (b) an asset review system, which shall accurately identify risk and assure the adequacy of the provisions for losses account;
- (c) a system of reviewing the entire asset portfolio including contingent accounts or off balance sheet items and adequate provisioning for losses at periodic monthly intervals.

(4) Where security is required with respect to a loan, the Sacco society may accept as security against any loan, an endorsement by a guarantor or co-guarantor, assignment of an interest in real or personal property, deposits or wages of the borrower or any collateral as may be prescribed by the Authority.

(5) No Sacco society shall grant a loan or credit facility to a person who is not a member of that society.

34. Limits on loans and credit facility

(1) No Sacco society shall grant a loan or credit facility to a member where the loan or credit facility, in the aggregate, exceeds such limit of the society's core capital as the Authority may prescribe.

(2) No Sacco society shall grant a loan or credit facility against the security of the core capital of the society.

(3) Any person who contravenes the provisions of this section commits an offence and shall be liable, on conviction, to a fine not exceeding one hundred thousand shillings, or to imprisonment for a term not exceeding two years, or to both such fine and imprisonment.

35. Insider lending

(1) A Sacco society may make loans to its employees and members of its board of directors.

(2) The conditions for the grant of a loan or credit facility to an employee or board member shall comply with all requirements under this Act with respect to loans to other members and shall not be made on terms more favourable than those extended to other members.

(3) A person who has applied for a loan or credit facility to which this section applies shall not be present nor participate in the consideration of the application.

(4) No director, officer, employee or a member of the board of a Sacco society shall act as a guarantor of any person with respect to a loan advanced or credit facility granted to a person by that society.

(5) A Sacco society may lend to its staff and officials an amount in the aggregate not exceeding such proportion of its total assets as prescribed by the Authority.

36. Charge against shares and savings deposits

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

(2) A Sacco society may refuse to allow withdrawals from any deposit account operated by a member where the member is in arrears on a debt owed to the society.

37. Dormant accounts

The treatment of members' dormant accounts shall be in such manner as may be prescribed by the Authority.

38. Investments by Sacco societies

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

- (a) securities, obligations or other debt instruments issued or guaranteed by the government or any agency of the government;
- (b) deposits, obligations or other accounts of deposit-taking institutions under the Banking Act (Cap. 488);
- (c) shares, stocks, deposits in, loans to or other obligations of any Sacco society or co-operative society.

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

(3) A Sacco society shall not purchase or acquire any land or any interest or right therein except as may be reasonably necessary for the purpose of conducting its deposit-taking business and where such investments do not exceed such proportion of the total assets of the society as the Authority may prescribe.

39. Financial year

The financial year of a Sacco society shall be the period of twelve months ending the thirty-first December in each year.

40. Form of accounts

(1) Every Sacco society shall keep proper books of accounts.

(2) Every Sacco society shall keep accounts and records which—

- (a) show a true and fair state of affairs; and
- (b) explain all transactions and financial position to enable the Authority to determine whether the Sacco society has complied with the provisions of this Act and the regulations made under this Act.

(3) The accounts and other financial records of a Sacco society shall be denominated in Kenya shillings and shall comply with the international financial reporting standards and such other requirements as the Authority may prescribe.

(4) The board of directors shall cause the accounts of the Sacco society to be audited within three months after the close of each financial year.

41. Submission of accounts to the Authority

(1) A Sacco society shall, not later than three months after the end of each financial year, submit to the Authority, in the prescribed format—

- (a) an audited balance sheet, showing its assets and liabilities;
- (b) an audited profit and loss account; and
- (c) a copy of the auditor's report.

(2) A person who contravenes the provisions of this section commits an offence.

42. Disclosure requirements

The disclosures in the financial statements of a Sacco society shall include disclosures on—

- (a) members, if any, who hold more than twenty percent of the share capital and deposits in the Sacco society;
- (b) any advances or credit facilities exceeding such limits of its core capital as may be prescribed by the Authority; and
- (c) any lending to insiders.

43. Appointment of internal auditor

(1) Every Sacco society shall appoint an internal auditor who shall report to the board of directors on the internal control systems and financial matters of the society.

(2) No person shall be appointed as an internal auditor under this section unless the person holds such professional qualifications in accounting and has such experience in deposit-taking business, as may be prescribed by the Authority.

44. Appointment of external auditors

(1) Every Sacco society shall, in each financial year, have an external auditor who shall be—

- (a) a person qualified under section 45;
- (b) approved by the annual general meeting of that society; and
- (c) appointed as such by the Authority.

(2) A Sacco society shall not remove or change its external auditors in the course of the year of the appointment of such auditors except with the prior approval of the Authority.

(3) An external auditor shall, not less than four months after the end of each financial year, submit his report to the Authority, on the financial conditions of the deposit-taking business of the Sacco society for which he has been appointed.

(4) An external auditor's report submitted under subsection (3) shall contain information on the—

- (a) solvency of the Sacco society's business and any concerns with respect to the financial condition of the society's business;
- (b) any violation of prudential standards or a condition of the licence; and
- (c) any other contravention of this Act.

(5) Where for any reason a casual vacancy occurs in the appointment of the external auditor in the course of the year of that appointment, the board of directors of the Sacco society shall, with the approval of the Authority and subject to subsection (1), appoint another external auditor.

45. Qualifications of external auditors

A person shall be qualified for appointment as an external auditor of a Sacco society if that person—

- (a) is qualified as an auditor under the Companies Act (Cap. 486);
- (b) is among the list of auditors approved and duly registered by the Authority; and
- (c) is not—
 - (i) an officer of a Sacco society;
 - (ii) a partner of a director of a Sacco society;
 - (iii) an employer or employee of an officer of a Sacco society;
 - (iv) an officer or employee of an associate of a Sacco society;
 - (v) a partner or an employer of a person who regularly performs the duties of secretary or book-keeper for a Sacco society; or
 - (vi) a firm or member of a firm of auditors of which any partner or employee falls within the categories enumerated in this section.

46. Display and publication of audited financial statements

(1) A Sacco society shall display, throughout the year, in a conspicuous position in every place of business, a copy of its last audited financial statements in the prescribed format.

(2) A Sacco society which does not comply with the provisions of this section shall be liable to pay to the Authority such penalty, not being less than one hundred thousand shillings, as may be prescribed by the Authority.

47. Annual general meeting to be supreme organ

The annual general meeting of a co-operative society as established under the Co-operatives Societies Act (Cap. 490) shall be the supreme organ of a Sacco society.

PART V – REGULATION AND SUPERVISION OF SACCO SOCIETIES

48. Regulation and supervision of Sacco societies

(1) The Authority shall be responsible for the regulation and supervision of Sacco societies to which this Act applies.

- (2) Without prejudice to the generality of subsection (1), the Authority shall—
- (a) prescribe prudential standards to be adhered to by Sacco societies;
 - (b) undertake inspections or require a Sacco society to submit information and reports on its financial affairs of the deposit-taking business to enable the Authority to evaluate the society's financial condition;
 - (c) require or oversee Sacco societies' workout plan to avert or alleviate financial difficulties;
 - (d) prescribe the maximum number of years an external auditor may serve the same Sacco society;
 - (e) exercise such incidental powers as may be necessary or requisite to enable it to effectively carry out its functions under this Act.

49. Powers of the Authority to inspect

(1) The Authority may, at any time and from time to time, and shall, if so directed by the Minister, cause an inspection to be made by any person authorized by the Authority in writing of any Sacco society and of its books, accounts and records.

(2) The Authority shall assist any investigative authority regarding matters of suspected fraud or malpractice in Sacco societies either by identification of such matters for referral or at the request of such authority.

(3) Where an inspection is made under subsection (1), the society concerned and every officer or employee thereof shall produce and make available to the person making the inspection, all books, accounts, records and other documents of the Sacco society and such correspondence, statements and information relating to the society as the person making the inspection may require, and within such period as he may direct in writing.

(4) A person who fails to produce any books, accounts, records, documents, correspondence, statements or the information required under subsection (2), within the period specified in the relevant direction, commits an offence.

(5) The person making the inspection shall prepare and submit a report to the Authority, and the report shall state—

- (a) any breach or contravention of any of the provisions of this Act or any regulations made under this Act;
- (b) any irregularity in the manner of conduct of the inspected society;
- (c) any mismanagement of a Sacco society; and
- (d) any other matter relating to a Sacco society not consistent with sound and prudent business practice.

(6) A copy of the report of the findings of an inspection under subsection (1) shall be submitted by the Authority to the Commissioner.

(7) A report of the findings of an inspection under subsection (1) shall, in addition to any action that may be taken under the Co-operative Societies Act, (Cap. 490) be presented by the Authority to the board of directors of the Sacco society.

50. Powers of the Authority to advise and direct

(1) If, at any time, the Authority has reason to believe that—

- (a) the business of a Sacco society is being conducted in a manner contrary to or not in compliance with the requirements of this Act or of any regulations made thereunder or in any manner detrimental to or not in the best interest of its members or members of the public; or
- (b) a Sacco society, any of its officers or any other person participating in the management of the society is engaged in any practice likely to occasion a contravention of any of the provisions of this Act or any regulations made thereunder, or any other Act, the Authority may—
 - (i) give advice and make recommendations to the Sacco society with regard to the conduct of its business generally;
 - (ii) issue directions regarding measures to be taken to improve the management or business methods of the society or to secure or improve compliance with the requirements of this Act, any regulations made thereunder or any other written law or regulations;
 - (iii) in any case to which paragraph (b) applies, issue directions to the Sacco society, officer or other person to cease such practice;
 - (iv) appoint a person, suitably qualified and competent in the opinion of the Authority, to advise and assist the Sacco society generally or for the purposes of implementing any directions under subparagraphs (ii) and (iii).

(3) The advice of a person appointed under subsection 1(b)(iv) shall have the same force and effect as a direction made under subsection 1(b)(ii) and (iii) and shall be deemed to be a direction of the Authority under this section.

(4) The Authority shall, before issuing a direction under subsection (1), serve upon the Sacco society, officer or other person, a notice of such intent specifying the reasons therefor and requiring the Sacco society, officer or other persons, within such period as may be specified in the notice, to show cause why such direction should not be issued.

(5) A Sacco society which receives a direction under this section shall comply with the direction within such period as may be specified in the direction and, if so required, shall produce evidence that it has done so.

(6) The Authority may issue directions to a Sacco society generally, and where appropriate provide exceptions to those directions to be detailed at time of issuance for the better carrying out of its functions under this Act and in particular, with respect to—

- (a) the prudential standards to be adhered to by a Sacco society in the conduct of its business in Kenya; and
- (b) regulations to be adhered to by Sacco societies in order to maintain a stable and efficient deposit-taking Sacco movement and financial system.

(7) A person who fails to comply with any direction under this section commits an offence and shall, in addition to the penalty prescribed under this Act, be liable to such additional penalty as may be prescribed for each day or part thereof during which the offence continues.

(8) The Authority may impose minimum standards on significant members and officers of a Sacco society as prescribed.

51. Supervisory enforcement actions

Where the Authority determines that a Sacco society conducts its business in a manner contrary to the provisions of this Act or of any regulations made thereunder or any other Act or in any manner detrimental to or not in the best interests of its members or members of the public, or a Sacco society is undercapitalized, the Authority shall—

- (a) restrict, suspend or prohibit the payment of dividends by the society;
- (b) prohibit the conversion of any profits of the society into capital;
- (c) direct the suspension or removal of any officer involved in such conduct from the service of society;
- (d) require the society to reconstitute its board of directors;
- (e) withhold branch or other corporate approval with respect to such society;
- (f) undertake regular inspections of that society;
- (g) order the society to submit to the Authority within forty-five days a capital restoration plan to restore the society to capital adequacy as prescribed in section 29 or in the case of issues unrelated to capital such as violations of law, a plan to resolve all deficiencies to the satisfaction of the Authority;
- (h) prohibit the society from awarding any bonuses, or increments in salary, emoluments and other benefits of all directors and officers of the society;
- (i) appoint a person suitably qualified and competent in the opinion of the Authority to advise and assist the society in designing and implementing the capital restoration plan or other corrective action plan and the person appointed shall regularly report to the Authority on the progress of the plan;
- (j) impose restrictions on growth of assets or liabilities of the society as it deems fit;
- (k) restrict the rate of interest on deposits payable by the society to such rates as the Authority shall determine;
- (l) order the society to do any or take such other action that the Authority may deem necessary to rectify a capital deficiency or other weakness;
- (m) impose financial penalties on the society;
- (n) issue an order placing the society under statutory management;
- (o) restrict the withdrawal of deposits from the society;

- (p) institute legal proceedings against any officer, director, committee member, employee or agent of the society; and
- (q) issue such administrative directives as the Authority may deem necessary.

52. Powers of the Authority to intervene in management

(1) Where the Authority takes an enforcement action under section 51 it may—

- (a) appoint a person to manage the affairs of the Sacco society and to exercise all the powers of the society to the exclusion of the board of directors, including the use of the corporate seal of the society;
- (b) appoint a competent person familiar with deposit-taking business to its board of directors, to hold office as a director for a period not exceeding twelve months, who shall not be removed from office except with the prior approval of the Authority; and
- (c) by notice in the *Gazette*, revoke or cancel any existing power of attorney, mandate, appointment or other authority by an institution in favour of any officer or employee or any other person.

(2) A person appointed to manage a Sacco society under this section shall hold office for a period not exceeding six months but the High Court may, on the application of the Authority, extend such period as it may deem necessary.

53. Collection and furnishing of information to the Authority, etc.

(1) The Authority or any person officially authorized in that behalf by the Authority may, by notice in writing, require any person to furnish to the Authority or to the authorized person, within such period as is specified in the notice, all such returns or information as specified in such notice.

(2) The Authority shall collect such data and other information as may be necessary to enable it to maintain supervision and surveillance of the affairs of Sacco societies and the protection of their members funds and, for this purpose, may require any Sacco society to submit statistical and other returns on a periodic basis in addition to any other returns required by law or as prescribed by the Authority.

(3) The Authority may require any institution to furnish to the Authority, at such time and in such manner as the Authority may direct, such information as the Authority may reasonably require for the proper discharge of its functions under this Act.

(4) The information required to be furnished under this section may include information relating to any person which is an associate of the Sacco society required to furnish information under that subsection.

(5) The Minister may require the Authority or a deposit-taking Sacco society to furnish to him, at such time and in such manner as he may direct, such information as the Minister may require.

(6) Where the Authority or person is required to furnish information under this Part, the Authority, institution or person shall furnish that information and any

supplemental material that may be required as a result of that information within the period specified under this Part or within such reasonable period thereafter as may be agreed or directed.

54. Publication and sharing of information

(1) The Authority or the Minister, as the case may be, may publish in whole or in part, at such times and in such manner as it or he thinks fit, any information furnished to it or him under this Act.

(2) The information furnished under this subsection shall not be published if it would disclose the financial affairs of any person in a level of detail down to the individual account holder, unless the consent in writing of that person has first been given.

(3) Except as provided in this Act, no person shall disclose or publish any information which comes into his possession in the course of the performance of his duties or responsibilities under this Act and, if he does so, he shall be deemed to have contravened the provisions of this Act.

(4) A person who discloses or publishes any information on contravention of subsection (3) commits an offence.

(5) Notwithstanding the provisions of this section—

- (a) the Authority may disclose any information received by it under this Act to any financial regulatory authority, tax authority, fraud investigations authority or pursuant to a court order, within or outside Kenya, where such information is reasonably required for the proper discharge of the functions of the Authority or the requesting financial regulatory authority, tax authority, investigation authority or court;
- (b) Sacco societies shall, in the ordinary course of business and in such manner and to such extent as the Minister may, by regulation prescribe, exchange such information on non-performing loans as may, from time to time, be specified by the Authority;
- (c) the Authority and any Sacco society may, in the ordinary course of business in such manner and to such extent as the Minister may, by regulation prescribe, exchange such information as is reasonably required for the proper discharge of their functions.

(6) No duty, to which a Sacco society or its officers may be subject, shall be breached by reason only of the disclosure, in good faith, of any information under this section to—

- (a) the Authority or to another Sacco society; or
- (b) a credit reference bureau,

in the course of the performance of their duties and no action shall lie against the Sacco society or any of its officers on account of such disclosures.

PART VI – THE DEPOSIT GUARANTEE FUND

55. Establishment of the Deposit Guarantee Fund

(1) There is hereby established a Fund to be known as the Deposits Guarantee Fund.

(2) The Deposit Guarantee Fund shall vest in a Board of Trustees appointed under section 56.

(3) The moneys constituting the Deposit Guarantee Fund shall be invested by the Board of Trustees in government securities and in deposits with banks as directed by the Board of Trustees.

56. The Board of Trustees

(1) The Board of Trustees shall consist of—

- (a) the chairperson who shall be elected from among the members appointed under subsection (2)(b) and (f);
- (b) the chairman of the Board of the Authority;
- (c) the Permanent Secretary to the Treasury or his representative;
- (d) the Governor of Central Bank or his representative;
- (e) the Commissioner or his representative;
- (f) four members nominated by Sacco societies and appointed by the Minister;
- (g) the chief executive officer of the Authority who shall be an *ex officio* member and secretary to the Board of Trustees.

(2) The Minister shall by regulations provide for the manner of nominations under subsection (2)(f).

(3) The Board of Trustees shall be responsible for the management of the Deposit Guarantee Fund and shall in particular—

- (a) provide oversight function in the management of the Deposit Guarantee Fund;
- (b) manage and apply the Deposit Guarantee Fund in accordance with this Act;
- (c) levy contributions for the Deposit Guarantee Fund in accordance with this Act.

57. Remuneration, etc., and conduct of affairs of Board of Trustees

(1) The Board of Trustees shall pay its members such remuneration or allowances for expenses out of the Deposit Guarantee Fund as it may determine after consultation with the Minister.

(2) The Board of Trustees shall regulate the conduct of its affairs.

58. Sources of the Deposit Guarantee Fund

The Deposit Guarantee Fund shall consist of—

- (a) moneys contributed to the Deposit Guarantee Fund by Sacco societies in accordance with section 60;
- (b) income investment interest accruing to the Deposit Guarantee Fund;
- (c) moneys borrowed for the purposes of the Deposit Guarantee Fund; and
- (d) moneys received as donations or grants to the Deposit Guarantee Fund.

59. Protection of deposits

(1) The Deposit Guarantee Fund shall provide protection for members' deposits, but not shares, up to an amount of one hundred thousand shillings in respect of each member.

(2) The amount being the aggregate credit balance of any accounts maintained by the member to a Sacco society, less any liability of the member to the Sacco society, shall be a protected deposit.

(3) A member's deposits shall be used to offset any liabilities owed by the Sacco society under liquidation including any liability under a loan guarantee by such member.

(4) If a member has outstanding loans or credit facilities owing to a Sacco society, the member or guarantor's deposits as the case may be, shall offset the loan or credit facility before the member or guarantor may receive any net from the members' or guarantors' protected deposits.

(5) A member of a Sacco society may upon the society becoming insolvent, lodge a claim with the Authority, in such form as the Authority may approve, for payment to him out of the Deposit Guarantee Fund of any protected deposits which he would but for the insolvency, have been paid had he demanded from the insolvent society.

(6) The Board of Trustees may, before paying any claim lodged under subsection (3) require the claimant to furnish such documentary proof to support such claim as may be prescribed by the Authority.

(7) The Board of Trustees may refuse to make any payments to any person who in its opinion had any responsibility for, or may have benefited directly or indirectly from the circumstances leading to, the Sacco society becoming insolvent.

(8) The Board of Trustees may at any time cause inspection to be carried out to ascertain the type, number and value of the protected deposits in any Sacco society.

(9) Upon payment of protected deposits from the Deposit Guarantee Fund, the Board of Trustees shall be entitled to receive from the Sacco society or its liquidator, as the case may be, the amount paid from the Deposit Guarantee Fund.

(10) Notwithstanding the provisions on any other written law for the time being in force—

- (a) a claim for payment of a protected deposit by a creditor of a Sacco society shall not be brought after the expiry of two years from the date of publication of commencement of such payment by the Board of Trustees;
- (b) a claim for payment of a dividend by a creditor of Sacco society shall not be brought after the expiry of one year from the date of commencement of such payment by the Board of Trustees.

(11) Subsection (10) shall not apply to a person who has, for reasons beyond his control and to the satisfaction of the Board of Trustees, been unable to make his claim within the said period.

60. Contribution to the Deposit Guarantee Fund

(1) Every Sacco society shall be a contributor to the Deposit Guarantee Fund and shall pay into the Deposit Guarantee Fund such annual amount, and at such times, as the Board of Trustees may determine in consultation with the Minister from time to time by order published in the *Gazette*.

(2) The Board of Trustees shall serve on every Sacco society a notice specifying the amount and the period, which shall not be later than twenty-one days after the date of service of the notice, within which the amount shall be paid into the Deposit Guarantee Fund by the Sacco society.

(3) A Sacco society which for, any reason, fails to pay its contribution to the Fund within the period specified in a notice issued under subsection (2) shall be liable to pay to the Fund a penalty interest charge not exceeding one half per-cent of the unpaid amount for every day outside the notice period on which the amount remains unpaid.

(4) If it appears to the Board of Trustees that the affairs of a Sacco society are being conducted in a manner detrimental to its own interests or to the interests of its members, the Board of Trustees may increase the contributions of that Sacco society beyond the maximum amounts gazetted.

61. Annual report

The Board of Trustees shall, within three months after the close of each financial year, submit to the Minister a report on the operations of the Deposit Guarantee Fund for that year.

PART VII – MISCELLANEOUS**62. Declaration of holidays**

Where the Authority considers that it is in the public interest that all Sacco societies, or a particular Sacco society should remain closed on a day which is not a public holiday, the Authority may, by notice in the *Gazette*, declare that day to be a holiday for all Sacco societies or for that particular Sacco society, and all Sacco societies or that particular Sacco society, as the case may be, shall remain closed on that day.

63. Orders by the High Court

The High Court may, on application made *ex parte* by the Authority or a statutory manager or liquidator, if it considers it to be in the interest of the members of a Sacco society, make an order—

- (a) prohibiting the Sacco society from carrying on the deposit-taking business; or
- (b) staying the commencement or, continuance, of any action or any proceedings against the Sacco society for a specified period of time on such terms and conditions as the High Court considers reasonable and may extend the specified period up to a total of six months from the beginning of the stay.

64. Default by officers

Any officer of a Sacco society who fails to—

- (a) take all reasonable steps to secure the compliance of the Sacco society with this Act or regulations made under this Act;
- (b) take all reasonable steps to secure the accuracy and correctness of any statement or information submitted under this Act and the regulations; or
- (c) supply any information required under this Act to the Minister or the Authority,

commits an offence and shall be liable, on conviction, to a fine not exceeding one hundred thousand shillings, or to imprisonment for a term not exceeding three years, or to both such fine and imprisonment.

65. Miscellaneous offences

Any Officer of a Sacco society who willfully—

- (a) with intent to deceive, falsifies any books of account, report, statement, record or other document of the society;
- (b) signs, issues, publishes or transmits to a government official any book of account, report, statement, record or other document which that person knows, or has reason to believe, to be false;
- (c) with intent to deceive, knowingly obtains a forged signature on a document;
- (d) with intent to deceive, destroys any book of account, report, statement, record, or other document of the society; and
- (e) engages in transaction or takes part in a deliberation in which there is a conflict of interest prohibited under this Act,

commits an offence and shall on conviction, in addition to the penalty imposed by this Act, be liable to be prohibited from holding office in any Sacco society.

66. General penalty

(1) Where any Sacco society or other person contravenes any of the provisions of this Act or regulations made under this Act—

- (a) if it is a body corporate, it shall be guilty of an offence and liable to a fine not exceeding one hundred thousand shillings; and
- (b) every director, committee member, employee or agent of a Sacco society or person shall be guilty of an offence and liable to a fine not exceeding one hundred thousand shillings or to imprisonment for a term of not less than twelve months or to both such fine and imprisonment.

(2) It shall be a defence to a person charged with an offence under this section to prove that he was not aware that the contravention was taking place or was intended or about to take place, or that he took all reasonable steps to prevent the contravention.

67. Application of the Co-operative Societies Act, 1997

(1) For greater certainty, the provisions of the Co-operative Societies Act, (Cap. 490) shall apply to a Sacco society carrying out deposit-taking business under this Act with respect to any matter, to the extent that the matter in question is not dealt with in this Act.

(2) In the case of a conflict between the provisions of this Act and the provisions of the Co-operative Societies Act (Cap. 490) with respect to Sacco societies to which this Act applies, the provisions of this Act shall take precedence.

(3) All disputes arising out of Sacco business under this Act shall be referred to the Tribunal.

68. Regulations

The Minister shall, in consultation with the Authority, make regulations generally for the better carrying out of the provisions of this Act.

69. Transitional provisions

A Sacco society which at the commencement of this Act, is carrying out deposit-taking business to which this Act applies shall, within twelve months from the date of commencement, or such shorter period as the Minister may, by notice in the *Gazette* prescribe, apply for a licence under this Act.

70. Amendment of section 44 of Act No. 12 of 1997

Section 44 of the Co-operative Societies Act (Cap. 490) is amended by deleting the words “deposits and”.

71. Amendment of section 76 of Act No. 12 of 1997

Section 76 of the Co-operatives Societies Act (Cap. 490), is amended in subsection (2) by inserting new paragraph (c) as follows—

- (c) a claim by a Sacco society against a refusal to grant or a revocation of licence or any other due, from the Authority.

72. Repeal of section 91A of Act No. 12 of 1997

Section 91A of the Co-operative Societies Act (Cap. 490) is repealed.

SCHEDULE

[Section 11.]

CONDUCT OF THE AFFAIRS OF THE BOARD

1. The Board shall meet not more than twelve times in a financial year and not more than two months shall elapse between the date of one meeting and the date of the next meeting.

2. The quorum for the conduct of the business of the Board shall be five members:

Provided that an affirmative vote of four members shall validate any Board action.

3. In the absence of the chairperson from any meeting of the Board, members present shall elect one among themselves to preside, and such a member shall, as concerns that meeting, have all the powers of the chairperson under this Act.

4. At every meeting of the Board, the person presiding shall have a casting as well as a deliberative vote.

5. The chairperson shall convene a special meeting of the Board within one month of the receipt by him of a written request signed by at least four members of the Board.

6. The members may appoint committees from among themselves or otherwise, to carry out such general or special functions as may be specified by the Board.

7. Any member who has a direct or indirect interest in any decision to be taken on any specific matter by the Authority shall disclose the nature of such interest at the meeting of the Authority where such decision is being taken and the disclosure shall be recorded in the minutes of the meeting, and if majority of the members of the Authority believe that such member's interest in the matter is such as to influence his judgment, he shall not participate in the deliberation or the decision of the Authority on such matter.

(1) The chief executive officer shall declare his interest in any specific proposal being considered or to be considered by the Board.

(2) A member or the chief executive officer of the Board who contravenes subparagraph (1) shall be guilty of an offence and liable on conviction to imprisonment for a term not exceeding one year, or a fine not exceeding fifty thousand shillings or both.

(1) The common seal of the Authority shall be kept in such custody as the Board may direct and shall not be used except on the orders of the Board.

(2) The common seal of the Authority shall be authenticated by the signature of the—

- (a) chief executive officer of the Board; and
- (b) any other person authorised in that behalf by the Board.

(3) The Authority shall cause to be maintained a register for making entries regarding the use of the Authority's common seal.

(4) All documents made by the Authority, other than those required by law to be under seal, shall be executed by, and all decisions of the Authority shall be signified under the hand of, the chief executive officer.

(5) Any contract or instrument which, if entered into or executed by a person not being a corporate body would not be required to be under seal, may be entered into or executed on behalf of the Authority by any person having a special or general authorisation of the Board for that purpose.
