

*Repealed by
Law 25/1939*

NO. 18 OF 1936.

A LAW TO AMEND THE LAW RELATING TO CO-OPERATIVE CREDIT SOCIETIES.

H. R. PALMER,]
Governor.

[18th June, 1936.

BE it enacted :—

Short title.

13 of 1914
10 of 1925
18 of 1926
10 of 1928
10 of 1929
64 of 1932

1. This Law may be cited as the Co-operative Credit Societies (Amendment) Law, 1936, and shall be read as one with the Co-operative Credit Societies Laws, 1914 to 1929, as amended by the Co-operative Credit Societies (Amendment) Law, 1932, (hereinafter called "the Principal Law"), and the Principal Law and this Law may together be cited as the Co-operative Credit Societies Laws, 1914 to 1936.

Repeal of section 14 of Law 13 of 1914 and substitution of new section.

2. Section 14 of the Principal Law is hereby repealed and the following section substituted therefor :—

"Unlimited liability of society and contributory liability of members.

14.—(1) The liability of a society shall be unlimited.

(2) The members of a society shall, only on the liquidation of the society, be jointly and severally liable in respect of all obligations of the society.

(3) In any suit or other legal proceedings against a society in respect of any obligation of the society, no member thereof shall be made a party thereto either by name or in his capacity as a member."

Insertion of new heading and section in Law 13 of 1914.

3. The Principal Law is hereby amended by the insertion immediately after section 39 of the following heading and section :—

"*Supersession of Committee of Society.*

Supersession of committee.

39A.—(1) If, in the opinion of the Registrar, the Committee of any society is not functioning properly, he may, after giving an opportunity to the committee to state its objections, if any, by order in writing, dissolve the committee and appoint a suitable person or persons to manage the affairs of the society for a specified

period not exceeding two years. The period specified in such order may, at the discretion of the Registrar, be extended from time to time provided that such order shall not remain in force for more than four years in the aggregate.

(2) The person or persons so appointed shall, subject to the control of the Registrar, be empowered to recover the assets and discharge the liabilities of the society and take such other action as may be required in its interests.

(3) The Registrar may fix the remuneration payable to the person or persons so appointed. The amount of such remuneration and other costs, if any, incurred in the management of the society, shall be payable from its funds.

(4) The person or persons so appointed shall, at the expiry of the period of his or their appointment, arrange for the constitution of a new committee in accordance with any Rules in that behalf in force for the time being.

(5) Before taking any action under sub-section (1) in respect of any society, the Registrar shall, if the society is indebted to a financing bank, consult such bank with regard to the proposed action and the provision to be made for the management of the affairs of the society.

(6) Nothing in this section shall be deemed to affect the power of the Registrar to order the winding up of a society."

4. Section 40 of the Principal Law is hereby repealed and the following section substituted therefor:—

" Winding up a society.

40.—(1) If the Registrar, after an enquiry has been held under section 36 or after an inspection has been made under section 37 or on the receipt of an application made by three-fourths of the members of a society present at a special meeting convened for the purpose, is of opinion that the society ought to be wound up he may issue an order directing it to be wound up and may appoint a liquidator for the purpose and fix his remuneration.

(2) The Registrar may, on his own motion, make a winding up order in respect of a society which has not commenced working or has

Repeal of section 40 of Law 13 of 1914 and substitution of new section.

ceased working or the membership of which is reduced to less than twelve members and may appoint a liquidator for the purpose and fix his remuneration.

(3) No society shall be wound up save by an order of the Registrar."

Repeal of section 41 of Law 13 of 1914 and substitution of new section.

5. Section 41 of the Principal Law is hereby repealed and the following section substituted therefor:—

" Bar of suit in winding up matters.

41. Save in so far as it may be expressly provided in this Law, no Court shall take cognizance of any matter connected with the winding up of a society and when a winding up order has been made no suit or other legal proceeding shall lie or be proceeded with against the society except by the leave of the Registrar and subject to such terms as he may impose."

Repeal of section 42 of Law 13 of 1914 and substitution of new section.

6. Section 42 of the Principal Law is hereby repealed and the following section substituted therefor:—

" Powers of liquidator.

42.—(1) A liquidator appointed by the Registrar shall be empowered—

- (a) to take immediate possession of all assets belonging to the society and of all books, records and other documents pertaining to the business thereof and to carry on the business of the society as far as may be necessary for the beneficial winding up of the same;
- (b) to institute and defend suits and other proceedings on behalf of the society by his name or office;
- (c) to investigate all claims against the society and, subject to the provisions of this Law, to decide by order questions of priority arising between claimants;
- (d) to pay claims against the society (including interest up to the date of the order for winding up) according to their respective priorities, if any, in full or rateably, as the assets of the society permit; the surplus, if any, remaining after payment of the claims being applied in payment of interest from the date of such order at such rate not exceeding the contract rate as may be fixed by him;

(e) to fix the time or times within which creditors shall prove their debts and claims or, be included for the benefit of any distribution made before those debts or claims are proved ;

(f) from time to time to determine by order the contribution to be made or remaining to be made by the members or past members or by the estates or nominees or heirs of deceased members or by any officer, to the assets of the society, such contribution to include debts due from such members or persons. Such contributions shall be determined at the discretion of the liquidator both as to the persons who shall be called upon to pay and the amounts which they shall pay, but without prejudice to any right of contribution amongst themselves :

Provided that the liquidator shall not determine the contribution, debt or dues to be recovered from a past member or the estate of a deceased member unless opportunity has been given to such member or to the legal representative of the estate to answer the claim ;

(g) to determine by order by what persons and in what proportions the costs of the liquidation are to be borne.

(2) A liquidator shall, in so far as such powers are necessary for the carrying out of the purposes of this section, be empowered to summon and enforce the attendance of witnesses, to examine witnesses on oath and to compel the production of any book or document in the same manner and with the same powers as those possessed by a District Court or any member thereof.

(3) Any person aggrieved by any order of the liquidator made under paragraphs (c), (f) or (g) of sub-section (1) may appeal to the Registrar within twenty-one days from the date of such order and the decision of the Registrar shall be final and conclusive."

Repeal of section 43 of Law 13 of 1914 and substitution of new section.

7. Section 43 of the Principal Law is hereby repealed and the following section substituted therefor:—

“ Power of Registrar to surcharge officers, etc., of society.

43.—(1) Where, in the course of the winding up of a society it appears that any person who has taken part in the organization or management of the society or any past or present chairman, secretary, member of the committee or officer of the society has misapplied or retained or become liable or accountable for any money or property of the society or has been guilty of misfeasance or breach of trust in relation to the society, the Registrar may, on the application of the liquidator or of any creditor or contributory, examine into the conduct of such person and make an order requiring him to repay or restore the money or property or any part thereof with interest at such rate as the Registrar thinks just or to contribute such sum to the assets of the society by way of compensation in regard to the misapplication, retainer, dishonesty or breach of trust as the Registrar thinks just.

(2) This section shall apply notwithstanding that the act is one for which the offender may be criminally responsible.”

Repeal of section 44 of Law 13 of 1914 and substitution of new section.

8. Section 44 of the Principal Law is hereby repealed and the following section substituted therefor:—

“ Attach-
ment of
property.

44. Where the Registrar is satisfied that any person with intent to defraud or delay the execution of any order that may be made against him under section 42 or 43 or of any decision that may be given in a dispute referred to the Registrar or to any arbitrators under any Rules in that behalf in force for the time being is about to dispose of the whole or any part of his property, the Registrar may, unless adequate security is furnished, order the conditional attachment of such property and such attachment shall have the same effect as if made by a competent Court.”

Repeal of section 45 of Law 13 of 1914 and substitution of new section.

9. Section 45 of the Principal Law is hereby repealed and the following section substituted therefor:—

“ Enforce-
ment of
orders.

45. Every order made by a liquidator under section 42 and every order made by the Registrar under this Law may, upon a certificate

under the hand of the Registrar, be enforced by any District Court in the same manner as an order of such Court."

10. Section 46 of the Principal Law is hereby repealed and the following section substituted therefor:—

" Power to
summon
witnesses.

46. The Registrar and any person authorized by the Registrar to hold an enquiry under section 36 or make an inspection under section 37 and any liquidator or arbitrator appointed by the Registrar under the provisions of this Law or any Rules made thereunder shall be empowered to summon and enforce the attendance of the parties interested and of any witness, to examine witnesses on oath and to compel the production of books and documents in the same manner as far as possible and with the same powers as those possessed by a District Court or a member thereof."

Repeal of
section 46
of Law 13
of 1914 and
substitution
of new
section.

11. The Principal Law is hereby amended by the insertion immediately after section 46 of the following sections:—

" Appeal
to the
Governor.

46A. Any person aggrieved by any order of the Registrar under section 40 or 43 may appeal to the Governor within twenty-one days from the date of such order and the decision of the Governor shall be final and conclusive.

Insertion of
new sections
46A and 46B
in Law 13 of
1914.

Cancellation
of registra-
tion.

46B. When the affairs of a society for which a liquidator has been appointed have been wound up or, where no liquidator has been appointed, after two months from the making of an order under section 40 by the Registrar or after confirmation of such order on appeal, the Registrar shall make an order cancelling the registration of the society and the society shall be dissolved from the date of such order."

12. Sub-section (2) of section 48 of the Principal Law is hereby amended as follows:—

(a) By the deletion of paragraph (p) and the substitution therefor of the following paragraph:—

" (p) Prescribe the procedure to be followed by a liquidator appointed under section 40 ; "

(b) By the deletion of paragraph (q).

Amendment
of section
48 (2) of
Law 13 of
1914.

This Law came into operation on 19th June, 1936,