

CAYMAN ISLANDS



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**THE COOPERATIVE SOCIETIES (AMENDMENT) (CREDIT UNIONS)
LAW, 2000**

(LAW 14 OF 2000)

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LAW, 2000**

ARRANGEMENT OF SECTIONS

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14. Amendment of section 61 – Punishment of fraud or misappropriation.

CAYMAN ISLANDS

Law 14 of 2000.

I Assent

P.J. SMITH

Governor.

2 November, 2000

**A LAW TO AMEND THE COOPERATIVE SOCIETIES LAW (1997
REVISION); TO EMPOWER THE MONETARY AUTHORITY TO
REGULATE THE OPERATION OF CREDIT UNIONS; AND TO MAKE
PROVISION FOR RELATED MATTERS**

ENACTED by the Legislature of the Cayman Islands.

1. This Law may be cited as the Cooperative Societies (Amendment) (Credit Unions) Law, 2000. Short title
2. In this Law, “the principal Law” means the Cooperative Societies Law (1997 Revision). Interpretation
1997 Revision
3. Section 2 of the principal Law is amended by inserting the following definitions in their appropriate alphabetical order - Amendment of section 2
- Definitions
 - “ “Authority” means the Cayman Islands Monetary Authority established under section 3(1) of the Monetary Authority Law (1998 Revision) and includes any employee of the Monetary Authority acting under the Monetary Authority’s authorisation;
 - “credit union” means a registered society which has as its objects -
 - (a) the promotion of thrift among the members of the society by the accumulation of their savings;

- (b) the creation of sources of credit for the benefit of the members of the society at a fair and reasonable rate of interest;
- (c) the use and control of the members' savings for their mutual benefit; and
- (d) the training and education of the members in the wise use of money and in the management of their financial affairs;

"credit union business", in relation to a registered society, means the business of -

- (a) promoting thrift among the members of the society by the accumulation of their savings;
- (b) creating sources of credit for the benefit of the members of the society at a fair and reasonable rate of interest;
- (c) using and controlling the members' savings for their mutual benefit; and
- (d) training and educating the members in the wise use of money and in the management of their financial affairs;

"financial year", in relation to a credit union, means the period not exceeding fifty-three weeks at the end of which the balance of the union's accounts is struck or, if no such balance is struck or if a period in excess of fifty-three weeks is employed, then a calendar year;"

Amendment of section
34 - Disposal of
dividends and bonus

4. Section 34(1) of the principal Law is amended by repealing the words "certified by an auditor approved by the Registrar." and substituting the following words -

"certified -

- (a) in the case of a society other than a credit union, by an auditor approved by the Registrar; and
- (b) in the case of a credit union, by an auditor approved by the Authority."

Amendment of section
35 - Reserve funds

5. Section 35(2) of the principal Law is amended by repealing "audit prescribed by section 38" and substituting "audit prescribed by section 37B or 38, as the case may be,".

Insertion of Part IVA -
Additional provisions
relating to credit unions

6. The principal Law is amended by inserting, after Part IV, the following Part -

"PART IVA - Additional Provisions Relating to Credit Unions

Application of Part
IVA

37A. (1) This Part applies only to registered societies which are carrying on, or proposing to carry on, credit union business; and the provisions of this Part are in addition to, not

in derogation of, any other provision of this Law.

1999 Revision

(2) No credit union is required to be licensed under the Trade and Business Licensing Law (1999 Revision).

Accounts

37B. (1) Every credit union shall have its accounts audited annually or at such other times as the Authority may require by an auditor, who shall be a chartered accountant, a certified public accountant, or some other professionally qualified accountant, approved by the Authority.

(2) The audited accounts shall be forwarded to the Authority within three months of the end of the financial year of the credit union, unless prior written approval for an extension has been granted by the Authority.

Powers and duties of
the Authority

37C. (1) Without prejudice to any other provision of this Law, it is the duty of the Authority -

- (a) to maintain a general review of credit union business practice in the Islands;
- (b) whenever the Authority thinks fit, to examine the affairs or business of any credit union carrying on business in the Islands for the purpose of satisfying itself that this Law has been or is being complied with, and that the credit union is in a sound financial position and is carrying on its business in a satisfactory manner;
- (c) to assist in the investigation of any offence against the laws of the Islands which the Authority has reasonable grounds to believe has or may have been committed by a credit union or by any of its directors or officers in their capacity as such; and
- (d) to examine annual accounts prepared under section 37B, and report on them to the Governor whenever the Authority thinks fit.

(2) In matters relating to credit unions, the Authority shall take all necessary action to ensure the proper and just implementation of this Law.

(3) In the performance of its functions under this Law and subject to the Monetary Authority Law (1998 Revision), the Authority is entitled at all reasonable times -

- (a) to have access to such books, records, vouchers, documents, cash and securities of any credit union;

- (b) to request such information, matter or thing from any person who the Authority has reasonable grounds to believe is carrying on business in contravention of this Law; and
- (c) to call upon the committee of a credit union or any officer designated by the committee, for such information or explanation,

as the Authority may reasonably require for the purpose of enabling it to perform its functions under this Law; and information requested under paragraph (b) shall be provided in such form as the Authority may reasonably require.

(4) If it appears to the Authority that there are reasonable grounds for suspecting that an offence against this Law has been or is being committed by any credit union, the Authority may take such action as it considers necessary, in the interest of the members or creditors of the credit union, to preserve any assets held by the credit union.

(5) Any person who fails to comply with any requirement under subsection (3) by the Authority is guilty of an offence and liable on summary conviction to a fine of five thousand dollars and to imprisonment for six months.

Powers of Authority in respect of credit unions

37D.(1) Whenever the Authority is of the opinion that a credit union -

- (a) is or appears likely to become unable to meet its obligations as they fall due;
- (b) is carrying on business in a manner detrimental to the public interest or the interest of its members or creditors; or
- (c) has contravened any provision of this Part,

the Authority may forthwith do any of the following -

- (i) require the substitution of any director or officer of the credit union;
- (ii) at the expense of the credit union, appoint a person to advise the union on the proper conduct of its affairs and to report to the Authority thereon within three months of the date of his appointment;
- (iii) at the expense of the credit union, appoint a person to assume control of the union's affairs who shall, with any necessary changes, have all the powers of a person appointed, under section 18 of the

Bankruptcy Law (1997 Revision), as a receiver or manager of a business;

- (iv) require such action to be taken by the credit union as the Authority considers necessary.

(2) A credit union may, within seven days of the Authority's decision, apply to the Authority for a reconsideration of its decision.

(3) A person appointed under subsection (1)(ii) or (iii) or whose appointment has been extended under subsection (4)(b) shall from time to time at his discretion and in any case within three months of the date of his appointment or of the extension of his appointment (as the case may be), prepare and furnish a report to the Authority of the affairs of the credit union and of his recommendations thereon.

(4) On receipt of a report under subsection (3), the Authority may -

- (a) revoke the appointment of the person appointed under subsection (1)(ii) or (iii);
- (b) extend the period of his appointment;
- (c) subject to such conditions as the Authority may impose, allow the credit union to reorganise its affairs in a manner approved by the Authority.

Power of search

37E. (1) If a Magistrate or Justice of the Peace is satisfied by information on oath given by the Authority that -

- (a) there is reasonable ground for suspecting that an offence against this Part has been or is being committed and that evidence of the commission of the offence is to be found at any premises specified in the information, or in any vehicle, vessel or aircraft so specified; or
- (b) any books, records, vouchers, documents, cash or securities which ought to have been produced under section 37C(3) and have not been produced are to be found at any such premises or in any such vehicle, vessel or aircraft,

he may grant a search warrant authorising the Authority or any constable of the rank of Inspector or above, together with any other person named in the warrant and any other constables to enter the premises specified in the information or, as the case may be, any premises upon which the vehicle, vessel or aircraft so specified may be, at any time within one month from the

date of the warrant, and to search such premises or, as the case may be, such vehicle, vessel or aircraft.

(2) The person authorised by any such warrant to search any premises or any vehicle, vessel or aircraft may search every person who is found in or whom he has reasonable grounds to believe to have recently left or to be about to enter those premises or that vehicle, vessel or aircraft, as the case may be, and may seize any books, records, vouchers, documents, cash or securities found in the possession of any such person or in such premises or in such vehicle, vessel or aircraft which he has reasonable grounds for believing ought to have been produced under section 37C(3).

(3) No female shall, in pursuance of any warrant issued under this section, be searched except by a female.

(4) Where under this section a person has any power to enter any premises, he may use such force as is reasonably necessary for the purpose of exercising that power.

(5) Any person who obstructs the Authority or any other person in the exercise of any powers conferred under this section, is guilty of an offence and liable on summary conviction to a fine of five thousand dollars and to imprisonment for six months.

Appeals

37F. (1) An appeal lies to the Grand Court from any decision of the Authority.

(2) An appeal against the decision of the Authority shall be by motion.

(3) The appellant, within twenty-one days after the day on which the Authority has given its decision shall serve a notice in writing signed by the appellant or his attorney-at-law on the Authority of his intention to appeal and of the general ground of his appeal.

(4) Any person aggrieved by a decision of the Authority may, upon notice to the Authority, apply to the Grand Court for leave to extend the time within which the notice of appeal prescribed by this section may be served and the Court upon the hearing of such application may extend the time prescribed by this section as it considers fit.

(5) The Authority shall, upon receiving the notice of

appeal, transmit to the Clerk of the Court without delay a copy of the decision and all papers relating to the appeal, but the Authority is not compelled to disclose any information if it is considered that the public interest would suffer by such disclosure.

(6) The Clerk of Court shall set the appeal down for argument on such day, and shall cause notice of the same to be published in such manner, as the Grand Court may direct.

(7) At the hearing of the appeal the appellant shall, before going into the case, state all the grounds of appeal on which the appellant intends to rely and shall not, unless by leave of the Grand Court, go into any matters not raised by such statements.

(8) The Grand Court may adjourn the hearing of an appeal and may, upon the hearing thereof confirm, reverse, vary or modify the decision of the Authority or remit the matter with the opinion of the Court thereon to the Authority.

(9) An appeal against a decision of the Authority shall not have the effect of suspending the execution of such decision.

Immunity

37G. The Authority shall not be liable in damages for anything done or omitted in the discharge or purported discharge of its functions under this Part, unless it is shown that the act or omission was in bad faith."

7. Part V of the principal Law is amended by repealing the heading and substituting the following heading –

"PART V - Audit, Inspection and Inquiry in respect of Cooperative Societies other than Credit Unions".

Amendment of Part V –
Audit, inspection and
inquiry in respect of
cooperative societies
other than credit unions

8. Section 38 of the principal Law is amended –

- (a) in subsection (1), by inserting "other than a credit union," after "every registered society"; and
- (b) in subsection (3), by inserting "other than a credit union," after "accounts of a society".

Amendment of section
38 - Audit

9. Section 39 of the principal Law is amended –

- (a) by repealing the marginal note and substituting the following –
"Power of Registrar to inspect books of society other than credit union."; and

Amendment of section
39– Power of Registrar
to inspect books of
society other than credit
union

- (c) by inserting "other than a credit union" after "a registered society".

Amendment of section
40 – Inquiry and
inspection

10. Section 40 of the principal Law is amended -

- (a) in subsection (1) –
 - (i) by inserting "other than a credit union," after "members of a registered society", and
 - (ii) by inserting "other than a credit union" after "financial condition of a registered society"; and
- (b) in subsection (2), by inserting "(other than a credit union)" after "registered society".

Amendment of Part VI –
Dissolution of registered
society other than credit
union

11. Part VI of the principal Law is amended –

- (a) by repealing the heading and substituting the following heading -
"PART VI – Dissolution of Registered Society other than Credit Union"; and
- (b) by inserting the following section under the heading –

"Non-application of 40A. This Part does not apply to registered societies carrying on credit union business."

Amendment of section
51 – Case stated on
question of law

12. Section 51(1) of the principal Law is amended by inserting "the Authority or" after "section 50,".

Amendment of section
60 – Offences

13. Section 60(1)(a) of the principal Law is amended by inserting "the Authority or" after "this Law by".

Amendment of section
61 – Punishment of
fraud or
misappropriation

14. Section 61 of the principal Law is amended by inserting ", the Authority" after "the committee thereof".

Passed by the Legislative Assembly the 18th day of September, 2000.

MABRY S. KIRKCONNELL

Speaker.

W. EBANKS

Deputy Clerk of the Legislative Assembly.

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