

Naghti l-kunsens tieghi.

(L.S.)

GUIDO DE MARCO
President

18 ta' Settembru, 2001

ATT Nru. XX ta' l-2001

ATT biex ihares l-ambjent.

IL-PRESIDENT, bil-parir u l-kunsens tal-Kamra tad-Deputati, imlaqqgħa f'dan il-Parlament, u bl-awtorità ta' l-istess, hareġ b'ligi dan li ġej:-

TAQSIMA I
Preliminari

1. (1) It-titolu fil-qosor ta' dan l-Att hu l-Att ta' l-2001 dwar il-Harsien ta' l-Ambjent. Titolu fil-qosor u bidu fis-sehh.

(2) Dan l-Att jidhol fis-sehh f'dik id-data li l-Ministru responsabbli għall-ambjent jista' b'avviż fil-Gazzetta jstabbilixxi, u dati differenti jistghu jiġu hekk stabbiliti għal disposizzjonijiet u għanijiet differenti ta' l-Att.

2. (1) F'dan l-Att kemm-il darba r-rabta tal-kliem ma tkunx Tifsir. tehtieg xort'ohra:

“ambjent” tfisser it-totalità ta' l-elementi u l-kondizzjonijiet, naturali jew magħmula mill-bniedem, eżistenti fid-dinja, sew flimkien sew isolati minn xulxin, u b'mod partikolari:

- (a) l-arja, l-ilma u l-art;
- (b) kull saff ta' l-atmosfera;

- (c) kull materja organika u inorganika u kull organiżmu haj;
- (d) kull ekosistema; u
- (e) il-pajsaġġ;

“Awtorita`” tfisser l-awtorita` kompetenti nominata mill-Ministru taht l-artikolu 6 ta’ dan l-Att;

“derivattivi” tfisser partijiet minn xi kampjun, sew jekk ikun ipproċessat mill-bniedem sew jekk ma jkunx;

“diversita` bijoloġika” jew “bijodiversita`” tfisser il-varjabilita` fost organiżmi hajjin minn kull oriġni, inklużi *inter alia*, ekosistemi ta’ l-art, tal-baħar u oħrajn ilmija u l-kumplessi ekoloġiċi li jagħmlu parti minnhom, u tinkludi diversita` fl-ispeċi nnifisha, bejn l-ispeċi u ta’ ekosistemi;

“enerġija” tinkludi kull tip ta’ radjazzjoni li tagħmel parti mill-ispettru elettromanjetiku, jew minn sors nukleari, kif ukoll kull vibrazzjoni u l-hoss;

“fawna” tfisser kull tip ta’ annimali u *biota* oħra, inklużi l-*akaryotes*, *prokaryotes* u l-*eukaryotes*, mejta jew hajja, kollha kemm huma jew parti minnhom u d-derivattivi tagħhom;

“flora” tfisser kull tip ta’ pjanta u *biota* oħra, inklużi l-*akaryotes*, *prokaryotes* u l-*eukaryotes*, mejta jew hajja, kollha kemm huma jew parti minnhom u d-derivattivi tagħhom;

“kampjun” tfisser kull speċi, sew hajjin sew mejtin, jew xi parti jew derivattiv tagħhom, u tinkludi kull oġġett li minn dokument li jkollu mieghu, l-ippakkjar, il-marka jew it-tikketta jew minn ċirkostanzi oħra jidher li jkun xi parti jew derivattiv ta’ annimali jew pjanti;

“konservazzjoni” tfisser serje ta’ miżuri meħtieġa biex isostnu jew jahju mill-ġdid kull *habitat* naturali u l-popolazzjoni ta’ speċi ta’ fawna u flora selvaġġi fi status favorevoli;

“Ministru” tfisser il-Ministru responsabbli għall-ambjent;

“organiżmu ġenetikament modifikat” tfisser xi wiehed minn dawn li ġejjin:

(a) organiżmu miksub mill-formazzjoni ta' kombinazzjoni ta' materjal ġenetiku b'kull mezz li mhux xi mezz naturali;

(b) organiżmu li jiret tali kombinazzjoni ta' materjal ġenetiku;

(ċ) organiżmu li jirriżulta mir-replikazzjoni ta' organiżmu kif miksub skond ma hemm fil-paragrafu (a); jew

(d) kull organiżmu iehor kif jista' jiġi preskritt mill-Ministru taht dan l-Att;

“preskritt” tfisser preskritt mill-Ministru taht dan l-Att;

“prinċipju kawtelatorju” tfisser il-prinċipju li bih jittiehdu miżuri adatti li jharsu l-ambjent u li jiżguraw maniġġjar sostenibbli ta' riżorsi naturali fin-nuqqas ta' prova xjentifika assoluta jew konklużiva tal-htieġa għal dawk il-miżuri;

“rimi” tinkludi kull emissjoni, depożitu, rimi barra, tnehhija, żjieda jew tfigh ġo l-ambjent ta' xi sustanza jew enerġija, direttament jew indirettament minn xi sorsi minn post wiehed jew sorsi mferrxa, sew stazzjonarja sew mobbli, u sew jekk ikkaġunata jew permessa bil-hsieb jew xort'ohra, sew jekk kontinwa jew intermittenti jew ta' darba biss;

“riżorsi naturali” tfisser kull komponent tan-natura u tinkludi l-arja, l-ilma, l-art, it-terriċċ, il-minerali, l-enerġija, organiżmi hajjin u riżorsi ġenetiċi;

“skart” tfisser kull haġa, sustanza jew oġġett li d-detentur jarmi jew ikollu hsieb li jarmi, jew li jkun mehtieġ li jżomm biex jarmiha, u tinkludi kull haġa ohra, sustanza jew oġġett tali li l-Ministru jista' jippreskrivi;

“sustanzi” tfisser kull haġa, kimika, tahlita, kompost jew prodott u tinkludi karburanti, kombinazzjonijiet ta' elementi, tahlitiet jew komposti ta' xi reazzjoni kimika, kif ukoll it-tahlita ta' sustanzi ta' identitajiet molekulari differenti;

“tniġġis” tfisser l-introduzzjoni diretta jew indiretta mill-bniedem fl-ambjent ta' sustanzi, xi organiżmu, materjal ġenetiku jew enerġija li jikkagunaw jew x'aktarx jikkagunaw periklu gravi għal saħhet-il bniedem, hsara għal riżorsi hajjin jew ekosistemi, jew dannu għall-amenitajiet, jew jinterferixxu ma' kull użu legittimu iehor ta' l-ambjent.

TAQSIMA II Dmir li jithares l-ambjent

Dmir ta' kulhadd li jhares l-ambjent.

3. Ikun id-dmir ta' kulhadd flimkien mal-gvern li jhares l-ambjent u li jghin fit-tehid ta' mizuri preventivi u rimedjali biex ihares l-ambjent u jimmaniġġa r-riżorsi naturali b'mod sostenibbli.

Dmir tal-Gvern li jhares l-ambjent.

4. Ikun id-dmir tal-Gvern li jhares l-ambjent għall-benefiċċju tal-generazzjonijiet preżenti u futuri u għaldaqshekk:

(a) jimmaniġġa l-ambjent b'mod sostenibbli billi jintegra u jagħti l-konsiderazzjoni dovuta għat-thassib dwar l-ambjent f'deċizzjonijiet fuq politka soċjo-ekonomika u kull politka oħra;

(b) jiehu kull mizura preventiva u rimedjali li tista' tkun meħtieġa biex tiġi indirizzata u mnaqqsa l-problema ta' tniġġis u kull għamla oħra ta' degradazzjoni ta' l-ambjent sew f'Malta sew 'l hinn minn Malta, skond il-prinċipju li min inigġes għandu jhallas u l-prinċipju kawtelatorju;

(ċ) jikkollabora ma' gvernijiet u entijiet oħra fil-harsien ta' l-ambjent globali;

(d) ixxerred informazzjoni dwar l-ambjent u jiffaċilita l-partecipazzjoni tal-pubbliku f'deċizzjonijiet li jolqtu l-ambjent;

(e) japplika konoxxenza u riżorsi xjentifiċi u teknoloġiċi biex jiddeċiedi l-kwistjonijiet li jolqtu l-ambjent;

(f) jiżgura l-maniġġjar sostenibbli ta' kull skart u jippromwovi t-tnaqqis u l-użu tajjeb, l-użu mill-ġdid u l-irkupru xierqa tal-materja u l-enerġija;

(g) ihares id-diversità bijoloġika;

(h) jehodha kontra kull għamla ta' tniġġis;

(i) jikkonsidra l-ambjent bħala l-wirt komuni u t-thassib komuni ta' l-umanità; u

(j) jipprovdi inċentivi li jwasslu għal livell oghla ta' protezzjoni tal-ambjent.

Applikazzjoni ta' l-artikoli 3 u 4 ta' dan l-Att.

5. Id-disposizzjonijiet ta' l-artikoli 3 u 4 ta' dan l-Att m'għandhom ikunu direttament esegwibbli f'ebda qorti, imma l-prinċipji li jinsabu hemm fihom huma minkejja kollox fundamentali għall-Gvern

ta' l-Istat u dawk il-principji ghandhom jithaddmu fl-interpretazzjoni tad-disposizzjonijiet l-oħra ta' dan l-Att jew ta' kull liġi oħra li tirrigwarda dak li hu regolat b'dan l-Att.

TAQSIMA III L-Awtorità

6. (1) Il-Ministru ghandu b'ordni fil-Gazzetta jinnomina persuna jew korp sabiex tkun l-awtorità kompetenti għall-finijiet ta' dan l-Att, biex twettaq il-funzjonijiet ta' l-awtorità kompetenti taht dan l-Att, u biex taqdi kull funzjoni oħra li l-Ministru jista' jqis adatti għar-rigward tat-thaddim ta' dan l-Att. Dik il-persuna jew dak il-korp jiġu nominati għal dak il-perjodu li l-Ministru jista' jistabbilixxi u l-Ministru jkollu s-setgħa f'kull waqt li jtawwal, iġedded jew itemm dik il-hatra b'ordni fil-Gazzetta.

Hatra ta' l-Awtorità.

(2) Il-poteri tal-Ministru li jtawwal, iġedded jew itemm hatra magħmula skond is-subartikolu (1) ta' dan l-artikolu ghandhom jispiċċaw hekk kif jista' jkun speċifikat mill-Ministru b'ordni fil-Gazzetta li bih jiġi nominat korp biex jagħmilha ta' l-awtorità kompetenti taht dan l-Att fuq bażi permanenti.

(3) Il-Ministru jista' f'kull regolament taht dan l-Att jistabbilixxi li l-Awtorità jew xi persuna jew korp iehor ikunu responabbli għat-twettiq ta' dawk ir-regolamenti.

7. (1) (a) L-Awtorità tkun il-mezz prinċipali li bih il-Gvern jimplementa dmirijietu taht dan l-Att. L-Awtorità tagħti pariri lill-Ministru dwar il-formulazzjoni u implimentazzjoni ta' kull politka li tirrigwarda l-promozzjoni ta' żvilupp sostenibbli, l-protezzjoni u l-manigġjar ta' l-ambjent u l-manigġjar sostenibbli ta' rizorsi naturali, u dwar dawk l-affarijiet l-oħra li jistgħu jkunu mehtieġa għat-twettiq ahjar tad-disposizzjonijiet ta' dan l-Att.

Funzjonijiet ta' l-Awtorità.

(b) Fit-twettiq tal-funzjonijiet tagħha taht il-paragrafu (a) ta' dan subartikolu l-Awtorità għandha -

(i) tara li tikkopera jew li tagħmel arrangamenti ma' entijiet jew persuni oħra sabiex hija tkun tista' tissorvelja ahjar l-implimentazzjoni u tharis tad-disposizzjonijiet ta' dan l-Att;

(ii) tistabbilixxi għanijiet u strateġiji fit-tul u għal żmien qasir fid-dawl ta' pariri u rakkomandazzjonijiet, jekk ikun il-każ, mogħtija mill-Kummissjoni Nazzjonali għall-Iżvilupp Sostenibbli kif stabbilita minn dan l-Att;

(iii) taghti pariri lill-Ministru fuq l-ghemil ta' livelli ambjentali, linji direttivi u l-ghemil ta' regolamenti taht dan l-Att kif ukoll fuq il-formulazzjoni u l-implimentazzjoni ta' pjanijiet ta' kontingenza u ta' emergenza biex jithares l-ambjent;

(iv) tkun l-awtorità li tista' tohrog licenzi jew permessi li jistghu jenhtiegu minn jew taht dan l-Att taht daww il-kondizzjonijiet li tista', bla hsara ghal kull disposizzjoni ohra ta' din il-ligi jew ta' kull ligi ohra, tqis mehtiega biex tikkontrolla u tmexxi daww l-attivitajiet li jkollhom impatt fuq l-ambjent;

(v) tistabilixxi livelli ta' tragward ta' rimi mill-produzzjoni, maniġġjar, użu, pussess jew kull attività ohra li tinvolvi prodotti, sustanzi u l-produzzjoni ta' jew l-użu ta' enerġija;

(vi) tissorvelja l-kwalità ta' l-ambjent u ghal dak l-ghan tistabilixxi metodologġji, tikkonserva u xxerred informazzjoni li tirrigwarda l-ambjent; u

(vii) tippublika f'intervalli li ma jeċċedux it-tliet snin rapport fuq l-istat ta' l-ambjent.

(ċ) Ikun ukoll id-dmir ta' l-Awtorità li -

(i) tiżgura li daww il-Verifiki dwar l-Ambjent u Stimu ta' l-Impatt fuq l-Ambjent li jistghu jigu preskritti, isiru sew u kif dovut;

(ii) tirrelata u tikonsulta ma' entijiet pubbliċi, organizzazzjonijiet mhux governattivi u organizzazzjonijiet internazzjonali fuq affarijiet li jirrigwardaw il-protezzjoni ta' l-ambjent u l-manijġġjar sostenibbli ta' l-ambjent u ta' rizorsi naturali, u li tidhol ghalbiex tagħmel u tippromwovi rċerka fuq daww l-affarijiet;

(iii) tipprovdi appoġġ u servizzi konsultattivi li jirrigwardaw il-harsien ta' l-ambjent, lill-gvern u lil awtoritajiet lokali ghar-rigward tat-twettiq tal-funzjonijiet tagħom;

(iv) tippromwovi, sew wehidha sew f'kollaborazzjoni ma' oħrajn, edukazzjoni, tahriġ u programmi ta' għarfien

pubbliku li jkunu jirrigwardaw il-protezzjoni ta' l-ambjent, u l-manigġjar sostenibbli ta' l-ambjent u ta' riżorsi naturali;

(v) twettaq kull funzjoni ohra li tista' minn żmien għal żmien tiġi assenjata lilha mill-Ministru, inklużi l-funzjonijiet meħtieġa sabiex jagħtu sehh lil xi obbligazzjoni internazzjonali li Malta jkollha dwar affarijiet regolati b'dan l-Att.

(2) Saż-żmien meta d-disposizzjonijiet tas-subartikolu (1) ta' dan l-artikolu jingiebu fis-sehh, il-Ministru jista' jeserċita kull funzjoni li hemm assenjata fih lill-Awtorità.

TAQSIMA IV

Kummissjoni Nazzjonali għall-Iżvilupp Sostenibbli

8. (1) Qegħda b'dan tiġi mwaqqfa kummissjoni li tkun magħrufa bhala l-Kummissjoni Nazzjonali għall-Iżvilupp Sostenibbli u li jkollha l-għamla u twettaq il-funzjonijiet stipulati f'dan l-artikolu:

Kummissjoni
Nazzjonali għall-
Iżvilupp
Sostenibbli.

(2) Il-kummissjoni tkun presjeduta mill-Prim Ministru jew fl-assenza tiegħu mill-Ministru u tkun magħmula kif ġej:

(a) il-Ministri kollha *ex officio* jew ir-rappreżentanti tagħhom;

(b) żewġ membri tal-Kamra tad-Deputati li minnhom wiehed jiġi nominat mill-Prim Ministru u l-iehor mill-Kap ta' l-Oppożizzjoni;

(ċ) rappreżentant ta' l-Awtorità;

(d) iċ-*Chairman* tal-Kunsill Malti għall-Iżvilupp Ekonomiku u Soċjali *ex officio*;

(e) rappreżentanti ta' dawk l-entijiet pubbliċi li fil-fehma tal-Prim Ministru ikunu rilevanti għall-funzjonijiet tal-Kummissjoni;

(f) rappreżentant ta' l-assoċjazzjoni tal-kunsilli lokali;

(g) rappreżentanti ta' organizzazzjonijiet li jirrapprezentaw jew ikollhom xi interess fir-relazzjonijiet kummerċjali, industrijali u, jew industrijali, korpi xjentifiċi u akkademiċi, il-*media*, u

organizzazzjonijiet mhux governattivi ohra, li fil-fehma tal-Prim Ministru ikunu rilevanti għall-funzjonijiet tal-Kummissjoni.

(3) Il-membri tal-Kummissjoni msemija fil-paragrafi (e) sa (g) tas-subartikolu (2) għandhom jinhatru mill-Prim Ministru wara li jikkonsidra r-rakkomandazzjonijiet li jsiru mill-korp jew korpi relattivi u jibqgħu fil-kariga għal dak il-perjodu li jista' jissewma fl-ittra tal-hatra tagħhom u huma jkunu jistgħu jergħu jinhatru.

(4) Il-*quorum* għal-laqgħat tal-Kummissjoni jintgħamel mill-president flimkien ma' nofs il-membri li f'dak iż-żmien ikunu membri tagħha; il-Kummissjoni xort'ohra tirregola l-proċedura tagħha nfiha.

(5) Il-Prim Ministru għandu jassenja uffiċjal pubbliku biex jagħmilha ta' segretarju tal-Kummissjoni, u għandu minn żmien għal żmien jassenjalha dawk l-affarijiet jew riżorsi ohra li fil-fehma tiegħu jkunu adatti sabiex tkun tista' twettaq il-funzjonijiet tagħha.

(6) Il-Kummissjoni għandha żzomm il-laqgħat tagħha fil-pubbliku u l-pubbliku jkollu aċċess għar-rapporti kollha ta' l-istess Kummissjoni.

(7) Il-Kummissjoni ikollha dawn il-funzjonijiet li ġejjin:

(a) tappoġġa l-iżvilupp sostenibbli fost is-setturi kollha ta' Malta, tirrevedi xi progress ikun sar fil-kisba ta' dak l-iżvilupp sostenibbli u tibni kunsens dwar l-azzjoni mehtieġa biex jinkiseb iktar progress;

(b) tidentifika kull proċess jew politka rilevanti li jistgħu jkunu qegħdin itellfu l-fiduċja fl-iżvilupp sostenibbli u tipproponi kull proċess jew politka alternattivi lill-Gvern bil-għan li jadotthom;

(c) tidentifika tendenzi li jistgħu b'mod sinifikattiv jikkontribwixxu għal żvilupp mhux sostenibbli u li ma jkunux jistgħu jitreggħu lura minhabba f'xi azzjoni korrenti jew ippjanata, u tirrakkomanda l-azzjoni li għandha tittiehed biex treggħa' lura dawk it-tendenzi;

(d) iżżid l-għarfien tal-htieġa li l-iżvilupp għandu jkun sostenibbli;

(e) tinkoraġġixxi u tistimula prattika xierqa fl-użu u l-manigġjar ta' riżorsi naturali, b'mod partikolari kemm jistgħu l-inqas jintużaw u kemm jistgħu l-iktar jergħu jintużaw mill-ġdid permezz tar-riċiklaġġ b'mod li jkun għalkollox adatt għall-ambjent;

(f) tipprepara Strateġija Nazzjonali għall-Iżvilupp Sostenibbli; u

(g) twettaq kull funzjoni ohra għar-rigward ta' l-iżvilupp sostenibbli li jista' jiġi assenjat lilha mill-Prim Ministru:

Iżda fit-twettiq ta' dawk il-funzjonijiet hawn qabel imsemmija, il-Kummissjoni tista' tahtar kumitati konsultattivi biex jagħmlu rakkomandazzjonijiet fuq suġġetti jew azzjonijiet speċifiċi li tista' tqis li għandhom jiġu eżaminati:

Iżda wkoll, fit-twettiq tal-funzjonijiet tagħha, l-Kummissjoni tkun responsabbli lejn il-Prim Ministru. Ir-rakkomandazzjonijiet u d-deċiżjonijiet tal-Kummissjoni m'għandu jkollhom ebda sahha esekuttiva imma għandhom jitqiesu bhala rakkomandazzjonijiet awtorevoli ta' xi tkun l-ahjar pratka fil-kisba ta' żvilupp sostenibbli.

TAQSIMA V Dmirijiet u Poteri tal-Ministru

9. (1) Il-Ministru jista', filwaqt li jaġixxi skond id-disposizzjonijiet ta' l-artikolu 10 ta' dan l-Att jagħmel regolamenti għat-twettiq ahjar tad-disposizzjonijiet ta' dan l-Att u jista' b'mod partikolari b'dawk ir-regolamenti jahtar lill-Awtorità jew xi persuna jew korp biex tkun l-awtorità msemmija għall-finijiet ta' kull obbligazzjoni internazzjonali li fiha Malta tista' tkun parti.

Poter li jagħmel regolamenti.

(2) Mingħajr preġudizzju għall-ġeneralità tad-disposizzjonijiet tas-subartikolu (1) dawk ir-regolamenti jistgħu, b'mod partikolari:

(a) jippreskrivu l-hlasijiet u d-drittijiet li jistgħu jingabru mill-Awtorità għal servizzi mogħtija minnha taht dan l-Att;

(b) jipprovdu għall-proċedura li għandha tiġi applikata fl-applikazzjoni għal liċenzi taht dan l-Att, kif ukoll id-drittijiet li għandhom jithallsu għalihom u l-kondizzjonijiet ġenerali li tahtom l-Awtorità tista' tehtieg li jingħataw garanziji finanzjarji jew li tiġi provduta assikurazzjoni biex tpatti għal kull dannu li jista' jiġi kaġunat lill-ambjent b'xi attività li tista' tehtieg liċenza taht dan l-Att;

(c) jaghtu sehh ghal kull trattat jew istrument internazzjonali li jkun jirrigwarda kull haġa regolata b'dan l-Att li fihom Malta tista' minn żmien ghal żmien tkun parti u biex iwaqqfu strutturi u jaghmlu provvedimenti oħra dwar l-implimentazzjoni tagħhom;

(d) jistabilixxu u jikkordinaw sistemi ta' kontroll tal-kwalità dwar l-ambjent u jaghmlu provvedimenti biex ikunu jistgħu jsiru stimi ta' riskji fl-ambjent fi stabbiliment sew ġodda sew li diġà jeżistu;

(e) jipprovdu għall-ġbir, l-ipproċessar, il-paragun u l-interpretazzjoni ta' *data* li tirrigwarda l-ambjent u jipprovdu wkoll li dawk il-persuni li jwettqu dawk l-attivitajiet li jistgħu jolqtu l-ambjent kif jista' jiġi preskritt jaghtu dik l-informazzjoni u data lill-Awtorità fuq bażi regolari jew ta' xort oħra hekk kif jista' jiġi preskritt sabiex l-Awtorità tkun tista' tissorvelja u tissalvagwardja l-kwalità ta' l-ambjent;

(f) jippreskrivu, b'kollaborazzjoni mad-Dipartiment għall-Protezzjoni Ċivili, kull teknika li għandha tintuża fis-sorveljar ta' l-ambjent;

(g) jippreskrivu ċ-ċirkostanzi li fihom tista' tiġi dikjarata emerġenza ambjentali, u l-effett li dik id-dikjarazzjoni jista' jkollha fuq xi attività li tkun teħtieġ liċenza taht dan l-Att;

(h) tippreddisponi objettivi, toħroġ direttivi u tistabilixxi kodiċijiet ta' pratka, ilkoll għar-rigward ta' l-ambjent, għar-riduzzjoni, użu mill-ġdid, irkupru, trattament, hażna u tneħħija ta' kull materjal kif jista' jiġi preskritt, għal kull attività tal-bniedem li tolqot l-ambjent u sabiex jiġi żgurat żvilupp sostenibbli, u dawk ir-regolamenti jistgħu b'mod partikolari:

(i) jifformulaw objettivi li jstipulaw livelli kwantitattivi u kwalitattivi, l-iskopijiet li għandhom jintlaħqu fit-thabrik li jiġi kontrollat l-ambjent;

(ii) jaghtu direttivi għar-rigward ta' dawk l-użijiet ta' l-ambjent kif jista' jiġi preskritt;

(iii) jistabilixxu l-oġġla kwantitajiet jew koncentrazzjonijiet ta' rimi jew emissjonijiet, jew l-użu ta' dawk is-sustanzi kif jista' jiġi preskritt filwaqt li jkunu qed isiru xoghlijiet, hidmiet jew attivitajiet ta' kull xort'oħra u jiżgura t-tweġġiq u s-sorveljar ta' dawk il-livelli;

(iv) jistabilixxu kodiċijiet ta' pratka li jiddeterminaw proċeduri, metodi, limiti ta' rimi u emissjonijiet ta' sustanzi kif japplikaw ghal xoghlijiet u attivitajiet kif jista' jiġi preskritt sew ghar-rigward taż-żmien meta dawk ix-xoghlijiet u attivitajiet ikunu qeghdin isiru kif ukoll ghar-rigward tal-waqt meta x-xoghlijiet u attivitajiet ikunu intemmew; u

(v) jistabilixxu għall-finijiet ta' dan l-Att, l-ahjar teknika disponibbli li ma tkunx teħtieġ xi nefqa eċċessiva ghar-rigward ta' xi hidma, attività jew proċess;

(i) ghar-rigward tal-prevenzjoni u l-kontroll integrati tat-tniġġis:

(i) jistabilixxu sistemi li jiżguraw dawk il-prevenzjoni u kontroll;

(ii) jippreskrivu miżuri to kontroll, jipprevjenu, jimmaniġġaw jew inaqqsu t-tniġġis u d-degradazzjoni ta' l-ambjent;

(iii) jikkontrollaw iż-żamma, l-manigġ, il-kummerċ jew l-użu ta' sustanzi u attivitajiet ohra li jistghu jikkagunaw jew jiffacilitaw it-tniġġis;

(iv) jistabilixxu livelli inkluż l-oghla mil-livelli permessi f' espressjonijiet kwantitattivi jew kwalitattivi tar-rimi u l-emissjonijiet fl-ambjent ta' kull materjal, sustanza jew enerġija u ghar-rigward ta' l-użu ta' xi teknoloġija, tagħmir, materja, sustanza, metodu jew proċedura ghar-rigward ta' dan kollu;

(v) jistabilixxu metodoloġiji li għandhom jintużaw fis-sorveljar ta' rimi u emissjonijiet ta' sustanzi u, jew enerġija fl-ambjent u biex jirregolaw l-użu ta' informazzjoni miġbura waqt dak is-sorveljar;

(vi) jipprevjenu, jikkontrollaw, inaqqsu, jirrimedjaw jew xort'ohra jimmaniġġaw sitwazzjonijiet li jistghu jwasslu għal xi emergenzi ambjentali u biex jipprevjenu, jikkontrollaw, inaqqsu, jirrimedjaw jew xort'ohra jimmaniġġaw kull effett kuntrarju fuq l-ambjent li jirriżulta minn dan kollu;

(j) ghar-rigward tal-manigġjar ta' l-iskart:

(i) jikklassifikaw l-iskart u jippreskrivu regoli ghar-rigward ta' dan skond it-tip u l-kategorija ta' dan;

(ii) jirregolaw il-manigġjar u t-tnehhija ta' dan;

(iii) jistabilixxu kwoti, f'espressjonijiet kwantitattivi u kwalitattivi, tal-ġenerazzjoni permessa ta' l-iskart, kif ukoll xort'ohra jipprovdu għall-prevenzjoni u t-tnaqqis ta' l-iskart;

(iv) jipprovdu għar-reġistrazzjoni u, jew, il-liċenzar ta' hidmiet fil-manigġjar ta' l-iskart;

(k) għar-rigward tal-harsien ta' bijodiversità:

(i) jipprovdu għas-sorveljar u l-manigġjar tagħha;

(ii) jiddikjaraw xi speċi bhala speċi protetta u jistabilixxu regoli għall-protezzjoni tagħha;

(iii) jiddikjaraw xi speċi bhala waħda invażiva u jistabilixxu regoli għall-kontroll tagħha;

(iv) jirregolaw il-użu ta', u xort'ohra jipproteġu kampjuni ta' fawna jew flora; u b'mod partikolari jipprojbixxu u, jew, jikkontrollaw il-pussess, l-esibizzjoni, il-propagazzjoni artifiċjali jew it-tnissil u t-trobbija kontrollati ta' dawk il-kampjuni ta' flora u fawna kif jista' jiġi preskritt;

(v) jipprovdu għall-konservazzjoni, protezzjoni u manigġjar ta' kull *habitat* partikolari jew kategoriji relattivi biex tithares id-diversità bijoloġika;

(vi) jiddikjaraw arei jew siti fuq l-art jew fl-ibhra interni jew territorjali, jew 'l hinn minn dawk l-ibhra fejn Malta jista' jkollha ġurisdizzjoni għall-fini tal-harsien u l-kontroll ta' l-ambjent, bhala arei protetti u jipprovdu għall-protezzjoni tagħhom u biex jirregolaw il-manigġjar tagħhom;

(vii) jikkontrollaw u jirregolaw kull attività li tista' tinterferixxi ma' l-istatus ta' konservazzjoni ta' diversità bijoloġika;

(viii) jirregolaw il-kummerç fi u l-garr minn post għall-iehor, importazzjoni jew esportazzjoni ta' kampjuni ta' flora u fauna kif jista' jiġi preskritt;

(l) jikkontrollaw, jimmaniġġaw u jirregolaw it-trasport, l-introduzzjoni, l-użu (inkluż l-użu kkunsidrat), ir-rilaxx jew it-tqeghid fis-suq jew fl-ambjent ta' organiżmi ġenetikament modifikati;

(m) għar-rigward ta' verifiki dwar l-ambjent:-

(i) jehtieġu lil kull min ikun qed jagħmel dawk l-attivitajiet li jistgħu jiġu preskritti jew imexxi jew ihaddem dawk il-faċilitajiet kif jistgħu jiġu preskritti sabiex ikunu jistgħu jsiru verifiki dwar l-Ambjent u biex jipprezentaw lill-Awtorità rapporti ta' verifika dwar l-ambjent; li għandhom jinkludu:

§1. deskrizzjoni dettaljata ta' l-attività jew faċilità;

§2. deskrizzjoni dettaljata l-impatt ambjentali ta' l-attività jew faċilità;

§3. pjanijiet biex jipprevjenu u jnaqqsu riskji ta' effetti kuntrarji u jirrimedjaw kull effett kuntrarju li jkun ġie kaġunat; u

§4. pjan ta' kontinġenza biex jiffaċċa kull emerġenza;

(ii) jehtieġu lil kull persuna thares kull pjan li hemm provdut dwaru fi §3 u §4 tas-subparagrafu (i) ta' dan il-paragrafu; u

(n) jipprovdu li kull min jaġixxi b'kontravvenzjoni ta' xi regolament taht dan l-Att ikun hati ta' reat kontra dan l-artikolu, u jistabilixxu dik il-piena, li tkun piena ta' mhux iktar minn multa ta' mitt elf lira jew ta' priġunerija għal żmien mhux iktar minn sentejn, jew dik il-multa u priġunerija flimkien, li kull min jinsab hekk hati jista' jehel:

Izda dawk ir-regolamenti jistgħu jipprovdu li persuna, li wara li tkun inġhatat sentenza għal reat kontra l-istess regolament b'deċiżjoni li tkun għaddiet f'gudikat, terġa' tagħmel reat iehor bi ksur ta' l-istess regolament f'dak iż-

żmien li jista' jiġi preskritt, tista' tehel multa oghla, li ma tkunx teċċedi darbtejn daqs il-multa li kieku xort' ohra kienet tehel, u għall-fini tal-proviso l-oghla multa li tista' tiġi stabbilita b'dawk ir-regolamenti tkun dik ta' mitejn elf lira:

Iżda wkoll, dik il-multa għandha f'kull każ tkun dovuta lill-Gvern bhala dejn ċivili, u meta l-persuna hatja tar-reat tkun direttur, segretarju, jew *manager* ta' persuna ġuridika li r-reat ikun sar għall-benefiċċju ekonomiku ta' l-istess persuna ġuridika, dik il-persuna ġuridika tkun responsabbli solidament mal-hati għall-hlas ta' dak id-dejn ċivili; u

(o) jippreskrivi kull haġ' ohra li għandha jew li tista' tiġi preskritta.

Proċedura
għall-għemil ta'
regolamenti.

10. (1) Regolamenti taht l-artikolu 9 ta' dan l-Att isiru mill-Ministru wara konsultazzjoni ma' l-Awtorità u hlief għal regolamenti taht il-paragrafi (a) (b) u (n) ta' subartikolu (2) ta' l-artikolu 9 fil-każijiet imsemmija fi subartikolu (2) ta' dan l-artikolu dawn m'għandhomx isiru kemm-il darba l-Ministru ma jkunx qabel ippubblika abbozz tagħhom fil-Gazzetta fejn jippermetti lil kull persuna perjodu ta' mill-anqas erba' ġimghat biex tagħmel ilmenti lill-Ministru jew lill-Awtorità, jew lit-tejn li huma, fejn tiddikjara kif fil-fehma tagħha r-regolamenti proposti ma jkunux jipproteġu biżżejjed l-ambjent jew kif dawn ikunu restrittivi ż-żejjed bla bżonn jew jikkawunawliha diffikultà jew telf ekonomiku u titlob għal reviżjoni ta' dak l-abbozz.

(2) Id-disposizzjonijiet tas-subartikolu (1) ta' dan l-artikolu għar-rigward tal-konsultazzjoni ma' l-Awtorità u għar-rigward tal-pubblikazzjoni ta' abbozz tar-regolamenti fil-Gazzetta ma japplikawx għar-rigward ta' regolamenti, li l-Ministru jiddikjara li jkunu urġenti.

(3) Kull persuna tista', fiċ-ċirkostanzi msemmija fi subartikolu (1) ta' dan l-artikolu għar-rigward ta' l-abbozz ta' regolamenti, mhux aktar tard minn sitt ġimghat wara l-promulgazzjoni ta' regolamenti magħmulin skond subartikolu (2), tagħmel ilmenti lill-Ministru u, jew lill-Awtorità fejn tiddikjara għaliex u kif dawk ir-regolamenti għandhom jiġu revokati jew emendati.

(4) L-Awtorità għandha tqis kull ilment lilha magħmul taht subartikoli (1) u (3) ta' dan l-artikolu u għandha tagħmel rapport fuqhom, wara li tisma lil dawk il-persuni jew tiehu dak il-parir espert li tikkonsidra spedjenti, lill-Ministru flimkien ma' kull opinjoni ohra li jista' jkollha dwar l-abbozz pubblikat taht subartikolu (1) jew ir-regolamenti magħmula taht subartikolu (2), u l-Ministru jista' meta jirċievi r-rapport minghand l-Awtorità u kull ilment minnu riċevut jipproċedi biex jirrevedi l-abbozz tar-regolamenti u jippromulga dawk ir-regolamenti

skond dik ir-revizjoni, jew jemenda regolamenti diġà promulgati; iżda fejn l-Awtorità ma tkunx wara li jiskadu erba' gimgħat wara li jkun skada tmiem il-perjodu għall-ilmenti msemmija fis-subartikolu (1), għamlet ir-rapport jew ma tkunx tat l-opinjoni tagħha lill-Ministru, l-Ministru jista' jipproċedi biex jippromulga r-regolamenti li jkunu jinsabu fl-abbozz bi jew mingħajr ebda bidliet li jista' jqis spedjenti, mingħajr preġudizzju għall-possibilità li jagħmel bidliet meta jirċievi dak ir-rapport u dawk l-opinjoni li jistgħu jsiru.

TAQSIMA VI Liċenzi

11. (1) Hadd ma jista' jwettaq ebda attività minn dawn li ġejjin ^{Liċenzi.} kemm-il darba ma jkollux fil-pussess tiegħu liċenza mill-Awtorità:

(a) għar-rigward tal-bijodiversità:

(i) għal-liema raġuni tkun biex jikkummerċa, jittrasporta, jimporta jew jesporta dawk l-ispeċi ta' flora jew fawna, kif jista' jiġi preskritt sew mejtin sew hajjin kollha kemm huma jew parti minnhom, inklużi d-derivattivi tagħhom;

(ii) jkollu dawk il-kampjuni ta' flora jew fawna kif jistgħu jiġu preskritti waqt li jkunu qed jingarru;

(iii) jkollu fil-pussess tiegħu dawk il-kampjuni ta' flora jew fawna kif jistgħu jiġu preskritti;

(iv) jimmaniġġa dawk il-kampjuni ta' flora u fawna kif jista' jiġi preskritt, b'kull mod inkluż it-tqeghid ta' criket u l-immarkar b'tikketti;

(v) jonsob, jispara jew jaqbad dawk il-kampjuni ta' fawna kif jista' jiġi preskritt;

(vi) jiġbor dawk il-kampjuni ta' flora jew fawna kif jistgħu jiġu preskritti;

(b) għar-rigward tal-maniġġjar ta' l-iskart:

(i) jahžen, jiġbor, jittrasferixxi, jirkupra jew xort'ohra jimmaniġġa jew iġorr dak l-iskart hekk kif jista' jiġi preskritt;

(ii) jagħmilha ta' sensal għat-twettiq tal-funzjonijiet imsemmija fil-paragrafu (i);

(iii) jikkummerċa, jimporta jew jesporta l-iskart;

(iv) jiehu hsieb li dak l-iskart, kif jista' jiġi preskritt, ikun qed jingarr;

(v) imexxi faċilitajiet għall-maniġġjar ta' l-iskart;

(ċ) għar-rigward tal-kontroll tat-tniġġis, jarmi jew jikkaġuna jew jippermeti li tintrema dik sustanza jew enerġija kif jista' jiġi preskritt fl-ambjent;

(d) dwar l-organizmi ġenetikament modifikati:

(i) jikkummerċa l'organizmi ġenetikament modifikati;

(ii) jimmaniġġa jew xort'ohra jkollu fil-pussess tiegħu organizmi ġenetikament modifikati;

(e) kull attività ohra li tista' tiġi preskritta.

(2) L-Awtorità jkollha s-setgha li tagħti jew tiċhad liċenzi mahruġa skond dan l-artikolu, u fl-ghoti ta' daww il-liċenzi l-Awtorità jkollha jedd timponi daww il-kondizzjonijiet li tista' tqis li jkun xierqa:

Izda meta jiġu miċhuda jew imposti xi kondizzjonijiet partikolari, l-Awtorità għandha tagħti r-raġunijiet tagħha għal dik iċ-ċahda u għal kull kondizzjoni partikolari li setghet għet imposta.

(3) Kull min iwettaq xi tali attività li dwarha tkun meħtieġa liċenza taht subartikolu (1) ta' dan l-artikolu mingħajr ma jkollu liċenza, jew jaġixxi bi ksur ta' xi kondizzjoni marbuta ma' tali liċenza, jkun hati ta' reat kontra dan l-artikolu u jista', meta jinsab hati, jehel multa ta' mhux iżjed minn ħamsa w ghoxrin elf lira jew prigunerija għal mhux iżjed minn sitt xhur jew sew dik il-multa u dik il-prigunerija flimkien.

TAQSIMA VII

Stima ta' l-Impatt fuq l-Ambjent

Stima ta' l-Impatt fuq l-Ambjent.

Kap. 356.

12. Il-Ministru jista' b'regolamenti jippreskrivi elenku tal-kategoriji ta' kull żvilupp li minhabba fix-xorta, firxa u lokalità tiegħu u, jew, konsiderazzjonijiet ambjentali ohra jkun sugġett għal stima ta' l-impatt fuq l-ambjent qabel ma jista' jingħata permiss għall-iżvilupp mill-Awtorità ta' l-Ippjanar taht l-Att dwar l-Ippjannar ta' l-Iżvilupp:

Iżda ebda haġa f'dan is-subartikolu m'għandha tipprekludi lill-Awtorità ta' l-Ippjanar milli teħtieġ lil applikant għal permess għall-iżvilupp li jgħaddi l-proġett minn stima ta' l-impatt fuq l-ambjent, ukoll jekk l-iżvilupp ma jkunx jaqa' taħt f'xi waħda mill-kategoriji fl-elenki preskritti mill-Ministru.

13. (1) Fi żmien xahrejn minn meta tirċievi applikazzjoni għal permess għall-iżvilupp li jkun jeħtieġ Stima ta' l-Impatt fuq l-Ambjent taħt l-artikolu 12 ta' dan l-Att, l-Awtorità ta' l-Ippjanar għandha tipprovdi lill-Awtorità b'dik l-informazzjoni li tista' tiġi preskritta jew li tista' xort'ohra tkun meħtieġa minnha biex tistabilixxi t-termini ta' referenza biex tkun tista' ssir Stima ta' l-Impatt fuq l-Ambjent.

Dmir ta' l-Awtorità
dwar
l-Ippjanar għar-
rigward ta'
Stima ta' l-Impatt
fuq
l-Ambjent.

(2) Fi żmien xahrejn mill-preżentata ta' l-informazzjoni imsemmija fis-subartikolu (1) ta' dan l-artikolu, l-Awtorità għandha tistabilixxi t-termini ta' referenza għal Stima ta' l-Impatt fuq l-Ambjent u tittrasmettiha lil min jagħmel l-applikazzjoni.

14. (1) Il-Ministru jista' wara li jikkonsulta lill-Awtorità jagħmel regolamenti, b'mod ġenerali biex jirregola kif isiru Stimi ta' l-Impatt fuq l-Ambjent, u mingħajr preġudizzju għal ġeneralità ta' dak li jinsab hawn aktar qabel, jista' b'dawk ir-regolamenti:

Poter li jsiru
regolamenti
dwar Stimi ta' l-
Impatt
fuq l-Ambjent.

(a) jispeċifika l-kriterji li għandhom jiġu sodisfatti fil-mod kif isiru Stimi ta' l-Impatt fuq l-Ambjent inklużi l-akkreditazzjoni u, jew, l-approvazzjoni ta' konsulenti jew persuni ohra li jitqabdu jagħmlu dawk l-istimi;

(b) jidentifika l-punti li għandhom jiġu indirizzati f'dawk l-istimi u l-informazzjoni li għandha tiġi pprovduta flimkien magħhom;

(ċ) jistabilixxi l-proċeduri li għandhom jiġu segwiti u l-mod u meded ta' żmien li għandhom jiġu osservati fl-għemil ta' tali stimi;

(d) jistabilixxi proċeduri li bihom partijiet li jistgħu jintlaqtu bil-proġett u organizzazzjonijiet li jistgħu ikollhom responsabbiltajiet jew interessi speċifiċi milqutin mill-proġett, jistgħu jingħataw opportunità li jesprimu l-opinjoni jiet u t-thassib tagħhom dwar dan.

(2) Mingħajr preġudizzju għal kull regolament magħmul taħt il-paragrafu (b) tas-subartikolu (1) ta' dan l-artikolu, Stima ta' l-Impatt fuq l-Ambjent għandha fil-każijiet kollha tkun tindirizza u tagħti informazzjoni dwar kif il-proġett ikollu impatt fuq:

- (a) il-bnedmin u strutturi soċjali;
- (b) il-bijodiversità;
- (ċ) kull riżors naturali inklużi l-art, l-ilma, l-arja, il-klima u l-pajsaġġ; u
- (d) fuq kull haġ'ohra anċillari għall-partiti taht il-paragrafi (a), (b) jew (ċ) ta' dan is-subartikolu.

(3) Stima ta' l-Impatt fuq l-Ambjent għandha wkoll tkun tidentifika u tistma l-effetti transkonfini ta' xi proġett.

Reviżjoni ta' Stima ta' l-Impatt fuq l-Ambjent mill-Awtorità.

15. (1) Hekk kif itemm Stima ta' l-Impatt fuq l-Ambjent l-applikant għandu jippreżenta dik l-istima lill-Awtorità li għandha fi żmien tmien gimgħat tirrevediha u tohroġ rapport dwarha skond is-subartikolu preċedenti ta' dan l-artikolu.

(2) Meta fil-fehma ta' l-Awtorità l-konklużjonijiet ta' Stima ta' l-Impatt fuq l-Ambjent jkunu validi u aċċettabli għaliha, hija għandha tohroġ rapport pożittiv.

(3) L-Awtorità tista' tohroġ rapport pożittiv bla hsara għal dawk il-kondizzjonijiet li tista' tqis meħtieġa biex tiffaċċa xi thassib partikolari li fil-fehma tagħha ma jkunx gie ttrattat biżżejjed fl-istima. Dak ir-rapport huwa hawn aktar 'il quddiem imsemmi bhala rapport pożittiv taht kondizzjoni.

(4) Meta Stima ta' l-Impatt fuq l-Ambjent tikkonkludi li l-iżvilupp ma jkunx wiehed ambjentalment sostenibbli jew fejn l-Awtorità ma tkunx sodisfatt bil-konklużjonijiet ta' tali Stima ta' l-Impatt fuq l-Ambjent, hija għandha tohroġ rapport negattiv.

Dritt ta' appell lill-Awtorità.

16. Meta minkejja rapport negattiv mill-Awtorità, jingħata permess għall-iżvilupp taht l-Att dwar l-Ippjanar ta' l-Iżvilupp, jew fejn xi kondizzjoni marbuta mar-rapport pożittiv taht kondizzjoni ma tkunx marbuta ma' xi permess għall-iżvilupp kif imsemmi qabel, l-Awtorità ikollha dritt tappella quddiem il-Bord ta' Appell dwar l-Ippjanar imwaqqaf taht l-artikolu 14 ta' l-imsemmi Att dwar l-Ippjanar ta' l-Iżvilupp, mill-hruġ ta' dak il-permess għall-iżvilupp jew mill-ommissjoni ta' xi kondizzjoni marbuta mill-Awtorità f'rapport pożittiv taht kondizzjoni.

Stima Strategika fuq l-Ambjent.

17. Mingħajr preġudizzju għall-poteri tiegħu taht l-artikolu 12, il-Ministru jista' jordna li xi dipartiment tal-Gvern jew xi korporazzjoni jew awtorità mwaqqfa b'liġi jew xi Aġenzija ohra tal-Gvern li jgħaddu

kull politka jew strategija adottati jew ippjanati li jigu adottati minnhom ghal Stima Strategika fuq l-Ambjent, u jista' b'regolamenti jippreskrivi u jirregola l-proceduri u l-metodi li ghandhom jigu adottati f'dawk l-istimi.

TAQSIMA VIII Il-Fond dwar l-Ambjent

18. L-Awtorità ghandha twaqqaf fond, hawnhekk iżjed 'il quddiem imsemmi il-Fond, li jkun maghruf bhala l-Fond ghall-Harsien ta' l-Ambjent ghall-finijiet stipulati f'din it-Taqsima ta' dan l-Att. Twaqqif tal-Fond.

19. (1) Il-Fond ikun amministrat minn bord maghmul minn president li jinhatar mill-Ministru u minn żewġ membri oħra, li wiehed minnhom jinhatar mill-Ministru responsabbli ghall-finanzi u l-iehor jinhatar mill-Awtorità minn fost persuni intizi fl-ambjent. Il-Fond ikollu personalità ġuridika independenti u distinta minn dik tal-Gvern jew ta' l-Awtorità u jkun jista' jaghmel kuntratti ta' akkwist u trasferiment ta' proprjetà u jaghmel dak kollu li jkun mehtieg jew anċillari ghall-funzjonijiet tiegħu. Amministrazzjoni tal-Fond.

(2) Il-membri tal-bord ghandhom meta jiskadi l-perjodu tal-hatra tagħhom kull membru tal-Bord ikun eligibbli ghall-hatra mill-ġdid.

(3) Il-Fond jintuza biex jiffinanzja studji biex jithares l-ambjent, kif ukoll xoghlijiet li jistghu jenhtiegu ghal dak l-ghan jew biex tiġi rimedjata kull hsara kaġunata lill-ambjent f'dak li ghandu x'jaqsam ma' xi pjan ta' kontingenza jew emergenza, jew biex jiffinanzja dawk l-attivitajiet l-oħra, inklużi attivitajiet organizzati minn ghaqdiet mhux governattivi, li l-Ministru f'konsultazzjoni ma' l-Awtorità jista' jippreskrivi:

Izda il-Fond m'ghandux jintuza biex jiffinanzja l-ispejjeż ghatthaddim ta' l-Awtorità:

Izda wkoll l-Awtorità tista' titlob hlas mill-Fond ghal servizzi mogħtija minnha lill-Fond.

(4) Ghandu jithallas fil-Fond:

(a) kull ammont approprjat mill-Parlament ghal dak l-ghan;

(b) kull donazzjoni jew ghotja magħmula lill-Fond minn individwi jew istituzzjonijiet;

(c) ammonti li l-Awtorità tircevi bil-ghan li jitqeghdu fil-Fond;

(d) dawk l-ammonti jew flejjes ohra li jistghu minn zmien ghal zmien jigu pprovduti bi jew taht din il-ligi jew kull ligi ohra.

Kontijiet tal-Fond.

20. (1) Il-Fond ghandu jzomm kont kif dovut tad-dhul u l-infiq tieghu u l-Awtorità ghandha, minghajr pregudizzju ghall-poteri ta' l-Awditur Ġenerali u tal-Ministru responsabbli ghall-finanzi taht kull ligi li tkun, ta' kull sena tara li l-kontijiet tal-Fond jigu verifikati minn Awdituri Pubblici u *Accountants* kwalifikati kif imiss u minnha mahtura bi ftehim mal-Ministru.

(2) Il-Fond ghandu ta' kull sena finanzjarja jibghat lill-Ministru, permezz ta' l-Awtorità, kopja tal-karta tal-bilanè verifikata tieghu kif imiss flimkien ma' rapport ta' l-attivitajiet tieghu matul is-sena finanzjarja preçedenti. Il-Ministru ghandu jqieghed kopja tal-karta tal-bilanè u tar-rapport fuq il-Mejda tal-Kamra fi zmien xahar minn meta jircevih mill-Fond.

Eżenzjoni minn xi taxxi.

Kap. 123.
Kap. 364.

21. Id-dhul tal-Fond ma jkun soġġett ghal ebda taxxa taht l-Att dwar it-Taxxa fuq l-*Income*, u l-Fond ma jkun jista' jehel ebda taxxa taht l-Att dwar it-Taxxa fuq Dokumenti u Trasferimenti.

Poter ta' ghemil ta' regolamenti dwar il-Fond.

22. Il-Ministru jista' bi ftehim tal-Ministru responsabbli ghall-finanzi u wara li jikkonsulta lill-Awtorità jaghmel regolamenti li jippreskrivu l-proçedura li ghandha tigi segwita mill-bord tal-Fond u li xort'ohra tirregola l-Fond. Il-Ministru jista' b'dawk ir-regolamenti b'mod partikolari tippreskrivi dawk il-funzjonijiet, attivitajiet u inizjattivi li jistghu, jew ghandhom jigu ffinanzjati mill-Fond.

TAQSIMA IX Dritt ghal Informazzjoni

Dritt ghal informazzjoni.

23. Il-Ministru ghandu b'regolamenti taht dan l-artikolu jipprovdi li membri tal-pubbliku jew dawk il-kategoriji ta' persuni li jistghu jigu preskritti jkollhom jedd jitolbu minn dawk id-dipartimenti tal-Gvern, awtoritajiet, korporazzjonijiet pubblici jew persuni ohra kif jista' jigi preskritt dik l-informazzjoni li jista' jkollhom fil-pussess taghhom u li tkun tirrigwarda l-ambjent. Minghajr pregudizzju ghall-ġeneralità ta' dak hawn aktar qabel imsemmi, dawk ir-regolamenti jistghu jippreskrivu:

- (a) x-xorta ta' informazzjoni li tista' tkun mitluba;
- (b) è-çirkostanzi li fihom tista' tintalab dik l-informazzjoni;

(c) ċ-ċirkostanzi li fihom dik l-informazzjoni tista' ma tinghatax mill-enti li ssirilha t-talba għaldaqshekk u l-pubblikazzjoni tar-*raġunijiet* għaliex dik l-informazzjoni tkun hekk inżammet;

(d) id-drittijiet li jistgħu jintalbu għar-rigward ta' xi tali informazzjoni; u

(e) *ż-żmien* li fih għandha tinghata dik l-informazzjoni.

TAQSIMA X Infurzar

24. (1) Kull min jikkaguna dannu lill-ambjent għandu, mingħajr preġudizzju għal kull responsabbiltà oħra ċivili li jagħmel tajjeb għal dawk id-danni ma' kull persuna jew awtorità, jkun responsabbli li jhallas lill-Fond stabbilit taht it-Taqsima VIII ta' dan l-Att, dik is-somma, li tista' fin-nuqqas ta' ftehim tiġi stabbilita mill-qorti *arbitrio boni viri*, biex tagħmel tajjeb għad-danni kkaġunati lill-ambjent u sofferti mill-komunità b'mod ġenerali bin-nuqqas ta' *osservanza* ta' xi liġi jew regolament minn dik il-persuna jew bin-negliġenza jew l-għemil xjenti jew l-inabilità fis-sengħa jew fil-professjoni tagħha.

Azzjoni għal danni.

(2) Azzjoni f'isem il-Gvern skond is-subartikolu (1) ta' dan l-artikolu għandha ssir miċ-*Chairman* tal-Fond, jew minn min ikun ġie delegat minnu, hekk kif stabbilit taht Taqsima VIII ta' dan l-Att, u tiġi preskritta meta jiskadu tmien snin.

25. (1) Il-Ministru jista' jawtorizza uffiċjali ta' l-Awtorità jkunu spetturi ambjentali għall-finijiet ta' dan l-Att, u dawk l-ispetturi ambjentali jistgħu hekk kif juru prova ta' l-identità tagħhom biex jiżguraw it-tharis ta' dan l-Att jew ta' kull regolament magħmul bis-saħħa tiegħu:

Spetturi ambjentali.

(a) jidhol f'kull post (li ma jkunx post ta' abitazzjoni) jew jitla' fuq kull vettura jew bastiment li jkollu liċenza taht dan l-Att, jew li jista' xort'oħra jkun preskritt;

(b) jeżamina kull haġa li għaliha jista' jkun japplika kull regolament taht dan l-Att u jiehu kull kampjun li jkun iqis li għandu jiehu għall-eżami;

(c) jagħmel pjanti ta' kull post, vettura jew bastiment u jiehu ritratti tagħhom wara li jidhol fihom jew jitla' fuqhom skond il-paragrafu (a) ta' dan is-subartikolu;

(d) jistharreġ minn kull minn jehtieg informazzjoni f'dak li għandu x'jaqsam ma' xi attività jew haġ'oħra regolata b'dan l-Att;

(e) johroġ ordnijiet ta' waqfien lil kull min ma jkunx qed ihares dan l-Att jew kull regolament magħmul tahtu.

Kap. 9.
Kap.37.

(2) Id-disposizzjonijiet tas-subartikolu (1) ta' dan l-artikolu għandhom ikunu mingħajr preġudizzju għall-poteri tal-Pulizija, l-Gwardjani Lokali, l-Kontrullur tad-Dwana jew ta' kull awtorità oħra taht il-Kodiċi Kriminali, l-Ordinanza tad-Dwana jew kull liġi oħra.

(3) Spetturi ambjentali mahtura taht dan l-artikolu għandu jkollhom, minkejja kull liġi oħra, d-dritt li jghinu lill-pulizija fil-prosekuzzjoni ta' reati taht dan l-Att u li jidhru fil-każ f'isem il-prosekuzzjoni.

Penali ta'
kompromess.

26. Meta qabel ma jinbdew proċedimenti kriminali f'dak li għandu x'jaqsam ma' xi reat taht dan l-Att, il-hati jhallas lill-Fond stabbilit taht Taqsima VIII ta' dan l-Att, dak l-ammont li jista' jiġi miftiehem ma' l-Awtorità, li ma jkunx ammont oghla mill-piena li jista' jġib mieghu dak ir-reat, għandha tintemm kull responsabbiltà kriminali li dik il-persuna jista' jkollha dwar dak ir-reat:

Izda l-ftehim li tithallas penali ta' kompromess lill-Fond ma jhassar ebda responsabbiltà ċivili li wiehed jagħmel tajjeb għad-danni kaġunati lil xi persuna jew awtorità u għal kull responsabbiltà li tohroġ mill-artikolu 24 ta' dan l-Att.

TAQSIMA XI Mixxellanji

Thassir u riserva.
Kap. 348.

27. (1) Bla hsara għad-disposizzjonijiet tas-subartikolu (2) ta' dan l-artikolu l-Att biex Ihares l-Ambjent, hawnhekk iżjed 'il quddiem f'dan l-artikolu msemmi "l-Att" huwa b'dan imhassar.

(2) Kull liċenza mahruġa taht l-Att għandha sakemm din tiskadi jew tiġi revokata taht dan l-Att titqies bħala li tkun inharġet taht dan l-Att.

(3) Regolamenti magħmulin taht l-Att għandhom jitqiesu bhallikieku saru taht id-disposizzjonijiet ta' dan l-Att u għandhom ikomplu fis-sehh u jistgħu jiġu emendati, sostitwiti jew revokati skond hekk.

Disposizzjonijiet
transitorji.

28. Id-disposizzjonijiet tas-subartikolu (2) ta' l-artikolu 10 ta' dan l-Att għandhom japplikaw għal kull regolament magħmul mill-Ministru taht l-artikolu 9 ta' dan l-Att fil-perjodu sa tliet xhur wara l-bidu fis-sehh ta' dan l-Att, u d-disposizzjonijiet tas-subartikoli (3) u (4) ta' l-artikolu 10 ta' dan l-Att għandhom japplikaw għal regolamenti magħmula f'dak il-perjodu bħal ma japplikaw għal kull regolamenti li għalihom japplika l-imsemmi subartikolu (2) ta' l-artikolu 10.

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Mghoddi mill-Kamra tad-Deputati fis-Seduta Nru. 596 tas-17 ta' Settembru, 2001.

ANTON TABONE
Speaker

RICHARD J. CAUCHI
Skrivan tal-Kamra tad-Deputati

I assent

(L.S.)

GUIDO DE MARCO
President

27th December, 2001

ACT No. XXX of 2001

AN ACT to provide for the constitution, registration and control of co-operative societies and for matters connected therewith or ancillary thereto.

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same, as follows -

PART I
Preliminary

Short title and commencement

1. (1) The short title of this Act is Co-operative Societies Act, 2001.

(2) This Act shall come into force on such date as the Minister responsible for matters relating to co-operative societies may by notice in the Gazette appoint, and different dates may be so appointed for different purposes and for different provisions of this Act

Interpretation.

2. In this Act, unless the context otherwise requires -

"abridged set of audited financial statements" means the financial statements placed for public inspection in accordance with articles 11 and 48 and prepared in accordance with Part V of the Third Schedule.

"active member" is a member of a society who has carried out a minimum amount or value of transactions with the same society, as may be defined in the statute of a society.

"allowance" means the remuneration paid to the President, secretary or treasurer of a society in consideration of their voluntary

services rendered to the society on a regular part-time basis.

"Apex organisation" means an association registered under Part X to facilitate the operations of all primary, secondary and tertiary co-operative societies in Malta.

"Arbitration Centre" means the Malta Arbitration Centre established under the Arbitration Act. Cap 387

"Board" means the Co-operatives Board established under article 3, and includes any person exercising such powers of the Board as may have been conferred upon him by the Board.

"Chairman" means the Chairman of the Board.

"commercial partnership" means a commercial partnership registered under the Companies Act, or its equivalent under a foreign law. Cap 386

"delegate", in the case of a society which is itself a member of another society, means the representative of the former, elected or appointed to attend and vote at meetings of the latter society.

"dividend" means a share of the net surplus of a society divided among the members in proportion to the paid up share capital held by them in the society.

"honorarium" means the remuneration given to some or all of the members of the committee of management or supervisory board if any, in consideration of their services which would not otherwise be remunerated.

"International Accounting Standards" means standards issued from time to time by the International Accounting Standards Committee of the International Federation of Accountants, as may be made applicable from time to time in terms of the Accountancy Professions Act. Cap 281

"International Standards on Auditing" means the standards approved by the Council of the International Federation of Accountants, as amended from time to time.

"manager" is an officer appointed by the committee of management of a society to be responsible for the executive running and administration of a society in line with the overall policy established by the said committee of management.

"member" in relation to a registered society includes a person, a

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commercial partnership, or society admitted to membership upon, or after, the registration of the society;

"Minister" means the Minister responsible for matters relating to co-operative societies;

"net surplus" means the remaining portion of the surplus after adequate provision has been made for the Central Co-operative Fund and the reserve fund;

"officer" includes the President, Vice-President, secretary, assistant secretary, treasurer, assistant treasurer, member of committee of management, and manager of a society and includes also any employee or other person empowered under this Act, the Regulations or the statute of the society to give directives in regard to the business of a society or to supervise such business, but does not include an auditor of a society or a member of a supervisory board;

"officer of the Board" means a member of the staff of the office of the Board or any other person duly authorized by the Board for a specific purpose;

"patronage refund" has the same meaning as is assigned to it by article 93;

"primary society" means a society in which a majority of members are individual persons;

"registered" means registered under this Act;

"regulations" means regulations made under this Act;

"secondary society" means a society in which a majority of members are themselves primary societies;

"society" means a co-operative society registered or provisionally registered under this Act and includes a primary society, a secondary society and a tertiary society;

"statute" means the registered statute of a society, including a registered amendment thereto;

"supervisory board" means the supervisory board elected by the general meeting of members in accordance with and for the purposes of articles 83 to 85 and other relevant provisions of this Act;

"surplus" means the net income less expenditure immediately before adequate provisions have been made for the Central Co-

operative Fund and the reserve fund;

"subsidiary company" means a commercial partnership in which a society, referred to as the "parent society", holds the majority of shares or equivalent capital, or the majority of the voting rights, or the right to appoint more than half of the Board of Directors or equivalent organ, or a combination of such factors giving the society control;

"tertiary society" means a co-operative society in which a majority of members are themselves primary and, or, secondary societies.

PART II

Constitution, Functions, Powers and Composition of the Board

3. (1) There shall be a Board, which shall be known as the The Board. Co-operatives Board, whose functions shall be -

(a) to register, monitor and exercise supervision over co-operative societies and to ensure compliance with the provisions of this Act;

(b) to support and assist the establishment of co-operative societies in all sections of the economy and society;

(c) to furnish information regarding co-operative principles, practices and management.

(2) The Board may, subject to the provisions of this Act and to any general or special directions of the Minister, delegate any of its functions under this Act.

(3) The Board shall be a statutory body having a distinct legal personality and, subject to the provisions of this Act, shall be capable of entering into contracts, of suing and being sued, and doing all such things and entering into all such transactions as are incidental or conducive to the exercise of its functions under this Act.

4. (1) The Board shall consist of a Chairman and of not Composition. less than two and not more than six other members. The members of the Board, including the Chairman, shall be appointed by the Minister from among persons who, in his opinion, have experience of, and shown competence in, matters relating to co-operatives, agriculture, industry, organisation of workers, trade, finance or administration.

(2) Each member of the Board shall be appointed for a period of not less than two years and not exceeding five years, shall hold and vacate office in accordance with the provisions of this Act and with

the terms of his appointment, and shall on termination of appointment be eligible for re-appointment

Provided that a member of the Board may at any time, by notice in writing to the Minister, resign his office

(3) No person shall be appointed or shall remain a member of the Board who

(a) is a member of the House of Representatives; or

(b) is an officer or member of any society or the Apex organisation

(4) When the office of the Chairman of the Board is vacant or the Chairman is absent from Malta or on vacation, or is incapacitated from performing the functions of his office, the Minister may appoint any other person, whether a member of the Board or otherwise, to act as Chairman during such vacancy, absence, vacation or incapacity; and the person so appointed shall exercise all the rights and functions of the Chairman of the Board for the duration of such appointment.

(5) A member of the Board may be removed from office by the Minister if in the opinion of the Minister such member is guilty of serious misconduct in the performance of his duties or is incapable of carrying out his duties, or is absent from the meetings of the Board, without reasonable cause, for such number of meetings as the Minister may consider excessive

(6) The Minister shall also appoint a Secretary to the Board

(7) A member of the Board shall be paid such remuneration as the Minister may, with the concurrence of the Minister responsible for finance, from time to time determine.

Representation

5. The judicial and legal representation of the Board shall vest in the Chairman.

Provided that the Board may appoint any one or more of the other members, or of the officers or employees of the Board, or any person performing duties for the Board, to appear in the name and on behalf of the Board in any judicial proceedings, and in any act, contract, instrument or other transaction whatsoever

Office

6. (1) There shall be an office of the Board which shall be managed and staffed in accordance with the provisions of this Act.

(2) Subject to the provisions of this Act and to any directives

of the Board, the management and conduct of the office of the Board and the administrative control of its staff, shall be the responsibility of the Chairman.

(3) The staff of the office of the Board shall consist of such officers and employees of the Board, or of such employees in the service of the Government as may be detailed for duty with the Board, or of both such officers and employees

(4) The terms and conditions of employment of any officers or employees of the Board shall be comparable with those of employees in the service of the Government and shall be established by the Board with the concurrence of the Minister.

7. (1) The Board may act notwithstanding any vacancy ^{Quorum} among its members

Provided that the Board shall not act if the office of Chairman is vacant and an acting chairman is not appointed

(2) The quorum at all meetings of the Board shall be not less than half the number of members

(3) A decision of the Board shall be reached by a majority of the votes of the members present and voting. The Chairman or other person chairing the meeting shall have an original vote and, in the case of an equality of votes, a second or casting vote

(4) Every document purporting to be an instrument made or issued by the Board and which is signed by the Chairman on behalf of the Board may be received in evidence and shall, until the contrary is proved, be deemed to be an instrument made or issued by the Board

(5) Any member of the Board who is directly or indirectly interested, otherwise than as a member of the Board, in any contract or agreement made or proposed to be made by the Board, or in any other matter or interest being raised or discussed by the Board, shall disclose the nature of his interest at the first meeting of the Board

(6) Any disclosure made under subarticle (5) shall be recorded in the minutes of the Board and the member who has made such disclosure shall withdraw from the meeting while the contract or agreement or any other matter or interest is discussed or decided upon by the Board.

(7) Subject to the provisions of this Act, the members of the Board, including the Chairman, and the officers and employees engaged at the office of the Board, and any other person authorised to

act for or on behalf of the Board shall, at all times, treat any information on societies obtained during the course of their duties as confidential.

(8) A person who acts in violation of the provisions of subarticle (7) shall be guilty of an offence and shall be liable, on conviction, to a fine (*multa*) not exceeding two thousand liri.

(9) Subject to the provisions of this Act, the Board shall regulate its own procedure.

Directions.

8. (1) The Minister may, in relation to matters that appear to affect the public interest, from time to time give to the Board directions in writing of a general character on the policy to be followed by the Board in carrying out its functions under this Act, and the Board shall, as soon as practicable, give effect to all such directions.

(2) The Board shall afford to the Minister every facility for obtaining and verifying information connected with the activities of the Board, in order to enable the Minister to properly exercise his functions under this Act.

Expenses.

9. (1) The expenses of the Board shall be borne out of such funds as may be voted by the House of Representatives

(2) The Board shall as soon as practicable, but not later than three months after the end of each financial year, submit to the Minister a statement of accounts duly audited by the Auditor General and a report of its activities in respect of the previous financial year, and shall forward a copy of any such statement and report to the Minister and to the Minister responsible for finance.

Register of Co-operative Societies.

10. The Board shall keep or cause to be kept at its office a Register of Co-operative Societies. The Board shall also keep such other registers, statistics or documentation on societies as it may deem appropriate from time to time:

Provided that for public purposes, only the information mentioned in article 12 may be made available by the Board.

Entries and corrections in the Register.

11. (1) All entries in the Register of Co-operative Societies shall be signed by the Chairman of the Board.

(2) Every alteration, correction or erasure in the Register of Co-operative Societies shall be made in such manner as to show the entry altered, corrected or erased and shall be initialled by the Chairman.

12. The Register of Co-operative Societies, as well as the registered statute of every society with any registered amendments thereto, and the audited financial statements of societies submitted to the Board in accordance with article 48(1), shall be open to inspection by the public during such time and against payment of such fees as the Minister shall from time to time prescribe by regulations made under this Act. Public inspection

13. The Board may, on its own motion, if it deems that there are reasonable or sufficient grounds to do so, and shall, on the application of at least one-tenth of the members of a society, or on the application of not less than one-third of the members of the committee of management of a society, or of a majority of the members of the supervisory board of a society, if any, hold an inquiry into the working or financial condition of a society; and all officers, employees and members of the society shall produce such books, accounts, cash, papers and securities of the society and shall furnish such information in regard to the affairs of the society as the Board or the person conducting the inquiry may require. Inquiries

14. (1) If any inquiry made under this Act discloses any irregularities or mismanagement in the working of a society, the Board shall bring such irregularities or mismanagement to the notice of the society and, if the society is affiliated to a secondary society or tertiary society or Apex organisation, also to the notice of that other society or Apex organisation, and the Board may issue a dissolution order as provided in article 100. Result of inquiry

(2) Without prejudice to the provisions of subarticle (1) of this article, the Board may make an order directing such society or any officer to take such action as may be specified in the order within the time mentioned therein in order to remedy the defects, irregularities or acts of mismanagement disclosed in the inquiry.

15. (1) Where an inquiry is held under article 13, the Board may make an award apportioning the costs of the inquiry, or such part thereof as it may think fit, between the society, the members, the officers or past officers of the society. Apportionment of costs

(2) Any costs due to the Board under subarticle (1) shall be recoverable as a civil debt in like manner as if it were included as an executive title under article 252 of the Code of Organization and Civil Procedure. Cap 12

16. Without prejudice to any other power under this Act, the Board shall have the power to - Other powers of the Board

- (a) prescribe any form to be used for any purpose under

this Act;

(b) send a representative to attend general and extraordinary meetings of a society upon the invitation of such society.

Administrative penalties.

17. The Minister may make regulations authorising the Board to impose administrative fines or sanctions on any society or officer thereof, or an auditor of a society, in the event of any breach of the provisions of this Act or of any regulations issued thereunder, or of an order lawfully issued by the Board by virtue of its powers under this Act.

Provided that -

(i) any administrative penalty provided for by regulations made under this article shall only be imposed after the society or the person is notified in writing of such breach or such order and is given a period of twenty days from the date of such notification to make written representations to the Board, and this notwithstanding, the Board concludes that the society or the person is in breach of the provisions of this Act or of any regulation issued thereunder or of an order lawfully issued by the Board by virtue of its powers under this Act;

(ii) any administrative fine provided for by regulations made under this article shall not exceed the amount of one thousand liri for each breach and ten liri for each day during which failure to observe the provisions of this Act or of any regulation made thereunder persists;

(iii) administrative fines stipulated in paragraph (ii) of this proviso may be increased by regulation up to a maximum of ten thousand liri and five hundred liri for each day during which any contravention persists, respectively;

(iv) regulations made under this article may prescribe that any such administrative penalty or sanction shall be payable to the Board as a civil debt constituting an executive title for the purposes of Title VII of Part I of Book Second of the Code of Organization and Civil Procedure as if the payment of the amount of the fine had been ordered by a judgement of a court of civil jurisdiction;

(v) such regulations may also prescribe any right

of appeal from decisions of the Board to impose an administrative sanction.

18. (1) No person other than a society shall trade or carry on business or otherwise operate in any field under any name or title of which the word "Co-operative", "Coop", or any other abbreviation or derivative thereof, is a part, without the written authorisation of the Board.

Use of the word
"Co-operative"

(2) Every person who acts in contravention of the provisions of subarticle (1) shall be guilty of an offence and shall, on conviction, be liable to a fine (*multa*) not exceeding two hundred liri and in the case of a continuing offence to a further fine (*multa*) not exceeding ten liri for each day on which the offence continues.

19. (1) Where, in the course of an audit of a society held under the provisions of article 45, or in the course of an inquiry into the affairs of a society held under article 13, or in the course of the winding up of a society, it appears that any person who has taken part in the organisation or management of such society or any past or present officer of the society has misapplied or retained or become liable or accountable for any money or property of such society or has been guilty of abuse of authority or breach of trust in relation to such society, the Board may, on its own motion, or on a request of the liquidator or any creditor or contributor, inquire or cause an inquiry to be held into the conduct of such person.

Abuse of
authority or
breach of trust

(2) On the conclusion of any such inquiry, the Board may make an order requiring the person who was the subject of such inquiry to repay or restore the money or property, or any part thereof, with interest at such rate, not being higher than the then prevailing commercial rate, as the Board thinks just, or to contribute such sum to the assets of such society by way of compensation as the Board may deem appropriate to make good for the misapplication, dishonesty, financial irregularity or breach of trust resulting from the inquiry.

(3) Any order made under subarticle (2) shall be enforceable by the Civil Court or by the Court of Magistrates (Malta) or the Court of Magistrates (Gozo) in its superior jurisdiction, as if it were a judgement of that Court. Such enforcement, and any appropriate precaution or executive warrant or other form of execution, shall be effected on application made by the Board.

(4) The provisions of this article shall apply even where the act is one for which the offender may be criminally responsible.

20. (1) If the Board is satisfied, after due inquiry carried out or caused to be carried out by it, that the committee of management of

Non-
performance of
duties

any society is not performing its duties properly, it may by order published in the Gazette -

(a) suspend or restrict all or any of the activities of the society, for such period as it shall in the order specify; or

(b) remove the committee of management of the society and order that the affairs of the society be managed and administered by a committee of not less than two persons and a manager, all appointed by it, for a period not exceeding one year, which may be extended by the Board for a further period of one year, and whose allowances and salary shall be payable out of the funds of the society.

(2) The powers conferred by subarticle (1) shall not be exercisable before a reasonable opportunity is given to the committee of management to show cause why action under that article should not be taken and before due consideration is given to the objections of the committee of management.

(3) The persons appointed under subarticle (1)(b) shall, prior to the date on which their appointment ceases to have effect, inform the members of the society of the reasons leading to the exercise of the powers under this article, and arrange for the election of a new committee of management in accordance with the statute of the society.

(4) Subject to the general direction and control of the Board, any person appointed under subarticle (1)(b) to assume the functions of the committee of management of any society shall have all the powers and duties of a duly constituted committee of management of a society.

PART III

Formation and Registration of Societies

Promotion of
economic and
other interests.

21. (1) A society is an autonomous association of persons united voluntarily to meet their economic, social and cultural needs and aspirations, including employment, through a jointly-owned and democratically-controlled enterprise, in accordance with co-operative principles, and which, subject to the provisions of this Act, may be registered by the Board as a co-operative society under this Act.

(2) For the purposes of subarticle (1), co-operative principles are:

First principle - Voluntary and open membership:

Co-operatives are voluntary organisations, open to all persons who are able to use their services and willing to accept their responsibilities of membership, without gender, social, racial, political or religious discrimination.

Second principle - Democratic member control:

Co-operatives are democratic organisations controlled by their members, who actively participate in setting their policies and taking decisions. Men and women serving as elected representatives are accountable to the members. In primary co-operatives, members have equal voting rights - each member having one vote only. Co-operatives at other levels are also organised in a democratic manner.

Third principle - Member economic participation:

Members contribute equitably to, and democratically control, the capital of their co-operative. At least part of that capital is usually the common property of the co-operative. Members usually receive limited compensation, if any, on capital subscribed as a condition of membership. Members allocate surpluses for any or all of the following purposes: developing their co-operative, possibly by setting up reserves, at least part of which would be indivisible; benefitting members in proportion to their transactions with the co-operative; and supporting other activities approved by the members.

Fourth principle - Autonomy and independence:

Co-operatives are autonomous, self-help organisations controlled by their members. If they enter into agreements with other organisations, including the Government, or raise capital from external sources, they do so on terms that ensure democratic control by their members and maintain their co-operative autonomy.

Fifth principle - Education, training and information:

Co-operatives provide education and training for their members, elected representatives, managers and employees so that they may contribute effectively to the development of their co-operatives. They inform the general public - particularly young people and opinion leaders - about the nature and benefits of co-operation.

Sixth principle - Co-operation among co-operatives:

Co-operatives serve their members most effectively and strengthen the co-operative movement by working together through local, national, regional and international structures.

Seventh principle - Concern for the community:

Co-operatives work for the sustainable development of their communities through policies approved by their members.

(3) The principles stated in subarticle (2) shall not be directly enforceable in any court or tribunal, but shall be adhered to in the interpretation and implementation of this Act and of any regulations made thereunder.

Formation:

22. (1) Persons wishing to form a society may request an officer of the Board to assist them in the formation of the proposed society.

(2) A society shall be registered under this Act:

(a) where the proposed society is a primary society, if the founding members consist of at least five persons qualifying for membership in a primary society in accordance with article 53:

Provided that, in the case of primary societies where the number of founding members is more than five, the founding members shall duly elect at least three individuals from amongst themselves to sit on the committee of management of the proposed society:

(b) where the proposed society is a secondary society, if the founding members consist of at least two primary societies;

(c) where the proposed society is a tertiary society, if the founding members consist of at least two societies, of which at least one is a secondary society:

Provided that, in the case of secondary or tertiary societies, the founding members shall duly elect at least three individuals, who shall be suitably representative of the founding members, to be the first committee of management of the society.

(3) It shall be lawful for a parent society to have a subsidiary company, provided the following conditions are fulfilled:

(a) the objects of the subsidiary company serve to fulfil, promote, complement or advance the objects of the parent

society;

(b) adequate measures are in place to ensure that the members of the parent society are kept adequately informed of the operations and performance of the subsidiary company; and

(c) adequate measures are in place to ensure that the powers of the parent society with respect to the subsidiary company are exercised, having due regard to the wishes of the parent society.

23. The founding members of a society, or their duly elected Founding members. representatives, shall -

(a) determine the type of society to be formed and draw up its objects;

(b) assess the probable membership and expected volume of business;

(c) undertake a feasibility study into the economic and practical aspects of the activities to be carried out by the proposed society;

(d) prepare, on the basis of the study referred to in paragraph (c), and in such form as the Board may require, a viability statement for submission to that Board;

(e) compile a list of prospective members and a record of the probable capital contributions in the form of shares;

(f) organise educational meetings to discuss the proposed society, its operations and its benefits to members;

(g) prepare an appropriate statute for the proposed society; and

(h) undertake such other functions as may be necessary for the purpose of submitting an application for the registration of the proposed society.

24. (1) No society shall be registered by a name which in the opinion of the Board is undesirable or offensive or which may create confusion with other commercial or other undertakings. Name of registered society.

(2) Every society shall have -

(a) the word "co-operative" or the abbreviation "co-op" as part of its name; and

(b) the word "limited" or the abbreviation "Ltd." at the end of its name.

Powers and duties of founding members.

25. When the Board has registered a society in accordance with the provisions of this Act, the founding members or their duly elected representatives as stipulated in article 22, will be deemed to have all the powers and duties of a committee of management as provided in article 74.

Application for registration.

26. (1) Every application for registration shall be submitted to the Board in the form set out in the First Schedule. Such an application shall be signed -

(a) in the case of a primary society, by at least five persons, all of whom qualify for membership of a primary society and are prospective members of the society;

(b) in the case of a secondary society, by individuals duly authorised in that behalf by not less than two societies qualifying for membership of a secondary society and which are prospective members of the society; and

(c) in the case of a tertiary society, by individuals duly authorised in that behalf by not less than two societies qualifying for membership of a tertiary society and which are prospective members of the society.

(2) The application shall be accompanied by -

(a) one copy of the statute, signed by all prospective members;

(b) one copy of the feasibility study as is referred to in article 23(c), and which is carried out by a person who, in the opinion of the Board, is competent for the purpose.

Additional information.

27. (1) The Board may require the applicants to furnish it with such information with reference to the society regarding:

(a) the economic or other need for the formation of the society;

(b) the educational and advisory work pertaining to co-operative principles and practices already being carried out among the applicants for registration and prospective members;

(c) the availability of sufficient capital, in accordance with regulations as may be prescribed under this article, for the

commencement of operations;

(d) the availability of officers, including professional management, capable of directing and managing the affairs of the society and of keeping such records and accounts for the society as the Board may require; and

(e) such other additional information as the Board deems fit.

(2) The Board, having received an application for registration of a co-operative society in conformity with the requirements of this Act, and having been satisfied that the proposed society does not require to submit further information relating to its possible registration, may -

(a) reject an application, specifying the reasons for such a decision and communicating these reasons to the proposers; or

(b) provisionally register the proposed society under article 28; or

(c) fully register the proposed society under article 29.

(3) In exercising its powers under this article, the Board shall take into account all the circumstances of the case, including the ability of the proposed founding members to carry the project through, the proposed objectives of the society and the proposed mode of operation.

28. (1) Subject to article 29(3) and to the provisions of this Act, where the Board is satisfied that a proposed society should not be registered under this Act at the time of the application for registration, it may, if it is of the opinion that steps can and will be taken with diligence by the persons by whom or on whose behalf the application for registration is made to comply with all the conditions for registration, provisionally register the proposed society for a period not exceeding eighteen months, and subject to its compliance with such terms and conditions, as the Board may determine. Provisional registration

(2) A society which has been provisionally registered shall, subject to the provisions of this article and to any terms and conditions that may be imposed by the Board under subarticle (1), be entitled to operate as a registered society, and while so entitled to operate shall have the status and powers of a registered society.

(3) A society which is provisionally registered under this article shall cause the fact that it is provisionally registered to be

stated in legible letters in all bills, letterheads, notices, advertisements and other official publications of the society and particularly on a signboard placed in a conspicuous position outside every premises in which it operates.

(4) The Board may at any time cancel the provisional registration of a society by a notice in writing addressed to the society and such cancellation shall operate as a refusal to register the society, and the society shall from the date of service of the notice cease to be a registered society.

(5) Where a society ceases to be a registered society under subarticle (4), the Board may appoint a competent person to be the liquidator of the society in terms of article 100(4); but the validity of any transaction entered into by or with the society while it was provisionally registered shall not be affected thereby.

(6) If, at any time during the period of provisional registration, the Board is satisfied that the society complies with all requirements and conditions for registration, it may register the society under article 29, and thereupon such society shall be deemed to have been so registered on the date of its provisional registration, and the foregoing provisions of this article shall cease to apply to such society.

Cap. 249.

(7) Subject to the provisions of the Interpretation Act regarding the liability of members of an association for contraventions, where a society contravenes any of the provisions of subarticle (3), it shall be guilty of an offence and shall be liable, on conviction, to a fine (*multa*) not exceeding fifty liri, and in the case of a continuing offence to a further fine (*multa*) not exceeding ten liri for every day during which the offence continues.

Registration of society.

29. (1) Where the Board is satisfied that a society has complied with the provisions of this Act, that its proposed statute in no way contravenes those provisions, that the proposed co-operative is likely to be viable and that the proposed management of the co-operative is appropriate, it shall register the society and its statute.

(2) Upon the full registration or provisional registration of a society, the Board shall issue an appropriate certificate of registration and shall cause the fact of registration to be published in the Gazette.

(3) Societies set up in accordance with co-operative schemes developed by Government for public employees shall be registered in a separate register, clearly identified for this purpose. In such cases the duration for any provisional registration shall be established by the Minister in consultation with the Board.

30. A certificate of registration signed on behalf of the Board shall be conclusive evidence that the society therein mentioned is duly registered or provisionally registered, unless it is proved that the registration or provisional registration of the society has been cancelled or has terminated.

PART IV

Organisation and Duties of Societies

31. A society, on registration, shall be known by the name under which it is registered and shall be a body corporate, having power to hold movable and immovable property, to enter into contracts, to sue and be sued, and to do all things necessary for the purposes for which it is constituted.

32. An act of a society or of a committee of management or of an officer of the society shall not be deemed to be invalid as against third parties by reason only of the existence of some defect in the constitution of the society or of the committee of management or in the appointment or election of an officer or on the ground that such officer was not qualified to be so appointed.

33. (1) Societies may form secondary societies, tertiary societies and subsidiary companies.

(2) The object of secondary societies and tertiary societies shall be to facilitate, co-ordinate, promote and enhance the joint operations of those societies which are their members.

34. (1) The statute of a society, including any amendment thereto, shall be duly registered by the Board.

(2) The statute of a society shall provide for the matters listed in the Second Schedule.

35. (1) Any society may, subject to the provisions of this Act, amend its statute.

(2) An amendment which changes the name of the society shall not affect any right or obligation of the society or any of its members or past members, and any legal proceedings pending may be continued by or against the society under its new name.

(3) An amendment to the statute of a society shall not have effect until it has been registered by the Board.

(4) An amendment to the statute shall not be valid and shall therefore not be registered by the Board unless -

(a) a resolution to amend the statute has been passed by not less than three-fourths, or such other higher majority as may be stipulated in the statute, of the members present and voting at a general meeting duly convened for that purpose; and

(b) not less than fifteen days' notice of the proposed amendment and of the meeting has been given to the members.

(5) A copy of any amendment to the statute of a society, duly passed as aforesaid, shall be signed by the President or Vice-President and any other member of the committee of management of a society, and shall be submitted to the Board for registration, together with a copy of the revised and updated statute as amended by the said society.

(6) The Board shall register an amendment to the statute if it is satisfied that the amendment in no way contravenes any of the provisions of this Act.

(7) If the Board refuses to register an amendment to a statute, it shall inform the society of its decision in writing together with the reasons for its refusal.

(8) Where the Board registers an amendment to the statute of a society, it shall publish in the Gazette a notice that such statute has been so amended.

Members bound
by statute.

36. (1) The statute of a society, including any amendments thereof shall, once registered, bind the society and the members thereof to the same extent as if they were signed by each member.

(2) A member of a society shall not, without his consent in writing having been first obtained, be bound by any amendment of the society's statute registered after he became a member, if and so far as that amendment requires him to take or to subscribe for more shares than the number held by him at the date of registration of the amendment, or to pay upon the shares so held any sum exceeding the amount unpaid upon them at that date, or in any other way increases the liability of that member to contribute to the share or loan capital of the society.

(3) Any dispute that may arise, concerning any of the matters referred to in article 109, shall, if included in the statute of a society, or if agreed between the parties involved in the dispute, be referred to arbitration by an arbitrator appointed by the Chairman of the Malta Arbitration Centre, in which case, the society's members shall abide by the awards of the arbitrator. Membership of a society shall automatically imply a tacit agreement, on the part of the member, to

submission to arbitration as aforesaid.

37. (1) Every society shall have an address registered in accordance with this Act to which all notices and communications shall be sent. Registered address

(2) A change of address shall be notified to the Board. The Board shall cause the new address to be registered as the registered address of the society and to be published in the Gazette.

38. (1) Every society shall maintain a register of members, and a register of shares held by each member. Register of members and of shares

(2) The register of members and of shares shall be *prima facie* evidence of any of the following particulars entered therein:

(a) the date at which the name of any person was entered in such register as a member;

(b) the date at which any such person ceased to be a member; and

(c) the number of shares held by a member.

39. (1) Every society shall, at the registered address of the society, keep open to inspection to its own members, free of charge, at all reasonable times a duly updated copy of its statute, a copy of this Act and a list of its members. Inspection of statute.

(2) At the end of December of each year, or at earlier intervals as the Board may require from time to time, every society shall send an updated list of its members to the Board. Such lists shall be open for inspection to the public at the office of the Board.

40. (1) Notwithstanding the provisions of any other law, a society whose principal activity consists in the sale or purchase or the provision of any goods and, or, services, may provide in its statute, or may otherwise contract with its members, that: Sale or provision of goods.

(a) every such member who produces such goods or provides such services shall dispose of, or otherwise arrange for the disposal of, the whole or any specified amount or proportion, of such goods or services to or through the society in conformity with any agreement entered into or arrangement made between the society and any third party;

(b) every such member shall purchase from the society the material required by the member for the purpose or in connection with the production of such goods or the provision

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of such services, in whole or in any specified amount or proportion thereof, from the society:

Cap. 379. Provided that such rules and obligations shall be directly related, necessary and proportionate to the formation and proper functioning of the society and that the compatibility of such rules and obligations with the provisions of the Competition Act shall, in every event, be assessed together with and within the context of the economic conditions prevailing in the relevant market in particular the market power of the society concerned.

(2) The statute, or contract, as the case may be, may also provide for reasonable and proportionate penalties or other consequences to be incurred by a member of a society who acts in violation of the provision referred to in subarticle (1).

Disciplinary penalties. **41.** The statute of a society may provide for the imposition of pecuniary penalties on its members for any infringement of the rules thereof, but no such pecuniary penalty shall be imposed upon any member until written notice of the intention to impose the same and the reason therefor has been served on him and he has had an opportunity of being heard or otherwise of showing cause why the pecuniary penalty should not be imposed.

Privileges. **42.** (1) Without prejudice to any other law to the contrary, where a society has supplied to any member any material, equipment, funds or services directly related to the activities carried out by the society, the society shall have a special privilege over such material, equipment, funds or goods produced therewith or therefrom or by virtue of such funds or services; such privilege shall rank concurrently with the privilege mentioned in article 2009 of the Civil Code:

Cap. 16. Provided that nothing herein contained shall affect the rights of any *bona fide* purchaser or transferee.

Cap. 16. (2) A society shall have a special privilege upon the share or other interest in the capital and on the deposits of a member or past member or deceased member and upon any dividend, patronage refund, or other sum payable to a member or past member or to the estate of a deceased member in respect of any debt due to the society from such member or past member or estate, and may set off any such debt against any sum credited or payable to a member or past member or estate of a deceased member as aforesaid. Such privilege shall rank concurrently with the privilege mentioned in article 2009(a) of the Civil Code.

Transfer of shares. **43.** On the death of a member, a society may transfer the share

or other interest of the deceased member to the person entitled to such share or interest according to law or pay to such person a sum representing the nominal value of such member's share or interest as ascertained in accordance with the society's statute:

Provided that where the heir of a deceased member, or in the event of more than one heir, then one of such heirs as may be appointed by them, is eligible for membership of the society, then such heir shall have the right to request and obtain membership in the society and shall be registered accordingly in his own name.

44. (1) A copy of any entry in a book of a society regularly kept in the course of business, shall, if duly certified as provided in subarticle (2), be *prima facie* evidence in any legal proceedings, civil or criminal, of the existence of such entry and of the matters, transactions and accounts therein recorded in every case where, and to the same extent as, the original entry itself is admissible. Copies of entries in book.

(2) The copy of an entry in the book of a society shall be certified by a declaration in writing at the foot of such copy stating that it is a true copy of such entry and that the book containing the entry is still in the custody of the society; such declaration shall be dated and signed by the President and the secretary of the society.

(3) No officer of any society shall, in any legal proceedings to which the society or the liquidator of the society is not a party, be compelled to produce any of the society's books, the contents of which can be proved in accordance with subarticle (1) or to appear as witness to prove any matters, transactions or accounts therein recorded, unless the court for special reasons so directs.

45. (1) The financial statements of every society shall be audited at least once in every year by an auditor or auditors appointed at each general meeting at which audited financial statements are presented. Such auditors shall hold office from the conclusion of that general meeting until the next general meeting at which audited financial statements are presented. The audit fee shall be approved at the general meeting. Financial Statements

(2) For the purposes of this Act, an auditor means a person who is an individual who holds a warrant to act as auditor issued under the Accountancy Profession Act, or is a partnership of auditors duly registered under the said Act. Cap 281

(3) Every society shall appoint, and cause to have at all times appointed, a person qualified and authorised as aforesaid to be the auditor of the society. The first auditor of a society may be appointed by the committee of management of the society at the first

opportunity and definitely before the first general meeting of the society at which annual accounts are presented, and the auditor so appointed shall hold office until the conclusion of that meeting.

(4) The committee of management shall, at any time before the general meeting of a society at which the annual accounts are presented, fill a casual vacancy in the office of auditor:

Provided that the society in general meeting may fill such a casual vacancy itself.

(5) If no auditors are appointed or re-appointed by the committee of management or by the general meeting of a society as required by the foregoing provisions of this article, then the Board may, on an application made by any member of the society, appoint an auditor to fill the vacancy.

Disqualifica-
tion.

46. A person shall be disqualified from appointment as auditor or from holding the office of auditor of a society if, in the case of an individual, he has at any time during the previous three years been -

- (a) an officer, member or employee of the society; or
- (b) a member, employer or employee of an officer of the society; or
- (c) a member or employee of an employee of the society; or
- (d) related by consanguinity or affinity in the direct line, or, up to the third degree, in the collateral line, to any officer of the society.

Powers of
auditors.

47. (1) The auditors of a society shall -

- (a) have a right of access at all times to the society's accounting records, accounts and vouchers;
- (b) require from the society's officers such information and explanations as they think necessary for the performance of their duties as auditors;
- (c) receive all notes of, and other communications relating to, any general meeting which a member of the society is entitled to receive;
- (d) attend any general meeting of the society; and
- (e) be heard at any general meeting which they attend

on any part of the business of the meeting which concerns them as auditors.

(2) An officer of a society who, knowingly or recklessly, makes to the society's auditors a statement, whether written or oral, which conveys or purports to convey any information or explanations which the auditors require, or are entitled to require, as auditors of the society, which is misleading, false or deceptive in a material particular, shall be guilty of an offence under this Act.

(3) A secondary or tertiary society, and the auditors of such a society, and the auditors of any subsidiaries of any society, shall give to the auditors of any of their member societies such information and explanations as they may reasonably require for the purpose of their duties as auditors of that society.

48. (1) A society shall, as soon as practicable but not later than five months after the close of each financial year, submit to the Board: ^{Submissions to the Board.}

(a) one certified true copy of the audited financial statements of the society as laid down in Parts I to IV of the Third Schedule, together with the audit report for that period prepared in accordance with article 49;

(b) one certified true copy of audited financial statements for public inspection, as laid down in Part V of the Third Schedule, together with the audit report for that period prepared in accordance with article 49 and stating whether in the auditor's opinion the society is entitled to prepare an abridged set of audited financial statements, for public inspection.

(2) A society may elect not to submit to the Board an abridged set of audited financial statements together with the audit report mentioned in subarticle (1)(b), in which case the Board shall make the society's audited financial statements, together with the audit report, referred to in subarticle (1)(a), available for public inspection.

(3) The Board may, if the auditor of the society is not of the opinion that the society is entitled to prepare an abridged set of audited financial statements, make available for public inspection the society's audited financial statements mentioned in subarticle (1)(a).

(4) The audit reports mentioned in subarticle (1)(a) and (b) shall be signed by the auditors.

(5) The society shall keep proper accounts and records of its

transactions and affairs and shall do all things necessary to ensure that all payments out of its moneys are correctly made and properly authorised and that adequate control is maintained over the assets of, or in the custody of, the society and over the expenditure incurred by the society. Such accounts shall, subject to the provisions of this Act, conform to International Accounting Standards.

(6) The society shall, as soon as practicable but not later than three months after the close of each financial year, prepare and submit the financial statements in respect of that year to the auditor who shall audit and report on them. Such an audit shall, subject to the provisions of this Act, conform to the International Standards on Auditing.

(7) References in this article to signature by the auditor shall refer to the signature of an individual partner or partners signing on behalf of the partnership and authorised to sign on its behalf, in those cases where the office of auditor is held by a partnership.

Audit report.

49. (1) The auditor of a society shall audit the accounts and other relevant records of the society and shall forthwith inform the Board and the society or any of its officers, of any material irregularity disclosed in the course of his audit. The financial statements prepared by the society after the close of the financial year shall be audited and reported on by the auditor.

(2) A society's auditor shall present a report on all financial statements of the society to the society's members. Copies of the financial statements and of the auditor's report thereon are to be laid before the society in general meeting, but shall be available for inspection by the members at the society's premises as from five working days from the date announced for the holding of the meeting.

(3) The auditor's report shall be drawn up in accordance with International Standards on Auditing and shall state whether, in the auditor's opinion, the financial statements have been properly prepared in accordance with this Act, and in particular whether a true and fair view is given -

(a) of the state of affairs of the society as at the end of the accounting period; and

(b) of the income and expenditure of the society for the accounting period.

(4) A society's auditor shall, in preparing his report, carry out such investigations as will enable him to form an opinion as to whether -

(a) proper accounting records have been kept by the society;

(b) proper returns adequate for the audit have been received from branches not visited by him;

(c) the society's accounts are in agreement with the accounting records and returns; and

(d) the society has functioned in accordance with its statute and the provisions of this Act.

(5) If the auditor -

(a) is of the opinion that any of the items mentioned in subarticle (4) are not in conformity with the requirements of this Act; or

(b) is unable to obtain all the information and explanations which, to the best of his knowledge and belief, are necessary for the purpose of his audit,

he shall state that fact in his report.

(6) The auditor may at any other time report to the Board and to the society upon any matters arising out of the performance of the audit.

(7) The audit of the accounts of a society may, for management purposes, include an examination of and a report on overdue debts, if any, and an examination of and a report on the valuation of the assets and liabilities of the society.

50. (1) The remuneration of auditors shall be fixed by the society in general meeting or in such manner as the society in general meeting may provide. The remuneration of auditors appointed by the committee of management or by the Board shall be fixed by the committee of management or by the Board, as the case may be. ^{Remuneration of auditors.}

(2) There shall be stated in the notes to the accounts the amount of the remuneration paid to the society's auditors, including any other remuneration earned by the auditors in any other capacity from the same society.

(3) For the purposes of this article, "remuneration" includes sums paid in respect of expenses.

(4) The provisions of this article shall apply in relation to

benefits in kind and to payments in cash; and, in relation to any such benefit, references to its amount are to be construed as references to its estimated money value. The nature of any such benefit shall also be disclosed.

(5) The Minister may by regulations provide for the manner in which the amount of any remuneration received or receivable by a society's auditors or associates of such auditors shall be disclosed; in particular, the regulations may prescribe the circumstances in which a person or body shall, for the purposes of such regulations, be considered as an associate of the auditors.

Regulations regarding auditors.

51. The Minister, acting on the advice of the Board, may make regulations, not inconsistent with the provisions of this Act, regulating -

(a) the appointment, removal, qualification, disqualification, remuneration and resignation of auditors;

(b) the powers, functions and duties of auditors;

(c) the keeping of accounting records, and the form and content of accounts;

(d) the auditor's report and any other reporting duties; and

(e) any other matter as may be necessary or appropriate for the better carrying out of the provisions of this Part of the Act.

PART V

Rights and Duties of Members

Register of members.

52. (1) Any person who becomes a member of a society, whether upon registration or at any later date, shall be deemed to have agreed to comply with the rules of the said society, and to the provisions of article 36. The names of members of the society shall be entered in the register of members.

(2) New members shall be admitted by the committee of management on an application made for that purpose:

Provided that if a person's application is refused by the committee, such person may appeal to the general meeting of members and in any such case he may be admitted as a member by a resolution passed by not less than two-thirds of the members present and voting at such a meeting.

53. (1) A person shall qualify for membership in a primary society if he is an individual who - Qualification for membership.

(a) has attained the age of eighteen years and is of sound mind; and

(b) satisfies such other requirements with regard to residence, employment, profession or other matter as may be prescribed by the statute; and

(c) is not an undischarged bankrupt.

(2) Where the statute of a society specifically so permits, a commercial partnership may also qualify for membership of a society:

Provided that -

(a) the operations of the commercial partnership are wholly or mainly similar or equivalent to the operations of the society;

(b) the commercial partnership shall be represented by a duly authorised individual at the general meetings of the society; and that such an individual shall be a director, partner or the majority shareholder of the said partnership;

(c) a commercial partnership may not be a member of a committee of management or of a supervisory board, if any; and

(d) the Board is informed immediately, by the society, whenever a commercial partnership is accepted as a member of that society.

(3) It shall not be lawful for a person to appear as a member of a society as nominee or for the interest of any undisclosed person. Any nominee agreement or similar agreement contrary to this subarticle shall be null and void, and the person whose name appears on the statute or in the Register of members shall, for all purposes, be deemed to be the member.

(4) Any person who at any time does not have the qualifications for membership as provided in this article shall be struck off the register of members by the committee of management and shall thereupon cease to be a member of the society.

54. No member of a society shall exercise any of the rights of a member unless he has made such payment to the society in respect of Exercise of membership rights.

membership, or has acquired such shares or other interest in the society, as may be prescribed under this Act or by the statute of the society.

Conflict of interest.

55. (1) No member of a primary society shall be a member of any other primary society having the same or similar objects or activities.

(2) The statute of a society may contain rules prohibiting or restricting its members from carrying out activities in competition with those carried out by the society.

Votes.

56. (1) Unless the statute of a society provides otherwise, each member of a primary society shall only have one vote in the affairs of the society, including at general meetings, irrespective of the number of shares he holds, and the right to vote shall be exercised in person and not by proxy. Notwithstanding anything contained in any statute, the granting of a proxy shall be in written form, and a proxy may not represent more than two members at a meeting, including the member exercising the proxy.

(2) In a secondary society or tertiary society, each society which is a member shall have as many votes as may be provided by the statute of the secondary society or tertiary society, and may, subject to such a statute, appoint any number of delegates, not exceeding the number of such votes, to exercise its right to vote.

Share capital.

57. Notwithstanding anything which may be contained in the statute of a society, no member shall hold more than forty per cent of the share capital of any society:

Provided that in the case of secondary or tertiary societies, a member which is itself a co-operative society may hold more than forty per cent of such share capital.

Transfer of shares or other interest.

58. (1) No member of a society shall transfer any share held by him or his interest in the capital of the society or any part thereof unless -

(a) he has held such share or other interest for not less than one year; and

(b) the transfer is in favour of the society, a member of the society or a person whose application for membership has been accepted by the committee of management of the society.

(2) No transfer of a share or other interest shall be valid and effective unless and until such transfer and the name of the transferee

has been approved and registered by the committee of management.

59. (1) The liability of a member, present or past, of a society, shall be limited to the amount, if any, unpaid of the shares held by him. ^{Limited liability}

(2) The liability of a past member for the debts of a society in terms of subarticle (1) shall be limited to those which existed on the date on which he ceased to be a member and shall cease on the expiration of two years commencing on that date.

(3) The liability of the estate of a deceased member shall be limited to the debts of the society, as they existed on the date of the death of the member and shall cease on the expiration of two years commencing on that date.

60. (1) A member may withdraw from a society subject to such conditions, and by giving to the society such notice, as may be prescribed by the statute. ^{Withdrawal}

(2) The amount that should be paid to the withdrawing member for the redemption of his share or interest shall be the nominal amount thereof.

(3) The statute of a society may stipulate the manner in which such payment is to be effected.

61. A member who contravenes any of the provisions of this Act or of any regulations made thereunder or of any provision of the statute of the society, and any member who acts in any way detrimental to the interests of the society, may be expelled from the society. ^{Expulsion}

Provided that the statute of a society may provide for a different procedure for the expulsion of members, as long as such procedure provides for the giving to the person charged reasonable notice of the charge and an opportunity to make representations and to present evidence against the charge.

PART VI

Operation and Management of Societies

62. (1) The supreme authority of a society shall vest in the general meeting of its members. ^{General meetings.}

(2) Subject to article 56 and to the provisions of this Act, every member shall have the right to attend and vote at all general meetings of the society, in person or by proxy.

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Legal and
judicial
representation.

63. The legal and judicial representation of a society shall be clearly specified in its statute; a society which does not clearly specify, in its statute, its legal and judicial representation shall not be registered.

First general
meeting.

64. (1) Every society shall, within six months from its date of registration, hold a first general meeting of its members.

(2) The business of the first meeting shall include the election of the officers who are to serve until the first annual general meeting.

Annual general
meeting.

65. (1) Every society shall provide in its statute for an annual general meeting to be convened by the committee of management and to be held as soon as practicable, but not later than six months, after the end of each financial year, and may also provide for other general meetings.

(2) Notice of every general meeting shall be given in writing to each member or delegate entitled to attend the meeting. Such notice shall be given at least fifteen clear days prior to the date of the meeting:

Provided that in cases of urgency a general meeting, other than an annual general meeting or a general meeting having on the agenda an amendment of the statute, may be called by a notice of not less than three working days.

(3) Every notice of a general meeting shall state the matters for discussion and the resolutions to be proposed, and no other subject shall be discussed without the consent of the majority of the members present and voting at such general meeting.

(4) The accidental omission to give notice of a meeting to, or the non-receipt of notice of a meeting by, any person entitled to receive notice, shall not invalidate the proceedings at that meeting.

Functions of the
annual general
meeting.

66. The functions of the annual general meeting of a society shall be -

(a) to consider and confirm, with such amendments as it may deem fit, the minutes of the previous annual general meeting and of any other intervening general meeting not previously approved at another general meeting;

(b) to consider the auditor's report, the reports of the committee of management and the supervisory board, if any, and any report made by the Board;

(c) to consider and approve the financial statements;

(d) subject to the provisions of this Act and the statute, to consider and determine the manner in which any available net surplus shall be distributed or invested;

(e) to consider and adopt any amendments to the statute;

(f) to propose and approve any honoraria, allowances, audit fees and/or other remuneration as defined in article 77;

(g) to elect members of the committee of management and of the supervisory board, if any;

(h) to appoint the auditors of the society;

(i) to decide appeals of persons whose application for membership has been rejected by the committee of management;

(j) to consider and determine the maximum amount the society may borrow;

(k) to hear and decide upon any complaints brought by members aggrieved by a decision of the committee of management, provided that notice of the intention to bring such complaints before the meeting has been given to the secretary or manager at least two days prior to the meeting;

(l) if so requested by him, to hear any auditor who has been removed by the society;

(m) to transact any other general business of the society of which due notice has been given to members.

67. (1) An extraordinary meeting of a society may be convened at any time by the committee of management of the society.

Extraordinary meeting.

(2) An extraordinary general meeting of a society shall be convened by the committee of management -

(a) on receipt of a request for such a meeting signed by at least one-fourth or fifteen of the members or delegates of the society, whichever is the less, stating the objects of the meeting;

(b) on receipt of a request from the supervisory board, or the Board, stating the objects of the meeting.

(3) If the committee of management fails to convene an extraordinary general meeting in accordance with subarticle (2) within one month of receiving the request for the meeting, the supervisory board, or the Board, as the case may be, making the request shall have power to convene the meeting themselves by notice to all members of the society stating the object of the meeting and the fact that the committee of management has failed to convene the meeting.

Quorum

68. (1) No business shall be transacted at any general meeting unless a quorum of members or delegates is present. The quorum necessary for the transaction of business shall be fifteen or one-fourth of all members or delegates qualified to vote, whichever is the less.

(2) If within thirty minutes after the time fixed for a general meeting the members or delegates present are not sufficient to form a quorum, such meeting shall be considered as dissolved if it is convened on the request of members or of delegates; in all other cases it shall stand adjourned to the same day in the next week at the same time and place and a notice to this effect shall be sent by post, to the registered addresses of the members and of whoever is entitled to attend, by the secretary within forty-eight hours of the adjournment; and if at the adjourned meeting a quorum is not present within thirty minutes from the time fixed for the meeting the members or delegates present shall form a quorum:

Provided that a general meeting with such reduced quorum shall not have the power to amend the statute.

Voting.

69. (1) Except as otherwise provided in this Act or in the statute, any question referred to the members or delegates present at a general meeting shall be decided by a majority of votes.

(2) At any general meeting a resolution put to vote shall be decided by a show of hands unless voting by call of names or by ballot is demanded by at least two members, where the number of members present is less than twenty, or by at least five of the members present in any other case:

Provided that for the election of officers the voting shall in all cases be carried out by ballot.

(3) In the case of an equality of votes the motion shall be rejected. The chairman shall have no casting vote.

Minutes.

70. (1) Minutes of the general meetings shall be entered in the minute book and shall include:

(a) the names of members or delegates present at the meeting and the name of the chairman who presided;

(b) the time the meeting commenced and ended;

(c) all resolutions and decisions taken at the meeting.

(2) The minutes of each general meeting shall be read at the next following general meeting, and when signed by the chairman of that meeting and the secretary, whether following confirmation or amendments, they shall be evidence of anything contained therein.

71. (1) Every society shall have a committee of ^{Committee of management} management consisting of not less than three and not more than nine committee members as may be provided by its statute.

(2) Members of the committee of management shall be elected, suspended or removed only by a majority of members or delegates present and voting at a general meeting of the society.

(3) All the members of a committee of management shall be individual persons and shall serve on the committee of management on their own responsibility and not as nominees or representatives of any other person.

72. An individual shall be eligible for membership of the ^{eligibility for membership} committee of management of a society or to remain a member of such a committee if he -

(a) is a member of the society;

(b) is an individual appointed in writing by a commercial partnership which is a member of the society;

(c) does not engage in an activity which gives rise to a conflict of interest;

(d) does not take part, on a permanent or occasional basis, in any activity which is directly or indirectly in competition with that of the society;

(e) is not an undischarged bankrupt;

(f) has not been convicted of any crime punishable by more than one year's imprisonment;

(g) does not have any outstanding debt owing to the society at the end of the society's financial year other than in respect of a loan made under the relevant rules of the society

statute;

(h) in the case of a primary society, he is not already a member of a committee of management of another primary society having the same or similar objects or activities;

(i) he does not receive any remuneration, salary or other payments, except as provided for in article 77;

Provided that, with respect to paragraph (c), the general meeting of the society may decide that a person shall be so eligible notwithstanding that he engages in any such activity.

Term of office.

73. (1) All the members of the committee of management of a society shall serve until the next annual general meeting of the society:

Provided that the statute of a society may provide that in the annual general meetings that may be held following the first annual general meeting, one-third of the members for the time being, or if their number is not three or a multiple of three, then the number nearest one-third shall retire from office and such members shall be those who have been longest in office since their last election:

Provided further that in case of persons who became members on the same day, those to retire in accordance with the preceding proviso, shall, unless they otherwise agree among themselves, be determined by lot.

(2) A retiring member shall be eligible for re-election.

(3) If, during the term of office of a committee of management, a vacancy occurs in the committee, the committee may, and if the number of members falls below three shall, co-opt a member of the society to serve on the committee of management until the next general meeting of the society:

Provided that, where the statute so provides, and where applicable, the first person to be considered for such co-option shall be the person who had obtained the highest number of votes amongst the non-elected candidates, followed by the person with the second highest number of votes, and so on in descending order.

Functions of the committee of management.

74. (1) Saving those powers reserved to the general meeting of members, and subject to the provisions of this Act, the committee of management shall be vested with the conduct and management of the affairs and business of the society and, subject to any restrictions contained in the statute or in any resolution taken at a general meeting

of members, the committee of management may exercise all the powers required to ensure the full and proper administration and management of the affairs, business and property of the society, including the putting into practice of proper and prudent accounting policies.

(2) Without prejudice to the generality of subarticle (1), the functions of the committee of management shall include the following:

(a) to consider, in terms of the provisions of article 52, applications for membership of the society;

(b) to call for and examine reports from persons employed by the society with the object of disclosing the true position of the society, its operations and financial condition;

(c) to open and operate banking accounts;

(d) to appoint sub-committees;

(e) to keep members informed of the progress of the society, to encourage interest and a sense of ownership on the part of the members and to carry out educational and advisory work among the members with respect to co-operative principles and the objects of the society;

(f) to prepare and present to the annual general meeting of the society proposals for the distribution of any net surplus accrued during the preceding financial year in accordance with this Act and the statute of the society;

(g) to present reports to the annual general meeting on the work of the committee of management during the preceding financial period and containing such recommendations as they deem necessary to maintain or improve the services provided by the society to its members;

(h) to take immediate action to correct mistakes, errors or malpractices, if any, which may be disclosed in the reports of the supervisory board, the Board and, or, the auditor.

(3) A full and correct record shall be kept of the proceedings of the committee of management. Such records shall be available for inspection by the supervisory board of the society, if any, by the Board and by the auditor.

(4) The committee of management may appoint, on such terms

and conditions as it thinks fit, a manager to administer and manage the affairs of the society and may employ such other persons as the committee considers necessary to assist the manager in the discharge of his duties.

(5) The committee of management may at any time suspend an officer for any good and sufficient cause arising out of the performance of his duties. Any such suspension shall be communicated to the Board, together with the reasons for the suspension.

(6) In the event of the suspension of an officer, the committee may appoint a substitute to hold office during the period of such suspension. The committee shall communicate the name of the substitute to the Board.

Meetings of the committee.

75. (1) The committee shall meet as often as the business of the society may require and in any case not less frequently than once in every month.

(2) The quorum for a meeting of the committee of management shall be a simple majority of its members.

(3) Decisions shall be taken by a simple majority of votes of members present and the President shall have no casting vote.

(4) Minutes of committee meetings shall be recorded by the secretary in the minute book and shall include -

(a) the number and names of those present;

(b) the name of the chairman of the meeting;

(c) a brief record of the business done and the decisions taken and a statement with respect to each decision whether it has been taken unanimously or by a majority.

(5) Any member of the committee of management who, without valid reason, fails to attend three consecutive meetings of the committee of management shall be deemed to have vacated his office which shall thereupon be filled as provided by article 73(3).

Conduct of affairs.

76. (1) In the conduct of the affairs of a society, the members of the committee of management shall exercise the prudence and diligence of ordinary persons of business and shall be jointly and severally liable for any losses sustained through failure on their part to exercise such prudence and diligence or through any act which is contrary to the provisions of this Act or of any regulations

made thereunder, or to the statute of the society or to any direction of any general meeting.

(2) Where the committee of management has employed a manager to administer and manage the affairs of the society, such appointment shall not absolve the committee from its responsibility for the proper direction of the affairs of the society.

77. (1) Allowances and honoraria payable to members of the committee of management or to the members of the supervisory board, if any, shall be those authorised by the statute or by the general meeting of the society. Remuneration

(2) No member of a committee of management shall receive a wage or a salary, except in such societies where the members of the society are also the employees.

78. (1) Every society shall have a President and a Vice-President, elected by the committee of management from among its members. Composition of society

(2) The committee of management shall also elect a secretary and a treasurer from among its members:

Provided that where a committee of management appoints a person as a full-time manager, any of the duties of the secretary or of the treasurer may be delegated to such manager, subject to the general supervision of the committee of management.

(3) The offices of secretary and of treasurer may be held by the same person.

79. (1) The President shall preside at all general meetings and at all meetings of the committee of management. In the absence of the President his functions shall be carried out by the Vice-President, and in the absence of both the President and the Vice-President at any meeting, by any other person elected by a majority of those present at that meeting. President

(2) The President shall be responsible for the smooth and orderly running of all general meetings and all meetings of the committee of management, and shall have the rights conferred upon him by the statute.

80. The duties of the secretary shall include:

Duties of the secretary.

(a) the duty to maintain all the society's records, papers and registers correctly and up-to-date;

(b) the duty to keep an inventory of the property belonging to the society;

(c) the duty to handle all correspondence on behalf of the committee of management;

(d) the duty to convene and attend general meetings and meetings of the committee of management and to record the proceedings of such meetings in the minute book; and

(e) the duty to manage the day-to-day running of the society's activities, and perform such other duties entrusted to him by the committee.

Duties of the treasurer.

81. The duties of the treasurer shall include:

(a) to take charge of all financial transactions of the society, including all moneys received, and to make disbursements in accordance with the directions of the committee of management;

(b) to give or cause to be given all the receipts, vouchers and documents required by the statute or called for by the committee of management;

(c) to keep a proper record of the society's accounts; and

(d) to assist the auditors of the society.

Duties of the manager.

82. The manager shall have such duties as may be specified in the statute of the society or in the letter of his appointment. He shall conduct his duties under the general supervision and policy directions of the committee of management. Such duties may include:

(a) to manage the business and property of the society;

(b) to attend the meetings of the society and of the committee of management as may be requested by the committee from time to time;

(c) to carry out all reasonable and legitimate instructions of the committee of management.

Supervisory board.

83. (1) Every society shall, if required by its statute, or if requested by at least a simple majority of members present and voting at a general meeting convened in terms of the provisions of this Act, have a supervisory board consisting of not less than three and not more than five members or otherwise as may be prescribed by its

statute. The members of the supervisory board shall be elected at the annual general meeting after the election of the members of the committee of management.

(2) No member of the committee of management may be a member of the supervisory board.

(3) The duration of the office of members of the supervisory board of a society shall be regulated by the statute of the society or by the general meeting, as the case may be. In the absence of any such provision, the term of the supervisory board shall expire at the next annual general meeting.

(4) The members of the supervisory board may include individuals who are not members of the society, and shall preferably be chosen from persons having knowledge of accounting, auditing and financial procedures.

84. (1) The supervisory board shall regulate its own ~~Procedure.~~ procedure.

(2) The quorum of a meeting of the supervisory board shall be half the number of its members.

(3) Decisions shall be taken by a simple majority of votes of members present at the meeting. The chairman shall have no casting vote.

85. (1) The supervisory board shall be responsible to the ~~Responsibility~~ general meeting of the society for assisting the committee of management in the effective and efficient running of the society, and to ensure that the management thereof is conducted in accordance with the provisions of this Act as well as in accordance with the statute of the society and with the decisions and resolutions adopted at general meetings or the committee of management or committee meetings. Its functions shall include:

(a) to present to the annual general meeting a specific report on the management and financial position of the society only in such cases in which the committee of management has failed to act in accordance with the requirements of the statute or with the recommendations of the same supervisory board.

(b) to summon extraordinary general meetings of the society in accordance with article 67; and

(c) bring forthwith to the attention of the committee of management any matters concerning the affairs of the society

which may require the same committee of management to take action.

(2) The supervisory board may at any time require the committee of management to summon an extraordinary general meeting whenever it considers that the members should be informed immediately of the position of the society and shall also have the power to summon an extraordinary general meeting themselves if the committee fails to do so within one month from receiving the request.

Convening of meetings.

86. Notwithstanding anything contained in this Act, the statute of a society may make provision for the holding of general meetings, and of meetings of the committee of management and of the supervisory board, if any, through suitable electronic means, including internet, telephone or video conferencing, provided that adequate measures are put in place to safeguard the right of each and every member to participate, to vote, and to ensure the adequate recording of the proceedings. In such an event, the provisions of this Part shall be construed and applied accordingly.

PART VII

Property and Funds of Societies

Capital of a society.

87. (1) The capital of a society may be raised, subject to the provisions of this Act, in any one or more of the following manners:

- (a) admission fees;
- (b) subscription and payment of shares;
- (c) savings deposits made by its members;
- (d) deposits or loans from non-members;
- (e) surplus carried to reserve funds.

(2) The following rules shall have effect with respect to the manner of raising capital specified in subarticle (1):

(a) no admission fee shall be refundable except in respect of an application for membership that has been rejected.

(b) no share may be redeemed except in accordance with the statute of the society and no rule in the statute allowing such redemption shall have effect unless such rule also specifies the minimum number of shares a member shall hold while he is a member;

(c) savings deposits may be either obligatory and regular or voluntary. Regular and obligatory deposit shall be made in accordance with the statute of the society and may not be withdrawn except for purposes and in accordance with conditions specified in the statute, or on termination of membership; such deposits may serve to secure loans taken by or guarantees given by a member. Voluntary deposits may be withdrawn, subject to any conditions or restrictions specified in the statute;

(d) deposits or loans from non-members shall be subject to the provisions of this Act and of the statute of the society;

(e) a reserve fund shall be kept and used in accordance with the provisions of this Act and of the statute of the society.

(3) A society may not issue bonds or debentures without the authority of the Board and shall, in any such issue, comply with any conditions prescribed by the Board.

88. (1) A society may receive deposits and loans from members and from persons who are not members only if so authorised by its statute and only to such extent and under such conditions as may be determined or prescribed by its statute or under the following provisions of this article.

(2) A society which under its statute has power to borrow money shall determine from time to time, at a general meeting, the maximum liability which it may, within the limits prescribed by its statute, incur in respect of loans or deposits from members and non-members including bank overdrafts.

89. A society may invest or deposit its funds -

(a) in accordance with the provisions of its statute; or

(b) in any other manner not inconsistent with its statute, as the committee of management may consider appropriate, subject to any general or specific directions, if any, as may be determined by the general meeting.

90. (1) Every society shall maintain a reserve fund, and such fund shall be used exclusively to cover losses incurred by the society.

(2) The reserve fund shall be kept in the form of liquid assets.

(3) Every society shall transfer into the reserve fund at least

twenty per cent of its surplus at the end of each accounting period:

Provided that the requirement of this subarticle shall not apply at the end of any accounting period in which the reserve fund is equal to the total of the paid-up share capital and of twenty per cent of the borrowed capital of the society as shown in the audited and approved balance sheet of the preceding financial period.

Central Co-
operative Fund.

91. (1) There shall be a Central Co-operative Fund, hereinafter referred to as "the Fund", which shall be administered in such manner as the Minister may prescribe by regulations made under this Act.

(2) The Fund shall be used in furtherance of co-operative education, training, research, and for the general development of the co-operative movement in Malta, and for such other purposes as may be stipulated in regulations made under this article.

(3) Every society shall contribute five per cent of the surplus resulting from its activities, operations, investments and any other sources at the end of each accounting period to the Fund.

(4) Regulations made under this article may establish the highest amount that a society may be obliged to contribute in any financial year to the Fund.

(5) The Fund shall have a distinct legal personality and, subject to the provisions of this Act, shall be capable of entering into contracts, of suing and being sued, and doing all such things and entering into all such transactions as are incidental or conducive for the fulfilment of its objectives.

(6) The Fund shall be responsible for collecting, recovering and instituting proceedings for the payment of sums due to it, in terms of the provisions of this Act.

(7) The Board shall, on receipt of the audited accounts of a society, furnish to the Fund such information as will enable the Fund to determine the contribution of the said society towards the said Fund.

Division of
surplus funds.

92. (1) The net surplus of a society at the end of each accounting period after transfers have been made to the reserve fund and to the Fund in accordance with articles 90 and 91 may be divided among the members by way of dividend or in any manner authorised by this Act or by the statute of the society, and may also be allocated to any other funds of the society to such extent and under such conditions as may be prescribed under this Act or by the statute of the

society.

(2) (a) The statute of a society may establish the maximum rate that the society may pay to its members by way of dividend.

(b) Where a maximum rate is not specified in the statute of a society, the maximum rate shall be that specified, from time to time, by regulations made by the Minister, in consultation with the Board.

(3) Subject to any provisions contained in the statute of a society, or to general or specific directions determined by a general meeting, a society may apply an amount of its net surplus for any charitable, educational or other public purpose.

93. (1) A society may distribute any part of the remainder of its net surplus by way of patronage refund. Patronage refund

(2) Patronage refund means the distribution of all or any part of the net surplus of a society, paid among its members in proportion to the volume of business or other transactions done by them with the society.

94. (1) A society may distribute any part of its net surplus among its members in the form of bonus certificates or bonus shares. Bonus certificates and shares

(2) A bonus certificate shall entitle the holder to claim payment of the sum for which the certificate is issued out of the society's funds on a date specified in the certificate, being a date not earlier than five years from the day when the bonus certificate was issued. No interest or dividend shall be paid on such certificates.

(3) A bonus share may not be withdrawn or transferred before the expiration of ten years from the date of its issue unless the holder of the bonus share has ceased to be a member, in which case the sum claimed by a former member may be claimed by the same person, or his heirs, up to twelve months after the date when the person had ceased to be a member.

PART VIII

Amalgamation of Societies

95. (1) Subject to the provisions of this Act, any two or more societies may by instrument in writing amalgamate into a single society if each of such societies has so resolved, by a three-fourths majority of the members present and voting, at an extraordinary general meeting held for the purpose and for which a notice in writing, containing the resolution and giving the date and place of the Amalgamation

meeting, has been given at least fifteen days before the meeting is held.

(2) The new society formed as aforesaid may apply for registration under article 26 and may be registered under article 29.

(3) The instrument of amalgamation shall have no effect until and unless the new society is so registered.

Amalgamation
by merger.

96. (1) Subject to the provisions of this Act, any two or more societies may, by instrument in writing, amalgamate by merger in such a manner that one or more societies are acquired by another society, referred to as the acquiring society, if each of such societies has so resolved, by a three-fourths majority, or by a higher majority as may be stipulated in the statute, of the members present and voting, at an extraordinary general meeting held for the purpose and for which a notice in writing, containing the resolution and giving the date and place of the meeting, has been given at least fifteen days before the meeting is held.

(2) The society or societies which are acquired by the acquiring society as provided for in subarticle (1) shall be dissolved and struck off the register without winding up.

New societies.

97. (1) An acquiring society referred to in article 96, or a new society set up in terms of article 95, shall succeed to all the assets, rights, liabilities or obligations of the society or societies ceasing to exist by virtue of the act of amalgamation, without the requirement for any formalities, and the said succession shall thereupon be effective even as regards third parties.

(2) The succession to all assets, rights, liabilities or obligations of the society or societies ceasing to exist by the acquiring or by the new society, as the case may be, shall not give rise to any liability for the payment of any duty or tax under the Duty on Documents and Transfers Act or the Income Tax Act.

Cap. 364.
Cap. 123.

Assets and
liabilities.

98. (1) Subject to the provisions of this Act, a society which is so authorized by a resolution passed as provided in article 95(1), may, by instrument in writing, transfer to another society authorised to accept the transfer by a resolution similarly passed, all its assets and liabilities without exception.

(2) The instrument effecting such transfer shall be registered with the Board, and shall not have effect until it is so registered.

Amalgamation
of societies and
transfer of assets
and liabilities.

99. (1) The amalgamation of societies in terms of articles 95 and 96, and the transfer of the assets and liabilities of a society to

another society in terms of article 98 shall not be effected and the relative instrument shall not be signed before the expiration of a period of three months, or such shorter period as the Board may, in exceptional circumstances, allow, from the publication in the Gazette of a notice by the Board, containing the general particulars of the intended amalgamation or transfer.

(2) During the period referred to in subarticle (1), any creditor of the societies involved may in writing to the society object to the proposed amalgamation or transfer, and the amalgamation or transfer shall not take place unless the society in question satisfies the Board that the proposed amalgamation or transfer shall not adversely affect the legitimate interests of the said creditor and that sufficient guarantees would remain for the settlement of his legitimate claims.

(3) Any member of an amalgamating society or of a transferor society may, notwithstanding any rule to the contrary, by notice in writing given to the society of which he is a member, not later than two months from the date of the relevant resolution passed by that society, declare his intention not to become a member of the new society, or of the acquiring society, or of the transferee society, as the case may be; and upon giving such notice he shall cease to be a member and shall be entitled to receive the nominal value of his shares.

(4) Where a transfer of the assets and liabilities of a society to another society has been effected as provided in article 98, the transferee society shall succeed to all such rights, assets, liabilities and obligations as may be stipulated in the transfer agreement, duly registered with the Board as provided in article 98(2), and all deeds, contracts, instruments and other documents shall have effect and be construed accordingly.

PART IX

Dissolution and Liquidation of Societies

100. (1) If the Board, after holding an inquiry under article 14, is of the opinion that such society ought to be dissolved, it may issue a dissolution order, dissolving the society. In taking its decision, the Board shall consider the interests of the members, creditors and employees of the said society.

(2) The Board shall, on receipt of a resolution passed by a three-fourths majority, or such other higher majority as may be stipulated in the statute, of the members of a society present and voting at an extraordinary general meeting convened for the purpose of dissolving the said society, issue a dissolution order:

Provided that where the statute of a society requires that a resolution for the dissolution of a society be confirmed at a second and subsequent general meeting, the Board shall only issue such order if the resolution is so confirmed.

(3) The Board may, on its own motion, make a dissolution order in respect of a society which has become insolvent, or has not commenced operations or has ceased to operate or the membership of which is reduced to less than the minimum membership required by article 22.

(4) When making a dissolution order under subarticle (1), (2) or (3), the Board shall appoint a liquidator for the purposes of winding up the affairs of the society.

(5) The liquidator shall be appointed from amongst persons who have, for at least five consecutive years, held a warrant to practise as a Certified Public Accountant (CPA) or as a Certified Public Accountant and Auditor (CPAA), not being a person who has served as an officer, accountant or auditor of the society, at any time during the five years prior to the date of the dissolution order.

(6) A person shall be disqualified from appointment as liquidator in the same cases, *mutatis mutandis*, in which under article 46 he would be disqualified to be appointed as auditor.

(7) Upon the appointment of a liquidator by the Board, all powers and functions of the committee of management, and of the supervisory board, if any, shall cease.

(8) When a society has been dissolved, it shall, from the date of dissolution, cease to carry on its business except in so far as may be required for the beneficial winding up thereof.

(9) The costs of the liquidation, including the remuneration of the liquidator, shall be payable out of the assets of the society in priority to all other claims.

(10) As soon as a liquidation is started, the Board shall determine whether the assets of the society in liquidation are sufficient to cover all the costs of the liquidation, including the remuneration of the liquidator. If the assets of the society are not sufficient for the above purposes, these costs, and these costs only, shall be payable by the members of the committee of management or by all the members of the society, as the Board may determine in each particular case.

(11) The Board shall, as soon as possible, cause a notice to be published in the Gazette, giving the general particulars of any dissolution order issued by it under this article.

101. (1) Subject to the provisions of any order made by the Board under article 102, a liquidator appointed by the Board shall have the power to -

(a) take immediate possession of all assets belonging to the society and of all books, records and other documents pertaining to the business thereof;

(b) carry on the business of the society in as far as may be necessary for winding up its affairs beneficially, provided that he shall not for this purpose be entitled to issue any loan;

(c) fix by notice published in one or more local newspapers the day before which creditors must present their claims in order that they may be admitted to any distribution;

(d) refer any dispute to arbitration and institute and defend suits and other legal proceedings on behalf of the society;

(e) take such decisions as may be necessary in regard to the collection and realisation of assets in the course of winding up the society;

(f) investigate all claims against the society and, subject to the provisions of this Act, decide questions of admissibility of claims and of priority between claimants;

(g) pay claims against the society, including interest payable up to the date of the dissolution order, according to their respective priorities, if any, in full or to such extent as the assets of such society permit;

(h) with the approval of the Board, enter into any compromise with regard to any claim by or against the society;

(i) call such meetings of members as may be necessary for the proper conduct of the liquidation, giving not less than fifteen clear days' notice of every such meeting;

(j) subject to any rule limiting the liability of members and subject to the provisions of article 59, decide on the contributions to be made to its assets by members, past members or by the estates of deceased members of the society;

(k) submit a scheme of distribution to the Board for its approval, and arrange for the distribution of the assets of the society in a convenient manner; and

(l) report to the Board any suspected irregularities which occurred either before or after the dissolution order, and which come to his notice during the course of the dissolution.

(2) Any person aggrieved by any order of the liquidator made under the provisions of subarticle (1)(f), (j) or (l) may appeal in writing to the Board within thirty days from the date of such order.

(3) A liquidator shall deposit the funds and other assets of a dissolved society which are collected by him or which come into his possession as liquidator in such manner and in such place as may from time to time be determined by the Board.

(4) A liquidator shall, every year, submit to the Board a report stating the progress made in winding up the affairs of the society, as well as the audited financial statements of the society for that year and shall, on completion of the liquidation proceedings, submit a final report which includes an audited scheme of distribution and hand over to the Board all books, registers and accounts of the society in his possession.

Powers of Board over liquidator.

102. (1) A liquidator shall exercise his powers subject to the supervision of the Board.

(2) Without prejudice to the generality of the provisions of subarticle (1), the Board may -

(a) remove a liquidator from office and appoint a new one;

(b) by order in writing, limit the powers of a liquidator, as it may deem appropriate;

(c) determine the remuneration of the liquidator.

Order by liquidator.

103. An order made by a liquidator in terms of article 101(1) and (2) and ratified in writing by the Board shall be enforceable by the Civil Court or by the Court of Magistrates (Malta) or the Court of Magistrates (Gozo), in its superior jurisdiction as if it were a judgement of that Court, and the provisions of article 19(3) shall, *mutatis mutandis*, apply.

Winding up of society.

104. Upon the winding up of a society, the assets, including the reserve fund, shall be applied first to the costs of liquidation, then to

the discharge of the liabilities of the society, then to the payment of the share capital or subscription capital, and thereafter, if the statute of the society permits, to the payment of a dividend or patronage refund at a rate not exceeding that specified in regulations made under this Act or in the statute of the society for any period during which no dividend or patronage refund was in fact paid.

105. (1) When the affairs of a society have been wound up, the Board shall make an order cancelling the registration of such society and the society shall be struck off the register. A notice of such an order shall be published in the Gazette. Cancellation of registration

(2) The claim of any creditor of the society which remained unsatisfied under the approved scheme of distribution shall be barred by prescription on the expiration of two years from the date of a cancellation order of the society.

(3) Any moneys remaining after the application of the funds to the purpose specified in article 104 and any sums unclaimed during the period mentioned in subarticle (2), shall not be divided among the members, except in the case of the liquidation of a secondary society, but shall be deposited into the Co-operative Societies Liquidation Account kept by the Board.

(4) Any sum deposited into the Co-operative Societies Liquidation Account shall, after a period of five years, be transferred to the Fund.

PART X

Constitution, Functions and Duties of the Apex organisation

106. An Apex organisation shall be an association which satisfies the Board that it complies with the following requirements. Apex organisation

(a) that it has a membership of at least an absolute majority of all primary co-operative societies enjoying full registration in terms of article 29;

(b) that its statute states that the principal object of the association is to facilitate the operations of all primary, secondary and tertiary co-operative societies in Malta;

(c) that its statute states that the object of the association is to provide, organise and supervise effective centralized services for co-operative societies and for co-operative education and training, and such other services as may be necessary or expedient for its members;

(d) that its statute makes provision for the association to be managed by persons freely elected by the members of the association in an election which is held at least once every calendar year;

(e) that the association does not have the making of profit as one of its objects;

(f) that the association is independent of any other association, or grouping whose principal object is not the promotion and development of co-operative societies; and

(g) that the association may accept as its members any society, whether primary, secondary or tertiary.

Recognition of
Apex
organisation.

107. (1) An association wishing to be recognised and registered as an Apex organisation shall submit to the Board:

(a) an application on the appropriate form issued under the authority of the Board;

(b) an updated copy of its statute, duly certified by the persons elected in terms of article 106(d);

(c) a list of the officers of the association;

(d) a list of the co-operative societies which have joined as members of the association; and

(e) its official address.

(2) The Board shall, at its earliest opportunity, examine and verify whether the association satisfies the requirements laid down in article 106. Where these requirements are satisfied, the Board shall register the association as the registered Apex organisation, and shall issue a certificate confirming the registration of the said association and the date of registration.

(3) Where the Board determines that an association does not satisfy the requirements for registration as an Apex organisation, it shall within fourteen days of its decision give notice thereof in writing to the association, stating the grounds for such a decision.

(4) A certificate issued by the Board to the effect that a particular association is a registered Apex organisation shall be valid and conclusive evidence of the fact that the association is so recognised and registered for all intents and purposes of law.

(5) No fees shall be charged for the registration, by the Board, of an association as an Apex organisation.

Part XI
Miscellaneous

108. (1) The Minister may make regulations for the purpose of carrying out and giving effect to any of the provisions of this Act. Power to make regulations

(2) Without prejudice to the generality of the power conferred by subarticle (1), the regulations may -

(a) make provision for the administration of the Central Co-operative Fund and of the Co-operative Societies Liquidation Fund;

(b) prescribe the maximum rate of dividend on share capital which may be paid by societies, unless specified in the society's statute;

(c) prescribe in which form and under what conditions the Government may recognise and support co-operative schemes in the public sector;

(d) prescribe fees to be levied with respect to any matter required or allowed under this Act;

(e) prescribe the circumstances under which a society may be required to prepare consolidated accounts and the format and other requirements to be adopted for this purpose;

(f) prescribe for the conduct of winding-up proceedings under Part IX of this Act; and

(g) prescribe or otherwise provide for any matter which is to be or may be prescribed or provided for by regulations under this Act.

(3) The Minister shall also have power, by regulations made under this article, to amend or substitute the Schedules to this Act.

(4) The Minister may, acting in concurrence with the Minister responsible for commercial partnerships, make regulations establishing the procedures and other requirements whereby:

(a) a commercial partnership may be converted into a society;

(b) a society may be converted into a commercial partnership.

Cap. 386.

(5) The regulations referred to in subarticle (4) may make provision for the consequences of such a conversion, and may provide for the application of any provision of Part VIII of this Act, or of Part VII of the Companies Act, subject to such modifications, amendments or qualifications as may be laid down in the regulations.

Disputes.

109. If any dispute concerning the constitution of a society, the election of its officers or the conduct of its general meetings, or the management or business of the society, arises -

(a) among members, past members and persons claiming through members, past members and deceased members; or

(b) between a member, past member or deceased member, and the society, its committee of management, its supervisory board, or any officer of the society; or

(c) between the society or its committee of management or its supervisory board and any officer of the society; or

(d) between a society and any other society; or

(e) on the basis of a claim by a society for any debt or any other dues from a member, a past member or the heirs of a deceased member, whether such debt or other dues are admitted or not; or

(f) any dispute arising out of the interpretation of the statute of a society, or of any rule thereof,

then such dispute may, and if provided in the statute of a society or if agreed to by the parties involved in the dispute shall, be submitted to arbitration by an arbitrator appointed by the Chairman of the Malta Arbitration Centre:

Provided that the provisions of this article shall not apply to a dispute between a society and its employees in matters concerning the contracts of service of such employees.

Offences.

110. (1) It shall be an offence under this Act if -

(a) a society or an officer or member thereof wilfully neglects or refuses to do any act or furnish any information required for the purposes of this Act by the Board or by any

person duly authorised in that behalf by the Board; or

(b) a society or an officer or member thereof wilfully makes a false return or furnishes false information; or

(c) any person wilfully or without reasonable excuse disobeys any summons, requisition or lawful written order issued under the provisions of this Act, or does not furnish any information lawfully required from him by a person authorised to do so under the provisions of this Act; or

(d) any person acts or purports to act as a member of a committee of management or supervisory board when not entitled to do so; or

(e) a society or an officer or member thereof, wilfully performs any act which requires the consent or approval of the Board without first having obtained such consent or approval; or

(f) a society or an officer or member thereof wilfully omits to do or to cause to be done an act or thing which is required by or under this Act to be done or to be caused to be done; or

(g) a society or an officer or member thereof wilfully does or causes to be done any act or thing prohibited by or under this Act.

(2) Every society, officer or member of a society or other person found guilty of an offence under this article shall, on conviction, be liable to a fine (*multa*) not exceeding two thousand liri and, in the case of a continuing offence, to a further fine(*multa*) not exceeding twenty liri for each day during which the offence continues.

111. (1) The Co-operative Societies Act is hereby repealed and any references in any law to the repealed Act shall be construed as references to this Act. Repeal and saving. Cap. 278.

(2) Notwithstanding the provisions of subarticle (1), any registration, authorization, approval, appointment, order, regulations or other action whatsoever made or issued by virtue of the repealed Act shall continue in force as if made under this Act.

FIRST SCHEDULE

Article 26(1)

Application for Registration of a Co-operative Society

1. We, _____ the _____ undersigned
.....
.....

(insert name, age, address and occupation of at least five persons, or of at least two persons duly authorised in this behalf of each society (if the application is made by societies) who desire to form a co-operative society under the Co-operative Societies Act, and hereby apply for registration).

2. The name of the proposed society shall be
.....insert name proposed).

3. The registered office of the proposed society shall be at
(insert proposed address) and its postal address shall be
.....

4. Enclosed is a signed copy of the proposed statute, specifying the objects of the society and a copy of the viability statement (if already requested by the Board), and a copy of the feasibility study (prepared and signed by)

5. The proposed statute was approved on 20

6. The persons undersigned are now willing to become members and have made the payments necessary for admission to membership as provided in the enclosed statute.

7. Enclosed is also the additional information which may assist the Board in considering this application.

8. We, the undersigned, are the founding members or the representatives thereof and have consented to manage the affairs of the proposed society and otherwise perform the functions of such committee in accordance with the Co-operative Societies Act, until our successors are elected at the first general meeting held after registration of the society.

.....
Provisional President

.....
Provisional Secretary

.....
.....

Founding Members

Additional information about proposed society

1. *Location of proposed society*

Give location and approximate site of area in which the proposed society will provide services to members (if other societies are to be members, give their names and location)

2. *Kind of co-operative society required*

Describe briefly the main purpose for which the society is to be organised

3. *Reasons*

Give detailed reasons for forming the society

4. *Source of membership support*

Briefly describe the main occupation or employment, or residential area, or other bond of association or occupation of the people expected to become members

5. *Attitude towards community projects*

Do the people referred to in item 4 work together in voluntary projects to benefit the community or area in which they live, or the occupational, employment or other group to which they belong?

6. *Expected membership*

(a) Number of persons ready to join now

(b) Estimated number of persons expected to join within the first year of operation

A 2060

7. *Management*

If the society is registered, will the services of a competent manager (or secretary or treasurer) be available?

- (a) Name
- (b) Experience and training
- (c) Will he be able to keep or supervise the keeping of accurate books or records?
.....
.....

8. *Financial participation by members*

- (a) Will members provide share capital or other funds to start the society and continue to give it financial support after operations commence?
.....

- (b) Value of each share Liri. Total expected to be paid on shares and/or subscriptions when operations commence Liri.

- (c) Total paid-up membership fees expected when operations commence..... Liri.

Total entrance fees to be paid when operations commence Liri.

- (d) From what source of income will members provide the capital required?

(e.g. salaries, wages, business, etc.)

9. *Educational meetings*

Have educational meetings been held to discuss the proposed society, its operations and its benefits to members if they support it ?
.....

- (a) If so, how many ?
- (b) Average number of attendance
- (c) Speakers.....

10. *Discussion on Statute*

Have study and discussion groups been organised to involve and inform people who wish to become members?

Has a model statute been discussed? If so, when, how, by whom and with whose assistance?

11. *Office space*

If office space, a building or equipment is required for the purposes of the society, how will this be obtained and financed ?

.....
.....

12. *Planning and Technical Advice*

Has advice been obtained on whether planning of the proposed society seems adequate and whether it has reasonable prospects of success if the members give it their support?

If so, give the source of such advice

13. *Consultation with an officer of the Board*

Has an officer of the Board been consulted on the need for the proposed society and necessary preparations for organisation?

(give details)

Dated at the day of 20

Names and signatures of original prospective members:

.....
.....
.....

SECOND SCHEDULE

Article 34(2)

The following is a non-exhaustive list of matters required to be included in the statute of a Co-operative Society:

1. The name of the society.
2. The place and postal address of its registered office.
3. The objects of the society.
4. The geographical area of operation of the society.
5. The purposes to which the society's fund may be applied.
6. The value of each share, if the society is formed with share capital, or the minimum amount of monthly subscriptions.
7. The qualifications for membership, the terms of admission of members, the entrance or affiliation fees, if any, payable, and the mode of admission.
8. The manner of raising share capital, if any, and other funds and the terms of withdrawal or transfer of shares and, or, subscription capital.
9. The rights and obligations of members and the extent of the liability of members for debts of the society.
10. The conditions in which a member may withdraw from membership, including the procedure whereby the nominal value of the shares held by a withdrawing member shall be redeemed.
11. The mode of summoning and conducting meetings, and the rights of voting.
12. The powers and duties of general meetings, committee of management, officers, and supervisory board (where applicable).
13. The mode of election, appointment, suspension and removal of the committee of management, the supervisory board (where applicable), and officers of the society.
14. The legal and judicial representation of the society, including the authorisation of an officer or officers to sign documents and otherwise act on behalf of the society.
15. The method of constituting, operating and allocating the reserve fund and the amount or method of fixing the amount to be contributed thereto.

16. The disposal of the annual net surplus.
17. The *honoraria* or allowances, if any, to be paid to officers of the society.
18. Restrictions of transactions with persons other than members, if any.
19. In the case of a society the objects of which include the creation of funds to be lent to the members, additional rules in its statute with respect of the following matters:
 - (a) the conditions on which loans may be made to members, including -
 - (i) the maximum rate of interest;
 - (ii) the maximum period allowed for the repayment of a loan;
 - (iii) the extension of the term and renewal of a loan;
 - (iv) the purposes for which a loan may be granted; and
 - (v) the security required for repayment.
 - (b) the consequences of default in payment of any sum due on account of shares, subscriptions, deposits or loans and the consequence of failure to use a loan for the purpose for which it was granted;
 - (c) the occupation or residence of persons who may become members; and
 - (d) the conditions on which loans and deposits may be received from members and non-members and the extent to which the society may borrow from members and non-members.
20. In the case of a secondary society or tertiary society or the Apex organisation, the method of representation of members at general meetings, the removal of delegates and the manner of voting of delegates.
21. If deemed appropriate, rules distinguishing between active members and non-active members in relation to the qualification for membership of the society and any other matters related thereto.
22. Rules in respect of any other matter incidental to the management of the society's business.
23. If deemed appropriate, rules with respect to the referral of disputes to the Arbitration Centre.
24. The maximum rate that the society may pay to its members by way of dividend.

A 2064

25. If deemed appropriate, the provision of proxy rights.
26. If deemed appropriate, the provision of holding general meetings through suitable electronic or other means.
27. The maximum amount that a society may borrow, including bank overdrafts.
28. A procedure for the expulsion of members.
29. If deemed appropriate, the provision for including the possibility of having commercial partnerships as members.
30. The manner for convening the annual general meeting.
31. The number of members composing the committee of management.
32. Restrictions on members in relation to membership in other societies having the same or similar objects or in relation to activities carried out in competition with those of the society.
33. Rules on the transmission of shares *causa mortis*.
34. Rules concerning the majority of votes required for amendments to the statute, conversions, amalgamations or dissolution of the society.
35. Rules on the receipt, expenditure and investment of monies and the acquisition and disposal of assets by the society.
36. If deemed appropriate, the provision for requiring a second general meeting to confirm a resolution for the dissolution of the society.
37. If deemed appropriate, the provision for the distribution of any part of the net surplus of a society among its members in the form of bonus certificates or bonus shares.

THIRD SCHEDULE

FORM AND CONTENT OF INDIVIDUAL ACCOUNTS

PART I - GENERAL RULES AND FORMATS

General rules

1. (1) Subject to the following provisions of this Schedule -

(a) every balance sheet of a society shall show the items listed in the balance sheet format set out immediately following paragraph 13 of this Schedule: and

(b) every income and expenditure account of a society shall show the items listed in the income and expenditure account format set out immediately following the balance sheet format,

in either case in the order and under the headings and subheadings given in the format adopted. For this purpose the words in brackets against the headings, the subheadings and the items are explanatory and do not have to be reproduced in the individual accounts.

(2) Sub-paragraph (1) is not to be read as requiring any item, or the heading or subheading for any item, to be distinguished by any letter or number assigned thereto in the format adopted.

2. (1) Where, in accordance with paragraph 1, a society's balance sheet or income and expenditure account for any accounting period has been prepared by reference to one of the formats set out herein, the committee of management of the society shall adopt the same format in preparing the financial statements for subsequent accounting periods of the society unless, in their opinion, there are special reasons for a change.

(2) Particulars of any change in the format adopted in preparing a society's balance sheet or income and expenditure account in accordance with paragraph 1 shall be disclosed, and the reasons for the change shall be explained, in the notes to the accounts drawn up when the new format is first adopted.

3. (1) Any item required in accordance with paragraph 1 to be shown in a society's balance sheet or income and expenditure account may be shown in greater detail than required by the format adopted.

(2) A society's balance sheet or income and expenditure account may include an item representing or covering the amount of any asset or liability, income or expenditure not otherwise covered by any of the items listed in the format adopted, but the following shall not be treated as assets in a society's balance sheet -

A 2066

- (a) expenses of and commission on any issue of shares; and
- (b) costs of research.

Any additional items as aforesaid shall be included under either an existing heading or subheading or under a new heading or subheading as appropriate.

(3) The layout, nomenclature and terminology of items in the balance sheet and income and expenditure account that are preceded by Arabic numerals shall be adapted where the special nature of an undertaking so requires.

(4) Items to which Arabic numbers are assigned in any of the formats set out herein may be combined in a society's individual accounts for any accounting period if either -

- (a) their individual amounts are not material to assessing the state of affairs or surplus or loss of the society for that accounting period, or
- (b) the combination facilitates that assessment,

but where the provisions of sub-paragraph (b) apply, the individual amounts of any items so combined shall be disclosed in the notes to the accounts.

(5) Save where there is a corresponding item for the preceding accounting period, a balance sheet or income and expenditure account item for which there is no amount shall not be shown. In such case, the heading or subheading in respect of that item shall also not be shown if that item is the only one under such heading or subheading.

4. (1) In respect of every item shown in a society's balance sheet or income and expenditure account or in the notes to the accounts, there shall also be shown the corresponding amount for the accounting period immediately preceding that to which the individual accounts relate.

(2) Where that corresponding amount is not comparable with the amount to be shown for the item in question in respect of the accounting period to which the individual accounts relate, the former amount shall be adjusted and particulars of the adjustment and the reasons for it shall be disclosed in the notes to the accounts. Such adjustments shall be made in accordance with generally accepted accounting principles and practice.

5. Save as otherwise provided in this Schedule, or as may be permitted by generally accepted accounting principles and practice, any set-off between asset and liability items, or between income and expenditure items, shall be prohibited.

6. (1) In determining whether particular assets are to be shown as fixed assets or current assets reference shall be made to the purpose for which they are intended.

(2) Fixed assets shall comprise those assets which are intended to be held on a continuing basis in connection with the undertaking's activities.

(3) Where an asset or liability relates to more than one layout item, its relationship to the other item or items shall be disclosed either under the item where it appears or in the notes to the accounts, if such disclosure is essential to the comprehension of the individual accounts.

(4) Shares in secondary and tertiary undertakings may be shown only under the items prescribed for that purpose.

7. (1) "Provisions for liabilities or charges" are intended to cover losses or debts the nature of which is clearly defined and which at the date of the balance sheet are either likely to be incurred, or certain to be incurred but uncertain as to amount or as to the date on which they will arise.

(2) "Provisions for liabilities or charges" may not be used to adjust the values of assets.

8. (1) "Secondary and tertiary societies" shall have the meaning assigned to it by the Act.

(2) "Turnover" shall comprise the amounts derived from the sale of products and the provision of services falling within the society's ordinary activities, after deduction of sales rebates and taxes directly linked to the turnover.

9. (1) Income and charges that arise otherwise than in the course of the society's ordinary activities shall be shown under "Extraordinary Income" and "Extraordinary Charges".

(2) Unless the income and charges referred to in sub-paragraph (1) hereof are immaterial for the assessment of the results, explanations of their amount and nature shall be given in the notes to the accounts. The same shall apply to income and charges relating to another accounting period.

10. (1) Every income and expenditure account of a society shall show the amount of the society's surplus or loss on ordinary activities before taxation.

(2) Taxes on the surplus or loss on ordinary activities and taxes on the extraordinary surplus or loss may be shown in total as one item in the income and expenditure account before "Other Taxes not shown under the above items". In such a case "Surplus or Loss on Ordinary Activities after Taxation" shall be omitted from the income and expenditure account layouts prescribed in this Schedule.

(3) Where this derogation is applied there shall be disclosed in the notes to the accounts the extent to which the taxes on the surplus or loss affect the surplus or loss on ordinary activities and the extraordinary surplus or loss.

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11. Every surplus and loss account of a society shall show separately as additional items:

(a) any amount set aside or proposed to be set aside to, or withdrawn or proposed to be withdrawn from, reserves; and

(b) the aggregate amounts of -

(i) any dividends paid; and

(ii) any dividends proposed.

12. (1) The provisions of this Schedule shall be interpreted by reference to the application of generally accepted accounting principles and practice to give a true and fair view within the meaning of this Act.

(2) Amounts which in the particular context of any provision of this Schedule are not material may be disregarded for the purposes of that provision.

Required formats for accounts

13. References in this Schedule to the items listed in any of the formats set out below are to those items read together with any of the notes in the formats which apply to any of those items, and the requirement imposed by paragraph 1 to show the items listed in any such format in the order adopted in the format is subject to any provision in those notes for alternative positions for any particular items.

BALANCE SHEET FORMAT

A. Called Up issued share capital not paid (may be shown in either of the two positions herein)

B. Formation Expenses (may be shown as the first item under "Intangible Assets")

C. Fixed Assets

I. Intangible Assets

1. Development costs

2. Concessions, patents, licences, trade marks and similar rights and assets (if these were acquired for valuable consideration and are not to be shown under goodwill or these were created by the society itself)

3. Goodwill (only to the extent that this was acquired for valuable consideration)

4. Payments on account

II. Tangible Assets

1. Land and buildings (including all rights on immovables)
2. Plant and machinery
3. Other fixtures, fittings, tools and equipment
4. Payments on account and tangible assets in the course of construction

III. Financial Assets

1. Loans to members
2. Shares in secondary societies
3. Loans to secondary societies
4. Shares in tertiary societies
5. Loans to tertiary societies
6. Shares in subsidiary undertakings
7. Loans to subsidiary undertakings
8. Shares in associated undertakings
9. Loans to associated undertakings
10. Other investments other than loans
11. Other loans

D. Current Assets

I. Stocks

1. Raw materials and consumables
2. Work in progress
3. Finished goods and goods for resale
4. Payments on account

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II. Debtors (The amount falling due after more than one year shall be shown separately for each item included under debtors)

1. Trade debtors
2. Amounts owed by members
3. Amounts owed by secondary societies
4. Amounts owed by tertiary societies
5. Amounts owed by subsidiary undertakings
6. Amounts owed by associated undertakings
7. Other debtors
8. Called up issued share capital not paid (may be shown in either of the two positions herein)
9. Prepayments and accrued income (may be shown in either of the two positions herein)

III. Investments

1. Shares in secondary societies
2. Shares in tertiary societies
3. Shares in subsidiary undertakings
4. Shares in associated undertakings
5. Other investments

IV. Cash at Bank and in Hand

E. Prepayments and Accrued Income (may be shown in either of the two positions herein)

F. Creditors: Amounts falling due within One Year

1. Bank loans and overdrafts
2. Payments received on account (payments received on account of orders shall be shown here in so far as they are not shown as deductions from stocks)
3. Trade creditors

4. Bills of exchange payable
5. Amounts owed to members
6. Amounts owed to secondary societies
7. Amounts owed to tertiary societies
8. Amounts owed to subsidiary undertakings
9. Amounts owed to associated undertakings
10. Amounts owed to the Central Co-operative Fund

11. Other creditors including taxation and social security (the amounts for creditors in respect of taxation and social security shall be shown separately from the amount for other creditors)

12. Accruals and deferred income

G. Net Current Assets/Liabilities (in determining the amount to be shown for this item any amounts shown under "prepayments and accrued income" shall be taken into account wherever shown)

H. Total Assets less Current Liabilities

I. Creditors: Amounts falling due after more than one year

1. Bank loans and overdrafts

2. Payments received on account (payments received on account of orders shall be shown here in so far as they are not shown as deductions from stocks)

3. Trade creditors

4. Bills of exchange payable

5. Amounts owed to members

6. Amounts owed to secondary societies

7. Amounts owed to tertiary societies

8. Amounts owed to subsidiary undertakings

9. Amounts owed to associated undertakings

10. Other creditors including taxation and social security (the

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amounts for creditors in respect of taxation and social security shall be shown separately from the amount for other creditors)

11. Accruals and deferred income

J. Provisions for Liabilities and Charges

1. Pensions and similar obligations
2. Taxation, including deferred taxation
3. Other provisions

K. Capital and Reserves

I. Called Up Issued Share Capital (in addition, the amount of the issued share capital and the amount of the called up issued share capital which has been paid up shall be shown separately in the notes to the accounts)

II. Reserve Fund

III. Share Premium Account

IV. Revaluation Reserve

V. Other Reserves

1. Capital redemption reserve
2. Reserves provided for by the statute
3. Other reserves

VI. Accumulated Surplus and Deficit Account

INCOME AND EXPENDITURE ACCOUNT FORMAT

1. Turnover
2. Cost of sales (after taking into account any necessary provisions for depreciation or diminution in the value of assets)
3. Gross surplus or loss
4. Distribution costs (after taking into account any necessary provisions for depreciation or diminution in the value of assets)
5. Administrative expenses (after taking into account any necessary provisions for depreciation or diminution in the value of assets)

6. Other operating income
7. Income from shares in secondary societies
8. Income from shares in tertiary societies
9. Income from shares in subsidiary undertakings
10. Income from shares in associated undertakings
11. Income from other financial fixed assets (income, including interest, derived from members, secondary and/or tertiary and/or subsidiary and/or associated undertakings shall be shown separately from income derived from other sources)
12. Other interest receivable and similar income (interest and similar income derived from members, secondary and/or tertiary and/or subsidiary and/or associated undertakings shall be shown separately from that derived from other sources)
13. Amounts written off in respect of financial fixed assets and investments held as current assets
14. Interest payable and similar charges (the amount payable to members, secondary and/or tertiary and/or subsidiary and/or associated undertakings shall be shown separately)
15. Tax on surplus or loss on ordinary activities
16. Surplus or loss on ordinary activities after taxation
17. Extraordinary income
18. Extraordinary charges
19. Extraordinary surplus or loss
20. Tax on extraordinary surplus or loss
21. Other taxes not shown under the above items
22. Surplus or loss
23. Contribution to the Central Co-operative Fund
24. Provision to the Reserve Fund
25. Net surplus or loss
26. Provision to any reserve fund provided by statute

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27. Provision for any purpose allowed by the Act or provided by statute
28. Dividend
29. Patronage refund
30. Bonus certificate or bonus share issue
31. Income and expenditure account balance for the accounting period

PART II - ACCOUNTING PRINCIPLES AND RULES

Accounting principles

14. Items shown in the individual accounts shall be valued in accordance with the following general principles -

(a) the society must be presumed to be carrying on its business as a going concern;

(b) the methods of valuation must be applied consistently from one accounting period to another;

(c) valuation must be made on a prudent basis, and in particular:

(i) only surplus realised at the balance sheet date may be included in the income and expenditure account,

(ii) account shall be taken of all foreseeable liabilities and potential losses arising in the course of the accounting period concerned or of a previous one, even if such liabilities or losses become apparent only between the date of the balance sheet and the date on which it is drawn up,

(iii) account must be taken of all depreciation whether the result of the accounting period is a loss or a surplus;

(d) account must be taken of income and charges relating to the accounting period, irrespective of the date of receipt or payment of such income or charges;

(e) the components of asset and liability items must be valued separately;

(f) the opening balance sheet for each accounting period must correspond to the closing balance sheet for the preceding accounting period.

Historical cost accounting rules

15. (1) Formation expenses shown as assets in the balance sheet shall be written off within a maximum period of five years.

(2) The amounts entered under "Formation Expenses" shall be explained in the notes to the accounts.

16. (1) In the case of any fixed asset which has a limited useful economic life, the amount of -

(a) its purchase price or production cost, or

(b) where it is estimated that any such asset will have a residual value at the end of the period of its useful economic life, its purchase price or production cost less that estimated residual value,

shall be reduced by provisions for depreciation calculated to write off that amount systematically over the period of the asset's useful economic life. Such provisions shall be charged in the income and expenditure account.

(2) The purchase price of an asset shall be determined by adding to the actual price paid any expenses incidental to its acquisition.

(3) The production cost of an asset shall be determined by adding to the purchase price of the raw materials and consumables used the amount of the costs incurred by the society which are directly attributable to the production of that asset.

(4) In addition to the costs specified in sub-paragraph (3) of this paragraph there may be included in the production cost of an asset -

(a) a reasonable proportion of the costs incurred by the society which are only indirectly attributable to the production of that asset, but only to the extent that they relate to the period of production; and

(b) interest on capital borrowed to finance the production of that asset, to the extent that it relates to the period of production. The inclusion of such interest and the amount thereof shall be disclosed in the notes to the accounts.

(5) Fixed asset investments shall be accounted for in accordance with the following rules:

(a) such investments shall be included in the society's individual accounts by using the cost method,

(b) the cost method referred to in sub-paragraph (a) is a method of

accounting whereby the investment is recorded at cost. The income and expenditure account reflects income from the investment only to the extent that distributions are received or are receivable by the investor from accumulated net surplus of the investment arising subsequent to the date of acquisition;

17. (1) Where a financial fixed asset has diminished in value, provision for diminution in value may be made in respect of it and the amount to be included in respect of it may be reduced accordingly. Any such provisions shall be charged in the profit and loss account and if not shown separately in the profit and loss account, shall be disclosed (either separately or in aggregate) in the notes to the accounts.

(2) Provision for diminution in value shall be made in respect of any fixed asset which has diminished in value if the reduction in its value is expected to be permanent (whether its economic life is limited or not), and the amount to be included in respect of it shall be reduced accordingly. Any such provision shall be charged in the income and expenditure account and, if not shown separately in the income and expenditure account, shall be disclosed (either separately or in aggregate) in the notes to the accounts.

(3) Where the reasons for which any provision was made in accordance with sub-paragraph (1) or (2) have ceased to apply to any extent, that provision shall be written back to the extent that it is no longer necessary. Any amounts written back in accordance with this sub-paragraph which are not shown separately in the income and expenditure account shall be disclosed (either separately or in aggregate) in the notes to the accounts.

18. (1) Notwithstanding that an item in respect of "development costs" is included under "fixed assets" in the balance sheet formats contained in this Schedule, an amount may only be included in a society's balance sheet in respect of development costs in special circumstances.

(2) If any amount is included in the society's balance sheet in respect of development costs the following information shall be given in the notes to the accounts:

(a) the period over which the amount of those costs originally capitalised is being or is to be written off; and

(b) the reasons for capitalising the development costs in question.

19. (1) Where goodwill is treated as an asset the following provisions of this paragraph shall apply.

(2) Subject to sub-paragraphs (3) and (4), the amount of the consideration for any goodwill acquired by a society shall be reduced by provisions for

amortisation calculated to write off that amount systematically over a period chosen by the committee of management of the society.

(3) The period chosen shall not exceed the useful economic life of the goodwill in question.

(4) In any case where any goodwill acquired by a society is shown or included as an asset in the society's balance sheet the period chosen for writing off the consideration for that goodwill and the reasons for choosing that period shall be disclosed in the notes to the accounts.

20. (1) Subject to the following paragraph, assets which fall to be included -

(a) amongst the fixed assets of a society under the item "tangible assets"; or

(b) amongst the current assets of a society under the item "raw materials and consumables",

may be included at a fixed quantity and value.

(2) Sub-paragraph (1) applies to assets of a kind which are constantly being replaced, where -

(a) their overall value is not material to assessing the society's state of affairs; and

(b) their quantity, value and composition are not subject to material variation.

21. (1) Subject to sub-paragraphs (2) and (3), the amount to be included in respect of any current asset shall, insofar as it is applicable, be its purchase price or production cost.

(2) If the net realisable value of any current asset is lower than its purchase price or production cost, the amount to be included in respect of that asset shall be the net realisable value.

(3) Where the reasons for which any provision for diminution in value made in accordance with sub-paragraph (2) have ceased to apply to any extent, that provision shall be written back to the extent that it is no longer necessary.

22. The method of determination of purchase price and the method of determination of production cost given in paragraph 16 of this Schedule shall apply for the purposes of paragraph 21 of this Schedule. Furthermore, distribution costs may not be included in production costs.

23. (1) Subject to the qualification mentioned in sub-paragraph (3), the purchase price or production cost of -

(a) any assets which fall to be included under any item shown in a society's balance sheet under the subheading "stocks"; and

(b) any assets which are fungible assets (including investments),

shall be determined by the application of one of the methods mentioned in sub-paragraph (2) in relation to any such assets of the same class.

(2) The methods referred to in sub-paragraph (1) are -

(a) the method known as "first in, first out" (FIFO);

(b) the weighted average price method; and

(c) any other method similar to any of the methods mentioned above.

(3) The method actually chosen for the purposes of this paragraph shall be the one which appears to the committee of management to be appropriate in the circumstances of the society.

(4) Where in the case of any society -

(a) the purchase price or production cost of assets falling to be included under any item shown in the society's balance sheet has been determined by the application of any method permitted by this paragraph; and

(b) the amount shown in respect of that item differs materially from the relevant alternative amount given in sub-paragraph (5).

the amount of that difference shall be disclosed in the notes to the accounts.

(5) Subject to sub-paragraph (6), for the purposes of sub-paragraph (4)(b), the relevant alternative amount, in relation to any item shown in a society's balance sheet, is the amount which would have been shown in respect of that item if assets of any class included under that item at an amount determined by any method permitted by this paragraph had instead been included at their replacement cost as at the balance sheet date.

(6) The relevant alternative amount may be determined by reference to the most recent actual purchase price or production cost before the balance sheet date of assets of any class included under the item in question instead of by reference to their replacement cost as at that date, but only if the former appears to the committee of management of the society to constitute the more appropriate standard of comparison in the case of assets of that class.

(7) For the purpose of this paragraph, assets of any description shall be regarded as fungible if assets of that description are substantially indistinguishable one from another.

24. (1) Where the amount repayable on any debt owed by a society is greater than the value of the consideration received in the transaction giving rise to the debt, the amount of the difference may be treated as an asset.

(2) Where any amount as referred to in sub-paragraph (1) is treated as an asset -

(a) it shall be written off by reasonable amounts each year;

(b) it shall be completely written off before repayment of the debt; and

(c) if the current amount is not shown as a separate item in the society's balance sheet it shall be disclosed in the notes to the accounts.

25. (1) Provisions for liabilities and charges may not exceed in amount the sums which are reasonably necessary.

(2) Particulars shall be given of each provision included in the item "other provisions" in the society's balance sheet in any case where the amount of that provision is material.

Alternative accounting rules

26. (1) Subject to paragraphs 28, 29 and 30 of this Schedule, the amounts to be included in respect of assets of any description mentioned in paragraph 27 of this Schedule shall be determined on any basis mentioned in that paragraph.

(2) References in paragraphs 27 to 30 of this Schedule to "the depreciation rules" are to the rules embodied in paragraphs 16, 17, 18, 20, 21 and 24 of this Schedule.

27. (1) Tangible fixed assets may be included at a market value determined as at the date of their last valuation.

(2) Investments of any description falling to be included under either of the balance sheet formats contained in Part I of this Schedule may be included either -

(a) at a market value determined as at the date of their last valuation; or

(b) at a value determined on any basis which appears to the committee of management to be appropriate in the circumstances of the society,

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but in the latter case particulars of the method of valuation, etc., adopted and of the reasons for adopting it shall be disclosed in the notes to the accounts.

(3) Notwithstanding any other provision of this Schedule, investments in which investment companies have invested their funds shall be valued on the basis of their market value determined as at the balance sheet date.

28. (1) Where the value of any asset of a society is determined on the basis mentioned in paragraph 27 of this Schedule that value shall be the starting point for determining the amount to be included in respect of that asset in the society's individual accounts, instead of its purchase price or production cost or any value previously so determined for that asset; and the depreciation rules shall apply accordingly in relation to any such asset with the substitution for any reference to its purchase price or production cost by a reference to the value most recently determined for that asset on any basis mentioned in paragraph 27 of this Schedule.

(2) The amount of any provision for depreciation required in the case of any fixed asset as it applies by virtue of sub-paragraph (1) is referred to in sub-paragraph (3) as the adjusted amount, and the amount of any provision which would be required in respect of that asset according to the historical cost accounting rules is referred to as the historical cost amount.

(3) Where sub-paragraph (1) applies in the case of any fixed asset, the amount of any provision for depreciation in respect of that asset -

(a) included in any item shown in the income and expenditure account in respect of amounts written off against the assets of the description in question; or

(b) taken into account in stating any item so shown which is required by the explanatory notes in the income and expenditure account format contained in Part I of this Schedule to be stated after taking into account any necessary provisions for depreciation or diminution in the value of assets included under it,

may be the historical cost amount instead of the adjusted amount, provided that the amount of any difference between the two is accounted for in the income and expenditure account and disclosed separately therein or in the notes to the accounts.

29. (1) This paragraph applies where the amounts to be included in respect of assets covered by any items shown in a society's individual accounts have been determined on any basis mentioned in paragraph 27 of this Schedule.

(2) The items affected and the basis of a valuation adopted in determining the amounts of the assets in question in the case of each of such items shall be

disclosed in the notes to the accounts.

- (3) In the case of each balance sheet item which is affected -
 - (a) the comparable amounts determined according to the historical cost accounting rules; or
 - (b) the differences between those amounts and the corresponding amounts actually shown in the balance sheet in respect of that item.

shall be shown separately in the balance sheet or in the notes to the accounts.

(4) In sub-paragraph (3), references in relation to any item to the comparable amounts determined as mentioned thereto are references to -

- (a) the aggregate amount which would be required to be shown in respect of that item if the amounts to be included in respect of all the assets covered by that item were determined according to the historical cost accounting rules; and
- (b) the aggregate amount of the cumulative provisions for depreciation or diminution in value which would be permitted or required in determining those amounts according to those rules.

30. (1) With respect to any determination of the value of an asset of a society on any basis mentioned in paragraph 27 of this Schedule the amount of any surplus or loss arising from that determination shall be credited or, as the case may be, debited to a separate reserve to be called "the revaluation reserve", after allowing, where appropriate, for any provisions for depreciation or diminution in value made otherwise than by reference to the value so determined and for any adjustments of any such provisions made in the light of that determination.

(2) The amount of the revaluation reserve shall be shown in the society's balance sheet under a separate subheading in the position given for the item "revaluation reserve" in Format 1 or 2 of the balance sheet formats contained in this Schedule, but need not be shown under that name.

(3) The revaluation reserve shall be reduced to the extent that the amounts standing to the credit of the reserve are in the opinion of the committee of management of the society no longer necessary for the purpose of the accounting policies adopted by the society; but an amount may only be transferred from that reserve to the income and expenditure account if -

- (a) the amount in question was previously charged to that account; or
 - (b) it represents realised surplus.
- (4) Any amounts transferred from the revaluation reserve to the income and

expenditure account in accordance with the provisions of sub-paragraph (3) shall be shown separately in the income and expenditure account.

(5) Notwithstanding the provisions of sub-paragraph (3) the balance standing to the credit of the revaluation reserve may be capitalised in whole or in part at any time.

(6) The treatment for taxation purpose of amounts credited or debited to the revaluation reserve shall be disclosed in the notes to the accounts.

PART III - THE NOTES TO THE ACCOUNTS

31. Any information required in the case of any society by the provisions of this paragraph shall, if not given in the balance sheet or the income and expenditure account, be given by way of the notes to the accounts. The information in respect of the following matters shall be provided as a minimum -

(a) The valuation methods applied to the various items in the individual accounts, and the methods employed in calculating the provisions for depreciation and diminution in value. For items included in the individual accounts which are or were originally expressed in foreign currency, the bases of translation used to express them in local currency shall be disclosed.

(b) The number and the nominal value of the shares subscribed during the accounting period within the limits of the authorised capital

(c) The name, registered office and the type of each of the societies and/or partnerships, of which the society is a member, with unlimited liability; provided that this information may be omitted if it is not material.

(d) Information in respect of each item which is or would but for paragraph 3(4)(b) of this Schedule be shown under the general item "fixed assets" in the society's balance sheet, relating to -

(i) the amount of the purchase price or production cost, leaving out therefrom the depreciation or diminution in value in respect of that item, as at the date of the beginning of the accounting period and as at the balance sheet date respectively;

(ii) the effect on any amount shown in the balance sheet in respect of that item of -

-any revision of the amount in respect of any assets included under that item made during that period.

- acquisitions during that period of any assets.

- disposals during that period of any assets, and

- any transfers of assets of the society to and from that item during that period.

(e) In respect of each item within indent (d) of this paragraph -

(i) the cumulative amount of provisions for depreciation or diminution in the value of assets included under that item as at each date mentioned in indent (d)(i) of this paragraph;

(ii) the amount of any such provisions made in respect of the accounting period;

(iii) the amount of any adjustments made in respect of any such provisions during the period in consequence of the disposal of any assets; and

(iv) the amount of any other adjustments made in respect of any such provisions during the period.

(f) The information required to be disclosed by virtue of indents (d) and (e) of this paragraph shall also be provided in the case of "Formation Expenses" where this item is shown separately from "Fixed Assets" in the balance sheet.

(g) Amounts owed by the society and becoming due and payable after more than five years as well as the society's entire debts covered by valuable security furnished by the society with an indication of the nature and form of the security. This information shall be disclosed separately for each creditor's item, as provided for in the formats described in Part I of this Schedule.

(h) The total amount of any financial commitments that are not included in the balance sheet, in so far as this information is of assistance in assessing the financial position. Any commitments concerning pensions and group undertakings shall be disclosed separately.

(i) The turnover within the meaning of paragraph 8 of this Schedule, broken down by categories of activity and into geographical market in so far as, taking account of the manner in which the sale of products and the provision of services falling within the society's ordinary activities are organised, these categories and markets differ substantially from one another.

(j) The average number of persons employed during the accounting period, broken down by categories and, if they are not disclosed separately in the income and expenditure account, the staff costs relating to the accounting period broken down as otherwise required by Formats 2 and 4 of the income and expenditure account.

(k) The difference between the tax charged for the accounting period and for earlier accounting periods and the amount of tax payable in respect of those periods, provided that this difference is material for purposes of future taxation. This amount may also be disclosed in the balance sheet as a cumulative amount under a separate item with an appropriate heading.

(l) (i) The aggregate amount of the emoluments granted in respect of the accounting period to the members of the committee of management of a society for their services as members of the committee of management of that society or for their services as members of the committee of management of any of its secondary, tertiary, subsidiary, or associated undertakings, while acting as directors members of the committee of management of that undertaking; and

(ii) The aggregate amount of any other emoluments granted in respect of the accounting period to the members of the committee of management of a society for their services in connection with the management of the affairs of the society or any of its secondary, tertiary, subsidiary, or associated undertakings, while acting as directors/members of the committee of management of that undertaking; and shown separately from the aggregate amount of emoluments referred to in item (i) above; and

(iii) The fact that the society has, during the accounting period, purchased or maintained a provision for any of its officers and, or, the auditor of such society, exempting them or indemnifying them, or any of them, as the case may be, against any liability which, by virtue of any law, would in the absence of such provision have been attached to them, as the case may be, in respect of any negligence, default or breach of duty, and the aggregate amount of premiums paid in respect thereof.

In this indent, emoluments shall include the remuneration for the services of the members of the committee of management referred to herein and all fees, percentages, gifts, compensation for loss of office and other similar payments; as well as any commitments arising or entered into in respect of retirement pensions, superannuation allowances, gratuities or other similar commitments in favour of former members of the committee of management of the society referred to herein.

The commitments arising or entered into in respect of retirement pensions, superannuation allowances, gratuities or other similar commitments in favour of former members of the committee of management of the society shall be shown separately from the other emoluments.

(m) The amount of advances and credits granted to members of the committee of management of a society with indications of the interest rates,

main conditions and any amounts repaid; as well as commitments entered into on their behalf by way of guarantees of any kind. The said commitments shall be shown separately.

(n) The name and registered office of the undertaking which draws up the consolidated accounts of the largest body of undertakings of which the society forms part as a subsidiary undertaking.

(o) The name and the registered office of the undertaking which draws up the consolidated accounts of the smallest body of undertakings of which the society forms part as a subsidiary undertaking; and

(p) Where the parent companies referred to in indents (q) and (r) of this paragraph are not registered in Malta, the place where copies of the consolidated accounts referred to in these indents may be obtained, provided that they are available to the public.

32. (1) If at the end of its accounting period, the society has one or more secondary, tertiary, subsidiary, or associated undertakings or participating interests in other undertakings, the following information shall, where applicable, be given with respect to each such undertaking -

(a) the kind, name and registered or principal office of each undertaking;

(b) in relation to the shares of each class of each undertaking held by the society, the identity of each class and the proportion of the nominal value of the issued shares of that class represented by the shares held as at the end of the undertaking's relevant accounting period; and

(c) the aggregate amount of the capital and reserves of each undertaking as at the end of its relevant accounting period, and its surplus or loss for that period.

(2) For the purposes of sub-paragraph (1), the relevant accounting period is -

(a) if the accounting period of the undertaking ends with that of the society giving the information in its notes to the accounts, that accounting period; and

(b) if not, the undertaking's accounting period ending last before the end of the accounting period of the society giving that information.

(3) The provisions of sub-paragraph (1) are subject to the exceptions and other provisions contained in paragraphs 33 and 34 of this Schedule.

33. (1) Information otherwise required by paragraph 32(1) of this

Schedule need not be given if it is not material.

(2) References in this paragraph and in paragraph 32 of this Schedule to shares of undertakings shall include references to beneficial interests in undertakings where the capital of such undertakings is not divided into shares.

34. (1) The information referred to in indent (1) of paragraph 31 and in paragraphs 32 and 33 of this Schedule may be omitted when it appears to the committee of management that their nature is such that they would be seriously prejudicial to any of the undertakings affected by these provisions and the Board agrees that the information need not be disclosed.

(2) Where any information is omitted from the notes to the accounts by virtue of the provisions of sub-paragraph (1), that fact shall be disclosed in the notes to the accounts.

35. (1) Particulars shall be given in the notes to the accounts of any charge on the assets of the society to secure the liabilities of any other person including, where practicable, the amount secured.

(2) The following information shall be given with respect to any other contingent liability not provided for other than where the possibility of a loss is judged by the committee of management of the society to be remote -

(a) the amount or estimated amount of that liability;

(b) its legal nature; and

(c) whether any valuable security has been provided by the society in connection with that liability and, if so, what valuable security has been so provided.

(3) There shall be stated, where practicable -

(a) the aggregate amount or estimated amount of contracts for capital expenditure, so far as not provided for; and

(b) the aggregate amount or estimated amount of capital expenditure authorised by the committee of management which has not been contracted for.

(4) Commitments within any of the preceding sub-paragraphs of this paragraph undertaken on behalf of or for the benefit of a group undertaking shall be stated separately from the other commitments within that sub-paragraph

36. (1) Where any amount is transferred -

(a) to or from any reserves; or

(b) to any provision for liabilities or charges; or

(c) from any provision for liabilities and charges otherwise than for the purpose for which the provision was established.

and the reserves or provisions are shown as separate items in the society's balance sheet or in the notes to the accounts, the information mentioned in sub-paragraph (2) shall be given in respect of the aggregate of reserves or provisions included in the same item.

(2) That information to which reference is made in sub-paragraph (1) is -

(a) the amount of the reserves or provisions as at the date of the beginning of the accounting period and as at the balance sheet date respectively;

(b) any amounts transferred to or from the reserves or provisions during that period; and

(c) the source and application respectively of any amounts so transferred.

PART IV - TRANSITIONAL ARRANGEMENT

37. (1) If, when individual accounts are drawn up in accordance with the provisions of this Schedule for the first time, the purchase price or production cost of a fixed asset cannot be determined without undue expense or delay, the net book amount at the beginning of the accounting period may be treated as the purchase price or production cost.

(2) Any application of the provisions of sub-paragraph (1) shall be disclosed in the notes to the accounts.

PART V - ABRIDGED FINANCIAL STATEMENTS - RULES AND FORMAT

Societies which, on their balance sheet date, do not exceed the limits of two of the three following criteria:

- balance sheet total: one million, one hundred thousand Maltese liri;
- turnover: two million, two hundred thousand Maltese liri;
- average number of employees during the accounting period: fifty.

shall in this Act be designated as small societies and may, for the purposes of this Act, draw up an abridged set of audited financial statements as specified in paragraphs (2) and (3) of this Part for public inspection.

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(2) For the purposes of this Part, the word "abridged" -

(a) when used therein in relation to a balance sheet, shall mean an abbreviated version of the balance sheet, showing only those items to which a letter or Roman number is assigned in the balance sheet format shown under Part I of this Schedule, immediately following paragraph 13, under the heading "Balance Sheet Format"; but such version shall, in all other respects, correspond to the full balance sheet;

(b) when used therein in relation to an income and expenditure account, shall mean the full income and expenditure account with the exception that items 1, 2, 3 and 6 in the income and expenditure format shown under Part I of this Schedule, immediately following paragraph 13, under the heading "Income and Expenditure Format", can be combined as one item under the heading "gross surplus or loss".

(3) Societies referred to in paragraph (1) of this Part may draw up abridged notes to the accounts, omitting the disclosures prescribed by indents (g) to (l) of paragraph 31 of Part III of this Schedule. The notes to the accounts shall however disclose the information specified in indent (g) of the said paragraph 31 in total for all the items concerned.

Passed by the House of Representatives at Sitting No. 671 of the 17th December, 2001.

ANTON TABONE
Speaker

RICHARD J. CAUCHI
Clerk to the House of Representatives