

CONSOLIDATION OF CREDIT UNION ACT
R.S.N.W.T. 1988,c.C-23

(Current to: May 11, 2014)

AS AMENDED BY NORTHWEST TERRITORIES STATUTES:

S.N.W.T. 1995,c.11

S.N.W.T. 1998,c.5

AS AMENDED BY NUNAVUT STATUTES:

S.Nu. 2010,c.4,s.13

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S.Nu. 2010,c.14,s.3

s.3 in force June 10, 2010

S.Nu. 2011,c.11,s.1

s.1 in force March 10, 2011

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GLOSSARY OF TERMS USED IN CONSOLIDATIONS

Miscellaneous

- c. means "chapter".
- CIF means "comes into force".
- NIF means "not in force".
- s. means "section" or "sections", "subsection" or "subsections", "paragraph" or "paragraphs".
- Sch. means "schedule".
- SI-005-98 means the instrument registered as SI-005-98 in 1998. (*Note: This is a Northwest Territories statutory instrument if it is made before April 1, 1999, and a Nunavut statutory instrument if it is made on or after April 1, 1999 and before January 1, 2000.*)
- SI-012-2003 means the instrument registered as SI-012-2003 in 2003. (*Note: This is a Nunavut statutory instrument made on or after January 1, 2000.*)

Citation of Acts

- R.S.N.W.T. 1988,c.D-22 means Chapter D-22 of the *Revised Statutes of the Northwest Territories, 1988*.
- R.S.N.W.T. 1988,c.10(Supp.) means Chapter 10 of the Supplement to the *Revised Statutes of the Northwest Territories, 1988*. (*Note: The Supplement is in three volumes.*)
- S.N.W.T. 1996,c.26 means Chapter 26 of the 1996 Annual Volume of the Statutes of the Northwest Territories.
- S.Nu. 2002,c.14 means Chapter 14 of the 2002 Annual Volume of the Statutes of Nunavut.

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CREDIT UNION ACT

INTERPRETATION

Definitions

1. In this Act,

"board" means the board of directors of a credit union; (*conseil*)

"Central" means a Central Credit Union Facility referred to in section 84; (*Centrale*)

"credit committee" means a credit committee referred to in subsections 27(2) and (3); (*comité du crédit*)

"credit union" means a co-operative non-profit association incorporated under section 5 for the purpose of providing financial services for its members; (*caisse de crédit*)

"federation" means a federation of credit unions incorporated under section 86; (*fédération*)

"fiscal year" means the fiscal year of a credit union established by section 69; (*exercice*)

"member" means a shareholder in a credit union; (*sociétaire*)

"Mutual Aid Depository" means the Credit Union Mutual Aid Depository Fund established by subsection 66(1); (*Société d'entraide mutuelle*)

"Registrar" means the Registrar of Credit Unions appointed under section 3; (*registraire*)

"share money" means the money subscribed for shares; (*Version anglaise seulement*)

"special resolution" means a resolution that is

- (a) passed by a majority of not less than 2/3 of the votes cast by the members present at a general meeting of a credit union, and
- (b) approved by the Supervisor; (*résolution spéciale*)

"standard by-laws" means the by-laws prepared by the Supervisor under subsection 12(1); (*règlements administratifs types*)

"Supervisor" means the Supervisor of Credit Unions appointed under section 3; (*directeur*)

"supervisory committee" means a committee elected under paragraph 26(2)(b); (*comité de surveillance*)

"supplemental by-laws" means the by-laws passed by a credit union under subsection 12(3). (*règlements administratifs supplémentaires*)

S.Nu. 2010,c.14,s.3(2).

GENERAL

Application

2. The *Companies Winding-Up Act* does not apply to credit unions.

Appointment of officers

3. A Supervisor of Credit Unions, a Registrar of Credit Unions and one or more Deputy Registrars of Credit Unions shall be appointed by the Commissioner.

Exemption from registration

4. (1) A credit union incorporated in a province or territory may, by a certificate of the Supervisor, be exempted from registration in Nunavut for limited purposes and to the extent set out in the certificate.

Power of Supervisor

(2) The Supervisor in his or her absolute discretion may refuse or revoke a certificate referred to in subsection (1).

Powers of credit union

(3) A credit union incorporated in Nunavut may exercise the express or implied powers in another jurisdiction to the extent permitted by a competent authority in the other jurisdiction. S.Nu. 2010,c.4,s.13(2).

INCORPORATION

Application for incorporation

5. (1) An application for incorporation of a credit union must be made to the Supervisor by memorandum of association in the prescribed form, which must

- (a) state
 - (i) the name of the credit union,
 - (ii) the place where the registered office of the credit union is to be situated, and
 - (iii) the names and addresses of the subscribers to the memorandum;
- (b) be signed by not fewer than 10 subscribers desiring to be associated together, one of whom shall be designated as the provisional secretary; and
- (c) be accompanied by
 - (i) a copy of the standard by-laws under which the credit union shall operate, signed by the subscribers,
 - (ii) an affidavit verifying the signature of the subscribers, and

- (iii) the prescribed registration fee.

Approval of application

(2) Where the Supervisor approves an application for incorporation of a credit union, the Supervisor shall submit the papers of incorporation to the Registrar.

Certificate and notice of incorporation

(3) On receiving papers of incorporation under subsection (2), the Registrar may

- (a) issue a certificate of incorporation of the credit union in the prescribed form; and
 - (b) publish a notice of incorporation, at the expense of the credit union, in one issue of the *Nunavut Gazette*.
- S.Nu. 2010,c.4,s.13(2).

Corporation

6. When a certificate of incorporation is issued under subsection 5(3), the subscribers to the memorandum of association and all persons who afterwards become members of the credit union are a body corporate under the registered name of the credit union.

Amendment of memorandum of association

7. A credit union may by special resolution alter or amend its memorandum of association but an amendment is of no force or effect until a copy of the resolution is approved by the Supervisor and filed with the Registrar.

Change of registered office

8. A credit union may, by amendment of its memorandum of association under section 7, change its registered office.

Seal

9. (1) Every credit union shall have a seal, the design of which must be approved by the Registrar.

Corporate name

(2) The corporate name of the credit union must appear in legible characters on the seal.

Custody of seal

(3) The secretary of the credit union shall have custody of the seal.

Use of seal

- (4) No person shall affix the seal of a credit union to an instrument except
- (a) by the authority of a resolution of the board; and
 - (b) in the presence of
 - (i) president, vice-president or another person that the board may appoint, and

- (ii) the secretary, secretary-treasurer or manager or another person that the board may appoint.

Signature of witnesses

(5) The two persons referred to in paragraph 4(b) shall sign each instrument to which the seal is affixed in their presence.

NAME

Name of credit union

10. (1) The words "Credit Union Limited" shall form part of the name of every credit union but the word "Limited" may be abbreviated "Ltd." and either form may be used.

Restriction on name

- (2) No credit union shall be registered under a name
 - (a) identical to that by which an existing credit union is registered; or
 - (b) so nearly resembling a name by which an existing credit union is registered that, in the opinion of the Registrar, it is likely to confuse or deceive.

Change of name

11. (1) A credit union may change its name by amending its memorandum of association under section 7.

Registration and notice of change

- (2) A change of name is effective when
 - (a) a certificate of registration is issued by the Registrar; and
 - (b) a notice of change of name is published in one issue of the *Nunavut Gazette*.

Effect of change

(3) A change of name does not affect the rights or obligations of the credit union or render defective legal proceedings by or against the credit union.

Legal proceedings

(4) Legal proceedings that could have been commenced or continued against a credit union by its former name may be commenced or continued against the credit union by its new name. S.Nu. 2010,c.4,s.13(2).

BY-LAWS

Standard by-laws

12. (1) The Supervisor shall prepare standard by-laws not inconsistent with this Act, which, when approved by the Commissioner, apply to every credit union.

Copies

(2) The Supervisor shall on request supply a copy of the standard by-laws to a credit union.

Supplemental by-laws

(3) A credit union may, by special resolution made at a general meeting of the credit union called for the purpose, pass supplemental by-laws and amend the supplemental by-laws not inconsistent with this Act.

Approval of by-laws

(4) No supplemental by-law or amendment to a supplemental by-law is of force or effect until it is approved by the Supervisor.

Assistance

(5) The Supervisor shall, on the request of a credit union, assist the credit union in preparing supplemental by-laws.

Effect of by-laws

- 13.** The standard by-laws and the supplemental by-laws of a credit union bind the credit union and each member of the credit union to the same extent as if
- (a) each member had subscribed his or her name and affixed his or her seal to the by-laws; and
 - (b) there were an implied covenant in the by-laws on the part of each member and his or her heirs, executors and administrators to conform to the by-laws, subject to this Act.

CAPITAL AND SHARES

Capital of credit union

14. The capital of a credit union is unlimited in amount and shall be divided into shares having a par value of \$5 each.

Share account

15. (1) Every credit union shall establish and maintain a share account and record in the share account the share capital of each member.

Payment

(2) The shares of a credit union may be payable by instalments at the times and in the manner determined by supplemental by-law.

Share certificates

(3) A credit union is not required to issue share certificates.

Interest

16. A member shall receive interest only on his or her fully paid up shares.

Minimum subscription for shares

- 17.** (1) A credit union may by supplemental by-law
- (a) establish the minimum number of shares that a member shall hold; and
 - (b) specify the conditions under which additional shares, as specified in the by-law, shall be held.

Calls

(2) Where a supplemental by-law requires a member to hold more than one share, the board may make calls for all or part of the amount remaining unpaid in respect of any share.

Assignment, transfer or repurchase of shares

18. (1) Shares may be assigned or transferred or may be redeemed or repurchased by the credit union.

Approval by board

(2) No assignment, transfer, redemption or repurchase of shares is valid unless it is approved or authorized by the board subject to the conditions that may be specified in the standard by-laws.

Prohibition

(3) No assignment, transfer, redemption or repurchase of shares shall be approved or authorized by the board if it would reduce the total number of shareholders below 10.

Liability of member

19. Every member is individually liable to the creditors of the credit union for debts and liabilities of the credit union to an amount equal to the sum unpaid on the shares for which the member has subscribed in writing.

Withdrawal or disposition of shares

20. (1) No director, officer or member of a credit or the supervisory committee may withdraw share money or transfer or otherwise dispose of shares unless the withdrawal, transfer or other disposition is approved in his or her absence

- (a) at a joint meeting of the board and members of the supervisory committee; and
- (b) by a vote of those present equal to $\frac{2}{3}$ of the number of all members of the board and the supervisory committee, whether or not present and voting.

Where withdrawal void

(2) Where a credit union is insolvent, a withdrawal, transfer or other disposition made under subsection (1) within four months before the insolvency is of no effect and the person who made the withdrawal, transfer or other disposition remains liable to the creditors of the credit union to the full extent of the share money withdrawn or the share transferred or disposed of.

Execution of trust

21. (1) A credit union is not bound to see to the execution of a trust whether express, implied or constructive, to which a share account or deposit account is subject.

Trust

(2) When all or a part of share money is subject to a trust of which the credit union has notice,

- (a) the cheque, withdrawal slip or receipt of the person
 - (i) in whose name the account stands, or
 - (ii) who is, according to the document creating the trust, entitled to deal with the account,
 is sufficient authorization to the credit union; and
- (b) the credit union is not bound to see to the application of money paid on or with respect to a cheque, withdrawal slip or receipt referred to in paragraph (a).

OBJECTS AND POWERS

Objects of credit union

- 22.** (1) The objects of a credit union are
- (a) to provide for the economic welfare of its members by encouraging thrift and using the combined savings of its members in providing a source of credit and other financial services for its members;
 - (b) to associate itself with other credit unions in Nunavut for the purpose of mutual aid;
 - (c) to advance the credit union movement as a system of financial service; and
 - (d) to do other things that will serve the economic and social welfare of its members and the public.

Powers of credit union

- (2) For the purpose of carrying out its objects, a credit union may
- (a) accept into membership individuals, credit unions, co-operatives, associations and corporations;
 - (b) receive money from its members;
 - (c) make loans to its members;
 - (d) deposit money in the Central, a bank or another depository authorized by the Supervisor;
 - (e) invest money in the Central or in an investment authorized by the Supervisor;
 - (f) borrow money as provided in section 23;
 - (g) make contracts;
 - (h) take and hold securities, whether real or personal property, against loans and, in the case of default, realize on or otherwise dispose of the securities;

- (i) become a member of another credit union, a co-operative or a regional, provincial, national or international association of credit unions or co-operatives; and
- (j) do all other acts and things that are incidental or conducive to or consequential on the attainment of its objects.

Membership in Central

(3) Every credit union shall hold membership in the Central.
S.Nu. 2010,c.4,s.13(2).

Borrowing powers

23. (1) A credit union may, with the consent of the Supervisor, borrow money not exceeding in the aggregate

- (a) 25% of its combined capital, surplus and deposits, on a vote of 3/4 of the members of the board; and
- (b) 50% of its combined capital, surplus and deposits, on a vote of 3/4 the members present at a general meeting.

Effect

(2) A resolution passed under subsection (1) is effective only until the next general meeting.

Borrowing on security

(3) A credit union may, without the consent of the Supervisor, borrow on the security of its capital investments the amount of the market value of its investments in excess of the guarantee reserve fund, on a vote of 3/4 of the members of the board.

Prohibition

(4) No investments representing all or part of the guarantee reserve fund may be used as a basis for borrowing under subsection (3).

Overdrawn account

(5) No credit union shall allow its negotiable order account with the Central or other depository to become overdrawn.

Security

24. A credit union may charge, hypothecate, mortgage or pledge its real or personal property, rights and powers, undertakings, franchises, including book debts and unpaid calls to secure a liability for the repayment of money borrowed under section 23.

Real property

25. (1) A credit union may hold, purchase or acquire by lease real property in its own name and may sell, mortgage, lease or exchange real property.

Value of real property

(2) The value of land held or acquired by a credit union together with improvements on the land, excluding real property held as security against loans, shall not exceed the amount specified in the by-laws of the credit union, unless authorized by the Supervisor.

ORGANIZATION

First meeting

26. (1) Within 10 days after receiving a certificate of incorporation, the provisional secretary of a credit union shall call an organization meeting to be held not less than 10 and not more than 30 days after the date of giving notice of the meeting to each subscriber to the memorandum of association.

Election

(2) At an organization meeting held under subsection (1), the members shall elect from among the members

- (a) a board of not less than five members; and
- (b) a supervisory committee of not less than three members, none of whom shall be a member of the board.

Term of office

(3) The persons elected under subsection (2) hold office until the first annual general meeting.

First meeting of board

27. (1) The first meeting of the board shall be held within 10 days after the election of the members of the board.

Committees

(2) At their first meeting, the members of the board shall

- (a) elect from the members of the board a president, vice-president and a chairperson of the credit committee;
- (b) appoint not fewer than two other members to the credit committee; and
- (c) appoint a secretary and a treasurer or a secretary-treasurer, who may be members of the board.

Additional credit committees

(3) The board may establish one or more additional credit committees of at least three members each and appoint the members and designate one of the members of each additional committee as chairperson of the committee.

Assignment of committees

(4) Where there are several credit committees, the board may assign them to serve in rotation or in shifts or at one or more locations or branches at which the credit union may be serving its members.

Application of Act to credit committee

(5) Where a credit union has several credit committees, this Act and the by-laws apply to each credit committee except to the extent to which the Act, the by-laws or the context may require otherwise.

Record

28. A record of the names and addresses of the members of the board, officers and members of the supervisory and credit committees shall be filed with the Supervisor within 10 days after their election or appointment.

Duties of board

29. (1) The board is responsible for the general management of the affairs of the credit union and shall

- (a) act on applications for membership and the expulsion of members;
- (b) determine the maximum loan, within the maximum specified in the by-laws, that may be made to an individual borrower
 - (i) with security, or
 - (ii) without security;
- (c) determine the rates of interest on loans, share money and deposits;
- (d) have charge of the investments, borrowings and assets of the credit union;
- (e) fill vacancies in the board until the next annual meeting;
- (f) maintain fidelity bonds according to the schedule set out in the standard by-laws; and
- (g) perform other duties that are required by this Act and the by-laws or that may be conducive or incidental to the general administration of the credit union.

Powers of board

(2) Without limiting the generality of subsection (1), a board may

- (a) employ a manager or managers to conduct the business of the credit union and may define the duties and fix the remuneration of a manager; and
- (b) subject to the by-laws and on the recommendation of the supervisory committee, propose to the annual general meeting an auditor or firm of auditors.

Validity of act of director or officer

30. An act done by a director or officer is not invalid by reason only of a defect that is afterwards discovered in his or her election, appointment or qualifications.

Suspension

31. (1) A credit union may suspend all or any of its directors, members of a credit or the supervisory committee, officers or employees by special resolution passed at a special general meeting.

Hearing

(2) The special resolution referred to in subsection (1) or another resolution passed at the same meeting may set a time and place at which, after reasonable notice, the person suspended may be heard by a general meeting on the question of removing or continuing the suspension or converting it to dismissal.

Report of suspension or dismissal

(3) Notice of a suspension or dismissal referred to in this section shall, without delay, be reported by the chairperson of the meeting to the Supervisor and the Central.

Suspension by Supervisor

(4) Where it appears to be for the benefit of the credit union, its members or creditors, the Supervisor may in his or her discretion suspend all or any of the directors, members of a credit or the supervisory committee, officers or employees of the credit union for the time that the Supervisor considers beneficial or advisable.

Use of procedure

(5) A procedure authorized by this section may be initiated or followed despite any incomplete or completed steps taken under another provision of this Act.
S.Nu. 2010,c.4,s.13(2).

Effect of suspension

32. A person who is suspended or dismissed under section 31 shall

- (a) cease to exercise his or her powers and to perform his or her functions; and
- (b) give to the person designated in the resolution of suspension or dismissal or by the Supervisor all items with respect to the credit union or its members that are in his or her possession or control.

Civil remedy

33. Sections 31 and 32 do not affect any civil remedy that a director, member of a credit or the supervisory committee or an officer may have for wrongful dismissal or otherwise with respect to a suspension or dismissal.

Appointment of administrator

34. (1) In case of the suspension, dismissal or failure or refusal to act of the board, the Supervisor shall appoint an administrator of the credit union who may exercise the powers and, with necessary changes, shall perform the duties of the board.

Costs of administration

(2) The reasonable and proper costs of administration under subsection (1) shall be borne by the credit union except to the extent, if any, to which they may be paid by the Mutual Aid Depository.

MEMBERSHIP

Minimum membership

35. Every credit union shall have a membership of not less than 10 members.

Entrance fee

36. A credit union may charge an entrance fee not exceeding that authorized by the standard or supplemental by-laws.

Membership fee

37. A credit union may charge an annual membership fee as approved at a general meeting.

Membership

38. The membership of a credit union shall consist of persons or groups of persons who desire the services of a credit union and who meet the qualifications for membership set out in the supplemental by-laws.

Minors

39. (1) A minor may be a member of a credit union and may vote at meetings, but no minor may

- (a) be a director or a member of a credit or the supervisory committee;
- or
- (b) vote on a resolution pertaining to the borrowing of money.

Powers of credit union

(2) A credit union may receive share money, deposits or other money from or on behalf of a member and deal with or pay out share money, deposits or other money

- (a) whatever the age, status or condition in life of that member; and
- (b) whether or not that member is competent to enter into ordinary contracts.

Register of members

40. (1) Every credit union shall maintain a register showing

- (a) for individuals, the name, address, date of birth and social insurance number of each member;
- (b) for corporations, the name and registered office of each member; and
- (c) the dates of the commencement and termination of membership.

Evidence of membership

(2) The register referred to in subsection (1) is, in the absence of evidence to the contrary, proof of the membership of the credit union.

Expulsion of member

41. A member may be expelled, after a hearing by the board, but the expulsion may be appealed to a general meeting.

Withdrawal of member

42. A member may withdraw from the credit union on giving the notice of withdrawal that may be required by the by-laws or any additional notice that the board considers necessary and the Supervisor approves.

Payment to member

43. All amounts paid in on shares or deposits by a member who is expelled or withdraws from a credit union and dividends or interest due or accruing due on the shares or deposits shall be paid to the member as funds become available and after deducting all amounts due from the member to the credit union.

Effect of expulsion, withdrawal

44. A member who is expelled or withdraws from a credit union has no further rights in the credit union but is not by the expulsion or withdrawal released from his or her remaining liability to the credit union.

MEETINGS

Annual general meeting

45. (1) An annual general meeting shall be held within 60 days after the end of each fiscal year at the time and place determined by the board.

Special general meeting

(2) Special general meetings may be called in the manner specified in the by-laws.

Voting

46. (1) Each member present at a general meeting has one vote on each question or motion to be decided.

Agent

(2) A corporate member may be represented at a general meeting by an agent.

Special general meeting

47. Two members of the board or of the supervisory committee or 10 members of the credit union may call a special general meeting of the credit union for the purpose of considering and dealing with

(a) the general welfare or condition of the credit union;

- (b) the suspension or dismissal of an officer, director, member of a credit or the supervisory committee or employee of the credit union; or
- (c) the reorganization, amalgamation, dissolution or winding-up of the credit union.

COMMITTEES

Responsibility of credit committee

48. (1) Subject to this Act, the by-laws and the policies established under section 29 by the board, the credit committee is responsible for approving or rejecting all loan applications.

Loans

- (2) The credit committee shall not
- (a) consider a loan unless a majority of the committee members is present; or
 - (b) grant a loan without the unanimous approval of the committee members present.

Special case

(3) A loan to the manager of the credit union or a member of the credit committee must also be approved at a meeting of the board while the applicant is not present.

Record of proceedings

(4) A full and correct record shall be kept of all proceedings of the credit committee in carrying out its duties under this Act and the record shall be available for inspection by the Supervisor.

Application for loan

- 49.** An application for a loan must
- (a) be in the form set out in the standard by-laws;
 - (b) contain the interest disclosure information required by law; and
 - (c) set out
 - (i) the purpose for which the loan is desired,
 - (ii) the security offered, and
 - (iii) other information that is required.

Security

50. (1) Every loan made by a credit union shall be secured primarily by a promissory note and any other security is collateral to the note.

Form of security

(2) Security for a loan shall be determined by the credit committee and may be an assignment of shares or term deposits, a co-signing of the promissory note or other security that is acceptable to the credit committee.

Appointment of loan officer

51. (1) The board, with the consent of the Supervisor, may appoint one or more loan officers with authority to approve loan applications without first obtaining the approval of the credit committee.

Report of loans

(2) All loans granted by a loan officer shall be reported to the next regular meeting of the credit committee and the credit committee shall review the action of the loan officer.

Withdrawal of consent to appointment

(3) The Supervisor may withdraw his or her consent to the appointment of a loan officer at any time.

Liquidity fund

52. (1) A credit union shall not make a loan that would cause the liquidity fund referred to in section 61 to fall below the amount required to be maintained under the by-laws.

Maximum loan

(2) No credit committee or loan officer shall grant a loan in an amount greater than the maximum amount established by the standard by-laws or by the board, whichever is less.

Interest on loans

53. (1) The rate of interest on a loan shall not be greater than the rate determined by the board.

Calculation of interest

(2) Interest shall be calculated on the unpaid balance of a loan.

Compound interest

(3) Interest shall not be compounded except in the manner permitted by the *Interest Act* (Canada).

Interest on former loans

(4) This Act and the by-laws do not prohibit the inclusion of principal and unpaid interest from a former loan in the total of a new loan and the charging of interest on the total.

Prohibition

54. No credit union shall lend money to or accept deposits from a person who is not a member of the credit union.

Unauthorized loan

55. (1) No officer or employee of a credit union shall lend money from the funds of the credit union to an applicant for a loan unless the application and loan have been approved as required by this Act and the by-laws.

Offence

(2) Every person who contravenes subsection (1) is guilty of an offence.

Recovery of money

(3) This section does not abridge or defeat any remedy for the recovery from the borrower of money lent by an officer or employee in contravention of subsection (1).

Liability for unlawful loans

56. (1) If a loan is made in contravention of this Act or the by-laws, the directors, members of the credit committee and officers of the credit union who made or assented to the loan are jointly and severally liable, up to the amount of the loan with interest, to the credit union and creditors of the credit union for all debts and liabilities of the credit union then existing or contracted from the time of the making of the loan to the time of the repayment of the loan.

Relief

(2) In an action or proceedings to recover from a person referred to in subsection (1) an amount for which the person is liable under subsection (1), if it appears to the Nunavut Court of Justice that the person acted honestly and reasonably and ought fairly to be excused in whole or in part for making or assenting to the loan, the Nunavut Court of Justice may relieve the person wholly or partly from personal liability.
S.Nu. 2010,c.4,s.13(2).

Repayment

57. A borrower may repay his or her loan in whole or in part on any day on which the office of the credit union is open for business.

Debts due by members

58. (1) All money payable by a member to a credit union is a debt due from the member to the credit union and is recoverable as a debt in any court of competent jurisdiction.

Lien

- (2) A credit union has a lien on the shares and deposits of a member
- (a) for a debt due, owing or accruing due to the credit union by the member; and
 - (b) for any loan in respect of which the member
 - (i) has given a guarantee or indemnity for the payment of the loan, or
 - (ii) has executed a promissory note as a maker or co-maker.

Extent and enforcement of lien

(3) A lien referred to in subsection (2)

- (a) extends to any dividend or bonus on the shares of the member or interest credited to the member in respect of money deposited by the member; and
- (b) may be enforced by applying money paid on shares or on deposits to any payment in arrears under the debt.

Payment of debt

(4) The credit union may set off any sum standing to the credit of a member on the books of the credit union in or towards the payment of any debt due from the member to the credit union.

Supervisory committee

59. (1) The supervisory committee shall

- (a) appoint a chairperson from among its members; and
- (b) inspect the operations of the credit union to the extent reasonably necessary to ensure that the requirements of this Act, the by-laws, the Supervisor and the board are being observed and fulfilled.

Powers and duties of supervisory committee

(2) Without limiting the generality of subsection (1), the supervisory committee

- (a) may, by vote of a majority of the members of the supervisory committee, suspend an officer and call a special general meeting of the credit union to consider the report of the supervisory committee on the suspension;
- (b) shall make or cause to be made an inspection of the affairs of the credit union and an examination of its books at least quarterly and report on the inspection and examination to the Supervisor, the board and the annual general meeting;
- (c) shall make an annual audit and report on the audit to the annual general meeting, unless an audit is otherwise provided for;
- (d) shall verify the accounts of the members in the manner specified in the by-laws;
- (e) shall fill vacancies in the supervisory committee until the next annual general meeting; and
- (f) shall perform other duties that may be imposed by the by-laws or the board.

FUNDS

Guarantee reserve fund

60. (1) At the end of each fiscal year, every credit union shall transfer to the guarantee reserve fund the portion of the earnings that is required by the standard by-laws to provide reserves for delinquent loans and expenses incurred in the collection of delinquent loans.

Exception

(2) If at the end of a fiscal year the amount of the guarantee reserve fund is equal to at least 7% of the total amount of loans to members, the credit union may, with the consent of the Supervisor, omit an allocation to the fund for that year.

Maintenance of fund

(3) The guarantee reserve fund, to the extent not applied on delinquent loans and the expenses incurred in the collection of delinquent loans, shall be maintained until the dissolution or liquidation of the credit union.

Payment into fund

(4) Amounts collected on loans previously written off against the guarantee reserve fund shall be paid into the fund.

Liquidity fund

61. Every credit union shall establish and maintain, in the manner and amount specified in the standard by-laws, an unencumbered liquidity fund against withdrawals from share and deposit accounts of members.

Special reserves

62. A credit union may set up special or contingency reserves as the board or the members in general meeting consider provident or necessary.

Investment of funds

63. Every credit union shall invest its liquidity fund and reserve funds

- (a) in the share capital of the Central;
- (b) by deposit in the Central or other depository authorized by the Supervisor; or
- (c) in an investment authorized by the *Trustee Act*.

Withdrawal of money

64. (1) Subject to the by-laws and with the consent of the Supervisor, a credit union may permit its members to withdraw money from deposit accounts by means of negotiable or non-negotiable orders on the credit union.

Withdrawal of consent

(2) The Supervisor may at any time withdraw the consent given under subsection (1).

Overdraw

65. (1) No officer or employee of a credit union shall permit a withdrawal of funds from the account of a member if the withdrawal would place the account in deficit.

Offence and liability

(2) An officer or employee who contravenes subsection (1) is guilty of an offence and, in addition, is jointly and severally liable with the withdrawer for loss resulting to the credit union as a result of the withdrawal.

Recovery of money

(3) This section does not limit or take away any remedy of a credit union for the recovery of money overdrawn from a share account or deposit account.

Mutual Aid Depository

66. (1) A corporation called the Credit Union Mutual Aid Depository Fund is established.

Board of directors

(2) The board of directors of the Mutual Aid Depository shall consist of not more than five members appointed by the Commissioner.

Object

(3) The object of the Mutual Aid Depository is to provide and administer a stabilization fund for credit unions and to assist in payment of losses suffered by members of credit unions in liquidation or dissolution.

Contribution to fund

(4) A credit union shall contribute to the Mutual Aid Depository the amounts required by the standard by-laws.

Default

(5) No credit union that is 30 days in default in making payments under subsection (4) shall make loans until all amounts owing to the Mutual Aid Depository are paid in full.

APPORTIONMENT OF SURPLUS

Dividend

67. (1) At the end of each fiscal year, a board may declare a dividend on shares from the remaining undivided earnings, after providing for

- (a) allocation to the guarantee reserve fund referred to in section 60;
- and
- (b) payment to the Mutual Aid Depository.

Calculation of dividend

(2) The dividend referred to in subsection (1) shall be calculated on the basis of the minimum quarterly share balances of members of record at the fiscal year-end and shall be paid to the members.

Rebate

(3) Where, in respect of a fiscal year, a credit union has paid a dividend of not less than 5% per year on shares, the board may, out of any remaining undivided earnings, also rebate to borrowers a portion of the loan interest received during the fiscal year.

Definition of "overdue loans"

68. (1) In this section, "overdue loans" means loans delinquent for more than two months in respect of

- (a) a repayment of principal or a portion of the principal; or
- (b) a payment of interest or a portion of the interest according to the terms of payment as set out in the loan agreement or in the promissory note.

Prohibition

(2) Where, at the end of a fiscal year, the overdue loans of a credit union exceed the loss exposure specified in the standard by-laws, the board shall not declare a dividend or a rebate of interest, except with the consent of the Supervisor.

FISCAL YEAR AND RETURNS

Fiscal year

69. The fiscal year of every credit union ends on September 30.

Records

70. Every credit union shall retain the records of its operations that are required by law.

Annual return

71. Every credit union shall

- (a) provide the Supervisor with the information that the Supervisor may require from time to time;
- (b) before December 1 in each year, provide the Supervisor with an audited year-end statement for the fiscal year of the receipts, expenditures, assets and liabilities of the credit union and other information that the Supervisor may require; and
- (c) make available to each member a copy of the latest annual return and financial statement of the credit union.

Form of return

72. The Supervisor may establish forms to be used in providing information required by the Supervisor, this Act or the by-laws.

EXAMINATION AND INSPECTION

Examination

73. (1) The Supervisor shall examine or direct the examination of the affairs of each credit union at least once a year.

Production of papers

(2) A credit union shall produce all books, documents and other papers required by the person conducting an examination under subsection (1) and that person may examine an officer of a credit union under oath.

Annual audit

(3) Despite subsection (1), the standard by-laws may require a credit union with a share capital and deposits exceeding an amount that may be set out in the standard by-laws to appoint chartered accountants, certified general accountants or qualified persons, approved by the Supervisor, to conduct an annual audit of the credit union in a manner approved by the Supervisor.

Audit

(4) Where, in the opinion of the Supervisor, the affairs of a credit union require immediate investigation in order to safeguard the interests of its members, the Supervisor may order an audit at the expense of the credit union. S.Nu. 2010,c.4,s.13(2).

Inspection of documents

74. On payment of the prescribed fee, a person may inspect a document kept by the Registrar relating to a credit union or may obtain a certified copy of all or part of the document.

AMALGAMATION AND DISSOLUTION

Amalgamation

75. (1) Subject to the approval of the Supervisor, any two or more credit unions may, under an agreement authorized by special resolutions passed by each credit union, amalgamate as one credit union.

Transfer of obligations

(2) A credit union may, by special resolution, transfer its obligations to its members and creditors to another credit union and that credit union may undertake to fulfil those obligations.

Effect on members and creditors

(3) No amalgamation or transfer of obligations prejudices the rights or affects the obligations of any member or prejudices the rights of a creditor.

Registration of resolution

- (4) A special resolution passed under this section is of no force or effect until
- (a) a copy of the resolution, signed by the president and secretary of the credit union, with other information that the Registrar may require, is sent to the Registrar for registration; and
 - (b) the resolution is registered by the Registrar.

Notice of amalgamation

(5) Notice that amalgamation proceedings have been completed and this Act has been complied with shall be published in the *Nunavut Gazette* and one issue of a newspaper published or circulating in the district or districts where the registered offices of the amalgamated credit unions are situated. S.Nu. 2010,c.4,s.13(2).

Dissolution

76. (1) A credit union whose financial position enables it to return to its members in full the money standing to their credit in share and deposit accounts may be dissolved in accordance with this section and section 77.

Financial statement

- (2) A credit union that wishes to dissolve shall prepare a financial statement setting out
- (a) the liabilities and assets of the credit union;
 - (b) the names of members and the nature of their respective interests in the credit union;
 - (c) the claims of creditors and the provision to be made for their payment; and
 - (d) the intended appropriation or division of the funds or property of the credit union, unless the instrument of dissolution states that this is to be left to the award of the Supervisor.

Special resolution

(3) A special resolution for dissolution shall be passed at a special general meeting by a majority of not less than 3/4 of the votes cast by the members in attendance.

Statutory declaration

(4) The president and secretary of a credit union that wishes to dissolve shall make a statutory declaration that this Act has been complied with.

Instrument of dissolution

(5) The statutory declaration referred to in subsection (4) shall be sent to and received by the Supervisor with the instrument of dissolution.

Cancellation of incorporation

77. (1) Where the Supervisor is satisfied that the claims of all the creditors have been met and the shareholders have been paid in full, the Supervisor shall notify the Registrar to cancel the incorporation.

Notice of dissolution

(2) The Registrar shall cause a notice of the dissolution to be advertised, at the expense of the credit union, in one copy of the *Nunavut Gazette* and a newspaper circulating in the district in which the registered office of the credit union is situated. S.Nu. 2010,c.4,s.13(2).

Dissolution by Commissioner

78. (1) The Commissioner may order the dissolution of a credit union if the Commissioner is satisfied, on the report of the Supervisor, that

- (a) the incorporation of the credit union was obtained by fraud or mistake;
- (b) the credit union exists for an illegal purpose;
- (c) the number of members of the credit union is less than 10;
- (d) the credit union is not carrying on business or is not in operation;
or
- (e) the credit union has wilfully contravened this Act, after notice from the Supervisor.

Notice of proposed dissolution

(2) The Supervisor shall give the credit union not less than 60-day notice of the proposed dissolution under subsection (1), specifying the reason for the dissolution and advising that, unless cause is shown to the contrary within that period, the credit union will be dissolved.

Dissolution

(3) At the expiration of the 60 days referred to in subsection (2), the Supervisor shall take all necessary action to dissolve the credit union.

Winding-up

79. Despite any incomplete or completed steps taken under this Act, a credit union shall be wound up on

- (a) a special resolution to that effect passed by a special general meeting; or
- (b) the order of the Commissioner under section 78.
S.Nu. 2010,c.4,s.13(2).

Central as liquidator

80. (1) On a special resolution or an order of the Commissioner under section 78 requiring that a credit union be wound up, the Supervisor shall appoint the Central as liquidator of the credit union and the Central may act through its officers, committees or employees.

Other liquidator

(2) The Supervisor may, where the Supervisor considers it advisable, appoint a person other than the Central as liquidator of the credit union and that person may exercise the powers and shall perform the duties of the Central under this Act or the regulations in respect of the liquidation and winding-up.

Costs of liquidator

(3) The reasonable and proper costs of the liquidator and of winding-up shall be borne by the credit union except to the extent, if any, that they may be paid by the Mutual Aid Depository.

Settlement of affairs

81. A credit union that is dissolved under this Act shall be deemed to be subsisting and in all respects subject to this Act to the extent that the credit union may do all things necessary to the winding-up of the credit union and may sue and be sued under this Act in respect of all outstanding matters.

Effect of appointment of Central

82. (1) On the appointment of the Central as liquidator

- (a) all the powers of the board cease except to the extent sanctioned by the Central; and
- (b) the Central shall take into its custody or control all the property, effects and choses in action to which the credit union is or appears to be entitled.

Statement of assets

(2) Within 60 days after the appointment of the Central as liquidator, the Central shall

- (a) prepare a statement of the assets and liabilities of the credit union and the values of the assets as shown by the books and records; and
- (b) provide the Supervisor with a true copy of the statement referred to in paragraph (a).

Powers of Central

(3) On the appointment of the Central as liquidator, the Central may

- (a) bring or defend any action or other legal proceedings in the name of and on behalf of the credit union;
- (b) carry on the business of the credit union, so far as is necessary for the beneficial winding-up of the credit union;
- (c) appoint a solicitor to assist in the liquidation;
- (d) employ an agent;
- (e) appoint an auditor;
- (f) make any compromise or arrangement with
 - (i) a creditor, a class of creditors or a person claiming to be a creditor, or

- (ii) persons having or alleging to have a claim, present or future, certain or contingent, ascertained or sounding only in damages, against the credit union or a claim by which the credit union may be rendered liable;
- (g) make any compromise or arrangement in respect of
 - (i) calls and liabilities to calls,
 - (ii) debts and liabilities capable of resulting in debts,
 - (iii) claims, present and future, certain and contingent, ascertained or sounding only in damages, subsisting or supposed to subsist between the credit union and a contributory, other debtor or a person apprehending liability to the credit union, and
 - (iv) all questions relating to or affecting the assets and liabilities or the winding-up of the credit union;
- (h) take or release any security for the discharge of a call, debt, liability or claim mentioned in paragraph (g) and give a complete discharge in respect of the call, debt, liability or claim;
- (i) sell the real and personal property and choses in action of the credit union by public auction or by private contract, with the power to transfer the whole of it to any person or sell it in parcels;
- (j) in the name and on behalf of the credit union, execute all deeds, receipts and other documents, using the seal of the credit union when necessary;
- (k) prove, rank and claim in the distribution of the estate of a contributory;
- (l) draw, accept, make or endorse a bill of exchange or promissory note in the name of and on behalf of the credit union, with the same effect with respect to the liability of the credit union as if the bill or note had been drawn, accepted, made or endorsed by or on behalf of the credit union in the course of its business;
- (m) raise on the security of the assets of the credit union any money required; and
- (n) do all other things that are advisable or necessary for winding-up the affairs of the credit union and distributing its assets.

Validity of acts by Central

(4) The acts of the Central under this section are valid despite any defects that are afterwards discovered in its appointment. S.Nu. 2010,c.4,s.13(2).

Notice or certificate of dissolution

83. (1) After the Supervisor is satisfied that all matters respecting the liquidation are completed, the Supervisor shall cause a notice or certificate of dissolution to be filed with the Registrar.

Notice or certificate of dissolution at request of Central

(2) Where, as a result of payments out of the Mutual Aid Depository or otherwise, the only creditor of a credit union that is being dissolved is the Central, the Supervisor shall, at the request of the Central, cause a notice or certificate of dissolution to be filed with the Registrar.

Effect of notice or certificate

(3) On filing of a notice or certificate of dissolution, the credit union ceases to exist for all purposes.

FEDERATIONS

Central

84. Sections 85 to 88 apply to a federation that is organized by two or more credit unions as a Central Credit Union Facility.

Federation

85. Two or more credit unions may, in the manner set out in this section and sections 86 and 87, organize a federation, with or without capital divided into shares, to further their common interests and for the benefit of their members and, without limiting the generality of these purposes, for the purpose of

- (a) carrying on, encouraging and assisting educational and advisory work relating to credit unions;
- (b) improving methods of management of credit unions and standardizing their bookkeeping, accounting and other procedures;
- (c) reducing operating costs of credit unions by arranging for group bonding of credit union employees, insuring repayment of loans made by credit unions to their members, insuring the savings of credit union members and purchasing bookkeeping and other supplies for sale to its members and other credit unions;
- (d) accepting as members credit unions admitted by the directors of the federation;
- (e) encouraging the organization of member credit unions into districts and subdistricts and making the by-laws that are necessary for the administration of districts and subdistricts;
- (f) borrowing money to achieve the objects of the federation;
- (g) making loans to its members;
- (h) drawing, making, accepting, endorsing, executing and issuing promissory notes, bills of exchange, bills of lading, warrants and other negotiable or transferable instruments; and
- (i) rendering to its members other services incidental to its objects.

Memorandum of association

86. (1) A memorandum of association of a federation, signed by one member of each credit union forming the federation who has been appointed by the credit union for the purpose, shall be filed in the office of the Registrar.

Form and content of memorandum

- (2) The memorandum of association referred to in subsection (1) must
- (a) be in the form required by the Registrar;
 - (b) state
 - (i) the name of the federation,
 - (ii) the par value of the shares, if any,
 - (iii) the membership fee, if any,
 - (iv) the objects of the federation,
 - (v) the place at which its registered office will be situated, and
 - (vi) the names and addresses of the subscribers to the memorandum of association and the names of the credit unions that they represent; and
 - (c) be accompanied by a copy of the by-laws by which the federation is to be governed and other documentary evidence that the Registrar may require.

Registration of federation

(3) On the filing of the memorandum of association and other documents under subsection (2), the Registrar may register the federation if advised by the Supervisor that the registration is economically advisable and that it is expedient to register the federation.

Certificate of registration

(4) On registration under subsection (3), the Registrar shall issue a certificate of registration in the prescribed form and publish a notice of registration in the *Nunavut Gazette*.

Effect of certificate

(5) On the issue of a certificate of registration under subsection (4), the credit unions referred to in the memorandum of association and other credit unions that may afterwards become members of the federation are a body corporate under the registered name of the federation.

Application of Act to federation

(6) To the extent that this Act is applicable, this Act applies to a federation, with such modifications as the circumstances require. S.Nu. 2010,c.4,s.13(2).

By-laws of federation

- 87.** (1) A federation may pass the by-laws that it considers advisable for its purposes and, without limiting the generality of this power to pass by-laws, may pass by-laws
- (a) providing that the territory in which the federation has members shall be divided into districts;
 - (b) providing that the number of directors of the federation specified in the by-laws shall be elected by delegates representing the members in a manner that will provide representation on the board of

- directors of the federation for each district and that the other directors, in the numbers specified in the by-laws, shall be elected by the delegates to represent the members at large;
- (c) providing for the appointment of a director by the remaining directors to fill any vacancy in the board of directors of the federation until the next annual meeting of the federation when a successor shall be appointed for the unexpired term;
 - (d) specifying the manner in which the retirement of directors may be ordered at meetings of delegates; and
 - (e) providing for the assessing and levying annually on each member the membership fees or dues that are considered sufficient to finance the operations of the federation.

Approval of by-laws

(2) No by-law made under subsection (1) is operative until approved by the Supervisor.

Membership in other organization

88. A federation may become a member of any federation, society, association or company incorporated by or under an Act of Canada, a province or territory having objects wholly or in part similar to those of the federation or carrying on a business capable of being conducted to benefit the federation directly or indirectly.

S.Nu. 2010,c.4,s.13(2).

OFFENCES AND PUNISHMENT

Offences

89. Every credit union is guilty of an offence that

- (a) fails to give notice, send a return or document or do or allow to be done an act or thing that the credit union is required to give, send, do or allow to be done by the Supervisor, this Act or the by-laws;
- (b) wilfully neglects or refuses to do an act or furnish information required for the purposes of this Act or the by-laws by the Supervisor or another person whose duties require him or her to obtain the information;
- (c) does an act or thing in contravention of this Act or the by-laws; or
- (d) makes a false return or wilfully furnishes information that is false or insufficient.

Liability

90. Every director, member of a credit or supervisory committee, manager, secretary-treasurer, employee or other officer of a credit union is guilty of an offence who does or knowingly or wilfully authorizes or permits an act, default or refusal in respect of which a credit union is by this Act or the by-laws guilty of an offence.

Offence for using "credit union"

91. Every individual, firm, corporation or association doing business in Nunavut is guilty of an offence who uses the words "credit union" or any abbreviation or derivative of those words as part of its corporate or business name, unless incorporated or registered under this Act. S.Nu. 2010,c.4,s.13(2).

Notice by Supervisor

92. (1) If it appears to the Supervisor that

- (a) the affairs of a credit union are being mismanaged, or are being conducted on an unsound basis,
- (b) a credit union is in an unsound financial condition or has contravened this Act or the by-laws, or
- (c) the interests of the members or creditors require it,

the Supervisor may in his or her discretion give the notice that the Supervisor considers appropriate in the circumstances to the credit union or its board, supervisory committee, officers or employees, requiring that the actions or practices be stopped, done or adopted as the notice may specify.

Offence

(2) Every person or credit union that fails to carry out the terms of a notice under subsection (1) is guilty of an offence.

Effect of notice

(3) A notice given under subsection (1) does not relieve anyone of the consequences of a contravention of this Act or the by-laws.

Punishment

93. Every individual, firm, corporation, association or credit union that is guilty of an offence under this Act is liable on summary conviction to a fine not exceeding \$1,000 and, in the case of a continuing offence, to a fine not exceeding \$100 per day.

Civil remedy

94. The offence and punishment provisions of this Act do not take away or limit civil remedies.

REGULATIONS

Regulations

95. The Commissioner, on the recommendation of the Minister, may make regulations that the Commissioner considers necessary for giving effect to and carrying out the provisions of this Act according to its intent and meaning and, without restricting the generality of this power to make regulations, may make regulations

- (a) prescribing forms to be used for the purposes of this Act;
- (b) prescribing fees to be paid to the Supervisor and the Registrar for services performed or documents supplied under this Act;

- (c) prescribing fees to be paid to the Government of Nunavut for services rendered under this Act;
- (d) respecting the Mutual Aid Depository and the board of directors of the Mutual Aid Depository;
- (e) respecting the administration of the stabilization fund referred to in subsection 66(3);
- (f) prescribing anything that is to be prescribed under this Act.
S.Nu. 2010,c.4,s.13(2).