

Co-operative Companies Act 1996

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An Act to reform the law relating to co-operative companies and, in particular—

- (a) To reaffirm the value of the co-operative company as a means of facilitating its shareholders carrying on business on a mutual basis; and**
 - (b) To provide for the registration of co-operative companies and regulate the relationship between co-operative companies and their shareholders; and**
 - (c) To provide for the registration of existing co-operative companies and existing companies as co-operative companies under this Act at the same time as they reregister as companies under the Companies Act 1993; and**
 - (d) To modify the application of the Companies Act 1993 to co-operative companies registered under this Act—**
- and to repeal the Co-operative Companies Act 1956 and certain other Acts**

BE IT ENACTED by the Parliament of New Zealand as follows:**1 Short Title and commencement**

- (1) This Act may be cited as the Co-operative Companies Act 1996.
- (2) Except as provided in sections 49(3) and 50(4) of this Act, this Act shall come into force on a date to be appointed by the Governor-General by Order in Council.

**Part 1
Interpretation****2 Interpretation**

- (1) In this Act, unless the context otherwise requires,—
Company has the same meaning as in section 2 of the Companies Act 1993
Co-operative company means—
 - (a) A company, the principal activity of which is, and is stated in its constitution as being, a co-operative activity and in which not less than 60 percent of the voting rights are held by transacting shareholders:
 - (b) A company—
 - (i) That is a subsidiary of a company referred to in paragraph (a) of this definition; and
 - (ii) The principal activity of which is, and is stated in its constitution as being, a co-operative activity:**Existing company** means a body corporate registered under Part 2 or Part 8 or Part 10 of the Companies Act 1955, or under the Companies Act 1933, the Companies Act 1908, the Companies Act 1903, the Companies Act 1882, or the Joint Stock Companies Act 1860
Existing co-operative company means an existing company registered under the Co-operative Dairy Companies Act 1949, the Co-operative Companies Act 1956, the Co-operative Freezing Companies Act 1960, or the Co-operative Forestry Companies Act 1978.
- (2) For the purposes of the definition of the term **co-operative company** in subsection (1) of this section,—
 - (a) A company is a subsidiary of another company if—

- (i) That other company holds not less than 60 per cent of the shares in the company that carry the right to vote at meetings of the company; or
 - (ii) The company is a subsidiary of a company that is that other company's subsidiary:
- (b) A company is another company's holding company if that other company is its subsidiary.
- (3) For the purposes of subsection (2) of this section, the provisions of section 8 of the Companies Act 1993 shall apply in determining whether one company is the subsidiary of another company.
- (4) Any term or expression that is not defined in this Act, but that is defined in the Companies Act 1993, has the meaning given to it by the Companies Act 1993.

3 Meaning of co-operative activity

- (1) In this Act, **co-operative activity**, in relation to a company, means one or more of the following activities:
 - (a) Supplying or providing the shareholders of the company with goods or services, or both:
 - (b) Supplying or providing the shareholders of the company's holding company with goods or services, or both:
 - (c) Processing or marketing goods or services, or both, supplied or provided by its shareholders:
 - (d) Processing or marketing goods or services, or both, supplied or provided by the shareholders of its holding company:
 - (e) Entering into any other commercial transaction with the shareholders of the company:
 - (f) Entering into any other commercial transaction with the shareholders of its holding company:
 - (g) Supplying or providing goods or services, or both, that are ancillary to, or that otherwise facilitate, the carrying on by the company or its holding company of a co-operative activity referred to in any of paragraphs (a) to (f) of this subsection.

- (2) For the purposes of subsection (1) of this section, a company may carry on the co-operative activity in one or more of the following ways:
- (a) Directly:
 - (b) Through a subsidiary of the company:
 - (c) By arranging for another person to carry on the activity.

4 Meaning of transacting shareholder

- (1) For the purposes of this Act, a shareholder of a co-operative company is a **transacting shareholder** of the company if the shareholder, having regard to the nature of the co-operative activity carried on by the company, does one or more of the following:
- (a) Supplies or provides goods or services to the company or, having ceased to provide goods or services to the company, is, in the reasonable opinion of the directors of the company, likely to resume doing so:
 - (b) Purchases or acquires goods or services from the company or, having ceased to purchase or acquire goods or services from the company, is, in the reasonable opinion of the directors of the company, likely to resume doing so:
 - (c) Enters into other commercial transactions with the company or, having ceased to enter into other commercial transactions with the company, is, in the reasonable opinion of the directors of the company, likely to resume doing so:
 - (d) Has incurred an obligation to do an act referred to in any of paragraphs (a), (b), and (c) of this subsection.
- (2) For the purposes of this Act, a holding company of a subsidiary that is a co-operative company within the meaning of paragraph (b) of the definition of that term in section 2(1) of this Act, is a transacting shareholder.
- (3) For the purposes of this section, a shareholder may carry on the activity referred to with the co-operative company in one or more of the following ways:
- (a) Directly:
 - (b) Through a subsidiary of the co-operative company:

- (c) With another person that the co-operative company has arranged to carry on the activity.

5 Act to bind the Crown
This Act binds the Crown.

Part 2
Co-operative companies

Registration of co-operative companies

6 Registration of co-operative companies

- (1) An application for the registration of a company as a co-operative company under this Act must be sent or delivered to the Registrar and must be—
 - (a) In the prescribed form; and
 - (b) Signed by a person acting with the express or implied authority of the company; and
 - (c) Accompanied by a statutory declaration made by each director stating that, in the opinion of the director, the company is a co-operative company within the meaning of this Act and the grounds for that opinion.
- (2) Every application must be authorised by the constitution of the company or by a special resolution of the shareholders of the company, and, where the application is authorised by a special resolution, the application must be accompanied by a copy of the resolution.
- (3) As soon as the Registrar receives a properly completed application for registration of a company as a co-operative company, the Registrar must, if satisfied that the company is a co-operative company,—
 - (a) Register the company as a co-operative company under this Act; and
 - (b) Issue a certificate of registration.
- (4) If the Registrar declines to register a company as a co-operative company on the ground that the Registrar is not satisfied that the company is a co-operative company, the Registrar must give notice in writing to the company setting out the Registrar's reasons.

- (5) A certificate issued under this section is conclusive evidence that—
- (a) All the requirements of this Act as to registration have been complied with; and
 - (b) On and from the date of registration stated in the certificate, the company is registered under this Act.

7 Simultaneous registration under Companies Act 1993 and this Act

- (1) An application for registration of a company as a co-operative company under this Act may be sent or delivered to the Registrar together with an application for registration of a company under section 12 of the Companies Act 1993.
- (2) An application under subsection (1) of this section must be—
- (a) In the prescribed form; and
 - (b) Signed by a person acting with the express or implied authority of the persons named in the application under section 12 of the Companies Act 1993 as directors of the company; and
 - (c) Accompanied by a statutory declaration made by each person named in the application under section 12 of the Companies Act 1993 as a director stating that, in the opinion of that person, the company will, upon registration, be a co-operative company within the meaning of this Act and the grounds for that opinion.
- (3) Every application must be authorised by the proposed constitution of the company or by a resolution of such number of persons who consent to become shareholders of the company and who will hold, in aggregate, not less than 75 percent of the shares to be issued by the company and, where the application is authorised by that resolution, the application must be accompanied by a copy of the resolution.
- (4) As soon as the Registrar receives a properly completed application for registration of a company as a co-operative company under subsection (1) of this section, the Registrar must, upon registration of the company under the Companies Act 1993 and if satisfied that the company, will, upon that registration, be a co-operative company,—

- (a) Register the company as a co-operative company under this Act; and
 - (b) Issue a certificate of registration.
- (5) If the Registrar declines to register a company as a co-operative company on the ground that the Registrar is not satisfied that the company will, upon registration under the Companies Act 1993, be a co-operative company, the Registrar must give notice in writing to the applicant setting out the Registrar's reasons.
- (6) A certificate issued under this section is conclusive evidence that—
- (a) All the requirements of this Act as to registration have been complied with; and
 - (b) On and from the date of registration stated in the certificate, the company is registered under this Act.

8 Simultaneous registration under this Act and reregistration under Companies Act 1993 of existing co-operative companies

- (1) Every existing co-operative company may apply for registration as a co-operative company under this Act at the same time as it applies, under the Companies Reregistration Act 1993, for reregistration under the Companies Act 1993.
- (2) An application under subsection (1) of this section must be—
- (a) In the prescribed form; and
 - (b) Signed by a person acting with the express or implied authority of the company; and
 - (c) Accompanied by a statutory declaration made by each director stating that, in the opinion of the director, the company is a co-operative company within the meaning of this Act and the grounds for that opinion.
- (3) Every application must be accompanied by a copy of a special resolution of the company authorising the making of the application.
- (4) As soon as the Registrar receives a properly completed application for registration of an existing co-operative company as a co-operative company under subsection (1) of this section, the Registrar must, upon reregistration of the company under

the Companies Act 1993 and if satisfied that the company will, upon that reregistration, be a co-operative company,—

- (a) Register the company as a co-operative company under this Act; and
 - (b) Issue a certificate of registration.
- (5) If the Registrar declines to register an existing co-operative company as a co-operative company on the ground that the Registrar is not satisfied that the company will, upon reregistration under the Companies Act 1993, be a co-operative company, the Registrar must give notice in writing to the applicant setting out the Registrar's reasons.
- (6) A certificate issued under this section is conclusive evidence that—
- (a) All the requirements of this Act as to registration have been complied with; and
 - (b) On the date of registration stated in the certificate, the company ceased to be an existing co-operative company; and
 - (c) On and from the date of registration stated in the certificate, the company is registered under this Act.

9 Simultaneous registration under this Act and reregistration under Companies Act 1993 of existing companies

- (1) An application for registration of an existing company as a co-operative company under this Act may be sent or delivered to the Registrar together with an application, under the Companies Reregistration Act 1993 for reregistration of the company as a company under the Companies Act 1993.
- (2) An application under subsection (1) of this section must be—
 - (a) In the prescribed form; and
 - (b) Signed by a person acting with the express or implied authority of the company; and
 - (c) Accompanied by a statutory declaration made by each director stating that, in the opinion of the director, the company is a co-operative company within the meaning of this Act and the grounds for that opinion.

- (3) Every application must be accompanied by a copy of a special resolution of the company authorising the making of the application.
- (4) As soon as the Registrar receives a properly completed application for registration of an existing company as a co-operative company under subsection (1) of this section, the Registrar must, upon reregistration of the company under the Companies Act 1993 and if satisfied that the company will, upon that reregistration, be a co-operative company,—
 - (a) Register the company as a co-operative company under this Act; and
 - (b) Issue a certificate of registration.
- (5) If the Registrar declines to register an existing company as a co-operative company on the ground that the Registrar is not satisfied that the company will, upon reregistration under the Companies Act 1993, be a co-operative company, the Registrar must give notice in writing to the applicant setting out the Registrar's reasons.
- (6) A certificate issued under this section is conclusive evidence that—
 - (a) All the requirements of this Act as to registration have been complied with; and
 - (b) On and from the date of registration stated in the certificate, the company is registered under this Act.

10 Annual resolution by directors of co-operative company

- (1) The board of a company registered under this Act must, not later than—
 - (a) The date on which the annual report of the company is prepared under section 208 of the Companies Act 1993; or
 - (b) The date by which the annual report of the company is required to be prepared under that section,—whichever is the earlier, resolve whether or not, in the opinion of the board, the company has, throughout the accounting period to which the report relates or would relate, as the case may be, been a co-operative company.
- (2) The resolution must set out in full the reasons for the directors' opinion.

- (3) Every director who does not vote in favour of the resolution must sign a certificate stating his or her reasons.
- (4) The board of the company must ensure that there is attached to the annual report for, and the annual return of, the company, a statement setting out—
 - (a) The date and terms of the resolution; and
 - (b) The name of any director who did not vote in favour of the resolution and the director's reasons.
- (5) If the annual return of the company does not comply with subsection (4) of this section, the Registrar must, as soon as practicable after receiving the return, give notice in writing to the board of the company stating that the return does not comply.
- (6) The board of the company must, within 30 working days after receiving a notice under subsection (5) of this section,—
 - (a) If the board did not pass the resolution referred to in subsection (1) of this section, pass the resolution and send a statement that complies with paragraphs (a) and (b) of subsection (4) of this section to the Registrar; or
 - (b) If the board passed the resolution but did not comply with paragraphs (a) and (b) of subsection (4) of this section, send a statement that complies with those paragraphs to the Registrar.
- (7) Subsections (2) and (3) of this section apply in relation to a resolution referred to in subsection (6)(a) of this section.
- (8) Every director who, without reasonable excuse, fails to comply with subsection (3) of this section commits an offence and is liable on summary conviction to a fine not exceeding \$5,000.
- (9) If the board of a company fails to comply with subsection (6) of this section, every director of the company commits an offence and is liable on summary conviction to a fine not exceeding \$10,000.
- (10) It is a defence to a director charged with an offence under subsection (9) of this section if the director proves that—
 - (a) The board took all reasonable and proper steps to ensure that the requirements of subsection (6) of this section would be complied with; or

- (b) He or she took all reasonable and proper steps to ensure that the board complied with the requirements of that subsection; or
- (c) In the circumstances he or she could not reasonably have been expected to take steps to ensure that the board complied with the requirements of that subsection.

11 Registrar may cancel registration

- (1) Subject to subsection (2) of this section, the Registrar may cancel the registration of a company under this Act if—
 - (a) The Registrar is satisfied on reasonable grounds that the company is not, or has ceased to be, a co-operative company; or
 - (b) The board of the company has failed to comply with section 10(6) of this Act.
- (2) The Registrar must not exercise the power conferred by subsection (1) of this section unless the Registrar—
 - (a) Has given to the company not less than 30 working days notice in writing of the fact that the Registrar intends to consider whether to exercise the power and the grounds for doing so; and
 - (b) Considers any representations made by the company or any shareholder of the company.
- (3) The board of the company must, forthwith after receiving a notice under subsection (2) of this section, send a copy of the notice to every shareholder of the company.

Compare: 1956 No 18 s 3(5)

12 Cancellation of registration at request of company

- (1) A company may apply to the Registrar to cancel the registration of the company under this Act.
- (2) Every application must be—
 - (a) In the prescribed form; and
 - (b) Signed by a person acting with the express or implied authority of the company.
- (3) Every application must be authorised by a special resolution of the shareholders of the company and must be accompanied by a copy of the resolution.

- (4) The Registrar must, not less than 30 days after receiving a properly completed application under this section, cancel the registration of the company under this Act.

13 Provisions relating to cancellation of registration

- (1) The cancellation of the registration of the company under this Act takes effect on the entry by the Registrar on the New Zealand register of a memorandum cancelling the registration of the company under this Act.
- (2) The Registrar must, forthwith after cancelling the registration of the company under this Act, give notice in writing of the cancellation to the company.
- (3) Subject to subsection (4) of this section, on the cancellation of the registration of a company under this Act,—
- (a) This Act ceases to apply to the company; and
 - (b) Shares in the company having a nominal value cease to have a nominal value and are deemed to have been issued for a consideration equal to the nominal value of the shares immediately before the cancellation of the registration of the company.
- (4) The provisions of this Act shall, notwithstanding the cancellation of the registration of the company under this Act, continue to apply in relation to the surrender of shares under this Act held by a transacting shareholder where—
- (a) The transacting shareholder has, before the cancellation of the registration, given a notice under section 20 of this Act in relation to the surrender of the shares; or
 - (b) A resolution has, before the cancellation of the registration, been passed by the company under section 21 of this Act requiring the transacting shareholder to surrender the shares.

14 Use of word co-operative in name of company

- (1) No company may be, or remain, registered under the Companies Act 1993 by a name that includes the word **co-operative** unless the company is also registered under this Act.
- (2) Subject to subsection (4) of this section, where a company registered under the Companies Act 1993 is not, by virtue of sub-

section (1) of this section, entitled to remain registered under that Act by a name that includes the word “co-operative”, the Registrar must alter the New Zealand register by removing the word “co-operative” from the name of the company and issue a certificate of incorporation for the company recording its new name.

- (3) The change of name of the company under subsection (2) of this section—
 - (a) Takes effect from the date of the certificate issued under that subsection; and
 - (b) Does not affect rights or obligations of the company or legal proceedings by or against the company, and legal proceedings that might have been continued or commenced against the company under its former name may be continued or commenced against it under its new name.
- (4) If the Registrar believes on reasonable grounds that, if the name of the company were altered under subsection (2) of this section, the name would not be a name that could be reserved under section 22 of the Companies Act 1993, the Registrar may serve notice on the company under section 24 of that Act to change its name and the provisions of that section shall apply accordingly.
- (5) In this section, the word **co-operative** includes any abbreviation of that word.

Compare: 1956 No 18 s 11

Nominal value shares

15 Shares may have nominal value

- (1) Notwithstanding section 38 of the Companies Act 1993, shares in a company registered under this Act may have a nominal value and different classes of shares may have different nominal values.
- (2) The nominal value of shares or any class of shares in a company registered under this Act shall be specified in the constitution of the company.
- (3) The constitution of the company may, with the prior approval of the board, be amended by—

- (a) Altering the nominal value of shares or any class of shares in the company; or
 - (b) Removing any provision that specifies the nominal value of shares or any class of shares in the company.
- (4) The constitution of a company registered under this Act may, by ordinary resolution of the shareholders of the company, be amended by subdividing or consolidating shares having a nominal value.

16 Consideration for issue of shares having nominal value

The consideration for the issue of shares or any class of shares in a company registered under this Act having a nominal value must be the nominal value of the shares or class of shares.

17 Issue of nominal value shares from reserves

- (1) Shares in a company registered under this Act having a nominal value may be issued and paid, fully or partly, from the reserves of the company if—
- (a) The shares are issued to each shareholder in the same class in proportion to the shares held by that shareholder in the class; or
 - (b) The shares are issued to shareholders in the same class in proportions calculated by reference to transactions by those shareholders with the company.
- (2) For the purposes of subsection (1)(b) of this section, shares may be issued by reference to the number or value or volume of, or the profit derived by the company from, transactions by the shareholders with the company during a period determined by the board of the company.

18 Surrender of shares having nominal value

- (1) Subject to this section and to the constitution of the company, a company registered under this Act—
- (a) May, under section 20 of this Act, accept the surrender of all or any of the shares in the company having a nominal value held by a shareholder;
 - (b) May, under section 21 of this Act, require a shareholder in the company to surrender all or any of the shares

in the company having a nominal value held by that shareholder.

- (2) The shares that are surrendered may be paid for out of the assets of the company.
- (3) A company must not—
 - (a) Accept the surrender of any shares under section 20 of this Act; or
 - (b) Require, the surrender of any shares under section 21 of this Act,—unless the board of the company has resolved that the company will, immediately after the surrender, satisfy the solvency test.
- (4) The directors who vote in favour of the surrender must sign a certificate stating that, in their opinion, the company will immediately after the surrender, satisfy the solvency test and the grounds for that opinion.
- (5) If, after the passing of the resolution and before the shares are surrendered, the board ceases to be satisfied on reasonable grounds that the company will, immediately after the surrender, satisfy the solvency test, any surrender of the shares is to be treated as a distribution that is deemed not to have been authorised and the provisions of subsections (3) and (5) of section 56 of the Companies Act 1993 shall apply with such modifications as may be necessary.
- (6) Every director who fails to comply with subsection (4) of this section commits an offence and is liable on summary conviction to a fine not exceeding \$5,000.

19 Application of Companies Act 1993 to surrender of shares

- (1) Section 52(4) of the Companies Act 1993 shall apply to a surrender under this Act of shares having a nominal value.
- (2) Section 56 of the Companies Act 1993 shall apply, with such modifications as may be necessary, to the surrender under this Act of shares having a nominal value as if the surrender were a distribution.
- (3) Nothing in sections 58 to 67 and 68 to 75 of the Companies Act 1993 (which relate to the acquisition by a company of its own shares) applies to the surrender under this Act of shares having a nominal value.

20 Surrender of shares at option of shareholder

- (1) A shareholder of a company registered under this Act who has ceased to be a transacting shareholder may, by notice in writing, offer to surrender to the company all or any shares in the company having a nominal value and held by that shareholder and, in any such case, but subject to section 18 of this Act, the board of the company may resolve to accept the surrender of the shares.
- (2) The personal representative of the estate of a deceased shareholder of a company registered under this Act may, if the personal representative has ceased to be a transacting shareholder, by notice in writing, require the company to accept the surrender of all or any shares in the company having a nominal value and comprised in the estate of the shareholder and, in any such case, but subject to section 18 of this Act, the board of the company must, within 60 working days after receiving the notice, resolve to accept the surrender.
- (3) Where a shareholder of a company registered under this Act—
 - (a) Has not been a transacting shareholder during the immediately preceding 5 years or such other period as may be determined by the board of the company or specified in the constitution of the company; or
 - (b) Has disposed of, or changed the use of, the shareholder's property and other assets with the result that the shareholder does not have the capacity to continue to be a transacting shareholder,—the shareholder may, by notice in writing, require the company to accept the surrender of all or any shares in the company having a nominal value and held by that shareholder and, in any such case, but subject to section 18 of this Act, the board of the company must, within 60 working days after receiving the notice, resolve to accept the surrender.
- (4) The surrender of shares under this section takes effect on the date on which the board of the company resolves to accept the surrender.

Compare: 1956 No 18 s 7

21 Surrender of shares at option of company

- (1) Subject to section 18 of this Act, a company registered under this Act may, if it is expressly authorised by its constitution to do so, require any shareholder of the company to surrender to the company all or any shares in the company having a nominal value and held by that shareholder if—
 - (a) The shareholder has ceased to be a transacting shareholder; or
 - (b) The shareholder has failed to comply in a material respect with requirements relating to transactions with the company contained in any contract between the company and the shareholder; or
 - (c) The constitution of the company permits the board to require the surrender of the shares on grounds specified in the constitution, and—
 - (i) The surrender of the shares is on a ground specified in the constitution; and
 - (ii) The board has resolved that the surrender of the shares is in the best interests of the company.
- (2) A resolution under subsection (1)(c)(ii) of this section must set out in full the reasons for the board's conclusions.
- (3) The directors who vote in favour of a resolution required under subsection (1)(c)(ii) of this section must sign a certificate stating that the surrender is in the best interests of the company and may combine it with the certificate required under section 18 of this Act.
- (4) Subject to section 18 of this Act, the board of a company registered under this Act may, at any time, require a shareholder who has not been a transacting shareholder throughout the immediately preceding period of 12 months to surrender to the company all or any shares in the company having a nominal value and held by that shareholder.
- (5) Subject to section 18 of this Act, the board of a company registered under this Act may, if permitted to do so by the constitution of the company, at any time, require a shareholder to surrender to the company all or any shares in the company having a nominal value and held by that shareholder in excess of the number of shares that the shareholder is required to hold in the company under the constitution and determined on the

basis of transactions with the company during such immediately preceding period as is specified in the constitution.

- (6) The surrender of shares under this section takes effect at the expiration of a month after notice in writing requiring the surrender is given to the shareholder.
- (7) Every director who fails to comply with subsection (3) of this section commits an offence and is liable on summary conviction to a fine not exceeding \$5,000.

Compare: 1956 No 18 s 8

22 Consideration for surrender of shares

- (1) The consideration for the surrender of shares having a nominal value in a company registered under this Act shall be determined in accordance with the following rules:
 - (a) The consideration shall be the nominal value of the shares on the date on which the surrender takes effect or, if it is less than the nominal value of the shares, the amount paid up on the shares:
 - (b) If the constitution of the company includes a procedure for determining the consideration for the surrender of the shares, then, if the consideration determined under the procedure is less than what the consideration would be if it were determined under paragraph (a), the consideration for the surrender of the shares shall be the consideration determined under the procedure:
 - (c) Despite paragraphs (a) and (b), the company and the shareholder may agree on the consideration to be paid for the surrender of the shares if the amount agreed is less than what the consideration would be if it were determined under paragraph (a).
- (2) If the constitution of a company registered under this Act includes a procedure for determining the consideration for the surrender of shares in the company, it must also make provision for the company or the shareholder, if either objects to the consideration determined in accordance with the procedure, to have the matter determined by arbitration in accordance with the Arbitration Act 1908.
- (3) Notwithstanding anything in the constitution of the company, in determining the consideration for the surrender of shares in

the company under any procedure contained in the constitution of the company, no account is to be taken of—

- (a) The fact that the shareholder is, or may become, a transacting shareholder of another co-operative company; or
 - (b) Any other factors or circumstances personal to the shareholder.
- (4) The consideration for the surrender of shares is an unsecured debt owed by the company to the shareholder and, unless the constitution otherwise provides, is payable on the date on which the surrender takes effect.

23 Cancellation of shares surrendered

- (1) Subject to sections 24 to 26 of this Act, shares that are surrendered under section 20 or section 21 of this Act are deemed to be cancelled immediately the surrender takes effect.
- (2) On the cancellation of a share under this section,—
- (a) The rights and privileges attached to that share expire; and
 - (b) The share may be reissued as a share having a nominal value in accordance with this Act and the Companies Act 1993 or, in any other case, may be reissued in accordance with the Companies Act 1993.

Compare: 1993 No 105 s 66(1), (3)

24 Co-operative company may hold its own shares

- (1) For the purposes of this Act and the Income Tax Act 2004, shares in a company registered under this Act that are surrendered under section 20 or section 21 of this Act shall not be deemed to be cancelled under section 23 of this Act if—
- (a) The constitution of the company expressly permits the company to hold its own shares; and
 - (b) The board of the company resolves that the shares concerned shall not be cancelled on surrender; and
 - (c) The number of shares surrendered, when aggregated with shares held by the company pursuant to this section at the time of the surrender which are of the same class, does not exceed 20 percent of the number of shares of that class previously issued by the company, excluding

- shares previously deemed to be cancelled under section 23 of this Act; and
- (d) Any number of shares surrendered in excess of 25 per cent of the 20 per cent referred to in paragraph (c) of this subsection are surrendered, or required to have been surrendered, by shareholders only on grounds related to—
- (i) The capacity of the shareholders to enter into transactions between the company and the shareholders; or
 - (ii) The level of transactions between the company and the shareholders; or
 - (iii) The terms of any contract relating to transactions between the company and the shareholders.
- (2) Shares surrendered by a company pursuant to section 20 or section 21 of this Act that, pursuant to this section, are not deemed to be cancelled shall be held by the company in itself.
- (3) A share that a company holds in itself under subsection (2) of this section may be cancelled by the board of the company resolving that the share is cancelled; and the share shall be deemed to be cancelled on the making of such a resolution.

Compare: 1993 No 105 s 67A; 1994 No 82 s 3

Subsection (1) was amended, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35) by substituting the words “Income Tax Act 2004” for the words “Income Tax Act 1994”.

25 Rights and obligations of surrendered shares company holds in itself suspended

- (1) The rights and obligations attaching to a share that a company holds in itself pursuant to section 24 of this Act shall not be exercised by or against a company while it holds the share.
- (2) Without limiting subsection (1) of this section, while a company holds a share in itself pursuant to section 24 of this Act, the company shall not—
- (a) Exercise any voting rights attaching to the share; or
 - (b) Make or receive any distribution authorised or payable in respect of the share.

Compare: 1993 No 105 s 67B; 1994 No 82 s 3

26 Reissue of surrendered shares company holds in itself

- (1) Section 16 of this Act shall apply to the transfer of a share held by a company in itself as if the transfer were the issue of the share under section 42 or section 44 of the Companies Act 1993.
- (2) Subject to subsection (1) of this section, the transfer of a share held by a company in itself shall not be subject to any provisions in this Act, the Companies Act 1993, or the company's constitution relating to the issue of shares, except to the extent the company's constitution expressly applies those provisions.
- (3) A company shall not grant an option to acquire a share it holds in itself or enter into any obligations to transfer such a share where the company has received notice in writing of a takeover offer made under the takeovers code in force under the Takeovers Act 1993 or, in the case of a company that is a party to a listing agreement with a stock exchange, where the exchange makes a public release to the sharemarket that a takeover offer for more than 20 percent of the company's shares is to be made.

Compare: 1993 No 105 s 67C; 1994 No 82 s 3

Subsection (3) was amended, as from 25 October 2006, by section 30(2) Takeovers Amendment Act 2006 (2006 No 48) by substituting the words "a takeover offer made under the takeovers code in force under the Takeovers Act 1993" for the words "a takeover scheme under section 4 of the Companies Amendment Act 1963". See sections 31 and 32 of that Act for the transitional provisions.

27 Acquisition and redemption of shares under Companies Act 1993 not affected

Nothing in sections 18 to 23 of this Act limits or affects the acquisition or redemption of shares under the Companies Act 1993 by a company registered under this Act.

Forfeiture of shares

28 Forfeiture of shares of untraceable shareholders

- (1) A company registered under this Act may, in accordance with this section, forfeit the shares of any shareholder of the company to whom this section applies.

- (2) This section applies to a shareholder who, for a period of not less than 2 years immediately preceding the first publication of a notice under subsection (4) of this section,—
- (a) Has not resided at the address last known to the company; and
 - (b) Has not responded to any communication from the company; and
 - (c) Has no agent acting on his or her behalf; and
 - (d) If cheques for money due from the company have been sent, or other money has become payable, to him or her, has not presented the cheques for collection or claimed payment of the money.
- (3) Before a company forfeits any shares under this section, the company must—
- (a) Comply with subsection (4) of this section; and
 - (b) Take such other steps to locate the shareholder as are reasonable in the circumstances.
- (4) The company must publish in a metropolitan newspaper that has a national circulation and, where that newspaper does not also have a general circulation in the principal district in which the company carries on business, in a newspaper circulating in that district, a notice stating—
- (a) The name of the shareholder;
 - (b) The number of shares held by him or her;
 - (c) The amount paid up on the shares;
 - (d) That it is the intention of the company to forfeit the shares held by the shareholder after the date specified in the notice, not being a date that is earlier than 3 months after the first publication of the notice, unless, before that date, the shareholder, or his or her personal representatives or agent, or any other person who establishes on reasonable grounds that that person is entitled to the shares, notifies the company that the shares should not be forfeited.
- (5) If no person gives notice to the company under subsection (4)(d) of this section within the time specified in the notice under that subsection, the board of the company may, by resolution, forfeit the shares.

- (6) Any shares forfeited under this section shall be deemed to be cancelled on the date the resolution is passed.
- (7) If, within 4 years after shares have been forfeited under this section, a person establishes on reasonable grounds that he or she was the holder of the shares immediately before the forfeiture, the board must pay to that person the amount that that person would have been entitled to have been paid if the shares had been surrendered to the company under section 20 of this Act on the date on which they were forfeited.
- (8) No interest is payable on any amount payable under subsection (7) of this section.

Compare: 1949 No 22 s 16

*Application of Companies Act 1993 and
Securities Act 1978*

This heading was amended, as from 15 April 2004, by section 3 Co-operative Companies Amendment Act 2004 (2004 No 25) by inserting the words “and Securities Act 1978”

29 Modified application of Companies Act 1993

The application of the Companies Act 1993 to a company registered under this Act is subject to the following modifications:

- (a) The reference in section 43(1) and section 47(5) to 10 working days shall, in the case of any issue of shares having a nominal value, be construed as a reference to 20 working days:
- (b) Section 50 does not apply in relation to the issue of shares having a nominal value if the shares are, in accordance with the constitution of the company, issued to a person who already holds shares in the company having a nominal value:
- (c) For the purposes of section 55(2)(b), transacting shareholders are shareholders of the same class:
- (d) Section 55 does not apply to discounts offered to transacting shareholders in respect of goods or services if discounts are, or are likely to be, offered in respect of like goods or services in the ordinary course of business by other persons:
- (e) Section 95 shall not apply:

- (f) Where the board of a company agrees, under section 111(2)(a), to the purchase of shares having a nominal value by the company, or arranges under section 111(2)(b) for some other person to agree to purchase the shares, as the case may be, not being an agreement or arrangement that results from an alteration of the constitution of the company removing a power to register as a co-operative company under this Act, the price for the shares shall be determined in accordance with section 22 of this Act and sections 112 and 113 shall not apply:
- (g) Sections 140 and 141 shall not apply in relation to a transaction or proposed transaction in the ordinary course of business between—
 - (i) The company and a director of the company in his or her capacity as a transacting shareholder or as a trustee for a transacting shareholder; or
 - (ii) The company and a transacting shareholder of the company in that shareholder's capacity as such, being a shareholder of which a director of the company is a director, officer, or trustee:
- (h) Section 149 shall not apply in relation to the acquisition or disposition of shares in a company registered under this Act by a director of the company in the ordinary course of business and in his or her capacity as a transacting shareholder of the company:
- (i) Section 175 shall not apply in relation to any act or omission of the company that is required or authorised by this Act:
- (j) the reference in section 209(1) to 20 working days must be construed as a reference to 10 working days:
- (k) except in the case of a shareholder, other than a transacting shareholder, who gives notice in writing to the company that the shareholder wishes to be sent copies of the annual reports of the company under section 209, the reference in that section to every shareholder must be construed as a reference to every transacting shareholder:

- (l) Section 216(1) shall apply as if for paragraph (b), there were substituted the following paragraph:
- “(b) Copies of written communications to all shareholders or to all holders of a class of shares during the preceding 10 years in their capacity as shareholders, including annual reports, financial statements, and group financial statements:”:
- (m) In the case of a company that is registered under Part 3 of this Act, section 110 shall apply subject to section 40 of this Act.

Paragraph (a) was amended, as from 15 April 2004, by section 4 Co-operative Companies Amendment Act 2004 (2004 No 25) by inserting “and section 47(5)” after “section 43(1)”.

Paragraphs (j) and (k) were substituted, as from 18 June 2007, by section 17 Companies Amendment Act (No 2) 2006 (2006 No 62). *See* clause 2(1) Companies Amendment Act (No 2) 2006 Commencement Order 2007 (SR 2007/108).

29A Modification of application of Securities Act 1978

- (1) Section 54 of the Securities Act 1978 does not apply in respect of any equity security offered by a co-operative company to any person who is or is to be a transacting shareholder.
- (2) In this section, **equity security** and **offered** have the same meanings as in the Securities Act 1978.

Section 29A was inserted, as from 15 April 2004, by section 5 Co-operative Companies Amendment Act 2004 (2004 No 25).

30 Rebates to shareholders

- (1) Unless the constitution of the company expressly provides otherwise, a company registered under this Act may give rebates to its transacting shareholders in the form of—
- (a) Payments; or
- (b) Shares issued in accordance with section 31 of this Act in lieu, wholly or partly, of payments,—
- calculated by reference to transactions by those shareholders with the company.
- (2) For the purposes of subsection (1) of this section, rebates may be calculated by reference to the number or value or volume of, or the profit derived by the company from, transactions by the shareholders with the company.

- (3) A rebate to which subsection (1) of this section applies that is a distribution may be given by the company notwithstanding sections 36(1)(b) and 53(2)(b) of the Companies Act 1993.

31 Shares in lieu of rebates

The board of the company may issue shares in lieu of the payment of rebates to transacting shareholders who have agreed to accept the issue of the shares, wholly or partly, in lieu of the payment of a proposed rebate or proposed future rebates if—

- (a) The right to receive shares, wholly or partly, in lieu of the payment of the proposed rebate or proposed future rebates has been offered to all transacting shareholders of the same class on the same terms; and
- (b) The transacting shareholders to whom the right is offered are afforded a reasonable opportunity of accepting it; and
- (c) The shares issued to each transacting shareholder are issued on the same terms and subject to the same rights as the shares issued to all transacting shareholders in that class who agree to receive the shares.

32 Exemption from sections 209 to 209B of Companies Act 1993

The Governor-General may from time to time, by Order in Council, and on such terms and conditions as may be specified in the order, exempt a company registered under this Act from compliance with the provisions of sections 209 to 209B of, and paragraph (i) of Schedule 4 to, the Companies Act 1993.

The heading to section 32 was amended, as from 18 June 2007, by section 17 Companies Amendment Act (No 2) 2006 (2006 No 62) by substituting “**to 209B**” for “**and 210**”. See clause 2(1) Companies Amendment Act (No 2) 2006 Commencement Order 2007 (SR 2007/108).

Section 32 was amended, as from 18 June 2007, by section 17 Companies Amendment Act (No 2) 2006 (2006 No 62) by substituting “to 209B” for “and 210”. See clause 2(1) Companies Amendment Act (No 2) 2006 Commencement Order 2007 (SR 2007/108).

33 Voting rights of shareholders

Notwithstanding section 36 of the Companies Act 1993, unless the constitution of the company expressly provides otherwise,

only transacting shareholders of a company registered under this Act are entitled to vote on a resolution.

Part 3

Special provisions applying to co-operative dairy companies

34 Interpretation

In this Part of this Act,—

Co-operative dairy company means a co-operative company that is registered as a co-operative dairy company under section 35

Sharemilker, in relation to a supplying shareholder, means a person who is engaged by that supplying shareholder, otherwise than as a servant under a contract of service, to produce milk or milksolids obtained from a dairy herd owned or provided by that person

Supplying shareholder, in relation to a co-operative dairy company, means a transacting shareholder who supplies the company, pursuant to the constitution of the company or an agreement with the company, with such quantity of milk or milksolids as the company may from time to time require; and includes a sharemilker to whom shares have been transferred in accordance with section 44.

Section 34 was substituted, as from 18 December 1998, by section 2 Co-operative Companies Amendment Act 1998 (1998 No 117). *See* section 5 of that Act as to a person deemed to be a supplying Shareholder. *See* section 6 of that Act as to a company deemed to be a qualifying company.

35 Registration of co-operative dairy companies

- (1) A co-operative company, the principal activities of which are, and are stated in its constitution as being, all or any of the following:
- (a) The manufacture of butter, cheese, dried milk, or casein, or any other product derived from milk or milksolids supplied to the company by its shareholders; or
 - (b) The sale to any person of the milk or milksolids so supplied; or
 - (c) The collection, treatment, and distribution for human consumption of milk or cream so supplied,—

may apply to the Registrar for registration under this Part of this Act as a co-operative dairy company.

- (2) The provisions of section 6 of this Act shall apply, with such modifications as may be necessary, in relation to an application under this section.

36 Simultaneous registration under Companies Act 1993 and this Part of this Act

An application for registration of a company as a co-operative dairy company under this Part of this Act may be sent or delivered to the Registrar together with an application for registration of a company under section 12 of the Companies Act 1993 and, in any such case, the provisions of section 7 of this Act shall apply, with such modifications as may be necessary, in relation to the application.

37 Simultaneous registration of existing co-operative companies

An existing co-operative company may apply for registration as a co-operative dairy company under this Part of this Act at the same time as it applies, under the Companies Reregistration Act 1993, for reregistration under the Companies Act 1993 and, in any such case, the provisions of section 8 of this Act shall apply, with such modifications as may be necessary, in relation to the application.

38 Registration of existing companies

An application for registration of an existing company as a co-operative dairy company under this Part of this Act may be sent or delivered to the Registrar together with an application under the Companies Reregistration Act 1993 for reregistration of the company as a company under the Companies Act 1993 and, in any such case, the provisions of section 9 of this Act shall apply, with such modifications as may be necessary, in relation to the application.

39 Suppliers to be shareholders

- (1) Subject to subsection (2) of this section, the constitution of a co-operative dairy company must provide that the supply of dairy produce by a person to the company is an irrevocable application by that person to become a shareholder in the company.
- (2) Notwithstanding subsection (1) of this section, the constitution of the company may authorise the board of the company, in its discretion and whether or not at the request of a supplier, to accept the supply of dairy produce from that person without requiring that person to become a supplying shareholder.
- (3) The Registrar must not register a co-operative company as a co-operative dairy company under this Part of this Act unless the constitution of the company complies with this section.
- (4) If, at any time, the constitution of a co-operative dairy company registered under this Part of this Act does not comply with this section, the Registrar may cancel the registration of the company under this Part of this Act.
- (5) Sections 11(2) and (3), 13, and 14 of this Act shall apply, with such modifications as may be necessary, in relation to the cancellation of the registration of the company under this section.

40 Compulsory issue of shares

- (1) Subject to section 41 of this Act, a co-operative dairy company registered under this Part of this Act may alter its constitution to require supplying shareholders to hold more shares in the company than the number of shares required to be held on the date the alteration is made.
- (2) The alteration is binding on—
 - (a) The supplying shareholders to whom the alteration applies; and
 - (b) Every person who becomes a supplying shareholder after the alteration is made.

Compare: 1949 No 22 s 8(1), (4); 1956 No 19 s 2

41 Limit on number of additional shares

Subject to section 42 of this Act, no such alteration requires a supplying shareholder who did not vote in favour of the reso-

lution to hold, in addition to the number of shares required to be held on the date the alteration is made, a number of shares that exceeds by more than 50 percent the smallest number of shares which that shareholder would have been required to hold at any time during the 5 financial years immediately preceding the date of the alteration in respect of the supply of a quantity of dairy produce equal to that supplied by the shareholder to the company in the financial year immediately preceding the date of the alteration.

Compare: 1949 No 22 s 8(1); 1956 No 19 s 2(1)

42 Exception to section 41

Section 41 of this Act does not apply if—

- (a) The alteration to the constitution requires each supplying shareholder to hold, in addition to the number of shares required to be held on the date the alteration is made, a number of shares that exceeds by more than 50 percent the smallest number of shares which each supplying shareholder would have been required to hold at any time during the 5 financial years immediately preceding the date of the alteration in respect of the supply of a quantity of dairy produce equal to that supplied by the shareholder to the company in the financial year immediately preceding the date of the alteration; and
- (b) The resolution altering the constitution is passed by a majority of not less than 90 percent of the shareholders entitled to vote and voting on the resolution.

Compare: 1949 No 22 s 8(2) and (3); 1956 No 19 s 2(2)

43 Supplying shareholder may surrender shares

- (1) A supplying shareholder who voted against a resolution referred to in section 42 of this Act may surrender to the company all the shares in the company held by that shareholder and, in any such case, but subject to section 18 of this Act, the board of the company must resolve to accept the surrender.
- (2) The surrender of the shares takes effect on the date on which the board of the company resolves to accept the surrender.

- (3) Sections 22 to 26 of this Act apply to the surrender of shares under this section.

Compare: 1949 No 22 s 8(2); 1956 No 19 s 2(2)

44 Transfer of shares to sharemilkers

- (1) A supplying shareholder of a co-operative dairy company registered under this Part may transfer to a sharemilker any of the shares in the company, and any or all rights to vote, held by that shareholder.
- (2) Subsection (1) applies despite the fact that the constitution of the company may expressly provide otherwise.
- (3) Despite subsection (2), the constitution of the company may include a requirement that, or a power to require that, the shareholder must retain 1 share.
- (4) The transfer is subject to compliance with any terms and conditions in the company's constitution relating to the transfer of shares.
- (5) If shares have been transferred under this section,—
- (a) for the purpose of determining whether shareholding is in proportion to supply, the supplying shareholder and the sharemilker to whom shares have been transferred must be treated as if they were 1 person; and
- (b) a sharemilker to whom those shares are transferred is a supplying shareholder subject to any terms and conditions contained in the constitution of the company.
- (6) However, the terms and conditions referred to in subsections (4) or (5) do not apply if they would defeat the operation of subsection (1).

Subsection (3) was substituted, as from 18 December 1998, by section 3 Co-operative Companies Amendment Act 1998 (1998 No 117). *See* section 5 of that Act as to a person deemed to be a supplying Shareholder. *See* section 6 of that Act as to a company deemed to be a qualifying company.

Section 44 was substituted, as from 25 October 2001, by section 160 and section 2(2) Dairy Industry Restructuring Act 2001 (2001 No 51).

45 Alteration of terms of contract contained in constitution

Where the constitution of a co-operative dairy company registered under this Part of this Act contains or sets out the terms and conditions of any contracts between the company and the

shareholders of the company or the members of any group or class of shareholders, any alteration of those terms or conditions in the constitution is binding on those shareholders or the members of that group or class, as the case may be.

Compare: 1949 No 22 s 8(1); 1956 No 19 s 2(1)

46 Application of Part 2 to co-operative dairy companies

- (1) Part 2 of this Act applies, subject to this Part of this Act, to every co-operative dairy company registered under this Part of this Act as if it were a co-operative company registered under Part 2 of this Act.
- (2) For the purposes of subsection (1) of this section, references in Part 2 of this Act to the expression **transacting shareholder** shall, in the case of co-operative dairy companies registered under this Part of this Act, be read as references to a supplying shareholder.

Part 4
Miscellaneous provisions

Appeals

47 Appeals from Registrar's decisions

- (1) A person who is aggrieved by an act or decision of the Registrar under this Act may appeal to the High Court within 15 working days after the date of the notification of the act or decision, or within such further time as the Court may allow.
- (2) On hearing the appeal, the Court may approve the Registrar's act or decision or may give such directions or make such determination in the matter as the Court thinks fit.

Compare: 1993 No 105 s 370

Regulations

48 Regulations

The Governor-General may from time to time, by Order in Council, make regulations—

- (a) Prescribing forms for the purposes of this Act; and those regulations may require—

- (i) The inclusion in, or attachment to, forms of specified information or documents:
- (ii) Forms to be signed by specified persons:
- (b) Providing for such other matters as are contemplated by or necessary for giving effect to the provisions of this Act and for its due administration.

Repeals

49 Repeals and revocations

- (1) The enactments specified in Schedule 1 to this Act are hereby repealed.
- (2) The orders specified in Schedule 2 to this Act are hereby consequentially revoked.
- (3) This section shall come into force on the close of the 30th day of June 1997.

50 Savings

- (1) In this section, **Co-operative Companies Act** means—
 - (a) The Co-operative Dairy Companies Act 1949:
 - (b) The Co-operative Companies Act 1956:
 - (c) The Co-operative Freezing Companies Act 1960:
 - (d) The Co-operative Forestry Companies Act 1978.
- (2) Every Co-operative Companies Act shall, notwithstanding its repeal by section 49(1) of this Act, continue in force and apply in respect of—
 - (a) Every co-operative company registered under that Act that has made an application for reregistration under the Companies Reregistration Act 1993 before the commencement of this section, but has not been reregistered on the commencement of this section, and shall continue in force and apply until the company is so reregistered:
 - (b) Every co-operative company registered under that Act that, immediately after the commencement of this section, has not been reregistered or deemed to be reregistered under the Companies Reregistration Act 1993 and shall continue in force and apply to the company until

the company is reregistered or deemed to be reregistered under that Act.

- (3) Every Order in Council made under the Co-operative Companies Act 1956 shall, notwithstanding its revocation by section 49(2) of this Act, continue in force and apply in respect of every co-operative company to which the order applies that is registered under that Act to the same extent as that Act continues to apply to the company by virtue of subsection (2) of this section.
- (4) This section shall come into force on the close of the 30th day of June 1997.

Amendments to other Acts

51 Amendments to other Acts

The enactments specified in Schedule 3 to this Act are hereby amended in the manner indicated in that Schedule.

Schedule 1

Section 49(1)

Enactments repealed

- 1949, No 22—The Co-operative Dairy Companies Act 1949. (RS Vol 1, p 554.)
- 1950, No 45—The Co-operative Dairy Companies Amendment Act 1950. (RS Vol 1, p 608.)
- 1951, No 30—The Co-operative Dairy Companies Amendment Act 1951. (RS Vol 1, p 609.)
- 1956, No 18—The Co-operative Companies Act 1956. (RS Vol 1, p 545.)
- 1956, No 19—The Co-operative Dairy Companies Amendment Act 1956. (RS Vol 1, p 609.)
- 1959, No 56—The Co-operative Dairy Companies Amendment Act 1959. (RS Vol 1, p 611.)
- 1960, No 103—The Co-operative Freezing Companies Act 1960. (RS Vol 6, p 81.)
- 1963, No 81—The Co-operative Dairy Companies Amendment Act 1963. (RS Vol 1, p 611.)

- 1970, No 140—The Co-operative Dairy Companies Amendment Act 1970. (RS Vol 1, p 611.)
- 1973, No 54—The Co-operative Dairy Companies Amendment Act 1973. (RS Vol 1, p 612.)
- 1976, No 82—The Co-operative Companies Amendment Act 1976. (RS Vol 1, p 552.)
- 1976, No 83—The Co-operative Dairy Companies Amendment Act 1976. (RS Vol 1, p 612.)
- 1976, No 84—The Co-operative Freezing Companies Amendment Act 1976. (RS Vol 6, p 87.)
- 1977, No 148—The Co-operative Companies Amendment Act 1977. (RS Vol 1, p 552.)
- 1978, No 31—The Co-operative Dairy Companies Amendment Act 1978. (RS Vol 1, p 613.)
- 1978, No 78—The Co-operative Forestry Companies Act 1978. (RS Vol 31, p 187.)

Schedule 2
Orders revoked

Section 49(2)

Order	Statutory Regulations Serial Number
The Co-operative Companies Order 1959	1959/181
The Co-operative Companies Order 1960	1960/14
The Co-operative Companies Order 1965	1965/160
The Co-operative Companies Order 1966	1966/45
The Co-operative Companies Order (No 2) 1966..	1966/144
The Co-operative Stock Provender Companies Order 1969	1969/147

Order	Statutory Regulations Serial Number
The Co-operative Fruit Packing Companies Order 1970.....	1970/19
The Co-operative Poultry Processing Companies Order 1973	1973/202
The Co-operative Cold Store Companies Order 1975	1975/236
The Co-operative Meat Marketing Companies Order 1976	1976/321
The Co-operative Wool Processing and Marketing Companies Order 1979	1979/19
The Co-operative Fertilizer Supply Companies Order 1979	1979/20
The Co-operative Aerial Services Companies Order 1979	1979/135
The Co-operative Honey Processing and Marketing Companies Order 1981	1981/237
The Co-operative Deer Slaughtering Companies Order 1983	1983/50
The Co-operative Tea Processing and Marketing Companies Order 1983	1983/56
The Co-operative Education Services Companies Order 1990	1990/158
The Co-operative Waste Recycling Companies Order 1992	1992/245
The Co-operative Energy Companies Order 1993 .	1993/148

Schedule 3
Enactments amended

Section 51

Enactment	Amendment
1908, No 81-The Industrial and Provident Societies Act 1908 (RS Vol 7, p 407)	<p>By repealing section 14 (as amended by section 3 of the Industrial and Provident Societies Amendment Act 1983 and section 2 of the Company Law Reform (Transitional Provisions) Act 1994), and substituting the following sections:</p> <p>“14 Special resolutions</p> <p>“(1) For the purposes of this Act, a special resolution is a resolution that is—</p> <p>“(a) Passed by a majority of not less than 75 percent of such members of a society for the time being entitled under the rules to vote as are present in person or by proxy (where the rules allow proxies) at any general meeting of which notice, specifying the intention to propose such resolution, has been duly given according to the rules; and</p> <p>“(b) Confirmed by a majority of such members for the time being entitled under the rules to vote as are present in person or by proxy at a subsequent general meeting, of which notice has been duly given, held not less than 14 days nor more than one month from the day of the meeting at which such resolution was first passed.</p> <p>“(2) For the purposes of subsection (1) of this section, a declaration by the chairperson of the meeting that the resolution has been carried shall be deemed conclusive evidence of that fact.</p>

Enactment

Amendment

“14A Action that may be taken by special resolution

- “(1) A society may, by special resolution, change its name.
- “(2) A change of name does not affect any right or obligation of the society, or of any member of the society, and, notwithstanding the change of name, any pending legal proceedings may be continued by or against the society, or any officer who may sue or be sued on behalf of the society.
- “(3) Any 2 or more societies may, by special resolution of both or all of them, become amalgamated together as one society, with or without any dissolution or division of the funds of the societies or any of them.
- “(4) A society may, by special resolution, transfer its engagements to any other registered society that undertakes to fulfil the engagements of the society.
- “(5) A society may, by special resolution, determine to apply to be registered as a company under the Companies Act 1993.
- “(6) A society may, by special resolution, determine to amalgamate with or transfer its engagements to a company registered under the Companies Act 1955 or the Companies Act 1993, as the case may be.
- “(7) A copy of every special resolution passed for any of the purposes referred to in subsections (1), (3), (4), or (6) of this section, signed by the chairperson of the meeting and countersigned by the secretary of the society, shall be sent to the Registrar, and

Enactment	Amendment
	be registered, and until it is registered, the special resolution shall not take effect.
“(8)	A copy of every special resolution passed for the purposes of subsection (5) of this section shall be sent or delivered to the Registrar of Companies together with the application for registration under section 12 of the Companies Act 1993.
“14B Consequential provisions	
	Where a society is registered as a company, or amalgamates with, or transfers all its engagements to a company,—
“(a)	The registry of the society under this Act shall cease and be cancelled by the Registrar; and
“(b)	All property (both real and personal), rights, interests, liabilities, contracts, engagements, and authorities of the society shall be the property (both real and personal), rights, interests, liabilities, contracts, engagements, and authorities of the company and shall be held or enforceable by, or in favour of the company, or against the company in priority against the property of the company over all other rights or claims against, or liabilities of, the company; and
“(c)	Any action, arbitration, or proceeding pending or existing against the society may be prosecuted, continued, and enforced against the company.

Enactment	Amendment
1949, No 22-The Co-operative Dairy Companies Act 1949 (RS Vol 1, p 553)	<p>By adding to section 28 (as substituted by section 7 of the Co-operative Dairy Companies Amendment Act 1956) the following subsections:</p> <p>“(3) Sections 194 and 195 of the Companies Act 1955 shall not apply in relation to any transaction carried out for the purpose of the principal object of a co-operative dairy company registered under this Act between—</p> <p>“(a) The company and a director of the company in his or her capacity as a director of the company or as a trustee for a shareholder of the company; or</p> <p>“(b) The company and a shareholder of the company in that shareholder’s capacity as such, being a shareholder of which a director of the company is a director, officer, or trustee.</p> <p>“(4) Section 199D of the Companies Act 1955 shall not apply in relation to the acquisition or disposition of shares in a co-operative dairy company registered under this Act by a director of the company in connection with the carrying out of the principal object of the company and in his or her capacity as a shareholder.</p> <p>“(5) Subsections (3) and (4) of this section shall be deemed to have come into force on the 1st day of July 1994.</p>

Enactment	Amendment
1956, No 18-The Co-operative Companies Act 1956 (RS Vol 1, p 545)	<p>By adding to section 10 the following subsections:</p> <p>“(3) Sections 194 and 195 of the Companies Act 1955 shall not apply in relation to any transaction carried out for the purpose of the principal object of a co-operative company registered under this Act between—</p> <p>“(a) The company and a director of the company in his or her capacity as a director of the company or as a trustee for a shareholder of the company; or</p> <p>“(b) The company and a shareholder of the company in that shareholder’s capacity as such, being a shareholder of which a director of the company is a director, officer, or trustee.</p> <p>“(4) Section 199D of the Companies Act 1955 shall not apply in relation to the acquisition or disposition of shares in a co-operative company registered under this Act by a director of the company in connection with the carrying out of the principal object of the company and in his or her capacity as a shareholder.</p> <p>“(5) Subsections (3) and (4) of this section shall be deemed to have come into force on the 1st day of July 1994.</p>

Enactment	Amendment
1960, No 103-The Co-operative Freezing Companies Act 1960 (RS Vol 6, p 81)	<p>By adding to section 10 the following subsections:</p> <p>“(3) Sections 194 and 195 of the Companies Act 1955 shall not apply in relation to any transaction carried out for the purpose of the principal object of a co-operative freezing company registered under this Act between—</p> <p>“(a) The company and a director of the company in his or her capacity as a director of the company or as a trustee for a shareholder of the company; or</p> <p>“(b) The company and a shareholder of the company in that shareholder’s capacity as such, being a shareholder of which a director of the company is a director, officer, or trustee.</p> <p>“(4) Section 199D of the Companies Act 1955 shall not apply in relation to the acquisition or disposition of shares in a co-operative freezing company registered under this Act by a director of the company in connection with the carrying out of the principal object of the company and in his or her capacity as a shareholder.</p> <p>“(5) Subsections (3) and (4) of this section shall be deemed to have come into force on the 1st day of July 1994.</p>

Enactment	Amendment
1978, No 78-The Co-operative Forestry Companies Act 1978 (RS Vol 31, p 187)	<p>By inserting, after subsection (2) of section 21, the following subsections:</p> <p>“(2A) Sections 194 and 195 of the Companies Act 1955 shall not apply in relation to any transaction carried out for the purpose of the principal object of a co-operative forestry company registered under this Act between—</p> <p>“(a) The company and a director of the company in his or her capacity as a director of the company or as a trustee for a shareholder of the company; or</p> <p>“(b) The company and a shareholder of the company in that shareholder’s capacity as such, being a shareholder of which a director of the company is a director, officer, or trustee.</p> <p>“(2B) Section 199D of the Companies Act 1955 shall not apply in relation to the acquisition or disposition of shares in a co-operative forestry company registered under this Act by a director of the company in connection with the carrying out of the principal object of the company and in his or her capacity as a shareholder.</p> <p>“(2C) Subsections (2A) and (2B) of this section shall be deemed to have come into force on the 1st day of July 1994.</p>

Enactment	Amendment
1978, No 103-The Securities Act 1978 (RS Vol 33, p 587)	<p>By repealing paragraphs (a) and (b) of the definition of the term co-operative company in section 2(1), and substituting the following paragraphs:</p> <p>“(a) A company registered as a co-operative company under the Co-operative Companies Act 1956 or the Co-operative Companies Act 1996; or</p> <p>“(b) A company registered as a co-operative dairy company under the Co-operative Dairy Companies Act 1949 or Part III of the Co-operative Companies Act 1996; or</p>
1982, No 118-The Friendly Societies and Credit Unions Act 1982	<p>By repealing section 84 (as amended by section 2 of the Company Law Reform (Transitional Provisions) Act 1994), and substituting the following section:</p> <p>“84 Society may apply to be registered as company</p> <p>“(1) A registered society may, by special resolution, determine to apply to be registered as a company under the Companies Act 1993.</p> <p>“(2) A society that has branches shall not pass a resolution of the kind referred to in subsection (1) of this section except with the consent of the central body of the society.</p> <p>“(3) A copy of every special resolution passed for the purposes of subsection (1) of this section shall be sent or delivered to the Registrar of Companies together with the application for registration under section 12 of the Companies Act 1993.</p>

Enactment	Amendment
1993, No 108-The Companies Amendment Act 1993	“(4) Subject to subsection (5) of this section and to section 97 of this Act, if a registered society is registered as a company under the Companies Act 1993, the registration of that society under this Act shall thereupon cease and shall be cancelled by the Registrar. “(5) Registration of a registered society as a company shall not affect any right or claim subsisting against the society or any penalty incurred by the society, and— “(a) For the purpose of enforcing any such right, claim, or penalty, the society may be sued and proceeded against in the same manner as if it had not become registered as a company: “(b) Every such right or claim, or the liability to any such penalty, shall have priority as against the property of the company over all other rights or claims against or liabilities of the company.

Enactment	Amendment
1994, No 164-The Income Tax Act 1994	<p data-bbox="603 748 1203 853">By repealing the definition of the term co-operative company in section 17(4), and substituting the following definition:</p> <p data-bbox="603 853 1034 887">“Co-operative company means—</p> <p data-bbox="603 887 1203 992">“(a) A co-operative company registered under the Co-operative Companies Act 1956 or the Co-operative Companies Act 1996; or</p> <p data-bbox="603 992 1203 1137">“(b) A co-operative dairy company within the meaning of the Co-operative Dairy Companies Act 1949 or Part III of the Co-operative Companies Act 1996:</p>

The item relating to the Income Tax Act 1994 was substituted, as from 1 April 2005, by section YA 2 Income Tax Act 2004 (2004 No 35).