

1988 BILL 56

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Third Session, 21st Legislature, 37 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# **BILL 56**

**CREDIT UNION ACT**

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THE PROVINCIAL TREASURER

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First Reading .....

Second Reading .....

Committee of the Whole .....

Third Reading .....

Royal Assent .....

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## BILL 56

1988

### CREDIT UNION ACT

(Assented to , 1988)

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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

## PART 1

### INTERPRETATION AND APPLICATION

Interpretation 1(1) In this Act,

(a) “affairs” means matters of internal concern to a corporation, including the relationships among the corporation and its members, directors, officers, employees, committees and subsidiaries, or any of them, and matters relating to related party transactions, but does not include any business, other than as aforementioned, carried on by the corporation with any of those other persons;

(b) “affiliate” means an affiliate, if any, of a credit union or Central within the meaning of section 2(6);

(c) “articles” means a credit union’s articles of continuance, incorporation or amalgamation, whether in their original or restated form and whether amended or not, and includes articles of amendment, dissolution and revival;

- (d) “at fair market rate”, subject to section 49(6), means
- (i) in respect of the acquisition, disposition or provision of property or services, including a lease or rental of property, at a consideration that might reasonably be expected to be obtained or given for the property or services in question in an arm’s length transaction in an open market between willing parties to a transaction of that nature and on terms that, having regard to open market conditions, are competitive and not unreasonable, and
  - (ii) in respect of the provision of services that are provided generally to customers of the corporation in question, at the rate and on terms that are offered in respect of those services to customers generally in the ordinary course of that corporation’s business;
- (e) “audit committee”, subject to section 79, means the audit committee or the audit and finance committee of a body corporate;
- (f) “auditor” means the external auditor of a corporation and includes any individual who is responsible for conducting an external audit of the corporation’s financial statements on behalf of its external auditor;
- (g) “board” means the directors of the corporation in question;
- (h) “body corporate” means a credit union, the Corporation or Central or all or any of them, as the case may be;
- (i) “bond of association” means the community of interests, if any, between members or proposed members of a credit union deriving from
- (i) a common occupation, employer, association, religious affiliation or membership of an organization, that exists generally in Alberta or in a particular area of Alberta,
  - (ii) residence in a particular area of Alberta, other than wholly or predominantly in a city, town, new town, village, summer village or municipal district with a population of more than 5000, or
  - (iii) any other similar relationship, other than one arising generally from residence in Alberta;
- (j) “borrow” does not include the taking of deposits;
- (k) “Central” means the Credit Union Central Alberta Limited continued by section 158;
- (l) “committee” means the audit, finance or credit committee of a body corporate;
- (m) “Corporation” means the Credit Union Deposit Guarantee Corporation continued by section 7, and includes a special loans committee;
- (n) “corporation” means an incorporated body of persons, wherever or however incorporated;
- (o) “Court” means the Court of Queen’s Bench;

- (p) “credit union” means an existing credit union or a body of persons incorporated under Division 2 of Part 3 or continued as an incorporated credit union or incorporated under Part 15;
- (q) “deposit” means money held or to be held by a corporation in a debtor and creditor relationship in the ordinary course of the business of raising money by the acceptance of deposits generally from persons from whom that corporation is legally permitted to receive deposits, that is repayable on demand, after notice, at a fixed date or on the expiry of a fixed term, and includes
- (i) any earnings on that money,
  - (ii) the act of paying any such money to or the taking of such money by that corporation, and
  - (iii) any document evidencing the holding of any such money;
- (r) “designated representative” means an individual, whether a member or not, acting in his representative capacity, who has been designated by a member that is a corporation, partnership or other unincorporated association to represent its membership interests in a credit union;
- (s) “director” means
- (i) in relation to the Corporation, a member of its board, and
  - (ii) in relation to any other corporation, a person occupying the position of director of the corporation, by whatever name called;
- (t) “earnings” means interest, dividends, patronage rebates and any other distributions credited or paid in relation to deposits or shares, and includes any such distributions accrued but not yet credited or paid;
- (u) “eligible financial institution” means a treasury branch or a member institution of the Canada Deposit Insurance Corporation or of any other deposit insurance or guarantee plan prescribed by the Minister;
- (v) “existing credit union” means a body that was incorporated as a credit union under the former Act and in existence immediately before November 1, 1988;
- (w) “finance committee”, subject to section 79, means the finance committee or the audit and finance committee of a body corporate;
- (x) “financial institution”, subject to clause (u), means
- (i) a securities dealer, or
  - (ii) a member institution of the Canada Deposit Insurance Corporation or of any other deposit insurance or guarantee plan prescribed by the Minister;
- (y) “fiscal year” means the fiscal year of the body corporate in question;
- (z) “former Act” means the *Credit Union Act*, chapter C-31 of the Revised Statutes of Alberta 1980;

- (aa) “gazette”
- (i) used as a noun, means The Alberta Gazette, and
  - (ii) used as a verb, means publish in an issue of the gazette a notice of the information in question;
- (bb) “general meeting” means
- (i) in relation to a credit union or Central, an annual or special general meeting of its members, and
  - (ii) in relation to the Corporation, a meeting of its board,
- and includes all the regional meetings of a credit union referred to in section 57;
- (cc) “individual” means a natural person;
- (dd) “insolvent” means, in relation to a corporation, in a situation where
- (i) it is unable to meet its obligations as they generally become due,
  - (ii) it has ceased to pay its current obligations in the ordinary course of its business as they generally become due, or
  - (iii) the realizable value of its assets is less than the aggregate of its obligations due and accruing due;
- (ee) “investment” includes the making of a deposit, but does not include the making of a loan;
- (ff) “land” means any estate or interest in land, including improvements to physical land, except an estate or interest
- (i) held by way of security only, or
  - (ii) acquired on or after November 1, 1988 on the realization of any security so held;
- (gg) “large credit union” means a credit union that, at the end of the fiscal year preceding the relevant time, had assets of a value equal to or in excess of the prescribed amount;
- (hh) “loan” includes the interest on, and the expenses of, a loan for which the borrower is legally liable to the lender and includes interest that is accrued but not yet payable, but does not include the making of a deposit;
- (ii) “member”, where used in relation to a credit union, means a person, including a minor, who, whether alone or jointly with others, complies with section 61 and otherwise qualifies for membership in it under its by-laws, and includes any person having any rights or obligations relative to the credit union that derive through a member;
- (jj) “members’ equity” means, in relation to a credit union or Central and subject to any modifications prescribed generally or with respect to specific applications of the expression,
- (i) its retained earnings,

- (ii) the stated capital of shares issued by it, and
  - (iii) the amount in any other prescribed equity account;
- (kk) “Minister” means the member of the Executive Council charged by the Lieutenant Governor in Council with the administration of this Act;
- (ll) “officer” means, in relation to a corporation,
- (i) its chief executive officer, president, chairman, vice-president, vice-chairman, treasurer, secretary, general manager or assistant general manager or any combination of those positions,
  - (ii) an individual who performs functions for the corporation normally performed by a person mentioned in subclause (i), or
  - (iii) any other person designated an officer by the by-laws or by the board of the corporation;
- (mm) “ordinary resolution” means a resolution of a body corporate passed by a majority of the votes cast by or on behalf of its members who cast valid votes on that resolution at a general meeting;
- (nn) “person” means an individual, a corporation, a government, a partnership or other firm or unincorporated association of persons, or a trustee or personal representative of a person;
- (oo) “prescribed”,
- (i) in the expression “prescribed by the Minister”, means prescribed or otherwise provided for by regulations made by the Minister, and
  - (ii) otherwise, means prescribed or otherwise provided for by regulations made by the Lieutenant Governor in Council;
- (pp) “professional adviser” means
- (i) an auditor, accountant, appraiser, engineer or lawyer, or
  - (ii) any other person membership in whose profession would tend to lend credibility to a statement made or opinion given by him,
- and includes an individual who is a member of or works in a professional capacity for a firm that is a professional adviser;
- (qq) “register”,
- (i) where used as a noun, means the register established and maintained under section 9, and
  - (ii) where used as a verb, means enter into the register pursuant to this Act;
- (rr) “registered mail” includes certified mail;
- (ss) “related party” means, with respect to a credit union or Central, a person referred to in section 2(4) who is not exempted from the status of related party pursuant to section 52(2), and “party related to” shall be construed accordingly;

(tt) “related party provision” means a provision of this Act or the regulations that relates specifically to a related party transaction and does not relate generally to other business;

(uu) “related party transaction” means a transaction to which a credit union or Central or its subsidiary and a party related to that body corporate are or would be parties, whether or not any other persons are or would be parties to the transaction;

(vv) “remuneration” includes any perquisite, benefit or advantage provided or to be provided to a person directly or indirectly in respect of or purportedly in respect of services rendered or to be rendered in the capacity in question;

(ww) “securities”, subject to clause (xx) and section 3(3), means shares of capital stock, bonds, mortgages, debentures, trust certificates, guaranteed investment certificates or receipts, certificates of deposit, deposit receipts, bills, notes and other evidences of indebtedness or deposits, and includes any other forms of security prescribed by the Minister to be securities and documents evidencing securities but does not include any items hereinbefore described that are prescribed by the Minister not to be securities;

(xx) “securities dealer” means a person who trades in securities within the meaning ascribed to that phrase by the *Securities Act* or within the meaning ascribed to any equivalent phrase by any equivalent statute of another province;

(yy) “small credit union” means a credit union that, at the end of the fiscal year preceding the relevant time, had assets of a value amounting to less than the amount prescribed in relation to clause (gg);

(zz) “special loans committee” means an agency of the Corporation established under section 145(5);

(aaa) “special resolution” means,

(i) where the reference is to a resolution of a board, a resolution passed at a board meeting by a majority of at least  $\frac{2}{3}$  of the votes validly cast by the directors present at that meeting, and

(ii) otherwise, a resolution of a body corporate passed by a majority of at least  $\frac{2}{3}$  of the votes cast by or on behalf of its members who cast valid votes on that resolution at a general meeting;

(bbb) “special shares” means shares, if any, issued by a credit union or Central under regulations made under section 225(c) or, in relation to an existing credit union, continued by section 107(2);

(ccc) “subsidiary” means a subsidiary, if any, of a corporation within the meaning of section 2(1);

(ddd) “supervisor” means a person under whose supervision a credit union or Central, as the case may be, is placed under this Act;

(eee) “voting shares” means shares of any class carrying voting rights under all circumstances or carrying voting rights by reason

of the occurrence of a contingency that has occurred and is continuing;

(fff) “withdrawal demand” means a cheque or other bill of exchange, a withdrawal slip, a receipt or any written demand or direction drawn or made on a credit union for the withdrawal, transfer or repayment of a deposit.

(2) The Lieutenant Governor in Council may, for the purposes of this Act or specified provisions of this Act, by regulation define any expression used in this Act but not defined, and the expression has the meaning so defined.

(3) References in this Act to the acquisition of land include the making of improvements to physical land held under any estate or interest.

(4) References in this Act to the repayment of a loan are deemed to include payment of the interest and expenses referred to in subsection (1)(hh), and references to the making of a loan are deemed to include any renewal of it.

(5) Subject to this Act, the regulations, the articles of a credit union and the by-laws of a body corporate,

(a) section 16(a) to (c) of the *Interpretation Act* apply to bodies corporate as if they were established by this Act, and

(b) section 17(2) of that Act applies to the Corporation, including its special loans committees, and to the committees of a body corporate as if they were a board established by this Act.

(6) Where this Act requires or permits something to be done by resolution of

(a) the board of a credit union or of Central, or

(b) a specified committee of a credit union or of Central,

then that thing must or may, as the case may be, be done by special resolution, ordinary resolution or resolution of the board or, in the case of clause (b), by resolution of that committee.

(7) Where any provision of this Act requires or permits something to be done by ordinary resolution, then, if the by-laws require that it be done by special resolution and notwithstanding that provision of this Act, that thing must be done by special resolution.

(8) Existing credit unions, amalgamated credit unions resulting from amalgamations under this Act, the Corporation and Central shall be treated, for the purposes of any other enactment that refers generally to corporations incorporated by or under an Act of the Legislature, as incorporated by or under this Act, as the case may be.

(9) In this Act, references to performing an activity are deemed to include omitting to act.

(10) For the purposes of any enactment, other than Part 3 of this Act, that refers to the articles or certificate of incorporation of a corporation,

(a) articles of continuance or amalgamation, as restated or amended, are deemed to be the articles of incorporation of a credit union that has such articles, and

(b) a certificate of continuance or amalgamation is deemed to be the certificate of incorporation of an existing or amalgamated credit union.

Interpretation  
respecting  
related parties

**2(1)** For the purposes of this Act, a corporation is a subsidiary of another corporation if

(a) it is controlled by

(i) that other corporation,

(ii) that other corporation and 1 or more corporations each of which is controlled by that other corporation, or

(iii) 2 or more corporations each of which is controlled by that other corporation

or

(b) it is a subsidiary of a corporation that is that other corporation's subsidiary.

**(2)** For the purposes of this Act, a corporation is controlled by a person or a group of persons if

(a) securities issued by the corporation carrying more than 50% of the votes that may be cast to elect its directors are held, other than by way of security only, by or for the benefit of that person or the persons comprising that group, and the votes carried by those securities are sufficient, if exercised, to elect a majority of its directors, or

(b) that person has or the persons comprising that group have, in relation to the corporation, any direct or indirect influence which, if exercised, would result in control in fact of the corporation.

**(3)** For the purposes of this Act, a corporation is the holding corporation of another corporation if that other corporation is its subsidiary.

**(4)** For the purposes of this Act, a person is a related party with respect to a credit union or Central if that person

(a) is a director or officer of that body corporate,

(b) is the spouse of such a director or officer,

(c) is a relative of or a relative of the spouse of, and has the same home as, such a director or officer,

(d) is the auditor of that body corporate,

(e) is an employee of that body corporate who falls within a prescribed class of employees,

(f) is a corporation more than 10% of whose voting shares are beneficially owned, directly or indirectly, by a director or officer of that body corporate,

(g) is a corporation controlled by a person referred to in any of clauses (a) to (e),

(h) is a subsidiary or an affiliate of that body corporate,

(i) is a director or officer of a subsidiary of that body corporate, or

(j) is designated as a related party under subsection (8).

(5) In subsection (4),

(a) “officer” includes a person who has been appointed or elected, or selected for employment, as an officer but who has not yet assumed the office;

(b) “relative” means a relative by blood, marriage or adoption;

(c) “spouse” includes an individual of the opposite gender who is held out by the director or officer in the community in which they live as his consort.

(6) For the purposes of this Act, a person is an affiliate of a credit union or of Central if that person is not a subsidiary of that body corporate and

(a) is a corporation more than 10% of whose voting shares are beneficially owned, directly or indirectly, by that body corporate, or

(b) has entered into a partnership or joint venture with that body corporate or any of its subsidiaries,

but a credit union and Central are not affiliates of each other.

(7) For the purposes of this Act, shares beneficially owned, directly or indirectly, by a subsidiary of a body corporate are deemed to be so owned by that holding body corporate as well.

(8) The Minister may by order designate any person to be a party related to a credit union or Central if the Minister considers that

(a) the person is acting or has acted in concert with a party related to that body corporate to participate in or enter into a transaction with the body corporate that would be prohibited or restricted by a related party provision if entered into with the body corporate by the related party, or

(b) there exists or has existed between the person and that body corporate an interest or relationship that might reasonably be expected to affect or has affected the exercise of the best judgment of the body corporate with respect to a transaction,

and any such designation applies generally, except to the extent, if any, that the designation specifically limits its applicability to specified transactions or other circumstances.

Application  
generally

**3(1)** Parts 3 to 11 and 14 to 16 apply only to credit unions and, where so specifically stated, their subsidiaries and affiliates, and do not apply, except where specifically stated, to the Corporation or Central.

(2) Notwithstanding anything in the *Securities Act*, that Act, except to the extent, if any, prescribed,

(a) applies to credit unions and to securities issued by them, except that it does not apply to shares issued by a credit union,

(b) does not apply to the Corporation or to securities issued by the Corporation, and

(c) applies to Central and to securities issued by Central.

(3) In subsection (2), “securities” means securities within the meaning of the *Securities Act*.

(4) The *Trust Companies Act* does not apply to a credit union to the extent that the credit union is lawfully acting as a trustee pursuant to section 46(7).

Application  
respecting  
related parties

**4(1)** To the extent that there is a conflict between the *Business Corporations Act* and this Act or the regulations in their application to a party related to a credit union or Central, this Act or the regulations prevail.

(2) Where a provision of

(a) the *Trust Companies Act*,

(b) the *Securities Act*,

(c) a statute of any other province or of Canada equivalent to an Act referred to in clause (a) or (b),

(d) any other prescribed statute, or

(e) the regulations under any such statute

applies to a subsidiary of a body corporate and a similar or corresponding provision of this Act or the regulations under it would, but for this subsection, also apply to that subsidiary, that other enactment applies, and the provision of this Act or the regulations does not apply, to the subsidiary.

(3) To the extent that there is any inconsistency in their application to a given situation between a related party provision that prohibits or restricts any activity and any other provision of this Act or the regulations, that related party provision prevails.

(4) To the extent that there is any inconsistency in their application to a given situation between a general provision that is not a related party provision but that prohibits or restricts any activity and a related party provision that would permit that activity, that general provision prevails.

Generally  
accepted  
accounting  
principles  
and auditing  
standards

**5(1)** Subject to this Act, the regulations and any order of the Minister under subsection (3),

(a) with respect to the preparation of the financial statements of a body corporate, the body corporate and any other person responsible for the preparation shall apply generally accepted accounting principles, including the accounting recommendations of the Canadian Institute of Chartered Accountants set out in the Handbook published by that Institute, as amended from time to time, and

(b) with respect to the examination by a body corporate’s auditor of its financial statements for the purposes of the auditor’s report and with respect to the report itself, the auditor shall apply gen-

erally accepted auditing standards, including the auditing recommendations of that Handbook, as amended from time to time.

(2) Notwithstanding subsection (1)(a), the Minister may prescribe policies or rules that are to apply with respect to the preparation of the financial statements of a credit union or of Central, and a person referred to in subsection (1) shall apply those policies or rules accordingly.

(3) The Minister may order a credit union or Central to apply or ensure that there are applied any accounting principles, policies or rules that are specified or referred to in the order instead of generally accepted accounting principles or of policies or rules contained in regulations made with reference to subsection (2).

(4) The Minister may order a credit union or Central to ensure that its auditor

(a) applies any auditing procedures, additional to those contained in generally accepted auditing standards, or

(b) prepares any audit reports, additional to the reports required by subsection (1)(b),

that are specified or referred to in the order.

(5) The *Regulations Act* does not apply to generally accepted accounting principles or auditing standards, or to policies, rules or procedures specified or referred to in an order under subsection (3) or (4).

## PART 2 ADMINISTRATION

Administration  
of Act

**6(1)** Subject to subsection (2) and except to the extent that this Act or the regulations give the Corporation powers, duties or functions relating to the administration or enforcement of this Act, the Minister shall administer and enforce this Act.

(2) Without limiting his delegation powers under any other law, the Minister may in writing delegate any of his powers, duties and functions under this Act or the regulations to the Corporation, other than his powers to make regulations and to administer or enforce this Act as it relates to Central.

Continuance and  
composition of  
Corporation

**7(1)** The Credit Union Stabilization Corporation is continued as a corporation under the name “Credit Union Deposit Guarantee Corporation”.

(2) The Corporation consists of its members, and the members of the Corporation are those persons who comprise its board of directors.

Corporation's  
board and terms  
of office

**8(1)** The Lieutenant Governor in Council shall appoint a board of directors for the Corporation consisting of

(a) 1 individual appointed a director on the nomination of Central, and

(b) 6 other individuals,

none of whom is a director, officer or employee of a credit union that is under supervision or administration.

(2) Where a director of the Corporation is a director, officer or employee of a credit union that becomes subject to supervision or administration, he shall forthwith tender his resignation as a director of the Corporation to the Lieutenant Governor in Council, through the Minister, and the Lieutenant Governor in Council shall forthwith revoke his appointment.

(3) The term of office of a director of the Corporation is not to exceed 3 years, except that where a new appointment or his reappointment has not taken place before the expiration of his term of office, the director may continue in office under the expired appointment until

(a) a new appointment is made or he is reappointed, or

(b) a period of 6 months has elapsed since the expiration of his original term of office,

whichever occurs first.

Register

**9**(1) The Minister shall establish and maintain a register into which he shall enter the information and documents respecting bodies corporate that are required to be entered in it by this Act and the regulations.

(2) The Minister shall maintain separate parts of the register relating to credit unions, the Corporation and Central, respectively.

(3) Instead of maintaining the register in written documentary form, the Minister may have the contents of the register entered or recorded by any photographic system, any system of mechanical or electronic data processing or any other information storage system that is capable of reproducing the required information in intelligible written form within a reasonable time.

(4) On the request of any person, the Minister shall

(a) permit him to inspect, and

(b) provide him with a certified copy of,

any part of the register.

Registration and effective date of certificates

**10** The Minister shall register all certificates issued by him under this Act at the time that they are issued and such a certificate becomes effective on the date it is registered.

Ministerial or Corporation orders, directions and approvals

**11**(1) Subject to subsection (2), where the Minister or the Corporation is empowered or required to make an order or to give a direction or approval under this Act or the regulations, it must be made or given in writing.

(2) An approval by a special loans committee of the Corporation may be given orally, but that committee shall provide written confirmation of an oral approval to the person to whom the approval was given forthwith after giving the approval.

(3) An order made or a direction given by the Minister or the Corporation under this Act or the regulations is effective immediately on its being served or on such later date as is specified in it as the effective date.

(4) An order, direction or approval of the Minister or the Corporation, including an approval of a special loans committee, may be made subject to such terms and conditions as the Minister, the Corporation or the special loans committee, as the case may be, imposes in it.

(5) No right of action lies against the Corporation by reason of its approval of the viability of a business plan, or of changes to a business plan, under Part 3.

Form of documents

**12(1)** The Minister may direct that any document that is to be provided to him or to the Corporation under this Act or the regulations, other than one whose form is to be prescribed by him, is to be in the form stipulated in the direction, and may similarly direct the number of originals or copies, or both, to be provided.

(2) All certificates issued by the Minister under this Act and all articles are to be in the form prescribed by the Minister.

Extension of time

**13** Where a person is required to provide the Minister or the Corporation with any document or information under this Act or the regulations, the Minister or the Corporation, as the case may be, may, on written application made before the expiration of the last day for providing it, extend the time for its provision for such period as he or it considers appropriate.

Circulation and minuting of letters

**14** The Minister may direct a body corporate to provide a copy of any letter addressed to it by the Minister and any answer to that letter to each of its directors, and the body corporate, in addition to complying with the direction, shall include a copy of the Minister's letter in the minutes of the first board meeting following the direction and of the answer in the minutes of the first board meeting following the answer.

Retention of documents

**15(1)** Subject to this Act, the Minister or a body corporate shall retain a prescribed document for at least the period of time prescribed in relation to that document.

(2) Where a credit union or Central is dissolved and was in liquidation, the liquidator shall retain the records and other documents of the body corporate and his final accounts for a period of 2 years following the dissolution, and shall, on the expiration of that period, provide them to the Corporation.

(3) Where a credit union or Central is imminently about to be dissolved and is not in liquidation, it shall provide all its records and other documents to the Corporation.

(4) The Corporation shall retain a document provided to it under subsection (2) or (3) for at least the prescribed period following the dissolution and may destroy it after that period has elapsed.

Confidentiality of information

**16(1)** Subject to this section, where the Minister or the Corporation obtains information or documents, other than registered or registrable information or documents, regarding the business or affairs of a body corporate or persons dealing with a body corporate as a result of administering or enforcing this Act, the Minister or the Corporation shall not disclose that information or provide those documents

or a copy of them or disclose any information contained in, or allow access to, those documents, to any person.

(2) The Minister or the Corporation may in any manner communicate or provide information, documents or copies referred to in subsection (1) whose disclosure he or it considers to be required

- (a) for the proper administration or enforcement of this Act, to
  - (i) the Corporation or the Minister, as the case may be, or
  - (ii) persons acting under his or its direction or authority in the administration or enforcement of this Act,
- (b) to enable Central to comply with this Act or the regulations, to Central,
- (c) for the purpose of enabling the auditor of a body corporate to fulfil his functions as such, to that auditor, or
- (d) for regular law enforcement purposes, to a law enforcement authority.

(3) The Minister may in any manner communicate information, and provide copies of documents, referred to in subsection (1), or allow inspection of or access to any such document,

- (a) to the government of any other province or of Canada,
- (b) for the purposes of the administration or enforcement of
  - (i) the *Securities Act*, to the Chairman of the Alberta Securities Commission, or
  - (ii) the *Trust Companies Act*, to the Director of Trust Companies,

or

- (c) for any prescribed purpose, to any other prescribed person.

(4) The Corporation may provide statistical information compiled for reasons consistent with its purposes about a class of credit unions on an aggregated basis to credit unions within that class and to corporations in other jurisdictions performing deposit insurance or deposit guarantee functions.

(5) Subject to subsection (6), a person to whom information or a document or copy is communicated or provided under subsection (2) or (3)(b) or (c) shall comply with subsection (1) in respect of it.

(6) Subsection (5) does not apply to any disclosure made by the recipient referred to in that subsection

- (a) for the relevant purpose, and to the relevant person, referred to in subsection (2)(c) or (d) or (3)(b) or (c), or
- (b) to another person acting under that recipient's direction or authority or otherwise associated with him in securing that purpose.

(7) Where, for the purposes of the administration or enforcement of this Act, the Minister receives information communicated to him, or is allowed inspection of or access to any document provided, by the government or a public body of Canada or of any other province,

the Minister shall not disclose the information or the contents of the document other than with the consent of that government or public body.

(8) Subject to subsections (5) and (6), duties under this section apply, as well as to the person referred to in this section, also to any other person acting under that person's direction or authority or to whose notice information or a document comes as a result of any relationship with that person.

Service on  
Minister

**17** A person may serve a notice or other document on the Minister by

(a) delivering the document or sending it by registered mail to the government office responsible for the day-to-day administration of credit unions, or

(b) personally serving it on the public officer in charge of that office or his deputy.

### **PART 3**

## **CONTINUANCE, INCORPORATION AND COMMENCEMENT OF BUSINESS**

### **Division 1**

#### **Continuance of Existing Credit Unions**

Continuance

**18** Existing credit unions continue to be incorporated credit unions under and subject to this Act, with articles and under a certificate of continuance.

### **Division 2**

#### **Incorporation of New Credit Unions**

Interpretation  
and application

**19(1)** In this Division, "incorporators" means the individuals subscribing the articles of incorporation.

(2) This Division does not apply to a credit union that is to result from an amalgamation.

Entitlement to  
incorporate

**20** Twenty or more adult individuals, each of whom is a Canadian citizen or has been lawfully admitted into Canada for permanent residence and is ordinarily resident in Alberta, may, subject to this Division, become incorporated as a credit union under this Division.

Application for  
incorporation

**21(1)** An application for the incorporation of a credit union under this Division is made by providing to the Minister the articles of incorporation of the proposed credit union.

(2) The articles of incorporation must set out, in respect of the proposed credit union,

(a) its name,

(b) the full name and residential address of each incorporator,

(c) in the case of a credit union that is to have a bond of association, a statement of that bond,

(d) in the case of a credit union that is not to have a bond of association, a statement that there is no bond of association, and

(e) a statement of any restrictions or prohibitions, other than those imposed by law, on the businesses that the credit union may carry on.

(3) The articles of incorporation must be subscribed by at least 20 individuals who qualify under section 20 and who desire to be associated together as members of the proposed credit union.

(4) The articles of incorporation must be accompanied by

(a) a copy, subscribed by all the incorporators, of the proposed by-laws,

(b) an affidavit verifying the signatures of all persons subscribing the articles of incorporation and by-laws and the fact that all those persons satisfy the qualifications specified in section 20,

(c) a notice that contains the full name and residential address of each of the proposed first directors,

(d) a name search report in the form prescribed by the Minister respecting the name proposed for the credit union, dated not more than 90 days before the provision of the report to the Minister,

(e) a notice containing the address of the proposed registered office, and

(f) a business plan,

and the credit union shall also provide the Corporation with a copy of the business plan.

Approval or  
refusal of  
application

**22** The Minister shall approve the application for incorporation

(a) if he is satisfied that

(i) sections 12 and 21 have been complied with,

(ii) the proposed by-laws comply with this Act and the regulations,

(iii) the proposed first directors are qualified to become directors under section 65, and

(iv) the name proposed for the credit union complies with section 31,

(b) if the Corporation has notified him in writing that it is satisfied that the business plan is viable, and

(c) unless he considers that the application is contrary to the public interest.

Incorporation  
and registration  
of articles, etc.

**23(1)** If the Minister approves the application, he shall issue a certificate of the incorporation of the incorporators as a credit union under this Act stating that they are so incorporated under the name stated in the certificate of incorporation and shall assign to the credit union a registration number.

- (2) When the Minister issues the certificate of incorporation, he shall enter into the register, in addition to the certificate of incorporation,
- (a) the articles of incorporation,
  - (b) the by-laws,
  - (c) the affidavit referred to in section 21(4)(b),
  - (d) notice of the registration number of the credit union,
  - (e) the notice of directors referred to in section 21(4)(c), and
  - (f) the notice of registered office referred to in section 21(4)(e).
- (3) On the registration of the certificate of incorporation, the incorporators become incorporated as a credit union on the basis set out in the certificate.
- (4) Except in proceedings under section 194, a certificate of incorporation is conclusive proof of the facts set out in it and that the provisions of this Act and the regulations in respect of incorporation and all requirements precedent to incorporation have been complied with.

### **Division 3**

#### **Commencement of Business**

Requirements  
for commencing  
business

- 24(1)** Subject to subsection (3), a credit union incorporated under Division 2 shall not commence business until the Minister has approved the commencement of business by it.
- (2) The Minister shall not approve the commencement of business unless
- (a) the credit union has submitted to him any changes made by it to its business plan,
  - (b) the Corporation has notified him in writing that it is satisfied that any changes made to the business plan do not affect its viability, and
  - (c) he is satisfied that
    - (i) the credit union has at least 50 members, if it has a bond of association, and 250 members if it does not,
    - (ii) the members collectively have subscribed and paid in full for at least the prescribed number of common shares on the condition that they may not be redeemed under any circumstances within 1 year after the date of the approval,
    - (iii) the members collectively have deposited at least the prescribed amount and agreed to maintain the deposits with the credit union until at least 6 months after the date of the approval,
    - (iv) the credit union has demonstrated evidence of its capacity for effective management and direction of its business and affairs,
    - (v) the certificate of incorporation has not been procured by the fraud or misrepresentation of any person,

(vi) the credit union will not be used for an illegal purpose, and

(vii) the credit union will fulfil the purposes and mode of operation of a credit union generally under section 26.

(3) Subsection (1) does not prohibit the carrying on of such business as is necessary to enable the credit union to meet the requirements of subsection (2).

(4) The credit union shall pay to Central all deposits and share subscriptions taken before the credit union is permitted to commence business, and Central shall hold them on the prescribed conditions for the members by whom or on whose behalf they were paid, pending the commencement of business.

Revocation of  
certificate of  
incorporation

**25(1)** The Minister, on giving a credit union at least 3 months' written notice of his intention to do so, may revoke its certificate of incorporation if the requirements of section 24(2) have not been met within 2 years after its incorporation.

(2) Where the Minister receives the written request of the board of a credit union that has not issued any shares and has no property or liabilities, he may revoke the credit union's certificate of incorporation.

#### **PART 4**

### **ORGANIZATION AND STRUCTURE**

#### **Essential Features of a Credit Union**

Purposes and  
mode of  
operation

**26(1)** The purposes of a credit union are, subject to the restrictions set out in this Act and the regulations, to provide on a co-operative basis financial services wholly or primarily for its members, and its principal purposes are to receive deposits from, and to make loans to, its members.

(2) A credit union shall operate on a co-operative basis such that

(a) subject to section 60, a member has no more than 1 vote at its general meetings or in respect of elections of its directors and officers,

(b) there is no provision for proxy voting,

(c) membership in it is

(i) voluntary, and

(ii) open to individuals resident in Alberta, except to the extent that, in the case of a credit union with a bond of association, it is restricted by that bond,

(d) its business is carried on wholly or primarily for the benefit of its members, and

(e) net income accruing from its business is

(i) distributed to members,

(ii) used to develop its business,

- (iii) used to provide services for its customers,
- (iv) used for the enhancement of its reserves or retained earnings, or
- (v) used for another purpose approved by the members.

### **Amendment and Restatement of Articles**

Amendment or replacement of articles

**27(1)** Subject to this Part, a credit union may by special resolution amend any part of its articles so long as the amended articles set out the matters referred to in section 21(2)(a), (c), (d) and (e) and otherwise comply with this Act and the regulations.

(2) A clerical error in the articles may be amended by the board.

(3) For the purposes of this section and section 29, the repeal and replacement of articles shall be deemed to be an amendment of them.

Amendment of articles reflecting change in bond

**28(1)** A credit union may not change from being one with a bond of association to being one without a bond of association unless it satisfies the Minister that

- (a) it has at least 250 members,
- (b) section 24(2)(c)(ii), (iii) and (iv) have been complied with, with references in those subclauses to the approval to commence business being replaced by references to the date of registration of the amendment of the articles effecting the change, and
- (c) the change is not contrary to the public interest.

(2) A credit union may not change from being one without a bond of association to one with a bond of association unless the prescribed conditions, if any, are met.

Articles and certificate of amendment

**29(1)** The credit union must, to enable the amendment to become effective, send the Minister articles of amendment respecting the amendment.

(2) The Minister, on receiving the articles of amendment, shall register them and issue a certificate of amendment, unless he considers that the amendment does not comply with this Act or the regulations.

(3) On the registration of the certificate of amendment, the articles are amended in accordance with the certificate.

(4) The amendment does not affect any existing cause of action, claim or liability to prosecution in favour of or against any person or any action or proceeding with respect thereto.

Restatement of articles

**30(1)** A credit union

- (a) may, at any time, and
- (b) shall, when so directed by the Minister and within the period specified in the direction,

restate articles that have previously been amended by providing the restated articles to the Minister.

(2) Restated articles may not contain any amendments to the articles other than amendments that have previously been registered.

(3) On his receipt of restated articles that comply with this section, the Minister shall issue a certificate of restated articles.

(4) On the registration of the certificate of restated articles, the restated articles supersede the original articles and all amendments to them.

### Names

Name of credit union

**31(1)** Subject to this section, a credit union may not have a name

(a) that is the subject of any prohibitions, or that does not meet the requirements, prescribed by the Minister,

(b) that is identical to the name of a corporation or other organization appearing on an applicable name search report referred to in section 21(4)(d),

(c) that so nearly resembles the name of any such corporation or organization that, in the opinion of the Minister, the use of that name would or might be deceiving or misleading to persons dealing with the credit union or the other entity, or

(d) that is otherwise objectionable on grounds of public policy.

(2) A credit union must have the phrase “Credit Union” or “Caisse Populaire” as part of its name.

(3) An existing credit union is not required to change the name that it had on May 13, 1987 to comply with this section.

Change of name

**32(1)** Where a credit union wishes to change its name pursuant to section 27 it must, unless it has approval to the contrary from the Minister, provide to the Minister a name search report referred to in section 21(4)(d).

(2) The change of name is subject to the approval of the Minister, who shall determine whether or not the proposed new name complies with this Part and the regulations.

(3) If the Minister approves the change of name, the Minister shall, in addition to complying with section 29, gazette notice of the change of name unless he considers that the change is so minor that no person will have reason to be confused or misled as to the identity of the credit union following the change.

Use of name

**33(1)** A credit union shall ensure that its name is set out in legible characters on all its contracts, invoices, negotiable instruments and orders for services and all publications and signs advertising its services that are provided to any person by it or on its behalf.

(2) Where the name of the credit union ends in “Limited”, “Limitée”, “Ltd.” or “Ltée”, the credit union may use and may be legally designated by use of either the full or the abbreviated form.

## Addresses, Service and Records

Registered office  
and addresses

- 34**(1) A credit union shall have a registered office in Alberta.
- (2) A credit union may at any time, by giving written notice to the Minister, designate either or both
- (a) a separate records office in Alberta for itself, and
  - (b) an address in Alberta for service by mail of it.
- (3) The credit union may at any time, by giving written notice to the Minister, change the address of its registered office or revoke or change a designation under subsection (2).
- (4) The credit union shall not designate a post office box as its registered office or separate records office.
- (5) The Minister, on receiving notice under subsection (2) or (3), shall register it, and a change thereunder is not effective until notice of the change is registered.
- (6) Unless a designation of a separate records office is in force, the credit union's registered office is also its records office.

Service on  
credit union

- 35** A person may serve a document on a credit union by
- (a) delivering the document to the credit union's registered office during its usual business hours,
  - (b) personally serving it on any director or officer or, where applicable, the administrator or liquidator, of the credit union, or
  - (c) sending it by registered mail to
    - (i) its registered office, or
    - (ii) the address for service by mail designated in the latest registered notice thereof under section 34.

Record-keeping

- 36**(1) A credit union shall keep at its records office
- (a) its articles and by-laws, including all amendments to them,
  - (b) the minutes of its general meetings, including resolutions passed,
  - (c) the minutes of its board and committee meetings, including resolutions passed,
  - (d) a current list of the names and latest known residential addresses of all persons who are or have within the past year been directors or officers, with the dates on which each directorship or office commenced and, where applicable, ended,
  - (e) a current list of the names and latest known residential addresses of all members, and
  - (f) its financial statements, including any auditor's reports.
- (2) For the purposes of subsection (1), a list is current if it accurately reflects the situation existing at any given date within the 3-month period immediately preceding the time in question.

- (3) A credit union shall take such precautions to
- (a) prevent loss or destruction of,
  - (b) prevent falsification of, and
  - (c) facilitate detection and correction of inaccuracies in,

the documentary information that this Act or the regulations require it to keep as are appropriate to the means used to record that information.

Examination of documents

**37(1)** A credit union shall permit its members or their agents to examine its documents described in section 36(1)(a), (b) and (d) and, subject to section 83, section 36(1)(f).

(2) A credit union shall permit any customer or his agent to examine a statement of his transactions with the credit union.

(3) A credit union shall, by by-law,

(a) provide conditional or unconditional rights to its members or their agents to examine the list of members referred to in section 36(1)(e), and

(b) where those rights are conditional, specify the conditions under which those persons may do so.

(4) A person entitled to examine the list of members pursuant to a by-law under subsection (3) shall not use the list of members for any purpose not legitimately related to the affairs of the credit union.

(5) A person entitled to make an examination under this section is entitled to make the examination only during the usual business hours of the credit union and on giving the credit union reasonable notice.

(6) The credit union shall permit the person referred to in subsection (5) to make copies, or shall provide him with copies, of the documents in question.

(7) Notwithstanding anything in this section but subject to section 83(2), the credit union may make the provision of any of its services under this section and section 38(2) subject to the payment of a reasonable fee for the services.

Form of documents

**38(1)** Documentary information that a credit union is required to keep under this Act or the regulations may be maintained in writing or entered or recorded by a system referred to in section 9(3).

(2) Where a person is entitled to examine a document that is kept by a credit union in a form other than in writing and makes a request of the credit union to that effect, the credit union shall make the information available to that person in an accurate and intelligible form within a reasonable time and shall, on request, produce to him a written copy of the information.

### Seal, Fiscal Year and Annual Return

- Seal **39(1)** Subject to section 33(2), a credit union's seal, if any, must contain the full name of the credit union in legible characters.
- (2) A document executed by or on behalf of a credit union is not invalid by reason only that the seal is not affixed to it.
- Fiscal year **40** The fiscal year of a credit union ends on October 31 of each year.
- Annual return **41(1)** A credit union shall, within 30 days after its annual general meeting, provide to the Minister and the Corporation, in the form prescribed by the Minister, a return showing
- (a) the name of the credit union,
  - (b) the date of that annual general meeting,
  - (c) the name and residential address of each director and of each officer who is not a director,
  - (d) the address of the credit union's registered office,
  - (e) the address of its separate records office, if any,
  - (f) the address designated for service of it by mail, if any, and
  - (g) the names of the credit union's subsidiaries.
- (2) On receiving the annual return, the Minister shall register it.

### Corporate Incidents

- Capacity and powers **42(1)** A credit union has the capacity and, subject to this Act and the regulations, the rights, powers and privileges of an individual.
- (2) Subject to this Act, a credit union may carry on its business, conduct its affairs and exercise its powers in any jurisdiction outside Alberta to the extent that the laws of that jurisdiction permit.
- (3) A credit union shall not do anything that is prohibited by, or do anything in a manner that contravenes, its articles.
- (4) An act of a credit union, including the transfer or receipt of property by it, is not invalid by reason only that the act is contrary to this Act, the regulations or its articles or by-laws or is inconsistent with its purposes or the mode of operation referred to in section 26(2).
- Absence of constructive notice **43(1)** Subject to subsection (2), a person is not affected by or deemed to have notice or knowledge of the contents of a document concerning a credit union by reason only that the document is registered or is available for inspection at an office of a body corporate or of the Minister.
- (2) A member, in his capacity as such, is bound by, and shall be treated as having notice and knowledge of the contents of, the articles and by-laws of the credit union.
- Reliance by persons dealing with credit union **44** Without limiting a person's rights or obligations under any other law, a credit union or a guarantor of an obligation of a credit union may not assert against a person dealing with the credit union or

dealing with any person who has acquired rights from the credit union that

- (a) the articles, by-laws or any resolution of the credit union has not been complied with,
- (b) the persons named as directors in the most recently registered return or notice under section 21(4)(c), 41 or 69 are not the directors,
- (c) the place named as its registered office in the most recently registered return or notice under section 21(4)(e), 34 or 41 is not its registered office,
- (d) the address designated for service by mail in the most recently registered return or notice under section 34 or 41 is not its address for service by mail,
- (e) a person held out by the credit union as a director, officer or agent of the credit union
  - (i) has not been duly appointed, or
  - (ii) has no authority to exercise a power or perform a duty that the director, officer or agent might reasonably be expected to exercise or perform,
- (f) a document issued by a director, officer or agent of the credit union with actual or usual authority to issue the document is not valid or not genuine, or
- (g) a sale, lease or exchange of property referred to in section 47(1) was not authorized,

except where that person has, or by virtue of his position with or relationship to the credit union ought to have, knowledge of those facts at the relevant time.

By-laws

**45(1)** In this section, “by-laws” includes any amendment, repeal or replacement of the by-laws.

(2) A credit union shall by ordinary resolution make by-laws in accordance with this section.

(3) Notwithstanding anything in this Act except subsection (4), by-laws are to govern only the administration, management and regulation of the credit union’s affairs.

(4) The by-laws must provide, subject to this Act, for such of the following matters as are applicable to the credit union but are not provided for by this Act or the regulations or set out in the articles:

- (a) membership, including qualifications and applications for, approval, continuation, termination and suspension of, and expulsion from, membership, and the rights and obligations of holders of joint membership;
- (b) the calling and holding of, notice for, and the procedure and quorums and the business that must or may be conducted at, general, board and committee meetings, including the agenda at annual general meetings;

- (c) voting in respect of general, board and committee meetings, including the manner and form of voting;
  - (d) the minimum number of board meetings that must be held in any specified 1-year period;
  - (e) the actual number or any restrictions on the number of directors;
  - (f) in respect of directors and officers, their election or appointment, qualifications, terms of office, suspension and removal and the cessation of their office and the filling of vacancies among their number;
  - (g) any restrictions on powers that the credit union, or the board, committees, officers or individual directors, would otherwise have, and any requirement that a specified matter may be dealt with only by special or ordinary resolution;
  - (h) transfers of, and redemption rights for, shares;
  - (i) the restrictions, if any, on the formation or acquisition of subsidiaries;
  - (j) all other matters that are required by this Act or the regulations to be dealt with in the by-laws.
- (5) The credit union may, by ordinary resolution,
- (a) make by-laws providing for any matter that this Act or the regulations provide may be dealt with by by-law, and
  - (b) amend and repeal its by-laws.
- (6) Where this Act or the regulations impose a restriction on a credit union or on its board or any of its committees, the by-laws may provide for still more restrictive requirements, but in no case may they diminish the requirements of this Act or the regulations.
- (7) The credit union shall provide the Minister and the Corporation with a certified copy of each by-law within 30 days after the ordinary resolution making it, and the Minister shall register the by-law.
- (8) The articles may contain any provision that may be contained in the by-laws and where the articles contain any such provision, references in this Act to the by-laws shall be construed accordingly.

#### **General Business Restrictions**

Restrictions  
on business  
activities

- 46(1)** A credit union or its subsidiary or affiliate shall not carry on any business unless the carrying on of that business is authorized by or under this section and is otherwise consistent with this section.
- (2) Subsections (3) to (5) and (7) are subject to section 42(3) and any related party provision or other law that prohibits, restricts or otherwise regulates any activity that would otherwise be permitted by or under those subsections.
- (3) A credit union may carry on any business that
- (a) is entailed in the fulfilment of any of the purposes of a credit union, or
  - (b) is prescribed.

(4) Subject to subsection (5) and any prescribed terms and conditions, a subsidiary or affiliate may carry on

(a) any business that is entailed in the fulfilment of any of the purposes of a credit union,

(b) the business of

(i) a trust company within the meaning of the *Trust Companies Act* or within the meaning ascribed to any equivalent expression by any equivalent statute of another province or of Canada, or

(ii) a securities dealer,

or

(c) any other prescribed business.

(5) A subsidiary or affiliate shall not engage generally in the business of accepting deposits or lending money unless it is

(a) a financial institution that is legally permitted to do so, or

(b) prescribed as being entitled to do so.

(6) A credit union or a person acting in his capacity as a director, officer or employee of a credit union shall not act as an insurer, agent, broker or adjuster, within the meanings respectively ascribed to those expressions by the *Insurance Act*.

(7) A credit union may act as trustee for a trust in respect of a prescribed class of transaction if under the terms of the trust the trust investments are in the discretion of the beneficiary or the settlor and not in the discretion of the trustee.

Disposal and  
acquisition  
of assets

**47(1)** A credit union shall not sell, lease or exchange all or substantially all of its assets other than in the ordinary course of its business unless the disposal is approved by a special resolution.

(2) A credit union may dispose of assets to a related party that is a financial institution at fair market rate so long as the consideration is fully paid in money, but, without the prior approval of the Corporation, it shall not, in any fiscal year, dispose of assets under this subsection having an aggregate value in excess of 10% of the book value of its assets as at the end of the previous fiscal year.

(3) A credit union may, if its board has previously authorized and the Corporation has previously approved the transaction, enter into a transaction with a related party that is a financial institution if the transaction involves the acquisition or disposal of assets as part of a restructuring of the credit union or an amalgamation.

Branches and  
automated  
machines

**48** A credit union shall not, without the prior approval of the Corporation,

(a) establish an additional branch of its business,

(b) relocate a branch, or

(c) establish an automated banking machine.

### General Related Party Provisions

Related party and associated transactions generally

**49(1)** Except to the extent, if any, permitted by or under a related party provision, a credit union or its subsidiary shall not directly or indirectly enter into any transaction with a party related to that credit union.

(2) Except to the extent, if any, permitted by or under a related party provision, a party related to a credit union shall not directly or indirectly enter into any transaction with the credit union or any of its subsidiaries.

(3) A credit union or its subsidiary shall not directly or indirectly enter into any transaction with any person who ceased to be a party related to that credit union during the previous 12 months which, if that person were still a related party, would require the prior authorization of the credit union's board, and such a former related party shall not directly or indirectly enter into such a transaction with the credit union or a subsidiary, unless the transaction

(a) has been authorized by the board of the credit union, and

(b) is at fair market rate.

(4) For the purposes of subsections (1) to (3), a transaction is entered into if an existing transaction, including one entered into before November 1, 1988, is modified, added to, extended or renewed.

(5) Where a credit union or a subsidiary is permitted by or under a related party provision to enter into a transaction with a related party, that related party may enter into that transaction with that corporation.

(6) Where a transaction is required by or under a related party provision or subsection (3) to be at fair market rate, that requirement is satisfied, except where the transaction is between a credit union and a subsidiary or between subsidiaries of a credit union, if the transaction is at a rate and on terms that exceed or do not exceed fair market rate, as the case may be, if that rate and those terms are more financially advantageous to the credit union or subsidiary than actual fair market rate.

(7) The onus is on a related party or former related party and the credit union or subsidiary to prove, with reference to any related party provision that requires proof of fair market rate or to subsection (3), that the transaction in question is at or exceeds or does not exceed, as the case may be, fair market rate.

Disclosure and use of confidential information by related parties

**50(1)** A party related to a credit union shall not enter into a transaction in which that person would make use of information that is confidential to the credit union or any subsidiary in order directly or indirectly to obtain a benefit or advantage for himself or any other person.

(2) Subject to section 76, a related party who is or is about to be a party to a related party transaction for which the authorization of the credit union's board is or will be required shall disclose in writing to the credit union the nature of his interest in that transaction or proposed transaction forthwith after becoming aware of the facts that bring him within the application of this subsection.

General  
exceptions to  
related party  
provision  
prohibitions

(3) A former related party referred to in section 49(3) who is or is about to be a party to any transaction with the credit union or its subsidiary referred to in that subsection shall disclose in writing to the credit union the nature of his interest in that transaction or proposed transaction forthwith after becoming aware of the facts that bring him within the application of this subsection.

(4) The credit union's board shall ensure that a disclosure under subsection (2) or (3) is entered in the minutes of the first board meeting occurring after the making of the disclosure.

**51(1)** A credit union or its subsidiary may, if the board of the credit union has previously authorized the transaction,

(a) enter into a written contract with a related party for the provision of management services to or by the credit union or subsidiary if it is reasonable that the credit union or the subsidiary obtain or supply the services, and so long as the consideration is at fair market rate,

(b) enter into a written lease of personal property with a related party for the use of the credit union or subsidiary in carrying on its business or affairs at fair market rate, so long as the term of the lease and of any potential renewals of it thereunder does not exceed 5 years,

(c) enter into a written contract with a related party for pension and benefit plans and other reasonable commitments incidental to the employment of officers and employees of the credit union or subsidiary,

(d) subject to section 65, enter into a contract of employment with a director, officer or prospective officer of the credit union or of any of its subsidiaries,

(e) enter into a written contract with a related party for the purchase at fair market rate of goods or services, other than management services, required by the credit union or subsidiary in carrying on its business or affairs, so long as there is appropriate documentation evidencing the consideration and the term of the contract and of any potential renewals of it thereunder does not exceed 5 years, and

(f) enter into any other related party transaction, not otherwise specified in this Act, that is prescribed as requiring prior board authorization.

(2) Notwithstanding anything in subsection (1), a credit union or a subsidiary may, without the prior authorization of the board of the credit union unless the by-laws require it,

(a) enter into a contract of employment with a related party who is not a director, officer or prospective officer of the credit union or of any of its subsidiaries,

(b) enter into a transaction with a related party that involves minor general expenditures by that corporation that do not exceed the amount prescribed,

(c) enter into a transaction with a related party at fair market rate for the sale of goods or the provision of services that are not otherwise provided for by a related party provision, and

(d) enter into any other related party transaction, not otherwise specified in this Act, that is prescribed as not requiring prior board authorization.

(3) In this section, “prospective officer” means a person referred to in section 2(5)(a).

Related party exemptions by Corporation

**52(1)** On written application being made to the Corporation before a transaction, with a copy being contemporaneously provided to the Minister, the Corporation may give its prior approval to a credit union’s or its subsidiary’s entering into a related party transaction or to a class of related party transactions that would otherwise be prohibited or restricted by this Act or the regulations if in the Corporation’s opinion the transaction or class of transactions is necessary or beneficial to the well-being of the credit union and is not prejudicial to the interests of its members or customers.

(2) Where the Corporation is satisfied that a subsidiary or affiliate of a credit union functions wholly or primarily for the purpose of providing a service, other than a financial service, to the credit union or its subsidiary, the Corporation may approve an application by that credit union for the exemption of the subsidiary or affiliate from the status of related party.

Professional advisers and related party transactions

**53(1)** A professional adviser of a credit union who in his capacity as such becomes aware of a contravention of a related party provision or of the terms and conditions of an approval given in relation to a related party provision shall forthwith ensure that the credit union’s board and auditor are or become aware of the contravention.

(2) The auditor of a credit union shall forthwith report to the board of the credit union and to the Minister any contravention of a related party provision of which he is notified or otherwise becomes aware.

(3) Nothing in this section abrogates any privilege existing between a solicitor and client.

(4) A person who in good faith makes a report under this section is not liable in any civil action arising from the report.

Related party transaction procedures

**54** Unless otherwise prescribed, a credit union shall have written procedures, approved by resolution of the board, to be followed by the credit union and its directors, officers and employees to ensure compliance with related party provisions.

**PART 5  
GENERAL MEETINGS AND MEMBERSHIP**

**Division 1**

**General Meetings**

- Annual general meetings** **55** The board shall call the annual general meeting of a credit union, to be held within 5 months after the end of each fiscal year.
- Special general meetings** **56(1)** The board may at any time call a special general meeting of the credit union, and shall do so on receiving a written request to that effect signed
- (a) by or on behalf of the audit committee, or
  - (b) by at least
    - (i) 100 members, or
    - (ii) 10% of the total membership as at the date the request is received,
- whichever is less.
- (2) A request referred to in subsection (1) must state the business to be transacted at the proposed meeting.
- (3) If the board does not, within 30 days after receiving the request, call a special general meeting, any member who signed the request or the audit committee, as the case may be, may call the meeting.
- (4) The only business that may be discussed at a meeting called on the request or under subsection (3) is
- (a) business specified in the request, and
  - (b) business that is required by this Act to be dealt with at the general meeting occurring next after the occurrence of a specific event.
- (5) The credit union may by ordinary resolution reimburse members for the expenses reasonably incurred by them in requesting, calling and holding the meeting.
- Regionalization of meetings** **57(1)** A credit union may by by-law divide the territory in Alberta in which it carries on business and has members into regions for the purpose of holding separate general meetings in each region for the members who reside or have accounts in that region instead of holding 1 general meeting for all its members.
- (2) Subject to this section, where a by-law under subsection (1) is in force, the provisions of this Part and any other law applicable to general meetings apply to regional meetings held under this section.
- (3) A resolution presented at regional meetings is passed by the credit union only if the resolution
- (a) is presented at regional meetings covering all the territory referred to in subsection (1), and
  - (b) receives the approval, over all the regional meetings taken as a whole, of such aggregate majority of the aggregate votes validly

cast at all the regional meetings as would suffice to carry the resolution at a single general meeting of the whole credit union.

(4) The by-laws must provide for the procedures, if any, specific to regional meetings that must be followed.

Notice of general meetings

**58(1)** Subject to this section and section 62, a credit union shall give at least 10 and not more than 40 days' notice of a general meeting to every member, specifying the place, date and time at which it is to be held and, where applicable, specifying the intention to propose a special resolution.

(2) Notice of a general meeting at which there is to be transacted any business other than business that this Act requires to be transacted at an annual general meeting or the reappointment of the incumbent auditor, must state

(a) the nature of that business in sufficient detail to enable the members to form a reasoned judgment on the business,

(b) where a special resolution is to be submitted to the meeting, the text of it, and

(c) where the voluntary dissolution or liquidation and dissolution of the credit union is to be proposed, the full terms and conditions on which it is proposed to take place.

(3) Notice of a meeting to be held pursuant to the adjournment of a general meeting must be given under this section except where

(a) the general meeting is adjourned by 1 or more adjournments for an aggregate of 40 days or less,

(b) notice of the place, date and time of the reassembled meeting is given by announcement at the time of the adjournment, and

(c) the by-laws do not require notice to be given under this section.

(4) The proceedings and the business transacted at a general meeting are not invalidated by reason only that a member did not receive notice of the meeting.

Quorum

**59(1)** The quorum at a general meeting is the lesser of

(a) 50 members, and

(b) 10% of the number of members entitled to vote at that meeting, with a minimum of 10,

or such higher number or percentage or combination of number and percentage as is specified in the credit union's by-laws.

(2) Unless the by-laws otherwise provide, where a quorum is present at the opening of a general meeting, the members present may proceed with the business of the meeting notwithstanding that a quorum is not present throughout the meeting.

(3) Where a quorum is not present at the opening of a general meeting, the members present may adjourn the meeting but may not transact any other business.

Voting at general meetings

- 60(1)** This section applies to voting at general meetings and voting with respect to elections referred to in subsection (7).
- (2) Subject to subsection (6), only members are entitled to vote.
- (3) Subject to this section and the by-laws referred to in subsection (4), each member has 1 vote on any question that may be voted on.
- (4) The by-laws must
- (a) specify what constitutes a spoiled or invalid vote,
  - (b) specify the number of votes that may be cast, and the basis for voting, by holders of joint membership,
  - (c) set out the basis for and the manner of voting by designated representatives, and
  - (d) contain a prohibition against or restrictions on voting by all or some of the members who are minors.
- (5) A member may not vote by proxy.
- (6) The rights of a member entitled to have a designated representative may be exercised by that representative, and a designated representative who is a member may cast, in addition to his own membership vote and in accordance with the by-laws, a representative vote.
- (7) Subject to subsection (6), a member may cast his vote only if he attends the general meeting, except that a credit union may by by-law provide for voting by members with respect to elections of directors and officers other than by personal attendance at general meetings.
- (8) A member at a general meeting may demand a vote by ballot before or on the declaration of the result of a vote by show of hands, and the result of the vote by ballot is the decision of the members.

## **Division 2 Membership**

Qualifications and restrictions

- 61(1)** A person is not qualified to be a member unless he holds at least 25 common shares issued by the credit union or, in the case of a minor or a person who has attained the age of 65 years, such lower number of common shares, being not less than 1, as is provided in the by-laws.
- (2) For the purposes of determining all matters respecting membership, a partnership or other unincorporated association of persons shall be deemed to be a corporation.
- (3) A credit union may not be a member of another credit union.
- (4) The membership of a credit union must consist wholly or substantially of individuals.
- (5) Subject to this Act, a related party may be a member so long as he is given no rights or privileges arising from membership that are not held by the general membership, but no subsidiary or affiliate may be a member.

**62(1)** A notice or other document required by this Act or the regulations or the by-laws of a credit union to be provided to a member is sufficiently served, for the purposes of this Act, only if and to the extent that this section is complied with.

(2) The document may be

(a) served personally on the member or, if the member is a corporation, partnership or other firm or unincorporated association of persons, on a director, partner, officer or designated representative thereof or any other member of the governing body thereof, however called,

(b) sent by mail addressed to the member at his latest address as shown in the records of the credit union,

(c) delivered, addressed to the member, to that address, or

(d) in the case of a credit union with a bond of association that has or has the use of a receptacle for the purpose of providing documents to the member and whose by-laws so permit, deposited in that receptacle.

(3) If a credit union's by-laws so permit, a notice may be

(a) advertised in prominent display notices in newspapers circulated in all the territory served by the credit union, and

(b) posted in places that are prominent and accessible to members and are designated in the by-laws.

(4) A credit union that has a bond of association such that a notice posted on notice boards in specific premises is likely to be seen by all or a substantial majority of the members may, if its by-laws so permit, post the notice on those notice boards, whereupon the credit union shall keep it there for the duration of its currency.

(5) Compliance with subsection (4) is sufficient service in respect of members who might reasonably be expected by the credit union to have adequate opportunity to examine the notice, but the credit union shall serve the notice by another method on all other members.

(6) If a credit union sends a notice to a member in accordance with subsection (2)(b) or sends it for delivery in accordance with subsection (2)(c) and the notice is returned because the member cannot be found, the credit union shall make reasonable efforts to locate the member and, if thereafter the member still cannot be found, the credit union is not required to provide any further notices to the member until he informs the credit union in writing of his new address.

(7) Where a credit union is required to provide a document to its members with a notice of a general meeting and it inserts the notice of the meeting in a newspaper under subsection (3), it may effect service of the document

(a) by giving information about the document in the notices given under subsection (3)(a) and (b), including an adequate description of the nature of the document, and

(b) by providing a copy of the document free of charge to any member who requests it.

**PART 6**  
**DIRECTORS, OFFICERS, EMPLOYEES AND COMMITTEES**  
**Division 1**  
**Constitutional Affairs**

- Number of directors      **63** A credit union shall have a board of directors consisting of at least 5 directors.
- Election of directors      **64(1)** Subject to by-laws under section 60(7), the election of directors of a credit union must take place at its annual general meeting unless, in a particular case, a director is appointed or elected to fill a vacancy in another manner provided for by the by-laws.
- (2) Subject to this Act, a credit union may by by-law divide the membership of the credit union into divisions for the purpose of enabling all or a specified number of the directors to be elected only by members comprising those divisions, and any such by-law must provide for
- (a) the description of each division,
- (b) the number of the directors to be elected by each division, and
- (c) any procedures that must be followed in the election of directors under the by-law.
- Qualifications of directors      **65(1)** A person is not qualified to become, and shall not act or continue to act as, nor permit himself to be elected or appointed as, a director of a credit union, and the credit union shall not knowingly permit any of those acts, unless he satisfies the qualifications specified and referred to in this section.
- (2) A person is not qualified to be a director of a credit union
- (a) unless he is
- (i) an individual of adult age,
- (ii) a member or a designated representative, and
- (iii) a Canadian citizen or a person who has been lawfully admitted into Canada for permanent residence;
- (b) if he has the status of a bankrupt;
- (c) subject to subsection (5), if he is, or within the 3-year period immediately preceding his election or appointment to the board was, an employee of any body corporate;
- (d) subject to subsection (5), if he is a director or officer of the Corporation or of another credit union;
- (e) if he is a professional adviser to a credit union;
- (f) if he is a person employed in the public service of Alberta or by a Provincial agency within the meaning of the *Financial Administration Act* and to which that Act applies, whether under a contract of service or a contract for services, whose substantive duties are directly concerned with the business or affairs of credit unions or of Central;

(g) if, within the immediately preceding 5 years, he has been convicted of

(i) an indictable offence that is of a kind that is related to the qualifications, functions or duties of a corporate director, or

(ii) an offence against this Act,

and either the time for making an appeal has expired without the appeal's having been made or the appeal has been finally disposed of by the courts or abandoned;

(h) if he has a loan from that credit union in respect of which the repayment of principal or interest is in arrears for a period of 60 days;

(i) if he is a dependent adult as defined in the *Dependent Adults Act* or is the subject of a certificate of incapacity under that Act;

(j) if he is a formal patient as defined in the *Mental Health Act*;

(k) if he is the subject of an order under *The Mentally Incapacitated Persons Act* appointing a committee of his person or estate or both;

(l) if he has been found to be a person of unsound mind by a court elsewhere than in Alberta;

(m) if he is disqualified by, or unless he satisfies any other qualification requirements of, the by-laws.

(3) A person is not qualified to remain a director if he fails without good cause to attend the minimum number of board meetings that he is required by the by-laws to attend.

(4) Three-quarters of the directors must at all times be ordinarily resident in Alberta.

(5) The Minister may approve an exemption from the application of subsection (2)(c) and (d) in respect of a person's employment with, or his service as a director or officer of, the Corporation.

Board meetings

**66(1)** A credit union shall ensure that a meeting of the board is held within 30 days after each annual general meeting.

(2) A credit union shall, on a written request signed

(a) by at least  $\frac{1}{4}$  of the directors, or

(b) by or on behalf of the audit committee,

ensure that a meeting of the board is held within 10 days of the request.

(3) Notwithstanding any other law, the by-laws may provide that

(a) a director may participate in a board meeting, or

(b) a board meeting may be held,

by means of telephone or other communication facilities that permit all persons participating in the meeting to hear each other, and, for the purposes of this Act, the directors participating by those means are deemed to be present at a board meeting.

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|---|---|
| Duties of board                                     | <p><b>67(1)</b> Subject to this Act and the regulations and the by-laws of a credit union, the board is responsible for the general management of the business and affairs of the credit union.</p> <p>(2) Subject to this Act, the board may delegate any of its powers, duties or functions under this Act or the regulations in accordance with a prescribed authorization.</p>  |
| Validity of acts                                    | <p><b>68(1)</b> An act of a director or officer of a credit union is valid notwithstanding an irregularity in his election or appointment or a defect in his qualification.</p> <p>(2) An act of the credit union's board is valid notwithstanding non-compliance with section 65(4).</p>   |
| Notice of change of directors                       | <p><b>69(1)</b> Within 10 days after a change in the composition of the board of a credit union occurs, the credit union shall provide to the Minister and the Corporation a notice setting out the change in directors.</p> <p>(2) The Minister shall register the notice of the change.</p> <p>(3) Subsection (1) does not apply to the extent that the change in directors is reflected in the annual return registered under section 41.</p>  |
| Service of notices and documents on directors       | <p><b>70</b> A notice or other document required by this Act or the regulations or the by-laws of a credit union to be provided to a director of a credit union in his capacity as such is sufficiently served, for the purposes of this Act, only if and to the extent that the mode of service referred to in section 62(2) or (4) is complied with, for which purpose section 62(5) applies.</p>   |
| Remuneration of directors and non-employee officers | <p><b>71(1)</b> In this section, "officers" means officers of a corporation who are not employees of it.</p> <p>(2) A credit union shall make by-laws with respect to the provision of remuneration by it to its directors and officers, including the procedures for fixing the amount of that remuneration.</p> <p>(3) Subject to the by-laws, a credit union may provide remuneration to its directors and officers.</p> <p>(4) A credit union shall not provide any perquisite, benefit or advantage to a director or officer of another credit union or its subsidiary that is not enjoyed by or available to the members of the first-mentioned credit union generally or a substantial proportion of its membership.</p> |

## Division 2

### Duties and Liabilities of Directors, Officers and Employees

|             |  |
|-------------|--|
| Application | <p><b>72(1)</b> This Division does not operate so as to limit the duties and liabilities that a director, officer or employee of a corporation may have under any other law.</p> <p>(2) No provision in a contract or the articles or by-laws or a resolution of a credit union relieves a director or officer from the duty to act in accordance with this Act and the regulations or relieves him from liability for a breach thereof.</p> |
|-------------|--|

Duty of care  
of directors  
and officers

**73(1)** A director or officer of a credit union, in exercising his powers and performing his duties, shall

- (a) act honestly, in good faith and with a view to the best interests of the credit union as a whole,
- (b) exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances, and
- (c) comply with the articles and by-laws.

(2) In considering whether a particular transaction or course of action is in the best interests of the credit union as a whole, a director or officer shall also have due regard to the interests of all customers who have deposits with it.

Liability of  
directors

**74(1)** Where the board of a credit union passes a resolution authorizing

- (a) the provision of any remuneration in contravention of section 71 or the by-laws made under that section,
- (b) the payment of an indemnity described in section 78 in contravention of that section,
- (c) an acquisition or redemption of common shares in contravention of section 110,
- (d) any use of retained earnings that contravenes section 111 or a payment of a dividend or patronage rebate contrary to section 111(3),
- (e) any illegal act with respect to the payment of compensation to a member, director or officer the effect of which is to reduce the aggregate or any part of its members' equity, or
- (f) any related party transaction that contravenes this Act and involves any payment or the provision or distribution of property by the credit union,

the directors who voted for or consented to the resolution are jointly and severally liable to restore to the credit union any amount so paid and the value of any property so provided or distributed and not otherwise recovered by the credit union, with interest at the rate prescribed by the Minister.

(2) A director who has satisfied a judgment rendered under this section is entitled to contribution from all other directors who by virtue of subsection (1) are also liable.

(3) On an application by the credit union, by a director who is liable under subsection (1), by a member or by any person who was a customer or creditor of the credit union at the time of the action complained of, the Court may make an order, if it considers it equitable to do so,

- (a) to compel a recipient to restore to the credit union any money or other property that was improperly paid, provided or distributed to him in connection with any of the circumstances specified in subsection (1)(a) to (f),
- (b) to compel the credit union to return common shares to a person from whom it has improperly acquired them or to issue

common shares to a person whose shares it has improperly redeemed and cancelled, or

(c) to make such other provision as it considers fit.

(4) A director is not liable under this section if

(a) he proves that he did not know and could not reasonably have known that the facts underlying the act authorized by the resolution were such as to occasion a contravention of the relevant enactment, or

(b) he relies in good faith on

(i) financial statements of the credit union represented by any of its officers qualified to make such a representation or in a written report of its auditor as reflecting fairly the financial condition of the credit union, or

(ii) the written opinion or report of any of its professional advisers or officers qualified to give such an opinion or to make such a report.

(5) An action to enforce any liability imposed by this section may not be commenced after 2 years from the date of the resolution authorizing the action complained of.

Reporting by  
directors and  
officers to  
Minister

**75(1)** When a director or officer of a credit union first becomes aware that the credit union has engaged in any illegal activity, he shall, within 7 days after first becoming so aware, report that fact in writing to the Minister.

(2) A person does not contravene subsection (1) if he establishes that the fact to be reported has already been reported in writing to the Minister, or that the Minister is already aware or should reasonably be aware of the fact.

Disclosure of  
related party  
and similar  
transactions

**76(1)** This section applies to a director or officer of a credit union who

(a) is required to make a disclosure under section 50(2), or

(b) in relation to a corporation that is or is to be a party to a transaction to which the credit union or its subsidiary is or will also be a party, whether or not any other persons are or will be parties to the transaction,

(i) is a director or officer, or

(ii) holds 10% or more of the shares issued by it.

(2) A director or officer described in subsection (1) shall, forthwith after becoming aware of the facts that bring him within the application of subsection (1), disclose in writing to the credit union in detail, and request to have entered in the minutes of a credit union board meeting, the nature of the transaction or the proposed transaction, the nature and extent of his relationship with it or with any corporation referred to in subsection (1)(b) and the interest of any such corporation in the transaction or proposed transaction.

- (3) The director or officer shall not
  - (a) vote or attempt in any way to influence the voting on any resolution to approve the transaction or proposed transaction, or
  - (b) be present while the subject-matter of the resolution is being discussed or the vote is being conducted.
- (4) Where the director or officer complied with subsection (2) and the transaction or proposed transaction was approved by resolution of the board, was reasonable and fair to the credit union or the subsidiary at the time it was so approved and does not contravene a related party provision,
  - (a) the contract is neither void nor voidable by reason only of the circumstances bringing him within the application of subsection (1), or by reason only that he was present at or was counted to determine the presence of a quorum at any meeting that authorized the contract, and
  - (b) if a profit accrues to him as a result of the making of the contract, he is not liable to account to the credit union or the subsidiary for that profit by reason only of the circumstances bringing him within the application of subsection (1).
- (5) If a person required to comply with this section fails to do so, the Court may, on the application of the credit union or a member, customer or creditor, set aside the transaction on any terms it thinks fit.
- (6) Nothing in this section entitles any person to enter into any transaction into which he is not otherwise legally entitled to enter.

Dissent

- 77(1)** A director or committee member of a credit union who was present at a board or committee meeting, as the case may be, is deemed for the purposes of this Act to have consented to any resolution passed or action taken at the meeting, unless
  - (a) he requested that his abstention or dissent be, or his abstention or dissent is, entered in the minutes of the meeting,
  - (b) he provided his written dissent to the secretary of the meeting before the meeting was adjourned,
  - (c) he sent his dissent by registered mail or delivered it to the registered office of the credit union within 14 days after the meeting was adjourned, or
  - (d) he otherwise proves that he did not consent to the resolution or action.
- (2) A director or committee member who voted for a resolution is not entitled to dissent under subsection (1).
- (3) On receipt of a written dissent, the credit union shall
  - (a) have the date, time and place it was received certified on it, and
  - (b) have it placed and kept with the minutes of the meeting at which the resolution was passed or the action taken.

Indemnification

**78(1)** Except in respect of an action by or on behalf of the credit union to procure a judgment in its favour, a credit union may, by resolution of the board, indemnify a present or former director or officer or a person who acts or acted at the credit union's request as a director or officer of a corporation of which the credit union is or was a shareholder or creditor (in this section referred to as the "other corporation") against costs, charges and expenses, including any amount paid to settle an action or satisfy a judgment, reasonably incurred by him with respect to a civil, criminal or administrative action or proceeding to which he is made a party by reason of his being or having been such a director or officer, but only in accordance with this section.

(2) Notwithstanding anything in this section, the credit union may indemnify the person only if

(a) he acted honestly, in good faith and, subject to section 73(2), with a view to the best interests

(i) where applicable, of the other corporation, and

(ii) subject to subclause (i), of the credit union as a whole

and

(b) in the case of a criminal or administrative action or proceeding, he had reasonable grounds for believing that the conduct was lawful.

(3) Notwithstanding anything in this section except subsection (2), the person is entitled to indemnity from the credit union in respect of all costs, charges and expenses reasonably incurred by him with respect to the defence of any civil, criminal or administrative action or proceeding to which he is made a party by reason of his being or having been a director or officer referred to in subsection (1) if he was substantially successful on the merits in his defence of the action or proceeding and he is fairly and reasonably entitled to indemnity.

(4) A credit union shall not purchase or maintain insurance for the benefit of any person acting in the capacity referred to in subsection (1) against any liability incurred by him in that capacity if the insurance would cover liability relating to his failure to comply with subsection (2)(a).

(5) A credit union or a person referred to in subsection (1) may apply to the Court for an order approving an indemnity under this section and the Court may so order and make any further order it thinks fit.

(6) An applicant under subsection (5) shall give the Minister and the Corporation notice of the application, and the Minister and the Corporation are entitled to appear and be heard.

**Division 3**  
**Committees**

Appointment,  
composition and  
meetings of  
committees

**79(1)** Subject to subsection (2), the board of a credit union shall by resolution appoint for the credit union

- (a) one or more credit committees, and
- (b) either
  - (i) an audit committee and a finance committee, or
  - (ii) an audit and finance committee.

(2) The board of a small credit union need not appoint an audit committee, a finance committee or an audit and finance committee but, if it does not do so, the board itself, without delegation, shall perform the functions and duties, and has the powers, that that committee would have had if appointed.

(3) A finance committee, an audit committee or an audit and finance committee must

- (a) consist exclusively of members, and
- (b) include at least 3 directors.

(4) A credit committee must consist of at least 3 members.

(5) The auditor and the internal auditor are entitled to receive notice of and to attend any meeting of the audit or audit and finance committee.

(6) The audit or audit and finance committee shall meet at least as often as reports have to be submitted under section 84(1), and in any case at least once in each quarter of the fiscal year.

(7) The finance committee shall meet at least once in each quarter of the fiscal year.

(8) Section 66(3) applies in respect of the relationship between committee members and committee meetings.

Functions  
of finance  
committee

**80** The finance committee of a credit union shall perform the following functions:

- (a) recommend to the board the annual budget for the following fiscal year;
- (b) consider the credit union's business performance for each quarter of the fiscal year with respect to its annual budget, and report thereon to the board;
- (c) make recommendations to the board on the investment procedures referred to in section 100(3) and the loan mixture referred to in section 131;
- (d) recommend, for approval by the board, financial policies relating to the credit union's investments and lending;
- (e) perform such other duties as are prescribed by the Minister or assigned to it by a board resolution.

General  
committee  
provisions

**81(1)** Each of the committees is a committee of, and is responsible to, the board, and shall provide a written report of matters falling within its functions and duties

(a) to the annual general meeting, in respect of the previous fiscal year's business and affairs, and

(b) to the board,

(i) at least once a month, in the case of the credit committee, and

(ii) at least once a quarter, in the case of the audit and finance committees,

in respect of the business and affairs of the previous period.

(2) Notwithstanding anything in this Part, the board itself is, without delegation, responsible for ensuring that the committees perform their respective functions and duties and may assume to itself any of those functions or duties and exercise any of the committees' powers.

(3) The by-laws may provide for the delegation by a committee to a committee member or officer of any of its powers, duties or functions, other than those prescribed, but no such delegation relieves a committee or the board from any duty that it has under this Act or the regulations.

(4) The requirements of subsection (1) for a written report are met, in the case of reporting to the board, if the minutes of the relevant committee meetings are provided.

## PART 7

### FINANCIAL DISCLOSURE, AUDIT AND EXAMINATION

#### Division 1

#### Financial Disclosure

Provision of  
financial  
statements,  
etc., to annual  
general meeting

**82(1)** At each annual general meeting, the board of a credit union shall place before the members, in addition to any other information required by this Act or prescribed to be required,

(a) except in the case of a small credit union that does not have an auditor, the annual financial statements for the previous fiscal year of the credit union with the auditor's report thereon, and

(b) in the case of a small credit union that does not have an auditor, the unaudited annual financial statements for the previous fiscal year of the credit union.

(2) Where, as a result of the application of section 5, the financial statements required by subsection (1) would be on a basis that consolidates the financial statements with those of the credit union's subsidiaries, subsection (1) shall be treated as also requiring separate financial statements for the credit union.

(3) The annual financial statements must show, as notations to them,

(a) separately in respect of each corporation, the aggregate amount provided during the previous fiscal year to all the directors, and

all the officers who are not employees, of the credit union and its subsidiaries

(i) as remuneration, and

(ii) separately, as reimbursement or allowance for expenses incurred on the business and affairs of the credit union and subsidiaries,

(b) the aggregate amounts of loans referred to in section 136 in respect of which the repayment of principal or interest, as of the end of the previous fiscal year, is overdue by 45 days or more,

(c) the amount of loans outstanding to each subsidiary and affiliate at the end of the previous fiscal year,

(d) the amount of guarantees outstanding in favour of each subsidiary and affiliate at that date, and

(e) any other information that is prescribed.

Issue and  
publication  
of financial  
statements

**83(1)** Subject to sections 82 and 84(2), a credit union shall not issue, publish or circulate copies of the annual financial statements referred to in section 82 unless those financial statements

(a) have previously been approved specifically by the board and the board's approval is evidenced by the signatures of 2 or more directors on the statements, and

(b) except in the case of a small credit union that does not have an auditor, are accompanied by the auditor's report on them.

(2) Subject to subsection (1), where a member so requests, a credit union shall provide to him a summary or, if he specifically so requests or if the credit union so desires, a copy

(a) free of charge, of its most recent annual financial statements, and

(b) on the payment of a reasonable fee, of previous annual financial statements

of the credit union, with the accompanying auditor's report where applicable.

Reporting to  
Minister and  
Corporation

**84(1)** A credit union shall provide to the Minister, the Corporation and Central periodic financial reports containing the information, and on or before the dates, prescribed by the Minister.

(2) A credit union shall, within 90 days after the end of each fiscal year, provide to the Minister and to the Corporation, with respect to that year,

(a) a copy of all annual financial statements, with auditors' reports, required by section 82,

(b) copies of the separate annual financial statements for each of the credit union's subsidiaries, with the auditors' reports, if any, on them, and

(c) in the case of a large credit union, the management letter referred to in section 92(1)(b).

- (3) The Minister shall register the copies of the financial statements with auditors' reports on receiving them under subsection (2).
- (4) Where an auditor at any time prepares a management letter other than that required by section 92(1), he shall forthwith provide a copy of it to the Minister and to the Corporation.
- (5) A credit union shall provide to the Corporation such documents and information as the Corporation requires to enable it to perform its functions under section 131 and as it so directs, and shall provide them at the times specified in the direction.

## Division 2

### Audit

- |                                  |   |
|----------------------------------|---|
| Application                      | <b>85</b> Except where otherwise specifically stated, this Division applies in relation to large credit unions and also to small credit unions that have or are to have an auditor.   |
| Functions of the audit committee | <p><b>86</b> A credit union's audit committee shall perform the following functions:</p> <ul style="list-style-type: none"> <li>(a) review the annual audited financial statements before they are approved by the board and make such recommendations on them to the board as the committee considers appropriate;</li> <li>(b) review and make recommendations to the board on             <ul style="list-style-type: none"> <li>(i) the appointment and remuneration of the auditor and the internal auditor, and</li> <li>(ii) the methods and scope of conducting audits to be adopted by the internal auditor;</li> </ul> </li> <li>(c) review with the auditor the scope of an audit before he commences the audit;</li> <li>(d) review any management letters, recommendations and reports prepared by the auditor or the internal auditor respecting the credit union's business or financial statements, and make recommendations to the board thereon;</li> <li>(e) review all financial reports that are to be provided under section 84(1) before they are provided, to ensure that they are complete and accurate;</li> <li>(f) recommend, for approval by the board, arrangements to safeguard the credit union's assets, to ensure the timeliness, accuracy and reliability of accounting data, to promote operational efficiency and maintain adherence to the board's policies and to provide for any other matters relating to the credit union's financial policies;</li> <li>(g) report to the board any significant changes in the accounting principles and practices followed by the credit union;</li> <li>(h) ensure that any recommendations of the auditor receive the attention of the board;</li> <li>(i) perform such other duties as are provided for in this Division or prescribed by the Minister or assigned to it by a board resolution.</li> </ul> |

Auditor

**87(1)** A person is not qualified to become, and shall not act or continue to act as, and shall not permit himself to be appointed as, the auditor of a credit union, and the credit union shall not knowingly permit any of those acts, unless that person is

(a) an individual permitted by law to engage, not under the direct supervision of any other person, in an audit intended to be relied on by third parties, or

(b) a firm on whose behalf individuals referred to in clause (a) engage in such audits,

and unless that person is independent within the meaning prescribed by the Minister.

(2) A subsidiary of a credit union must have an auditor, but, unless the Minister otherwise approves, the auditor of a credit union is also the auditor of its subsidiaries, except that where another person was appointed auditor by a corporation before it became a subsidiary, that auditor may complete the term for which he was appointed.

(3) An auditor or former auditor who in good faith makes an oral or written statement or report in accordance with a duty or power contained in this Act is not liable in any civil action arising from it, but this subsection does not apply to the auditor's report on annual financial statements.

Appointment and termination of office of auditor

**88(1)** A large credit union shall have an auditor.

(2) A small credit union shall have an auditor unless there is in force an ordinary resolution of the credit union specifying that it is not to have an auditor.

(3) Where a vacancy in the office of auditor exists, the board shall, after taking into account the recommendations of the audit committee under section 86(b), by resolution appoint an auditor for the credit union.

(4) The credit union shall forthwith give the Minister written notice of the removal, resignation or other termination of office of the auditor, with the reason therefor.

(5) The Corporation may, with the prior approval of the Minister, remove the auditor of a credit union that is under supervision or administration on giving written notice to the credit union, the supervisor or administrator and that auditor, and may appoint a person qualified under section 87 to act as auditor.

(6) The board of a credit union that has an auditor appointed under subsection (5) shall not appoint an auditor with effect from any date falling within the term of the appointment under subsection (5).

Auditor's rights re meetings

**89(1)** A credit union shall provide its auditor with the same notice of each general and audit committee meeting as is provided to members or audit committee members respectively.

(2) The auditor is entitled, at the expense of the credit union, to attend general and audit committee meetings and to be heard at them on matters relating to his duties as auditor.

(3) The auditor may call a meeting of the audit committee.

(4) The auditor, or a person who has resigned from, who has not been reappointed to or who has been removed from the auditorship, is entitled, until 2 years after the cessation of his auditorship, to submit to the credit union in writing any information that he considers the members or the board should know, including reasons for his resignation or why he should not be or have been removed, as the case may be.

(5) On the written request of the auditor or former auditor, the credit union shall

(a) have the information submitted under subsection (4) presented to the next general meeting or board meeting, as the case may be, or both, and

(b) provide a copy of the information to the Minister and to each director.

Audit for  
fiscal year

**90(1)** The auditor responsible shall conduct an audit of the financial statements of the credit union and its subsidiaries for the preceding fiscal year and shall make such examination as in his opinion is necessary to enable him to make his report on them.

(2) Where, in the opinion of the Minister or the Corporation, an audit of a small credit union that does not have an auditor is needed in order to safeguard the interests of its members, customers or creditors, the Minister or the Corporation, as the case may be, may direct the credit union to appoint an auditor to conduct an audit and to report in respect of the fiscal year specified in the direction.

(3) The Minister or the Corporation may in the direction under subsection (2) restrict the scope of the audit.

(4) If the credit union does not appoint an auditor within the period specified in the direction, the Minister or the Corporation, as the case may be, may appoint the auditor instead, but the credit union is responsible for payment of all the auditor's remuneration and expenses.

Release of  
information  
for audit

**91(1)** On the written demand of the auditor of a credit union, the board or any present or former director, officer, employee or agent or a former auditor of the credit union shall

(a) furnish such information and explanations, and

(b) permit such access to records, minutes, documents, books, accounts, vouchers, cash and securities of the credit union or of any of its subsidiaries, and to any security held by the credit union,

as are, in the opinion of the auditor, necessary to enable him to make the examination required by section 90 and as the board or that person is reasonably able to furnish.

(2) On the written demand of the auditor of a credit union, the board of the credit union or of a subsidiary shall

(a) obtain from the present or former directors, officers, employees, agents or auditor of a subsidiary such information and explanations as any such persons are reasonably able to furnish and

as are, in the opinion of the auditor, necessary to enable him to make the examination required by section 90, and

(b) furnish the information and explanations so obtained to the auditor.

(3) Without limiting subsection (1), a present or former director, officer, employee, agent or auditor of the credit union or of any of its subsidiaries may provide any information to the auditor that is relevant to any of the auditor's duties or functions under this Act.

(4) The auditor may, and on being directed to do so by the Minister shall, provide any information that he obtains in the performance of his duties or functions under this Act to the Minister.

(5) A person who in good faith makes an oral or written statement under this section is not liable in any civil action arising from it.

Audit details

**92(1)** A credit union shall obtain from its auditor

(a) his report on the financial statements for the preceding fiscal year, and

(b) in the case of a large credit union only, a management letter with respect to that year that includes his observations on

(i) the adequacy of measures for internal control adopted by the credit union,

(ii) any corrective measures undertaken by the credit union in response to comments made or deficiencies reported by him with respect to the manner in which the credit union carried on its business, and

(iii) whether, during the course of his audit, he noted any instances where the credit union contravened this Act or the regulations.

(2) The credit union shall ensure that the auditor's report and the audit committee's recommendations on it are presented to a board meeting held before the report is provided to the Minister under section 84(2), and shall have the auditor's report incorporated in the minutes of that meeting.

Reporting of discrepancies

**93(1)** A director, officer or employee of a credit union or of a subsidiary, forthwith after becoming aware of any error or misstatement in a financial statement of the credit union or of any of its subsidiaries that the auditor or a former auditor of the credit union or of any subsidiary has reported on, shall notify the audit committee and the auditor of that fact.

(2) Where the auditor or a former auditor of the credit union or of any subsidiary is notified or becomes aware of a material error or misstatement in a financial statement of the credit union or of any of its subsidiaries on which the auditor for the time being has reported, he shall inform each director of the credit union of it, and each such director shall ensure that the matter is brought to the attention of the board of the credit union.

(3) Where it comes to the attention of the board of the credit union or of a subsidiary that there is a material error or misstatement in a

financial statement of the credit union or of any of its subsidiaries, that board shall forthwith inform the Minister and the Corporation in writing of the error or misstatement and the Minister may direct the credit union to notify its members of the error or misstatement.

### Division 3

#### Examination, Special Examination and Review

- Examination of credit unions and subsidiaries by Minister
- 94** The Minister may examine any aspect of the business or affairs of a credit union or its subsidiary in order to determine, for purposes related to the administration or enforcement of this Act,
- (a) the corporation's condition and ability to meet its obligations,
  - (b) whether the corporation is following sound business and financial practices,
  - (c) the corporation's management procedures,
  - (d) the standards of the corporation's management, or
  - (e) whether or not the corporation is contravening or has contravened this Act or the regulations.
- Special examination
- 95(1)** The Minister may, where he considers that
- (a) the business or affairs of a credit union or of a subsidiary, or any aspect of them, require investigation in order to safeguard the interests of the credit union's members, customers or creditors or the assets of the credit union or of a subsidiary, or
  - (b) the credit union or a subsidiary may have contravened any provision of this Act or the regulations,
- order that a special examination be made of that matter, as specified in the order, by a special examiner appointed by the Minister.
- (2) The special examiner shall, on being so ordered by the Minister,
- (a) make the written report required by the order, and
  - (b) produce a copy of the report to any person specified in the order.
- Financial review by Corporation
- 96** The Corporation may conduct a review,
- (a) in respect of a credit union and its subsidiaries or any of those corporations,
    - (i) of their financial position,
    - (ii) of their business or financial practices, or
    - (iii) to determine their solvency,
- or
- (b) to determine whether financial assistance is required by the credit union.
- Powers for examination or review purposes
- 97(1)** For the purposes of the conduct of an examination or review under this Division, the Minister may in writing authorize any person to exercise the powers provided for in this section.

- (2) To the extent authorized in the written authorization under subsection (1), the authorized person may investigate, inquire into and examine the business and affairs of the credit union or of any of its subsidiaries or the matter in respect of which the examination or review is being made, and, at all reasonable times and for any purpose related to the examination or review, may
- (a) inspect or examine records or documents of or in the possession of the credit union or a subsidiary relating to the business or affairs or matter in question,
  - (b) require the production for inspection or examination of all records or documents that are or may be relevant to the examination or review and make copies of or take extracts from them,
  - (c) examine property of the credit union or of a subsidiary or any property or matter relating to such a corporation an examination of which may assist the authorized person in ascertaining the information that is or should be in the records of the credit union or subsidiary, and
  - (d) communicate to the credit union orally or in writing any findings made during the examination or review and any conclusions and recommendations based on those findings.
- (3) For the purposes referred to in subsection (2)(a) to (c), the authorized person may, if he has reasonable grounds to believe that the records, documents or property described in subsection (2) are likely to be found in any premises,
- (a) enter into the premises, and
  - (b) require the owner or manager of the property or business and any other person on the premises to give him all reasonable assistance and to make reasonable efforts to answer all proper questions relating to the examination or review and, for that purpose, require the owner or manager to attend at the premises with him.
- (4) An authorized person who in good faith makes and communicates findings, conclusions and recommendations under subsection (2)(d) is not liable in any civil action arising from them.
- (5) A special examiner appointed by the Minister under section 95(1) or a representative of the Corporation so authorized in writing by the Minister for the purposes of section 95 may summon witnesses and take evidence under oath, and generally, for the purposes of the special examination, has the powers of a commissioner under the *Public Inquiries Act*, which Act applies as if the examination were an inquiry under that Act.

**PART 8  
INVESTMENTS**

**Division 1**

**Land**

Acquisition,  
holding and  
disposal of land

**98(1)** Except with the prior approval of the Corporation, a credit union or its subsidiary shall not acquire any land unless

(a) the land is needed to enable the credit union and its subsidiaries or any of them to carry on their businesses and conduct their affairs lawfully, and

(b) the fair market value of that land at the time of its acquisition, together with the book value of land already held by the credit union and all its subsidiaries at that time, does not exceed an amount equal to 5% of the book value of the credit union's assets, calculated on a consolidated basis, as at the end of the fiscal year preceding the acquisition,

but this subsection does not apply to the entering into or renewal of a lease.

(2) Except with the prior approval of the Corporation, a credit union or its subsidiary shall not enter into or renew a lease of land unless the land is needed to enable the credit union and its subsidiaries or any of them to carry on their businesses and conduct their affairs lawfully.

(3) Where any estate or interest of any description in land, other than a leasehold estate, is acquired on or after November 1, 1988 by a credit union by way of its realizing security held by it, the credit union shall dispose of the estate or interest within 7 years after acquiring it or within such longer period as the Corporation approves.

(4) Subject to subsection (2), a credit union or a subsidiary may, if the board of the credit union has previously authorized the transaction, enter into a written lease of land with a related party at fair market rate, so long as the term of the lease and of any potential renewal of it thereunder does not exceed 10 years.

**Division 2**

**Non-liquidity Investments**

Investments  
in securities

**99** Unless specifically authorized by another provision of this Act or by the regulations, a credit union or its subsidiary shall not

(a) acquire any securities issued by another person other than securities that it is permitted by this Division to acquire, or

(b) hold any securities issued by another person other than securities that it would be permitted by this Division to acquire at the time in question if they were not then held by it, unless the Minister has approved the retention of the securities.

Prudent  
investment  
standards

**100(1)** Notwithstanding anything in this Division, a credit union shall adhere to prudent investment standards in making investment decisions and in managing its total investments.

(2) For the purposes of subsection (1), prudent investment standards are those which, in the overall context of an investment portfolio, a reasonably prudent person would apply to investments made on behalf of another person with whom there exists a fiduciary relationship to make such investments, without undue risk of loss or impairment and with a reasonable expectation of fair return or appreciation.

(3) The board, on the recommendations of the finance committee, shall establish written procedures to ensure that prudent investment standards are applied by it in making investment decisions and in managing its total investments.

Authorized  
investments

**101(1)** Subject to this Act and any prescribed restrictions, a credit union or its subsidiary may acquire

- (a) fully paid shares issued by Central,
- (b) securities issued or guaranteed by the government of Canada or of a province,
- (c) securities issued by a municipality or a school or hospital district,
- (d) securities evidencing deposits made with Central or an eligible financial institution,
- (e) securities issued by another person, by reason of the credit union's or the subsidiary's taking security or realizing its security,
- (f) any other prescribed securities, and
- (g) securities of a kind not permitted by clauses (a) to (f), to the extent that the aggregate book value of all securities that are held by the credit union and its subsidiaries after the acquisition, other than
  - (i) securities of a kind permitted by clauses (a) to (f),
  - (ii) shares referred to in section 103(1),
  - (iii) shares issued to the credit union by an affiliate, or by a corporation which as a result of the issue becomes an affiliate, of the credit union, and
  - (iv) securities issued by a related party, other than a subsidiary or affiliate of the credit union, except where their acquisition was approved by the Corporation pursuant to subsection (2)

will not exceed 2% of the book value of the credit union's assets, calculated on a consolidated basis, as at the end of the fiscal year preceding the acquisition.

(2) Securities issued by a party related to the credit union may not be acquired under subsection (1)(g) except with the prior approval of the Corporation, but this subsection does not apply to shares issued by a subsidiary or an affiliate.

(3) Nothing in this Part prohibits a credit union's acquiring and holding securities by way of security only, but where a credit union has realized security consisting of securities issued by another person, the credit union shall be deemed to have acquired those securities

for all the purposes of subsection (1) two years after the realization of the security or after such longer period as the Corporation approves.

(4) Where a credit union to which section 172(3) applies does not maintain the full amount of common shares issued by Central that is prescribed with reference to section 172(3), then, without limiting any other liability that the credit union may have, Central shall invest the amount of the shortfall in such shares on the credit union's behalf, whereupon the credit union's loan balance with Central is increased correspondingly by that amount.

Investment transactions with related parties generally

**102(1)** Subject to this Part, a credit union or its subsidiary may acquire marketable securities from or dispose of marketable securities to a party related to that credit union if

- (a) the board of the credit union has previously authorized the transaction,
- (b) those securities meet the prescribed conditions, and
- (c) the transaction is at fair market rate.

(2) A credit union may acquire securities from a securities dealer that is a party related to it, so long as that securities dealer is not an underwriter, within the meaning of the *Securities Act*, in the distribution of those securities and is not selling them as principal and so long as the acquisition is at fair market rate.

(3) A credit union may receive dividends and other distributions, and may receive and hold all other privileges, that arise only from its holding of securities issued by a related party corporation, on the same basis as do holders of securities of the same description and class generally, so long as the holding of those securities by the credit union is not prohibited by this Part.

Investment in subsidiaries

**103(1)** Subject to this section, a credit union may

- (a) form a subsidiary, or
- (b) make an acquisition of shares that results in a corporation's becoming a subsidiary or the credit union's increasing its shareholding in a subsidiary.

(2) An acquisition of shares under subsection (1) may be made from any related party, including the subsidiary itself, at fair market rate.

(3) A credit union shall not, without the prior approval of the Corporation,

- (a) make an acquisition of shares in any 1 subsidiary in an amount exceeding 10% of the credit union's members' equity as at the end of the fiscal year preceding that in which the acquisition would take place,
- (b) make aggregate share acquisitions in all its subsidiaries in an amount exceeding 20% of its members' equity as at the end of that fiscal year, or
- (c) add to existing share investments if either of the limits set out in clauses (a) and (b) would be exceeded by the aggregate share investments.

(4) Without limiting any other liability of any person under this Act, the Minister may direct a credit union to divest itself of any share investment in a subsidiary where

- (a) the subsidiary is carrying on a business that is not authorized by or under section 46 or that is inconsistent with that section,
- (b) the subsidiary is carrying on an unsound business practice that may imperil the credit union's investment if continued,
- (c) within a reasonable time after its formation or acquisition by the credit union, the subsidiary is carrying on business outside Alberta but not in Alberta, or
- (d) either of the limits imposed by subsection (3)(a) and (b) is exceeded,

but the Minister shall allow the credit union a reasonable period of time for compliance with a view to minimizing any potential losses on the investment, and the credit union has the option of instigating the dissolution or liquidation and dissolution of the subsidiary, a transaction referred to in section 47(1) or any other process whereby the investment in the subsidiary will be divested in substance.

(5) Subsection (1) does not apply if the credit union is not and never has been in compliance with section 108.

Investment in  
affiliates  
and other  
non-subsi-  
diary  
corporations

**104(1)** A credit union or its subsidiary shall not, without the prior approval of the Corporation, acquire any shares if the acquisition would result in the credit union's owning beneficially, directly or indirectly, voting shares

- (a) issued by any 1 corporation,
  - (i) in excess of 10% of that corporation's total voting shares, or
  - (ii) having an aggregate value in excess of 10% of the credit union's members' equity as at the end of the fiscal year preceding that in which the acquisition would take place,

or

(b) issued by all corporations that following the acquisition are affiliates of the credit union, having an aggregate value in excess of 20% of its members' equity as at the end of that fiscal year.

(2) Subsection (1) does not apply in relation to shares issued by

- (a) a subsidiary of the credit union,
- (b) Central, or
- (c) a prescribed corporation.

(3) An acquisition of shares pursuant to an approval given under subsection (1) may be made from any party related to the credit union.

(4) Without limiting any other liability of any person under this Act, the Minister may direct a credit union to divest itself of any share investment in an affiliate where

- (a) the affiliate is carrying on a business that is not authorized by or under section 46 or that is inconsistent with that section,
- (b) within a reasonable time after the acquisition of the shares by the credit union, the affiliate is carrying on business outside Alberta but not in Alberta, or
- (c) any of the limits imposed by subsection (1)(a) and (b) is exceeded,

but the credit union has the rights in relation to the investment accorded to it by section 103(4).

### Division 3 Liquidity Investments

Deemed  
borrowing of  
liquidity shortfall

**105(1)** Where a credit union fails over any calendar month to maintain at least the average amount prescribed for that month of

- (a) deposits with Central or, in respect of a prescribed small credit union, with eligible financial institutions or credit unions,
- (b) common shares issued by Central, and
- (c) cash, if any, in the credit union's hands,

the amount of the shortfall is deemed for the purposes of sections 126 and 128 to have been borrowed by the credit union from Central for the whole of that month.

(2) The minimum amount of deposits and the maximum amount of cash to be taken into account for the purposes of subsection (1) are those prescribed and the minimum amount of common shares to be so taken into account is the amount, if any, that each credit union is required to hold by section 172(3).

(3) Where the average amount prescribed for the purposes of subsection (1) is based on liabilities that include deposits with a credit union, that amount may vary according to the types and terms of those deposits.

(4) Central shall pay interest on deposits held with it pursuant to subsection (1) at the rate and otherwise in accordance with the criteria prescribed by the Minister.

(5) Notwithstanding any related party provision, where, in the opinion of the Minister, the elimination or reduction of a credit union's shortfall referred to in subsection (1) was achieved through a deposit made with it by a subsidiary or affiliate or through any transaction or series of transactions involving any subsidiary or affiliate of any credit union artificially designed in his opinion to achieve that result, the Minister may direct that the amount by which the shortfall has been reduced be deemed for the purposes of sections 126 and 128 to have been borrowed by the credit union from Central for the whole of that month.

(6) Subsection (1)(b) shall not be construed as requiring any credit union that is not required by section 172(3) to hold common shares issued by Central to hold any such shares.

**PART 9  
EQUITY AND DEPOSITS**

**Division 1**

**Equity**

- Common shares **106**(1) A credit union shall issue and maintain a class of shares to be known as common shares in accordance with this section.
- (2) The number of common shares to be issued by a credit union is unlimited and, unless the by-laws restrict the number of common shares that a member may hold, the credit union shall issue common shares to any member who subscribes and pays for them.
- (3) Common shares have the par value of \$1 each.
- (4) A credit union shall issue common shares at their par value, but it may issue fractional common shares with a value of less than \$1, and references in this Act to common shares shall be construed accordingly.
- (5) Common shares are non-assessable and their holders are not liable to the credit union or to its creditors in respect of them.
- (6) A credit union shall not issue common shares until they have been fully paid for.
- (7) A credit union shall not issue common shares to any person other than
- (a) a member, or
  - (b) another person where the shares are to be held under a registered retirement savings plan or a registered retirement income fund of which a member is the annuitant.
- (8) Common shares may not be held by any person other than one to whom the credit union has lawfully issued them or a person to whom they have been transferred in compliance with section 109.
- (9) A credit union is not required to issue share certificates for common shares.
- (10) A credit union shall provide to persons holding common shares issued by it, at the prescribed intervals, statements showing the number or par value of common shares held by them.
- Other share provisions **107**(1) A credit union shall not issue shares other than common shares except in accordance with regulations under section 225(c).
- (2) Shares issued by an existing credit union under regulations made under section 88(1) of the former Act and in existence immediately before November 1, 1988, are continued.
- (3) A credit union may issue shares to a member who is a related party but shall not issue any shares to a subsidiary or affiliate.
- (4) A credit union may pay dividends and patronage rebates, and accord all other privileges that arise only from the holding of shares, to a related party that lawfully holds shares, on the same basis as to shareholders generally.

(5) A credit union shall maintain a stated capital account for each class of shares it issues and shall add to the stated capital account the full amount of money it receives for shares of that class and, if shares are issued in payment of a dividend or a patronage rebate, it shall add the declared amount of the dividend or rebate, stated as an amount of money, to the appropriate stated capital account.

(6) A credit union shall not reduce the stated capital account except to take account of lawful redemptions of shares.

Members' equity requirement

**108** A credit union shall maintain an aggregate of members' equity in an amount that is not less than 5% of its assets.

Transfer of common shares

**109(1)** A common share may not be transferred, and a credit union shall not accept the transfer of a common share issued by it, unless the transfer

(a) is between members of that credit union under the prescribed circumstances, or

(b) results only from

(i) the death of the holder of the share,

(ii) the realization of security that consists of or includes the share, or

(iii) any other prescribed transaction,

and the transfer is made in accordance with the by-laws.

(2) The credit union shall keep detailed records of transfers permitted by subsection (1).

Redemption of common shares

**110(1)** Subject to this section and any further restrictions prescribed or set out in its by-laws, a credit union, by resolution of the board, may at any time acquire common shares issued by it for redemption.

(2) A credit union shall not acquire any common shares issued by it for redemption or redeem or cancel them

(a) if there are reasonable grounds for believing that the credit union is or would thereby become insolvent,

(b) if the redemption would cause the aggregate number of common shares issued and outstanding to be less than 90% of the aggregate number of common shares issued and outstanding at the end of the previous fiscal year, or

(c) if the redemption would result in its members' equity being reduced to less than 5% of its assets or if that equity is already less than that amount.

(3) The prohibitions described in subsection (2)(b) and (c) do not apply where

(a) the redemption results only from the death of the holder of the shares, or

(b) the prescribed circumstances apply.

(4) A credit union shall not acquire common shares issued by it except for redemption and, on the acquisition of any common shares, it shall forthwith redeem and cancel them.

(5) Subsections (2) and (4) do not apply to acquisitions of shares pursuant to a lien or the taking or realization of security.

(6) Except where prescribed, a credit union acquiring shares for redemption shall acquire them at their par value.

(7) A credit union may acquire common shares under this section from related parties.

Retained earnings and patronage rebates

**111(1)** A credit union shall not use its retained earnings except

(a) to pay dividends on its shares, or

(b) to make appropriations into any reserve fund that it considers fit.

(2) A credit union shall ensure that payments or appropriations referred to in subsection (1) are treated in its financial statements as reductions of its retained earnings.

(3) A credit union shall not pay any dividend on its shares or any patronage rebate if there are reasonable grounds for believing that the credit union is or would thereby become insolvent.

(4) A credit union may, on the basis set out in the by-laws, by resolution of the board pay a share dividend or patronage rebate by issuing shares instead of paying money.

## Division 2

### Deposit and Common Share Accounts and Shareholdings

Acceptance of deposits from individuals

**112** A credit union shall not accept a deposit from an individual who is not a member, except from

(a) a trustee,

(b) a legal representative, guardian or other representative of an individual who is or was a member, or

(c) an individual who is contemporaneously making an application for membership.

Minor members' deposits and shareholdings

**113** Notwithstanding a person's minority and any other law,

(a) payments for the purchase of the minimum number of common shares required by section 61(1) for membership and deposits may be made and may be accepted by the credit union, in the name of the minor,

(b) the credit union is not restricted by reason only of his minority from repaying to the minor money so deposited or paid,

(c) the minor may give a valid discharge to the credit union for any money so repaid, and

(d) the minor may enter into a contract with the credit union for those purposes as if he were an adult.

Deposits from related parties and on preferential basis

**114(1)** A credit union may accept a deposit from a related party who is

(a) a financial institution, so long as the deposit is made for a prescribed purpose and does not exceed the prescribed amount,

(b) both an officer and an employee of that credit union, or

(c) any other person, so long as the deposit is made at fair market rate.

(2) A credit union shall not pay interest on a deposit to a person who is not an employee of that credit union at a rate that is higher, or under any other conditions that are more favourable, than what is generally available to the customers of the credit union.

Repayment of  
deposit and share  
redemption  
on death

**115(1)** Where a member dies and there is no executor of his will or administrator of his estate, the credit union may, on receiving an affidavit or such other proof of death and of the claim as it requires, pay sums not exceeding in aggregate the amount prescribed out of his deposits or, subject to section 110, from the redemption of his shares, or both, to the persons who appear to be beneficially entitled by law to his interest in the money in question.

(2) Subsection (1) does not apply with respect to a joint account where the money in the account passes by law to a survivor.

(3) A payment made in good faith and without negligence pursuant to subsection (1) discharges any obligation of the credit union in respect of and to the extent of the money paid, but does not affect the right of any other person claiming to be entitled to recover the money from the person to whom it was paid.

Treatment of  
larger unclaimed  
balances by  
credit unions

**116(1)** Where

(a) within the past 12 months a customer of a credit union has neither transacted any business through any of his accounts held with the credit union nor provided written acknowledgment to the credit union of the balance of any of those accounts, and

(b) the aggregate of the balances of all that customer's accounts with the credit union exceeds \$100,

the credit union shall make reasonable endeavours to locate him.

(2) If the credit union cannot locate the customer, it shall, within 2 years after the last transaction of any business through any of his accounts or the last written acknowledgment of the balance of any of his accounts, transfer all the balances standing to his credit in all his accounts to an account held by the credit union and designated as the unclaimed balances account.

(3) The credit union shall maintain a record, in relation to each balance transferred, of

(a) the name and last-known address of the customer,

(b) the amount transferred,

(c) the type of account,

(d) the date of the transfer,

(e) the branch location of the credit union, and

(f) the date of the last transaction or acknowledgment referred to in subsection (2).

(4) The maturing of a deposit placed for a specific term or that matures at a specific date does, and the application of earnings or a service charge to an account by the credit union does not, constitute the transaction of business for the purposes of subsections (1) to (3).

(5) At approximately the 2nd and 5th anniversaries of the transfer into the unclaimed balances account, the credit union shall make reasonable endeavours to locate a customer whose balances have been transferred and who has not been repaid.

(6) For conducting each search under subsections (1) and (5), the credit union may impose a charge against the customer's balance in an amount not exceeding that prescribed.

(7) Subject to subsection (6), the credit union may not impose any charge for its activities under this section.

(8) The credit union shall pay interest at a rate not less than that prescribed by the Minister on the balances transferred for the whole of the period that the money is in the unclaimed balances account, but the credit union is not required to pay or credit the interest until a claim is paid out or until it has to transfer the money to the Corporation under subsection (11).

(9) Where a balance that has been transferred from a customer's account and that has not been paid out is subsequently claimed by the person entitled to it, the credit union shall, if the claim is substantiated by evidence satisfactory to the credit union, pay the claimant the amount due on that balance.

(10) The credit union shall ensure that details of the payment are recorded and that the payment is authorized in writing by at least 2 officers.

(11) Before October 31 in each year, the credit union shall

(a) identify all amounts that have or should have been in the unclaimed balances account for 10 years and on which no valid claims have been made, and

(b) transfer to the Corporation those amounts and the records referred to in subsection (3).

(12) To the extent that money is transferred under subsection (11), the credit union may not be sued for any claims for that money made after the transfer.

(13) This section does not apply to

(a) any share account or balance, or

(b) any money that is

(i) lawfully retained by the credit union under any lien, right of set-off or specific charge, or

(ii) retained in a registered retirement savings plan or a registered retirement income fund.

Treatment of  
small unclaimed  
balances by  
credit unions

**117(1) Where**

(a) within the past 2 years or more a customer of a credit union has neither transacted any business through any of his accounts

held with the credit union nor provided written acknowledgment to the credit union of the balance of any of those accounts, and

(b) the aggregate of the balances of all that customer's accounts with the credit union does not exceed \$100,

the credit union shall comply with section 116 in respect of those balances, hold the balances for the customer as if business were being regularly transacted on his accounts or proceed in accordance with this section.

(2) Subject to this section, where subsection (1)(a) and (b) apply, the credit union may, if a valid claim has not been made for the balances, transfer all the balances standing to the customer's credit in all his accounts to income of the credit union.

(3) Section 116(3), (4), (7) and (13) apply to balances transferred to income under subsection (2).

(4) Where a balance that has been transferred to income under subsection (2) is subsequently claimed by the person entitled to it, the credit union shall pay the claimant the amount due on that balance with interest at a rate not less than that prescribed by the Minister for the whole of the period that the money was subject to the transfer.

(5) If the balances transferred to income are not claimed by the person entitled to them within 5 years after the last transaction or acknowledgment referred to in subsection (1), the credit union may retain the money and may not be sued for any claims for the money made after the expiration of that period.

(6) Where the credit union opts, pursuant to subsection (1), to comply with section 116, the provisions of that section apply.

Transfer to Corporation prior to dissolution

**118(1)** A credit union that is about to be dissolved or the liquidator of a credit union that is in the process of liquidation shall, before its dissolution,

(a) make reasonable endeavours to locate all its members, customers and creditors whose whereabouts are not known, and

(b) transfer to the Corporation, in respect of members, customers or creditors whom the credit union or the liquidator, after making reasonable endeavours, has been unable to locate,

(i) the aggregate of all the money standing to their credit, including balances in the unclaimed balances account and balances that have been transferred to income under section 117 without accruing beneficially to the credit union under section 117(5), or owed to them, and

(ii) detailed records of money transferred under this section, including the information referred to in section 116(3)(a) to (f), and separately identifying the various source accounts of the aggregate balances transferred.

(2) Section 116(6), (7), (12) and (13)(b) apply in relation to this section.

Treatment of unclaimed balances by Corporation

**119(1)** The Corporation shall establish, and keep separate from all other accounts, an account to be designated as the long-term unclaimed balances account.

(2) The long-term unclaimed balances account is to consist only of balances transferred to the Corporation under sections 116(11), 117, 118(1) and 154(7) and (8), with interest, that have not been subsequently disposed of pursuant to this section.

(3) Within 3 months after receiving a balance referred to in subsection (2), the Corporation shall publish, in a newspaper circulated in the district where the last known address of the person entitled to the balance is situated, the name of that person, where applicable, the type of account, the balance transferred in respect of him and the name and branch location of the credit union.

(4) The Corporation may not impose any specific charge for its services under this section except that it may charge the cost of the publication under subsection (3) against the balance.

(5) Where the balance is subsequently claimed by the person entitled to it, the Corporation shall pay the claimant the amount due on the balance in the long-term unclaimed balances account, with interest at a rate not less than that prescribed by the Minister for the whole of the period that the balance was in that account.

(6) Where a period of 20 years has elapsed since a balance in the long-term unclaimed balances account was transferred to the Corporation without any valid claim having been made, the Corporation shall transfer the whole of that balance, with interest at a rate not less than that prescribed by the Minister for the whole of the period that the balance was in that account, to the Government's General Revenue Fund, whereupon

(a) that money vests in the Government,

(b) all rights relating to that money of the person entitled to it become extinguished, and

(c) the Government, the credit union and the Corporation have no further obligations to any person in relation to the amount transferred to the Government.

(7) The Corporation shall maintain the records transferred to it under sections 116(11), 117 and 118(1) in respect of a balance until 2 years after any payment under subsection (5) or transfer under subsection (6) or until such later date, if any, as they cease to have any currency.

Restrictions  
on methods of  
withdrawal

**120** A credit union shall not permit its customers to withdraw money from deposits by means of cheques drawn on that credit union except with the prior approval of the Corporation.

Restrictions  
on amount of  
withdrawal

**121(1)** An officer or employee of a credit union shall not permit or direct another person to permit the withdrawal of any money from any account of a customer if the balance in the account is less than the amount sought to be withdrawn, unless

(a) the resulting deficiency would not exceed the amount approved by the Corporation for that credit union, or

(b) the customer has executed an agreement with the credit union whereby an amount will be loaned, advanced or made available to him that is sufficient to cover the deficiency.

(2) The amount approved for the purposes of subsection (1)(a) must not exceed the amount prescribed.

(3) If, at the end of a fiscal year, there is and, for a period of 90 days or more, has been, a deficiency referred to in subsection (1), the credit union shall write off the amount of the deficiency against its income for that fiscal year.

(4) An officer or employee does not contravene subsection (1) if he is only acting on a direction to permit the withdrawal given by an officer who is authorized by the credit union generally to give the officer or employee directions of that nature.

Responsibility as to trust money

**122(1)** Except where the credit union acts as a trustee pursuant to section 46(7), a credit union is not bound to see to the execution of any trust, whether express, implied or constructive, to which any deposit or share is subject.

(2) Where all or any portion of a deposit or share account is subject to a trust, a withdrawal demand of the person

(a) in whose name the deposit or share account stands, or

(b) who is, according to the instrument creating the trust, entitled to deal with it,

is, notwithstanding the trust and whether or not the credit union has had notice of the trust, sufficient authorization and a valid discharge to the credit union for any payment made by it by virtue of the withdrawal demand, and the credit union is not bound to see to the application of any money paid on or with respect to the withdrawal demand.

(3) Where property has been hypothecated or pledged to a credit union, the credit union is not bound to see to the execution of any trust, whether express, implied or constructive, to which that property is subject.

(4) Notwithstanding anything in this section, unless the trust instrument so permits, deposits and share accounts with a credit union that are stated to be held in trust may not be charged to secure a loan or other obligation.

Participatory savings accounts

**123** A credit union may establish or designate and maintain a form of deposit account to be known as a participatory savings account for the use of its members and, if it does so, it shall specify the rights and obligations as between the credit union and the members respecting participatory savings deposits kept in those accounts.

Advertising of deposits, etc.

**124(1)** A person shall not make a representation to the effect that anything other than deposits made with a credit union are guaranteed under this Act or by the Corporation.

(2) The Corporation may issue directions to credit unions respecting their communication, by any means, of information concerning the Corporation's guarantee of deposits under section 154 and of any information that might tend to lead customers or members of the public to believe that deposits are otherwise guaranteed or insured.

**PART 10**  
**BORROWINGS**

Requirement  
for resolution

**125(1)** A credit union shall not borrow or continue to borrow any sum of money unless that borrowing or continuation of borrowing is in compliance with the terms of a board resolution, passed within the previous 13 months, specifying the credit union's maximum net borrowings during the period in which the borrowing or continuation occurs.

(2) Subsection (1) does not apply to the borrowing of money from the Corporation.

Supervision in  
event of heavy  
borrowings

**126(1)** Where the aggregate of the net amounts of money borrowed by a credit union, including money deemed by section 105(1) to be borrowed, is in excess of 20% of its assets, then the Corporation shall forthwith examine the financial position of the credit union and, unless the Corporation considers that the excess borrowings result from temporary or seasonal factors that pose no threat to the financial stability of the credit union, shall place the credit union under supervision.

(2) Subsection (1) does not apply where

(a) the Corporation, prior to the borrowings' exceeding the 20% level, approved borrowings by the credit union in an amount exceeding that percentage, and

(b) the borrowings do not exceed the amount so approved and do not contravene any other conditions of the approval.

(3) Where a credit union is placed under supervision under this section, sections 179 to 181 apply, for which purposes the credit union shall be treated as being in need of assistance.

Terms of  
borrowing

**127(1)** Subject to this section, a credit union shall not borrow money from any person other than from Central.

(2) With the prior approval of the Corporation, a small credit union may borrow money from an eligible financial institution or from another credit union.

(3) A credit union shall not borrow money for any term exceeding 2 years except

(a) for the acquisition of land or equipment required to carry on its business or conduct its affairs lawfully,

(b) with the prior approval of the Corporation, to enable it to make loans, or

(c) for any other prescribed purpose.

(4) A borrowing under subsection (2) may be from a related party eligible financial institution, but it must be at fair market rate.

(5) This section does not apply to the borrowing of money from the Corporation.

Notification of  
borrowings

**128(1)** Central shall notify the Minister and the Corporation immediately after the aggregate of a credit union's net borrowings referred to in section 126(1) has reached 15% of the credit union's assets.

(2) After the net borrowings have reached the 15% level referred to in subsection (1), Central shall provide the Corporation with details of the net borrowings on such basis as the Corporation directs until the net borrowings again fall below the 15% level.

**PART 11**  
**LOANS AND GUARANTEES**

Interpretation  
and application

**129(1)** In this Part, a person is connected with another person if any 2 of the following 3 conditions are or would be met in respect of loans to those persons:

- (a) the source of repayment of the loans would be wholly or substantially dependent on a common source of money;
- (b) the loans would be, in substance, a single loan or would substantially serve the same purpose in the same or a related transaction;
- (c) the loans would be dependent on the same security.

(2) In this Part, “classes of loan” means classes or subclasses of loan established under subsection (3).

(3) The Corporation shall establish a list of classes or classes and subclasses of loan for the purposes of applying this Part, and shall notify each credit union in writing of the list so established and of any amendments to the list.

General loan  
procedures

**130(1)** The board of a credit union shall establish policies respecting

- (a) the security required for loans and the terms on which loans are to be repaid,
- (b) the inquiries that are to be made into the character and financial condition of applicants for and guarantors of loans to ascertain their ability to fulfil the obligations assumed by them, and
- (c) the approvals that are required and the procedures that are to be followed within the credit union before loans or specific types of loan are made and money advanced under loans,

and shall establish policies designed to ensure that money loaned is repaid on becoming due or as shortly thereafter as is practicable.

(2) The board may delegate its duties under subsection (1) to the finance committee, but not otherwise.

(3) The credit committee shall ensure that applicable policies established under subsection (1) are followed before granting any approval for a loan.

(4) The credit union shall ensure that its employees responsible for making loans report the making of each loan to the next regular meeting of the credit committee.

(5) In the event of any inconsistency, the procedures established under section 54 prevail over those established under this section.

- Loan mixture **131(1)** The Corporation shall monitor all credit unions' mixtures of different classes of loan on a regular basis.
- (2) The Corporation may direct a credit union to alter its loan portfolio, within the period specified in the direction, so that the mixture of different classes of loan in its portfolio will comply with the mixture approved by the Corporation for that credit union.
- (3) The Corporation may direct a credit union not to make any further loans in a class of loan specified in the direction.
- (4) A direction under subsection (2) or (3) operates subject to contracts executed before the direction comes into force.
- Loan maximums **132(1)** The board of a credit union shall by resolution establish the aggregate maximum amount of money that, subject to this Act and to regulations made with reference to subsection (2)(a), may be loaned or be on loan to a specific borrower and to persons connected with him and may specify different amounts depending on whether loans are secured or not, the terms of the loans or such other differing circumstances as are considered relevant.
- (2) A credit union shall not make a loan to any person if the amount so loaned, when aggregated with all other outstanding loans made to that person and to persons connected with him, would exceed
- (a) the amount prescribed, or
- (b) any lower relevant amount established under subsection (1).
- Special loans by credit unions **133(1)** A credit union shall not make a loan to a person if that loan would result in the aggregate outstanding amount of loans to that person and persons connected with him being in excess of the applicable limit established by the Corporation for that credit union for the purposes of this subsection, unless the loan has previously been approved by a special loans committee.
- (2) Where a loan is to be made by 2 or more credit unions, or 1 or more credit unions and Central, acting together, the aggregate of the loan funds provided by those bodies corporate shall be deemed for the purposes of subsection (1) to have been loaned by each of the credit unions.
- Loans to individuals **134** A credit union shall not make a loan to an individual who is not a member except
- (a) to a person referred to in section 112(a), (b) or (c), or
- (b) where a loan falls within section 138.
- Loans and guarantees to related parties, employees, etc. generally **135(1)** A credit union or its subsidiary shall not directly or indirectly guarantee the obligations of
- (a) a party related to the credit union except in accordance with subsection (2), or
- (b) a person who ceased to be a party related to that credit union during the previous 12 months, unless the proposed guarantee has been approved by the board of the credit union and is at fair market rate.

- (2) Subject to this Part, a credit union or a subsidiary may, if the board of the credit union has previously authorized the transaction, make a loan to, or guarantee the obligations of, a related party, so long as the loan or guarantee
- (a) is made at fair market rate,
  - (b) does not exceed the amount, if any, prescribed by the Minister, and
  - (c) is otherwise consistent with this Part.
- (3) Subject to this Part, a credit union or a subsidiary may, if the board of the credit union has previously authorized the transaction, make a loan to a related party that is a financial institution if the loan is fully guaranteed by the government of Canada or of a province or is fully secured by marketable securities that meet the prescribed conditions and is made at fair market rate.
- (4) Subsection (2)(a) does not apply if the related party is an employee of the credit union who is an officer or falls within a class prescribed with reference to section 2(4)(e).
- (5) The limit prescribed by reference to subsection (2)(b) must not exceed those otherwise prescribed for the purposes of this Part.
- (6) Subsection (2) does not require prior board approval for a loan to, or a guarantee of the obligations of, a director of the credit union.
- (7) A credit union shall not make a loan that is not at fair market rate to any person, unless that person is an employee of the credit union
- (a) who is not a party related to it, or
  - (b) who is a related party referred to in subsection (4).
- (8) If subsection (7) is contravened, then, notwithstanding the loan contract and any liability of the credit union under subsection (7),
- (a) the loan is and remains immediately due and repayable to the credit union,
  - (b) security given by the borrower may be enforced against him, and
  - (c) the credit union shall forthwith make every endeavour to ensure that the loan is repaid.
- (9) A credit union shall ensure that a loan by it to any of its employees
- (a) has the prior authorization of its board, or
  - (b) does not exceed the prescribed amount.
- (10) A credit union shall not make a loan to a related party financial institution pursuant to subsection (3) or acquire the rights of a lender from a related party financial institution pursuant to section 138 if, immediately following the transaction, the aggregate amount outstanding in respect of all loans to related parties that are financial institutions, including deemed loans to related party financial institutions under section 138, would exceed an amount prescribed by the Minister.

|                                 |  |
|---------------------------------|--|
| Reporting of loans to directors | <b>136</b> Where repayment of the principal of or interest on a loan made by a credit union to a director of a credit union or of Central or of any subsidiary of a credit union or Central is overdue for a period of 45 days, the credit union shall ensure that the loan is reported forthwith to the Corporation and the Minister and also to the next board meeting of the credit union.  |
| Interest on loans               | <b>137</b> A credit union shall charge and make reasonable endeavours to collect interest on all loans made by it at intervals not exceeding 3 months or such longer period, if any, as is prescribed by the Minister in respect of any class of loan.   |
| Acquisition of existing loans   | <b>138(1)</b> A credit union may, through assignment, transfer or otherwise, acquire the rights of a lender under a mortgage, loan agreement or any other document under which a loan was made to any person, whether the loan is secured or not, but where the credit union does so, it shall be deemed, for the purposes of this Act, to have then made a loan to the borrower under that document in the amount outstanding on the indebtedness at the time of the acquisition, and not an acquisition of securities.<br><br>(2) A credit union may allow the continuation or assumption of a mortgage loan made originally to a person who was then a member to or by an individual who is not or is no longer a member, and may allow the renewal of that loan, but not the making of a new loan, to an individual who is not a member.<br><br>(3) Subject to section 135(10), a credit union may enter into a transaction described in this section with a related party so long as it is at fair market rate.<br><br>(4) A credit union shall not enter into a transaction under this section without the prior approval of the Corporation if the principal or interest on any of the loans is in arrears. |
| Lien and set-off                | <b>139</b> A credit union has a lien or a right of set-off, as the case may be, on shares issued by and deposits held with it, including earnings thereon, in respect of indebtedness to the credit union of the member or customer to whom the shares or deposits belong.   |

## PART 12

### THE CREDIT UNION DEPOSIT GUARANTEE CORPORATION

|                                    |   |
|------------------------------------|---|
| Interpretation                     | <b>140</b> Where a provision incorporated by reference by this Part refers specifically to related parties, related party provisions or related party transactions, that provision does not apply to the Corporation except to the extent specified in this Part.   |
| Head office, addresses and service | <b>141(1)</b> The Corporation shall have a head office in Alberta.<br>(2) The Corporation, by giving written notice to the Minister,<br>(a) shall designate its head office as its registered office, and<br>(b) may designate an address in Alberta for service by mail of it,<br>and the Corporation may at any time, by giving written notice to the Minister, change any such designation or revoke the designation of its address for service by mail. |

(3) The Minister, on receiving notice under subsection (2), shall register it, and a change thereunder is not effective until notice of the change is registered.

(4) A document may be served on the Corporation by

(a) delivering the document to the Corporation's registered office during its business hours,

(b) personally serving it on any director or officer of the Corporation, or

(c) sending it by registered mail to

(i) its registered office, or

(ii) the address for service by mail

designated in the latest notice thereof under this section that has been registered.

Use of name, seal  
and corporate  
incidents

**142(1)** Sections 33(1), 36(3), 39, 42(1), (2) and (4), 43 and 44 apply in relation to the Corporation.

(2) In construing subsection (1), the reference in section 44(c) to section 21(4)(e), 34 or 41 shall be deemed to be to section 141(2).

(3) The Corporation may make by-laws governing the administration, management and regulation of its affairs.

Board,  
chairman and  
vice-chairman

**143(1)** Sections 66(3), 67 and 68(1) apply in relation to the Corporation.

(2) The Minister shall appoint a chairman and a vice-chairman of the Corporation from among its board of directors.

(3) At any time during which the office of chairman is vacant or the chairman is absent or unable to act as chairman, the vice-chairman shall perform all the duties and functions, and may exercise all the powers, of the chairman.

Duties and  
liabilities of  
Corporation  
directors,  
officers, etc.

**144(1)** Sections 72 and 73(1), section 74 in respect of the payment of an indemnity, and sections 77 and 78 apply in relation to the Corporation.

(2) In considering whether a particular transaction or course of action is in the best interests of the Corporation as a whole, a director or officer shall have due regard to the purposes of the Corporation.

(3) The reference in section 78(2)(a) to section 73(2) is deemed to be a reference to subsection (2) of this section.

(4) A director or officer of the Corporation or of any of its subsidiaries shall not enter into a transaction in which that person would make use of information that is confidential to the Corporation or any subsidiary in order directly or indirectly to obtain a benefit or advantage for himself or any other person.

Corporation's  
committees and  
special loans  
committees

**145(1)** The Corporation's board shall appoint an audit committee and a finance committee or an audit and finance committee for the Corporation.

(2) Each committee is a committee of and is responsible to the board.

(3) Sections 79(5) and (8), 80 and 81(2) and (3) apply in relation to the Corporation and its committees.

(4) The Corporation's committees must each include at least 3 directors of the Corporation.

(5) In addition to the Corporation's committees, the Corporation shall establish and maintain 1 or more special loans committees, each having the prescribed membership, which is not to exceed 5 persons.

(6) A special loans committee may, in accordance with the Corporation's by-laws, delegate any of its duties, functions or powers to officers of the Corporation.

Corporation's  
purposes and  
business  
activities

**146(1)** The purposes of the Corporation are, subject to and in accordance with this Act and the regulations,

(a) to regulate and enforce this Act and the regulations to the extent provided in relation to it by or under section 6,

(b) to guarantee the repayment of deposits held with credit unions in accordance with section 154,

(c) to adopt measures designed to obviate or to minimize the risk and the size of claims under that guarantee,

(d) to stabilize credit unions in financial difficulties,

(e) to assist credit unions to avert or alleviate financial difficulties on their part by advising them on their business practices and reviewing their business practices and by such other means as the Corporation considers appropriate,

(f) where so appointed under Part 14, to supervise or administer the business and affairs of credit unions,

(g) to purchase all or any of the assets and assume all or any of the liabilities of credit unions that are in the process of liquidation or being dissolved or that are in need of assistance for the purposes of Part 14,

(h) where so appointed under Part 16, to act as the liquidator of a credit union,

(i) to maintain a long-term unclaimed balances account in accordance with this Act, and

(j) to provide the services of special loans committees for the purposes of this Act.

(2) The Corporation or its subsidiary shall not carry on any business other than business that is involved in fulfilling any of the Corporation's purposes or reasonably ancillary to the fulfilment of any of those purposes.

(3) Subject to subsection (2), the Corporation may acquire and hold the rights of a lender under existing mortgages or loan agreements.

|   |   |
|---|---|
| Financial assistance by Government to Corporation | <p><b>147</b> In order that the Corporation's purposes may be carried out, the Provincial Treasurer may, with the prior approval of the Lieutenant Governor in Council,</p> <p>(a) make loans or advances to, or purchase shares or other securities issued by, the Corporation or any of its subsidiaries, and</p> <p>(b) provide guarantees or indemnities in connection with loans made to, or other obligations of, any such corporation.</p>   |
| Corporation's investments                         | <p><b>148(1)</b> The Corporation or its subsidiary shall not acquire or hold any securities issued by another person other than those whose acquisition or holding is permitted by this section or section 146(3) or 149.</p> <p>(2) The Corporation or a subsidiary may acquire and hold securities</p> <p>(a) referred to in section 101(1)(a) to (e),</p> <p>(b) issued by Central or the Canadian Cooperative Credit Society,</p> <p>(c) evidencing deposits made with credit unions or the Consolidated Cash Investment Trust Fund, or</p> <p>(d) of a prescribed class.</p> <p>(3) Nothing in this section requires the Corporation or a subsidiary to divest itself of any securities lawfully held by it immediately before May 13, 1987.</p> |
| Corporation's subsidiaries                        | <p><b>149(1)</b> The Corporation shall not form, acquire or have a subsidiary, except with the approval of the Lieutenant Governor in Council.</p> <p>(2) Subsection (1) does not apply to a corporation that was a subsidiary of the Corporation immediately before May 13, 1987.</p>  |
| Periodic assessments                              | <p><b>150</b> Subject to section 153, the Corporation may, in order to meet its purposes, assess and levy on credit unions a periodic assessment in an amount not exceeding that derived by applying the rate prescribed.</p>   |
| Special assessments                               | <p><b>151(1)</b> Subject to section 153, the Corporation may, by notice in writing, assess and levy on credit unions as a special assessment such further sum, in addition to that under section 150, as the Corporation considers necessary to meet a specific purpose of the Corporation that has previously been approved by the Minister in relation to that specific assessment.</p> <p>(2) The aggregate of any special assessments made on a credit union under subsection (1) in any fiscal year of the Corporation must not exceed the maximum amount that may be levied on it under section 150 for that year.</p>  |
| Prescribed assessments                            | <p><b>152</b> Subject to section 153, the Corporation may, by notice in writing, assess and levy on credit unions a further assessment, in addition to those under sections 150 and 151, in accordance with a prescribed authorization.</p>   |
| Assessments generally                             | <p><b>153(1)</b> Regulations made with respect to sections 150 and 152 may provide for different rates, including a nil rate, for different credit</p>  |

unions or classes of credit unions based on the variable criteria prescribed.

(2) The Corporation may make assessments in different amounts or calculated at different rates on different credit unions.

(3) A notice of assessment must state a date that is not less than 30 days after it is sent or delivered by which the assessment must be paid.

(4) Where a credit union does not pay an assessment lawfully imposed on it by the Corporation by the date specified for payment in any written notice of assessment or before the expiration of any extended period that the Corporation permits, the Corporation may charge the credit union interest, at the rate prescribed by the Minister, from that date until payment.

Guarantee of  
deposits

**154(1)** Notwithstanding any law except this section and any regulations made under section 225(b), the Corporation guarantees the repayment of all deposits made with credit unions, in accordance with this section.

(2) Subject to this section, where

(a) a credit union is in the process of liquidation or involved in proceedings under the *Bankruptcy Act* (Canada),

(b) a winding-up order has been issued in respect of a credit union, or

(c) a credit union is generally unable to repay deposits by reason of an order of a court,

a customer is entitled to be paid by the Corporation and the Corporation shall pay to him or on his behalf such amount of any deposit made by him with the credit union, with interest accrued pursuant to the deposit contract up to but not beyond the date of payment, as the credit union and the liquidator, trustee in bankruptcy or other representative have not repaid to him, less any sum that the credit union would be entitled to deduct from the deposit pursuant to any lien, right of set-off or specific charge affecting it if the credit union itself were repaying the deposit in full.

(3) In subsections (4) to (6), “credit union” includes any liquidator, trustee or representative referred to in subsection (2).

(4) Payment under this section by the Corporation discharges the Corporation and the credit union from any further liability to the customer for the amount paid in respect of the deposit.

(5) The Corporation is subrogated, to the extent of the amount paid by it, to the rights and interests of the customer arising under the deposit as against the credit union, and may maintain an action in respect of those rights and interests in the name of the customer or in its own name.

(6) The deduction of any amount by the Corporation under subsection (2) in respect of a lien, right of set-off or specific charge discharges the liability of the customer to the credit union to the extent of the amount deducted.

(7) Where a customer entitled to a guaranteed deposit cannot be located, the Corporation shall pay the amount guaranteed into its long-term unclaimed balances account.

(8) Section 119 applies to an amount paid under subsection (7) and, for the purposes of that section, that amount is deemed to have been transferred to the Corporation by the credit union.

Corporation's fiscal year **155** The fiscal year of the Corporation ends on December 31 of each year.

Corporation's accounting, audit and reporting **156(1)** The Corporation shall, within 90 days after the end of each fiscal year, send to the Minister

(a) a copy of its financial statements, with the auditor's report on them, for that fiscal year, and

(b) the annual report of the Corporation.

(2) The Corporation shall, within 90 days after the end of each fiscal year or within such extended period as the Minister approves, send to Central and each credit union a copy of its financial statements, with the auditor's report on them, for that fiscal year.

(3) Sections 82(3) and 86 apply in relation to the Corporation.

(4) The Corporation shall ensure that a director attends at Central's annual general meeting and reports to that meeting on the Corporation's business and affairs during its preceding fiscal year.

Liquidation, dissolution and dividends **157(1)** The Corporation may not be dissolved or placed in liquidation except with the prior approval of the Lieutenant Governor in Council.

(2) The Corporation may not pay any distributions to members of the Corporation in their capacity as such.

(3) Section 45(2) to (5) of the *Financial Administration Act* do not apply to the Corporation.

## PART 13

### CREDIT UNION CENTRAL ALBERTA LIMITED

Continuance of Central **158** The Credit Union Federation of Alberta Limited is continued as a corporation under the name "Credit Union Central Alberta Limited".

Composition of Central **159** Central consists of the following members:  
(a) all credit unions, except those that are prescribed not to be members of it, and  
(b) those prescribed corporations that are admitted to membership by Central, and are not removed from membership by Central, pursuant to its by-laws.

Central's purposes **160(1)** Subject to the restrictions set out in this Act and the regulations, the purposes of Central, as they relate to credit unions, are

- (a) to provide the services to credit unions of
  - (i) accepting deposits from them,
  - (ii) lending money to them,
  - (iii) providing and managing their clearing house arrangements, and
  - (iv) guaranteeing their loans,
- (b) to provide and manage a liquidity system for them,
- (c) to manage those of their investments that are held with Central,
- (d) to provide them with educational, technical and advisory services, and
- (e) to provide them with any other services that support any purposes referred to in clauses (a) to (d).

(2) Subsection (1) applies with respect to all credit unions, whether members of Central or not and without distinction as to whether they are members or not, but Central may charge non-members of Central reasonable fees for services that are covered by general membership fees payable by its members.

(3) Central's purposes, as they relate to corporations prescribed with reference to section 159(b), are those prescribed.

Corporation's  
role re Central

**161**(1) Central or its board or committees or its auditor is not required to provide any report or document to the Corporation that it would, but for this subsection, be required by this Part to provide.

(2) If the Corporation holds shares issued by Central, subsection (1) does not apply in respect of reports or documents to be provided by Central to its shareholders as such.

(3) Notwithstanding anything in this Part, where an approval of the Corporation would, but for this subsection, be required for an activity involving Central, the approval of the Minister and not the Corporation is required and any application for an approval must be made to the Minister and not to the Corporation.

(4) Subsection (3) does not apply to an approval of a special loans committee.

Name, addresses,  
service, records,  
seal, annual  
return and  
corporate  
incidents

**162**(1) Sections 33, 34, 35, 36(1) and (3), 37(2), (5), (6) and (7), 38, 39, 41, 42(1), (2) and (4), 43 and 44 apply in relation to Central.

(2) Central shall permit its members or their agents to examine its documents described in section 36(1)(a), (b), (d) and (e) and, subject to section 83 as it applies to Central, section 36(1)(f).

(3) Central may exercise its rights, powers, privileges and immunities under the *Cooperative Credit Associations Act* (Canada) only to the extent that they are not inconsistent with this Act or the regulations.

(4) Central shall include in its annual return provided under subsection (1) a list of all its officers.

Central's by-laws **163**(1) In this section, "by-laws" includes any amendment, repeal or repeal and replacement of the by-laws.

(2) Central may by ordinary resolution or pursuant to this section make by-laws governing the administration, management and regulation of its affairs.

(3) Unless Central's by-laws otherwise provide, the board may make by-laws.

(4) The board shall submit a by-law made under subsection (3) to Central's next general meeting, and the members of Central may, by ordinary resolution, confirm, reject or amend the by-law.

(5) A by-law effected under subsection (3) is effective until it is confirmed, confirmed as amended or rejected by the general meeting under subsection (4) or until it ceases to be effective under subsection (6) and, if the by-law is confirmed or confirmed as amended, it continues in effect in the form in which it was so confirmed.

(6) If a by-law effected under subsection (3) is rejected by the general meeting, or if the board does not submit it to the general meeting as required by subsection (4), the by-law ceases to be effective and no subsequent resolution of the board to make a by-law having substantially the same purpose or effect is effective until it is confirmed or confirmed as amended by an ordinary resolution.

(7) Subject to this section, section 45 applies in relation to Central.

General meetings and service of notices, etc. **164**(1) Sections 55, 56 and 58(1), (2) and (4) apply in relation to Central.

(2) Central's by-laws must set out the voting structure, and the means by which members are represented, at general meetings.

(3) Section 62(1) and (2), except for subsection (2)(d), apply in relation to Central.

Board and directors **165**(1) Central shall have a board of directors consisting of at least the number of directors specified in the by-laws, but that number must not be fewer than 12.

(2) Section 65(1) and (3) apply in relation to Central.

(3) A person is not qualified to be a director of Central

(a) unless he is

(i) an individual of adult age, and

(ii) a Canadian citizen or a person who has been lawfully admitted into Canada for permanent residence;

(b) if section 65(2)(b), (f), (g), (i), (j), (k), (l) or (m) applies to him;

(c) if he is, or within the 3-year period immediately preceding his election or appointment to the Central board was, an employee of Central;

(d) subject to subsection (4), if he is a director or an officer or employee of the Corporation;

(e) if he is a professional adviser to Central;

(f) if he has a loan from a credit union in respect of which the repayment of principal or interest is in arrears for a period of 60 days.

(4) The Minister may approve an exemption from the application of subsection (3)(d).

(5) Not more than 5 of the directors may be employees of credit unions.

(6) Sections 66(2) and (3), 67(1), 68(1) and 69 apply in relation to Central.

(7) A notice or other document required by this Act or the regulations or Central's by-laws to be provided to a director of Central in his capacity as such is sufficiently served, for the purposes of this Act, only if and to the extent that the mode of service referred to in section 62(2)(a), (b) or (c) is adopted.

(8) Subject to this Act, the by-laws may provide for the delegation by the board of any of its powers or duties, other than those that are prescribed, to a committee or a director or officer.

(9) An act of Central's board is valid notwithstanding non-compliance with subsection (5).

Central directors,  
officers,  
employees and  
committees

**166(1)** Sections 71(1) to (3), 72 and 73, section 74 in respect of a transaction referred to in section 74(1)(a), (b), (e) or (f), and sections 75, 76, 77, 78, 79(5) and (8), 80 and 81(2) to (4) apply in relation to Central and, where applicable, its committees.

(2) Central's board shall appoint an audit committee and a finance committee or an audit and finance committee.

(3) Each committee is a committee of, and is responsible to, Central's board, and shall provide to the board regular written reports of matters falling within its functions and duties in respect of business and affairs since the previous report.

(4) For the purposes of subsection (1), the reference in section 81(4) to section 81(1) is deemed to be a reference to subsection (3) of this section.

(5) Central's committees must each include at least 3 of Central's directors.

Restriction  
on business  
activities

**167(1)** Sections 46, 47, 49, 50, 51, 52, 53 and 54 apply in relation to Central.

(2) Except where prescribed, a subsidiary shall not engage generally in any business referred to in section 160(1)(a), (b) or (c).

Financial  
disclosure,  
accounting  
and audit

**168(1)** Sections 82, 83, 84(1) to (4), 86, 87, 88(1), (3) and (4), 89, 90(1), 91, 92 and 93, as they apply to a large credit union, apply in relation to Central.

ported by a certified copy of, a special resolution authorizing the application.

Loans and  
guarantees  
by Central

**174(1)** Central shall not make a loan to or guarantee the obligations of any person except pursuant to this section.

(2) Subject to this section, Central may make loans to, or guarantee the obligations of, its members and non-member credit unions.

(3) Central shall not make a loan to a credit union where it knows or ought reasonably to know that the making of that loan constitutes a borrowing by the credit union that contravenes this Act or the regulations.

(4) Subsection (3) does not apply to

(a) any loan made by Central to facilitate clearing house arrangements under its clearing system, or

(b) the renewal of a loan where no additional money is advanced.

(5) Subject to this Act, Central may make a loan to, or guarantee the obligations of, a member of a credit union only if the prescribed conditions are met.

(6) Central may make a loan to, or guarantee the obligations of, a member of Central other than a credit union if

(a) the amount so loaned or guaranteed, when aggregated with all other outstanding loans made to and guarantees issued on behalf of that corporation, would not exceed the amount prescribed, and

(b) the aggregate amount of money on loan and guarantee to all such members would not exceed the amount prescribed.

(7) Section 135 applies in relation to Central, except that the reference in subsection (2)(c) thereof to Part 11 shall be construed as a reference to this section.

Supervision  
of Central

**175(1)** Where the Minister considers that

(a) the business or affairs of Central or a subsidiary are being conducted in an unsound manner, or

(b) Central or a subsidiary is, or is about to become, insolvent,

and that Central is in need of supervision, he may make an order placing Central under the supervision of a person appointed as supervisor by him.

(2) The remuneration and expenses of the supervisor shall be borne by Central.

(3) Sections 180 and 181 apply in relation to the supervisor and Central except that

(a) references therein to the need for assistance shall be construed as references to being in the circumstances referred to in subsection (1)(a) or (b), and

(b) the supervisor shall work generally under the direction of the Minister and not the Corporation.

(4) Where the Minister considers that the circumstances referred to in subsection (1)(a) and (b) no longer apply and that Central is no longer in need of supervision, he shall revoke the order by serving written notice of the revocation on Central and the supervisor.

Administration  
of Central

**176(1)** Where Central is under supervision and the Lieutenant Governor in Council considers that

- (a) Central has generally failed to co-operate with the supervisor,
- (b) Central or a subsidiary has been in repeated or continued contravention of this Act or the regulations, or
- (c) the problems that created the need for supervision have not been resolved within a reasonable time and further remedial action is necessary,

the Lieutenant Governor in Council may place Central under administration and appoint a person, who may be the person who acted as supervisor, to act as the administrator.

(2) Where Central is not under supervision but the Lieutenant Governor in Council considers that it is in need of assistance within the meaning of section 178(a), (b) or (g), the Lieutenant Governor in Council may make an order in terms referred to in subsection (1).

(3) An order in council made under subsection (1) has the effect of terminating the supervision and the appointment of the supervisor.

(4) The Minister shall forthwith serve a copy of an order in council under this section on Central, the administrator and, where applicable, the former supervisor.

(5) The remuneration and expenses of the administrator shall be borne by Central.

(6) Section 183 applies in relation to the administrator and Central except that the administrator shall work under the direction of, and provide reports required by, the Minister, and not the Corporation, as provided in subsection (8) thereof.

(7) Where the Lieutenant Governor in Council revokes the administration order, the Minister shall forthwith serve written notice of the revocation on Central and the administrator and, if the Minister considers that Central is still in need of assistance and of supervision, he may make an order placing it under supervision.

(8) Where the Minister places Central under supervision under subsection (7), section 175 applies.

Responsibility as  
to trust money

**177** Section 122 applies in relation to Central.

#### **PART 14**

#### **FINANCIAL UNSOUNDNESS**

Interpretation

**178** For the purposes of this Part, a credit union is in need of assistance where

- (a) the business or affairs of the credit union or a subsidiary are being conducted in an unsound manner,
- (b) the credit union or a subsidiary is, or is imminently about to become, insolvent,
- (c) for at least 3 calendar months in any period of 6 consecutive calendar months there is a shortfall referred to in section 105(1),

- (d) the credit union receives financial assistance from the Corporation,
- (e) the credit union is not maintaining the aggregate members' equity at the percentage of its assets required by section 108,
- (f) the credit union contravenes a direction by the Corporation under section 131, or
- (g) the credit union has materially contravened or been in repeated contravention of a related party provision.

Declaration of supervision by Minister or Corporation

**179(1)** Where the Minister or the Corporation considers that a credit union that is not under supervision or administration is in need of assistance and of supervision, he or it may make an order placing the credit union under supervision and appointing the Corporation, or some other person, to act as the supervisor.

(2) The Minister or the Corporation may make an order placing a credit union that has just obtained the Minister's approval under section 24 under the Corporation's supervision for such period, not being less than 6 months and not extending beyond 1 year from the approval, as he or it stipulates in the order.

(3) The Minister or the Corporation shall, forthwith after making a supervision order, serve a copy of it on the credit union and the Corporation or the Minister, as the case may be, and, where the Corporation is not the supervisor, the supervisor.

(4) The remuneration and expenses of the supervisor shall be borne by the credit union under supervision unless the Corporation decides to bear the whole or any portion of the expenses.

(5) The Minister or the Corporation, whichever of them originally made the supervision order, shall consider a request by the credit union under supervision for the lifting of the supervision order and shall notify the credit union of his or its decision, but this subsection applies in respect of only 1 request for each 1-year period commencing on each anniversary of the supervision order.

(6) Where the Minister or the Corporation, whichever of them originally made the supervision order, considers that the credit union is no longer in need of assistance and of supervision, he or it shall revoke the order by serving written notice of the revocation on the credit union and the Corporation or the Minister, as the case may be, and, where the Corporation is not the supervisor, the supervisor.

Functions, duties and powers of supervisor

**180(1)** A supervisor shall supervise the business and affairs of the credit union under supervision and, unless the Corporation is the supervisor, work generally under the direction of the Corporation.

(2) In addition to the powers correlating to the credit union's duties under section 181(1)(a) to (c), a supervisor has the following powers in relation to the credit union under supervision:

- (a) to require the credit union to correct any practices that in his opinion are contributing, or are likely in the future to contribute, to any situation giving rise to its need or continued need for assistance for any reason;

(b) to order the credit union and its directors, officers and employees

(i) to refrain from performing any acts or exercising any powers that in his opinion are contributing, or are likely in the future to contribute, to such a situation, or

(ii) to exercise any such powers subject to conditions specified in the order;

(c) to order the credit union not to declare or pay any dividend or patronage rebate or, alternatively, to restrict a dividend or patronage rebate to a rate or amount fixed by him;

(d) to issue directives for the operation of the credit union and to supervise their implementation;

(e) to require and to have access to all records, accounts, cash, securities, documents and vouchers of or in the possession of the credit union, and to any security held by it.

Duties and liabilities of credit union under supervision

**181(1)** A credit union under supervision

(a) shall give written notice to the supervisor of all board, committee and general meetings at the same time as the directors, committee members and members are so notified,

(b) shall permit the supervisor to attend and be heard at those meetings,

(c) shall provide the supervisor with copies of all reports made to the board, and

(d) has the duties correlating to, and shall facilitate the exercise and performance of, the powers and duties assigned to the supervisor by section 180.

(2) Each director shall ensure that a board resolution passed during the currency of the supervision is approved in writing by the supervisor before it is acted on, but the lack of such approval does not affect the validity of a board resolution.

Administration of credit union

**182(1)** Where the Corporation considers that a credit union under supervision remains in need of assistance and that

(a) the credit union has generally failed to co-operate with the supervisor,

(b) the credit union or a subsidiary has been in repeated or continued contravention of this Act or the regulations,

(c) the problems that created the need for supervision have not been resolved within a reasonable time and further remedial action is necessary, or

(d) supervision is not adequate to ensure that the guarantee liability of the Corporation under section 154 will not need to be invoked,

the Corporation, with the prior approval of the Minister, may make an order placing the credit union under administration and appointing itself or some other person to act as the administrator.

(2) Where the Corporation considers that a credit union that is not under supervision is in need of assistance and that supervision would not be adequate to ensure that the guarantee liability of the Corporation under section 154 will not need to be invoked, the Corporation, with the prior approval of the Minister, may make an order in terms referred to in subsection (1).

(3) An order made under subsection (1) has the effect of terminating the supervision and the appointment of the supervisor, irrespective of who made the original supervision order.

(4) The Corporation shall, forthwith after making an administration order, serve a copy of it on the credit union and any other person who was the supervisor or is the administrator.

(5) The remuneration and expenses of the administrator shall be borne by the credit union under administration unless the Corporation decides to bear the whole or any portion of the expenses.

(6) Where the Corporation considers that the credit union is no longer in need of administration, it shall revoke the order by serving written notice of the revocation on the credit union, the Minister and, where the Corporation is not the administrator, the administrator, and, if the Corporation considers that the credit union is still in need of assistance and of supervision, it shall place it under supervision.

(7) Where the Corporation places the credit union under supervision under subsection (6), sections 179 to 181 apply.

Functions, duties  
and powers of  
administrator

**183(1)** While the administration order is in effect, the administrator shall manage the credit union's business and affairs and

(a) shall perform all the duties and functions, and may exercise all the powers, of the board, and

(b) may perform all the duties and functions and exercise all the powers of the committees, the officers and, subject to subsection (9), the members in general meeting.

(2) The administrator generally has all the powers and shall do all things that are necessary or expedient to protect the rights and interests of the members, customers and creditors, and to conserve the assets, of the credit union.

(3) Subject to subsection (6), the directors shall not exercise any of their powers or perform any of their duties or functions while the credit union is under administration, except to the extent that they are requested to do so in writing by the administrator.

(4) A credit union shall ensure that an ordinary or special resolution or a resolution of any of the committees passed during the currency of the administration is approved in writing by the administrator before it is acted on, but the lack of such approval does not affect the validity of the resolution.

(5) On his appointment, the administrator shall take into his custody and control the property of the credit union and shall exclude its directors, other than any whom he has requested in writing to assist him, and may exclude its officers, employees and agents, in their capacity as such, from its property.

(6) Each director, officer and employee shall give the administrator all information and assistance that the administrator requires in the performance of his duties and functions.

(7) The Minister may direct an administrator to provide to him such reports on the administration as he consider appropriate.

(8) An administrator other than the Corporation shall work under the direction of, and provide such reports as are required by, the Corporation.

(9) The members have a right to receive notice of and to attend the credit union's annual general meeting and the administrator shall report to the annual general meeting on the business and affairs of the credit union.

## PART 15 AMALGAMATIONS

Voluntary  
amalgamation

**184** Subject to and in accordance with this Part, 2 or more credit unions may enter into a voluntary amalgamation and continue as 1 credit union.

Amalgamation  
agreement under  
voluntary  
amalgamation

**185(1)** To effect a voluntary amalgamation, the credit unions proposing to amalgamate must enter into an agreement with each other setting out the terms of and the means of effecting the amalgamation and, without limiting the foregoing, setting out

(a) in respect of the amalgamated credit union, the matters described in section 21(2)(a), (c), (d) and (e),

(b) the full name and residential address of each proposed director of the amalgamated credit union,

(c) the manner of converting the shares issued by each of the amalgamating credit unions into shares to be issued by the amalgamated credit union or, if there is not to be such a direct conversion, the total consideration for and the manner of disposition of shares issued by the amalgamating credit unions,

(d) the proposed by-laws of the amalgamated credit union, and

(e) details of arrangements necessary to provide for the management and operation of the amalgamated credit union.

(2) The board of each amalgamating credit union must submit the amalgamation agreement to a general meeting of the credit union for approval by special resolution, and the notice of the general meeting must include or be accompanied by a summary or copy of the amalgamation agreement.

(3) The amalgamation agreement must be submitted to the Corporation and have attached to it statutory declarations of at least 2 proposed directors of the amalgamated credit union that state that there are reasonable grounds for believing that

(a) the amalgamated credit union will not be insolvent, and

(b) no creditor will be prejudiced by the amalgamation.

(4) Except to the extent approved by the Corporation, each amalgamating credit union must give written notice of the proposed amalgamation to all its known customers and to creditors to whom it owes more than \$1000.

(5) An amalgamation agreement is adopted when

- (a) each amalgamating credit union has approved the amalgamation agreement by special resolution, and
- (b) the amalgamation has been approved by the Corporation.

(6) The Corporation shall approve the amalgamation unless it is satisfied that

- (a) there are reasonable grounds for believing that the statements in the statutory declarations are not correct,
- (b) this Part has not been complied with, or
- (c) the amalgamation would be unsound from a business point of view.

(7) Notwithstanding subsections (3) and (6), the Corporation may exempt credit unions from the requirement of statutory declarations with respect to subsection (3)(a), but not unless it considers that

- (a) the amalgamation would not be detrimental to persons affected by it,
- (b) the amalgamation would not increase the likelihood of a claim against the Corporation under section 154, and
- (c) an exemption is appropriate in the circumstances.

(8) An amalgamation agreement may provide that at any time before the issue of a certificate of amalgamation, the agreement may be terminated by the board of any of the amalgamating credit unions, notwithstanding its adoption or partial adoption under subsection (5).

(9) The board of the credit union terminating the agreement under subsection (8) shall immediately give notice of the termination to the Corporation.

Articles of  
amalgamation

**186(1)** After an amalgamation agreement is adopted under section 185, the amalgamating credit unions shall send articles of amalgamation to the Minister.

(2) The articles of amalgamation must set out, in respect of the amalgamated credit union, the matters described in section 21(2)(a), (c), (d) and (e).

(3) The articles of amalgamation must be accompanied by

- (a) a copy, signed by at least 2 directors of the amalgamated credit union, of the proposed by-laws,
- (b) a notice containing the address of the registered office of the amalgamated credit union,
- (c) unless the name of the amalgamated credit union is to be the same as that of one of the amalgamating credit unions, a name search report referred to in section 21(4)(d), and

(d) a notice containing any changes in any of the information contained in the amalgamation agreement.

Compulsory  
amalgamation

**187(1)** The Corporation may, with the prior approval of the Minister, order 2 or more credit unions that are under administration to amalgamate pursuant to this section.

(2) Where an amalgamation is to take place under this section, the terms of and the means of effecting the amalgamation are to be specified in an instrument of amalgamation prepared by the Corporation that follows as closely as possible the terms and conditions required under section 185.

(3) The instrument of amalgamation requires the approval of the Minister.

(4) After the instrument of amalgamation is approved by the Minister, the Corporation shall provide to the Minister

(a) articles of amalgamation setting out the matters described in section 21(2)(a), (c), (d) and (e), and

(b) the documents referred to in section 186(3)(a) to (c).

(5) No right of action lies against the Corporation or the Minister in respect of an amalgamation ordered in good faith and conducted pursuant to this section.

(6) The costs of an amalgamation under this section shall be borne by the amalgamating credit unions in the proportions directed by the Corporation.

Certificate  
and effect of  
amalgamation

**188(1)** On receiving the articles of amalgamation, whether under a voluntary or a compulsory amalgamation, the Minister shall issue a certificate of amalgamation and assign to the amalgamated credit union a registration number.

(2) When the Minister issues the certificate of amalgamation, he shall enter into the register, in addition to the certificate of amalgamation,

(a) the articles of amalgamation,

(b) the by-laws,

(c) notice of the registration number of the amalgamated credit union,

(d) the notice of registered office,

(e) where applicable, the statutory declarations referred to in section 185(3), and

(f) where applicable, the notice of changes referred to in section 186(3)(d).

(3) On the registration of the certificate of amalgamation,

(a) the amalgamation of the amalgamating credit unions and their continuance as 1 incorporated credit union become effective;

(b) the property of each amalgamating credit union continues to be the property of the amalgamated credit union;

- (c) the amalgamated credit union continues to be liable for the obligations of each amalgamating credit union;
- (d) an existing cause of action, claim or liability to prosecution affecting an amalgamating credit union continues to affect the amalgamated credit union;
- (e) a civil, criminal or administrative action or proceeding pending by or against any of the amalgamating credit unions may be continued by or against the amalgamated credit union;
- (f) a conviction against or ruling, order or judgment in favour of or against any of the amalgamating credit unions may be enforced by or against the amalgamated credit union;
- (g) the members of each amalgamating credit union become members of the amalgamated credit union and, subject to the amalgamation agreement, the shares issued by the amalgamating credit unions become shares issued by the amalgamated credit union;
- (h) the customers of each amalgamating credit union become customers of the amalgamated credit union on the same terms and conditions;
- (i) no rights of a creditor or customer of any of the amalgamating credit unions are to be treated as prejudiced by the amalgamation.

(4) Where any of the amalgamating credit unions was under administration immediately before the amalgamation, the amalgamated credit union continues to be under the administration of the same administrator or, where 2 or more of them were under the administration of different administrators, of whichever of those administrators is approved by the Corporation, until the Corporation takes action under section 182(6).

(5) Where any of the amalgamating credit unions was under supervision immediately before the amalgamation but none of them was under administration, the amalgamated credit union continues to be under the supervision of the same supervisor or, where 2 or more of them were under the supervision of different supervisors, of whichever of those supervisors is approved by the Corporation, until the Minister or the Corporation takes action under section 179(6).

## PART 16

### DISSOLUTION AND LIQUIDATION AND DISSOLUTION

Interpretation  
and application

**189(1)** In this Part, “appointor” means

- (a) the Minister, where a liquidator was appointed by the Minister, and
- (b) the Court, where a liquidator was appointed by the Court.

(2) Where a credit union is found to be an insolvent person or a bankrupt within the meaning of the *Bankruptcy Act* (Canada), any proceedings taken under this Part to dissolve or to liquidate and dissolve the credit union shall be stayed.

**190(1)** A credit union may, by special resolution,

- (a) authorize the proposed voluntary dissolution or the voluntary liquidation and dissolution of the credit union if, to the extent applicable, the resolution authorizes the discharging of all its obligations and the subsequent distribution of all its property remaining after all its obligations have been discharged, and
- (b) in the case of a liquidation and dissolution, appoint a liquidator

but the proposed dissolution or liquidation and dissolution requires the approval of the Minister.

(2) The credit union shall, within 30 days after the passing of the special resolution, provide to the Minister and the Corporation

- (a) a statement of intent to dissolve the credit union in the form prescribed by the Minister, and
- (b) financial statements setting out, so far as applicable,
  - (i) its assets and liabilities,
  - (ii) the nature and extent of the interests of members and customers,
  - (iii) the claims of other creditors and the provision to be made for their payment, and
  - (iv) the intended division or distribution of property of the credit union remaining after the discharge of its obligations.

(3) The Minister shall not approve the proposed dissolution or liquidation and dissolution unless

- (a) the statement of intent to dissolve and financial statements have been provided pursuant to subsection (2), and
- (b) the Corporation has in writing recommended the approval and notified him that
  - (i) prior to dissolution the credit union will be able to discharge all its obligations, and
  - (ii) the dissolution or liquidation and dissolution is in the best interests of the credit union and its members.

(4) If the Minister gives his approval under subsection (3), he shall issue a certificate of intent to dissolve.

(5) The credit union shall not carry on business after the issue of the certificate of intent to dissolve, except to the extent necessary for the liquidation or dissolution.

(6) After the issue of the certificate of intent to dissolve, the credit union or the liquidator shall

- (a) send notice of the issue to each customer to whom it is indebted and each other known creditor,
- (b) publish notice of the issue in the gazette and at least once in a newspaper distributed in the place where the credit union has its registered office,

(c) proceed to collect all its property, discharge all its obligations and do all other acts required to liquidate its business, and

(d) after complying with clauses (a) to (c), distribute its remaining property in accordance with the special resolution.

(7) At any time before the registration of the certificate of dissolution, the credit union may, by special resolution, authorize revocation of the certificate of intent to dissolve and, on doing so, shall

(a) provide to the Minister and the Corporation a statement of revocation of intent to dissolve in the form prescribed by the Minister, and

(b) publish notice of the revocation in the gazette and at least once in a newspaper distributed in the place where the credit union has its registered office.

(8) On receipt of the statement of revocation of intent to dissolve, the Minister shall issue a certificate of revocation of intent to dissolve.

(9) On the registration of the certificate of revocation of intent to dissolve, the revocation is effective and the credit union may recommence its business.

(10) If a certificate of intent to dissolve has not been revoked and the credit union has complied with subsection (6), the credit union or the liquidator shall provide to the Minister

(a) articles of dissolution, and

(b) statutory declarations by at least 2 directors stating that this Part has been complied with by the credit union.

(11) On receipt of the articles of dissolution and on being satisfied that the credit union or the liquidator has complied with this Part, the Minister shall issue a certificate of dissolution and gazette notice of the issue.

Court  
supervision of  
voluntary  
liquidation and  
dissolution

**191(1)** An interested person may, at any time during a voluntary liquidation and dissolution under section 190, apply to the Court for an order that the liquidation and dissolution be continued under the supervision of the Court and, on the application, the Court may so order and make any further order it thinks fit.

(2) The application must state the reasons, verified by an affidavit of the applicant, why the Court should supervise the liquidation and dissolution.

(3) If the Court makes the order, the liquidation and dissolution is to continue under the Court's supervision.

Involuntary  
dissolution

**192(1)** If the Minister has reasonable cause to believe that a credit union

(a) having commenced to carry on business, is no longer carrying on business and has not carried on business for a period of at least 6 consecutive months, or

(b) has, after being permitted under section 24 to commence business, had its membership number fall to below that referred to in section 24(2)(c)(i),

the Minister may, subject to this section, dissolve the credit union or appoint a liquidator for the purposes of an involuntary liquidation and dissolution.

(2) The Minister shall not dissolve a credit union or appoint a liquidator under subsection (1) unless he has

(a) given the credit union and each director at least 60 days' written notice, and

(b) at least 30 days previously, gazetted notice,

of his intention to do so and of the date on which he proposes to carry out his intention and has served on the credit union and on each director the statement required by section 208(2).

(3) Unless before the date specified in the notices under subsection (2) the credit union recommences business or increases its membership to the number referred to in subsection (1)(b), as the case may be, and gives the Minister written notice of that fact or shows cause why the Minister should not carry out his intention, the Minister may, subject to section 212(3), issue a certificate of dissolution of the credit union or appoint the liquidator, as the case may be.

Dissolution on  
cancellation of  
incorporation

**193** The Minister may issue a certificate of dissolution in respect of a credit union whose certificate of incorporation he has revoked under section 25 without complying with any other provisions of this Part.

Dissolution or  
liquidation and  
dissolution by  
Court order

**194(1)** The Minister may apply to the Court for an order to dissolve or to liquidate and dissolve a credit union if the credit union

(a) has contravened section 47(1),

(b) has procured any certificate under this Act by the fraud or misrepresentation of any person,

(c) is being used for an illegal purpose, or

(d) has not been fulfilling the purposes of a credit union generally under section 26(1) or has otherwise contravened section 26 in a material respect.

(2) An application under subsection (1) must state the reasons, verified by an affidavit of the Minister, why the credit union should be dissolved or liquidated and dissolved.

(3) On the application, the Court may make an order requiring the credit union and any interested person to show cause why the credit union should not be dissolved or liquidated and dissolved.

(4) The credit union shall serve a copy of the order on the Minister.

(5) The Court may order the directors and officers or any other person to furnish to it all information that is material to the application and that is known to or reasonably ascertainable by them.

(6) The Court may order that the credit union be dissolved or liquidated and dissolved under the Court's supervision.

- (7) On receipt of an order under subsection (6), the Minister shall
- (a) if the order is to dissolve the credit union, issue a certificate of dissolution, or
  - (b) if the order is to liquidate and dissolve the credit union under the Court's supervision, issue a certificate of intent to dissolve and gazette notice of the order.

Powers of  
the Court

**195** In connection with applicable proceedings under this Part, the Court may make any order it thinks fit, whether subject to conditions or not, including and without limiting the generality of the foregoing an order to do any of the following:

- (a) to liquidate the credit union;
- (b) to appoint a liquidator, with or without security;
- (c) to appoint inspectors or referees and specify their powers;
- (d) to direct that notice be given to interested persons and to direct any matters relating to service and publication of orders and to dispense with notice to any person;
- (e) to determine the validity of claims against the credit union;
- (f) to restrain the directors and officers from exercising any of their powers or performing any act;
- (g) to determine and enforce any duty or obligation of any director, officer or member;
- (h) to approve the payment, satisfaction or compromise of claims against the credit union and the retention of assets for that purpose, and to determine the adequacy of provisions for the payment or discharge of its obligations, whether liquidated, unliquidated, future or contingent;
- (i) to give directions on any matter arising in the liquidation;
- (j) after notice has been given to interested parties, to relieve a liquidator from any omission or default on any terms the Court thinks fit or to confirm any act of the liquidator;
- (k) to approve any proposed interim or final distribution;
- (l) on the application of any director, officer, member, customer, creditor or the liquidator,
  - (i) to stay the liquidation on any terms and conditions the Court thinks fit,
  - (ii) to continue or discontinue the liquidation, or
  - (iii) to require the liquidator to restore to the credit union all its remaining property;
- (m) after the liquidator has rendered his final account to the Court, to order the dissolution of the credit union.

Effect of order  
or appointment

**196(1)** Where a liquidator is appointed under section 192 or the Court makes an order for liquidation,

(a) the credit union shall cease to carry on any business other than what is, in the opinion of the liquidator, necessary for an orderly liquidation,

(b) no civil, criminal or administrative action or proceeding may be commenced or continued against the credit union without leave of the Court, and then only in accordance with the terms and conditions imposed by the Court, and

(c) an attachment, sequestration, distress or execution that is in force or levied against the property of the credit union after the date of the appointment or the order is void.

(2) The liquidator may exercise all the powers of and shall perform all the duties and functions of the board, its officers and the members and, from the date of the appointment or the order, the board, its officers and the members shall not exercise their powers except as specifically authorized by the appointor.

(3) Subsection (2) does not apply to the extent that the liquidator, with the approval of the appointor, delegates duties or functions to a director or officer.

(4) While the office of liquidator is vacant, the property of the credit union is under the control of

(a) the Corporation, where the liquidator was appointed by the Minister, or

(b) the Court, where the liquidator was appointed by the Court.

Notice of  
appointment  
and liquidation

**197(1)** On his appointment, a liquidator shall forthwith

(a) publish notice of his appointment and of the matters referred to in subsection (2) in the gazette and once a week for 2 consecutive weeks in newspapers distributed in every municipality in which the credit union carries on business,

(b) give written notice of his appointment and of the matters referred to in subsection (2) to each customer, debtor and creditor of the credit union known to him, and

(c) give written notice of his appointment

(i) to each director, and

(ii) in the case of a liquidator not appointed by the Minister, to the Minister.

(2) A notice referred to in subsection (1)(a) or (b) must require any person

(a) who is indebted to the credit union to render an accounting and to pay to the liquidator at the time and place specified the amount owing,

(b) who possesses property of the credit union to deliver it to the liquidator at the time and place specified, and

(c) who has any claim against the credit union to present written particulars of the claim to the liquidator not later than 2 months after the first publication of the notice.

Duties of liquidator

**198(1)** A liquidator shall

- (a) forthwith after his appointment take into his custody and control the property of the credit union, and open and maintain an account for the credit union's money,
- (b) keep accounts of the credit union's money received and paid out by him,
- (c) maintain appropriate records of the members, customers and creditors and their interests in the credit union,
- (d) provide a report on his progress to the Minister and the Corporation at least once a month, and
- (e) provide to the appointor
  - (i) financial statements each year, and
  - (ii) such other financial information as the appointor requests, within a reasonable time after the request is made.

(2) The liquidator shall, within a reasonable time after his appointment, prepare a statement of the assets and liabilities of the credit union and the values of the assets as shown by his records, and he shall provide to the Minister and the Corporation a copy of the statement.

(3) The liquidator shall not

- (a) purchase, directly or indirectly, any part of the property of the credit union, or
- (b) borrow money on the security of its property,

without the prior approval of the appointor.

(4) Where a liquidator is a person other than the Corporation and is appointed by the Minister, he shall act in accordance with any directions given him by the Corporation.

Powers of liquidator

**199(1)** The liquidator may

- (a) retain professional advisers,
- (b) bring, defend or take part in any civil, criminal or administrative action or proceeding in the name and on behalf of the credit union,
- (c) carry on the credit union's business to the extent required for an orderly liquidation,
- (d) perform all acts and execute any documents in the name and on behalf of the credit union, and use the credit union's seal for that purpose,
- (e) settle or compromise any claims by or against the credit union, and

(f) sell the credit union's property and do all other things that he considers necessary for the liquidation of the credit union and the distribution of its property.

(2) Where the liquidator has reason to believe that any person has in his possession or under his control, or has concealed, withheld or misappropriated, any property of the credit union, he may apply to the Court ex parte for an order requiring that person to appear before the Court at the time and place designated in the order and to be examined with respect to that property, and if the examination substantiates the belief, the Court may

- (a) order the restoration of the property,
- (b) order the retention, preservation or inspection of the property,
- (c) order payment of compensation in respect of the property to the liquidator, or
- (d) make any other order it thinks fit.

Limitation on liability

**200** A liquidator is not liable in any proceeding to the extent that he relies in good faith on

- (a) financial statements of the credit union represented to him in writing by an officer of the credit union qualified to make such a representation, or in a written report of the auditor, to reflect fairly the financial condition of the credit union, or
- (b) the written opinion or report of a professional adviser retained by him, or an officer, qualified to give such an opinion or to make such a report.

Costs of liquidation

**201** A liquidator shall pay the costs of the liquidation out of the property of the credit union.

Distribution of property

**202(1)** A liquidator, including a liquidator appointed by the Minister, may give notice in writing to creditors of whose claims he has notice and whose claims he considers should not be allowed without proof, requiring those creditors to attend before the Court on the day specified in the notice and to prove their claims to the satisfaction of the Court, and, if any creditor fails to attend, his claim shall be disallowed, subject to any further time for proof allowed by the Court.

(2) Not earlier than 2 months after the 2nd newspaper publication of the notice referred to in section 197(1)(a) and after paying the costs of the liquidation, the liquidator may distribute all or any part of the property of the credit union among the parties entitled to it, having regard to the claims of which he then has notice.

(3) If the liquidator considers that he will not be able to distribute all of the property of the credit union under subsection (2) within 1 year after his appointment, he may apply for an extension of time to the appointor, who may extend the time accordingly.

(4) The liquidator is not liable to any person who does not submit notice of his claim to the liquidator prior to distribution of the property under subsection (2).

(5) Where a liquidator appointed by the Minister determines that the credit union will be unable to provide adequately for the discharge in full of its obligations, he shall report that fact to the Minister and the Corporation, and the Corporation shall direct and superintend distribution of the property of the credit union pursuant to the law, for which purposes it may apply to the Court for directions.

(6) Where a liquidator appointed by the Court determines that the credit union will be unable to provide adequately for the discharge in full of its obligations, he may apply to the Court for directions as to the distribution of the credit union's property.

(7) A liquidator appointed by the Minister may apply to the Court for a hearing for the purposes of subsection (1).

Ranking of  
claims

**203** Where a credit union is dissolved or is in liquidation and this Part applies to it and it transpires that the proceeds realized from its property are not sufficient to discharge all its obligations, those proceeds shall be applied in priority of payment

(a) subject to clause (b), as if the property of a bankrupt were being distributed under Part 5 of the *Bankruptcy Act* (Canada), and

(b) in relation to the priority of the following persons only as among themselves,

(i) first, to the holders of deposits with the credit union, rateably among themselves,

(ii) second, to the holders of special shares, in accordance with the prescribed criteria, and

(iii) third, to the holders of common shares issued by the credit union, rateably among themselves,

and otherwise pursuant to clause (a).

Final accounts  
and end of  
liquidation

**204(1)** After he has paid or made adequate provision for all valid claims against the credit union, the liquidator shall apply to the appointor for approval of his final accounts and for permission to distribute the remaining property of the credit union.

(2) If the appointor approves the final accounts of the liquidator, the appointor shall make an order discharging the liquidator.

(3) Where the Court approves the final accounts, it shall make an order directing the Minister to issue a certificate of dissolution.

(4) The Minister shall issue a certificate of dissolution

(a) on being directed to do so by the Court under subsection (3), or

(b) subject to section 212(3), on his approving the final accounts under subsection (2).

(5) Any person who was a member immediately prior to or during the liquidation proceedings may inspect the documents and records retained by the liquidator that relate to his own business with the credit union on payment of a reasonable fee to the liquidator.

- 205(1)** In this section, “member” includes any heir of a deceased member.
- (2) A credit union is dissolved and ceases to exist on the registration of its certificate of dissolution.
- (3) Notwithstanding the dissolution of a credit union,
- (a) a civil, criminal or administrative action or proceeding commenced by or against the credit union before its dissolution may be continued as if the credit union had not been dissolved,
- (b) a civil, criminal or administrative action or proceeding may be brought against the credit union within 2 years after its dissolution as if the credit union had not been dissolved, and
- (c) any property that would have been available to satisfy any judgment or order if the credit union had not been dissolved remains available for that purpose.
- (4) Service of a document on a credit union after its dissolution may be effected by serving the document on the Corporation addressed to the credit union in the care of the Corporation.
- (5) Notwithstanding the dissolution of a credit union, a member to whom any of its property has been distributed in the liquidation or in respect of the dissolution is liable to any person claiming under subsection (3) to the extent of the amount received by that member on the distribution, and an action to enforce that liability may be brought within 2 years after the dissolution.
- (6) The Court may order an action referred to in subsection (5) to be brought against the persons who were members and who received any of the property as a class, subject to such conditions as the Court considers fit, and, if the plaintiff’s claim is established, the Court may
- (a) add as a party to the proceedings each person who was such a member,
- (b) determine, subject to subsection (5), the amount that each such person is to contribute towards satisfaction of the plaintiff’s claim, and
- (c) direct payment of the amounts so determined.
- (7) Subject to subsection (3), property of a credit union that has not been disposed of at the date of its dissolution vests in the Government.
- (8) Subject to any prescribed exceptions, the Minister shall not issue a certificate of dissolution where the credit union has been found to be an insolvent person or a bankrupt within the meaning of the *Bankruptcy Act* (Canada) unless there has been provided to the Minister a discharge from bankruptcy under that Act.
- (9) If, after the dissolution of a credit union, a person is entitled to receive a document executed by that credit union for registration with any public office in which documents may be registered under any enactment, the Corporation may execute the document on behalf of the dissolved credit union, and the person responsible for registration shall accept the document for registration if the Corporation has

placed an explanation for its action on the document and has otherwise complied with the registration requirements.

Revival

**206(1)** Any interested person may apply to the Minister to have a dissolved credit union, other than one dissolved pursuant to an order of the Court, revived, by providing articles of revival to the Minister.

(2) On receipt of the articles of revival, the Minister shall

- (a) issue a certificate of revival, or
- (b) direct that an application be made to the Court under subsection (3).

(3) Any interested person may apply to the Court for an order reviving a dissolved credit union

- (a) where the credit union was dissolved pursuant to an order of the Court, or
- (b) where the Minister has made a direction under subsection (2)(b),

and the applicant shall give notice of the application to the Minister.

(4) If an order is made under subsection (3), the applicant shall forthwith send a certified copy of it to the Minister, who shall register the order and issue a certificate of revival.

(5) The Minister or the Court, as the case may be, may order that the credit union be revived for the period and for the purposes specified in the order and, in that case, the revival is effective subject to those restrictions.

(6) The Minister or the Court, as the case may be, may give any order respecting actions to be taken by the credit union and the return of its property on its revival.

(7) A credit union is revived on the registration of the certificate of revival and, subject to any order under this section and to rights acquired by any person after the dissolution but prior to the revival, the credit union has all the rights and privileges and is liable for the obligations that it would have had if it had not been dissolved.

## PART 17

### REVIEWS AND APPEALS

Definitions

**207** In this Part,

- (a) “decision” means an action of the Minister or the Corporation referred to in section 208(1) or a decision made by a review board under section 209 on a review;
- (b) “party” means the credit union or Central or, where the decision is one referred to in
  - (i) section 208(1)(a), the person designated,
  - (ii) section 208(1)(b), the incorporators, or

(iii) section 208(1)(j) involving a subsidiary, that subsidiary and its holding body corporate, or either of them,

whose rights are directly and adversely affected by a decision and, where a review board has reviewed a decision of the Minister or the Corporation, includes the Minister or the Corporation, as the case may be.

Rights with respect to review

**208(1)** A party who feels aggrieved by

- (a) a designation under section 2(8),
- (b) the refusal of an application for incorporation on the ground that the Minister is not satisfied as to any matter referred to in section 22(a),
- (c) the refusal of an application to allow commencement of business under section 24, or the revocation of a certificate of incorporation under section 25, on the ground that section 24(2)(a) or (c) has not been met,
- (d) a refusal under section 29(2) to register or issue a certificate of amendment of articles on any ground relating to a credit union's bond of association,
- (e) a direction under section 103(4) or 104(4) to dispose of share investments,
- (f) the placing of a credit union or Central under supervision under section 175 or 179,
- (g) the refusal under section 179(5) to lift a supervision order,
- (h) the refusal of an application for approval of an amalgamation under section 185(6)(a) or (b),
- (i) a notice under section 192 that the Minister is appointing a liquidator or proposes to dissolve a credit union,
- (j) the making of a cease and desist order under section 214,
- (k) a direction under section 224(2), or
- (l) any other prescribed action,

is entitled to have the decision reviewed by a review board under section 209.

(2) The Minister or the Corporation, forthwith after making a decision, shall serve on each party to the decision a written statement of the decision, setting out

- (a) the findings of fact on which the decision is based, and
- (b) the reasons for the decision.

Request for review of decision

**209(1)** A party affected by a decision may object to the decision by serving on the Minister a notice of objection, specifying the decision objected to and the grounds for the objection, within 90 days after being served with the statement pursuant to section 208(2).

(2) The Minister shall, within 30 days after being served with the notice of objection and unless he or the Corporation, as the case may be, decides within that period to reverse the decision without resort

to further proceedings under this Part, appoint a review board to conduct a review of the matter objected to.

(3) The review board is to consist of 1 person designated as its chairman by the Minister and not fewer than 2 nor more than 4 other persons, but the Minister shall not appoint to the review board persons who are

(a) directors of the Corporation, or

(b) employed, whether on a contract of service or a contract for services,

(i) in the public service of Alberta, or

(ii) by the Corporation.

(4) The Minister shall set a period, not exceeding 90 days, within which the review board is to make the review and give its written decision, and may extend that period or any extension of that period, before its expiry, by further periods not exceeding 45 days.

(5) For the purposes of conducting the review, the review board has all the duties, powers, privileges and immunities given to a commissioner appointed under the *Public Inquiries Act* by sections 3, 4, 7 and 9 of that Act.

(6) The review board may confirm, rescind or vary the decision reviewed.

(7) The review board shall, forthwith after making its decision, serve the parties with a copy of its decision, including the reasons for it.

(8) The Minister may pay those fees and reasonable living and travelling expenses that he considers proper to the members of a review board.

(9) Decisions of review boards are binding on the Minister and the Corporation.

(10) Subject to this Part, a review board may regulate its own procedure and business.

Appeal  
without review

**210(1)** A party may, in a notice of objection, apply to the Minister for permission to appeal directly to the Court without having a review made under section 209 and, if the Minister considers the matter ought to go directly to the Court, he may, by notice in writing to that party, consent to a direct appeal to the Court.

(2) Where the Minister gives his consent under subsection (1), the party shall be treated as having waived his right to the review.

(3) Where

(a) any period established under section 209(4) expires without an extension having been granted under that subsection, and

(b) the review board has not made its decision,

the party has a right to elect to appeal against the decision objected to directly to the Court pursuant to section 211 or to allow the review board to give its decision after the expiration of that period.

(4) A party has a right to appeal directly to the Court under section 211 against a decision if the statement required by section 208(2) has not been served on it within 30 days after the decision.

Appeal to  
the Court

**211(1)** A person directly affected by a decision of a review board under section 209, including the Minister or the Corporation where his or its decision has been rescinded or varied, or a person having a right under section 210 to appeal directly against the original decision, may appeal against the decision to the Court by originating notice supported by an affidavit and, in the case of a party referred to in section 210(2), the consent.

(2) A copy of the originating notice, the affidavit and, where applicable, the consent, must be filed with the clerk of the Court and served on the Minister or the Corporation, as the case may be, within

(a) 30 days of

(i) the service of the review board's decision on the party,

(ii) the consent under section 210(1), or

(iii) in the case of an appeal under section 210(3), the expiry of the period established under section 209(4),

or

(b) 60 days of the original decision, in the case of an appeal under section 210(4),

or such longer period as the Court allows, and the application shall be made returnable within 90 days after the filing of the originating notice.

(3) Subject to this section, the procedure in the appeal to the Court is the same as that provided in the Alberta Rules of Court for applications by originating notice.

(4) The Court, on hearing the appeal, may confirm, rescind or vary the decision or make any order it considers just.

Stay

**212(1)** Subject to this section, an objection or appeal under this Part does not operate as a stay of the decision.

(2) The review board or the Court, as the case may be, may grant a stay in respect of a decision referred to in section 208(1)(a), (e), (i) or (j) or any other prescribed decision.

(3) The Minister shall not issue a certificate of dissolution under section 192 if the notice under that section is under review or appeal under this Part or if the time for making any objection or appeal has not yet expired.

(4) The Minister need not grant an application for incorporation or commencement of business pending the judgment of the Court if the review board's decision is in favour of the incorporators or the credit union and the Minister appeals against that decision to the Court.

**PART 18**  
**ENFORCEMENT**

Demand for  
information

**213(1)** The Minister may, for the purpose of inquiring or facilitating the Corporation's inquiries into

- (a) a body corporate's condition and ability to meet its obligations,
- (b) the conduct of its business or affairs, or
- (c) any complaint made by any of its members, customers or creditors,

or for any purpose related to an audit, direct the body corporate, its subsidiary, a related party or a present or former director, officer, auditor, employee or agent of the body corporate or of its subsidiary to provide or produce, within such reasonable period of time as is stipulated in the direction, any information or document.

(2) Where a person served with a direction under this section does not provide or produce the information or document in accordance with the direction, then, without affecting any other liability that the person may have under this Act, the Minister, on 2 days' written notice to that person, may apply to the Court for an order under subsection (3).

(3) The Court may order the person to provide or produce the information or document, subject to such conditions as the Court considers appropriate, if the Court is satisfied that it is in the possession or under the control of the person and is relevant to a purpose provided for in subsection (1).

(4) If the information or document is produced by a person under this section, the Minister, on giving a receipt for it, may remove it for the purpose of making copies of or extracts from it.

Cease and  
desist orders

**214(1)** Where the Minister considers that a credit union or Central or its subsidiary is doing or is about to do something or is failing to do something and that the act or failure to act

- (a) is or would be in contravention of this Act or the regulations,
- (b) is or would be inconsistent with
  - (i) in the case of a credit union or its subsidiary, the purposes of a credit union or generally with the mode of operation set out in section 26(2), or
  - (ii) in the case of Central or its subsidiary, the purposes of Central,
- (c) might reasonably be expected to result in a situation that would be in contravention of this Act or the regulations or inconsistent with the purposes or mode of operation referred to in clause (b), or
- (d) constitutes or would constitute a practice that might adversely affect the interests of members, customers or creditors of the credit union or Central,

the Minister may order that body corporate to, or order the body corporate to procure its subsidiary to, cease or refrain from doing

or to do that thing, as the case may be, in order to remedy that situation.

(2) The Minister shall provide a copy of an order made under subsection (1) to each director of the body corporate.

(3) An order under this section does not affect any other liability that a corporation may have under any other law in respect of the act or failure to act.

Injunction

**215** Without limiting any other remedy provided for in this Act, the Minister may apply for an injunction to restrain a credit union or Central or any related party from contravening any provision of this Act, the regulations or the body corporate's articles or by-laws.

Remedies for contravention of related party provisions

**216(1)** Where a related party transaction that is prohibited or restricted by a related party provision takes place, any interested person, including the Minister, may apply to the Court for an order

(a) setting aside the transaction and directing that the related party account to the credit union or Central, as the case may be, for any profit or gain realized, and

(b) that each person who participated in or facilitated the transaction pay to the body corporate on a joint and several basis

(i) the damages suffered,

(ii) the face value of the transaction, or

(iii) the amount expended by the body corporate in the transaction,

and on the application, the Court may so order or make such other order as it thinks fit, including an order for compensation for the loss or damage suffered by the body corporate and punitive or exemplary damages from the related party.

(2) A person who is not a director is not liable under subsection (1)(b) unless he knew or ought reasonably to have known that the transaction was made in contravention of a related party provision.

General offence provisions

**217(1)** A person who contravenes any provision of this Act or the regulations is guilty of an offence against this Act.

(2) A contravention of this Act or the regulations that is of a continuing nature constitutes a separate offence in respect of each day or part of a day during which it continues.

(3) Where a corporation is guilty of an offence against this Act, a director, officer or agent of the corporation who directed, authorized, assented to, permitted, acquiesced in or participated in the commission of the offence is a party to and guilty of the offence.

Specific offences by bodies corporate and subsidiaries

**218(1)** A body corporate or its subsidiary shall not wilfully

(a) give the Minister, the Corporation, its auditor or any person responsible for its supervision, administration, liquidation or examination information that is false or misleading,

(b) provide to the Minister or the Corporation a report, return, notice or other document that

(i) contains an untrue statement of a material fact, or

(ii) omits to state a material fact that is necessary to make a statement contained in the document not misleading in the light of the circumstances in which it is made,

(c) make any representation to its members, customers or creditors or to the public that is false or misleading, or

(d) make a false or deceptive entry, or omit any material particular, in any record required to be kept by this Act or the regulations.

(2) A body corporate or its subsidiary shall comply with

(a) any order or direction made by the Minister or the Corporation, or

(b) the terms and conditions of any approval given by the Minister or the Corporation,

pursuant to this Act or the regulations.

(3) Where a person makes a report in good faith to the Minister or the Corporation or to the auditor of a body corporate in the performance of a duty or the exercise of a power given to him by this Act, that body corporate or its subsidiary shall not take any action against him that is adverse to his interests for making that report.

(4) If a corporation contravenes subsection (3), then, notwithstanding its liability under that subsection, the corporation is liable to the person for any financial losses incurred by him in respect of the corporation's act.

Offences by  
persons generally

**219(1)** A person carrying on any business in Alberta shall not use the words "credit union" or an abbreviation or derivative of those words as part of a corporate or business name unless the person is a body corporate or an institution referred to in section 223 that is acting in accordance with that section.

(2) A person shall not destroy, alter, conceal, withhold, remove or otherwise dispose of documentary information

(a) in order to avoid the provision of information required by or under this Act or in any proceeding relating thereto, or

(b) that is required by this Act or the regulations to be kept by a body corporate,

or direct or authorize any such act.

(3) A person shall not, knowing any information to be untrue, record it so as to be kept by a credit union or Central.

Penalties

**220(1)** A person who is convicted of an offence against this Act for which no specific penalty is fixed by this section is liable, subject to this section,

(a) in the case of an individual, to a fine of not more than \$5000, and

(b) in the case of any other person, to a fine of not more than \$25 000.

(2) A person who is convicted of an offence involving contravention of section 50(1) or 144(4), or of section 167(1) in respect of section 50(1), is liable to a fine of not more than \$25 000 or an amount equal to 3 times the value of the benefit or advantage derived from the transaction, whichever is higher.

(3) A person who is convicted of an offence involving contravention of

(a) the duty to act honestly or in good faith under section 73(1)(a) or under section 144(1) or 166(1) in respect of section 73(1)(a), or

(b) section 218(1)

is liable to a fine of not more than \$25 000.

(4) A person who is convicted of an offence involving contravention of section 76, or of section 166(1) in respect of section 76, is liable to a fine of not more than \$15 000.

(5) A person who is convicted of an offence against section 41(1) or 84(1) or (2), or section 162(1) in respect of section 41(1), or section 168(1) in respect of section 84(1) or (2), is liable to a fine of not more than \$250 for each day or part of a day during which the offence continues.

(6) Subject to subsection (5), the maximum penalty for an offence referred to in section 217(2) committed on the 2nd and each subsequent day of the contravention referred to in that subsection is 1/25 of the penalty applicable in respect of the first day thereof.

Limitation period **221** A prosecution in respect of an offence against this Act may not be commenced later than 5 years after the alleged commission of the offence.

Order to comply **222(1)** Where a court convicts a person of an offence against this Act, then, without limiting any other liability that that person may have under this Act or any other law, the court may order that person to comply with the provision of this Act or the regulations for the contravention of which the person has been convicted.

(2) No civil remedy for an act is suspended or affected by reason that the act is an offence against this Act.

## PART 19

### MISCELLANEOUS

Extra-provincial institutions **223** An institution incorporated under the laws of a jurisdiction other than Alberta that has purposes similar to those referred to in section 26(1) and that complies generally with the mode of operation set out in section 26(2) shall not carry on any business in Alberta except

(a) registering, pursuant to the applicable legislation of Alberta, a security that was lawfully taken by it as part of a wider transaction conducted in and under the laws of another jurisdiction,

(b) realizing such a security, taking title to and possession of the property secured, registering title to it, holding it pending its disposal and disposing of it,

(c) otherwise taking steps that are necessary for the purposes of collecting or enforcing an obligation that is owed to it under a transaction referred to in clause (a), and

(d) transacting business that is incidental to any business referred to in clause (a), (b) or (c).

Valuation of property

**224(1)** Where the Minister has reason to believe, with respect to a credit union or Central or any of its subsidiaries, that

(a) the valuation placed on its land or any portion of its land is greater than the actual value of the land,

(b) the amount of a loan made by it and secured by a mortgage of land is greater than the value of the land securing it or that the land is not sufficient security for the loan, or

(c) the market value of any other property is less than the amount shown in its books,

the Minister may require that corporation to obtain an appraisal, or may himself obtain an appraisal, conducted in the prescribed manner at the expense of the corporation.

(2) Having regard to the appraised value, the Minister may

(a) substitute the appraised value of the property for the corporation's valuation, or

(b) write down the value of a loan referred to in subsection (1)(b) by such amount as he considers appropriate,

and, where he takes such action, he shall direct the corporation to adjust the book value of the property or the loan accordingly.

(3) A credit union shall ensure that a direction of the Minister under subsection (2) is noted in the corporation's financial statements for the year in which the direction is made.

(4) Where a loan or guarantee requires the approval of a special loans committee and is to be wholly or partly secured by a mortgage of land, the special loans committee may require the body corporate to obtain an appraisal before deciding on the approval.

Lieutenant Governor in Council regulations

**225** The Lieutenant Governor in Council may make regulations

(a) prescribing fees and charges payable for services rendered and documents provided by or on behalf of the Minister under this Act and the regulations and respecting the imposition by the Corporation of fees and charges for services rendered by or on behalf of the Corporation to specific credit unions that are not to be paid for from the general resources of the Corporation;

(b) limiting the amount of the guarantee under section 154;

(c) authorizing the creation of shares, other than common shares, to be issued by credit unions or Central or shares to be issued by the Corporation or its subsidiaries, and, in respect of any such

shares, including any class of, or any series in a class of, such shares,

- (i) respecting their creation, issue, sale, redemption, retraction, transfer, registration, transmission and delivery and the attached rights, privileges, restrictions and conditions,
  - (ii) respecting the minimum amounts to be received by the corporation,
  - (iii) governing the maximum number that may be held by any holder of the shares,
  - (iv) governing the rights, duties and obligations of the corporation, and
  - (v) respecting the extent to which they are subject to this Act or the regulations or any other enactment;
- (d) establishing further related party provisions;
  - (e) respecting the protection of customers and the public in their dealings with credit unions, including the making of representations by credit unions to them;
  - (f) respecting the confidentiality of information where credit unions offer for sale the products of financial institutions;
  - (g) respecting contractual arrangements between credit unions or Central and persons providing financial products or services to the public for the distribution by the credit unions or Central of those products or services, and restricting any such arrangements;
  - (h) prohibiting or restricting the sale by credit unions or Central of one financial services product on condition that another is acquired;
  - (i) respecting the disclosure of credit unions' service charges;
  - (j) providing for the dissolution or the liquidation and dissolution of Central or the Corporation and the basis on which such a liquidation or dissolution is to be carried out;
  - (k) requiring directors of credit unions to meet requirements respecting their training;
  - (l) respecting the application of provisions of this Act, or similar provisions, to partnerships and joint ventures involving credit unions or Central or to relationships between credit unions or Central and any such partnerships or joint ventures, including investments therein;
  - (m) notwithstanding anything in sections 116 to 119, establishing further transitional provisions for those sections respecting money held before November 1, 1988 by credit unions on behalf of persons to whom those sections relate;
  - (n) rendering the making of specified orders under section 214 subject to the prior consent of persons specified in the regulations;
  - (o) respecting provisions of this Act that refer to the previous fiscal year of credit unions, making separate provision for new credit unions in relation to their initial fiscal year;

(p) prescribing any matter or thing that by this Act may or is to be prescribed by the Lieutenant Governor in Council.

Ministerial  
regulations

**226** The Minister may make regulations

(a) respecting the execution, certification, proof, authentication and alteration of documents relating to this Act or any of their contents, the issue of and the correction of errors in certificates, the registration system and process and other matters relating to the administration of this Act;

(b) requiring approval by the Minister of the Corporation's financial estimates, imposing conditions in relation to its financial estimates and expenditures and providing for examinations of, and otherwise respecting, its management and management practices;

(c) prescribing any matter or thing that by this Act may or is to be prescribed by the Minister.

Regulations —  
treatment of  
subject-matter

**227** The regulations may make different provision

(a) for different kinds of corporations or different credit unions,

(b) for different classes or kinds of credit union, depending on whether they have bonds of association or not, on their size or geographical location, whether they are under supervision, administration or liquidation or not, or on any other basis for distinguishing between different kinds of credit union,

(c) in respect of a related party provision, for different kinds of related party or transaction, or

(d) in respect of a given subject-matter, based on differences in the types of transaction or other circumstances involved.

Consequential  
amendments

**228(1)** *Section 12(t) and (u) of the Co-operative Associations Act are repealed and the following is substituted:*

(t) the power to become a member or customer of a credit union or of the Credit Union Central Alberta Limited;

(u) the power to deposit money with, purchase shares issued by, lend money to or borrow money from a credit union or the Credit Union Central Alberta Limited;

(2) *Section 2(c) of the Deposits Regulation Act is amended by striking out "to which the Credit Union Act applies".*

(3) *Section 1(1)(n) of the Financial Administration Act is amended by striking out " , the Credit Union Stabilization Corporation established under section 90 of the Credit Union Act".*

(4) *Section 30 of the Land Titles Act is amended*

(a) *in subsection (1)(f) by striking out "registered" and substituting "incorporated";*

(b) *by repealing subsection (2)(d) and substituting the following:*

(d) the member of the Executive Council responsible for the administration of the *Credit Union Act* that a corporation is incorporated under the *Credit Union Act*,

(c) in subsection (2) by striking out “or the Registrar of Credit Unions” and substituting “or the member of the Executive Council responsible for the administration of the *Credit Union Act*”;

(d) in subsection (3) by striking out “Registrar of Credit Unions” and substituting “member of the Executive Council referred to in subsection (2)(d)”;

(e) in subsection (4),

(i) by striking out “, the *Rural Utilities Act* or the *Credit Union Act*” and substituting “or the *Rural Utilities Act*”, and

(ii) by adding “or the *Credit Union Act*” after “*Business Corporations Act*”.

(5) Section 30(4) of the *Municipal Government Act* is repealed and the following is substituted:

(4) Subsection (3)(e) and (f) do not apply to a member of council who is

(a) an employee, officer or director of a credit union,

(b) an employee or director of a co-operative, or

(c) an employee of an organization or club referred to in those clauses.

(6) Section 66(i) of the *Securities Act* is repealed.

(7) Section 114(1)(d)(v) of the *Trust Companies Act* is amended by striking out “in Canada” and substituting “under any enactment in any province in Canada”.

(8) The *Credit Union Act*, RSA 1980 cC-31, is amended by adding the following after section 102(8):

(9) The Board may, pursuant to an authorization provided for by regulations made under subsection (10), by notice in writing, assess and levy on credit unions a special assessment in addition to any others provided for in this Act, and credit unions so assessed shall pay their special assessments accordingly.

(10) The Lieutenant Governor in Council may make regulations authorizing a special assessment for the purposes of subsection (9) and otherwise making provision with respect to the special assessment and may provide for different rates, including a nil rate, for different credit unions or classes of credit union based on the variable criteria prescribed.

### Transitional

Transfer of  
documents to  
Minister

**229** *The Registrar of Business Corporations shall transfer to the Minister all documents in his possession that were provided under the former Act and that relate directly to credit unions and, on receiving them, the Minister shall register all those that, had they been provided under this Act, would have been registered.*

**230(1)** *An existing credit union shall, before November 1, 1990, provide to the Minister articles of continuance and new by-laws, executed by the credit union, and a notice containing the address of its registered office.*

*(2) The memorandum of association and supplemental by-laws of an existing credit union, as they were immediately before November 1, 1988 and as subsequently amended under this Act, shall be deemed to be its articles of continuance and by-laws until the articles of continuance and by-laws provided under subsection (1) are registered.*

*(3) Notwithstanding subsection (2), any provision of the existing memorandum of association or supplemental by-laws of an existing credit union that is inconsistent with this Act or the regulations is invalid to the extent of the inconsistency.*

*(4) The articles of continuance must set out, in respect of the existing credit union, the matters described in section 21(2)(a), (c), (d) and (e).*

*(5) On the provision of the articles of continuance and the by-laws under subsection (1), the Minister shall, if he considers that they are in accordance with this Act and the regulations, register them, whereupon they become the articles of continuance and by-laws of the credit union and replace its memorandum of association and the supplemental by-laws referred to in subsection (2), and the Minister shall also register the notice of registered office.*

*(6) On registering the articles of continuance, the Minister shall issue to the credit union a certificate of continuance.*

*(7) If an existing credit union fails to comply with subsection (1),*

*(a) the Minister may dissolve or liquidate and dissolve the credit union and the Minister may issue a certificate of dissolution in respect of the credit union without complying with any provisions of Part 16, and*

*(b) the credit union becomes in need of assistance for the purposes of section 178.*

*(8) This section applies notwithstanding the requirement of articles and a certificate of continuance in section 18.*

*(9) Central shall, before May 1, 1990, provide to the Minister new by-laws, executed by it, and a notice containing the address of its registered office.*

*(10) Subsections (2), (3) and (5), as they apply to a credit union's supplemental by-laws and notice of registered office, apply in relation to Central's by-laws and notice of registered office.*

*(11) The Corporation shall, before November 15, 1988, provide to the Minister a notice containing the address of its registered office, and the Minister shall register it.*

**231(1)** *An existing credit union may continue to treat any person who was a member immediately before November 1, 1988 as a member until October 31, 1990, but shall not thereafter treat a person as a member unless he then holds the number of common shares that is required of him by section 61(1) and otherwise qualifies as a member.*

(2) Notwithstanding section 159, all co-operative associations that were members of Central immediately before November 1, 1988 continue to be members of Central subject to and in accordance with the by-laws.

**232(1)** Unless the Corporation otherwise approves, a credit union and its subsidiaries shall, before December 31, 1990, dispose of land having a value that is not less than the amount, if any, by which the book value of all the land held by the credit union and its subsidiaries as at November 1, 1988 exceeded the lesser of

(a) an amount equal to 5% of the book value of the credit union's assets as at November 1, 1988 calculated on a consolidated basis, or

(b) the value of the land that the credit union and its subsidiaries needed at that date in order to carry on their businesses and conduct their affairs lawfully,

but this subsection does not apply in respect of leasehold estates in land.

(2) Subsection (1) applies in relation to Central and its subsidiaries.

(3) Notwithstanding section 99 and section 170(1) as it relates to section 99, a body corporate may hold securities investments referred to in this section until it disposes of them pursuant to this section or until the time limit set by this section for their disposal expires without their having been disposed of.

(4) Subject to subsections (7) and (9), where a body corporate held securities immediately before May 13, 1987 and has continued to hold them and their continued holding does not comply with section 99(b) or section 148, or section 170(1) as section 170(1) relates to section 99(b), as the case may be, then

(a) if the securities have a specified term or maturity date, the body corporate may hold them for the duration of that term or until that date, but may not then renew them, and

(b) if the securities have no specified term or maturity date, the body corporate shall dispose of them before November 1, 1990.

(5) Subject to subsections (6) and (9), where a body corporate acquired securities on or after May 13, 1987 and before November 1, 1988 and has continued to hold them and their continued holding does not comply with section 99(b) or section 148, or section 170(1) as section 170(1) relates to section 99(b), as the case may be, it shall dispose of those securities before November 1, 1990, unless it has the Minister's approval to retain them.

(6) A credit union or Central shall, before November 1, 1990, divest itself of any subsidiary formed or acquired by it on or after May 13, 1987 and before November 1, 1988, unless it has the approval of the Minister to retain the corporation as a subsidiary.

(7) Section 99(b), as it relates to section 103(2), and the corresponding provisions of section 170(1) shall not in themselves be taken to require the disposal of any shares held by an existing credit union immediately before May 13, 1987.

(8) *An existing credit union shall not form a subsidiary or make any investment referred to in section 103(1) without the prior approval of the Corporation, prior to the date when section 108 commences to apply to it.*

(9) *A credit union or Central shall, before November 1, 1990, dispose of any proportion of the shares acquired by it before November 1, 1988 and issued by any corporation that exceeds any of the percentage limits set by section 103(3)(a) or (b) or section 104(1)(a) or (b), or by section 170(1) as it relates to any of those provisions, as the case may be, as at November 1, 1988, unless it has the Minister's approval to retain the shares.*

(10) *Notwithstanding anything in section 105, where a credit union immediately before May 13, 1987 held as part of its reserve funds under section 45 of the former Act any deposit, debenture, loan stock or other investment for a specified term or with a fixed maturity date that has not matured, that investment shall be deemed to be a deposit with Central for the purposes of section 105(1) until its initial maturity date, if it is continuously held by the credit union until that date.*

(11) *An investment referred to in subsection (10) shall be valued, for the purposes of determining the extent to which it meets the average amount prescribed for the purposes of section 105(1), at the lower of its purchase price and the market value placed on it in the latest annual financial statements of the credit union.*

Equity program **233(1)** *An existing credit union shall have a program, approved by the Corporation, for ensuring that section 108 will be complied with at November 1, 1998 at the latest, and shall comply with the program.*

(2) *The credit union shall not make any changes to the program without the prior approval of the Corporation.*

(3) *Failure to comply with or maintain the program renders the credit union in need of assistance for the purposes of section 178.*

Guarantee reserve fund **234(1)** *If, immediately before November 1, 1988, an existing credit union had a guarantee reserve fund under the former Act, it shall convert that fund or such of the fund as is needed, to provide for the credit union's doubtful loans.*

(2) *The credit union shall, before November 1, 1990, convert any part of the fund that has not been used under subsection (1) into retained earnings.*

(3) *On the conversion of all of the fund under this section, the guarantee reserve fund is extinguished.*

Equity accounts **235(1)** *In this section, "equity accounts" means members' equity accounts operated under the former Act by an existing credit union and existing immediately before November 1, 1988.*

(2) *An existing credit union with equity accounts shall, before November 1, 1990, convert all the money standing to the credit of the equity accounts to the purchase of common shares for the respective members.*

(3) *On the conversion of all the money from the equity accounts, the equity accounts are extinguished.*

Conversion  
of former  
membership  
shares

**236(1)** *In this section, “former membership shares” means shares issued under the former Act by an existing credit union and outstanding and held by a member immediately before November 1, 1988, but does not include a class of shares created under section 88 or 99.1 of that Act.*

*(2) If, after applying section 235 and taking into account any share purchases otherwise made, a member will not have the number of common shares required by section 61(1) for membership, an existing credit union may, before November 1, 1990, convert into common shares such number of his former membership shares as are needed to produce that common share requirement.*

*(3) If a member has former membership shares that are not required for the purposes of subsection (2), the credit union shall, before November 1, 1990,*

*(a) re-designate the former membership share account as a participatory savings account,*

*(b) transfer an amount equal to the value of those former membership shares to a participatory savings account in the member's name,*

*(c) convert them into a deposit in the member's name for a term not exceeding 1 year, or*

*(d) pay that amount to, or to the order of, the member,*

*but the credit union may, with the prior consent of the member, convert his former membership shares into common shares.*

*(4) The credit union may adopt any combination of alternatives provided for in subsection (3).*

*(5) On the credit union's complying with subsection (3), the former membership shares in question are extinguished.*

Conversions  
generally

**237(1)** *The credit union shall add to stated capital accounts referred to in section 107(5) the value of conversions to common shares under sections 235 and 236.*

*(2) The Minister may make regulations setting out the basis for any conversions under sections 234 to 236.*

Supervision,  
administration,  
liquidation and  
dissolution

**238(1)** *An existing credit union that was under the supervision or administration of a person immediately before November 1, 1988 remains in that situation, subject to this Act and the regulations, until the situation changes under this Act.*

*(2) Notwithstanding section 241(1), where, immediately before November 1, 1988, an existing credit union was being dissolved or was under liquidation under the former Act, that Act continues to apply to the dissolution or the liquidation and dissolution of that credit union.*

Agreements

**239(1)** *An agreement entered into under section 99(c) of the former Act remains valid according to its terms until rescinded in so far as it is not subsequently varied.*

*(2) The Credit Union Deficit Financing Agreement between the Government, the Corporation, Central and SC Financial Limited dated*

*October 31, 1986, the Credit Union Stabilization Agreement entered into between the Government and the Corporation dated October 22, 1985 and the Liquidity Support for the Alberta Credit Union System Agreement between the Corporation and Central dated April 2, 1985, as amended up to October 31, 1988, remain valid according to their terms.*

*(3) To the extent that any provision of this Act or the regulations is inconsistent with the terms of an agreement referred to in subsection (2), the terms of the agreement prevail.*

*(4) The agreements referred to in this section, including any amendments thereto, are exempt from the Regulations Act.*

*(5) The Lieutenant Governor in Council may make any regulations he considers necessary to provide legislative enforcement of any of the provisions of agreements referred to in subsection (2), and those regulations prevail, in the event of any inconsistency, over any provision of this Act or any other provisions of the regulations.*

Miscellaneous  
transitional  
provisions

**240(1)** *All the assets and liabilities of the Credit Union Stabilization Fund are transferred to the Corporation and that Fund is dissolved.*

*(2) Notwithstanding sections 65 and 165, a person who was a director of a credit union or of Central immediately before May 13, 1987 and who continued to serve as a director, without re-election or re-appointment, continuously until October 31, 1988 is entitled to continue to serve as a director until the expiration of the term of his directorship for which he was elected or appointed, unless he is disqualified by section 65(2)(b), (g), (h), (i), (j), (k) or (l) or the equivalent provisions of section 165, as the case may be.*

*(3) The 12-month period referred to in section 49(3) shall not be regarded as running during any period before November 1, 1988.*

*(4) The 12-month and 2-year periods respectively referred to in sections 116(1)(a) and 117(1)(a) shall be regarded as running during those respective periods prior to November 1, 1988.*

*(5) Where a loan referred to in section 135(7) was made pursuant to a contract with an existing credit union entered into before May 13, 1987, the borrower shall repay the loan before November 1, 1989, except that where under the terms of the contract the loan has a specified term for repayment or is repayable on a specific date, the provisions of the contract continue to apply during that term or until that date unless the contract making that provision is terminated before then by the parties.*

*(6) A decision referred to in any of sections 229 to 240 that corresponds to a decision that is made subject to review and appeal by Part 17 is also subject to review and appeal under that Part.*

### Repeals, Commencement and “Sunset” Provisions

- Repeals      **241(1)** *The Credit Union Act, chapter C-31 of the Revised Statutes of Alberta 1980, is repealed.*
- (2) *Sections 14 and 15 of the Credit Union Amendment Act, 1985 are repealed.*
- (3) *The Credit Union Federation of Alberta Act is repealed.*
- Coming  
into force      **242(1)** *Divisions 2 and 3 of Part 3 and section 135(7) and (8) are deemed to have come into force on May 13, 1987.*
- (2) *The words in section 1(1)(ii) “complies with section 61 and otherwise” come into force on November 1, 1990.*
- (3) *Section 61 comes into force on November 1, 1990.*
- (4) *To the extent that section 108 relates to existing credit unions, that section and sections 103(5) and 110(2)(c) come into force on November 1, 1998 except that they continue to apply to an existing credit union which has at any time after November 1, 1988 and before November 1, 1998 been in compliance with section 108.*
- (5) *Section 130(1) and (3) come into force on November 1, 1989.*
- (6) *Section 225(b) comes into force on November 1, 1993, but regulations made under that clause and the words in section 154(1) “and any regulations made under section 225(b)” come into force on such date, not being less than 1 year after those regulations are made and not in any case before November 1, 1994, as is prescribed and those regulations may not apply in respect of deposits made or renewed before the commencement of those regulations.*
- (7) *Section 228(8) comes into force on the date this Act receives Royal Assent.*
- (8) *Section 233 comes into force on May 1, 1989.*
- (9) *Subject to this section, this Act comes into force on November 1, 1988.*