

CREDIT UNIONS ORDINANCE

(Cap. 119)

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To incorporate and regulate credit unions and the Credit Union League of Hong Kong, and to provide for matters incidental thereto.

[28 February 1970] *L.N. 30 of 1970*

PART I

PRELIMINARY

1. Short title

This Ordinance may be cited as the Credit Unions Ordinance.

2. Interpretation

In this Ordinance, unless the context otherwise requires—

“board” (董事會) means a board of directors of a credit union constituted under section 28;

“by-laws” (章程) means the by-laws made in accordance with Part VII and approved by the Registrar under subsection (3) of section 5 or the by-laws (if any) prescribed under section 85;

“credit union” (儲蓄互助社) means a credit union registered under this Ordinance;

“director” (董事) means a director of a board;

“financial year” (財政年度) means the twelve months ending on the 31st day of March in any year or on such other annual date as may be provided in the by-laws;

“League” (協會) means the Credit Union League of Hong Kong incorporated under Part XI;

“officer” (高級人員) and “officer of a credit union” (儲蓄互助社的高級人員) mean any of the persons specified in section 30;

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“Registrar” (註冊官) means the Registrar of Credit Unions appointed under section 82;

“share” (股份) means, in relation to a credit union, each sum of five dollars standing to the credit of a member in the accounts of that credit union;

“share balance” (股份結餘) means the total value of all—
(a) fully paid up shares; and
(b) instalments paid in respect of other shares,
appearing for the time being in the accounts of a credit union;

“treasurer” (司庫) means the person appointed under section 29 as treasurer or as treasurer and secretary of a board.

PART II

FORMATION AND POWERS OF CREDIT UNIONS

3. Conditions of registration

- (1) Any fifteen or more persons—
 - (a) each of whom is not less than sixteen years of age;
 - (b) at least three of whom are not less than twenty-one years of age;
 - (c) who satisfy the requirements of section 15;
 - (d) who wish to associate themselves together as a credit union for the objects set forth in subsection (2),
may be registered as a credit union.
- (2) The objects of a credit union shall be—
 - (a) to promote thrift among its members;
 - (b) to receive the savings of its members either as payment on shares or as deposits; and
 - (c) to make loans to its members, exclusively for provident or productive purposes.

4. Memorandum of association

- (1) The persons referred to in section 3 may apply for the registration of a credit union to the Registrar.
- (2) Such persons shall sign in duplicate before two witnesses (who shall not be subscribers to the memorandum) a memorandum of association in the prescribed form and cause both copies thereof to be filed in the office of the Registrar.

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- (3) There shall be attached to the memorandum of association two copies of the by-laws by which it is proposed that the credit union shall be governed.
- (4) The persons signing the memorandum of association shall appoint a provisional secretary, who shall hold office until a secretary of the board is appointed under section 29.

5. Registration

- (1) When the memorandum of association is duly filed, the Registrar shall consider whether the application complies with this Ordinance and may make such inquiries as he deems necessary for that purpose.
- (2) The Registrar, after making such inquiries, may register the credit union, if he is satisfied—
 - (a) that the proposed by-laws do not conflict with any provision of this Ordinance;
 - (b) that the proposed by-laws are sufficient to enable the credit union to carry out its objects;
 - (c) that the body to which membership is limited is such as to ensure reasonable personal association amongst the members;
 - (d) that the applicants have reasonable prospects of carrying out the objects of a credit union;
 - (e) that the applicants and the application comply with the requirements of this Ordinance.
- (3) On such registration the Registrar shall send to the provisional secretary of the credit union—
 - (a) one copy of the memorandum of association;
 - (b) one copy of the by-laws, with his approval endorsed thereon; and

(c) a certificate of registration, in the prescribed form.

6. Incorporation with limited liability; and effect thereof

- (1) Upon its registration, a credit union shall be a body corporate with perpetual succession and shall be capable of suing and being sued in its registered name and, subject to this Ordinance, of doing and suffering all such other acts and things as bodies corporate may lawfully do and suffer.
- (2) In addition, upon such registration—
 - (a) all the movable property for the time being vested in any person in trust for the credit union shall vest in it;
 - (b) all liabilities incurred by any person as trustee of the credit union shall become its liabilities; and
 - (c) all legal proceedings pending by or against any such trustee may be prosecuted by or against the credit union in its registered name.
- (3) The liability of a member of a credit union shall be limited to the amount of the shares held by him.

7. Restriction on name

No credit union shall be registered under a name identical with that by which any other existing credit union has been registered, or so nearly resembling the same as to be likely to deceive, and the expression “credit union”, or the Chinese expression “儲蓄互助社”, shall be the last words of the name of every credit union.

8. Amendment of memorandum of association

- (1) Subject to this Ordinance, a credit union may, by resolution passed by two-thirds of the members, present and qualified to vote, at an annual meeting, or at a special meeting called for the purpose, amend its memorandum of association.

- (2) No such amendment shall be of any effect until approved by the Registrar and his approval is endorsed by him on the memorandum of association.

9. Registered office

Every credit union shall have a registered office in Hong Kong to which all communications and notices shall be sent. The credit union shall send to the Registrar written notice of the address of its registered office and of every change of the address thereof.

(Amended 35 of 1995 s. 15)

10. Powers

For the purpose of carrying out its objects, a credit union may—

- (a) deposit money in any bank in Hong Kong approved by the Registrar; *(Amended 35 of 1995 s. 15)*
- (b) invest in any stock, debenture stock, funds or securities in which a trustee may invest by virtue of the Trustee Ordinance (Cap. 29);
- (c) become a member of any other credit union;
- (d) subject to section 43, borrow money;
- (e) insure its loans, funds and property against loss;
- (f) subject to this Ordinance, under the hands of its president and treasurer, or vice-president and treasurer, draw, make, accept, endorse, execute and issue promissory notes, bills of exchange, bills of lading, warrants and other negotiable or transferable instruments, and any prescribed instruments within the meaning of section 137B of the Banking Ordinance (Cap. 155); *(Amended 94 of 1993 s. 38)*
- (g) hold, purchase, take on lease, sell, exchange, lease or otherwise dispose of any land;

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- (h) do all such other acts and things as are incidental or conducive to or consequential upon the attainment of the objects mentioned in section 3.
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PART III**CAPITAL, SHARES AND MEMBERSHIP****11. Capital divided into shares**

The capital of a credit union shall be unlimited in amount and shall be divided into shares of a value of five dollars each.

12. Allotment and subscription for shares

- (1) Subject to this Ordinance, shares in a credit union may be allotted, subscribed and paid for in the manner provided in the by-laws.
- (2) Shares in a credit union shall be allotted only to the members thereof.
- (3) No share shall be allotted to a member until he has paid for it in cash in full without any premium or discount.
- (4) A credit union shall not issue to a member a certificate denoting ownership of a share.

13. Disposal of shares

- (1) Subject to this Ordinance, shares in a credit union may be transferred or withdrawn by the holder thereof in the manner provided in the by-laws.
- (2) No transfer or withdrawal of shares in a credit union shall be valid unless approved by the board, which approval shall be withheld if the transfer or withdrawal would reduce the total number of members of the credit union to less than fifteen.
- (3) A transfer of shares in a credit union may take place only between the members thereof and no charge in respect of any transfer shall be imposed by the credit union.

- (4) A member of a credit union may not transfer or withdraw any shares if the transfer or withdrawal would make the total value of his shares less than his total liability to the credit union, whether as borrower, pledgor, guarantor or otherwise.

14. Restriction on disposal of shares by officers, etc.

- (1) No officer or member of a credit union, whilst entrusted with or participating in the management of the affairs of the credit union, shall pledge, transfer, withdraw or otherwise dispose of his shares except in accordance with this Ordinance and the by-laws.
- (2) If a credit union is wound up under Part IX, any disposition of shares by way of pledge, transfer, withdrawal or otherwise made by an officer or member thereof within the four months preceding the commencement of the winding-up shall be invalid and the officer or member shall remain liable to the creditors of the credit union to the extent of any shares so disposed of.

15. Membership limited to persons with common occupation, etc.

The membership of a credit union shall be limited to persons having a common bond of occupation, employment, association, or residence within a defined neighbourhood, community, or rural or urban area:

Provided that a member of a credit union who ceases to have the common bond to which membership of the credit union is limited may retain his membership thereof but may not obtain the grant of any loan therefrom exceeding the value of his shares in the credit union.

16. Admission to and conditions of membership

- (1) A person shall not be admitted to membership of a credit union unless—

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- (a) his application for membership has been approved by the board;
 - (b) he has paid such entrance fee as may be provided in the by-laws; and (*Amended 35 of 1995 s. 2*)
 - (c) he has subscribed to at least one share and has paid an amount thereon not less than such initial instalment as may be provided in the by-laws.
- (2) Subject to subsection (1), the conditions of membership of a credit union shall be in accordance with the by-laws.

17. Minors

- (1) A minor may be admitted to membership of a credit union but shall not be qualified to vote at the annual or special meetings thereof until he has attained the age of sixteen years.
- (2) The minority of any person duly admitted as a member of any credit union shall not debar that person from executing any document necessary to be executed or given under this Ordinance, and shall not be a ground for invalidating or avoiding any contract entered into by any such person with the credit union; and any such contract entered into by any such person with the credit union, whether as principal or as surety, shall be enforceable at law by or against such person notwithstanding his minority.

18. Expulsion of member

- (1) A member of the credit union who contravenes any provision of this Ordinance or acts in any way detrimental to the interests of the credit union may be expelled therefrom upon a resolution passed by two-thirds of the members present and qualified to vote, at an annual meeting, or at a special meeting called for the purpose.

- (2) The grounds on which his expulsion is being considered shall be communicated to the member in writing by the board not less than seven days before the resolution for his expulsion is to be moved and he shall be given the opportunity to answer, either in writing before the meeting or orally thereat.
- (3) The by-laws of a credit union may make provision in respect of the expulsion of members therefrom.

19. Cessation of membership

Subject to this Ordinance, a member of a credit union who transfers or withdraws all his shares therein or who is expelled therefrom shall, from the date of such transfer, withdrawal or expulsion, cease to be a member of the credit union.

20. Payment on cessation of membership

- (1) Subject to this section, any money owed in respect of shares by a credit union to a past member thereof shall, after deduction of any money owed by him to the credit union, be paid to him.
- (2) A credit union may, if it thinks fit, postpone the payment of any money owed to a past member for not more than ninety days after his membership ends.
- (3) No payment shall be made by a credit union to a past member unless all his liabilities to the credit union, whether as borrower, pledgor, guarantor or otherwise, have been fully discharged or otherwise fully provided for by a person other than the credit union.

21. Liability on cessation of membership

A past member of a credit union shall have no further rights therein but shall not thereby be released from any remaining liability to the credit union.

22. Debts owed by members or past members

- (1) Any money owed to a credit union by a member or a past member shall be a civil debt and recoverable as such in a court of competent jurisdiction.
- (2) A credit union shall have a lien on the shares of a member for any debt owed to it by him, and may set off any sum standing to the credit of such member in the accounts of the credit union towards the payment of such debt.

23. Payment to nominee or person entitled upon death of member

- (1) Subject to this section, any money owed in respect of shares by a credit union to a member thereof who dies shall be paid to the person nominated in accordance with this section, or, if there is no person so nominated, to such person as may appear to the board, on such evidence as it deems satisfactory, to be entitled by law to receive the same, after deducting such amounts as may be owed by the deceased member to the credit union.
- (2) A member of a credit union over the age of sixteen years may in writing, signed by him in the presence of two attesting witnesses and deposited during his lifetime with the treasurer of the credit union, nominate any person (hereinafter in this section referred to as a nominee) to receive in the event of his death any money owed to him in respect of shares by the credit union.
- (3) A member of a credit union shall be entitled to appoint only one nominee unless he holds more than one share.
- (4) If more than one nominee is appointed by a member the exact proportion of the amount available which is to be payable to each nominee shall be specified at the time of nomination.

- (5) If any payment is made under this section to a nominee who is a minor, a receipt given either by the minor or by his guardian shall be sufficient discharge to the credit union.

24. Record of members and shares

A record of members and shares shall be kept by every credit union and shall contain and be prima facie evidence of—

- (a) the name, address and occupation of each member;
 - (b) the number of shares (with the dates of allotment thereof) held by each member;
 - (c) the total number of shares and the amount paid up in respect thereof;
 - (d) the date on which each member was admitted to membership;
 - (e) the date on which a member ceased to be such;
 - (f) every appointment of a nominee under section 23.
-

PART IV
MEETINGS AND ELECTION OF BOARD AND
COMMITTEES

25. Annual and special meetings

- (1) There shall be an annual meeting of the members of a credit union within 90 days after the end of the financial year within which the first meeting of the credit union is held pursuant to section 27 and thereafter within 90 days after the end of each subsequent financial year. (*Amended 35 of 1995 s. 3*)
- (2) Subject to this Ordinance, special meetings of the members may be called at the times and in the manner provided in the by-laws.
- (3) Where in any case, due to the nature of the common occupation or employment of the persons forming a credit union, it is not practicable for all the members thereof to be present at the same instance at its annual or special meetings, substitute meetings of members may be held on two separate occasions in the manner provided in the by-laws, and meetings so held shall together be deemed to be annual or special meetings, whichever is appropriate.
- (4) Subject to section 26, the voting and the procedure at annual and special meetings shall be in accordance with the by-laws.

26. Voting

- (1) No member shall have more than one vote at any annual or special meeting and no voting by proxy shall be allowed thereat.

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- (2) Voting at an election of members to the board, the supervisory committee or the credit committee of a credit union shall be by secret ballot.

27. First meeting

- (1) The provisional secretary of a credit union shall, within ten days after the receipt by him of the certificate of registration issued in accordance with section 5, notify each of the members of the credit union that he has received it and shall summon the first meeting of the members, which shall be held within fourteen days of the date of his receipt of the certificate.
- (2) For the purposes of subsection (1), the body of persons which has been registered as a credit union under section 5 shall be deemed to be the members of the credit union.

28. Election and tenure of office of board of directors and committees

- (1) At its first meeting after registration, a credit union shall elect from among its members—
 - (a) a board consisting of five directors or of such greater number, not exceeding fifteen, as may be provided in the by-laws;
 - (b) a supervisory committee consisting of such number of members, not exceeding 5, as may be provided in the by-laws; and *(Replaced 35 of 1995 s. 4)*
 - (c) a credit committee consisting of such number of members, not exceeding 5, as may be provided in the by-laws. *(Replaced 35 of 1995 s. 4)*
- (2) At the annual meeting in every subsequent financial year there shall retire from office the number nearest one-third of

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the directors, one member of the supervisory committee and one member of the credit committee.

- (3) The directors and committee members who shall retire in any year shall be those who have been longest in office since their last election; as between persons who became directors or committee members on the same day, those who shall retire shall (unless they otherwise agree among themselves) be determined by lot.
- (4) A retiring director or committee member shall be eligible for re-election.
- (5) At the annual meeting at which a director or committee member retires under subsection (2) the credit union shall fill the vacated office by electing a person thereto from among its members.
- (6) Any vacancy occurring—
 - (a) on the board or the credit committee, shall be filled by appointment by the board within fourteen days of the occurrence of such vacancy; or
 - (b) on the supervisory committee, shall be filled by appointment by that committee within fourteen days of the occurrence of such vacancy.
- (7) Where an appointment is made under subsection (6) other than for the purpose of filling a temporary vacancy caused through illness, absence from Hong Kong or any other cause, the person so appointed shall retire at the same time as if he had become a director or committee member, as the case may be, on the day on which the person in whose place he is appointed was last elected. (*Amended 35 of 1995 s. 15*)

29. Meetings of board and committees, and appointment of officers and procedure

- (1) Immediately following its election the board shall hold its first

meeting and thereat shall appoint from among its members a president, a vice-president, a treasurer and a secretary:

Provided that the board may appoint one person to perform the functions of both treasurer and secretary.

- (2) The supervisory committee and the credit committee shall hold their first meetings immediately after election and shall appoint for each committee—
 - (a) a chairman, who shall preside at the meetings of the committee; and
 - (b) a secretary.
- (3) Subsequent meetings of the board and of each committee shall be held at least once in every month and at such other times as may be considered necessary by the president, in the case of the board, or by the chairman, in the case of each committee, or as may be provided in the by-laws.
- (4) If the president and vice-president are both absent from any meeting of the board, the members present may appoint one of themselves to preside at the meeting.
- (5) If the chairman is absent from any meeting of the supervisory committee or the credit committee, the members present may appoint one of themselves to preside at the meeting.
- (6) The number of members which shall constitute a quorum at a meeting of the board, the credit committee or the supervisory committee shall be as provided by the by-laws.

30. Officers of a credit union

The persons for the time being appointed to the offices referred to in section 29 shall be the officers of the credit union concerned.

31. Composition of the committees

- (1) No member of the supervisory committee may be a director

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of the board or a member of the credit committee.

- (2) Neither the president nor the treasurer of the board nor more than one director of a credit union may be a member of the credit committee thereof.

32. Remuneration

No director or member of either committee of a credit union shall, as such, receive remuneration from that credit union:

Provided that the treasurer may be paid such remuneration as may be determined at an annual meeting of the credit union.

PART V
MANAGEMENT

Powers and duties of board

33. Powers and duties of the board

- (1) The board of a credit union shall have the general management of the affairs, funds and records of the credit union and, except where a contrary intention appears, shall exercise and perform all the powers and duties conferred and imposed by this Ordinance and in particular shall—
 - (a) act and make decisions upon all applications for membership of the credit union;
 - (b) determine the maximum number of shares which may be held by any one member, which shall not without the permission of the board exceed twenty per cent of the shares of the credit union and which shall apply to all members;
 - (c) determine the length of notice (which shall not exceed ninety days) required from a member of his intention to transfer or withdraw shares;
 - (d) determine the maximum length of time in respect of which loans made by the credit union to its members may remain outstanding, in whole or in part;
 - (e) subject to subsection (2) of section 40, determine the maximum amount of loans which may be made to a member, with security or without security;
 - (f) subject to section 41, determine the rates of interest payable during any specified period on such loans;

- (g) fix from time to time the amount of any surety bond which shall be required in respect of any officer or member concerned with the receipt, management or expenditure of money for or on behalf of the credit union, and for such purposes may authorize the payment of any premium on such bonds by the credit union;
 - (h) appoint persons to act, under the direction of the board, in the furtherance of the education of persons in the objects and practices of credit unions.
- (2) The board shall exercise and perform such other powers and duties as may be conferred or imposed upon it by the by-laws.

Powers and duties of supervisory committee

34. Powers and duties of supervisory committee

In addition to such powers and duties as may be conferred or imposed by the by-laws, the supervisory committee—

- (a) shall carry out an examination of the affairs and audit the accounts of the credit union and prepare a balance sheet on the accounts at least once in each quarter of every financial year;
- (b) shall make or provide for an annual audit of the accounts of the credit union and submit a report thereon together with a balance sheet to the annual meeting of the credit union for its approval;
- (c) may, if it deems it to be necessary in the interests of the credit union, by the unanimous vote of all its members suspend any director of the board or any member of the credit committee from the functions of his office and call a special meeting of the credit union to consider a report of the committee on such suspension;

- (d) may call a special meeting of the credit union to consider any matter which in the opinion of the committee ought to receive such consideration.

Powers and duties of credit committee

35. Powers and duties of credit committee

In addition to such powers and duties as may be conferred or imposed by the by-laws, the credit committee shall have general supervision over all loans made to the members of the credit union and, subject to paragraphs (d), (e) and (f) of subsection (1) of section 33, shall, in respect of every such loan—

- (a) fix the amount thereof;
- (b) decide on the security (if any) required therefor; and
- (c) determine the conditions for repayment thereof.

36. Approval of loans

Save as provided in section 38, no loan shall be made to a member of the credit union except with the prior and unanimous approval of the members of the credit committee.

37. Acceptable security for loans

In addition to or in lieu of any other form of security, the credit committee may in its discretion accept an endorsement of a note by a member as guarantor or a pledge of shares by a member as security for a loan.

38. Loan officers

- (1) The credit committee, with the prior approval of the board, may appoint members of the credit committee as loan officers to act under the committee's supervision.

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PART V

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- (2) Notwithstanding anything contained in section 36, a loan officer may make loans to members of the credit union in the manner provided in the by-laws.
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PART VI
LOANS, BORROWING, RESERVE FUND AND
DIVIDENDS

Loans to members

39. Purposes of loans

No loan shall be made to a member of a credit union under this Ordinance other than for provident or productive purposes.

40. Restrictions on loans

- (1) Save as is provided in paragraphs (a) and (b) of section 10, no credit union shall make a loan to any person who is not a member thereof.
- (2) A loan shall not be made by a credit union to a member thereof if this would cause the member to owe the credit union more than ten per cent of the aggregate amount of the share balance, the reserve fund and any other funds of the credit union.

41. Rates of interest

- (1) The interest rate on any loan made by a credit union to a member thereof shall not exceed one per cent per month on the total of the unpaid balance of any such loan plus all charges (if any) made by the credit union in making the loan.
- (2) The interest rate determined in respect of loans made to members of a credit union during any specified period shall be the same for all such loans.

42. Unanimous vote required for loans to directors or committee

members

No director or member of the supervisory committee or the credit committee may obtain a loan from the credit union in excess of the value of his shares except upon the unanimous vote of a majority of the board, the supervisory committee and the credit committee, sitting together, such director or member not being present at the taking of the vote.

Borrowing powers**43. Borrowing powers**

- (1) Subject to this section, a credit union may borrow money for the carrying out of its objects.
- (2) No money shall be borrowed by a credit union save upon a resolution of its board.
- (3) A credit union may not borrow money so that its total indebtedness would in consequence exceed fifty per cent of its share balance.
- (4) A credit union may not borrow money so that its total indebtedness would in consequence exceed twenty-five per cent of its share balance, except in addition to the board's resolution, upon a resolution passed by not less than three-fourths of the members, present and qualified to vote, at a special meeting of the credit union called for the purpose or if sanctioned in writing by not less than two-thirds of the total number of the members of the credit union qualified to vote.

44. Power to mortgage, etc. as security for borrowed money

A credit union may mortgage, charge or pledge any of its property to secure any liability for the repayment of money borrowed in accordance with section 43.

Reserve fund

45. Reserve fund

- (1) The board shall set aside a reserve fund, into which shall be paid—
 - (a) all entrance fees and fines collected from members; and
 - (b) during each financial year, not less than twenty per cent of the net earnings for the previous financial year, before the declaration or payment of any dividend in relation to the previous financial year,until the reserve fund is equal to at least ten per cent of the share balance of the credit union, and such further amounts of the net earnings shall be paid into the fund in every year as may be necessary to maintain that percentage.
- (2) The reserve fund shall not be used in making loans to members of the credit union.
- (3) Any income received from any part of the reserve fund which is deposited or invested shall be paid to the general revenue of the credit union.
- (4) The reserve fund shall be kept as a reserve against losses incurred from loans made by the credit union which remain outstanding after the time for their repayment in full has expired and other losses, other than excess expenditure over income, incurred by the credit union, and shall not be used for any other purpose except upon the winding-up of the credit union or with the prior approval in writing of the Registrar:
Provided that during the twelve months next following the date of its registration, an amount not exceeding the total of the entrance fees collected from members may be drawn from the reserve fund to meet any expenses incurred in the formation and organization of a credit union.

Dividends

46. Declaration, limit and payment of dividend

- (1) After provision is made for the reserve fund, in accordance with section 45, and before the holding of the annual meeting of the credit union for that year, the board may by resolution recommend that a dividend, not exceeding six per cent per annum, shall be paid from the remainder of the net earnings and shall present any such resolution to that annual meeting.
- (2) The annual meeting may declare a dividend for that year, which shall not exceed the amount recommended by the board.
- (3) A dividend so declared shall be paid on all shares fully paid up and registered in the name of the same member throughout the previous financial year:

Provided that a member who is registered as owner at the end of a financial year of shares which became fully paid up during that year shall be entitled to the proportional part of such dividend calculated from the fifth day of the month following the date upon which such shares became fully paid up.

- (4) Subject to subsection (3), payment of the dividend (if any) so declared may be made in such manner and amounts and at such times as may be provided in the by-laws.

PART VII**BY-LAWS****47. By-laws**

- (1) The by-laws of every credit union shall be in a form approved by the Registrar.
- (2) The by-laws of a credit union may, and, if so directed by the Registrar, shall, include provision for all or any of the following—
 - (a) the depositing of all or any specified funds or money of a credit union in a bank in Hong Kong approved by the Registrar; (*Amended 35 of 1995 s. 15*)
 - (b) the imposition of charges on any member whose account remains inactive for a specified period;
 - (c) the imposition of fines upon members for failure to meet their obligations to the credit union;
 - (d) specifying the purposes for which the profits of the credit union may be used.
- (3) Any by-laws which are prescribed under paragraph (a) of section 85 shall, subject to such modification as may be approved by the Registrar, be deemed to be the by-laws of a credit union.
- (4) Notwithstanding anything contained in section 20 of the Interpretation and General Clauses Ordinance (Cap. 1), it shall not be necessary to publish the by-laws of a credit union in the Gazette.

48. Amendment of by-laws

- (1) By-laws may be amended only by a resolution of two-thirds

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of the members present and qualified to vote, at the annual meeting of the credit union or at a special meeting thereof called for the purpose.

- (2) No such amendment shall be of any effect until the same has been approved in writing by the Registrar.

49. Binding effect of the by-laws

The by-laws of a credit union shall bind the credit union and the members thereof to the same extent as if each member had subscribed his name and affixed his seal thereto and there were in such by-laws a covenant on the part of himself, his executors, administrators and assigns to conform to such by-laws, subject to the provisions of this Ordinance.

PART VIII**RETURNS, AUDIT, INFORMATION AND INQUIRY****50. Return of names of officers**

A record of the name, occupation and address of each officer of a credit union shall be furnished to the Registrar not later than ten days after the appointment of the officer.

51. Return of supervisory annual audit

A copy of the audit report and balance sheet, submitted to the annual meeting in accordance with paragraph (b) of section 34 and approved thereat, shall be furnished to the Registrar not later than thirty days after the date of such meeting.

52. Registrar's annual examination

- (1) The accounts of a credit union shall be examined at least once in every year by or under the direction of the Registrar and a credit union undergoing such examination shall produce all cash in hand, books, records and other documents required by the person conducting the examination.
- (2) Every such examination shall include an inquiry into overdue debts (if any) and a valuation of the assets and liabilities of the credit union.
- (3) A copy of the report of the last examination carried out under this section and a copy of the audit report and balance sheet referred to in section 51 shall be posted in a conspicuous place at the registered office of the credit union for not less than one month.

53. Information for Registrar and verification thereof

- (1) A credit union shall furnish the Registrar with such statements with respect to its business, finances and other affairs and with such other information as he may from time to time require.
- (2) Any statement and other information and any record and report required to be furnished by a credit union to the Registrar under this Ordinance or the by-laws shall be certified by the supervisory committee and verified by the president and the treasurer of the credit union.

54. Inquiry, examination and suspension

- (1) The Registrar and any person authorized by him may inquire into the condition and affairs of a credit union and for this purpose shall be given access to all books, records and other documents of the credit union and may make such inquiries as are in his opinion necessary to ascertain its financial condition, its ability to provide for the payment of its liabilities as they become due and whether or not it has complied with this Ordinance.
- (2) The Registrar may, if he is satisfied, from an inquiry into the condition and affairs of a credit union, that any of its funds, securities or other property may have been misappropriated or improperly used or that the books, records or other documents do not show its true financial position, appoint an auditor to make such inquiry and audit of the affairs of the credit union as the Registrar considers necessary.
- (3) The Registrar may, after an inquiry under this section, if he is satisfied that the continuance in business of such credit union would not be in the interests of its members or of the public, order the credit union to suspend business for such time as he may decide.

PART IX

WINDING-UP

55. Winding-up of credit unions

No credit union shall be wound up unless in accordance with this Part the Registrar has made an order cancelling its registration.

(Amended 35 of 1995 s. 5)

56. *(Repealed 35 of 1995 s. 6)*

57. Credit union may resolve to be wound up

- (1) Subject to this section, a credit union may—
 - (a) by instrument in writing signed by three-quarters of its members qualified to vote at its meetings; or
 - (b) by resolution passed by three-quarters of its members qualified to vote and voting at a special meeting called for the purpose,
resolve that it be wound up.
- (2) Every credit union shall give at least ten days prior notice in writing to the Registrar of its intention to issue any such instrument for the signature of its members or to hold any such meeting, as the case may be.
- (3) Where a credit union resolves under subsection (1) that it be wound up, a copy of the instrument or a record of the resolution, certified by the president and treasurer of the credit union, shall be delivered forthwith to the Registrar who shall, as soon as practicable thereafter, make an order cancelling the registration of the credit union.

(Amended 35 of 1995 s. 7)

58. Cancellation of registration by Registrar

- (1) The Registrar may, after an inquiry under section 54(1), give notice to a credit union by registered post of his intention to cancel its registration, setting out any of the grounds specified in subsection (2) and stating that, unless cause is shown to the contrary within 1 month of the date of service of the notice, he will make an order cancelling its registration.
- (2) The grounds referred to in subsection (1) for cancelling the registration of a credit union are that—
 - (a) the number of members qualified to vote at meetings of the credit union has been reduced to less than 15;
 - (b) the registration of the credit union was obtained by fraud or mistake;
 - (c) the credit union is not a bona fide credit union;
 - (d) the credit union exists for an illegal purpose;
 - (e) the credit union is unable to pay its debts;
 - (f) the credit union is not carrying on business or is not in operation; or
 - (g) the credit union has wilfully contravened any of the provisions of this Ordinance.
- (3) The Registrar may, if he has given notice under subsection (1), and unless in his opinion sufficient cause to the contrary is shown by the credit union within 1 month of the date of service of the notice, by order in writing cancel the registration of the credit union.

(Replaced 35 of 1995 s. 8)

59. When order cancelling registration takes effect

- (1) Where no appeal is made under section 62(1) within 14 days

from the making of an order cancelling the registration of a credit union, the order shall take effect on the expiry of that period.

- (2) Where an appeal is made within 14 days under section 62(2), the order shall not take effect until it is confirmed by the District Court hearing the appeal.

(Replaced 35 of 1995 s. 9)

60. Order for custody of books and protection of assets

Where the registration of a credit union is cancelled under section 57(3) or 58(3), the Registrar may make such further order as he thinks fit for the custody of the books and documents and the protection of the assets of the credit union until the order cancelling the registration takes effect.

(Replaced 35 of 1995 s. 10)

61. Appointment of liquidator on, and the effect of, cancellation of registration

Where the registration of a credit union is cancelled by order of the Registrar under section 57(3) or 58(3)—

- (a) he may appoint one or more persons to be, subject to his direction and control, the liquidator or liquidators of the credit union; and
- (b) the credit union shall cease to exist as a corporate body from the date on which the order takes effect, but any rights or duties conferred or imposed on the credit union by or under section 22 or 23 are deemed to be vested in the liquidator appointed for it by the Registrar.

(Replaced 35 of 1995 s. 11)

61A. Liquidator's powers

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- (1) A liquidator appointed under section 61 shall, subject to the direction and control of the Registrar and to any limitations imposed by the Registrar by order under section 61B, have power to—
 - (a) appoint by notice published in the Gazette a day before which creditors whose claims are not already recorded in the books of the credit union shall state their claims before they prove them;
 - (b) decide any question of priority which arises between creditors;
 - (c) decide by what persons and in what proportions the costs of liquidation are to be borne;
 - (d) give such directions in regard to the collection and distribution of assets as may be necessary in the course of winding-up the credit union;
 - (e) compromise any claim by or against the credit union if the permission of the Registrar has first been obtained;
 - (f) call such general meetings of members as may be necessary for the proper conduct of the liquidation;
 - (g) take possession of the books, documents and assets of the credit union;
 - (h) sell the property of the credit union;
 - (i) carry on the business of the credit union so far as may be necessary for winding it up beneficially, but nothing in this section shall entitle the liquidator to grant any loan; and
 - (j) arrange for the distribution of the assets of the credit union in a convenient manner when a scheme of distribution has been approved by the Registrar.
- (2) A liquidator appointed under section 61 shall, so far as such powers are necessary for carrying out the purposes of this

section, have all the powers of a magistrate to summon and enforce the attendance of parties and witnesses and to compel the production of documents.

(Added 35 of 1995 s. 12)

61B. Power of Registrar to control liquidation

The Registrar may—

- (a) rescind or vary any order made by a liquidator and make whatever new order is required;
- (b) remove a liquidator from office;
- (c) call for all books, documents and assets of the credit union;
- (d) by order in writing limit the powers of a liquidator under section 61A;
- (e) require accounts to be rendered to him by the liquidator;
- (f) procure the auditing of the liquidator's accounts and authorize the distribution of the assets of the credit union;
- (g) make an order for the remuneration of the liquidator.

(Added 35 of 1995 s. 12)

61C. Closure of liquidation

- (1) In the winding-up of a credit union whose registration has been cancelled, the funds, including the reserve fund, shall be applied in the following order of priority—
 - (a) to the costs of liquidation;
 - (b) to the discharge of the liabilities of the credit union;
 - (c) to the payment of the shares; and

- (d) if the by-laws of the credit union permit, to the payment of a dividend at a rate not exceeding 6% per annum for any period for which no payment of dividend was made.
- (2) If at the closing of the liquidation of a credit union any of its creditors has not claimed or received what is due to him under the scheme of distribution, notice of the closing of the liquidation shall be published in the Gazette; and, all claims against the funds of the credit union shall be barred when 2 years have elapsed from the date of the publication of the notice in the Gazette.
- (3) Any surplus remaining after the application of the funds to the purposes specified in subsection (1) and the payment of any claims for which an action is instituted under subsection (2) shall be available for use by the Registrar for any credit union purpose at his discretion.

(Added 35 of 1995 s. 12)

61D. Power of Registrar to surcharge officers, etc., of a credit union

Where in the course of winding-up a credit union it appears that any person who has taken part in its organization or management, or any past or present officer of the credit union, has misapplied or retained or become liable or accountable for any of its money or property or has been guilty of misfeasance or breach of trust in relation to the credit union, the Registrar may, on the application of the liquidator or of any creditor, investigate the conduct of such person and notwithstanding that that conduct may be criminal make an order requiring him to—

- (a) repay or restore the money or property or any part thereof with interest at such rate as the Registrar thinks just; or
- (b) contribute such sum to the assets of the credit union by way of compensation in regard to the misapplication,

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retention, dishonesty or breach of trust as the Registrar thinks fit.

(Added 35 of 1995 s. 12)

PART X

APPEALS

62. Appeal against action of Registrar

- (1) If the Registrar—
 - (a) refuses to register a credit union under section 5;
 - (b) fails to register a credit union within thirty days of the receipt of a memorandum of association duly filed for the purpose;
 - (c) refuses or fails to give his approval, within thirty days of the receipt, of any written application therefor, when his approval is required for any purpose under this Ordinance;
 - (d) under section 54, orders a credit union to suspend business,
 - (e) under section 57(3) or 58(3), orders the cancellation of the registration of a credit union; or (*Added 35 of 1995 s. 13*)
 - (f) makes an order under section 61D, (*Added 35 of 1995 s. 13*)

any person aggrieved thereby may, subject to this section, appeal against such refusal, failure or order to the District Court.

- (2) An appeal under this section shall be entered within fourteen days—
 - (a) after the date of any refusal to register or of any order under subsection (1), in the case of an appeal under paragraph (a), (d), (e) or (f) of subsection (1); or (*Amended 35 of 1995 s. 13*)

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- (b) after the date of the expiry of the period of thirty days mentioned therein, in the case of an appeal under paragraph (b) or (c) of subsection (1).
 - (3) The decision of the District Court on any such appeal shall be final.
-

PART XI**THE CREDIT UNION LEAGUE OF HONG KONG****63. Incorporation of league of credit unions**

- (1) The body known as the Credit Union League of Hong Kong (hereinafter in this Part referred to as the former League) shall, on the date of commencement of this Ordinance, become a body corporate with perpetual succession and shall be capable of suing and being sued in the name of the Credit Union League of Hong Kong and, subject to this Ordinance, of doing and suffering all such other acts and things as bodies corporate may lawfully do and suffer.
- (2) The League shall have and may use a common seal.

64. Objects of League

The objects of the League are—

- (a) to protect and assist the credit unions which are members of the League;
- (b) to provide educational and advisory services for credit unions;
- (c) to encourage and assist in the organization of credit unions;
- (d) to arrange for bonds and insurance on behalf of credit unions and their employees;
- (e) to set up a stabilization fund in accordance with section 72;
- (f) to undertake such other services for credit unions and the credit union movement as shall be consistent with this Ordinance.

65. Vesting

On the date of commencement of this Ordinance—

- (a) all movable property vested before that date in any person in trust for the former League shall vest in the League;
- (b) all liabilities lawfully incurred before that date by any person as trustee of the former League shall become liabilities of the League; and
- (c) all legal proceedings pending by or against any such trustee may be prosecuted by or against the League.

66. Board of directors and officers

- (1) There shall be a board of the League consisting of five directors or of such greater number not exceeding fifteen as may be provided by the by-laws of the League.
- (2)-(3) *(Spent)*
- (4) The board of the League shall have the general direction and management of the affairs, funds and records of the League.

67. League by-laws

- (1) The League may make by-laws, which shall be subject to the approval of the Registrar, for the carrying out of its objects.
- (2) Such by-laws shall be consistent with this Ordinance and shall include provision for membership of the League and for the composition of and elections to the board.
- (3) Notwithstanding anything contained in subsection (1), any by-laws which are prescribed under paragraph (a) of section 85 shall, subject to such modification as may be approved by the Registrar, be deemed to be the by-laws of the League.

- (4) The by-laws of the League may, subject to the approval of the Registrar, be amended from time to time in the manner provided therein.
- (5) Notwithstanding anything contained in section 20 of the Interpretation and General Clauses Ordinance (Cap. 1), it shall not be necessary to publish the by-laws of the League in the Gazette.

68. Registration with Registrar

- (1) The League shall forward to the Registrar for registration the following—
 - (a) notice of the address of the principal office of the League and any change thereof;
 - (b) a copy of the by-laws of the League and any amendment thereto, certified as correct by two members of the board of the League; and
 - (c) a list of the name, occupation and address of each member of the board and each officer of the League and any change therein, certified as correct by two members of the board of the League.
- (2) A document required to be registered under subsection (1) shall be forwarded to the Registrar within twenty-eight days of the commencement of this Ordinance or within twenty-eight days of any change or amendment, as the case may be.

69. Sealing and signing of documents

- (1) The common seal of the League shall not be affixed to any instrument except by the authority of a resolution of the board and in the presence of the president of the board and either the treasurer thereof or such other person as the board may appoint for the purpose.

- (2) The president and the treasurer, or such other person, shall sign every instrument to which the seal is so affixed.
- (3) The board shall be responsible for the safe custody of the common seal of the League.

70. Membership

Subject to this Part, a credit union may become a member of the League.

71. Levy

- (1) A credit union which is a member of the League may, for the purpose of financing the League, provide in its by-laws for a yearly levy on each of its members.
- (2) The amount of such levy and the time and manner of payment thereof to the League shall be as provided in the by-laws of the League.

72. Stabilization fund

- (1) The League may set up a fund, to be known as the stabilization fund, which shall be used in the manner set out in this section and shall not be used in any other manner except with the prior approval in writing of the Registrar.
(Amended 39 of 1976 s. 3)
- (2) The stabilization fund may be used in providing interest free loans to a member credit union for the purpose of avoiding a liquidation thereof or for assisting in any matter connected with such liquidation.
- (3) No such loan shall be provided except—
 - (a) where the League is satisfied that such provision is in the best interests of the credit union movement; and

- (b) on a resolution, passed by at least two-thirds of the members of the board of the League, determining the amount of the loan and the conditions under which it is to be provided.
- (4) Section 43 shall not apply in respect of any such loan.

72A. Borrowing powers

- (1) Subject to this section, the League may borrow money for the carrying out of its objects.
- (2) No money shall be borrowed by the League save upon a resolution of its board.
- (3) The League may not borrow money so that its total indebtedness would in consequence exceed 50 per cent of its total assets.
- (4) The League may not borrow money, so that its total indebtedness would in consequence exceed 25 per cent of its total assets, except in addition to the board's resolution, upon a resolution passed by not less than three-fourths of the members, present and qualified to vote, at a special meeting of the League called for the purpose or if sanctioned in writing by not less than two-thirds of the total number of the members of the League qualified to vote.
- (5) In this section "total assets" (總資產) does not include the stabilization fund set up under section 72.

(Added 39 of 1976 s. 4)

72B. Power to mortgage etc. as security for borrowed money

The League may mortgage, charge or pledge any of its property to secure any liability for the repayment of money borrowed in accordance with section 72A.

(Added 39 of 1976 s. 4)

73. Application of other sections to League

Save in so far as is otherwise provided in this Part, sections 10, 49, 52, 53, 54, 76, 77, 80 and 81 shall, to the extent that they are applicable, apply to the League as though it were a credit union.

74. Saving

(Adaptation amendments retroactively made - see 61 of 2000 s. 3)

Nothing in this Part shall affect or be deemed to affect the rights of the Central Authorities or the Government of the Hong Kong Special Administrative Region under the Basic Law and other laws, or the rights of any body politic or corporate or of any other persons except such as are mentioned in this Part and those claiming by, from or under them.

(Amended 61 of 2000 s. 3)

PART XII

OFFENCES AND PENALTIES

75. **Illegal loans**

- (1) Save as is provided in paragraphs (a) and (b) of section 10, any director or any member of the supervisory committee or of the credit committee of a credit union, or any loan officer thereof, who knowingly makes or permits the making of a loan from any fund of the credit union to any person who is not a member of the credit union shall be guilty of an offence and shall be liable on conviction to a fine of three thousand dollars and to imprisonment for one year.
- (2) A person who is convicted of an offence under subsection (1) shall be liable to the credit union for the amount so loaned, and the illegality of such a loan shall be no defence in any proceedings by the credit union for the recovery of that amount.

76. **False returns to Registrar**

Any person who makes any return or furnishes any information, statement, record, or other document required by this Ordinance to be made or furnished to the Registrar knowing the same to be in any respect false or insufficient shall be guilty of an offence.

77. **Prohibition of disclosure of certain information**

Any officer of a credit union, or any person entrusted with or participating in the management thereof, who discloses to any person any information regarding a transaction of a member of that credit union therewith, save in so far as may be necessary for the proper conduct of the business of that credit union, shall be guilty of an offence.

78. Failure to report resolution for winding-up

Any person who—

- (a) contravenes the provisions of subsection (2) of section 57; or
- (b) being a president or treasurer of a credit union, fails to deliver to the Registrar a copy of the instrument or record of the resolution in accordance with subsection (3) of section 57,

shall be guilty of an offence.

79. Restriction on use of expression “credit union” or in Chinese “儲蓄互助社”

Any person, other than a credit union or the League, who trades or carries on any business under any name or title of which the expression “credit union”, or the Chinese expression “儲蓄互助社”, is part shall be guilty of an offence:

Provided that nothing in this section shall apply to the use by any person or his successors in interest of any name or title under which he traded or carried on business at the commencement of this Ordinance.

79A. Failure to comply with Registrar’s order

Any person who wilfully or without any reasonable excuse fails to comply with an order made under section 60 or 61D shall be guilty of an offence.

(Added 35 of 1995 s. 14)

80. Penalty

Any person guilty of an offence against this Ordinance for which no penalty is provided shall be liable on conviction to a fine of

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two thousand dollars and, in the case of a continuing offence, to an additional daily penalty of fifty dollars.

81. Criminal liability of officers of credit union

Every offence committed by a credit union shall be deemed to have been also committed by each officer of the credit union who is bound by this Ordinance or the by-laws of the credit union to fulfil the duties whereof such an offence is a breach or, if there is no such officer, then by each of the directors and members of the supervisory committee and credit committee, unless such officer, director or member is proved to have been ignorant of, or to have attempted to prevent, the commission of such offence.

PART XIII

REGISTRAR

82. Appointment of Registrar

(Adaptation amendments retroactively made - see 61 of 2000 s. 3)

- (1) The Chief Executive may appoint a public officer to be the Registrar of Credit Unions and may appoint other public officers to assist the Registrar. *(Amended 61 of 2000 s. 3)*
- (2) The Registrar may delegate to any public officer appointed to assist him under subsection (1) all or any of the powers and duties conferred or imposed on him by this Ordinance.

83. Register of Credit Unions to be kept

- (1) The Registrar shall keep at his office a register, to be known as the Register of Credit Unions, in which shall be entered particulars of the registration of every credit union.
- (2) The Registrar shall keep such other records relating to credit unions as may be prescribed.

84. Forms of records, etc.

A credit union shall keep accounts, balance sheets, forms, records and books in such form as may be approved by the Registrar.

PART XIV

REGULATIONS

85. Regulations

(Adaptation amendments retroactively made - see 61 of 2000 s. 3)

The Chief Executive in Council may make regulations for all or any of the following matters— (*Amended 61 of 2000 s. 3*)

- (a) the adoption by all or some credit unions or the League of such by-laws as may be prescribed hereunder;
- (b) the procedure to be followed under this Ordinance;
- (c) the examination of the accounts of credit unions by the Registrar or under his direction;
- (d) the qualifications required of any person carrying out an audit under subsection (2) of section 54;
- (e) the fees payable on the registration of a credit union under this Ordinance;
- (f) the scale of fees payable to the Registrar for services rendered under this Ordinance;
- (g) the form of a memorandum of association required under subsection (2) of section 4 and of a certificate of registration issued under subsection (3) of section 5;
- (h) the records relating to credit unions which are to be kept by the Registrar;
- (i) prescribing anything which is to be or may be prescribed under this Ordinance;
- (j) any other matter necessary or expedient to carry out effectively the intent and purpose of this Ordinance.

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Schedule

(Spent)