# THE AGRICULTURAL LOAN SOCIETIES AND APPROVED ORGANIZATIONS ACT

ARRANGEMENT OF SECTIONS

PART I—*Preliminary*

1. Short title.
2. Interpretation.

PART II—*The Registrar*

3. Designation of Registrar of Co-operative Societies as Registrar.
4. Registrar's functions subject to consultation with Bank in certain cases.
5. Keeping and maintaining of Register by Registrar.
6. Correction of Register.
7. Inspection of Register.
8. Ministerial directions.

PART III—*Registration of Agricultural Loan Societies and Certification of Approved Organizations*

*Registration of Agricultural Loan Societies*

9. Application for registration as an agricultural loan society.
10. Grant or refusal of registration.
11. Grounds for refusal of registration.
12. Suspension of registration.
13. Cancellation of registration.

*Certification of Approved Organizations*

14. Application for certification as an approved organization.

[The inclusion of this page is authorized by L.N. 8B/2022]

15. Grant or refusal of certification.

16. Grounds for refusal or cancellation of certification.

17. Notice of cancellation of certification.

18. Appointment of receiver and winding up under the Companies Act.

PART IV—*Appeals*

19. Establishment of Agricultural Appeal Tribunal.

20. Appeals from refusal to register or upon cancellation of registration.

21. Appeals from refusal to certify body as approved organization or cancellation of certification.

PART V—*Financial Provisions, Accounts and Audit and Management of Agricultural Loan Societies*

*Financial Provisions and Accounts and Audit*

22. Funds and resources of the Registrar.

23. Scheme for withdrawable deposits and obligations of agricultural loan societies and approved organizations.

24. Approved organization to maintain separate accounts.

25. Accounts of agricultural loan society and approved organization.

26. Audit of accounts of agricultural loan society and approved organization.

27. Annual report in respect of agricultural loan society and approved organization.

*Management of Agricultural Loan Societies*

28. Agricultural loan society to elect a committee of management.

29. Registrar may appoint member of committee of management.

30. Registrar may take control of management of agricultural loan society or approved organization.

31. Consequences of taking over management of agricultural loan society or approved organization.

32. Registrar may revest management and control in agricultural loan society or in approved organization.

33. *Gazetted* notice to be evidence of the takeover of or re-vesting of management in an agricultural loan society or approved organization.

PART VI—*Security—Grant of Loans and Security for Loans*

*Nature of Security*

34. Security given to the Bank by an agricultural loan society or approved organization.

35. Specific assignment of debt to the Bank not required.

36. Restrictions on agricultural loan society or approved organization indebtedness to the Bank.

*Grant of Loans*

37. Power of agricultural loan society and approved organization to grant loans.

38. Restrictions on loans by agricultural loan society or approved organization.

*Security for Loans*

39. Security for loans.

40. Charge on crops and livestock.

41. Memoranda of charges and of certain mortgages.

42. Effect of a charge.

43. Rights and obligations of agricultural loan society and approved organization under a charge.

44. Borrower's obligations under a charge.

45. Power of agricultural loan society or approved organization to insure.

46. Release of charges and certain mortgages.

47. Power of Bank and agricultural loan society or approved organization to make other arrangements regarding loans.

PART VII—*Miscellaneous*

48. Minister to specify rehabilitation periods.

49. Recovery of debts.

50. Exemption from stamp duty and other fees.

51. Officers and employees of Bank or Registrar not to borrow or receive gifts from agricultural loan society or approved organization.

52. Offences.

53. General penalty.

54. Regulations.

55. Power to amend monetary penalties and Schedules.

PART VIII—*Savings and Transitional Provisions*

56. Repeal.

57. Construction of the Boards.

58. Transitional provisions for existing agricultural loan society and approved organization.

SCHEDULES.

# THE AGRICULTURAL LOAN SOCIETIES AND APPROVED ORGANIZATIONS ACT

Act 31 of 2017.

[*21st November, 2017.*]

## PART I.—*Preliminary*

Short title.

**1.** This Act may be cited as the Agricultural Loan Societies and Approved Organizations Act, 2017.

Interpretation.

**2.** In this Act, unless the context otherwise requires—

"agricultural activities" includes any activities relating to—

(*a*) horticulture;

(*b*) afforestation or reforestation;

(*c*) agro-processing;

(*d*) apiculture;

(*e*) fish-culture and fishing;

(*f*) the development and maintenance of pastures;

(*g*) the cultivation of crops; and

(*h*) the keeping or breeding of livestock or poultry;

"agricultural loan society" or "society" means a body registered under section 9(1)(*a*);

"approved organization" means any organization so certified under section 15(1)(*b*)(i);

"Bank" means the Development Bank of Jamaica Limited or its successors or any other lender;

[The inclusion of this page is authorized by L.N. 8B/2022]

"banking business" has the meaning assigned to it by section 2(1) of the Banking Services Act;

"borrower" means a person to whom a loan is made by an agricultural loan society or an approved organization;

"commencement date" means the date on which this Act comes into operation;

"constitutive documents" means the rules, articles of incorporation and constitution of a body;

"Deputy Keeper of Records" means the Deputy Keeper of Records appointed in accordance with section 4 of the Record Office Act;

"document" means, in addition to a document in writing, any thing or manner in which information of any description is recorded or stored;

"financial institution" means a body that engages in—

(*a*) banking business;

(*b*) lending;

(*c*) consumer credit;

(*d*) financing commercial transactions;

(*e*) transfer of money or value;

(*f*) issuing electronic money;

(*g*) financial guarantees and commitments;

(*h*) dealing in securities and trading in other financial instruments;

(*i*) participation in security issues;

(*j*) individual and collective portfolio management;

(*k*) insurance business and insurance related financial services;

(*l*) investment of moneys and other financial assets on behalf of third parties; and

(*m*) pension fund management;

"functions" includes powers and duties;

"government company" means a company registered under the Companies Act, being a company in which the government or an agency of the government is in a position to direct the policy of that company;

"member" means—

(*a*) in relation to a body corporate, a shareholder or member of the body corporate; or

(*b*) in relation to an unincorporated body, a person who is a part of the body by virtue of—

(i) the constitution of the body;

(ii) a contract to which the person and the body are parties; or

(iii) the payment of membership dues by the person;

"money laundering" has the meaning assigned to it in section 91 of the Proceeds of Crime Act;

"public body" means—

(*a*) a Ministry, Department, Executive Agency or other agency of Government;

(*b*) a local authority;

(*c*) a statutory body or authority; or

(*d*) a government company;

"Register" means any document in which the names of agricultural loan societies and approved organizations are kept under section 5;

"Registrar" means the Registrar of Co-operative Societies appointed under the Co-operative Societies Act;

"regulatory authority" means a body designated by any enactment whether in Jamaica or any other jurisdiction with the responsibility for supervision and regulation of any financial institution, or any other authority designated by the Minister, by order;

"rehabilitation loan" means a loan issued to a member by an agricultural loan society or an approved organization under section 37(*b*), during a rehabilitation period, for the resuscitation of agricultural activity;

"rehabilitation period" means a period specified by the Minister by order under section 48 and beginning on any day on or after which any agricultural activity in Jamaica has suffered damage due to flood, hurricane or any other natural disaster or civil commotion, and ending on the date specified in the order;

"statutory body or authority" means a body corporate established by an Act of Parliament over which the government or an agency of the government exercises control;

"Tribunal" means the Agricultural Appeal Tribunal established by section 19(1).

## PART II—*The Registrar*

Designation of Registrar of Co-operative Societies as Registrar.

**3.**—(1) For the purposes of this Act, the Registrar of Co-operative Societies is designated as the Registrar.

(2) The Registrar shall perform the functions conferred upon or assigned to the Registrar under this Act.

(3) Without limiting subsection (2), the Registrar shall

[The inclusion of this page is authorized by L.N. 8B/2022]

be responsible for overseeing the management of every agricultural loan society and every approved organization registered under this Act.

(4) For the purposes of discharging his functions under subsections (2) and (3), the Registrar may—

(*a*) enquire into the administration, accounts, and proceedings of any agricultural loan society or approved organization;

(*b*) subject to section 4—

(i) take charge of the funds of any agricultural loan society or approved organization where, in his opinion, the financial viability of the society or the organization appears threatened;

(ii) take over the management and control of any agricultural loan society or approved organization; and

(*c*) in accordance with the provisions of this Act, do any other thing or enter into any other transaction which is necessary to ensure the discharge of his functions under this Act.

Registrar's functions subject to consultation with Bank in certain cases.

**4.** Where an agricultural loan society or an approved organization is funded, in whole or in part, by the Bank, the Registrar, shall consult, in writing, with the Bank and consider any recommendation of the Bank prior to—

(*a*) the suspension of registration or cancellation of registration of an agricultural loan society;

(*b*) the cancellation of certification of an approved organization; or

(*c*) the appointment of a person to be a member of a committee of management under section 29.

[The inclusion of this page is authorized by L.N. 8B/2022]

Keeping and maintaining of Register by Registrar.

**5.** The Registrar shall keep and maintain a register to be known as the Register containing, in respect of every agricultural loan society and every approved organization (hereinafter referred to in this section as "the entity") in Jamaica, the following—

(*a*) the name of the entity;

(*b*) the address of the registered office and if different from that in the constitutive documents, the principal office and any branch office of the entity;

(*c*) the date on which the entity was registered or certified, as the case may be;

(*d*) any registration number assigned to the entity;

(*e*) any suspension of registration, cancellation of registration or cancellation of certification of the entity, as the case may be; and

(*f*) such other particulars of the entity as the Registrar considers necessary.

Correction of Register.

**6.** The Registrar may amend, add to or correct the Register, in any manner that the Registrar considers necessary.

Inspection of Register.

**7.** The Register shall be open to inspection by any member of the public, on payment of the prescribed fee, at all reasonable times.

Ministerial directions.

**8.** The Minister may give the Registrar directions of a general nature as to the policy to be followed in the exercise and performance of the functions of the Registrar, in relation to matters appearing to the Minister to concern the public interest; and the Registrar shall give effect to those directions.

## PART III.—*Registration of Agricultural Loan Societies and Certification of Approved Organizations*

### *Registration of Agricultural Loan Societies*

[The inclusion of this page is authorized by L.N. 8B/2022]

Application for registration as an agricultural loan society.

**9.**—(1) Any body of not less than seven persons that is—

(*a*) established for any purpose that includes encouraging and promoting the agricultural activities or interests of its members and making loans to its members in support of agricultural activities; and

(*b*) desirous of becoming an agricultural loan society, shall—

(i) make an application to the Registrar in the form set out in the First Schedule for registration under this Act; and

First Schedule.

(ii) submit, together with the application, the non-refundable prescribed application fee, the business plan and constitutive documents of the body.

(2) Where the Registrar thinks necessary, he may require the body to furnish such additional information or related document as the Registrar may specify.

Grant or refusal of registration.

**10.**—(1) Upon consideration of an application under section 9(1), the Registrar may—

(*a*) subject to subsection (2) and upon payment of the prescribed registration fee, register the body as an agricultural loan society; or

(*b*) pursuant to section 11(1), refuse to register the body as an agricultural loan society.

(2) Registration under this section shall be subject to such terms and conditions, in writing, as the Registrar considers appropriate.

(3) Where the Registrar registers a body as an agricultural loan society under this section, he shall issue to the body a certificate of registration and the certificate shall be conclusive evidence of registration under this Act.

(4) Where the Registrar refuses to register a body as an agricultural loan society under this section, he shall

within fourteen days of the refusal so inform the applicant in writing stating the reasons therefor and notify the applicant of the right to appeal under section 20.

Grounds for refusals of registration.

**11.**—(1) The Registrar may refuse to register a body as an agricultural loan society where—

(*a*) the Registrar finds that any of the following factors exist, namely—

(i) that the business plan submitted by the body does not appear to be economically viable;

(ii) that the proposed constitutive documents of the body are not in compliance with this Act or any other relevant enactment that affects the operations of the body;

(iii) that the body has a name identical to another existing society or so nearly resembles the name of the existing society as to likely mislead the members of the body or the public as to its identity;

(iv) that the proposed rules of the body provide for the payment of unreasonable penalties, interest or fines, in a case where a borrower is in arrears; and

(v) that the body fails to furnish the Registrar with additional information or documentation specified by the Registrar under section 9(2);

(*b*) the application contains or is based on misrepresentation or misleading information or information which is false in a material particular;

(*c*) the application is made by a body of persons whose application was previously refused or cancelled by the Registrar and the circumstance that gave rise to the previous refusal or cancellation continues to exist;

(*d*) the body is an unincorporated body in respect of which one or more of the following circumstances exist—

(i) the body consists of an individual who—

(A) is under the age of eighteen years;

(B) is an undischarged bankrupt;

(C) has been convicted of an offence involving fraud or dishonesty; or

(D) is, in the opinion of the Registrar, and in accordance with subsection (2) not a fit and proper person to govern the affairs of the body;

(ii) the body does not satisfy the solvency and liquidity requirements as the Registrar may specify and such other criteria as may be prescribed;

(*e*) the body is a body corporate in respect of which one or more of the following circumstances exist—

(i) a resolution has been passed for voluntary winding-up;

(ii) an order has been made by a court for its winding-up;

(iii) a receiving order has been made under Part V of the Insolvency Act or a certificate of assignment has been issued under Part VI of the Insolvency Act;

(iv) any of its directors has been convicted of an offence involving fraud or dishonesty; or

(v) the body is, in the opinion of the Registrar, and in accordance with subsection (3), not a fit and proper person.

(2) For the purposes of subsection (1)(*d*)(i)(D), an individual is not a fit and proper person if—

(*a*) the individual's employment record or any other information gives the Registrar reasonable cause to believe that the individual carried out any act involving dishonesty or any act involving impropriety that will interfere with his ability to fulfill his functions;

(*b*) the individual—

(i) has been convicted of an offence listed in the Second Schedule of the Proceeds of Crime Act or of an offence that is similar to any such offence in another jurisdiction; and

(ii) is not in compliance with any tax and other statutory requirements imposed on the individual;

(*c*) he is engaged in any business practice appearing to the Registrar to be deceitful, oppressive or otherwise improper and the Registrar has evidence of the deceit, oppression or impropriety;

(*d*) he has contravened any enactment, requirement or standard designed for the protection of the public against financial loss and the Registrar has evidence of the contravention;

(*e*) he has been found in breach of any existing fiduciary duties by a regulatory authority, court or tribunal;

(*f*) due to his misconduct, he has been dismissed or asked to resign and has resigned from his employment or from a position of trust or fiduciary appointment; or

(*g*) he has been involved in the management of a company or other organization that has been the subject of—

(i) any action taken by the creditors to secure repayment of a debt that is in default; or

(ii) any punitive action taken by a regulatory authority or public body, where the purpose of the authority or body is to regulate institutions that are in the business of accepting deposits and lending money to the public.

(3) For the purposes of this subsection (1)(*e*)(*v*) a body corporate is not a fit and proper person if—

(*a*) the body corporate fails to satisfy the solvency and liquidity requirements as the Registrar may specify and such other criteria as may be prescribed; or

(*b*) one or more of the provisions of subsection (2) apply to any of its directors.

Suspension of registration.

**12.**—(1) Subject to subsection (2), the Registrar may suspend the registration of an agricultural loan society if—

(*a*) the membership of the society has fallen below seven persons;

(*b*) the society has submitted written notification, after approval by a quorum of its membership in a general meeting, that it intends to cease operations for the period stated in the notice;

(*c*) the society is engaged in any activity contrary to the provisions under this Act;

(*d*) the society is in breach of a term or condition subject to which the registration was granted;

(*e*) the society has failed to pay any fees or other charges required under this Act;

(*f*) the society fails to keep proper books of records and accounts; or

(*g*) the society has failed to meet the solvency and liquidity requirements as the Registrar may specify or as may be prescribed.

(2) Before suspending the registration of an agricultural loan society, the Registrar shall notify the society in writing of the proposed suspension, stating the reason therefor and requiring the society, in the case of a breach which can be remedied, to remedy the breach within the time specified in the notice as a failure to do so may result in the suspension of the registration of the society.

(3) An agricultural loan society that is served with a notice under subsection (2) shall, after remedying the breach specified in the notice, notify the Registrar in writing that the breach has been remedied and specify any actions taken to remedy the breach.

(4) If the Registrar is satisfied that the breach has been remedied, he shall withdraw the notice of suspension, but if he is not satisfied that the breach has been remedied, he shall cancel the registration of the agricultural loan society in accordance with section 13.

(5) The Registrar shall notify an agricultural loan society in writing within fourteen days of every suspension or withdrawal of suspension and shall make a record of every notification in the Register.

Cancellation of registration.

**13.**—(1) Subject to subsection (2), the Registrar may cancel the registration of an agricultural loan society by removing the name of the agricultural loan society from the Register and, thereupon the agricultural loan society shall cease to be an agricultural loan society.

(2) The Registrar may cancel the registration of an agricultural loan society if—

(*a*) he is satisfied that the agricultural loan society is or was engaged in fraudulent or corrupt practices;

(*b*) the agricultural loan society is engaged in activities contrary to the provisions of this Act;

(*c*) the agricultural loan society has failed to comply with a notice under section 12(2) to remedy a breach;

(*d*) the agricultural loan society has requested that the Registrar cancels its registration, upon first submitting to the Registrar written notification of approval by a quorum of the members of the society in a general meeting that it intends to cease the operations of the society;

(*e*) there is proof that the agricultural loan society has failed to commence operations within two years after its registration;

(*f*) there is proof that the agricultural loan society has ceased to exist for two years.

(3) Before cancelling the registration of an agricultural loan society, the Registrar shall notify the society in writing of the proposed cancellation, stating the reasons therefor and requiring the society, in the case of a breach that can be remedied, to remedy the breach within the time specified in the notice as a failure to do so may result in cancellation of the registration of the agricultural loan society.

(4) An agricultural loan society that has been served with a notice under subsection (3) shall, after remedying the breach that gave rise to the notice, notify the Registrar in writing that the breach has been remedied, and specify the actions taken to remedy the breach.

(5) The Registrar shall, within fourteen days of cancelling the registration of an agricultural loan society, notify the society in writing that its registration has been cancelled and the reasons for the cancellation.

(6) Within fourteen days of notifying the society of the cancellation of its registration, the Registrar shall cause a copy of the notice to be published twice, at seven day intervals, in a

daily newspaper circulating in Jamaica.

*Certification of Approved Organizations*

Application for certification as an approved organization.
Second Schedule.

**14.**—(1) Any organization, other than an agricultural loan society, which carries on, encourages or promotes agricultural activities and is desirous of making loans to its members in support of agricultural activities, may apply to the Registrar in the form set out in the Second Schedule for certification under this Act as an approved organization.

(2) An application under subsection (1) shall be accompanied by the prescribed non-refundable application fee.

Grant or refusal of certification.

**15.**—(1) Upon receipt of—

(*a*) an application made under section 14(1); and

(*b*) payment of the prescribed application fee, the Registrar may, after considering the application—

(i) certify the organization as an approved organization and issue a certificate in respect of the certification; or

(ii) refuse to certify the organization as an approved organization.

(2) Certification granted under this section shall be subject to such terms and conditions as the Registrar may specify in writing.

(3) Where the Registrar certifies an organization as an approved organization under this section, the certificate thereafter issued shall be conclusive evidence of the certification of the approved organization.

(4) Where the Registrar refuses to certify an organization as an approved organization under this section, he shall within fourteen days of the refusal so inform the applicant in writing stating the reasons therefor and notify the applicant of the right to appeal under section 21.

[The inclusion of this page is authorized by L.N. 8B/2022]

Grounds for refusal or cancellation of certification.

**16.**—(1) The Registrar may refuse to certify an organization under this Act as an approved organization where—

(*a*) an application contains or is based on misrepresentation or misleading information or information which is false in a material particular;

(*b*) the application is made by an organization whose application has previously been refused by the Registrar and, the circumstance that gave rise to the previous refusal continues to exist;

(*c*) the organization consists of persons among whom there is an individual who—

(i) is under the age of eighteen years;

(ii) is an undischarged bankrupt;

(iii) has been convicted of an offence involving fraud or dishonesty; or

(iv) in the opinion of the Registrar and in accordance with subsection (3), is not a fit and proper person to be certified.

(2) The Registrar may, in writing, cancel the certification of an organization as an approved organization where the organization has contravened any enactment, requirement, or standard designed for the protection of the public against financial loss and the Registrar has evidence of the contravention.

(3) For the purposes of subsection (1)(*c*)(iv), an individual is not a fit and proper person if—

(*a*) the individual's employment record or any other information gives the Registrar reasonable cause to believe that the individual carried out any act involving dishonesty or any act involving impropriety that will interfere with his ability to fulfill his functions;

(*b*) the individual—

(i) has been convicted of an offence listed in the Second Schedule of the Proceeds of Crime Act or of an offence that is similar to any such offence in another jurisdiction; and

(ii) is not in compliance with any tax and other statutory requirements imposed on the individual;

(*c*) he is engaged in any business practice appearing to the Registrar to be deceitful, oppressive or otherwise improper, and the Registrar has evidence of the business practice;

(*d*) he has been found in breach of any fiduciary duty by a regulatory authority, a court or a tribunal;

(*e*) due to his misconduct he has been dismissed or asked to resign, and has resigned from his employment or from a position of trust or fiduciary appointment; or

(*f*) he has been involved in the management of a company or other organization that has been the subject of—

(i) any action taken by the creditors to secure repayment of a debt; or

(ii) any punitive action taken by a regulatory authority or public body, where the purpose of the authority or body is to regulate institutions that are in the business of accepting deposits or lending money to the public.

Notice of cancellation of certification.

**17.** The Registrar shall forthwith, upon the cancellation of the certification of the approved organization, notify the organization in writing within fourteen days of the cancellation and give the reasons therefor, and the Registrar shall cause a copy of the notice to be published twice, at seven day intervals, in a daily newspaper circulating in Jamaica.

[The inclusion of this page is authorized by L.N. 8B/2022]

Appointment of receiver and winding-up under the Companies Act.

**18.**—(1) Subject to subsection (4), where the Registrar decides to cancel the registration of an agricultural loan society or to cancel the certification of an approved organization, the Registrar shall, at the time of cancellation, in relation to the property that relates to agricultural activities, appoint a receiver who shall—

(*a*) be entitled to enter into possession and take control of the property of the agricultural loan society or approved organization, as the case may be;

(*b*) realize the assets of the agricultural loan society or the approved organization; and

(*c*) after paying the debts due by the agricultural loan society or approved organization, distribute the surplus, if any, *pro rata* among the members in accordance with the constitutive documents of the agricultural loan society or approved organization.

(2) Until the receiver enters into possession and takes control of the property of the agricultural loan society or approved organization, the Registrar, may issue to the agricultural loan society or approved organization the directions, as he thinks fit, regarding the custody of the documents and for the protection of the assets of the agricultural loan society or approved organization.

(3) The remuneration of the receiver appointed under subsection (1) shall be fixed by the Registrar and shall be a first charge payable out of the assets of the agricultural loan society or approved organization before the winding-up, if any.

(4) Where the Registrar decides to cancel the registration of an agricultural loan society or cancel the certification of an approved organization, and the society or the organization is an incorporated body, the directors and shareholders of the society or the organization, as the case may be, shall take steps to ensure that the society or the organization is wound up in accordance with the provisions of the Companies Act.

[The inclusion of this page is authorized by L.N. 8B/2022]

(5) Subsection (4) shall apply only where an agricultural loan society or an approved organization was formed solely for the purposes of granting agricultural loans, so however that, where the agricultural loan society or approved organization is not operating solely for the purpose of granting agricultural loans the Registrar shall direct the agricultural loan society or approved organization to cease operating as an agricultural loan society or approved organization, as the case may be.

(6) Where the directors or shareholders fail to comply with subsection (4), the Registrar may take over the management of the agricultural loan society or approved organization for the purposes of winding-up.

(7) An agricultural loan society or an approved organization that refuses to comply with a direction issued by the Registrar to cease operating as an agricultural loan society or approved organization pursuant to subsection (4) commits an offence.

## PART IV.—*Appeals*

Establishment of Agricultural Appeal Tribunal.

**19.**—(1) There is established a tribunal to be called the Agricultural Appeal Tribunal for the purposes of hearing appeals under sections 20 and 21.

Third Schedule.

(2) The provisions of the Third Schedule shall have effect as to the constitution of the Tribunal and otherwise in relation thereto.

Appeals from refusal to register or upon cancellation of registration.

**20.**—(1) If the Registrar refuses to register a body as an agricultural loan society, the body may appeal, within one month of the refusal, to the Tribunal against the refusal.

(2) If the Registrar cancels the registration of an agricultural loan society, the body may appeal, within one month of the cancellation, to the Tribunal against the cancellation.

(3) If the refusal to register or the cancellation of registration is overruled by the Tribunal on appeal—

(*a*) the Tribunal shall, within fourteen days of making the decision, notify the Registrar and the body, in writing stating the reasons therefor; and

(*b*) the Registrar shall issue to the body a certificate of registration under section 10(3).

(4) If the refusal to register a body as an agricultural loan society or the cancellation of registration is upheld by the Tribunal on appeal, the Tribunal shall, within fourteen days of making the decision, notify the Registrar and the body, in writing, stating the reasons therefor.

Appeals from refusal to certify body as approved organization or cancellation of certification.

**21.**—(1) If the Registrar refuses to certify a body as an approved organization, the body may appeal, within one month of the refusal, to the Tribunal against the refusal.

(2) If the Registrar cancels the certification of an approved organization, the body may appeal, within one month of the cancellation, to the Tribunal against the cancellation.

(3) If the refusal to certify a body as an approved organization or the cancellation of certification is overruled on appeal—

(*a*) the Tribunal, shall, within fourteen days of making the decision, notify the Registrar and the body, in writing stating the reasons therefor; and

(*b*) the Registrar shall certify the body as an approved organization or revoke the cancellation of the body as an approved organization.

(4) If the refusal to certify a body as an approved organization or the cancellation of certification is upheld by the Tribunal on appeal, the Tribunal shall, within fourteen days of making the decision, notify the Registrar and the body, in writing, stating the reasons therefor.

[The inclusion of this page is authorized by L.N. 8B/2022]

## PART V.—*Financial Provisions, Accounts and Audit and Management of Agricultural Loan Societies*

### *Financial Provisions and Accounts and Audit*

Funds and resources of the Registrar.

**22.**—(1) Subject to subsections (2) and (3), the funds and the resources collected by, payable to or vested in the Registrar under this Act, shall consist of the following—

(*a*) such sums as may be collected as fees under the Act;

(*b*) such sums provided for the purpose in the Government's Annual Estimates of Revenue and Expenditure; and

(*c*) all other sums or property which may, in any manner, become payable to or vested in the Registrar in respect of any matter incidental to his functions.

(2) The Registrar shall keep separate accounts in respect of funds allocated to agricultural loan societies and approved organizations.

(3) The funds of the Registrar, in relation to his functions under this Act, shall be deposited in the Consolidated Fund.

Scheme for withdrawable deposits and obligations of agricultural loan societies and approved organizations.

**23.**—(1) An agricultural loan society or approved organization shall not accept any deposits except in accordance with the terms of a scheme prepared in accordance with subsection (3) and approved by the Registrar.

(2) Every scheme prepared under subsection (1) shall specify—

(*a*) the maximum period during which a deposit may be retained by the agricultural loan society or approved organization;

(*b*) the maximum amount which any member may have on deposit;

(*c*) the terms and conditions on which deposits may be accepted by the agricultural loan society or approved

organization;

(*d*) the rate of interest which the agricultural loan society or approved organization may pay on deposits;

(*e*) the proportion of any such deposits which the agricultural loan society or approved organization may invest; and

(*f*) such other matters incidental to the acceptance of deposits as the agricultural loan society or approved organization may consider necessary.

(3) Except under and in accordance with the provisions under this Act, an agricultural loan society or an approved organization shall not—

(*a*) issue or cause to be issued advertisements for deposits;

(*b*) solicit deposits in any manner from members of the public; or

(*c*) engage in activities involving the taking of deposits in any manner.

(4) Every agricultural loan society or approved organization shall ensure that mechanisms are implemented to combat money laundering including—

(*a*) such identification procedures and transaction verification procedures as may be prescribed;

(*b*) record keeping procedures in relation to the identification of its members from whom deposits may be accepted;

(*c*) the training of the employees of the agricultural loan society or approved organization, as the case may be, in the recognition and handling of deposits made by or on behalf of any member who is, or appears to be, engaged in money laundering.

(5) It shall be the duty of an agricultural loan society or approved organization to make a report to the Registrar in

[The inclusion of this page is authorized by L.N. 8B/2022]

relation to the following—

(*a*) where there is knowledge of or reasonable grounds to believe that a transaction relating to a deposit could constitute or be related to money laundering;

(*b*) liquidity positions;

(*c*) large exposures;

(*d*) interest rates and market risk exposures;

(*e*) the capital adequacy positions of the agricultural loan society or approved organization;

(*f*) information relating to the operating earnings and expenses of the agricultural loan society or approved organization, as the case may be;

(*g*) statements of assets and liabilities (on and off balance sheets) and shareholders' equity;

(*h*) all complex, unusual or large transactions relating to deposits carried out by a member as may be prescribed; or

(*i*) any other information on the financial condition and performance of, and the risks associated with, the agricultural loan society or approved organization relating to money laundering as the Registrar may require.

(6) Where an agricultural loan society or approved organization receives deposits in accordance with any scheme prepared under this section, the society or the organization shall not be treated as carrying on the business of banking for the purposes of the Banking Services Act.

(7) A person who contravenes the provisions of subsection (3) commits an offence.

Approved organization to maintain separate accounts.

**24.** Every approved organization shall ensure that the funds allocated for the promotion of agricultural activities and for the grant of loans to its members in support of agricultural activities are kept separate from the other funds of the organization.

Accounts of agricultural loan society and approved organization.

**25.**—(1) Every agricultural loan society and every approved organization shall keep proper accounts and other records in relation to its functions and shall prepare annually a statement of accounts.

(2) The statement of accounts mentioned in subsection (1) shall be prepared in accordance with generally accepted accounting principles promulgated from time to time by the Institute of Chartered Accountants of Jamaica or such other body as the Minister may, by order, specify.

Audit of accounts of agricultural loan society and approved organization.

**26.**—(1) The Registrar shall cause the accounts of every agricultural loan society and every approved organization to be audited annually.

(2) The accounts referred to in subsection (1) shall be audited annually by an auditor appointed annually by the shareholders of the agricultural loan society or approved organization in a general meeting or by the members of the society or by the members of the organization, as the case may be.

(3) The officers and employees of an agricultural loan society or an approved organization, in respect of which an auditor is appointed under this section, shall grant to the auditor access to all documents, cash and securities of the society or the organization and shall, on request, supply to the auditor all such relevant information as may be within their knowledge in relation to the operation of the society or the organization.

(4) Where an auditor, appointed under this section, finds that the accounts of a society or an organization, in respect of which he is appointed, have not been kept in a proper manner, he shall—

(*a*) advise the society or the organization in writing of the deficiencies or non-compliance;

(*b*) further inspect the accounts of the society or the organization as he considers necessary to determine whether the neglect or failure to keep the accounts in a

[The inclusion of this page is authorized by L.N. 8B/2022]

proper manner has been remedied;

(*c*) notify the society or the organization of his findings under paragraph (*b*); and

(*d*) notify the Registrar of his findings in relation to paragraphs (*a*) and (*b*).

(5) The agricultural loan society or the approved organization shall submit its audited accounts to the Registrar within two months after the end of each financial year.

Annual report in respect of agricultural loan society and approved organization.

**27.**—(1) The Registrar shall, within six months after the end of the financial year, or within a longer period as the Minister may in special circumstances approve, cause to be made and transmitted to the Minister, an annual report dealing generally with the activities of the Registrar in relation to agricultural loan societies and approved organizations during the preceding financial year.

(2) The Minister shall cause a copy of the report referred to in subsection (1) to be tabled in the House of Representatives and the Senate.

*Management of Agricultural Loan Societies*

Agricultural loan society to elect a committee of management.

**28.** Every agricultural loan society shall elect a committee of management comprising at least five shareholders or members, who shall be responsible for the management and control of the agricultural loan society.

Registrar may appoint member of committee of management.

**29.**—(1) Subject to subsection (4), the Registrar may, where he considers it necessary in the interest of the operation of the society, appoint a person (whether or not that person is a member of the society) to be a member of the committee of management of an agricultural loan society, (hereinafter referred to as an "appointed member").

(2) The Registrar shall, upon the appointment of a person under this section, cause notice of the appointment to be served on the committee of management of the society.

(3) An appointed member shall have, in relation to the

management of the society, all the rights and powers of a member of the committee of management, including the right to vote.

(4) If, in any particular matter, a majority of the committee is opposed to the views of the appointed member, the matter shall be referred to the Registrar, with whose decision the committee shall comply.

Registrar may take control of management of agricultural loan society or approved organization.

**30.**—(1) The Registrar may take control of the management—

(*a*) of an agricultural loan society or an approved organization, as the case may be, where the auditor appointed in accordance with section 26 certifies that—

(i) the society or the organization has failed to keep its accounts in a proper manner and that the failure has continued for a period of twenty-eight days or more after service on the society or the organization of a notice of that fact;

(ii) the payment of debts due to the society or the organization in respect of shares, loans, interest or otherwise is not being enforced; or

(iii) the auditor has been unable to obtain satisfactory information regarding the affairs or assets of the society or the organization;

(*b*) of an agricultural society where the committee of management of the society fails to comply with any decision made by the Registrar under section 29(4);

(*c*) of an agricultural loan society or an approved organization where the society or the organization—

(i) obtains a loan from the Bank by means of any false representation; or

[The inclusion of this page is authorized by L.N. 8B/2022]

(ii) without the consent of the Bank, uses a loan from the Bank for any purpose other than a purpose for which the loan was made;

(*d*) of an agricultural loan society or an approved organization where the society or the organization defaults for at least sixty days in the payment of any money owed by the society to the Bank or by the organization to the Bank; or

(*e*) of an agricultural loan society or an approved organization where a request that the Registrar should take over the management of the society or the organization is made in an application—

(i) by the majority of the members of the agricultural loan society or the organization; or

(ii) by the Bank; or

(*f*) of an agricultural loan society where a request that the Registrar should take over the management of the society is made in an application pursuant to a resolution of the committee of management of the society and confirmed by extraordinary general meeting.

(2) The Registrar shall, before seven days from the date of a takeover of the management and control of the agricultural loan society or the approved organization or receivership thereof, cause notice of the takeover or the receivership to be published in the *Gazette* and a daily newspaper circulated in Jamaica.

Consequences of taking over management of agricultural loan society or approved organization.

**31.** Where the Registrar has taken over the management of an agricultural loan society or an approved organization—

(*a*) the Registrar shall have—

(i) all the rights, powers and privileges of the organization, or the society and of the committee of management of the society;

[The inclusion of this page is authorized by L.N. 88/2022]

(ii) such other powers, including the power to sue and be sued on behalf of the society or the organization, as may be necessary, for the proper conduct of the affairs of the society or the organization, whether for the purpose of continuing the operations of the society or the organization or for winding-up the affairs of the society or the organization;

(*b*) every officer and employee of the society or the organization shall deliver to the Registrar all documents, cash and securities of the society or the organization in the custody, control or possession of the officer or employee;

(*c*) the Registrar may—

(i) in his discretion, appoint a suitably qualified person to manage the affairs of the society or the organization;

(ii) where the society or the organization was taken over at the request of the Bank or other lender, appoint a suitably qualified person to manage the affairs of the society or the organization, after consultation with the Bank or other lender;

(*d*) a person appointed under paragraph (*c*), subject to the general or special directions of the Registrar, has the powers of the Registrar in relation to the management of the society or the organization.

**Registrar may revest management and control in agricultural loan society or in approved organization.**

**32.**—(1) Subject to subsection (2), where the Registrar has taken over the management and control of an agricultural loan society or an approved organization, the Registrar may at such time as he thinks fit, revest the management and control of the society in the committee of management of the society or revest management and control of the approved organization in the organization.

[The inclusion of this page is authorized by L.N. 8B/2022]

(2) Where the Registrar decides to revest the management and control of an agricultural loan society in a committee of management of that society, but a committee of management has not yet been elected for that society, the Registrar may—

(*a*) call an extraordinary general meeting of the society to elect a committee of management in which the management of the society may be vested; or

(*b*) appoint a provisional committee of management for the management of the society for the specified period as the Registrar may consider necessary.

(3) If the management and control of an agricultural loan society or an approved organization is taken over at the request of the Bank, the powers of the Registrar under subsection (1) shall be exercised in relation to that agricultural loan society or the approved organization, only with the prior consultation with the Bank.

(4) Where the Registrar has decided to revest the management and control of an agricultural loan society in a committee of management or in a provisional committee of management or revest the management and control of an approved organization in the organization, the Registrar shall cause notice of his decision to be—

(*a*) served on the person appointed to manage the affairs of the organization or society or the committee of management, or the provisional committee of management, as the case may be, at least seven days prior to the date scheduled for management to be revested; and

(*b*) published in the *Gazette* not less than seven days prior to the date scheduled for the management to be revested.

(5) Where, in accordance with subsection (4), the Registrar causes a notice of his decision to be served on the

person appointed to manage the affairs of the organization or the society or the committee of management or on the provisional committee of management, as the case may be, as from the date of service of the notice, the management and control of the organization or the society shall, subject to subsections (2)(*a*) and (2)(*b*), be treated as revested in the organization or the committee of management or the provisional committee of management, as the case may be.

(6) Upon the revesting of the management of an agricultural loan society in the committee of management or the provisional committee of management or revesting the management of an approved organization in the organization, as the case may be, all acts done by the Registrar in the management of the society or the organization while the Registrar had management of same, shall be treated as having been done on behalf of the organization, or the society or the committee of management or the provisional committee of management of the society, as the case may be.

*Gazetted* notice to be evidence of the takeover of or re-vesting of management in an agricultural loan society or approved organization.

**33.**—(1) The publication in the *Gazette* of any notice described in subsection (2), shall be conclusive evidence in all courts of the facts contained in the notice.

(2) Subsection (1) refers to any notice published in the *Gazette* under section 30, as the case may be, to the effect that the Registrar has—

(*a*) taken over the management and control of an agricultural loan society or an approved organization; or

(*b*) revested the management of the society in—

(i) the committee of management of the society; or

(ii) a provisional committee of management of the society; or

(*c*) revested the management of the approved organization in the organization.

PART VI—*Security—Grant of Loans and Security for Loans*
*Nature of Security*

Security given to the Bank by an agricultural loan society or approved organization.

**34.**—(1) Subject to subsection (2), every security given to the Bank by an agricultural loan society or an approved organization in respect of a loan given to the society by the Bank or a loan given to the organization by the Bank, as the case may be, shall include all the share capital, assets and property (real and personal) of the society or the organization up to the value of the loan at the time of the execution of the security, but any property (real or personal) acquired subsequently by the society or the organization, and not expressly with the permission of the Bank, is excluded from the security.

(2) All securities assigned to the Development Bank of Jamaica by an agricultural loan society or an approved organization prior to the commencement of this Act shall be given priority over all other subsequent security granted by any other lender.

(3) The recording of a notice at the Security Interests Registry established under section 47 of the Security Interests in Personal Property Act that an agricultural loan society or an approved organization has given a security to the Bank shall be sufficient notice to all persons concerned, of the effect of that security.

Specific assignment of debt to the Bank not required.

**35.**—(1) Where an agricultural loan society or an approved organization executes to the Bank a security referred to in section 34, the execution shall be sufficient to confer to the Bank all the rights and powers of the society or the organization in relation to debts due to that society or the organization.

(2) Notwithstanding subsection (1), an agricultural loan society or an approved organization is not to be required to make to the Bank a specific assignment of any debt due to the society or the organization, in order to enable the Bank to take proceedings for the recovery of the debt.

[The inclusion of this page is authorized by L.N. 88/2022]

**36.**—(1) An agricultural loan society or an approved organization which is indebted to the Bank shall not— Restrictions on agricultural loan society or approved organization indebtedness to the Bank.

(*a*) hypothecate any security given to the society or the organization, in respect of a loan made by the society or the organization to a member;

(*b*) except with the permission, in writing, of the Bank—

(i) sell any of the assets of the society or the organization which are used as security; or

(ii) consent to the sale or gift, by any person, of the whole or any part of any security given by the person to the society or the organization.

(2) A hypothecation agreement made in contravention of this section is null and void.

*Grant of Loans*

**37.** Subject to sections 39 and 40, an agricultural loan society or an approved organization may grant any of the following types of loans to its members, out of sums lent to the society or the organization by the Bank— Power of agricultural loan society and approved organization to grant loans.

(*a*) loans for agricultural activities;

(*b*) rehabilitation loans, in cases where the lands, buildings or crops of members of the society or the organization have suffered damage from flood, hurricane or other natural disaster; or

(*c*) loans for the construction, improvement, maintenance or repairs of farm buildings.

[The inclusion of this page is authorized by L.N. 8B/2022]

Restrictions on loans by agricultural loan society or approved organization.

**38.** —(1) An agricultural loan society shall not, except with the prior written approval of the Registrar—

(*a*) make a loan to or be a party to a financial accommodation of a member of the committee of management or provisional committee of management or an officer of the society; or

(*b*) permit any of its funds to be used for the purposes of any such member or officer, other than for the payment of the duly authorized salary of the member or officer.

(2) An approved organization shall not, except with the prior written approval of the Registrar—

(*a*) make a loan to or be a party to a financial accommodation of a member of the organization or an officer of the organization; or

(*b*) permit any of its funds to be used for the purposes of any such member or officer, other than for the payment of the duly authorized salary of the member or officer.

*Security for Loans*

Security for loans.

**39.** Every loan made by an agricultural loan society or an approved organization under this Act, shall be secured in any one or more of the following ways, namely—

(*a*) by a mortgage of any land belonging to the borrower;

(*b*) by a charge created under section 40 and registered in accordance with the provisions of the Security Interests in Personal Property Act;

(*c*) in such other manner as may be acceptable to the Bank.

Charge on crops and livestock.

**40.**—(1) Where an agricultural loan society or an approved organization proposes to grant a loan under this Act, to a person for the cultivation of crops, the reaping and making crops

merchantable, or the rearing of livestock, the repayment of the loan and payment of interest on the loan may be secured by a charge on the crops or livestock, in favour of the agricultural loan society or in favour of the approved organization, as the case may be.

(2) The repayment of a loan made under this Act and payment of interest on the loan may be secured by a charge in favour of the agricultural loan society or the approved organization on such movable property belonging to the borrower, on the date of the charge, as the society or the organization may approve.

(3) Every charge made under this section shall be created by an instrument consistent with the Security Interests in Personal Property Act and shall list and describe the crops or the livestock affected by the charge.

Memoranda of charges and of certain mortgages.

**41.**—(1) Where a loan made under this Act is secured by a charge created under section 40 or by a mortgage of any land, not under the operation of the Registration of Titles Act, a memorandum of the charge or mortgage shall, as soon as practicable after the creation of the charge or mortgage, be prepared by the agricultural loan society, the approved organization or the Bank, in the prescribed form, as the case may be, and transmitted by the agricultural loan society, the approved organization or the Bank, to the Deputy Keeper of the Records.

(2) The Deputy Keeper of the Records shall keep a record of every memorandum received by him under subsection (1), and the record shall be sufficient notice of the existence of the charge or mortgage to which the memorandum refers and may be inspected by a person, without payment of a fee.

(3) Where a charge created under section 40 affects crops growing on land which is under the operation of the Registration of Titles Act, the agricultural loan society or the approved organization shall, transmit a copy of the memorandum to the Registrar of Titles who shall, upon receipt of the memorandum, cause a caveat to be entered against the

[The inclusion of this page is authorized by L.N. 8B/2022]

title to the land described in the memorandum.

(4) Every charge or mortgage in respect of which a memorandum is recorded in accordance with the provisions of this section, shall have the same force and effect as if the charge or mortgage were fully recorded.

(5) Every person interested in property, real or personal, and who is affected by a charge or mortgage shall be entitled to have access to the original instrument for all legally required purposes and at all reasonable times.

Effect of a charge.

**42.**—(1) A charge created under section 40 shall be subject to the Security Interests in Personal Property Act.

(2) Pursuant to subsection (1), the charge shall not be defeated by—

(*a*) a sale of; or

(*b*) a subsequent charged imposed upon,

the property specified in the instrument.

Rights and obligations of agricultural loan society and approved organization under a charge.

**43.**—(1) A charge under section 40 shall, so long as the charge continues in force, confer or impose upon the agricultural loan society or the approved organization—

(*a*) a right to—

(i) enter upon any land on which the property, subject to the charge, may be; and

(ii) inspect the property;

(*b*) a right to enter upon any land on which the property subject to the charge may be and to take possession of the property—

(i) where the borrower fails to pay to the society or the organization any money owing to the society or the organization, under the charge, within thirty days after payment thereof becomes due;

(ii) where the borrower fails to discharge any of

the obligations imposed upon him by section 44; or

(iii) where the borrower does any act prohibited by this Act;

(*c*) a right, where possession of any property has been taken under paragraph (*b*), to sell the property by public auction or, in default of sale by public auction, by private treaty;

(*d*) an obligation, in the event of any power of sale under this section being exercised, to apply the proceeds of sale—

(i) firstly, in or toward payment of the expenses properly incurred by the society or the organization in taking possession of any property;

(ii) secondly, in or toward payment, in order of priority, of any incumbrances on property which rank prior to the charge and of which the society or the organization has notice;

(iii) thirdly, in or toward the *pro rata* payment of all amounts owing to the society or the organization under the charge and to any person whose incumbrances on the property rank *pari passu* with the charge;

(iv) where the society or the organization has notice of any other incumbrances on the property sold, towards settling such incumbrances and paying the balance, if any, to the person legally entitled to give a discharge thereof; and

(v) to pay the balance, if any to the borrower.

(2) Where the society or the organization desires to take possession of any property, under subsection (1)(*b*), and the borrower refuses to immediately deliver up possession of

the property to the society or the organization or hinders the society or the organization from obtaining possession of the property, the society or the organization may file, in the Parish Court for the parish in which the property is situated, an affidavit stating—

(*a*) the sum owing on account of the loan for principal and interest;

(*b*) which of the events specified in subsection (1)(*b*) has occurred;

(*c*) that the borrower refuses to immediately deliver up possession of the property to the society or the organization, or has hindered the society or the organization from taking possession of the property, as the case may require.

(3) The society or the organization shall ensure that a copy of the charge under which it claims the right to take possession of the property is attached to the affidavit required to be filed under subsection (2) in relation to the property.

(4) Where an affidavit is filed in accordance with the provisions of this section, a Judge of the Parish Court may grant to the society or the organization a warrant of possession of the property to which the affidavit relates, and the warrant shall confer upon the society or the organization the power to enter any premises upon which the property may be, for the purpose of taking possession of the property.

Borrower's obligations under a charge.

**44.** A charge created under section 40 shall, so long as it continues in force, impose upon the borrower the following obligations—

(*a*) where the property subject to the charge is crops or livestock—

(i) to maintain good husbandry in the cultivation of the crops or rearing of livestock; and

(ii) to deal with and dispose of all livestock or crops and produce reaped and gathered from

the land described in the instrument creating the charge in such a manner as may, by agreement, be provided in such instrument and until so dealt with or disposed of, to hold the livestock, crops and produce in trust for the society or the approved organization;

(*b*) to keep in good and substantial repair all property, subject to the charge;

(*c*) to permit the society or the approved organization or any person authorized, in writing, for the purpose by the society or the approved organization, to inspect the property, subject of the charge;

(*d*) not to sell any property which is the subject of the charge, except either—

(i) with prior notice to the society or the approved organization; or

(ii) in the manner agreed upon and provided in the instrument creating the charge;

(*e*) not to remove, dismantle, or in any way alter any property subject to the charge, without the prior consent in writing of the society or the approved organization.

Power of agricultural loan society or approved organization to insure.

**45.**—(1) Subject to the provisions of subsection (3), the society or the approved organization may insure and keep insured, any property subject to a charge under section 40—

(*a*) under any insurance scheme in such name or names, and in such amounts as the society or the approved organization may determine;

(*b*) against loss or damage occasioned by fire, earthquake, civil commotion or hurricane or any other loss the society or the approved organization may wish to insure against.

(2) Where, under subsection (1), a society or an

approved organization insures and keeps insured any property subject to a charge under section 40, the premium paid in respect of the insurance and interest at a rate of five *per centum* per annum on money advanced to pay the premium shall merge in and form part of the charge.

(3) Where property subject to a charge is already insured, the society or the approved organization may effect an additional insurance on the property to the extent and amount (if any) which the society or the approved organization may consider necessary.

(4) The receipt of the society or the approved organization for any moneys payable under any policy taken out under any insurance scheme entered into under this section shall be sufficient discharge thereof.

(5) All moneys received in respect of any policy of insurance or under any insurance scheme upon any property, subject to a charge under section 40, shall be applied, at the election of the society or the approved organization, either in or toward the discharge of the amounts secured to the society or the approved organization, or in making good the loss or damage in respect of which the moneys are received.

Release of charges and certain mortgages.

**46.**—(1) Where a loan made under this Act is secured by a charge created under section 40 or by a mortgage of any land, the society or the approved organization shall, upon the receipt of the payment of all the moneys owed to the society or the approved organization in respect of a loan, prepare a release, in the prescribed form, stating that the property specified in the memorandum to which the release relates is released from the charge or mortgage.

(2) Every release prepared under this section shall be transmitted to the Deputy Keeper of the Records who shall, upon receipt of the release, make the appropriate entry in his records to show that the property specified in the memorandum to which the release relates have been released from the charge or mortgage.

[The inclusion of this page is authorized by L.N. 88/2022]

(3) Where a release relates to a memorandum, a copy of which was transmitted to the Registrar of Titles in accordance with section 41(3), a copy of that release shall be transmitted by the society or the approved organization to the Registrar of Titles who shall, upon receipt of the release, remove the caveat entered under section 41(3) against the title to the land, specified in the memorandum.

(4) Notwithstanding anything to the contrary contained in any law, every release transmitted to the Deputy Keeper of the Records in accordance with this section shall operate as a full legal and effectual release of the charge or mortgage in respect of which it was made.

Power of Bank and agricultural loan society or approved organization to make other arrangements regarding loans.

**47.** Nothing in sections 39 to 46 shall prevent the Bank and any agricultural loan society, or the Bank and any approved organization from entering into arrangements mutually agreeable to them regarding the terms of any loan, or security for a loan, made by the Bank to the agricultural loan society or by the Bank to the approved organization.

## PART VII—*Miscellaneous*

Minister to specify rehabilitation periods.

**48.** The Minister shall, by order specify, from time to time, the days on which rehabilitation periods shall begin and end.

Recovery of debts.

**49.**—(1) All debts due to the Bank may be recovered, without limit of amount, as a civil debt in a Parish Court.

(2) Subsection (1) shall apply to agricultural loan societies and to approved organizations, in like manner as it applies to the Bank.

Exemption from stamp duty and other fees.

**50.**—(1) Notwithstanding anything to the contrary contained in any other enactment, an agricultural loan society shall be exempt from any portion of—

(*a*) stamp duty; and

(*b*) recording and registration fees payable by the agricultural loan society in respect of—

(i) deeds;

(ii) instruments;

(iii) writing or receipts,

executed by or on behalf of the agricultural loan society.

(2) Notwithstanding anything to the contrary contained in any other enactment, an approved organization shall be exempted from any portion of—

(*a*) stamp duty; and

(*b*) recording and registration fees payable by the approved organization in respect of—

(i) deeds;

(ii) instruments;

(iii) writing or receipts,

executed by or on behalf of the approved organization for activities related to agricultural loans.

(3) The operation of a deed, instrument, writing or receipt in respect of which exemption from stamp duty, recording or registration fees is made by this section shall not be prejudiced or affected by the exemption hereunder.

Officers and employees of Bank or Registrar not to borrow or receive gifts from agricultural loan society or approved organization.

**51.**—(1) An officer or employee of the Bank or under the superintendence of the Registrar may not, without prior permission, in writing, from the Registrar—

(*a*) borrow or receive, by way of gift, any money from an agricultural loan society or an approved organization; or

(*b*) stand surety for a borrower from an agricultural loan society or an approved organization.

(2) A person who contravenes subsection (1) commits an offence.

Offences.

**52.** A person commits an offence who—

(*a*) obtains a loan from an agricultural loan society or an approved organization by means of any false representation;

(*b*) having obtained a loan from an agricultural loan society or an approved organization, contravenes or fails to comply with section 44(*c*), (*d*) and (*e*);

(*c*) wilfully applies a loan made to him by an agricultural loan society or an approved organization to a purpose other than the purpose for which the loan was made; or

(*d*) being an officer or employee of an agricultural loan society or an approved organization—

(i) contravenes or fails to comply with section 26(3) or 31(*b*); or

(ii) knowingly participates in or is otherwise involved in the contravention of section 23, 36 or 38 by the society or the organization.

General penalty.

**53.** A person who commits an offence under this Act is liable, on summary conviction in a Parish Court, to a fine not exceeding three million dollars or, in default of payment of the fine, to imprisonment for a term not exceeding two years.

Regulations.

**54.**—(1) The Minister may, after consultation with the Registrar, make regulations—

(*a*) providing for the governance and administration of agricultural loan societies and approved organizations;

(*b*) prescribing forms and fees for the purposes of this Act;

(*c*) relating to the development of adequate information, monitoring, evaluation and reporting systems within agricultural loan societies and approved organizations, in order to facilitate the process of accountability and effective management;

[The inclusion of this page is authorized by L.N. 8B/2022]

(*d*) relating to the development of specific and measurable objectives and performance targets in respect of agricultural loan societies and approved organizations, including the establishment of criteria regarding the minimum standards of solvency to be maintained by those societies and approved organizations;

(*e*) providing for—

(i) the qualification requirements of auditors of agricultural loan societies and approved organizations;

(ii) the frequency and scope of audits; and

(iii) the furnishing of information to the Registrar by auditors;

(*f*) prescribing the qualifications and requirements for registration of agricultural loan societies and their members under this Act;

(*g*) prescribing the qualifications and requirements for certification of approved organizations;

(*h*) prescribing provisions for encouraging the growth and profitability of agricultural loan societies and approved organizations, including provisions as to—

(i) asset classification;

(ii) asset diversification;

(iii) capital adequacy;

(iv) asset liquidity; and

(*i*) providing for such other matters as may be required for the efficient discharge by the Registrar of his duties under this Act.

(2) Regulations made under this section shall be subject to affirmative resolution.

[The inclusion of this page is authorized by L.N. 8B/2022]

**55.** The Minister may by order, subject to affirmative resolution, amend any monetary penalty prescribed by or under this Act or any of the Schedules.

Power to amend monetary penalties and Schedules.

PART VIII—*Savings and Transitional Provisions*

**56.**—(1) The Agricultural Credit Board Act (hereinafter referred to as "the Repealed Act") is repealed.

Repeal.

(2) Notwithstanding the repeal of the repealed Act—

(*a*) regulations made under the repealed Act as in force immediately before the repeal of that Act shall remain in full force and effect, with the changes as may be necessary, as if made under this Act, and may be amended or revoked accordingly; and

(*b*) any reference in any other enactment to specific provisions of the repealed Act shall be construed as a reference to the equivalent provision of this Act.

**57.** A reference in any enactment, mortgage, notification or other instrument to the Agricultural Loan Societies Board or the Agricultural Credit Board, shall, unless the context otherwise requires, be construed as references to the Registrar.

Construction of the Boards.

**58.** Every agricultural loan society and approved organization registered under the repealed Act prior to the commencement date of this Act shall be treated as registered under this Act.

Transitional provisions for existing agricultural loan society and approved organization.

[The inclusion of this page is authorized by L.N. 8B/2022]

FIRST SCHEDULE (Section 9)

THE AGRICULTURAL LOAN SOCIETIES AND APPROVED ORGANIZATIONS ACT

(*under section 9*)

Application for Registration of Agricultural Loan Society

TO: The Registrar of Co-operative Societies
c/o Ministry of Industry, Commerce, Agriculture and Fisheries
4 St. Lucia Avenue
Kingston 5

1. Name of body.....

.....

Address of body.....

.....

Area(s) of operation

.....

(List Parish(es))
Objects of body.....

.....

Name of secretary.....

Address.....

.....

Telephone No. .....

Email.....

Name of contact.....

Address.....

.....

Telephone No. .....

Email.....

2. No. of members of body.....

.....

(*List of names of not less than 7 members attached*)

FIRST SCHEDULE, *cont'd.*

We the undersigned members do certify that each and all of us are fit and proper persons and have attained the age of eighteen years, and we apply for registration of the above body as an Agricultural Loan Society in accordance with the provisions of section 8 of the Act.

| NAME (Block Letters) | SIGNATURE OR MARK OF SEVEN (7) MEMBERS | ADDRESS | TELEPHONE No. | EMAIL ADDRESS |
|---|---|---|---|---|
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |

I certify that I have read the foregoing to those applicants who are unable to read and that they have signed that they fully understood before setting their marks thereto.

Witness to Marks .....

Signature of secretary .....

3. (A) We attach hereto:

- ☐ three copies of the constitutive documents (rules, articles, constitution) of the body.
- ☐ proof of registered office of body (if any) (*e.g.* rent receipt, duly drawn up Lease Agreement or permission letter from owner of premises endorsed by a Justice of the Peace).
- ☐ a detailed business plan outlining a three years' projection of the proposed operation. (The first two years should be broken down on a monthly basis and the last year's projection annualized).
- ☐ proof of source of funding, for example, commitment letter from the Bank or other funding agency.
- ☐ shares listing (if any) outlining monies invested by members toward proposed venture along with related Bank information to validate funds collected.

FIRST SCHEDULE, *cont'd.*

☐ the prescribed application fee.

☐ the prescribed registration fee.

☐ a list consisting of the names, signatures, offices held, telephone numbers, addresses and e-mail addresses of every member of the committee of management (must be an odd number of not less than five fit and proper individuals).

PARTICULARS OF COMMITTEE OF MANAGEMENT

| NAME (Block Letters) | SIGNATURE OR MARK OF SEVEN (7) MEMBERS | ADDRESS | TELEPHONE No. | EMAIL ADDRESS |
|---|---|---|---|---|
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |

(B) Where a body has branches, the application for registration shall be accompanied by:

(*a*) a list of all the branches, and address of the registered office of each branch; and

(*b*) a list of names, signatures, offices held, telephone numbers, addresses and e-mail addresses of all officers.

Dated this..... day of....., 20.....

Secretary's name: _____

Secretary's signature: _____

Date: _____

SECOND SCHEDULE (Section 14)

THE AGRICULTURAL LOAN SOCIETIES AND APPROVED ORGANIZATIONS ACT

(*under section 14*)

Application for Certification as an Approved Organization

TO: The Registrar of Co-operative Societies
c/o Ministry of Industry, Commerce, Agriculture and Fisheries
4 St. Lucia Avenue
Kingston 5

1. Name of organization .....

.....

Address of organization.....

Area(s) of operation

.....

(List Parish(es))
Objects of organization.....

.....

Name of secretary.....

Address.....

.....

Telephone No. .....

Email.....

Name of contact.....

Address.....

.....

Telephone No. .....

Email.....

SECOND SCHEDULE, *cont'd.*

We the undersigned members do certify that each and all of us are fit and proper persons and have attained the age of eighteen years and we apply for certification of the above organization as an Approved Organization in accordance with the provisions of section 14 of the Act.

| NAME (Block Letters) | SIGNATURE OR MARK OF EXECUTIVE MEMBERS/OFFICERS | ADDRESS | TELEPHONE No. | EMAIL ADDRESS |
|---|---|---|---|---|
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |

I certify that I have read the foregoing to those applicants who are unable to read and that they have signed that they fully understood before setting their marks thereto.

Witness to Marks .....

Signature of secretary .....

2. (A) We attach hereto:

- three copies of the constitutive documents (rules, articles, constitution) of the organization.
- proof of registered office of organization (if any) (*e.g.* rent receipt, duly drawn up Lease Agreement or permission letter from owner of premises endorsed by a Justice of the Peace).
- a detailed business plan outlining a three years' projection of the proposed operation. (The first two years should be broken down on a monthly basis and the last year's projection annualized).
- proof of source of funding, for example, commitment letter from the Bank or other funding agency.
- shares listing (if any) outlining monies invested by members toward proposed venture along with related Bank information to validate funds collected.
- the prescribed application fee.
- a list consisting of the names, signatures, offices held, telephone numbers, addresses and e-mail addresses of every executive member/officer of the organization.

SECOND SCHEDULE, *cont'd.*

(B) Where an organization has branches, the application for registration shall be accompanied by:

(*a*) a list of all the branches, and address of the registered office of each branch; and

(*b*) a list of names, signatures, offices held, telephone numbers, addresses and e-mail addresses of all officers.

Dated this..... day of....., 20.....

Secretary's name: _____

Secretary's signature: _____

Date: _____

THIRD SCHEDULE (Section 19)

*Agricultural Appeal Tribunal*

Constitution of Tribunal.

1. The Agricultural Appeal Tribunal (hereinafter called the "Tribunal") shall consist of at least five members appointed by the Minister as follows—

(*a*) at least one member shall be an attorney-at-law who has practised for at least ten years; and

(*b*) the other members shall be selected from among persons who appear to the Minister to be qualified as having had the experience of and shown capacity in matters relating to agriculture, finance, economics, accountancy, commerce or law.

Chairman.

2.—(1) The attorney-at-law appointed under paragraph 1(*a*) shall be the chairman of the Tribunal.

(2) In the case of the absence or inability of the chairman to act at any sitting, the members of the Tribunal present at the meeting shall elect of their number to act as the chairman at that sitting.

Hearing panel.

3.—(1) A matter referred to the Tribunal shall be heard and determined by a panel consisting of three members of the Tribunal.

(2) In assigning members of the Tribunal to a panel, the chairman shall take into consideration the requirements, if any, for experience and expertise to enable the panel to decide the issues raised in any matter before the Tribunal.

(3) The Tribunal may co-opt to a panel such person as, in its opinion, has the requisite expertise in any matter before the panel for the purpose of advising the panel on that matter.

Disclosure of interest.

4.—(1) A member of the Tribunal who has an interest, whether directly or indirectly, in any matter brought before the Tribunal—

(*a*) shall, by notice, disclose the nature of the interest at a sitting of the Tribunal; and

(*b*) shall not take part in any deliberation or decision of the Tribunal with respect to that matter.

(2) A notice given by a member at a sitting of the Tribunal to the effect that he is interested in any appeal before the Tribunal shall, for the purposes of sub-paragraph (1), be a sufficient disclosure of his interest in relation to an appeal.

(3) A member need not attend in person at a sitting of the Tribunal in order to make a disclosure which he is required to make under this paragraph if he takes reasonable steps to ensure that the disclosure is made by notice which is taken into consideration and read at the sitting.

[The inclusion of this page is authorized by L.N. 8B/2022]

THIRD SCHEDULE, *cont'd.*

(4) Where the Minister, or any person authorized by the Minister, is satisfied that a member of the Tribunal is unable to carry out his duties properly and effectively because of any conflict of interest or potential conflict of interest in a matter before the Tribunal, the Minister may replace that member or direct that member to abstain from taking part in any proceedings relating to any matter affected by his conflict of interest or potential conflict of interest.

Tenure of office.

5. The members of the Tribunal shall, subject to the provisions of this Schedule, hold office for a period, not exceeding two years, as the Minister may determine, and shall be eligible for reappointment.

Acting appointments.

6. The Minister may appoint any person to act in the place of the chairman or any other member of the Tribunal in the case of the absence, inability or refusal to act.

Resignation.

7.—(1) Any member of the Tribunal other than the chairman may at any time resign his office by instrument in writing addressed to the Minister and transmitted through the chairman, and from the date of the receipt by the Minister of the instrument that member shall cease to be a member of the Tribunal.

(2) The chairman may at any time resign his office by instrument in writing addressed to the Minister and the resignation shall take effect as from the date of receipt by the Minister of that instrument.

Revocation of appointment.

8. The Minister may terminate the appointment of any member of the Tribunal who—

(*a*) becomes of unsound mind or becomes permanently unable to perform his functions by reason of ill health;

(*b*) becomes bankrupt or compounds with or suspends payment to his creditors;

(*c*) is convicted and sentenced to a term of imprisonment or to death;

(*d*) is convicted of any offence involving fraud, dishonesty or moral turpitude;

(*e*) fails to attend three consecutive hearings of the Tribunal without reasonable excuse;

(*f*) fails to carry out the functions conferred or imposed on him by this Act; or

(*g*) engages in such activities as are reasonably considered prejudicial to the interest of the Tribunal.

THIRD SCHEDULE, *cont'd.*

Filling of vacancies.

9. If any vacancy occurs in the membership of the Tribunal such vacancy shall be filled by the appointment of another member who shall, subject to the provisions of this Schedule, hold office for the remainder of the period for which the previous member was appointed, so however, that the appointment shall be made in the same manner and from the same category of persons as the appointment of the previous member.

Publication of membership.

10. The names of all members of the Tribunal as first constituted and every change in the membership thereof shall be published in the *Gazette*.

Remuneration of members.

11. There shall be paid to the chairman and other members of the Tribunal, in respect of each appeal, the remuneration, whether by way of honorarium, salary or fees, and such allowances as may be determined by the Minister responsible for the public service.

Form of Appeal.

12. Every appeal to the Tribunal shall—

(*a*) be in writing; and

(*b*) state the grounds of appeal.

Proceedings of Tribunal to be conducted similar to proceedings before court of law.

13.—(1) The proceedings before the Tribunal shall as nearly as possible be conducted in the same way as proceedings before a court of law and in particular the following provisions shall have effect in respect thereof—

(*a*) notice of the time and place at which the proceedings are to be held shall be given to the parties to the dispute, and the notice shall be of not less than ten days;

(*b*) a record of the evidence adduced before the Tribunal shall be made, dated and signed by the members;

(*c*) documents produced as exhibits before the Tribunal shall be marked, dated and initialled by the chairman and shall be attached to the file of the proceedings; and

(*d*) in the absence of any party duly notified to attend, the dispute may be decided by the Tribunal *ex parte*.

(2) The Tribunal may, in relation to an appeal—

(*a*) dismiss the appeal and confirm the decision of the Registrar; or

(*b*) allow the appeal and set aside the decision of the Registrar.

(3) The decision of the Tribunal shall—

THIRD SCHEDULE, *cont'd.*

(*a*) be dated and signed by the members; and

(*b*) state the amount of the costs and expenses of the appeal, if any, and by which party or parties to the dispute the costs are to be paid.

(4) Upon the completion of the proceedings, the Tribunal shall forward to the Registrar—

(*a*) the file of the proceedings; and

(*b*) the decision.

Regulation of proceedings.

14. Subject to the provisions of the Act, the Tribunal shall regulate its own proceedings.

Office of chairman or member of Tribunal not public office.

15. The office of chairman or member of the Tribunal shall not be a public office for the purposes of Chapter V of the *Constitution of Jamaica.*

[The inclusion of this page is authorized by L.N. 8B/2022]