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INDUSTRIAL AND PROVIDENT SOCIETIES (AMENDMENT) ACT 1978

INDUSTRIAL AND PROVIDENT SOCIETIES (AMENDMENT) ACT 1978 - LONG TITLE

AN ACT TO AMEND THE INDUSTRIAL AND PROVIDENT SOCIETIES ACTS, 1893 TO 1971, AND TO PROVIDE FOR OTHER CONNECTED MATTERS.

[15th November, 1978]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

INDUSTRIAL AND PROVIDENT SOCIETIES (AMENDMENT) ACT 1978 - PART I
- PRELIMINARY AND GENERAL

INDUSTRIAL AND PROVIDENT SOCIETIES (AMENDMENT) ACT 1978 - SECT 1
Short title, construction and collective citation.

1.-(1) This Act may be cited as the Industrial and Provident Societies (Amendment) Act, 1978.

(2) The Industrial and Provident Societies Acts, 1893 to 1971, and this Act shall be construed together as one Act and may be cited together as the Industrial and Provident Societies Acts, 1893 to 1978.

INDUSTRIAL AND PROVIDENT SOCIETIES (AMENDMENT) ACT 1978 - SECT 2
Interpretation.

2.-(1) In this Act—

"the Act of 1963" means the Companies Act, 1963;

"agents", in relation to a society, includes the bankers, solicitors and auditors of the society and past as well as present agents;

"bank" means the holder of a licence under section 9 of the Central Bank Act, 1971, and cognate words shall be construed accordingly;

"the Central Bank" means the Central Bank of Ireland.

"the Court" means the High Court;

"the Minister" means the Minister for Industry, Commerce and Energy;

"officers", in relation to a society, includes past as well as present officers;

"the Principal Act" means the Industrial and Provident Societies Act, 1893;

"the Registrar" means the registrar of friendly societies;

"society" means a society, including a credit union, registered under the Industrial and Provident Societies Acts, 1893 to 1978.

(2) In this Act a reference to a section is to a section of this

Act, unless it is indicated that reference to some other enactment is intended.

(3) In this Act a reference to a subsection, paragraph or subparagraph is to the subsection, paragraph or subparagraph of the provision in which the reference occurs, unless it is indicated that reference to some other provision is intended.

INDUSTRIAL AND PROVIDENT SOCIETIES (AMENDMENT) ACT 1978 - SECT 3
Expenses.

3.—The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

INDUSTRIAL AND PROVIDENT SOCIETIES (AMENDMENT) ACT 1978 - PART II
- INDUSTRIAL AND PROVIDENT SOCIETIES

INDUSTRIAL AND PROVIDENT SOCIETIES (AMENDMENT) ACT 1978 - SECT 4
Application of Part II.

4.—(1) This Part of this Act applies to a society which is not an agricultural co-operative society, a fishing co-operative society, a credit union or a society to which, by virtue of section 3 (4) of the Credit Union Act, 1966, section 3 (3) of that Act does not apply.

(2) In this section—

"an agricultural co-operative society" means a society the business of which is wholly or substantially agricultural and the majority of the members of which are mainly engaged in farming and derive the principal part of their livelihood from farming, and in which the acceptance of deposits and the making of loans constitute an insubstantial part of the business of or are incidental to, or are intended to assist the carrying on or the development of, the society's principal business;

"a fishing co-operative society" means a society the business of which is wholly or substantially related to fishing and the majority of the members of which are engaged in fishing and derive a substantial part of their livelihood from fishing, and in which the acceptance of deposits and the making of loans constitute an insubstantial part of the business of or is incidental to, or are intended to assist the carrying on or the development of, the society's principal business.

(3) Notwithstanding subsection (2), the Registrar may, after consultation with the Minister for Agriculture, give a certificate to a society entitling it to be treated, for the purposes of this section, as an agricultural co-operative society.

INDUSTRIAL AND PROVIDENT SOCIETIES (AMENDMENT) ACT 1978 - SECT 5
Prohibition on acceptance of deposits.

5.—(1) (a) This subsection applies to a society which was not

incorporated before the 4th day of October, 1978, or which on that date was incorporated and either had not accepted deposits or had accepted and held deposits the aggregate of which on that date did not exceed £25,000.

(b) A society to which this subsection applies shall not accept deposits.

(2) Subject to subsection (3), a society other than a society to which subsection (1) applies shall not accept or hold deposits after the end of the period of five years commencing at the passing of this Act.

(3) (a) The Minister, after consultation with the Central Bank, may, by regulation, extend the period of five years referred to in subsection (2) for such further period or periods as he considers appropriate having regard to the public interest.

(b) Regulations under this subsection may apply to a specified class or classes of society denoted by reference to such matters as the Minister thinks fit, and different periods may be specified for different classes of society.

(c) Every regulation made under this subsection shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to anything previously done thereunder.

INDUSTRIAL AND PROVIDENT SOCIETIES (AMENDMENT) ACT 1978 - SECT 6
Prohibition on raising of funds.

6.-(1) Subject to subsection (4), a society shall not raise funds (otherwise than by way of subscriptions for shares where the aggregate sum being raised in this manner does not exceed £10,000 in any period of six months) except under and in accordance with the written permission of the Registrar.

(2) The Registrar shall not give permission under this section unless he is satisfied that it is in the interests of the public or of creditors of a society or of the orderly and proper regulation of the business of the society to do so.

(3) (a) A permission under this section may relate to a specified class or classes of society denoted by reference to such matters as the Registrar thinks fit, and shall relate to such a period as is specified in the permission.

(b) A permission under this section may be given subject to the condition that the society concerned complies with any direction given to it by the Registrar relating to the extent and type of funds that may be raised by the society, denoted by reference to such matters as the Registrar thinks fit, and where that condition is imposed it shall be specified in the permission.

(4) This section does not apply to a loan made to a society by a bank, or to the acceptance of deposits by a society to which, by virtue of section 9, section 10 applies.

INDUSTRIAL AND PROVIDENT SOCIETIES (AMENDMENT) ACT 1978 - SECT 7
Use of funds by certain societies.

7.-(1) This section applies to a society which was incorporated before the 4th day of October, 1978, and which had accepted and held deposits which on that date did not exceed £25,000.

(2) A society to which this section applies shall, as soon as practicable but not later than three months after the passing of this Act, submit to the Registrar for his approval a scheme for the repayment to depositors of moneys deposited by them with the society.

(3) A society to which this section applies shall not make any payments which have not been authorised by the Registrar, other than repayments under subsection (2) in accordance with a scheme approved by the Registrar for the purposes of that subsection.

(4) A scheme approved by the Registrar under subsection (2) shall have effect notwithstanding anything in the rules of a society relating to the repayment of deposits by the society.

(5) Where it appears to the Registrar that a society to which this section applies is not complying, or has not complied, with subsection (2) or (3), he may, after giving notice to the society and considering any representations made by it, make an application under section 19 to the Court for the winding up of the society.

INDUSTRIAL AND PROVIDENT SOCIETIES (AMENDMENT) ACT 1978 - SECT 8
Prohibition on certain advertising by societies.

8.-(1) A society shall not advertise for the purpose of raising funds or of accepting deposits except under and in accordance with the written permission of the Registrar.

(2) A permission under this section may be given if, after consultation with the Central Bank, the Registrar is satisfied that it is in the interests of the public or of creditors of the society to give the permission.

(3) (a) A permission under this section may relate to a specified class or classes of society denoted by reference to such matters as the Registrar thinks fit, and shall relate to such a period as is specified in the permission.

(b) A permission under this section may be given subject to the condition (specified in the permission) that the society concerned complies with any direction given to it by the Registrar relating to the extent, matter and form of advertising by the society, denoted by reference to such matters as the Registrar thinks fit.

(c) A direction under this subsection may apply for such period as may be specified in the direction and, without prejudice to the

generality of paragraph (b), may require a society to take all practical steps to withdraw any advertisement which, in the opinion of the Registrar, is not in accordance with a direction under this subsection previously given by him, and may require that advertisements in such form as may be specified in the direction shall include a statement concerning the financial position of the society or giving any particular information relating to the society.

(4) In this section "advertise" includes publish or display any matter soliciting deposits or funds, whether by notice, circular, photograph, film, sound broadcasting, television, personal canvassing or otherwise.

INDUSTRIAL AND PROVIDENT SOCIETIES (AMENDMENT) ACT 1978 - SECT 9
Application of sections 10 to 18.

9.—Sections 10 to 18 apply to a society which was incorporated before the 4th day of October, 1978, and which had accepted and held deposits which on that date exceeded £25,000.

INDUSTRIAL AND PROVIDENT SOCIETIES (AMENDMENT) ACT 1978 - SECT 10
Power of Registrar to regulate certain businesses.

10.—(1) Where the Registrar, after consultation with the Central Bank, is of the opinion that it is in the interests of the public or of creditors of a society to do so, he may, in accordance with this section, regulate the carrying on by the society of the business of accepting deposits, the business of holding deposits or the business of making loans.

(2) Without prejudice to the generality of subsection (1), in exercising a power conferred on him by that subsection the Registrar may have regard to the competence of the management of the society concerned, the capital structure of the society or the ability of the society to meet its obligations to its creditors.

(3) In exercising the power of regulation conferred on him by subsection (1), the Registrar may give a direction in writing to a society in relation to all or any of the following matters—

(a) the acceptance or holding of deposits,

(b) the making of loans,

(c) the maintenance of ratios (which may be specified in a direction) between assets and liabilities,

(d) any other financial matters he thinks appropriate, including the maintenance by a society of adequate paid-up share capital.

(4) A direction under subsection (3) may relate to a specified class or classes of society denoted by reference to such matters as the Registrar thinks fit, and may apply for a period specified in the direction.

INDUSTRIAL AND PROVIDENT SOCIETIES (AMENDMENT) ACT 1978 - SECT 11
Inspection of books and other documents of a society.

11.-(1) In this section "an authorised person" means any person authorised by the Registrar for the purpose of this section.

(2) An authorised person may, at the request of the Registrar, and on production of his authorisation to any person concerned, at all reasonable times inspect and take copies of or extracts from books, accounts, deeds, records or other documents relating to the business of a society, and for any of those purposes may enter any premises at which any such documents are kept.

(3) An authorised person who is carrying out an inspection under this section in relation to a society may, with the approval of the Registrar, carry out a similar inspection in relation to any other society or body corporate which is or has at any relevant time been associated with the first-mentioned society, and for that purpose may exercise, in relation to the associated society or body corporate, a power conferred by subsection (2).

(4) A person who has in his power, possession or procurement any of the books, accounts, deeds, records or other documents of a society referred to in subsection (2) or of a society or other body corporate referred to in subsection (3) shall produce them at the request of an authorised person, permit the authorised person to inspect and take copies of or extracts from them, and give him any information which he may reasonably require regarding any entries in them.

INDUSTRIAL AND PROVIDENT SOCIETIES (AMENDMENT) ACT 1978 - SECT 12
Furnishing by societies of information and returns to Registrar.

12.-A society shall furnish to the Registrar-

(i) at such times as he may specify from time to time, such information and returns concerning its business as he may from time to time specify and which he considers it necessary to have for the performance of his statutory functions, and

(ii) within such period as he may specify from time to time, any other information and returns concerning the business of the society which he requests in writing and considers it necessary to have for the performance of his statutory functions.

INDUSTRIAL AND PROVIDENT SOCIETIES (AMENDMENT) ACT 1978 - SECT 13
Registrar's power to investigate society's affairs.

13.-(1) Whenever it appears to the Registrar to be expedient to do so in the interests of the public or of creditors of a society or of the orderly and proper regulation of the business of a society, the Registrar may appoint one or more than one inspector to investigate and report to him, in such manner as he may direct, on the affairs of the society, and for that purpose such an inspector may require the production of all or any of the accounts, deeds, books, records and other documents of the society and may examine on oath its officers, members, agents and servants in relation to its business, and may administer an oath to any such person.

(2) Where an inspector appointed under this section to investigate the affairs of a society thinks it necessary for the purpose of his investigation to investigate also the affairs of any other society or body corporate which is or has at any relevant time been associated with the first-mentioned society, he may, with the approval of the Registrar, do so, and shall report to the Registrar on the affairs of the associated society or body corporate to such extent as he thinks the results of his second or further investigation are relevant to his investigation of the affairs of the first-mentioned society.

(3) All expenses of or incidental to an investigation under this section shall be defrayed out of the funds of the society, or by the members (or former members) or officers of the society, in such proportions as the Registrar shall direct.

INDUSTRIAL AND PROVIDENT SOCIETIES (AMENDMENT) ACT 1978 - SECT 14
Provisions supplemental to section 13.

14.-(1) An officer, member, agent or servant of a society the affairs of which are being investigated under section 13 shall produce to the inspector all books, accounts, deeds, records or other documents of or relating to the society which are in the power, possession or procurement of such a person and otherwise give to the inspector all assistance in connection with the investigation which such a person is reasonably able to give.

(2) If any person who is an officer, member, agent or servant of the society refuses to answer any question put to him by the inspector with respect to the affairs of the society, the person shall be guilty of an offence under section 28.

(3) Subject to subsection (4), if the inspector thinks it necessary for the purpose of his investigation that a person whom he has no power to examine on oath should be so examined, he may apply to the Court and the Court may, if it thinks fit, order that person to attend and be examined on oath before it on any matter relevant to the investigation, and on any such examination-

(a) the inspector may take part therein by solicitor or counsel;

(b) the Court may put such questions to the person examined as it thinks fit;

(c) the person examined shall answer all such questions as the Court may put or allow to be put to him, but may at his own cost employ a solicitor (with or without counsel) who shall be at liberty to put to him such questions as the Court may think fit for the purpose of enabling him to explain or qualify any answers given by him;

and notes of the examination shall be taken down in writing, and shall be read over to or by, and signed by, the person examined and may thereafter be used in evidence against him.

(4) Notwithstanding anything in subsection (3) (c), the Court may allow the person examined such costs as, in its discretion, it may

think fit, and any costs so allowed shall be paid as part of the expenses of the investigation.

(5) The Registrar shall forward to the Minister and to the registered office of the society a copy of each report of an investigation under section 13, and shall also furnish a copy to the Court where an application under subsection (3) is made to the Court.

(6) The Registrar may, if he thinks fit, cause the report to be printed and published.

(7) The Minister may lay the report under subsection (5) before each House of the Oireachtas and such publication shall be privileged.

(8) (a) Where it appears to the Registrar after consideration of a report under section 13 that proceedings ought in the public interest to be brought by a society for damages, in respect of any fraud, misfeasance or other misconduct in connection with the promotion or formation of the society or the carrying on of the business of the society, for the recovery of any property misapplied or wrongfully retained, he may bring proceedings for that purpose in the name of the society.

(b) The Minister may indemnify a society against any costs or expenses incurred by it in or in connection with any proceedings brought under paragraph (a).

(9) A copy of any report of an inspector appointed under section 13 shall be admissible in any legal proceedings as evidence of the opinion of the inspector in relation to any matter contained in the report.

(10) Nothing in this section shall require disclosure to the Registrar or to an inspector appointed by him—

(a) by a solicitor of any privileged communication made to him in that capacity, or

(b) by bankers of any information as to the affairs of any customer other than the society or other body corporate the affairs of which are being investigated.

(11) Where proceedings are instituted under this section, nothing in this section shall require any person who has acted as solicitor for a society to disclose any privileged communications made to him otherwise than as such solicitor.

(12) Where under section 13 the affairs of a society (other than a society referred to in that section as the first-mentioned society) or of any body corporate are being investigated, references in this section to officers, members, agents or servants of a society shall be construed as references to officers, members, agents or servants of that society or body corporate.

(13) (a) Where it appears to the Registrar that any person has,

in relation to a society the affairs of which have been investigated under section 13, been guilty of any offence for which he is criminally liable, the Registrar shall refer the matter to the Director of Public Prosecutions.

(b) Where the Director of Public Prosecutions institutes proceedings consequent on the receipt by him of a report under paragraph (a), it shall be the duty of all officers, members, agents and servants of the society (other than a defendant in the proceedings) to give him all assistance in connection with the prosecution which they are reasonably able to give.

INDUSTRIAL AND PROVIDENT SOCIETIES (AMENDMENT) ACT 1978 - SECT 15
Registrar's power to appoint person to society's management committee.

15.-(1) Where the Registrar is of the opinion, after an inspection under section 11 or after an investigation under section 13, that it is necessary to do so in the interest of the orderly and proper regulation of the business of a society, he may appoint a person to be a member of the committee of management of the society.

(2) Without prejudice to the generality of subsection (1), the Registrar shall, before exercising a power conferred on him by this section, have regard to-

(a) the compliance or otherwise by the society with any provisions of (or directions of the Registrar under) this Act, and

(b) any financial transactions which have been undertaken, or are in the course of being undertaken, by the society and which, in the Registrar's opinion, are, or are likely to be, prejudicial to the interests of the public or of creditors of the society.

(3) A person appointed under this section shall hold office for such period and on such terms as the Registrar may specify and, on the expiry of such a period, the Registrar may renew the appointment for such period or periods as he may specify.

(4) All expenses of and incidental to the appointment of a person under this section, including the remuneration of such a person, shall be defrayed out of the funds of the society, or by the members (or former members) or officers of the society, in such proportions as the Registrar shall direct.

(5) An officer, member, agent or servant of a society shall at all times give all information required by a person appointed under this section for the full and satisfactory performance of his duties.

(6) A person appointed under this section shall report to the Registrar, in such manner and with such frequency as the Registrar may direct, on the affairs of the society.

INDUSTRIAL AND PROVIDENT SOCIETIES (AMENDMENT) ACT 1978 - SECT 16
Registrar's power to direct suspension of acceptance of deposits or funds and of payments.

16.-(1) Where the Registrar is of the opinion, after consultation with the Central Bank, that a society has contravened a direction given by the Registrar under section 10, or that a society is unable, or is likely to become unable, to meet its obligations to creditors, or that it is expedient in the interests of the public (whether or not the society is being investigated under section 13), he may direct the society in writing to suspend, for such period not exceeding two months as shall be specified in the direction, the acceptance of deposits or the raising of funds not authorised by him or the making of payments not so authorised, or both the acceptance of such deposits or funds and the making of such payments.

(2) A direction under this section shall have effect in accordance with its terms but, notwithstanding such a direction, a society may borrow money from a bank or from an officer of the society if the Registrar consents in writing to the borrowing.

(3) The Registrar may apply to the Court for an order confirming a direction under this section or for an order confirming and extending the period of operation of such a direction for such time as the Court may, having regard to all the circumstances, consider appropriate, and the Court may grant such an order.

(4) The Court may, in addition to or in lieu of making an order under subsection (3), make such other order in relation to the matter as may appear to it to be necessary.

(5) Where an order is made under subsection (3) confirming and extending the period of operation of a direction under this section, the society shall, for the purpose of Part VI of the Act of 1963 (as applied by section 19), be deemed (to be unable to pay its debts.

(6) The whole or part of proceedings under this section or of an appeal in relation thereto may be heard in chambers.

(7) A society to which a direction is given under this section may apply to the Court for an order setting aside the direction and the Court may grant such an order.

(8) A direction under this section may be amended or revoked at any time by the Registrar.

(9) The Registrar may, if he thinks fit, cause to be published in Iris Oifigi il, or in such other way as appears to him expedient for informing the public, notice of a direction under this section and of its amendment or revocation.

INDUSTRIAL AND PROVIDENT SOCIETIES (AMENDMENT) ACT 1978 - SECT 17
Registrar's powers consequential on section 16.

17.-(1) This section applies in a case where the Registrar has made a direction under section 16 and the direction has not been revoked.

(2) It shall be the duty of the society concerned to make

reasonable arrangements for using the funds of the society to meet applications (duly made in accordance with the rules of the society by investors in the society) for repayment of moneys deposited or otherwise invested by them.

(3) Where it appears to the Registrar that the society concerned has been applying an undue proportion of the funds of the society in making loans, in preference to making such arrangements as are mentioned in subsection (2), he may, after giving notice to the society and affording it an opportunity of making representations, make an application under section 19 to the Court for the winding up of the society.

INDUSTRIAL AND PROVIDENT SOCIETIES (AMENDMENT) ACT 1978 - SECT 18
Liability of officers and servants for certain loans, deposits and funds.

18.-(1) Where a loan is made by a society in contravention of a direction given by the Registrar under section 10, the officers or servants of the society who authorised the loan shall be jointly and severally liable for any loss on the loan occasioned to the society.

(2) Where moneys are accepted on deposit by a society in contravention of a direction given by the Registrar under section 10, or where funds are raised by a society in contravention of section 6, or of a direction given by the Registrar under that section, the officers or servants of the society who authorised the acceptance of those moneys on deposit or the raising of those funds shall be jointly and severally liable for any loss on the moneys so deposited or the funds so raised occasioned to the depositor or investor or depositors or investors concerned.

INDUSTRIAL AND PROVIDENT SOCIETIES (AMENDMENT) ACT 1978 - SECT 19
Winding up of societies.

19.-(1) Subject to this section, a society may be wound up only in accordance with Part VI of the Act of 1963, and, accordingly, that Part of that Act shall, subject to any necessary modifications, apply as if the society were a company.

(2) For the purposes of the application of section 213 of the Act of 1963, a society may be wound up under this section by the Court if-

(a) the society has by special resolution resolved that the society be wound up by the Court;

(b) the society is unable to pay its debts;

(c) the society has, after notice from the Registrar, contravened a provision of the Industrial and Provident Societies Acts, 1893 to 1978, or a direction or permission given by the Registrar under those Acts;

(d) the Court is of opinion that it is just and equitable that the society should be wound up.

(3) (a) Notwithstanding anything in section 215 (as applied by this section) of the Act of 1963, an application under that section for the winding up of a society may be made by the Registrar.

(b) Section 215 (d) of the Act of 1963 shall not apply to the winding up of a society.

(4) The winding up of a society shall not bar the right of the Registrar to apply to have it wound up by the Court.

(5) A society may not be dissolved by an instrument of dissolution.

INDUSTRIAL AND PROVIDENT SOCIETIES (AMENDMENT) ACT 1978 - PART III
- CREDIT UNIONS

INDUSTRIAL AND PROVIDENT SOCIETIES (AMENDMENT) ACT 1978 - SECT 20
Construction of Part III.

20.—References in this Part to a credit union shall include references to a society to which, by virtue of section 3 (4) of the Credit Union Act, 1966, section 3 (3) of that Act does not apply.

INDUSTRIAL AND PROVIDENT SOCIETIES (AMENDMENT) ACT 1978 - SECT 21
Inspection of books and other documents of a credit union.

21.—(1) In this section "an authorised person" means any person or any body of credit unions authorised by the Registrar for the purpose of this section.

(2) An authorised person may, at the request of the Registrar, and on production of his authorisation to any person concerned, at all reasonable times inspect and take copies of or extracts from accounts, deeds, books, records or other documents relating to the business of a credit union, and for any of those purposes may enter any premises at which any such documents are kept.

(3) An authorised person who is carrying out an inspection under this section in relation to a credit union may, with the approval of the Registrar, carry out a similar inspection in relation to any other society or body corporate which is or has at any relevant time been associated with the credit union, and for that purpose may exercise, in relation to the associated society or body corporate, any power conferred by subsection (2).

(4) A person who has in his power, possession or procurement any of the accounts, deeds, books, records or other documents of a credit union referred to in subsection (2) or a society or other body corporate referred to in subsection (3) shall produce them at the request of an authorised person, permit the authorised person to inspect and take copies of or extracts from them and give him any information which he may reasonably require regarding any entries in them.

(5) Where an inspection is carried out under this section by an authorised person who is a body of credit unions, a report of the

inspection shall be made to the Registrar at his request.

INDUSTRIAL AND PROVIDENT SOCIETIES (AMENDMENT) ACT 1978 - SECT 22
Registrar's power to investigate a credit union's affairs.

22.-(1) Whenever it appears to the Registrar to be expedient to do so in the interest of the orderly and proper regulation of the business of a credit union, the Registrar may appoint one or more than one inspector to investigate and report to him, in such manner as he may direct, on the affairs of the credit union, and for that purpose such an inspector may require the production of all or any of the books, accounts, deeds, records or other documents of the credit union and may examine on oath its officers, members and agents in relation to its business, and may administer an oath to any such person.

(2) Where an inspector appointed under this section to investigate the affairs of a credit union thinks it necessary for the purpose of his investigation to investigate also the affairs of any other society or body corporate which is or has at any relevant time been associated with the credit union, he may, with the approval of the Registrar, do so, and shall report to the Registrar on the affairs of the associated society or body corporate to such extent as he thinks the results of his second or further investigation are relevant to his investigation of the affairs of the credit union.

(3) All expenses of or incidental to an investigation under this section shall be defrayed out of the funds of the credit union or by the members (or former members) or officers of the credit union, in such proportions as the Registrar shall direct.

INDUSTRIAL AND PROVIDENT SOCIETIES (AMENDMENT) ACT 1978 - SECT 23
Provisions supplemental to section 22.

23.-(1) An officer, member or agent of a credit union the affairs of which are being investigated under section 22 shall produce to the inspector concerned all books, accounts, deeds, records or other documents of or relating to the society which are in the power, possession or procurement of such a person and otherwise give to the inspector concerned all assistance in connection with the investigation which such a person is reasonably able to give.

(2) If any person who is an officer, member or agent of the credit union refuses to answer any question put to him by the inspector with respect to the affairs of the credit union, the person shall be guilty of an offence under section 28.

(3) Subject to subsection (4), if the inspector thinks it necessary for the purpose of his investigation that a person whom he has no power to examine on oath should be so examined, he may apply to the Court and the Court may, if it thinks fit, order that person to attend and be examined on oath before it on any matter relevant to the investigation, and on any such examination—

(a) the inspector may take part therein by solicitor or counsel;

(b) the Court may put such questions to the person examined as

it thinks fit;

(c) the person examined shall answer all such questions as the Court may put or allow to be put to him, but may at his own cost employ a solicitor (with or without counsel) who shall be at liberty to put to him such questions as the Court may think fit for the purpose of enabling him to explain or qualify any answers given by him;

and notes of the examination shall be taken down in writing, and shall be read over to or by, and signed by, the person examined and may thereafter be used in evidence against him.

(4) Notwithstanding anything in subsection (3) (c), the Court may allow the person examined such costs as, in its discretion, it may think fit, and any costs so allowed shall be paid as part of the expenses of the investigation.

(5) The Registrar shall forward to the Minister and to the registered office of the credit union a copy of each report of an investigation under section 22 and shall also furnish a copy to the Court where an application under subsection (3) is made to the Court.

(6) The Registrar may, if he thinks fit, cause the report to be printed and published.

(7) The Minister may lay the report under subsection (5) before each House of the Oireachtas and such publication shall be privileged.

(8) (a) Where it appears to the Registrar after consideration of a report under section 22 that proceedings ought in the public interest to be brought by a credit union for damages, in respect of any fraud, misfeasance or other misconduct in connection with the promotion or formation of the credit union or the carrying on of the business of the credit union, for the recovery of any property misapplied or wrongfully retained, he may bring proceedings for that purpose in the name of the credit union.

(b) The Minister may indemnify a credit union against any costs or expenses incurred by it in or in connection with any proceedings brought under paragraph (a).

(9) A copy of any report of an inspector appointed under section 22 shall be admissible in any legal proceedings as evidence of the opinion of the inspector in relation to any matter contained in the report.

(10) Nothing in this section shall require disclosure to the Registrar or to an inspector appointed by him—

(a) by a solicitor of any privileged communication made to him in that capacity, or

(b) by bankers of any information as to the affairs of any customer other than the credit union or other body corporate the

affairs of which are being investigated.

(11) Where proceedings are instituted under this section, nothing in this section shall require any person who has acted as solicitor for a credit union to disclose any privileged communications made to him otherwise than as such solicitor.

(12) Where under section 22 the affairs of a society (other than the credit union mentioned in that section) or of any body corporate are being investigated, references in this section to officers, members or agents of a credit union shall be construed as references to officers, members or agents of that society or body corporate.

(13) (a) Where it appears to the Registrar that any person has, in relation to a credit union the affairs of which have been investigated under section 22, been guilty of any offence for which he is criminally liable, the Registrar shall refer the matter to the Director of Public Prosecutions.

(b) Where the Director of Public Prosecutions institutes proceedings consequent on the receipt by him of a report under paragraph (a), it shall be the duty of all officers, members and agents of the credit union (other than a defendant in the proceedings) to give him all assistance in connection with the prosecution which they are reasonably able to give.

INDUSTRIAL AND PROVIDENT SOCIETIES (AMENDMENT) ACT 1978 - SECT 24
Registrar's power to call special meeting of a credit union.

24.-(1) Whenever, after an inspection under section 21 or after an investigation under section 22, the Registrar is of the opinion that it is necessary to do so in the interest of the orderly and proper regulation of the business of a credit union, he may cause a special meeting of the credit union to be held.

(2) A meeting under this section shall have all the powers of a special meeting called in accordance with the rules of the credit union concerned.

(3) All expenses of or incidental to the meeting shall be defrayed out of the funds of the credit union, or by the members (or former members) or officers of the credit union, in such proportions as the Registrar shall direct.

(4) (a) The Registrar may give such directions as he thinks fit in relation to the calling, holding and conduct of a meeting held under this section (including the time and place of the meeting and what matters are to be discussed and determined at the meeting).

(b) The Registrar may appoint a person to be chairman at a meeting held under this section.

(c) The power of a meeting held under this section to appoint its own chairman shall be exercisable in default of such an appointment by the Registrar.

INDUSTRIAL AND PROVIDENT SOCIETIES (AMENDMENT) ACT 1978 - SECT 25
Registrar's power to appoint person as director of a credit union.

25.-(1) Where the Registrar is of the opinion, after an inspection under section 21 or after an investigation under section 22, that it is necessary to do so in the interest of the orderly and proper regulation of the business of a credit union, he may appoint a person to be a member of the board of directors of the credit union.

(2) Without prejudice to the generality of subsection (1), the Registrar shall, before exercising a power conferred on him by this section, have regard to any financial transactions which have been undertaken, or are in the course of being undertaken, by the credit union and which, in the Registrar's opinion, are likely to be prejudicial to the interest of the orderly and proper regulation of the business of the credit union.

(3) A person appointed under this section shall hold office for such period and on such terms as the Registrar may specify and, on the expiry of such a period, the Registrar may renew the appointment for such period or periods as he may specify.

(4) All expenses of and incidental to the appointment of a person under this section, including the remuneration of such a person, shall be defrayed out of the funds of the credit union, or by the members (or former members) or officers of the credit union, in such proportions as the Registrar shall direct.

(5) An officer, member or agent of a credit union shall at all times give all information required by a person appointed under this section for the full and satisfactory performance of his duties.

(6) A person appointed under this section shall report to the Registrar, in such manner and with such frequency as the Registrar may direct, on the affairs of the credit union.

INDUSTRIAL AND PROVIDENT SOCIETIES (AMENDMENT) ACT 1978 - SECT 26
Registrar's power to direct suspension of acceptance of deposits, loans or shares and of payments.

26.-(1) Where the Registrar is of the opinion that a credit union is unable, or is likely to become unable, to meet its obligations to creditors, or that it is expedient in the interest of the orderly and proper regulation of the business of a credit union, he may direct the credit union in writing to, suspend, for such period not exceeding two months as shall be specified in the direction, the acceptance of any subscriptions for shares or of any deposits or loans not authorised by him or the making of payments not so authorised or both the acceptance of such subscriptions, deposits or loans and the making of such payments.

(2) A direction under this section shall have effect in accordance with its terms but, notwithstanding such a direction, a credit union may borrow money from a bank or from an officer of the credit union if the Registrar consents in writing to the borrowing.

(3) The Registrar may apply to the Court for an order confirming a direction under this section or for an order confirming and extending the period of operation of such a direction for such time as the Court may, having regard to all the circumstances, consider appropriate, and the Court may grant such an order.

(4) The Court may, in addition to or in lieu of making an order under subsection (3), make such other order in relation to the matter as may appear to it to be necessary.

(5) Where an order is made under subsection (3) confirming and extending the period of operation of a direction under this section, the credit union shall, for the purpose of section 33 of the Credit Union Act, 1966, be deemed to be unable to pay its debts.

(6) The whole or part of proceedings under this section or of an appeal in relation thereto may be heard in chambers.

(7) A credit union to which a direction is given under this section may apply to the Court for an order setting aside the direction and the Court may grant such an order.

(8) A direction under this section may be amended or revoked at any time by the Registrar.

(9) The Registrar may, if he thinks fit, cause to be published in Iris Oifigiil, or in such other way as appears to him expedient for informing the public, notice of a direction under this section and of its amendment or revocation.

INDUSTRIAL AND PROVIDENT SOCIETIES (AMENDMENT) ACT 1978 - SECT 27
Registrar's powers consequential on section 26.

27.-(1) This section applies in a case where the Registrar has made a direction under section 26 and the direction has not been revoked.

(2) It shall be the duty of the credit union concerned to make reasonable arrangements for using the funds of the credit union to meet applications (duly made in accordance with the rules of the credit union by depositors or shareholders in the credit union) for repayment of moneys deposited or subscribed by them.

(3) Where it appears to the Registrar that the credit union concerned has been applying an undue proportion of the funds of the credit union in making loans, in preference to making such arrangements as are mentioned in subsection (2) he may, after giving notice to the credit union and affording it an opportunity of making representations, make an application under section 33 of the Credit Union Act, 1966, for the winding up of the credit union.

INDUSTRIAL AND PROVIDENT SOCIETIES (AMENDMENT) ACT 1978 - PART IV
- MISCELLANEOUS

INDUSTRIAL AND PROVIDENT SOCIETIES (AMENDMENT) ACT 1978 - SECT 28
Offences.

28.—(1) A person or a society shall be guilty of an offence if he or it—

(a) contravenes section 5 (1), 5 (2), 6 (1), 7 (2), 7 (3), 8 (1), 12, 14 (2), 14 (13) (b), 17 (2), 23 (2), 23 (13) (b), 27 (2), 29 (1), 29 (3), 29 (4), 30 (1), 30 (2), 30 (3), 30 (4), 31, 32 or 36,

(b) contravenes or fails to comply with a direction or condition under this Act,

(c) fails or refuses to supply the books, accounts, deeds, records or other documents of a society or other body corporate, to give information reasonably required regarding any entries in the books, accounts, deeds, records or other documents to, or otherwise obstructs, an authorised person (within the meaning of section 11 or 21) who is exercising a power conferred on him by that section,

(d) fails or refuses to supply the books, accounts, deeds, records or other documents of a society or other body corporate to an inspector appointed under section 13 or 22, to give to such inspector all assistance reasonably required in connection with the investigation or to take an oath where required to do so by such an inspector, or

(e) fails to give all information required by a person appointed under section 15 or 25 for the full and satisfactory performance of his duties.

(2) A person who is guilty of an offence under this section shall be liable—

(i) on summary conviction, to a fine not exceeding £500 or, at the discretion of the court, to imprisonment for a term not exceeding six months, or to both, or

(ii) on conviction on indictment, to a fine not exceeding £5,000, or, at the discretion of the court, to imprisonment for a term not exceeding three years, or to both, and if the contravention or failure in respect of which he was convicted is continued after the conviction, he shall be guilty of a further offence and shall be liable on conviction on indictment to a fine not exceeding £250 for each day on which the contravention or failure was so continued.

(3) Where an offence under this Act is committed by a body corporate or by a person purporting to act on behalf of a body corporate and it is proved to have been so committed with the consent or approval of, or to have been facilitated by any wilful neglect on the part of, any person who is an officer of the body corporate, that person shall also be guilty of the offence.

INDUSTRIAL AND PROVIDENT SOCIETIES (AMENDMENT) ACT 1978 - SECT 29
Keeping or books of account, etc by societies.

29.—(1) Every society shall cause to be kept proper books of account relating to all sums of money received and expended by it the matters in respect of which income and expenditure take place

and all assets and liabilities of the society.

(2) For the purposes of subsection (1), proper books of account shall be deemed to be kept, in relation to the matters mentioned in that subsection, only if there are kept such books as are necessary to give a true and fair view of the state of the society's affairs and to explain its transactions.

(3) The books of account of a society shall be kept at the registered office of the society or at such other place as the committee of management think fit and shall at all reasonable times be open to inspection by the members of the said committee.

(4) Every record required to be kept under this section shall be preserved by the society for a period of not less than six years after the date to which it relates.

INDUSTRIAL AND PROVIDENT SOCIETIES (AMENDMENT) ACT 1978 - SECT 30
Annual accounts or societies.

30.-(1) The committee of management of a society shall cause to be laid before the annual general meeting of the society an income and expenditure account for the period, in the case of the first account, since the incorporation of the society and, in any other case, since the preceding account, made up in every case to the end of the preceding financial year.

(2) The committee of management of a society shall cause to be prepared and laid before the annual general meeting of the society a balance sheet as at the end of the preceding financial year.

(3) Every income and expenditure account of a society shall give a true and fair view of the income and expenditure of the society for the relevant period, and every balance sheet shall give a true and fair view of the state of affairs of the society as at the end of the relevant period.

(4) (a) The income and expenditure account and balance sheet of a society shall be in such form and shall contain such particulars as the Minister may specify by regulations, either generally or with respect to a specified class or classes of societies, denoted by reference to such matters as the Minister thinks fit.

(b) Unless the Minister otherwise specifies in the regulations aforesaid, the income and expenditure account and the balance sheet of a society for any financial year shall include corresponding particulars for the preceding financial year.

(5) References in this section to an income and expenditure account shall include references to a profit and loss account.

(6) Every regulation made under this section shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to anything previously

done thereunder.

INDUSTRIAL AND PROVIDENT SOCIETIES (AMENDMENT) ACT 1978 - SECT 31
Prohibition on bankrupts and other persons.

31.-(1) A person who is a bankrupt and whose bankruptcy still subsists or who has been convicted on indictment of any offences involving fraud or dishonesty shall not-

(a) be a person establishing a society,

(b) act as a member of the committee of management of a society,

(c) directly or indirectly take part in or be concerned in the management of a society, or

(d) permit his name to be put forward for election or appointment to any office referred to in paragraph (b) or (c).

(2) Whenever a person holding an office referred to in subsection (1) (b) or (1) (c) becomes ineligible by virtue of that subsection to hold office, he shall forthwith cease to hold that office and the vacancy shall be deemed to be a casual vacancy and may be filled in the manner provided for such a vacancy in the rules of the society.

INDUSTRIAL AND PROVIDENT SOCIETIES (AMENDMENT) ACT 1978 - SECT 32
Prohibition on withdrawable shares.

32.-A society which is not a credit union or which is not a society to which, by virtue of section 3 (4) of the Credit Union Act, 1966 section 3 (3) of that Act does not apply, shall not issue withdrawable shares.

INDUSTRIAL AND PROVIDENT SOCIETIES (AMENDMENT) ACT 1978 - SECT 33
Alteration of financial limits in Principal Act.

33.-(1) Regulations made by the Minister under section 35 (1) (i) of the Credit Union Act, 1966, altering the financial limits prescribed by Part I of the Schedule to that Act, may apply to a specified class or classes of society denoted by reference to such matters as the Minister thinks fit, and different financial limits may be fixed for different classes of society.

(2) The provision in section 35 (1) of the Credit Union Act, 1966, requiring the Minister to consult with the Credit Union Advisory Committee, shall apply only in relation to regulations under that section relating to credit unions.

(3) Every regulation made by the Minister pursuant to this section shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to anything previously done thereunder.

INDUSTRIAL AND PROVIDENT SOCIETIES (AMENDMENT) ACT 1978 - SECT 34
Cancellation of registry of society.

34.—Section 9 (1) of the Principal Act, which specifies the cases in which the Registrar may cancel the registry of a society, is hereby amended by the insertion after paragraph (b) of the following—

"(bb) the society has been wound up by the High Court under the Industrial and Provident Societies Acts, 1893 to 1978;

(bc) where the society has ceased to function or where it has suspended its business for a period of not less than six months.".

INDUSTRIAL AND PROVIDENT SOCIETIES (AMENDMENT) ACT 1978 - SECT 35
Amendment of rules of societies.

35.—(1) Notwithstanding anything in the rules of a society, the committee of management shall, by resolution passed not later than six months after the passing of this Act, make such amendments to those rules as may be necessary as a consequence of this Act.

(2) A society which fails to comply with subsection (1) shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £500.

INDUSTRIAL AND PROVIDENT SOCIETIES (AMENDMENT) ACT 1978 - SECT 36
Prohibition on acceptance of deposits by investment trust companies.

36.—(1) An investment trust company shall not accept or hold deposits.

(2) Notwithstanding subsection (1), an investment trust company incorporated before the 4th day of October, 1978, and which on or before that date had accepted or held deposits shall not hold deposits after the end of the period of two years commencing at the passing of this Act.

(3) In this section "investment trust company" has the same meaning as in the Central Bank Act, 1971.

INDUSTRIAL AND PROVIDENT SOCIETIES (AMENDMENT) ACT 1978 - SECT 37
Amendment of money 6 of Money-lenders Act, 1900.

37.—Section 6 of the Money-lenders Act, 1900, is hereby amended by the insertion after paragraph (e) of the following:

"or

(f) any class or classes of industrial and provident society in respect of which the Minister for Industry, Commerce and Energy, by order made from time to time declares that, from such date as he may specify in such an order, this Act does not apply.".