



THE REPUBLIC OF KIRIBATI  
(No. 5 of 1990)

I assent,

*N. Tabai*  
Beretitenti.  
26/9 1990

AN ACT TO REGULATE CREDIT UNIONS; AND FOR CONNECTED PURPOSES

Commencement:  
1990

MADE by the Maneaba ni Maungatabu and assented to by the Beretitenti.

PART I  
PRELIMINARY

Short title and commencement

1. This Act may be cited as the Credit Unions Act 1990.

Interpretation

2.(1) In this Act, unless the context otherwise requires -

"Articles" means the Articles of Association referred to in section 5;

"by-laws" means the standard by-laws and includes the registered supplementary by-laws;

"credit committee" means the committee elected by the members pursuant to section 53 to consider and approve loans;

"credit union" means a co-operative, non-profit making organisation registered under section 8 and having as its objects the principles set out in section 15 of this Act;

"dividend" means a share of the surplus or the bonus declared by a credit union divided amongst its members in proportion to the number of shares held by them;

"board of directors" means the body elected by members to manage the affairs of a credit union;

"interest" means the charge levied on loans made to members which may not exceed the maximum fixed by regulations made under this Act;

"League" means the body constituted as the League of credit unions and registered in accordance with section 65 of this Act;

"member" means a person who joins a registered credit union in accordance with its by-laws;

"officer" means the Chairman, secretary, manager, or member of the board of directors, the supervisory committee, or the credit committee and includes any other person empowered under this Act or the by-laws to give directions relating to the business of a credit union;

"Registrar" means the Registrar of credit unions appointed pursuant to section 3 of this Act;

"standard by-laws" means the by-laws prepared by the Registrar and approved by the Minister pursuant to section 18 of this Act;

"supervisory committee" means the committee elected by a credit union or the League, as the case may be, to exercise the functions specified under section 63; and

"Supplementary by-laws" means ancillary by-laws of a credit union registered with the Registrar but does not include the standard by-laws.

(2) For the purposes of the Interpretation and General Clauses Ordinance (Cap. 46) the section headings in this Act shall be deemed to be marginal notes.

**PART II  
REGISTRATION**

**Appointment of Registrar and other officers**

3.(1) Subject to section 99 of the Constitution, the Minister may appoint -

- (a) an officer to be Registrar of credit unions; and
- (b) such other officers as may be necessary for the due administration of this Act.

(2) The Registrar so appointed, shall, subject to the provisions of this Act, and such instructions as he may from time to time receive from the Minister, administer this Act and perform all the functions assigned to him by or under this Act.

**Register to be kept**

4. The Registrar shall keep and maintain a Register of Credit Unions for all credit unions registered under this Act.

**Articles of Association**

5.(1) Subject to the provisions of this Act, any 15 or more persons resident in Kiribati who desire to associate themselves together as a credit union for the purposes of the objects specified in section 15 may, in the presence of a witness, sign in duplicate the Articles of Association of the proposed credit union and cause it to be filed in the Office of the Registrar. Such Articles, printed or typed, shall be in the form set out in Schedule 1 and there shall be attached to such Articles the following -

- (a) an affidavit verifying the signatures to such Articles;
- (b) a copy of the supplementary by-laws;
- (c) the fees prescribed by regulations; and
- (d) a copy of a report of the preliminary meeting referred to in section 7.

**Contents of Articles**

6. The Articles shall state -

- (a) the name of the credit union;

- (b) the group of persons to whom membership shall be limited;
- (c) the address in Kiribati at which the registered office of the credit union is to be situated;
- (d) the par value of its shares; and
- (e) the names and addresses of the subscribers to the Articles, the number of shares subscribed by each and the qualification of each within the group to which membership is limited.

#### Preliminary meeting

7. On completion of the signing of the Articles the credit union shall hold a preliminary meeting for the purpose of deciding the following matters:-

- (a) the supplementary by-laws of the credit union;
- (b) completion of the application for registration; and
- (c) election of the Board of Directors.

#### Registration

8.(1) Where the Registrar is satisfied that the persons applying to be registered as a credit union under section 5 of this Act have complied with the provisions of this Act, the Registrar shall -

- (a) enter the name of the credit union in the Register of Credit Unions; and
- (b) issue a Certificate of Incorporation bearing -
  - (i) the name of the credit union;
  - (ii) the date of incorporation; and
  - (iii) the registered number of the credit union.

(2) Where the Registrar refuses to register a credit union he shall -

- (a) inform the applicant in writing of the reason for the refusal; and
- (b) return the fee paid.

(3) An appeal shall lie to the Minister within one month against the refusal of the Registrar to register any credit union.

#### **Incorporation of credit union with limited liability**

9. A credit union registered under section 8 shall be a body corporate -

- (a) with limited liability;
- (b) with perpetual succession and a common seal;
- (c) with power to -
  - (i) purchase, take, hold, or dispose of land and other property;
  - (ii) to enter into contracts;
  - (iii) to sue and be sued in its own name; and
  - (iv) to do all things authorised to be done by or under this Act.

#### **Evidence of registration**

10. A certificate of registration of a credit union, signed by the Registrar, shall be conclusive evidence of the due incorporation of the credit union named in the certificate and the date of its incorporation by registration.

#### **Publication of registration**

11. The Registrar shall cause the registration of a credit union to be published.

#### **Register of credit unions**

12.(1) The Registrar shall keep a Register of Credit Unions, wherein he shall enter particulars of the registration of credit unions, the respective supplementary by-laws, and of any changes in the status of credit unions.

(2) All entries in the Register of Credit Unions shall be signed by the Registrar.

(3) The Register of Credit Unions shall be open to inspection, on payment of the prescribed fee, to the public during normal hours of business.

**Registrar to forward certificate of registration**

13.(1) When a credit union has been registered, the Registrar shall send to such credit union -

- (a) a certificate of incorporation as required under subsection (1) of section 8;
- (b) a copy of the supplementary by-laws as registered and certified by him;
- (c) a copy of the standard by-laws; and
- (d) a copy of this Act and regulations.

(2) The Registrar shall charge the credit union the cost incurred in supplying the items referred to in paragraphs (b), (c) and (d) of subsection (1).

**Restriction of name**

*Re "Savings and Loan Society"*

14. No credit union shall be registered under a name identical with that by which any other existing credit union has been registered, or so nearly resembling that of another as to be likely to deceive and the words "credit union" shall form part of the name with the word "limited" being the last word in the name of every credit union.

**PART III  
OBJECTS, DUTIES AND POWERS OF CREDIT UNIONS**

**Objects**

15. The objects of a credit union shall be -

- (a) to promote thrift among its members;
- (b) to create a source of credit at fair and reasonable rate of interest primarily for provident and productive purposes;
- (c) to receive the savings of its members either as payment on shares or as deposits; and
- (d) to provide an opportunity for its members to use and control their own money in order to improve their social and economic well-being.

**Defects in registration**

16. Any act of a credit union subsequent to registration shall not be invalidated by reason of a defect in the registration procedures.

**Credit Union may be member of another credit union**

17.(2) A credit union may, with the approval of the Registrar, be a member of another credit union.

**By-laws**

18.(1) The Registrar shall prepare and submit for approval by the Minister standard by-laws, not inconsistent with the provisions of this Act, which shall, subject as hereinafter provided, apply to every credit union registered under this Act.

(2) The Registrar shall supply a copy of the standard by-laws to any person bona fide applying therefor for any purpose relating to a credit union or the proposed formation of a credit union.

(3) A credit union may by a two-thirds vote of the members present at a general meeting called for the purpose, make ~~by-laws for the credit union to be known as supplementary~~ by-laws, but such by-laws shall not be of any effect until the same has been approved by the Registrar.

(4) Where the Registrar refuses to register a supplementary by-law or any amendment thereto, the credit union may within one month from the date of receipt of the notice of refusal, appeal to the Minister whose decision shall be final.

**Address of the credit union**

19. Every credit union shall have an address to which all notices and communications shall be sent and any change in that address shall be notified to the Registrar.

**Register of members**

20.(1) Every credit union shall keep a register of members within which shall be entered -

- (a) the name and address of each member and the number of shares held by each such member;
- (b) the date on which the member joined the credit union; and
- (c) the date on which the member ceased to be a member, where applicable.

(2) The register of members shall be prima facie evidence of the particulars in it.

#### Documents open to inspection

21. Every credit union shall keep open to inspection free of charge at all reasonable times at its registered address-

- (a) a copy of this Act and the regulations;
- (b) a copy of the standard by-laws and supplementary by-laws of the credit union; and
- (c) the register of members.

#### Debts by members

22.(1) All moneys due or payable to a credit union from a member shall be a debt due from such member to the credit union and shall be recoverable as such in any court of competent jurisdiction.

(2) The credit union shall have a lien on the shares and deposits of a member, past member or deceased member, for any sum due from him to the credit union and for any loan takend by him.

#### Shares or dividend not liable to attachment

23.(1) The share or dividend of a member in a credit union or the dividend of a member of a credit union shall not be liable to attachment or sale under decree or order of a court in respect of any debt or liability incurred by such member and subject to subsection (2), a trustee in bankruptcy shall have no claim on such share or dividend.

(2) Where a credit union is dissolved the shares of any member who has been adjudicated bankrupt shall vest in the trustee in bankruptcy.

#### Transfer of interest on death of a member

24. On the death of a member, a credit union may transfer the share, dividend or deposit of the deceased member to the persons who are the legal personal representatives or beneficiaries of such deceased member in such amounts as may be ascertained from the books of the credit union.

#### Qualifications for membership

25. No person shall be a member of a credit union unless he -

- (a) is at least 16 years of age; and

- (b) is by virtue of his occupation or place of residence a member of a group of persons to whom membership of the credit union is limited pursuant to the provisions of section 6(b).

#### PART IV AMALGAMATION

##### Procedure for amalgamation

26. Two or more credit unions may be amalgamated as one credit union, where notice in writing of the consent of the Registrar to the amalgamation has been posted at the registered office of each of the credit unions, party to the amalgamation, and in every branch thereof for a period of not less than 14 days.

##### Transfer of liabilities etc. to credit union formed by amalgamation

27.(1) All deeds, agreements and instruments to which any credit union amalgamated with any other credit union was a party subsisting at the time of the amalgamation shall be of as full force and effect against or in favour of the credit union formed by the amalgamation as if, instead of such credit union, the credit union so formed had been named therein or had been a party thereto.

(2) Where, in respect of any credit union that has amalgamated with any other credit union, any proceedings or cause of action was pending or existing or existed at the time of such amalgamation, the same may be continued or enforced by or against the credit union formed by the amalgamation as it might have been continued or enforced by or against such credit union if the amalgamation had not taken place.

##### Dispute as to assets and liabilities

28. In the event of any dispute arising concerning the assets or liabilities of any credit union amalgamating with another credit union, such dispute shall be referred to a referee appointed by the Registrar for the purpose, and the referee's decision shall be final and conclusive.

PART V  
RIGHTS AND LIABILITIES OF MEMBERS

**Capital liabilities of members**

29.(1) The liability of a member for the debt of a credit union shall be limited to the amount unpaid on the number of shares agreed to be taken-up by such member.

(2) The liability of a past member for the debts of a credit union shall be limited to debts incurred before such member's expulsion or withdrawal from the credit union, or his death as the case may be.

**Restriction of membership**

30. No person shall, without the prior written permission of the Registrar, be a member of more than one credit union.

**Exercise of rights**

31.(1) No member of a credit union shall exercise the rights of a member until such member has paid for the minimum number of shares stated in the by-laws.

(2) No member may be elected as a director, or as a member of the credit committee, or the supervisory committee until he has attained the age of 18 years.

**Membership**

32. The election and admission of members and their voting rights shall be as prescribed in the by-laws.

**Withdrawal of membership**

33. A member may withdraw from a credit union at any time on giving such notice of withdrawal as may be required by the by-laws.

**Expulsion of member**

34.(1) The board of directors may, after giving reasonable notice and due hearing, by two-thirds vote, at a meeting duly called, expel a member from a credit union.

(2) The Secretary shall within 5 days from the date on which the member is expelled, notify the member in writing of the action of the board of directors.

(3) A member who has been expelled under subsection (1) may appeal against the action of the board of directors at the next general meeting of the credit union.

Provided that written notice of intention to appeal shall be given by the member to the secretary within 30 days from the date of receipt of the notice mentioned in subsection (2).

(4) At such meeting a majority of members present may confirm or rescind, reverse or modify the action of the board of directors.

(5) The expulsion of a member shall take effect -

- (a) where no notice of appeal has been given within the time for appealing, upon the expiration of such time; or
- (b) where an appeal has been made, on the date of the decision of the members pursuant to subsection (4).

#### Payment upon death, withdrawal or expulsion of a member

35. All amounts paid in on shares or as deposits by a member who is expelled or who withdraws from the credit union or who dies and any related dividends or interest shall be paid to such member, or, in the case of death to his legal personal representative as funds become available and after deducting all amounts payable from such member to the credit union.

#### Effect of expulsion or withdrawal

36. A member who is expelled or who withdraws from a credit union shall have no further rights in the credit union other than the rights referred to in section 35 but shall not, by reason of such expulsion or withdrawal, be released from any remaining liability to the credit union.

#### Officers not to withdraw or transfer shares

37. No officer entrusted with or participating in the management of the affairs of a credit union may withdraw or transfer or otherwise dispose of his shares, while so entrusted with, or participating in, such management. In the event of insolvency of the credit union any such withdrawal or transfer made by such member within 4 months preceding such insolvency shall be null and void. Such member shall remain liable to creditors of the credit union to the extent of such shares so disposed of or transferred.

PART VI  
PROPERTY AND FUNDS OF CREDIT UNIONS

**Share capital**

38.(1) The share capital of a credit union shall consist of a number of shares not less than \$1.00 each in value.

(2) The manner of acquiring and the number of shares to be held by a member shall be as specified in the by-laws.

**Transfer of shares**

39.(1) Subject to the provisions of this Act and to the by-laws, shares may be assigned, transferred or withdrawn by a member.

(2) Shares may only be assigned or transferred to a member of the credit union.

(3) No assignment, transfer or withdrawal shall be valid unless approved by the board of directors and the transfer thereafter entered in the register.

(4) If a member wishes to transfer such member's shares to a person who is not a member, the transferee shall first be admitted as a member in accordance with the by-laws and the transfer thereafter entered in the register.

**Investment of funds**

40. For the purposes of carrying out its objects, a credit union may, subject to the provisions of this Act, invest or deposit its funds -

- (a) with any licensed bank in Kiribati;
- (b) with any other credit union; or
- (c) in any other way as approved by the Registrar.

**Borrowing powers**

41. A credit union may borrow moneys from persons or institutions, subject to the limit imposed by section 43.

**Deposits**

42. A credit union may accept deposits from members either as savings or as contributions towards shares.

*A credit union may accept deposits*

### Limit of borrowing

43. Every credit union shall at its annual general meeting fix, subject to the provisions of section 64, the maximum liability it may incur in respect of borrowing.

### Loans to member

44. Subject to the provisions of this Act and the by-laws, a credit union may grant loans to members for productive and provident purposes.

### Reserve Fund

45.(1) Subject to the provisions of subsection (2), a minimum of 10 per centum of the gross income, as stated in the audited report submitted in accordance with section 48, shall be transferred to the Reserve Fund of the credit union established for that purpose, and such sum may -

- (a) be invested in accordance with section 40; or
- (b) be utilised to meet bad loans or losses other than operating deficits.

(2) No transfer to the Reserve Fund shall be made when the Reserve Fund is equal to the aggregate of 55 per centum of the sum of the share capital and the deposits of the members for the time being.

### Entrance fees

46. An entrance fee in such amount as may be prescribed under the by-laws may be charged by a credit union for the admission of new members.

### Disposal of surplus

47.(1) The net surplus remaining after the transfer effected pursuant to section 45 and after meeting operational expenditure for the year, may, with any surpluses from previous years be paid as dividend on shares but such dividend shall not exceed the prescribed rate.

(2) A dividend paid on shares under subsection (1) may be transferred to a member's share capital.

**PART VII  
AUDIT AND INVESTIGATION**

**Audit**

48.(1) The accounts of every credit union shall be audited once in every year by an auditor authorised by the Registrar and approved by the supervisory committee.

(2) For the purposes of subsection (1), an auditor shall have the same functions and rights as an auditor of a company under section 65 of the Companies Ordinance (Cap 10A).

(3) On completion of the audit the auditor shall forward a report to the Registrar who shall cause such report to be forwarded to the supervisory committee and the League.

**Books of Account**

49. The Registrar may prescribe the books and records that should be kept by credit unions.

**Power of Registrar to inspect books**

50. The Registrar or any person authorised by the Registrar shall have access to all documents, cash and securities of a credit union, and every officer of such credit union shall provide such information relating to the business of the credit union as the person making the inspection may require.

**Investigation**

51.(1) Where the Registrar -

(a) has reasonable grounds to believe that -

- (i) a credit union is unable to meet its obligations or has made default in complying with any of the provisions of this Act;
- (ii) an offence under this Act, the regulations or the by-laws of a credit union has been or is likely to be committed by a credit union or any member; or
- (iii) the interests of the members of a credit union are otherwise in danger;

(b) receives a requisition signed and supported by an affidavit by not less than one quarter of the members of a credit union, that an investigation

should be held into the affairs of a credit union;

(c) receives a requisition signed and supported by an affidavit by a majority of the members of the board of directors or by the supervisory committee; or

(d) receives a petition from the League recommending dissolution or an investigation of a credit union, he may, after consultation with the Minister and after giving the credit union a reasonable opportunity of making representations, investigate or order an investigation by any person.

(2) Where the Registrar receives a written direction from the Minister to investigate the affairs of a credit union, he shall carry out such investigation and shall make a report thereon in writing to the Minister.

(3) The Registrar may, before ordering an investigation upon a requisition made under paragraphs (b) and (c) of subsection (1), require the persons making the requisition to furnish security in such amount as the Registrar considers sufficient to meet the expenses that may be incurred by the credit union and the Registrar in respect of the investigation.

(4) A report of the investigation made under subsection (1) shall be made in writing and copies sent to the board of directors, the supervisory committee, and in the case of an investigation conducted pursuant to a requisition made under paragraph (b) of subsection (1) to such members.

(5) Where, after considering a report made under this section, the Registrar is of the opinion that a requisition under paragraphs (b) or (c) of subsection (1) has been without reasonable cause or was otherwise not justified under the circumstances, he may order that the whole or any part of the amount furnished as security under subsection (3) should be forfeited and paid to the credit union and the Registrar in order to defray the respective costs incurred by them.

(6) When an investigation is made under subsection (1) or (2) of this section, the provisions of section 124 of the Companies Ordinance (Cap. 10A) shall, mutatis mutandis, apply as they apply to an investigation made under section 121 of the Companies Ordinance (Cap. 10A).

(7) If, as a result of a report of an investigation made under subsection (1) or (2), the Registrar considers that it is necessary in the interests of the members that the registration of the credit union should be cancelled, the Registrar may, after giving the credit union a reasonable

opportunity of making representations, with the prior approval in writing of the Minister, wind up the credit union, in which case the provisions of Part X of this Act shall apply.

(8) Any officer or person who obstructs any investigation conducted under this Part commits an offence and shall be liable upon conviction to a fine of not exceeding \$200 or to a term of imprisonment not exceeding 6 months or to both such fine and imprisonment.

## PART VIII ORGANISATION AND MANAGEMENT

### Meetings

52.(1) Every credit union shall in each year hold a general meeting as its Annual General Meeting in addition to any other meetings in that year and shall specify the meeting as the Annual General Meeting in the notices calling it; and such meeting may be held at such time and place as the by-laws may provide.

(2) Special general meetings may be convened as provided for in the by-laws.

(3) The procedure and the nature of business to be transacted at any meeting shall be as provided for in the by-laws.

### Election of directors and committees

53.(1) At the first Annual General Meeting a credit union shall elect a board of directors of not less than 5 members, a credit committee of not less than 3 members and a supervisory committee of 3 members.

(2) An officer elected under subsection (1) shall hold office for a period of 1 year but shall be eligible for re-election.

(3) No director or member of the credit committee shall be a member of the supervisory committee.

### Appointment of officers and other employees

54.(1) At their first meeting which shall be held within 30 days after their election or at any subsequent meeting in the case of a vacancy among the officers, the board of directors shall appoint from their own number a president and a vice-president, and shall appoint a secretary and a treasurer or a secretary-treasurer, who shall not be a director.

(2) The board of directors may appoint a manager and other employees on such terms and conditions as it thinks fit.

#### Remuneration

55. No member of the board of directors or of the credit committee or supervisory committee shall, as such, receive any remuneration, but the secretary and the treasurer or the secretary-treasurer may be paid such salaries as the board of directors may determine from time to time.

#### Returns to Registrar

56. A record of the names and addresses of the directors, the members of the committees and of the officers shall be filed with the Registrar within 30 days after election or appointment.

#### Duties of directors

57. Subject to the provisions of this Act, the directors shall have general management of the affairs of a credit union and in particular shall -

- (a) consider and approve an application for membership and the expulsion of members;
- (b) determine the maximum individual share holdings and the maximum individual loans which may be made with or without security;
- (c) determine interest rates on loans and deposits;
- (d) declare dividends;
- (e) fix the form and amount of the security which shall be required from officers and employees handling money;
- (f) fill casual vacancies on the board of directors, the credit committee and supervisory committee until the election of successors at the next Annual General Meeting; and
- (g) perform such other duties as may be necessary or required by or under this Act, the regulations or the by-laws.

#### Jurisdiction of credit committee

58.(1) A credit committee shall have the general supervision of all loans to members and subject to any general direction of the board and the provisions of this

Act, shall fix the amount of, and rate of interest on, each loan.

(2) A credit committee shall not consider any loan unless a majority of all members of the committee is present and no loan shall be approved except by the unanimous decision of the members present.

(3) A credit committee may delegate its functions to an officer to be known as a loan officer to be appointed by the committee. Such loan officer may grant loans of amounts not exceeding the amount prescribed by regulations subject to, and in accordance with, any directions given to him by the credit committee, upon the security of the unencumbered shares of any member or members of the same credit union.

(4) Where a loan officer has given a loan which is not in accordance with the provisions of subsection (3) or of any written directions given to him by the credit committee, the loan officer shall be personally liable to refund to the credit union the amount of such loan, which shall be deemed to be a debt owed by him to the credit union.

**Security of loans**

59.(1) A credit committee shall require security to be given on all loans in excess of such amount as may be fixed by the Registrar.

(2) The credit committee shall determine the security and guarantors required for each loan and the conditions of repayment.

**Restrictions**

60.(1) No officer may be allowed to borrow in excess of the aggregate of the value of his shares and any deposits except upon the unanimous vote of a majority of all members of a supervisory committee.

(2) No such officer referred to in subsection (1) shall take part in any deliberation or vote relating to such borrowing.

**Prohibitions**

61. No credit union shall lend money to, or accept deposits from, any person who is not a member of such credit union.

*no other money lent or accepted on meeting by the committee*  
*see Annex af*

**Interest rate**

62. The rate of interest on any loan made by a credit union shall be in accordance with the prescribed rates in the by-laws.

**Duties of supervisory committee**

63. A supervisory committee shall -

- (a) examine the affairs of the credit union at least quarterly and audit the books as it deems necessary;
- (b) where the circumstances warrant call a special meeting to consider any matter reported to it by the credit committee;
- (c) make or provide for an annual audit and submit a report thereon to the Annual General Meeting;
- (d) fill casual vacancies in its own membership until the next Annual General Meeting is held and such vacancies are duly filled; and
- (e) call a special meeting to consider any matter which, in its opinion, should be brought to the attendance of the credit union.

**Borrowing powers**

64.(1) Subject to the provisions of this section, a credit union may borrow money for the carrying out of its objects and the discharge of its functions under this Act.

(2) A credit union shall not borrow any money so that the total indebtedness of the credit union in respect of borrowing exceeds the aggregate of 50 per centum of any deposits and the paid up value of the issued capital.

(3) No money shall be borrowed by a credit union save upon a resolution by the directors.

(4) Where any borrowing would make the total indebtedness of a credit union in respect of borrowing exceed the aggregate of 25 per centum of the sum of the deposits, and the paid up value of the issued capital, the resolution of the directors to borrow such money shall require confirmation, either by a vote of not less than three-quarters of the members present at a general meeting duly called for considering such resolution or by the unanimous sanction in writing of the members of the credit union.

PART IX  
THE LEAGUE OF CREDIT UNIONS

**League of credit unions**

65.(1) Credit Unions incorporated or registered under the provisions of this Act which desire to associate as a League of credit unions for the furtherance of their common interests and the benefit of their members may execute in duplicate, under seal and attested by the hands of their proper officers a memorandum of association and, if such memorandum is approved by the Registrar, cause it to be filed in the office of the Registrar.

(2) The memorandum of association shall state the name of the League, the par value of the shares, the objects of the League, the place where its registered office will be situated, the names and addresses of the subscribers to the memorandum of association and the names of the credit unions which they respectively represent and shall be accompanied by a copy of the by-laws by which the League is to be governed and such other documents as the Registrar may require.

(3) If the Registrar is satisfied that on the information submitted to him pursuant to this section it is appropriate to approve of the incorporation of the League the Registrar shall endorse upon both copies of the memorandum of association a certificate of incorporation and such endorsement shall be conclusive evidence of incorporation under this Act.

(4) The Registrar shall cause a notice of the incorporation to be published in the Gazette or in a newspaper circulating in Kiribati and over the radio.

(5) From the date of the certificate of incorporation the credit unions on whose behalf application was made for incorporation and such other credit unions as from time to time become members shall be a body corporate by the name contained in the memorandum of association and the provisions of this Act shall apply, mutatis mutandis, to the League.

PART X  
DISSOLUTION

**Dissolution**

66.(1) Subject to the prior approval in writing of the Minister, the Registrar may, by order, cancel the registration of a credit union if he is satisfied that -

(a) section 51(7) applies to the credit union

following a report of an investigation made under section 51(1) and (2);

- (b) the incorporation of the credit union was obtained by fraud or mistake;
- (c) the number of members of the credit union is less than 15; or
- (d) the credit union has, willfully, after notice by the Registrar, violated any of the provisions of this Act, the regulations made thereunder or the by-laws.

(2) Any member of a credit union may within 2 months of the cancellation, appeal against the cancellation to the Minister.

(3) The order cancelling the registration shall take effect -

- (a) where no appeal is made, within 2 months from the date of the order; and
- (b) where an appeal is made, from the date of the confirmation of the cancellation.

(4) Where the Registrar makes an order cancelling the registration of a credit union, he may also make an order for the safe custody of the documents and securities and for the protection of the assets of the credit union. In such a case the Registrar shall publish notice thereof whereupon the credit union shall be dissolved.

#### Effect of cancellation of registration

67. A credit union whose registration has been cancelled shall, from the date of publication of the notice of cancellation, absolutely cease to enjoy as such the privileges of a credit union, but without prejudice to any liability incurred by such credit union which may be enforced against the same as if such cancellation had not taken place.

#### Appointment of liquidator

68.(1) Where the registration of a credit union is cancelled, the Registrar may appoint one or more persons to liquidate such credit union under his direction and control.

(2) In the case of an appointment under subsection (1), the Registrar may impose such limitations on the powers of the liquidator as he thinks fit.

### Liquidator's power

69.(1) Where a liquidator is appointed under subsection (1) of section 68, all of the property of whatever description (including books and documents) belonging to the credit union shall be vested in the liquidator by his official name with effect from the date of his appointment.

(2) Subject to the provisions of subsection (2) of section 68, the liquidator, after giving such indemnity, if any, as the Registrar may direct, may -

- (a) subject to the limitation imposed by subsection (2) of section 29, decide the contributions to be made to the assets of the credit union by members, past members and the estates of deceased members who are indebted to the credit union;
- (b) by notice fix a day when all creditors shall prove their debts on pain of being excluded from any distribution of assets;
- (c) decide any question of priority that may arise between creditors;
- (d) institute or defend legal proceedings on behalf of the credit union;
- (e) decide by whom and in what proportions the costs of liquidation are to be paid;
- (f) give such directions as to the collection and distribution of assets as may be necessary;
- (g) compromise any claim by or against the credit union;
- (h) call such meetings of members or creditors as may be necessary for the proper conduct of the liquidation;
- (i) take possession of all documents, securities, account books and assets of the credit union;
- (j) sell the property of the credit union;
- (k) where the scheme of distribution has been approved by the Registrar, arrange for the distribution of the assets of the credit union; and
- (l) enforce the attendance of parties and witnesses and compel the production of documents by the means and manner provided for in civil proceedings in a court of competent jurisdiction.

### **Powers of Registrar in relation to liquidation**

70. Where a liquidator is appointed under section 68(1), the Registrar may -

- (a) revoke or modify any order made by the liquidator, or substitute a new order as necessary;
- (b) remove a liquidator from office, and appoint a new liquidator;
- (c) take possession of all documents and assets of the credit union;
- (d) require accounts to be produced to him by the liquidator;
- (e) arrange the auditing of the liquidator's accounts and authorise the distribution of the assets of the credit union; and
- (f) authorise the remuneration of the liquidator.

### **Enforcement of order**

71. Any action taken by a liquidator under section 68, or any order made by the Registrar under section 70 may be enforced by a court of competent jurisdiction.

### **Limitation of jurisdiction of civil court**

72. Unless otherwise expressly stated, no civil court shall have jurisdiction over or on any matter concerned with the dissolution of a credit union.

### **Effect of liquidation**

73.(1) In the liquidation of a credit union, the funds, including any reserve fund, shall be applied -

- (a) first to the costs of liquidation;
- (b) second to payment of the liabilities of the credit union;
- (c) third to the repayment of deposits;
- (d) fourth to the repayment of share capital and dividend for any period for which no dividend was paid; and
- (e) fifth to pay the balance to members in proportion to the number of shares held by each member.

(2) When the liquidation of a credit union has been completed and, subject to subsection (3), every creditor has claimed or received what is due to such creditor under the scheme of distribution, notice of the closure of the liquidation shall be published.

(3) No claim against a credit union may be made after 2 years from the date of publication of the notice of closure of liquidation.

PART XI  
MISCELLANEOUS

Prohibition of the use of the word "credit union"

74.(1) No person other than a credit union or <sup>the League</sup> shall carry on business under any name or title of which the words "credit union" are a part. *See sec 2 and can modify*

(2) Any person who contravenes this section commits an offence and shall be liable upon conviction to a fine of \$200 and in the case of a continuing offence to a further fine of \$40 for each day during which the offence continues.

Misappropriation by fraud

75. Any person who obtains possession by false representation of any property or funds of a credit union; or who has any property of a credit union in his possession and withholds it or misappropriates any part of it for purposes other than those expressed or directed in the by-laws of the credit union, this Act or regulations made thereunder commits an offence and shall be liable upon conviction to deliver the property or to repay all the money misappropriated, and in default of such delivery or repayment to be imprisoned for a term not exceeding 1 year.

Penalties for non-compliance

76.(1) Any credit union or an officer which or who willfully neglects or refuses to do any act or to furnish any information required for the purposes of this Act by the Registrar or any person authorised by the Registrar, or by the supervisory committee, commits an offence.

(2) Any person who -

- (a) willfully or without reasonable excuse disobeys any summons, requisition or written order issued under this Act, or fails to furnish information lawfully required from him under this Act; or

- (b) collects money in the nature of subscriptions for the purpose of forming a credit union to be registered under this Act, without the permission of the Registrar,

commits an offence.

- (3) Every person who commits an offence under subsection (1) or (2) shall be liable upon conviction to a fine not exceeding \$200 or to imprisonment for a term not exceeding 6 months or to both such fine and imprisonment.

#### Regulations

77. The Minister may make regulations prescribing all matters that by this Act are necessary or required to be prescribed for the carrying out or giving effect to this Act and for its due administration.

#### Exemptions

78.(1) The Companies Ordinance (Cap 10A), any applicable Banking Act, the Trade Unions Ordinance (Cap 97) and the Co-operative Societies Ordinance (Cap 14) shall not apply to a credit union unless specifically provided for in this Act or any other Act.

(2) Notwithstanding anything in the law relating to income tax, a credit union shall be entitled to relief from income tax in respect of profits or gains arising or accruing from interest on loans made to its members.

#### Transitional provisions and rights of registered credit unions

79.(1) From and after the commencement of this Act, only a credit union registered under this Act shall engage in any credit union activity.

(2) Any credit union that was immediately before the commencement of this Act, engaged in any credit union activity, shall, within 12 months of the coming into operation of this Act apply to the Registrar in the form set out in the First Schedule with a copy of its supplementary by-laws and the prescribed fee.

(3) Any person who engages in any credit union activity in contravention of subsection (1) commits an offence and shall be liable on conviction to a fine not exceeding \$500 or to imprisonment for a term not exceeding 1 year or to both such fine and imprisonment.



## SCHEDULE 2

(Sect. 8)

THE CREDIT UNIONS ACT 1990  
 CERTIFICATE OF INCORPORATION

REGISTERED NUMBER \_\_\_\_\_

The \_\_\_\_\_ Credit Union, having filed a  
 duly executed Articles of Association is incorporated under  
 the Credit Unions Act 19 \_\_\_\_\_ this \_\_\_\_\_ day of  
 19 \_\_\_\_\_ .

\_\_\_\_\_  
 Registrar of Credit Unions

This printed impression has been carefully examined by me  
 with the Bill which passed the Maneaba ni Maungatabu on 27th  
 August 1990 and is found by me to be a true and correctly  
 printed copy of the said Bill.

  
 Clerk of the Maneaba ni Maungatabu

Published by exhibition -

- (a) at the Public Office of the Beretitenti this  
*26th* day of *September*, 1990.

  
 Secretary to the Cabinet

- (b) at the Maneaba ni Maungatabu this  
*26th* day of *September*, 1990.

  
 Clerk of the Maneaba ni Maungatabu

## CREDIT UNIONS ACT 1990

## EXPLANATORY MEMORANDUM

The principal object of this Act is to provide a legal mechanism and/or framework for the formation of credit unions in Kiribati and otherwise provide for the control and regulation of credit unions in Kiribati.

Part II of the Act incorporating sections 3 to 14 thereof deals generally with the registration of credit unions. Section 3 in particular empowers the Minister to appoint a Registrar of credit unions and such other officers as may be necessary for the due administration of the Act.

The functions of the Registrar are outlined in the Act and, subject to the provisions of the Act and such instruction as the Registrar may from time to time receive from the Minister, include -

- (a) the keeping and maintenance of a Register of all credit unions registered under the Act (section 4);
- (b) the filing of the Articles of Association of persons (who shall not be less than 15 in number) desiring to form a credit union in accordance with the provisions of the Act (section 5(1));
- (c) receiving and considering applications for registration of credit unions; and registering and issuing certificates of incorporation as appropriate (section 8); and
- (d) preparation of standard by-laws which shall apply to every credit union registered under the Act for approval by the Minister (section 18).

Section 9 of the Act provides that upon registration a credit union "shall be a body corporate with limited liability" with power to among other things hold property, enter into contracts and sue and be sued in its own name.

Part III of the Act incorporating sections 15 to 28 thereof, provides for the objects, duties and powers of credit unions.

Section 15 contains an outline of what shall constitute the objects of every credit union registered under the Act. Section 17 on the other hand, provides that a credit union

may, with the approval of the Registrar, be a member of another credit union.

Sections 20 and 21 enjoin every credit union to keep a register of members which shall contain certain particulars relating to its members. There is also a requirement to keep open for inspection free of charge, copies of this Act and regulations made thereunder as well as copies of the Standard by-laws and supplementary by-laws of a credit union.

Sections 22 to 25 contain detailed provisions relating to among other things, debts owed by a member of a credit union to the credit union and how such debts can be recovered; shares or dividends of members of a credit union; the transfer of interest on the death of a member and qualifications for membership of a credit union.

Part IV of the Act sets out a procedure for the amalgamation of two or more credit unions as one credit union (section 26). Matters relating to such amalgamation including the transfer of assets and liabilities to a credit union formed by amalgamation and disputes as to such assets and liabilities are also contained in Part IV of the Act (sections 27 and 28).

Part V of the Act, incorporating sections 29 to 37 thereof, is concerned with the rights and liabilities of members of a credit union in general and particularly on withdrawal of membership, expulsion or death.

Part VI of the Act incorporating sections 38 to 47 deals with the property and funds of a credit union and covers matters such as share capital, transfer of shares, investment of funds, borrowing powers, loans to members and disposal of surplus.

Provisions relating to the auditing of the accounts of every credit union and the powers of the Registrar of credit unions to inspect the books and records of a credit union and conduct investigations where necessary are outlined in Part VII of the Act incorporating sections 48 to 51 thereof. The power of the Registrar to cancel the registration of an erring or delinquent credit union and wind up such credit union with the prior approval in writing of the Minister, are also contained in Part VI of the Act.

Provisions relating to the organisation and management of a credit union are contained in Part VIII of the Act which incorporates sections 52 to 63 thereof. The details include subjects such as meetings of a credit union, election of members of board of directors, credit committees and supervisory committees and their duties; appointment of

a manager and other employees of a credit union, jurisdiction of credit committees, borrowing powers, etc.

Part IX of the Act provides for the incorporation of a League of credit unions by such credit unions as desire to associate as a league for the furtherance of their common interests and the benefit of their members.

Part X of the Act, incorporating sections 66 to 73, sets out the circumstances under which the Registrar may cancel the registration of a credit union with the prior approval in writing of the Minister. Provisions relating to the effect of cancellation of a credit union, the Registrar's power to appoint a liquidator on cancellation of a credit union, the Registrar's powers in relation to liquidation and the limitation of the jurisdiction of a civil court over any matter concerned with the dissolution of a credit union are outlined in Part X of the Act.

Part XI of the Act, which contains sections 74 to 79, provides for miscellaneous matters such as restricting the use of the words "credit union" and prescribing penalties for fraudulent misappropriation and other misdeeds in relation to a credit union (sections 75 and 76). This Part of the Act also empowers the Minister to make appropriate regulations to give effect to the Act and for its due administration (section 77). Furthermore, section 79(1) enjoins that after the coming into operation of the Act, only a credit union registered by the Registrar in accordance with the provisions of the proposed Act shall engage in any credit union activity. There is however a transitional period of 12 months to enable existing credit unions to comply with the provisions of the Act.

Michael N. Takabwebe  
Attorney General

#### LEGAL REPORT

I hereby certify that none of the provisions of the above Act conflict with the Constitution and that the Beretitenti may properly assent to the Act.

Michael N. Takabwebe  
Attorney General