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Co-operative Societies (Special Provisions) Act, No. 34 of 1970

Date of Assent : December 31, 1970

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*Co-operative Societies (Special Provisions)
Act, No. 34 of 1970*

L. D.—O. 86/70.

AN ACT TO PROVIDE FOR THE REMOVAL OF CERTAIN DIFFICULTIES, AND THE RESOLUTION OF CERTAIN DOUBTS, WHICH HAVE ARISEN OR MAY ARISE IN REGARD TO THE ADMINISTRATION OF THE CO-OPERATIVE SOCIETIES ORDINANCE, AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[Date of Assent: December 31, 1970]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives of Ceylon in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Co-operative Societies (Special Provisions) Act, No. 34 of 1970.

Short title.

2. (1) Subject to the provisions of sub-section (2), every relevant power, duty and function conferred and imposed on, and assigned to, the Registrar under the principal enactment shall be deemed to have been and to be, validly so conferred, so imposed and so assigned, and accordingly—

Special provisions relating to the Registrar.

(a) every relevant reference made to the Registrar, whether before or on or after the appointed date; and

(b) every relevant act or thing done by, and all relevant proceedings held or taken by or before, the Registrar in the matter of any such reference or in any other circumstances whatsoever, whether before or on or after the appointed date,

shall be deemed not to have been, and not to be, invalid by reason only of the fact that such power, duty, and function was so conferred and imposed on and assigned to, any such reference was made to, any such act or thing was done by, and any such proceedings were held or taken by or before, the Registrar.

(2) Nothing in the provisions of sub-section (1) shall be deemed or construed to validate any relevant act or thing done by, or any relevant proceedings held or taken by or before, the Registrar in the matter of any relevant reference made to him, or in any other

circumstances whatsoever, if, but only if, such act or thing, or such proceedings, was or were subsequently held by any court of competent jurisdiction to be invalid on the ground that any relevant power, duty or function not having been validly conferred or imposed on, or assigned to, the Registrar under the principal enactment, the Registrar had no jurisdiction to do such act or thing, or to hold or take such proceedings:

Provided, however, that nothing in the preceding provisions of this sub-section shall be deemed or construed to preclude or prevent any relevant act or thing being done by, and any relevant proceedings being held or taken by or before, as hereafter provided in this Act, the Registrar *de novo* under the provisions of the principal enactment as modified by this Act.

(3) Where any relevant act or thing done by, and any relevant proceedings held or taken by or before, the Registrar prior to the appointed date in the matter of any relevant reference is not validated by sub-section (1) by virtue of the operation of sub-section (2), then, such reference shall be deemed to be a relevant reference made *de novo* to the Registrar on that date, and accordingly any relevant act or thing may be done by, and any relevant proceedings may be held or taken by or before, the Registrar *de novo* under the provisions of the principal enactment as modified by this Act in the matter of such reference.

Special
provisions
relating to
arbitrators.

3. (1) Subject to the provisions of sub-section (3), every arbitrator appointed by the Registrar under the principal enactment, whether before or on or after the appointed date, shall be deemed to have been, and to be, validly appointed, and accordingly—

(a) any relevant reference made to any such arbitrator under that enactment, whether before or on or after the appointed date;

(b) any relevant proceedings taken on such reference, whether before or on or after the appointed date; or

(c) any relevant act or thing done by any such arbitrator under that enactment on such reference, whether before or on or after the appointed date,

shall be deemed not to have been, and not to be, invalid by reason only of the fact that any such arbitrator was so appointed by the Registrar, such reference was made to, such proceedings were taken by or before, and any such act or thing was done by, any such arbitrator.

(2) Nothing in the provisions of sub-section (1) shall be deemed or construed to validate any relevant act or thing done by, or any relevant proceedings held or taken by or before, any arbitrator in the matter of any relevant reference made to him, or in any other circumstances whatsoever, if, but only if, such act or thing, or such proceedings, was or were subsequently held by any court of competent jurisdiction to be invalid on the ground that not having been validly appointed under the principal enactment, such arbitrator had no jurisdiction to do such act or thing, or to hold or take such proceedings:

Provided, however, that nothing in the preceding provisions of this sub-section shall be deemed or construed to preclude or prevent any relevant act or thing being done by, and any relevant proceedings being held or taken by or before, as hereafter provided in this Act, any arbitrator *de novo* under the provisions of the principal enactment as modified by this Act.

(3) Where any relevant act or thing done by, and any relevant proceedings held or taken by or before, any arbitrator prior to the appointed date in the matter of any relevant reference is not validated by sub-section (1) by virtue of the operation of sub-section (2), then, such reference shall be deemed to be a relevant reference made *de novo* to the arbitrator on that date, and accordingly any relevant act or thing may be done by, and any relevant proceedings may be held or taken by or before, any arbitrator *de novo* under the provisions of the principal enactment as modified by this Act in the matter of such reference.

The provisions of this Act to prevail in the event of any conflict or inconsistency with the principal enactment.

4. The provisions of this Act shall be in addition to, and not in derogation of, the provisions of the principal enactment, and accordingly shall be read and construed as one with the principal enactment:

Provided, however, that, in the event of any conflict or inconsistency between the provisions of this Act and the provisions of the principal enactment, the provisions of this Act shall prevail over the provisions of the principal enactment to the extent of such conflict or inconsistency.

Special provisions regarding Court actions, &c.

5. (1) Where there was, on the day immediately prior to the appointed date, any suit or action or appeal or application, whether by way of writ or otherwise,—

(a) pending before the Supreme Court in respect of any relevant act or thing done, or any relevant reference made to, or any relevant proceedings taken by or before, the Registrar or any arbitrator; or

(b) pending before a District Court or a Magistrate in respect of any relevant act or thing done by the Registrar or any arbitrator,

then, any question which arises at the hearing of such suit, action, appeal or application as to the validity or otherwise of such act or thing, or such reference, shall be determined in accordance with the provisions of the principal enactment as modified by this Act, and accordingly, for the purpose of such determination, the modifications made in the principal enactment by this Act shall be deemed to have come into force on the day immediately prior to the date on which such act or thing was so done, or such reference was so made, or such proceedings were so taken.

(2) Where, prior to the appointed date, any certificate issued by the Registrar under section 53A of the principal enactment to a District Court or a Magistrate in consequence of any other relevant act or thing done by the Registrar or any arbitrator was refused or rejected, or no action or proceedings as provided by that section was taken on that certificate, by that Court or Magistrate, as the case may be, on the ground that the Registrar, or such arbitrator, as the case may be, had no jurisdiction to do such

other act or thing, then, such certificate shall be deemed to be a certificate issued *de novo* to that Court or Magistrate on that date under the provisions of that enactment as modified by this Act, and shall be determined and dealt with by that Court accordingly.

6. The preceding provisions of this Act shall, for all purposes and in all respects, be as valid and effectual as though those provisions were in an Act for the amendment of the Ceylon (Constitution) Order in Council, 1946, enacted by Parliament after compliance with the requirement imposed by the proviso to sub-section (4) of section 29 of that Order in Council.

The provisions of this Act to be regarded as amendments to the Ceylon (Constitution) Order in Council, 1946.

7. In this Act, unless the context otherwise requires—

Interpretation.

“appointed date” means the date of the commencement of this Act;

“arbitrator” means an arbitrator appointed by the Registrar under the principal enactment, and includes arbitrators so appointed;

“principal enactment” means the Co-operative Societies Ordinance, as amended from time to time by any subsequent Ordinance or Act, and includes any rules made under section 54 of that Ordinance for any of the purposes specified in paragraphs (t) and (x) of sub-section (2) of that section;

“Registrar” has the same meaning as in the principal enactment;

“relevant act or thing”,—

(a) in relation to the Registrar, means any decision of the Registrar on any relevant reference made to him, or on any appeal made to him under section 53 of the principal enactment against the award of any arbitrator on any relevant reference made to such arbitrator, or any other act or thing, by whatsoever name or designation called, done by the Registrar in the matter of any such reference, or any certificate issued by the Registrar under section 53A of that enactment; or

(b) in relation to any arbitrator, means any award of such arbitrator on any relevant reference made to him, or any other act or thing, by whatsoever name or designation called, done by him in the matter of any such reference;

“ relevant power, duty and function ”, in relation to the Registrar, means any power, duty and function conferred and imposed on, and assigned to, the Registrar under section 53 or section 53A of the principal enactment;

“ relevant proceedings ”,—

(a) in relation to the Registrar, means any inquiry held by, or any other proceedings taken by or before, the Registrar, on any relevant reference made to or by him, or any appeal to him under section 53 of the principal enactment, or under section 53A of that enactment;

(b) in relation to any arbitrator, means any inquiry held by, or any other proceedings taken by or before, such arbitrator on any reference of a dispute for disposal made to him by the Registrar under section 53 of the principal enactment;

“ relevant reference ”,—

(a) in relation to the Registrar, means any reference of a dispute for decision made to him under section 53 of the principal enactment, or any subsequent reference of such dispute for disposal by any arbitrator made by such Registrar under that section; or

(b) in relation to any arbitrator, means any reference of a dispute for disposal made to him by the Registrar under the aforesaid section 53.