



PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA

CO-OPERATIVE SOCIETIES (AMENDMENT)

ACT, No. 32 OF 1983

[Certified on 24th August, 1983]

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**Co-operative Societies (Amendment)
Act, No. 32 of 1983**

[Certified on 24th August, 1983]

L. D.—O. 55/81.

AN ACT TO AMEND THE THE CO-OPERATIVE SOCIETIES LAW,
No. 5 of 1972

BE it enacted by the Parliament of the Democratic Socialist
Republic of Sri Lanka as follows:—

1. This Act may be cited as the Co-operative Societies (Amendment) Act, No. 32 of 1983. Short title.

2. Section 39 of the Co-operative Societies Law, No. 5 of 1972 (hereinafter referred to as the “principal enactment”) is hereby amended by the repeal of subsection (1) thereof, and the substitution therefor, of the following subsection:— Amendment
of section 39
of Law
No. 5 of 1972.

“ (1) A registered society shall not make any loan to any person other than a member :

Provided that with the approval of the Registrar and on such conditions as may be prescribed by him, a registered society may make loans to another registered society and supply goods on credit to any registered trader who has been appointed as an agent of the society for the distribution of such goods.”.

3. The following new heading is substituted for the heading “Audit, Inquiry, Inspection or Investigation” occurring in Chapter VIII of the principal enactment:— Replacement
of heading
in Chapter
VIII of the
principal
enactment.

“Accounts, Budget, Audit, Inquiry, Inspection or Investigation.”.

4. The following new sections are hereby inserted immediately after the new heading to Chapter VIII of the principal enactment, and shall have effect as sections 43A and 43B of that enactment:— Insertion of
new sections
43A and 43B
in the
principal
enactment.

“Accounts
of the
society.

43A. (1) Every registered society shall cause proper accounts of the income and expenditure, assets and liabilities and of all other transactions of the society to be kept.

(2) Every registered society shall prepare an annual statement of accounts and statistics relating to the activities of the society, as may be required by the Registrar or any person authorized by him. Such statement of accounts shall be submitted to the Registrar or other person authorized by him within three months of the close of the financial year to which it relates.

(3) Where a registered society fails to comply with any of the provisions of this section every member of the Committee of such society shall be guilty of an offence, and shall on conviction after summary trial before a Magistrate be liable to a fine not exceeding two thousand rupees:

Provided, however, that no such member shall be guilty of an offence if he proves that the offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of that offence.

Preparation
of budgets.

43B. (1) Every registered society shall prepare a budget in respect of every financial year, setting out projections of revenue, expenditure both recurrent and capital, financial and cash resources, investments of funds, budgeted profit and loss accounts, income and expenditure accounts and balance sheets pertaining to that year.

(2) Such budget shall be presented to the general body of the society for its approval not later than two months prior to the commencement of the financial year to which it relates.

(3) A copy of such budget shall be transmitted to the Registrar one month prior to the commencement of the financial year to which it relates.

(4) The form and manner in which the budget shall be prepared and the minimum information that it should contain, shall be as determined by the Registrar.

(5) The Minister may where he considers it expedient to do so having regard to the membership of a registered society and its income and expenditure by special or general order exempt any society from the requirements of this section."

5. Section 44 of the principal enactment is hereby amended as follows:—

Amendment
of section 44
of the
principal
enactment.

(i) by the repeal of subsection (4) thereof, and the substitution therefor, of the following subsection:—

“(4) The Registrar or any person authorized by general or special order in writing in that behalf by the Registrar, shall at all times have access to and be entitled to examine all books, documents, accounts and papers, securities and cash in hand of a registered society and every person in charge of or maintaining or having possession of the aforesaid shall produce them to the Registrar or such authorized person or furnish such information in regard to the transactions and working of the society as the Registrar or the authorized person making such inspection or audit may require.”;

(ii) in subsection (6)—

(a) in paragraph (a) thereof, by the substitution for the words “or the rules made under this Law”, of the words, “or the rules made under this Law or any other law, rules or regulations relating to Co-operative Societies or financial procedure approved by the Registrar or any general directions issued by the Registrar or the Co-operative Employees’ Commission,”;

(b) by the repeal of paragraph (c) thereof, and the substitution therefor, of the following paragraph:—

“(c) The provisions of section 66 (2) shall apply, *mutatis mutandis*, in a case where the decision made by the Registrar, is not complied with”; and

(c) by the repeal of paragraph (d) thereof.

6. Section 46 of the principal enactment is hereby amended in subsection (2) by the repeal of paragraph (d) thereof, and the substitution therefor, of the following paragraph:—

Amendment
of section 46
of the
principal
enactment.

“(d) to take into custody books of accounts or documents of the society where he has reason to believe that there is a fraud or irregularity in the course of such inquiry.”.

Amendment
of section 47
of the
principal
enactment.

7. Section 47 of the principal enactment is hereby amended by the addition immediately after subsection (7) thereof, of the following new subsection:—

“(8) For the purpose of an inspection or investigation under the provisions of this section, the Registrar or any person authorized by him to hold an inspection or investigation, shall have the power—

(a) to summon any past or present officer, agent, servant or member of a society or any other person who in the opinion of the Registrar or the person authorized by him, to inquire, can give material information about any transaction of the society or management of its affairs;

(b) to require the production of any book or document relating to the affairs of the society by any past or present officer, agent, servant or member of the society or other person in possession of or having the custody of such book, document, cash, security or other property;

(c) to summon a general meeting of the members of the society at such time and place as may be specified by him, to determine such matters as may be directed by him; and

(d) to take into his custody books of accounts or the documents of the society where he has reason to believe that there is a fraud, or irregularity in the course of such inspection or investigation.”.

Replacement
of heading
in Chapter
IX of the
principal
enactment.

8. The following new heading is substituted for the heading, “Dissolution of the committee of a registered society” occurring in Chapter IX of the principal enactment:—

“Suspension or interdiction and removal of officers of a registered society and dissolution of the committee of a registered society.”.

Amendment
of section 48
of the
principal
enactment.

9. Section 48 of the principal enactment is hereby amended as follows:—

(i) by the repeal of subsection (1) thereof, and the substitution therefor, of the following subsection:—

“(1) If the Registrar is of the opinion after an inquiry under section 46, or an inspection or investigation under section 47, that the committee

of any registered society is not performing its duties in a proper manner, he may, after giving the committee an opportunity to state its objections, if any, to its dissolution, and after considering such objections at a general meeting of the society summoned by him, by order in writing—

(a) dissolve the committee; and

(b) direct that the affairs of the society shall be managed and administered by a suitable person or persons appointed as hereinafter provided.”;

(ii) by the repeal of paragraph (b) of subsection (4) thereof, and the substitution therefor, of the following paragraph:—

“ (b) shall have and may exercise all the powers, rights and privileges of the duly constituted committee of the society and where it becomes necessary to do so in the interest of the efficient management of the affairs of such society, such of the powers of the general body as are necessary in such interest, to the exclusion of such general body.”; and

(iii) by the insertion immediately after subsection (9) thereof, of the following new subsection:—

“ (10) Before the completion of an inquiry under section 46 or an inspection or investigation under section 47, if the Registrar is of opinion that a prima facie case has been established against the committee, the Registrar shall have the power to suspend such committee for a period of six months and appoint an interim board to manage and administer the affairs of a society. The Registrar shall complete such inquiry or investigation within six months from the date of suspension of such committee and take a final decision regarding the dissolution of such committee under subsection (1).”.

Insertion of
new section
48A in the
principal
enactment.

10. The following new section is hereby inserted immediately after section 48 of the principal enactment, and shall have effect as section 48A of that enactment:—

“Suspension
or interdiction
and
removal of
officers &c.

48A. (1) If the Registrar is of the opinion after an inquiry under section 46, or an inspection or investigation under section 47, that any officer or employee of any registered society is not performing his duties in a proper manner, or is unfit or otherwise unable to discharge his duties efficiently, he may notwithstanding anything to the contrary in this law, the Co-operative Employees Commission Act, No. 12 of 1972 or any other law after giving such officer or employee, an opportunity to state their objection by order in writing suspend or interdict as the case may be such officer or employee pending such inquiry as may be necessary and after such inquiry remove such officer or employee from office :

Provided that any employee aggrieved by an order of removal made under this subsection, may appeal therefrom to the Co-operative Employees Commission established under Act, No. 12 of 1972 within a period of thirty days, and the decision of such Commission shall be final.

(2) Where any officer or employee is removed under subsection (1) and where such order for removal has been affirmed by the Co-operative Employees' Commission or no appeal against such Order has been preferred within thirty days, another officer or employee may be elected or appointed as the case may be in accordance with the provisions applicable in respect to such election or appointment.”

Amendment
of section 49
of the
principal
enactment.

11. Section 49 of the principal enactment is hereby amended by the repeal of subsection (1) thereof, and the substitution therefor, of the following subsection:—

“ (1) If the Registrar after an inquiry under section 46 or an inspection or investigation under section 47, or on receipt of an application for its dissolution made by

three-fourths of the members of a registered society, and after giving an opportunity to the society and to the creditors of such society to state their objections, is of opinion that the society ought to be dissolved, he may by order under his hand cancel the registration of the society."

12. Section 59 of the principal enactment is hereby amended as follows:—

Amendment
of section 59
of the
principal
enactment.

(i) in subsection (3) thereof, by the substitution for the words and figures from, "and the provisions of sections 226 and 297" to the end of that subsection, of the words and figures "and the provisions of sections 226 to 297 of the Civil Procedure Code shall, *mutatis mutandis*, apply to and in relation to such seizure and sale."; and

(ii) in subsection (4) thereof, by the substitution for the words and figures "and the provisions of section 312 (except paragraphs (a) and (c) of subsection (1) of that section) of the Criminal Procedure Code", occurring in that subsection of the words and figures, "and the provisions of section 291 (except paragraphs (a) and (d) of subsection (1) of that section) of the Code of Criminal Procedure Act, No. 15 of 1979".

13. Section 61 of the principal enactment is hereby amended in subsection (2) thereof, by the insertion immediately after paragraph (j), of the following paragraph:—

Amendment
of section 61
of the
principal
enactment.

"(jj) to prescribe the disqualifications of a member of a registered society from being elected as a member of the committee of management or of a regional or branch committee;".

14. Section 66 of the principal enactment is hereby amended as follows:—

Amendment
of section 66
of the
principal
enactment.

(i) in subsection (1) thereof, by the substitution for the words "employee of the society, the Registrar may", of the words "employee of the society, who has utilized the funds of the society contrary to the provisions of this Law or any other law or rules or regulations made thereunder or the by-laws or the working rules of the society or financial procedure approved by the Registrar or any general directions issued by the Registrar or the Co-operative Employees' Commission the Registrar may;"; and

(ii) in subsection (2) thereof—

(a) by the substitution for the words “by the Society”, of the words “by the Registrar”; and

(b) by the substitution for the words and figures “and the provisions of section 312 (except paragraphs (a) and (c) of subsection (1) of that section) of the Criminal Procedure Code”, of the words and figures “and the provisions of section 291 (except paragraphs (a) and (d) of subsection (1) of that section) of the Code of Criminal Procedure Act, No. 15 of 1979”.

Insertion of new section 66A in the principal enactment.

15. The following new section is hereby inserted immediately after section 66 of the principal enactment and shall have effect as section 66A of that enactment:—

“Nomination of members.

66A. Where the Registrar is of opinion that it is necessary or expedient to do so for the purpose of ensuring efficient management of the affairs of a registered society or for the purpose of safeguarding any investments or advances in money or goods made to such registered society by the Government or any State bank or State corporation, he may, notwithstanding anything to the contrary in this Law or any other law or in the by-laws of such registered society, nominate such number of persons to be members of the Committee of such registered society as are in his opinion necessary or expedient for such purpose:

Provided that the number of such nominated members shall be less than one half of the total number of members of such Committee.”.

Replacement of section 67 of the principal enactment.

16. Section 67 of the principal enactment is hereby repealed and the following section substituted therefor:—

“Liability of officers &c. for breach of trust.

67. It shall be lawful for the Registrar, after the accounts of a registered society have been audited as provided in section 44 or after an inquiry under section 46 or an inspection of books and investigation of affairs of a registered society has been held under section 47, to require any person, being

a person who is or has at any time been entrusted with or being a person having or at any time having had the dominion of, any money, or any goods or property, in his capacity as an officer or a member or a servant of the society, to pay over or produce such amount of money or balance thereof or pay the value of such goods or property which is shown in the books of accounts or statements kept or signed by such persons as held by or due from him as such officer, member or servant ; and if such person upon being so required, fails to pay over or produce such amount of money or balance thereof forthwith or the value of such goods or property or to duly account therefor, he shall be guilty of the offence of criminal breach of trust and shall on conviction after summary trial before a Magistrate be liable to imprisonment of either description for a term not exceeding ten years and shall also be liable to a fine, notwithstanding that such punishment exceeds the ordinary jurisdiction of a Magistrate."

17. The following section is hereby inserted immediately after section 67 of the principal enactment and shall have effect as section 67A of that enactment:—

Insertion of
new section
67A in the
principal
enactment.

"Who may
conduct
prosecutions.

67A. It shall be lawful for an officer of the Department of Co-operative Development to investigate, inquire and conduct prosecutions which fall within Chapter XVII of the Code of Criminal Procedure Act, No. 15 of 1979, in respect of any matter involving a registered society."

18. Section 70 of the principal enactment is hereby amended by the repeal of subsection (3) thereof, and the substitution therefor, of the following subsection:—

Amendment
of section 70
of the
principal
enactment.

"(3) All appointments and orders made, notifications and notices issued, awards made by arbitrators, and decisions made by the Registrar, and suits and other proceedings instituted or deemed to have been made, issued or instituted, and all disputes that have arisen under any enactment repealed by this Law, shall, be deemed to have been respectively made, issued and instituted and to have arisen under this Law."

Amendment
of section 72
of the
principal
enactment.

19. Section 72 of the principal enactment is hereby amended by the repeal of subsection (2) thereof, and the substitution therefor, of the following subsection:—

“(2) Every person who commits any offence referred to in subsection (1), shall on conviction after summary trial before a Magistrate, be liable to imprisonment of either description for a period not exceeding two years, or to a fine, not exceeding twelve thousand rupees, or to both such imprisonment and fine, notwithstanding that such punishment exceeds the ordinary jurisdiction of a Magistrate.”.

Insertion of
new section
72A in the
principal
enactment.

20. The following new section is hereby inserted immediately after section 72 of the principal enactment, and shall have effect as section 72A of that enactment:—

“Protection
for action
of Registrar
&c.

72A. No suit or prosecution shall lie against the Registrar, Deputy Commissioner; Senior Assistant Commissioners, Assistant Commissioners, or other persons duly authorized or appointed by the Registrar under sections 44, 46, 47, 49, 52, 66 and 67 of this Law for any act which in good faith is done or purported to be done in the performance of their duties or the discharge of their functions under this Law.”.

Amendment
of section 75
of the
principal
enactment.

21. Section 75 of the principal enactment is hereby amended by the substitution for the definition of the expression “officer”, of the following definition:—

““officer” includes every person who is the President, Vice-President, Chairman, Vice-Chairman, Secretary, Treasurer or Manager of a society, or any branch thereof, or a member of the committee of a society, and any other person who is duly empowered to give directions in regard to the affairs of the society;”.