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The Gazette of the Democratic Socialist Republic of Sri Lanka

EXTRAORDINARY

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PART IV (A) — PROVINCIAL COUNCILS

Provincial Councils Notifications

NORTHERN PROVINCE PROVINCIAL COUNCIL

Northern Province Co-operative Employees Commission Statute

No. 07 of 2017

NOTICE is hereby given that the Northern Province Provincial Council has adopted the Northern Province Co-operative Employees Commission Statute No. 07 of 2017 on 24 August 2017 and that the Hon. Governor Northern Province has given his Assent to it on 25 July 2018.

R. VARATHEESWARAN,
Secretary,
Council Secretariat,
Northern Provincial Council.

Council Secretariat,
A 9 Road,
Kaithady,
27th July, 2018.

Northern Province Provincial Council

Co-operative Employees Commission

Statute No: 07 of 2017

A statute to establish and incorporate a Commission to be known as the Northern Province Co-operative employees Commission of the Northern Provincial Council in terms of sub item 17.3 and 17.4 of item 17 of list 1 of the Ninth Schedule to the 13th Amendment to the Constitution of the Democratic Socialist Republic of Sri Lanka, to make special Provisions in respect of Employees of Co-operative Societies within the Northern Province and to provide for matters connected therewith or incidental thereto.

This Statute is inconsistent with the Co-operative Employees Commission Act, No. 12 of 1972 read with the Co-operative Employees Commission (Amendment) Act, No. 51 of 1992.

Be it enacted by the Northern Province Provincial Council of the Democratic Socialist Republic of Sri Lanka.



Short Title and
Date of
operation

1. This statute may be cited as the Northern Province Provincial Council Co-operative Employees Commission Statute No. 07 of 2017 of the Provincial Council of the Northern Province of Sri Lanka and shall come into operation on the date of assent of the Governor, Northern Province.

Power of
Minister to
exempt co-
operative
societies from
the succeeding
provisions of this
Statute

2. The Minister may, by order published in the *Gazette*, exempt from the succeeding provisions of this Statute.
 - (a) any such class of Co-operative Societies within the Northern Province as shall be specified therein; or
 - (b) any such Co-operative Societies within the Northern Province as shall be so specified and accordingly the expression “Co-operative Society whenever it occurs in such Provisions shall be read and construed to mean a Co-operative society in respect of which any such order is not for the time being in force.

PART I

Constitution, Powers and Functions of the Northern Provincial Co-operative Employees Commission

Establishment of
Co-operative
Employees
Commission

3. For the purpose of this Statute, an Authority to be called and known as the Northern Provincial Co-operative Employees Commission shall be established

Constitution
of the
Commission.

4. (1) The Commission shall be constituted in accordance with the succeeding provisions of this section.
 - (2) The Commission shall consist of three members appointed by the Minister in charge of the subject of co-operatives of Northern Province.
 - (3) A person shall not be qualified for appointment as a member if she/ he is -
 - (a) An employee or past employee of a Co-operative Society ; or
 - (b) A person who is a member of any body of persons which, in the opinion of the Minister, is a staff of an association, or trade union, which has as its objects, the regulation of salaries wages or conditions of service of any category of persons employed by Co-operative Societies ; or
 - (c) A person who is an officer or was an officer of a Co-operative Society according to the law relating to Co-operative Societies ; or
 - (d) A person who is for the time being a Member of Parliament or a Member of a Provincial Council or a Member of a local authority.
 - (e) A person who acted as a legal representative in pending legal proceedings of a Co-operative Society or on behalf of employees or as an officer who monitors the conduct of employees or an officer, who looks into the appeal of employees.
 - (f) A person who is for the time being an employee of the Ministry or Department in charge of Co-operative Development.

5. The Commission shall be a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate capacity. Incorporation of the Commission
6. (1) Each member of the Commission shall hold office for the period of three years from the date of his appointment provided that notwithstanding the term of any such appointment- Term of Office of members
 - (a) Any such member may at any time resign her/ his office by writing under her/ his hand addressed to the Minister or be removed from office by the Minister for valid reasons and ;
 - (b) Any such member shall, upon his becoming disqualified in terms of section 4 (3), vacate his office :

Provided further that any persons who is appointed to fill any vacancy caused by the death, resignation or removal from or vacation of office, of any such member shall unless she/ he vacates office earlier, hold office during a period equal to the unexpired portion of the term of office of the member in whose place she/ he is appointed and no longer.
- (2) Any person who served as a member of the Commission for a term of office shall be eligible for reappointment subject to the decision of the Minister and limited to two terms only.
7. (1) The Minister shall appoint one of the member of the Commission to be its Chairman. The Chairman shall preside at all meetings of the Commission at which she/ he is present. In the absence of the Chairman from any meeting of the Commission any member chosen by those present may preside there at. Chairman, and conduct of business
 - (2) Two members shall constitute the quorum for a meeting.
 - (3) If at any meeting only two members of the Commission are present and such members are divided in opinion as to the decision to be taken on any question, such question shall be referred to a meeting at which the three members of the Commission are present.
 - (4) If at any meeting, at which the three members of the Commission are present, and if the members are divided in opinion as to the decision to be given on any question, such question shall be decided according to the opinion of the majority of the members present.
 - (5) The Commission may regulate its own procedure in any matter not provided for in this Statute or any regulation made there under.
 - (6) Any Statute or proceeding of the Commission shall not be invalid by reason only of the existence of a vacancy among its members or any defect in the appointment of any of its members.
8. The Chairman and members of the Commission shall be paid such remuneration and such allowances as may be determined by the Minister, in consultation with the Minister of the Province to whom the subject or function of finance has been assigned. Remuneration of members
9. (1) There shall be a Secretary of the Commission who shall be a member of the Sri Lanka Administrative Service. Secretary and other officers
 - (2) The other members of the staff of the Commission shall be appointed from the transferable service of the Provincial Public Service.

Taking of Oaths
by members and
officers of the
Commission

10. (1) The members of the Commission shall on first appointment take an oath or make an affirmation in the form I set out in the Schedule to this Statute.
- (2) The Secretary to the Commission, and such of the other officers of the Commission as may be required so to do by the Chairman thereof, shall on first appointment, take an oath or make an affirmation in the form II set out in the schedule to this Statute.

Powers of the
Commission

11. (1) The Commission shall have the following powers.
- (a) to determine all matters relating to methods of recruitment to or and conditions of employment of employees of, Co-operative Societies, and the principles to be followed by such societies in making appointments and in making promotions from one post, in a Co-operative Society to another post in the same society ;
 - (b) to conduct examinations for recruitment of employees of Co-operative Societies or to appoint boards of examiners for the purpose of conducting such examinations and to charge fees from candidates presenting themselves for examinations ;
 - (c) to determine the qualifications necessary for appointment to any such post, to fix the scales of salaries to be attached to any such post or posts in any class or grade, to revise or adjust such scales of salaries from time to time, in consultation with the Commissioner and to establish such consultative machinery as the Commission may deem necessary to assist it in determining the remuneration and condition of service of co-operative employees ;
 - (d) to require Co-operative Societies to pay salaries in accordance with the salary scales fixed by the Commission for any post or posts in any class or grade ;
 - (e) to determine the procedure or procedures to be followed by any Co-operative Society in exercising its rights of disciplinary action against its employees, to call upon any Co-operative Society to complete disciplinary inquiries against its employees within a time stipulated by the Commission and to hear appeals arising out of any disciplinary orders made by any Co-operative society ;
 - (f) to call upon any Co-operative Society to keep the prescribed records relating to employees of that Society ;
 - (g) to call upon any Co-operative Society to furnish before a specified date such files, other documents or information as the Commission may require in respect of any employees of that society ;
 - (h) to nominate a panel or panels of officers to make such inquiries as are necessary on appeals that are referred by the Commission to such panel or panels and to report thereon to the Commission ;
 - (i) to require any Co-operative Society to carry out such instruction as indicated therein, including instructions relating to reinstatement, as may be given by the Commission in regard to any employees of such society, where the conduct of the employee has been the subject of an inquiry and the employee had appealed to the Commission against the decision of the society ;
 - (j) to determine the general principles in accordance with which gratuity or other benefits may be granted to employees on the termination of their services ;

- (k) to advise the Minister, in consultation with the Commissioner, in regard to the exemption of any Co-operative Society or class of Co-operative Societies from the operation of this Statute ;
- (l) to exercise such other powers in relation to Co-operative Societies and their employees as may be vested in the Commission by Order made by the Minister and published in the *Gazette* after the approval of the Provincial Council.
- (2) In the exercise of the powers vested in this Commission by sub section (1), the Commission may modify, vary or revise or set aside any decision or determination made by the Commission.
12. The expenses of the Commission shall be paid out of the moneys provided for the purpose by the Provincial council annually. Financial provisions

PART II

Co-operative Societies and Their Employees

13. A Co-operative Society which for the time being pays out of its funds the salary and other emolument of any employee shall be deemed to be the employer of such employee. Co-operative society to be an employer
14. Any Co-operative Society, and any employee of such society, shall be subject to such directions as may be given by the Commission under this Statute, and all decisions of the Commission in the discharge and exercise of its functions and powers under this Statute, subject to the provisions of section 11. (2) shall be final, and shall be binding on, all such Co-operative Societies as are not exempted from the operation of this Statute by Order made under section 2 by the Minister and on the employees of such societies. Co-operative societies and their employees to be subject to directions of the Commission
15. All directions given by the Commission in regard to any employees of any Co-operative Society, subject to the provisions of section 11. (2) shall be final and binding upon such employee as if such directions were given by such society. Directions of the Commission to be binding upon employees of co-operative societies
16. No person shall be appointed to any post in a Co-operative Society in any district unless that person has been resident within that district for period of at least two years. Provided, however, that where in the opinion of the commission, no suitable candidate is available for any post in any Co-operative Society in that district, the commission may permit that society to fill that post by appointing a suitable person from any other District in the Northern Province. Residential Qualifications
17. Any person appointed to any post in a Co-operative Society shall be assigned the scale of salary pertaining to that post in accordance with the grading of such society and the grade or class of employees as determined under section 25 (1).
18. Every Co-operative Society shall out of its funds pay the salary and other allowance, if any of its employee. Salaries of employees of co-operative societies
19. (1) A Co-operative Society shall have the power to transfer any employee of such society from any one of its work places to any other of its work places, and where such transfer is made for any reason other than on disciplinary grounds, such transfer shall not adversely affect the emoluments of any such employee. Transfer of employees of co-operative societies

- (2) The Commission shall have the power to transfer any employees of a Co-operative Society to another Co-operative Society as an employee of the latter society at the joint request of two employees holding permanent posts of similar status, provided that the concurrence of the respective employers have been previously obtained.
- (3) The Commission shall have the power to transfer any employee of a Co-operative Society to another Co-operative Society at his own request to a position of equal status in the other society provided that the concurrence of the respective employers have been previously obtained.
- Dismissal and Punishment of employee of co-operative societies
20. No employee of a Co-operative Society shall be dismissed or otherwise punished by any Co-operative Society except in accordance with the provisions of this Statute or any regulations made there under.
- Security furnished by employee of co-operative societies
21. (1) A Co-operative Society shall not require any employee to furnish by way of security an amount in excess of such sum as the Commission may prescribed.
- (2) Any cash security furnished by any employees of a Co-operative Society shall be invested in a bank in the name of the society, and an interest accruing thereon shall be paid to that employee.
- Regulations relating of employees
22. (1) Regulations may be made -
- (a) In respect of the recruitment appointment, promotion, transfer, resignation and termination of services of employees of Co-operative Societies ;
- (b) Prescribing such terms and conditions of employment of such employees and providing for salary scales the payment of allowances and gratuities, the grant of advances , promotions, leave, the interdiction of officers the termination of appointments, dismissals or the imposition of any other form of punishment to such employees and any appeal there from : and
- (c) In respect of such other matters relating to the terms of employment, or the conditions of service, of such employees as are deemed necessary.
- (2) Every regulations made in respect of any matter referred to in sub section (1) shall be binding on all co-operative Societies and their employees within the Northern Province.
- Duties of co-operative societies in respect of its employees
23. Every Co-operative Society shall -
- (a) Keep and maintain in respect of every one of its employees the prescribed registered of records and enter therein all such particulars relating to each such employee as may be prescribed ;
- (b) furnish to the Commission such returns or reports relating to its employees as may be prescribed or such information as the Commission may from time to time require ; and
- (c) Permit any member or servant of the Commission authorized in that behalf to enter any of its office and to inspect and take copies of any books, account, records or other documents kept therein.

24. Every Co-operative Society which is an employer and every employee of such society shall contribute periodically to the employees' provident fund such amounts as may be required by law. Provident fund

PART III

Powers of the Commissioner

25. (1) The Commissioner shall have the power to grade each Co-operative Society for the purpose of fixing scales of salaries for posts in Co-operative Societies and to determine the grades or classes of employees and the number of employees and the number of employees in each such grade or class of any Co-operative Society and vary it as may be deemed necessary from time to time. Commissioner to grade societies and determine staff
- (2) No Co-operative Society shall employ any person in contravention of the determination made by the Commissioner under subsection (1).
26. The Commission shall, with the concurrence of the Commissioner, determine the qualifications necessary for appointment to any post in Co-operative Societies, fix the scales of salary to be attached to any such post or posts in any class or grade and revise such scales of salaries from time to time. The Commission to secure the concurrence of the Commissioner regarding qualifications, salary scales, & c.

PART IV

Miscellaneous

27. If in giving effect to the provisions of this Statute any doubt or difficulty arises in respect of any matter or question for which no provision or no effective provision is made by this Statute, the Minister may, by Order, remove or determine such doubt or difficulty. Every such order shall be published in the *Gazette*, and upon such publication shall have the force of law and be as valid and effectual as if it were herein enacted. Removal of difficulties
28. (1) Unless otherwise expressly provided, the Commission may make all such regulations as may seem to the Commission to be necessary for carrying out the provisions of this Statute or giving effect to the principles thereof, including regulations for all matters for or in respect of which regulations are authorized or required to be made under this Statute, and all matters stated or required to be made under this Statute, and all matters stated or required by this Statute to be prescribed. Commission to make regulations
- (2) All regulations made by the Commission and approved by the Minister shall be published in the *Gazette* and placed before the Northern Provincial Council within three months.
- (3) Every regulation which is not approved by the Northern Provincial Council shall be deemed to be rescinded from the date of such disapproval, but without prejudice to anything previously done thereunder.
29. No action, prosecution or other proceeding, whether civil or criminal, shall be instituted or maintained, against any individual member of the Commission in respect of any decision taken or act done or omitted to be done by her/ him in her/ his capacity as such member or by the commission in its corporate capacity. Immunity of individual members of the Commission

Engagement of contractual casual or daily paid employees

30. Notwithstanding the provisions of this Statute, a Co-operative Society may in the interest of its efficient operation.

(a) Engage the service of an expert or any specialist for any defined term on a contractual basis with the prior approval of the Commission ; or

(b) Engage casual or daily - paid employees or employees paid on a piece rate basis,

Provided, however, that no permanency of tenure of the office shall be granted to such employees without the concurrence of the Commission.

Offences.

31. (1) Any Co-operative Society or any officer or employee there of -

(a) Which or who contravenes the provisions of this Statute, or

(b) Which or who willfully neglects or refuse or fails to provide any information required by the Commission to be done, or to furnish any information required for the purpose of this Statute by the Commission or other duly authorized person or ;

(c) which or who willfully makes a false return or furnishes false information, shall be guilty of an offence under this Statute.

(2) Every co-operative Society or person which or who commits any offence referred to in subsection I shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding ten thousand rupees.

(3) Where any offence under this Statute is committed by a Co-operative Society, every officer of that society shall be deemed to be guilty of the offence, unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the Commission of the offence.

(4) If any Co-operative Society fail to carry out any instructions given by the Commission, as regards the reinstatement of any employee, the Commissioner shall take suitable action against the Society including the removal of any or all members of the Board of Director.

Interference with the Commission

32. Every person who, otherwise than in the course of her/ his duty, directly or indirectly, by herself/ himself or by any other person, in any manner what so ever influence or attempts to influence any decision of the Commission or any member thereof shall be guilty of an offence, and shall on conviction after summary trial before a Magistrate, be liable to a fine not exceeding five Thousand Rupees or to imprisonment for a term not exceeding one year or to both such fine and such imprisonment.

Unauthorized disclosure of information prohibited

33. Neither a member of the Commission, nor the secretary of the Commission, or any member of the staff of the Commission, nor any other person shall publish or disclose to any person, otherwise than in the exercise of his official functions, the contents of any documents, communication or information whatsoever which has come to her/ his notice in the course of her/ his duties.

Communications of the Commission to be privileged

34. No person shall in any legal proceedings be permitted or compelled to produce or disclose any communication, written or oral, which has taken place between the Commission or any member, or officer thereof, and any co-operative society or any member of the committee of management of such society or officer thereof, or between any member or officer of the Commission in the exercise of, or in connection with the exercise of any of the functions of the Commission unless the Chairman shall consent in writing to such production or disclosure.

35. (1) A labour tribunal established under the Industrial Disputes Act shall not entertain an application, by an employee, under section 31B of that Act for relief or redress in respect of any matter if an appeal has been made to the Commission by such employee, in respect of the same matter or substantially the same matter. Application of the Industrial Disputes Act to co-operative societies and their employees
- (2) The Commission shall not entertain an appeal from an employee in respect of any matter, if an application has been made by such employee under section 31 B of the Industrial Disputes Act, to a labour tribunal established under that Act, in respect of the same matter or substantially the same matter.
36. In the event of any inconsistency among Tamil, Sinhala and English texts of the Statute, the Tamil text shall prevail. Tamil text to prevail in case of any inconsistency
37. In this Statute, unless the context otherwise requires - interpretation
- “Minister” means the minister to whom the subject of co-operative sector of the provincial Council of the Northern Province, has been assigned.
- “Commission” means the Northern Province Co-operative Employees Commission.
- “Commissioner” means the Commissioner of Co-operative Development and Registrar of Co-operative Societies of the Northern Provincial Council.
- “Co-operative Society” means a society within the Northern Province registered under the law relating the co-operative societies.
- “Province” means the administrative of the Northern Province.
- “District” means the administrative District under the administrative Districts Statute.
- “Employee” means a permanent employee appointed by a registered co-operative society within the Northern Province receiving a salary or other remuneration from it.

SCHEDULE I

Oath or affirmation of member of the Commission under the subsection 10 (1) of the Statute of the Co-operative Employees Commission by the Chairman/ Member of the Co-operative Employees Commission of Northern Province

I having been appointed the Chairman/ a member of the Co-operative Employees Commission do swear/ solemnly and sincerely affirm that I will, without fear or favor, affection or ill - will, discharge the functions of the office of Chairman/ Member of the Co-operative Employees Commission of the Northern Provincial Council and that I will not, directly, or in directly reveal any matters relating to such functions to any person otherwise than in the course of duty.

Chairman/ Member

Sworn/ Affirmed before me this day of 20.....

.....
Judge of the Provincial High Court

Schedule II

**Oath or affirmation of member of the Commission under the subsection 10 (2) of
the Statute of the Co-operative Employees Commission by the Secretary/Employee of
the Co-operative Employees Commission of Northern Province**

I having been called upon to exercise the functions of the Secretary of/ an Officer of the Co-operative Employees Commission of the Northern Provincial Council do hereby swear/ solemnly and sincerely affirm that I will not, directly or indirectly, reveal to any person otherwise than in the course of duty the contents or any part of the contents of any documents, communication or information whatsoever which may come to my knowledge in the course of my duties as the secretary/ an Officer of the Co-operative Employees Commission of the Northern Provincial Council.

Sworn/ Affirmed before me this day of 20.....

.....
Chairman of the Co-operative
Employees Commission
Northern Provincial Council

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