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The Gazette of the Democratic Socialist Republic of Sri Lanka

EXTRAORDINARY

අංක 1879/19 - 2014 සැප්තැම්බර් මස 12 වැනි සිකුරාදා - 2014.09.12

No.1879/19 - FRIDAY SEPTEMBER 12, 2014

(Published by Authority)

PART IV (A) — PROVINCIAL COUNCILS

Provincial Councils Notifications

SABARAGAMUWA PROVINCE PROVINCIAL COUNCIL

Co-operative Employee's Pension Statute No. 01 of 2014 of the Sabaragamuwa Provincial Council

(Ministry of Law and Order, Finance and Planning, Local Government, Health and Indigenous Medicine, Women Affairs, Co-operatives, Trade and Food, Transport and Estate Welfare, Environment, News, Housing and Construction)

Honourable Chairman of the Sabaragamuwa Provincial Council certified on 22.07.2014

Honourable Governor of the Sabaragamuwa Provincial Council assented on 06.08.2014

Printed by order of the Sabaragamuwa Provincial Council

SABARAGAMUWA PROVINCE PROVINCIAL COUNCIL OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA

Co-operative Employee's Commission Statute No. 01 of 2014 of the Sabaragamuwa Provincial Council

The Co-operative Employee's Commission Statute No. 01 of 2014 of the Sabaragamuwa Provincial Council which is passed by the Sabaragamuwa Provincial Council on 24.06.2014 and assented to by the Honourable Governor of the Sabaragamuwa Province on 06.08.2014 is hereby published for the information of the public.

LALITH DODAMKOTUWA,
Council Secretary,
Sabaragamuwa Provincial Council.

At the Sabaragamuwa Provincial Council,
10th September 2014.

SABARAGAMUWA PROVINCE CO-OPERATIVE EMPLOYEE'S COMMISSION STATUTE No. 01 OF 2014 OF THE SABARAGAMUWA PROVINCE PROVINCIAL COUNCIL

A Statute to establish a commission to be known as Sabaragamuwa Province Co-operative Employee's Commission in terms of the Article 154(g)(1) of the 13th amendment to the constitution of Democratic Socialist Republic of Sri Lanka and to make provisions in respect of Employees of Co-operative Societies in the Sabaragamuwa Province and to provide for matters connected therewith or incidental thereto.



This Gazette Extraordinary can be downloaded from www.documents.gov.lk

The provisions of this statute are inconsistent with Co-operative Employee's Commission Act, No. 12 of 1972 amended by Co-operative Employee's Commission (amended) Act, No. 51 of 1992.

Be it enacted by the Sabaragamuwa Provincial Council of the Democratic Socialist Republic of Sri Lanka as follows :

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| Short title | 01. This statute may be cited as the Co-operative Employee's Commission Statute No. 01 of 2014 of the Sabaragamuwa Provincial Council. |
| Date of operation | 02. This statute shall come into force from the date it receives the assent by the Governor of the Sabaragamuwa Province. |

Part - 1

ESTABLISHMENT, POWERS AND FUNCTIONS OF SABARAGAMUWA PROVINCE CO-OPERATIVE EMPLOYEE'S COMMISSION

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| Establishment of Sabaragamuwa Province Co-operative Employee's Commission | 03. For the purpose of this statute, a commission to be called and known as Sabaragamuwa Province Co-operative Employee's Commission shall be established. |
| Should be a body corporate | 04. The Commission shall be a body corporate with a common seal and may sue and be sued in its corporate capacity and have powers to do every other thing for the purpose of this statute. |
| Constitution of the Commission | <p>05. I. The Commission shall consist of three members appointed by the minister.</p> <p>(2) A person shall not be qualified for appointment as a member of the commission, if he is ;</p> <p style="margin-left: 40px;">(a) an employee or past employee of a co-operative society ; or</p> <p style="margin-left: 40px;">(b) a person who is a member of any body of persons which, in the opinion of the minister, is a trade union which has its objects, the regulation of salaries, wages or conditions of service of any category of persons employed by co-operative societies ; or</p> <p style="margin-left: 40px;">(c) a person who is an officer of a co-operative society according to the law relating to co-operative societies ; or</p> <p style="margin-left: 40px;">(d) a person of unsound mind or bankrupted or convicted by any court under the penal code or bribery act ; or</p> <p style="margin-left: 40px;">(e) a person who is for the time being a member of parliament or member of provincial council or member of any local government authority.</p> |
| Term of office of members | 06. Each member of the commission shall hold office for a period of 03 years from the date of his appointment unless he is removed earlier by the minister or disqualified by Section 5(2) of this statute or resign from his post |

Any person who is appointed to fill any vacancy caused by death, resignation or removal from or vacation of office, of any such member shall hold office during the period equal to the unexpired portion of the term of office of the other members unless otherwise declared.

07. (1) The minister shall appoint one of the members of the commission to be its chairman. the Chairman shall preside at all meetings of the commission at which he is present. In the absence of the chairman from any meeting of the commission any member chosen by those present may preside thereat. Chairman and conduct of business of the commission
- (2) Two members shall constitute the quorum for a meeting of the commission
- (3) If any meeting, at which the 02 members of the commission are present and such members are divided in opinion as to the decision to be taken or any question, such question shall be referred to a meeting at which the 03 members of the commission.
- (4) If at any meeting, at which the three members of the commission are present, the members of that commission 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, but if the members are equally divided then, the chairman shall have a casting vote
- (5) Any act or proceeding of the commission shall not be invalid or deem to 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.
- (6) The commission may regulate its own procedure for any matter not provided in this statute or any regulation made there under.
8. The chairman and members of the commission should be paid such remuneration and such allowances as may be determined by the minister in consultation with the provincial minister who is in charge of finance in the province. Remuneration of members
09. (1) There should 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 provincial Public Service and they should be subjected to the administrative and disciplinary orders of the Provincial Public Service.
10. (1) The chairman and the members of the commission shall, on first appointment, take an oath or make an affirmation in the form set out in the Schedule I to this statute. Taking of oaths by members and other officers
- (2) The secretary to the commission and such of the other officers of the commission as may be required to do so by the chairman thereof, shall, on first appointment, take an oath or make an affirmation in the form set out in the 2nd schedule to this statute.
11. (1) The commission shall have the following powers Powers of the commission
 - (a) to determine all matters relating to methods of recruitment to, and conditions of employments of employees of co-operative societies, and the principles to be followed by such societies in making appointments and in making provisions. all that recruitments and appointments in contravention to the aforesaid are illegal and salary, wages and allowances paid to such employees should be surcharged to the board of directors of the relevant society.

- (b) to conduct examinations for recruitment as employees of co-operative societies or to appoint boards of examiners for the purpose of conducting such examinations and to charge fees from candidates
 - (c) to determine the qualifications necessary for appointment to any such post to fix the scales of salaries, from time to time, in consultation with the commission and to establish such consultative machinery as the commission may deem necessary to assist it in determining the remuneration and conditions 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.
 - (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 it employees within a time stipulated by the commission.
 - (f) to hear appeals that arises due to disciplinary orders made by co-operative societies.
 - (g) to call upon any co-operative society to keep the prescribed records relating to employees of that society.
 - (h) to call upon any co-operative society to furnish before a specified date such files, other documents or information as the commission may required in respect of any employee of that society.
 - (i) to nominate a panel or panels of officers to make such inquiries as are necessary on appeal that are referred by the commission to such panel or panels and to report there on to the commission.
 - (j) to require any co-operative society to carry out such instruction, on or before a stipulated date relating to alter, mitigate, cancel a decision of a society or to take another decision on behalf of it or to hold a fresh inquiry again or to reinstatement, as may be given by the commission in regard to any employee 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.
 - (k) to determine the general principles in accordance with which gratuity or other benefits may be granted to employees on the termination of their services on a disciplinary action or any other reason.
 - (i) to direct an appellant to do a cash deposits as required by the regulations made by the minister, and decide to retain or repay it at the end of the appeal inquiry.
- (2) In the exercise of the powers vested in the commission, except the power vested by article 7(f)(j)(1) of sub section (1), the commission may modify, vary or revise or set aside any decision of determination made by the commission.

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 emoluments of any employee shall be deemed to be the employer of such employee. Co-operative society to be an employer
14. Every co-operative society should pay salary and emoluments of its employees out of its fund. Salary of the co-operative society employees
15. 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 binding on all such co-operative societies and on the employees of such societies. Co-operative societies and their employees to be subject to directions of the commission
16. All directions given by the commission in regard to any employee 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 are given by such society. Directions of the commission to be binding upon employees of co-operative societies
17. (1) All the directions given by the co-operative employee's commission established under the co-operative employee's commission Act, No. 12 of 1972 on or before the date of establishment of the commission under this statute and the directions given by the co-operative employee's commission Act, No. 12 of 1972 read with Provincial Council (Consequential Provisions) Act, No. 12 of 1989, including the directions and orders given in respect of Co-operative societies and their employees relating to
 - (a) the determined scale of salaries, service conditions including all the grading.
 - (b) all the orders issued for the functions of the performance under that act.
 - (c) appeals all types received commenced to hear and disposed of and awaiting the issue of orders.
 - (d) all legal proceedings already commenced.
 - (e) all regulations made and circular issued
 - (f) all appointments made and all promotions given

Shall be valid and effective as if given by this statute.
- (2) Regulations (Co-operative employee's Establishment Code) made under the Co-operative employee's commission Act, No. 12 of 1972 and published in the extra ordinary Gazette No. 1712/36 of 02.07.2011 are valid and effective until the Co-operative minister made the regulations.
18. No person shall be appointed to any post in a co-operative society unless that person is a resident within the Sabaragamuwa Province. Provided, however, that when in the opinion of the commission no suitable candidate is available in the province for any post in any co-operative society in the Sabaragamuwa Province, the commission may permit subjects to the regulations made by the minister, that society to fill that post by appointing a suitable candidate who does not have permanent residency in the Sabaragamuwa Province. Residential qualifications

Salary scales of employees to be determined according to grading of a co-operative society and grade and class of employees	19.	Any person appointed to a post in a co-operative society shall be assigned the salary scale pertaining to that post in accordance with the grading of such society and the grade or class of employee's as determined under Section 27(1)
Secondment from Sabaragamuwa Provincial Public Service	20.	Notwithstanding any other provisions of this statute, the commission may, with the approval of the minister and of the “appointing authority” and with the consent of the relevant officer may appoint to any office in the co-operative society, for such period and on such terms and conditions as the commission may approve. For the purposes of this section, “appointing authority” means the “appointing authority” of the provincial public service.
Security furnished by the employees	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 prescribe. (2) Any cash security furnished by any employee of a co-operative society shall be invested in a bank in the name of the society and any interest accruing thereon shall be paid to that employee.
Employee's Provident Fund and Employee's Trust Fund	22.	(1) Every co-operative society which is an employer and every employee of such society shall contribute periodically to the Employee's Province Fund and Employee's Trust Fund, such amounts as may be required by law.
Gratuity of the employees	(2)	Every co-operative employee, whose service is terminated by retiring, expelling from the service or vacating the post and if he/she has uninterrupted 5 year service, he/she should be paid the gratuity.
Co-operative employee's to be employees of the society and not of the commission	23.	For the avoidance of doubt, it is hereby declared that all employee's are servants of, employed by and owe their loyalty to the society by which they are employed.
Dismissal and punishment of employees of co-operative societies	24.	(1) 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. (2) Nothing in the preceding provisions of this Section shall be deemed to render it unlawful for any co-operative society to continue and complete in accordance with the provisions that were in force prior to the date of the establishment of the commission any disciplinary proceedings, already pending against any of its employees in respect of any misconduct or breach of discipline or their cause of complaint which may have occurred or arisen before such date. (3) If any employee has appealed or taken a legal action alleging against punishing him or her, without a formal disciplinary action and after hearing it, it is decided to pay him compensation, fine or any other sum from the society, director board including the chairman of the committee responsible should reimburse it to the society personally and collectively.

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| <p>25. (1) The Minister may make regulations</p> <p>(a) in respect of the grading of employees in co-operative societies, prescribe of grade and class, recruitment, appointment, evaluation of efficiency, training, promotion, transfer, resignation and termination of services of employees of co-operative societies and their grievances</p> <p>(b) Prescribing such terms and conditions of employment of such employees and providing for salary scales, payment of allowances and gratuities, employees' welfare advances, grants, leaves disciplinary procedure and appeals.</p> <p>(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.</p> <p>(2) Every regulation made in respect of any matter referred to in sub Section (1) above, shall be binding on all co-operative societies and their employees within authoritative area of Sabaragamuwa Province.</p> | <p>Regulations relating to employees</p> |
| <p>26. Every co-operative society within the province shall</p> <p>(a) keep and maintain in respect of every one of its employees, the prescribes registers or records and enter there all such particulars relating to each such employee as may be prescribed.</p> <p>(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 requires ; and</p> <p>(c) permit any member, officer or employee who is authorized in that behalf to enter any of its offices and to inspect and take copies of any books, account, records or to inspect any good, wholesale store or any other place or asset which will be helpful to come to a final decision of an appeal or a disciplinary inquiry.</p> | <p>Duties of Co-operative societies in respect of its employees</p> |

Part III

POWERS OF THE CO-OPERATIVE COMMISSIONER

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| <p>27. (1) The provincial commissioner shall have the power to grade each co-operative society for the purpose of fixing scales of salaries to posts in co-operative societies and to determine the grades or classes of employees and the number employs in each such grade or class of any co-operative society and vary it as he may deem necessary from time to time.</p> <p>(2) No co-operative society shall employ any person in contravention of the determination made by the provincial commissioner under sub-Section (1)</p> | <p>Provincial commissioner to grade society and determine its staff</p> |
| <p>28. The commission shall with the concurrence of the provincial commissioner determine the qualification 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 salary from time to time</p> | <p>The commission to secure the concurrence of the provincial commissioner regarding qualifications, salary scales etc.</p> |

Part IV

MISCELLANEOUS PROVISIONS

Removal of
difficulties

29. 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.

Minister to make
regulations

- 30 (1) Unless otherwise expressly provided, the commission may made 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, there of, 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 by this statute to be prescribed.
- (2) No such regulations shall have effect until it has been approved by the minister and notification of such approval has been published in the Gazette.
- (3) Upon the publication in the gazette of any notification under sub-Section (2), the regulations to which the notification relates shall be as valid and effectual as though it were herein enacted.

Immunity of
individual members
of the commissions

31. 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 him in his capacity as such member or by the commission in its corporate capacity

Engagement of
contractual, casual
or daily paid
employees

32. Notwithstanding the province of this statute, a co-operative society may in the interests of its efficient operation with the prior approval of the commission.
- (a) engage the services of an expert or any specialist for any defined term on a contractual basis.
- (b) engage casual or daily paid or hourly paid employees, or employees paid on a piece rate basis.
- (c) engage employees on acting basis subject to maximum 06 months duration on special occasions.

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

Offences

33. (1) Any co-operative society or any officer or employee thereof ;
- (a) which or who contravenes the provisions of this statute ; or
- (b) which or who willfully neglects or refuse or fails to do any act 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) any co-operative society, committee or any employee, which or who willfully makes a false return or furnished false information, shall be guilty of an offence under this statute.

- (2) Every society or person which or who commits any offence referred to in sub Section (1) shall, on conviction after summary trial before a magistrate either be liable to a fine not exceeding Rs. 5000/- or be punished with imprisonment of either description for a term not exceeding 6 months or both.
- (3) On the conviction of any co-operative society for failure to carry out such instructions given by the commission as requires the reinstatement of any employee, Such co-operative society shall be liable ;
- (i) to pay in addition to any punishment that may be imposed on such co-operative society under sub Section (2) above, a fine of Rs. 250/- for each day on which the failure is continued after conviction thereof ; and
- (ii) to pay such employee the remuneration which would have been payable to him if he had been in such service on each such day and on each day of the period commencing on the date on which he should have been reinstated in service according to the instructions of the commission and ending on the date of the conviction of such co-operative society, computed at the rate of salary or wages to which he would have entitled of his service has not been terminated.
- (iii) to pay such employ a sum decided by the commission in addition to the penalty mentioned in above (ii), on the conviction of any co-operative society for failure to carry out such instructions given by the commission to pay a salary or other way allowance or compensation.

Any sum which a co-operative society liable to pay under paragraph (ii) and (iii) of this sub section may be received on the order of the court by which it was convicted as if it were fine imposed on it by that court and the amount so recovered shall be paid to the employee

34. Every person who, otherwise than in the course of his duty, directly or indirectly, by himself or by any other person, in any manner whatsoever influences or attempts to influence any decision of the commission or any member thereof shall be guilty of an offence, and shall, on conviction after a summary trial before a magistrate, be liable to a fine not exceeding Rs. 5000/- or to imprisonment for a term not exceeding 06 months or to both such fine and such imprisonment. Influence with the commission
35. No member of the commission, nor the secretary nor 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 content of any document, communication or information whatsoever which has come to his notice in the course of his duties. Unauthorized disclosure of information prohibited
36. 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 in the exercise of, or in communication with the exercise of any of the functions of the commission, unless the chairman shall consent in writing for such production or disclosure. Communications of the commission to be privileged
- 37 (1) If an application has been made by an employee under this statute in respect of any matter to any labour tribunal established under that act, the commission shall not entertain any appeal made to it by such employee in respect of the same matter or substantially in respect of the same matter. Application of Industrial Dispute Act to the co-operative societies and the employees

- (2) If an application has been made by an employee under this statute to the commission, the Labour Tribunal established under the Industrial Dispute Act, shall not entertain any appeal made to it by such employee in respect of the same matter or substantially in respect of the same matter.

Sinhala text to
prevail in case of
inconsistency
interpretation

38. In the event of any inconsistency between the Sinhala and Tamil texts of this statute, Sinhala text shall prevail

39. In this statute, unless the context otherwise requires

“Minister” means the provincial minister to whom the subject of co-operatives in the Sabaragamuwa Province have been assigned.

“Committee” means a governing board which the management of a registered co-operative society has been assigned and it includes the board of directors of a registered co-operative society and individuals appointed by the commissioner.

“Commissioner” means the commissioner of Co-operative development of Sabaragamuwa Province and Registrar of Co-operative Societies of the Sabaragamuwa Province.

“Officer” means committee members, secretary and executive officers of a Co-operative society when mention regarding any Co-operative society.

“Co-operative society” means a registered society under the law relates to the Co-operative societies.

“employee” means a Co-operative employee to the purpose of this statute.

SCHEDULE - 01

OATH OF AFFIRMATION OF CHAIRMAN/MEMBERS OF SABARAGAMUWA PROVINCE CO-OPERATIVE EMPLOYEE'S COMMISSION UNDER SECTION 10(1)

I,having been appointed Chairman/Member of Sabaragamuwa Province Co-operative Employee's Commission do swear/solemnly and sincerely affirm that I will, without fear or favour, affection of ill-will discharge the function of the office of Chairman/Member of Sabaragamuwa Province Co-operative Employee's commission and that I will not directly or indirectly reveal any matter relating to such functions to any person otherwise than in the course of duty.

.....
Signature of affirmant/deponent

On thisday of20.....
Sworn/affirmed before me thisday of

.....
Judge of the Sabaragamuwa Provincial High Court.

SCHEDULE - 02

OATH OF AFFIRMATION OF SECRETARY/OFFICER OF SABARAGAMUWA PROVINCE CO-OPERATIVE
EMPLOYEE'S COMMISSION UNDER SECTION 10(2)

I,having been called upon to exercise
the functions of the Secretary/any officer of Sabaragamuwa Province Co-operative Employee's Commission do 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 contents of any document, communication or information whatsoever which may come to my
knowledge in the course of duties as the Secretary of/an officer of Sabaragamuwa Province Co-operative Employee's
Commission

.....
Signature of affirmant/deponent

On thisday of 20.....
Sworn/affirmed before me this day of

.....
Chairman of the Sabaragamuwa Province Co-operative Employee's Commission

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