

A STATUTE PROVIDE FOR THE ESTABLISHMENT OF THE CO-OPERATIVE EMPLOYEES COMMISSION OF THE PROVINCE; TO MAKE SPECIAL PROVISIONS IN RESPECT OF EMPLOYEES OF CO-OPERATIVE SOCIETIES WITHIN THE ; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

BE it enacted by the [*Name of the Province*] Provincial Council of the Democratic Socialist Republic of Sri Lanka as follows: -

Short title.

1. This Statute may be cited as the [*Name of the Province*] Co-operative Employees Commission Statute, No. of 20...

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 as shall be specified therein;

or

(b) any such Co-operative Society as shall be so specified,

and accordingly, the expression 'Co-operative Society', wherever 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

ESTABLISHMENT OF THE CO-OPERATIVE EMPLOYEES COMMISSION OF THE PROVINCE

Establishment of the Co-operative Employees Commission.

3. (1) There shall be a commission which shall be called and known as the Co-operative Employees Commission of the Province (in this Statute referred to as the "Commission").

(2) The Commission shall, by the name assigned to it by subsection (1), be a body corporate and shall have perpetual succession and a common seal and may sue and be sued by such name.

Object of the Commission.

4. The object of the Commission shall be to determine all the matters relating to employees of the Co-operative Society.

Powers, functions and duties of the Commission.

5. (1) The powers, functions and duties of the Commission shall be to-

- (a) to determine all matters relating to methods of recruitment to, and conditions of employment of employees of Co-operative Societies;
- (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 presenting themselves for examinations;
- (c) to determine the qualifications necessary for appointment to any such office, to fix the scales of salaries to be attached to any such office in any class or grade, to revise or adjust such scales of salaries, from time to time, in consultation with the Provincial Commissioner 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 for any office or in any class or grade;
- (e) to determine the procedure to be followed by any Co-operative Society in exercising its powers of disciplinary action against its employees, 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 on or before a

specified date such files, other documents or information as the Commission may require in respect of any employee of that Society;

- (h) to nominate an officer or panels of two 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 instructions, including instructions relating to reinstatement, as may be given by the Commission in regard to any employee of such 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 Commission, 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 after obtaining the approval of the Provincial Council and published in the *Gazette*;
- (m) to direct any relevant Co-operative Societies to carry out the instructions as may be given by the Commission after hearing an appeal made to the Commission by a co-operative employee.

(2) The Board shall, for the purpose of achieving the objects of the Commission, exercise, discharge and perform the powers, functions and duties conferred or assigned to or imposed on the Commission by this Act.

PART II

ADMINISTRATION AND MANAGEMENT OF THE COMMISSION

Constitution of
the Board of
Management of
the Commission.

6. (1) The administration, management and control of the affairs of the Institute shall be vested in the Board of Management of the Commission (in this Act referred to as the "Board") which shall consist of three persons appointed by the Minister.

(2) The Chairperson and Vice Chairperson shall be appointed by the Minister from among its members.

(3) Every appointed member shall possess academic or professional qualifications and wide experience in co-operative, law or business and possesses specific experience in relation to co-operative management.

(4) Every appointed member shall unless he vacates office earlier by death, resignation or removal, hold office for a term of three years from the date of his appointment and shall unless he has been removed, be eligible for reappointment.

(5) The Minister may, if he considers it expedient to do so, remove from office any appointed member after assigning reasons therefor.

(6) Any appointed member may at any time resign his office by letter to that effect addressed to the Minister and sent by registered post.

(7) In the event of vacation of office by death, resignation or removal of any appointed member, the Minister may having regard to the provisions of subsection (3) appoint any other person to succeed such member. Any member so appointed shall hold office for the unexpired term of office of the member whom he succeeds.

(8) Where an appointed member, by reason of illness, infirmity or absence from Sri Lanka for a period of not less than three months, is temporarily unable to perform his duties, it shall be the duty of such member to inform the Minister in writing of such inability. The Minister may, on receipt of such

information, having regard to the provisions of subsection (3) appoint some other person to act in his place.

Quorum and meetings of the Board.

7. (1) The *quorum* for a meeting of the Board shall be two members.

(2) The Chairperson shall preside at every meeting of the Board. In the absence of the Chairperson from any meeting of the Board, the Vice Chairperson shall preside at such meeting.

(3) All questions for decision at any meeting of the Board shall be decided by the vote of the majority of members present at such meeting. In the case of an equality of votes, the Chairperson or Vice Chairperson as the case may be shall, in addition to his vote have a casting vote.

(4) Subject to the preceding provisions of this section, the Board may regulate the procedure in relation to the meetings of the Board and the transaction of business at such meetings.

Acts or proceedings of the Board deemed not to be invalid by reason of any vacancy.

8. No act or proceeding of the Board shall be invalid by reason only of the existence of any vacancy in the Board or any defect in the appointment of a member of the Board.

Remuneration of the members of the Board.

9. The members of the Board shall be remunerated in such manner and at such rates as may be determined by the Minister with the concurrence of the Minister assigned the subject of Finance in the Board of Ministers.

Disqualification from being a member of the Board.

10. A person referred to in section 6(1) shall be disqualified from being appointed or continuing as a member of the Board –

- (a) if he is an employee or a past employee of a Co-operative Society;
- (b) if he is a member of any body of persons which, in the opinion of the Minister, is a staff association, or trade union, which has as its objects, or one of its objects, the regulation of salaries, wages or

conditions of service of any category of persons employed by Co-operative Societies;

- (c) if he is an officer of a Co-operative Society according to the law relating to Co-operative Societies;
- (d) if he is for the time being a Member of Parliament or a member of a Provincial Council or of a local authority;
- (e) if he has been declared an insolvent or an un-discharged bankrupt under any law in Sri Lanka or any other country;
- (f) if he is under any law in force in Sri Lanka or any other country found or declared to be of unsound mind;
- (g) if he is convicted of an offence involving moral turpitude and punishable with imprisonment for a term not less than six months;
- (h) if he is serving or has served a sentence of imprisonment imposed by a Court of Sri Lanka or any other country; or
- (i) if he has any financial or other interest as is likely to affect prejudicially the discharge by him of his functions as a member of the Board.

Secretary and other officers.

11. (1) There shall be a Secretary of the Board who shall be a member of the Sri Lanka Administrative Service.

(2) The other members of the staff of the Commission shall be appointed from the Provincial Public Service.

Financial Provisions.

12. The expenses of the Commission shall be paid out of the moneys

allocated for the purpose by the Annual Financial Statement of the Province.

PART III

CO-OPERATIVE SOCIETIES AND THEIR EMPLOYEES

Co-operative Society to be an employer.

13. A Co-operative Society which employs any person shall be deemed to be the employer of such employee.

Co-operative Societies and their employees to be subject to directions of the Commission.

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 exercise, discharge and performance of its powers, functions and duties under this Statute shall be final, and shall be binding on all such Co-operative Societies and on the employees of such Societies.

Directions of Commission to be binding upon employees of Co-operative Societies.

15. All directions given by the Commission in regard to any employee of any Co-operative Society shall be final and binding upon such employee.

Introduction of terms and conditions of service and options as to their acceptance.

16. (1) The terms or conditions of service except salary scale existing on the date of commencement of this Statute introduced by the Co-operative Employees Commission established under the provisions of Co-operative Employees Commission Act, No. 12 of 1972 shall be continued to be effective.

(2) Every employee employed prior to the date of commencement of this Statute shall be given the option to remain in service, if such employee so wishes, on the terms and conditions of service which applied to such employee immediately prior to such date.

(3) Any employee who opts to remain in service on the terms and conditions of service which applied to such employee immediately prior to the date of commencement of this Statute shall, within sixty days after the date of commencement of this Statute, in writing notify the Co-operative Society in which such employee is employed of such option, and an employee who fails to give such notice within that period shall be deemed to have accepted the

terms and conditions of service prescribed by the Commission established under section 2.

(4) Any employee who opts to remain in service on the terms and conditions of service which applied to such employee immediately prior to the date of commencement of this Statute shall be required to accept the terms and conditions of service prescribed by the Commission established under section 2 in the event of his accepting an offer of promotion at any time after the date of commencement of this Statute.

(5) All appointments made to offices in any Co-operative Society, on or after the date of commencement of this Statute, shall be on the terms and conditions of service prescribed by the Commission, and all promotions made prior to the date of commencement of this Statute, which are to take effect on or after that date, shall be subject to the approval of the Commission and shall be regarded as appointments on or after the appointed date.

(6) All options exercised under this section whereby the terms and conditions of service prescribed by the Commission are accepted, shall be irrevocable.

Examination of serving officers and restriction on application of new terms and conditions of services.

17. (1) The Commission may, in its absolute discretion, require any employee to satisfy the Commission, by examination or otherwise, of his proficiency and fitness to hold that office:

Provided that the preceding provisions of this subsection shall apply only to such category or categories of employees as may be prescribed.

(2) Where the holder of an office to which subsection (1) applies fails to satisfy the Commission of his proficiency and fitness to hold such office, the Commission shall endeavour to place him, with his consent, in an office which, in the opinion of the Commission, is commensurate with his abilities, and in default of such placement, the Commission may, in its absolute discretion, require that his employment be terminated by his Co-operative Society after giving reasonable notice.

(3) Where the holder of an office to which subsection (1) applies opts to accept the terms and conditions of service prescribed by the Commission, he shall not be entitled to such terms and conditions of service, unless and until he has satisfied the Commission in accordance with the provisions of subsection (1).

Residential qualifications.

18. No person shall be appointed to any office in a Co-operative Society in any district within the Province unless that person has been resident within that district for a period of at least two years:

Provided, however, that where in the opinion of the Commission no suitable candidate is available in any district for any office in any Co-operative Society in that district, the Commission may permit that society to fill that office by appointing a suitable candidate from among the candidates residing within the other districts in the Province.

Scales of salary of employees to be determined according to grading of a Co-operative Society and the grade or class of employees.

19. Any person appointed to an office in a Co-operative Society shall be assigned the scale of salary pertaining to that office in accordance with the grading of such Society and the grade or class of employees as determined by the Commission.

Secondment of Provincial Public Servants.

20. Notwithstanding any other provisions of this Statute, the Commission may, with the approval of the Minister and of the Provincial Public Service Commission and with the consent of the public officer and the Co-operative Society concerned, appoint to any office in the Co-operative Society, a public officer in the service of the Provincial Public Service and seconded for service in that Society for that purpose, for such period and on such terms and conditions as the Commission may approve.

For the purposes of this section, 'Minister' means the Minister of the Board of Ministers in charge of the institution in which such public officer is employed.

Salaries of employees of

21. Every Co-operative Society shall out of its funds pay the salary and

Co-operative Societies.

other allowances, if any, of its employees.

Transfer of employees of cooperative societies.

22. (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 reasons other than on disciplinary grounds, such transfer shall not adversely affect the emoluments of any such employee.

(2) The Commission shall have the power to transfer any employee 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 office of similar status, provided that the concurrence of the respective employers has been previously obtained.

Dismissal and punishment of employees of co-operative societies.

23. (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 rules made thereunder.

(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 other cause of complaint which may have occurred or arisen before such date.

Security furnished by employees of Co-operative Societies.

24. (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.

Rules relating to employees.

25. (1) The Commission may make rules-

- (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, promotion, 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 rule made in respect of any matter referred to in subsection (1) shall be binding on all Co-operative Societies and their employees.

(3) The regulations made under the Co-operative Employees' Commission Act, No. 12 of 1972 and published in the *Gazettes* Nos. 169/8 of December 1, 1981 and 849/7 of December 13, 1994 shall be valid and effective until the Commission makes rules under this Statute.

Duties of Co-operative Society in respect of its employees.

26. Every Co-operative Society within the Province shall –

- (a) keep and maintain in respect of every one of its employees the prescribed registers or 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 offices and to inspect and take copies

of any books, accounts, records or other documents kept therein.

Provident Fund
and the
Employees'
Trust Fund

27. 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.

PART III POWERS OF THE PROVINCIAL COMMISSIONER

Provincial
Commissioner to
grade Co-
operative
Societies and
determine staff.

28. (1) The Provincial Commissioner shall have the power to grade each Co-operative Society for the purpose of fixing scales of salaries for offices in Co-operative Societies and to determine the grades or classes of employees and the number of employees in each such grade or class of any Co-operative Society.

(2) No Co-operative Society shall employ any person in contravention of the determination made by the Provincial Commissioner under subsection (1).

The Commission
to secure the
concurrence of
the Provincial
Commissioner
regarding
qualifications,
salary scales, &
c.

29. The Commission shall with the concurrence of the Provincial Commissioner, determine the qualifications necessary for appointment to any office in Co-operative Societies, fix the scales of salary to be attached to any such offices in any class or grade and revise such scales of salaries from time to time.

PART IV MISCELLANEOUS

Removal of
difficulties.

30. (1) 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 is made by this Statute, the Minister may, by order, remove or determine such doubt or difficulty.

(2) Every such order shall be published in the *Gazette* with the approval of the Provincial Council and upon such publication shall have the force of law

and be as valid and effectual as if it were herein enacted.

Commission to
make rules.

31. (1) The Commission may make all such rules in respect of which rules are authorized or required by this Statute to be prescribed.

(2) Every rule made under subsection (1) shall be approved by the Minister and published in the *Gazette*.

Immunity of
individual
members of the
Board

32. No action, prosecution or other proceeding whether civil or criminal, shall be instituted or maintained against any individual member of the Board in respect of any decision taken or act done or omitted to be done by him his capacity as such member or by the Commission in its corporate capacity.

Engagement of
contractual,
casual or daily
paid employees.

33. (1) Notwithstanding the provisions of this Statute, a Co-operative Society may in the interests of its efficient operation –

- (a) engage the services 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 in contingences and on essential situations.

Provided, however, that such employees shall not be employed for a period of over thirty days without the concurrence of the Commission.

(2) No permanent appointment shall be made without the concurrence of the Commission.

Offences.

34. (1) Any Co-operative Society or employee thereof-

- (a) which or who contravenes the provisions of this Statute;
- (b) which or who willfully neglects or refuses or fails to do any act required by the Commission to be done, or to furnish any information required for the purposes 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,

commits an offence under this Statute.

(2) Every Co-operative Society or person which or who commits any offence referred to in subsection (1) shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding five 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.

Interference with the Commission.

35. 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 commits an offence, and shall, on conviction after summary trial before a Magistrate, be liable to a fine not exceeding one hundred thousand rupees or to imprisonment for a term not exceeding one year or to both such fine and such imprisonment.

Application of the Industrial Disputes Act to Co-operative Societies and their employees.

36. (1) If an application has been made to the Co-operative Employees' Commission by an employee in respect of any matter, no application in respect of the same matter or substantially in respect of the same matter under section 31 (b) of the Industrial Disputes Act, shall be entertained by any Labour Tribunal established under that Act.

(2) If an application has been made by an employee under section 31(b) of the Industrial Disputes Act, 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.

interpretation.

37. In this Statute, unless the context otherwise requires –

“Board of Ministers” means the Board of Ministers of the [Name of the Province] Provincial Council;

“Provincial Commissioner” means the Provincial Commissioner of Co-operative Development and Register of Co-operative Societies of the Province;

“Co-operative Society” means a society registered under the law relating to Co-operative Societies and having its head office in the Province and operating within the Province;

“district” means an administrative district within the Province;

“employee” means an employee of a Co-operative Society within the meaning of this Statute;

“Minister” means the Minister in the Board of Ministers of the [Name of the Province] Province to whom the subject of Co-operative is assigned;

“Prescribed” means prescribed by rules made by the Commission.

... text to prevail
in the case of
inconsistency.

38. In the event of any inconsistency between the [*Sinhala and Tamil*] texts of this Statute, the text shall prevail.