

N.B.-- Part IV (A) of Gazette No. 750 Of 15.01.93 was not published.

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The Gazette of the Democratic Socialist Republic of Sri Lanka

අංක 751 - 1993 ජනවාරි මස 22 වැනි සිකුරාදා - 1993.01.22

No. 751—FRIDAY, JANUARY 22, 1993

(Published by Authority)

PART IV (A) — PROVINCIAL COUNCILS

(Separate paging is given to each language of every Part in order that it may be filed separately)

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IMPORTANT NOTICE REGARDING ACCEPTANCE OF NOTICES FOR PUBLICATION IN THE WEEKLY "GAZETTE"

ATTENTION is drawn to each of the 'Notices' appearing in the 1st week of every month, regarding the latest dates and times of acceptance of notices for publication in the weekly *Gazette* at the end of each Part of the *Gazette of the Democratic Socialist Republic of Sri Lanka*.

All notices to be published in every Part of the *Gazette* shall close at 12 noon of each Friday, a fortnight before the date of publication. All Departments, Corporations, Boards, etc., are advised that any notification fixing specific dates for closing times of applications in regard to vacancies, tender notices and the dates and times of auction sales, etc., should be prepared with due regard to this change, i.e., by giving adequate time both from the time of despatch of notice to the Government Press and from the date of publication thus enabling those interested in the contents of the notices to actively and positively participate.

All notices to be published in the weekly *Gazette* should reach this Department positively by 12 noon of the Friday, two weeks prior to date of publication, e.g., Notices for publication in the weekly *Gazette* of January 29, 1993 should reach the Government Press on or before 12 noon on January 15, 1993.

Department of Govt. Printing,
Colombo 8,
January 01, 1993.

NEVILLE NANAYAKKARA,
Government Printer.

Provincial Council Notifications

My No. CPC/A/12/90 (viii).

CENTRAL PROVINCIAL COUNCIL

IT is hereby notified that the following Statute has been unanimously passed by the Central Provincial Council on 06th May, 1992 and the Honourable Governor's Assent has been received by his letter No. GCP/AS/3 of 17th August, 1992.

P. R. RANASINGHE,
 Assembly Secretary,
 Central Provincial Council.

Central Provincial Council,
 Assembly Secretariat,
 P. O. Box 92,
 Pallekele,
 Kundasale,
 06th November, 1992.

Provincial Co-operative Societies Statute No. 10 of 1990

A Statute to provided for the organisation, registration, supervision, development of the Co-operative Societies of the Central Province, and establishment of Provincial Co-operative Employees Commission and employment, promotion, retirement of employees of Provincial Co-operative Employees Commission, and to provide for matters connected therewith and incidental thereto. This Statute is inconsistent with the Co-operative Societies Law, No. 05 of 1972.

Short title and date
 of operation.

1. This statute may be cited as the Co-operative Societies Statute No. 10 of 1990 of the Central Province, and shall come into operation on the date of receiving assent of the Governor.

CHAPTER I

REGISTRATION

Appointment of Registrar, Deputy Registrar, Senior Assistant Registrar and Assistant Registrar, and powers of Commissioner of Co-operative Development and persons appointed to assist the Commissioner.

2. (1) there may be appointed a Registrar of Co-operative Societies for the Central Province, and such number of Deputy, Senior Assistant or Assistant Registrars as may be necessary.

(2) The Minister may by general or special order, confer, on any Deputy, Senior Assistant or Assistant Registrar, all or any of the powers of a Registrar under this statute or under any rules made thereunder.

(3) The person appointed to be or to act for the time being as the Commissioner of Co-operative Development for the Central Province shall have and may exercise same powers as are vested in the Registrar of Co-operative Societies by this Statute and under Rules and Regulations made thereunder.

(4) Each of the persons appointed to assist the Commissioner of Co-operative Development and the Registrar of Co-operative Societies of the Central Province have and may exercise such of the powers of the Registrar of Co-operative Societies of the Central Province under this Statute and under any rules made or deemed to be made thereunder as may be specified by the Minister of the Central Province Provincial Council in-charge of Co-operative affairs in any general or special order made under this section.

3. (1) Subject to the provisions hereinafter contained—

- (a) A society which has as its object the promotion of the economic, social or cultural interests of its members in accordance with co-operative principles ; or
- (b) A society established with the object of facilitating the operations of a society referred to in paragraph (a) ; or

Societies which may
 be registered.

- (c) A society consisting of registered societies as members established for the purpose of providing co-operative education and training advisory services to co-operative societies in the Central Province of Sri Lanka and other services for the promotion of Co-operative movement in the Central Province of Sri Lanka ; or
- (d) A society consisting of registered societies as members established for the purpose of planning, co-ordinating and facilitating the activities of such co-operative societies in the Province of or any part thereof as are engaged in marketing, industry, agriculture, fisheries or such other activity as may be approved by the Registrar,

may be registered under this Statute with or without limited liability :

Provided that liability of a society of which a member is a registered society shall be limited.

(2) where the liability of members of a society is limited, no member other than a registered society shall hold more than such portion of the share capital of the society, subject to a maximum of one-fifth, as may be prescribed by the rules.

4. (1) No society, other than a society of which a member is a registered society, shall be registered under this Statute, if it does not consist of at least ten persons each if whom is above the age of eighteen years and resides or is employed or owns immovable property within the proposed area of operations of the society seeking registration.

Conditions of registration.

(2) Where for the purpose of this Section any question arises as to the age, residence, employment or property qualification of any person, that question shall be decided by the Registrar whose decision shall be final.

(3) The word "limited" shall be the last word in, or the equivalent of that word in Sinhala or Tamil shall form part of, the name of every society with limited liability under this Statute.

5. (1) For the purpose of registration an application shall be made to the Registrar.

Application for registration.

(2) The application shall be signed —

(a) in the case of a society of which no member is a registered society, by at least ten persons qualified in accordance with the requirements of Section 4 (i), and

(b) in the case of a society of which a member is a registered society, by a duly authorised person on behalf of every such registered society, and, where all the members of the society are not registered societies, by ten other members, by all of them.

(3) The application shall be accompanied by two copies of the proposed by-laws of the society, and the persons by whom or on whose behalf such application is made shall furnish such information in regard to the society as the Registrar may require.

6. If the Registrar is satisfied that a society has complied with the provisions of this Statute and the rules, that the activity in which the society proposes to engage is economically feasible and that its proposed by-laws are not contrary to this Statute or to the rules, he may, if he thinks fit, register the society and its by-laws. An appeal in accordance with such rules as may be made in that behalf shall lie to the Minister of the Central Province Provincial Council against the refusal of the Registrar to register any society.

Registration.

7. A certificate of registration signed by the Registrar shall be conclusive evidence that the society therein mentioned is duly registered, unless it is proved that the registration of the society has been cancelled.

Evidence of registration.

8. (1) A registered society may, subject to this Statute and the rules made thereunder, amend its by-laws, including the by-law which declares the name of the society.

Amendment of the by-laws of a registered society.

(2) No amendment of the by-laws of a registered society shall be valid until that amendment has been registered under this Statute for which purpose two copies of the amendment shall be forwarded to the Registrar.

(3) If the Registrar is satisfied that any amendment of the by-laws is not contrary to this Statute or to the rules, he may, if he thinks fit, register the amendment. An appeal in accordance with such rules as may be made in that behalf shall lie to the Minister against the refusal of the Registrar to register any amendment of any by-laws.

(4) An amendment which changes the name of a society shall not affect any right or obligations of the society or of any of its members or past members, and any legal proceedings pending may be continued by or against the society under its new name.

(5) Where the Registrar registers an amendment of the by-laws of a registered society, he shall issue to the society a copy of the amendment certified by him, which shall be conclusive evidence of the fact that the amendment has been duly registered.

(6) In this section "amendment" includes the making of a new by-law and the variation or rescission of a by-law.

Amalgamation, division and transfer of assets and liabilities of registered societies.

9. (1) A registered society may, with the previous approval of the Registrar and by a resolution passed by a two-third majority of the members or delegates present and voting at a general meeting of the society—

- (a) transfer its assets and liabilities in whole or in part to any other registered society ; or
- (b) divide itself into two or more societies.

(2) Any two or more registered societies may, with the previous approval of the Registrar and by a resolution passed by a two-third majority of the members or delegates present and voting at a general meeting of each such society, amalgamate themselves and form a new society.

(3) The resolution of a registered society under Sub-section (1) or Sub-section (2) shall contain all particulars of the transfer, division or amalgamation, as the case may be.

(4) Where a registered society has passed any such resolution, it shall give notice thereof in writing to all its members and creditors and, notwithstanding any by-laws or contract to the contrary, any member or creditor shall, during the period of one month of the date of service of the notice upon him, have the option of withdrawing his shares, deposits or loans, as the case may be.

(5) Any member or creditor who does not exercise his option within the period specified in Sub-section (4) shall be deemed to have assented to the proposals contained in the resolution.

(6) Where a resolution passed by a registered society under this section involves the transfer of any assets and liabilities, the resolution shall, notwithstanding anything contained in any law for the time being in force, be a sufficient conveyance to vest the assets and liabilities in the transferee without any further assurance.

Cancellation of registration certificates of registered societies in certain cases.

10. (1) Where the whole of the assets and liabilities of a registered society are transferred to another registered society in accordance with the provision of Section 9, the registration of the first mentioned society shall stand cancelled and that society shall be deemed to have been dissolved and shall cease to exist as a corporate body.

(2) When two or more registered societies are amalgamated into a new society in accordance with the provisions of Section 9, the registration of each of the amalgamating societies shall stand cancelled on the registration of the new society, and each such society shall be deemed to have been dissolved and shall cease to exist as a corporate body.

(3) Where a registered society divides itself into two or more societies in accordance with the provisions of Section 9, the registration of that society shall stand cancelled on the registration of the new societies, and that society shall be deemed to have been dissolved and shall cease to exist as a corporate body.

CHAPTER II

MEMBERS OF REGISTERED SOCIETIES AND THEIR RIGHTS AND LIABILITIES

Members not to exercise rights till due Payments made.

11. (1) No member of a registered society shall exercise the rights of a member unless or until he has made such payment to the society in respect of membership or acquired such interest in the society, as may be prescribed by the rules of by-laws.

(2) Where a member of a registered society has not made such payment to the society or acquired such interest in the society as is referred to in Sub-section (1), it shall be lawful for the society, from any sum of money due from the society to such member in respect of the purchase of any scheduled agricultural product under the Agricultural Products (Guaranteed Prices and Control of Hulling and Milling) Act, No. 33 of 1961 to deduct any sum of money due to the society from such member in respect of such payment or such interest as is referred to in Sub-section (1).

Associate members.

12. (1) A registered society may admit any individual as an associate member.

(2) An Associate member shall not be entitled to any share, in any form whatsoever, in the assets or the profits of the society, or any vote in the conduct of the affairs of the society.

(3) Save as provided in this section, an Associate member shall have such privileges and rights of a member and be subject to such liabilities of a member, as may be specified in the by-laws of the society.

(Handwritten signature)

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13. The minority or non-age of any person duly admitted as a member of any registered society shall not debar that person from executing any instrument or giving any acquittance necessary to be executed or given under this Statute or the rules made thereunder, and shall not be a ground for invalidating or avoiding any contract entered into by any such person with the society, whether as principal or as surety, shall be enforceable at law by or against such person notwithstanding his minority or non-age.

Contracts with society of members who are minors.

14. The subsequent discovery of any defect in the appointment of, or of any disqualification for election of any officer of a registered society shall not be a ground for invalidating or avoiding any contract entered into by such officer on behalf of such society.

Contracts by officers of societies.

15. No member of any primary society shall have more than one vote in the conduct of the affairs of the society :
provided that in the case of an equality of votes the Chairman shall have a casting vote.

votes of members.

16. (1) No member of any primary society shall at any meeting of the society exercise his vote except in person.
Provided, however, that voting through delegates at any meeting of the society may be allowed where it is so provided under the by-laws of the society.

Method of voting.

(2) A registered society which is a member of any other registered society may appoint one or more of its members for the purpose of voting in the conduct of the affairs of such other registered society.

17. (1) The transfer of the share or other interest of a member or past member or deceased member in the capital of a registered society shall be subject to such conditions as to maximum holding as may be prescribed by this Statute or by the rules.

Restrictions on transfer of share or interest.

(2) In the case of a society registered with unlimited liability, a member shall not transfer any share held by him or his interest in the capital of the society or part thereof, unless —

(a) he has held such share or interest for not less than one year ; and

(b) the transfer is made to the society, or to a member of the society, or to a person whose application for membership has been accepted by the committee.

CHAPTER III

DUTIES OF REGISTERED SOCIETIES

18. Every registered society shall have an address, registered in accordance with the rules, to which all notices and communications may be sent, and shall within seven days of any change of that address notify the Registrar of such change.

Address of society.

19. (1) Every registered Society shall keep 5 copies of this Statute and of the Rules, Regulations and of its By-laws and shall cause a Register of its membership to be kept in every registered society who holds such membership of the date of adopting this Statute and to include the name of every member thereafter admitted as a member of the Society and the said register shall be kept open for inspection free of charge and at all reasonable times at the Registered Address of the Society.

Copy of Statute, rules, by-laws, etc. to be opened to inspection.

(2) The Register shall contain the following particulars :—

(a) the name, address and occupation of each member ;

(b) the date at which the name of any person was inscribed in the register as a member ;

(c) the date at which any person cease to be a member ;

(d) the circumstances under which such member cease to be a member.

CHAPTER IV

PRIVILEGES OF REGISTERED SOCIETIES

20. The registration of a society shall render it a body corporate by the name under which it is registered, with perpetual succession and a common seal, and with power to hold property, to enter into contracts, to institute and defend suits and other legal proceedings, and to do all things necessary for the purpose of its constitution.

Societies to be bodies corporate.

Disposal of produce
to or through society.

21. (1) A registered society which has as one of its objects the disposal of any article which is the produce of agriculture or animal husbandry or any other industry, may provide to its by-laws or may contract with its members —

(a) that every such member who produces any such article, shall dispose of the whole or of any specified amount, proportion or description thereof to or through the society, and

(b) that any member who is proved or adjudged, in such manner as may be prescribed by rules, to be guilty of a breach of the by-laws or contract, shall pay to the society as liquidated damages a sum ascertained or assessed in such manner as may be prescribed by rules, or by its by-laws.

(2) A contract made by a registered society under Sub-section (1) shall create in favour of the society a first charge upon all articles, whether produced or about to be produced, to which the contract relates.

(3) In any legal proceedings arising out of a contract under Sub-section (1) it shall not be a defence that the contract is in restraint of trade.

(4) A member of a registered society shall be deemed not to have contravened any by-laws of the society which requires him to deliver any produce to the society, if the failure to deliver such produce was due to the fact that he had, prior to becoming a member of the society, contracted to deliver the produce to some other person.

(5) Every person who applies for membership of a registered society, if required as to do, disclose in his application particulars of all contracts made by him for the delivery of any produce to any other person.

Compulsory sale of
produce through a
registered society in
certain cases.

22. (1) Where the Minister is satisfied in the case of any registered society that the members of the society or any section hereof are producers of any article, within the province, direct such producer of that article, whether such producer is or is not a member of the society, to sell to or through the society such part of the total quantity of that article produced by them as is not required for his own use or consumption.

(2) Every Order made by the Minister under Sub-section (1) shall be published in the *Gazette* and shall subject to the provisions of Sub-section (5) continue in operation until it is rescinded.

(3) Every Order shall come into operation on the date of its publication in the *Gazette* and shall subject to the provisions of Sub-section (5) continue in operation until it is rescinded.

(4) Every Order shall, as soon as may be after it has come into operation, be brought before the Provincial Council of the Central Province for approval.

(5) Every Order which the Provincial Council refuses to approve shall be deemed to be rescinded, but without prejudice to the validity of anything previously done or suffered to be done thereunder. The date on which an Order shall be deemed to be rescinded shall be the date on which the Provincial Council refuses to approve the Order, and such date shall be notified in the *Gazette*.

(6) (a) The Minister may at any time by Order published in the *Gazette* (such Order being hereinafter referred to as "Amending Order") vary any Order previously made under Sub-section (1). Every Amending Order shall come into operation on the date of its publication in the *Gazette*.

(b) An Order made under Sub-section (1), which is varied by an Amending Order shall continue in operation, as so varied, for the period during which it should have been in operation if it had not been so varied and no longer.

(c) Every Amending Order shall be brought before the Provincial Council of the Central Province for approval.

Provided, however, that where an Order made under Sub-section (1) is varied by one or more Amending Orders before it is approved by the Provincial Council of the Central Province under Section (4), the Order, when it is brought before the Provincial Council for approval under that subsection shall have incorporated therein all variations effected by such Amending Order or Orders, and it shall not be necessary in any such case to bring any such Amending Order separately before the Provincial Council.

(d) The refusal of the Provincial Council to approve any Amending Order which is brought before the Provincial Council for approval shall be deemed to be a rescission of that Amending Order, and the Order made under Sub-section (1) shall, from the date of such rescission, continue in operation as though that Amending Order had not been made.

(e) The Minister may at any time rescind any Order previously made under Sub-section (1). Notification of the rescission (1). Notification of the rescission of any such Order shall be published in the *Gazette* and such Order shall be deemed to be rescinded upon the date of such publication.

(7) Every Order shall, when approved by the Provincial Council be as valid and effectual as if it were herein enacted.

(8) Every Notification required to be published in the *Gazette* under this section shall be published under the hand of the Minister.

(9) The provisions of any Order made under this section shall, notwithstanding that they are inconsistent with or in conflict with the provisions of any other written law, prevail over such other written law for the period during which the Order is in force.

(10) Every producer who is directed by Order under Sub-section (1) to sell any article to or through a registered society of which he is not a member, shall, in respect of any such direction and of any matter or transaction arising out of such sale, be subjected to the same conditions and obligations to which he would have been subject if he were a member of the society.

(11) Where any producer in respect of whom an Order is made under Sub-section (1), and who is not a member of the registered society, applies for admission as a member of the society, the society shall —

- (a) if he so desires, deduct from any funds received or held by the society on his account, the whole or any portion of the subscription for membership, and
- (b) admit him as a member upon payment in full of such subscription subject to any such deduction as aforesaid.

23. (1) Any person who, having knowledge or notice that any other person has contracted under Section 21 or is bound by an Order under Section 22 to sell any article produced by such other person to or through a registered society, solicits or persuades such other person to sell or deliver such article, in violation of such contract or in contravention of such Order, as the case may be, shall be guilty of an offence and shall on conviction after summary trial before a Magistrate be liable to a fine not exceeding one thousand rupees.

Person soliciting others to violate contracts.

(2) Where the person convicted of an offence under Sub-section (1) is a body corporate, every person who at the time of the commission of the offence was a director or officer of the body corporate shall be deemed to be guilty of that 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.

24. Subject to any prior claim of the Republic on the property of a debtor and to the loan or claim of a landlord in respect of rent or any money recoverable as rent, and in the case of immovable property, to any prior registered charge thereon —

Rights of registered society over crops, agricultural produce, cattle, implements, raw material and manufactured articles belonging to any member.

(a) any debt or outstanding demand payable to a registered society by any member or past member shall be a first charge —

- (i) upon crops or other agricultural produce raised in whole or in part with a loan taken from the society by such member or past member ;
- (ii) upon any cattle, fodder for cattle, agricultural or industrial implements, or raw materials for manufacture, or workshops, godown, or place of business, supplied to or purchased by such member or past member in whole or in part from any loan whether in money or goods given to him by the society.

Provided that nothing herein contained shall affect the claims of any *bona fide* purchaser or transferee, for value without notice, or of any such crops, or other agricultural produce, cattle, fodder for cattle, or agricultural or industrial implements, or raw materials for manufacture; and

- (iii) upon any sum of money due from the society to such member in respect of the purchase of any schedule agricultural product under the Agricultural Products (Guaranteed Prices and Control of Hulling and Milling) Act, No. 33 of 1961 ;

(b) any outstanding demands or dues payable to a housing society by any member or past member in respect of rent, shares, loans, or purchase money or any other rights or amount payable to such society shall be a first charge upon his interest in the immovable property of the society.

Charge and set-off in respect of shares or interest of members.

25. A registered society shall have a charge upon the shares or other interests in the capital and on the deposits of a member or past member or deceased member any upon and dividend, bonus, or profits payable to a member or past member or to the estate of a deceased member in respect of —

- (a) any debt due to the society ;
- (b) any debt due to any other registered society ; or
- (c) any amount due to the liquidator of any registered society.

from such member or past member or estate, and may set off, or pay to such other society, or liquidator, as the case may be, any sum credited or payable to a member or past member or estate of a deceased member in or towards payment of any such debt or amount.

Shares, contributions and other interests not liable to attachment or sale.

26. Subject to the provisions of Section 25, the share, contribution or other interest of a member in the capital of a registered society shall not be liable to attachment or sale under any decree or order of a court in respect of any debt or liability incurred by such member, and neither his assignee in insolvency nor a receiver appointed under Chapter I of the Civil Procedure Code, shall be entitled to, or have any claim on share, contribution or other interest.

Transfer of interest on death of member.

27. (1) On the death of a member, a registered society may transfer the share or other interest of the deceased member to the person nominated in accordance with the rules made in that behalf, or if there is no person so nominated, to such persons as may appear to the committee to be the heir or legal representative of the deceased member as the case may be, a sum representing the value of such member's share or other interest, as ascertained in accordance with the rules or by-laws;

Provided that —

- (a) in the case of a society with unlimited liability such nominee, heir or legal representative as the case may be, may require payment by the society of the value of the share or other interest of the deceased member ascertained as aforesaid; and
- (b) in the case of a society with limited liability the society may transfer the share or other interest of the deceased member to such heir or legal representative, as the case may be, who is qualified in accordance with the rules and by-laws for membership of the society, or on his own application within six months of the death of the deceased member to any person specified in the application who is so qualified.

(2) A registered society shall pay all other moneys due to the deceased member from the society to such nominee, heir, or legal representative, as the case may be.

(3) All transfers and payments made by a registered society in accordance with the provisions of this section shall be valid and effectual against any demand made upon the society by any other person.

Deposits by or on behalf of minor.

28. (1) A registered society may receive deposits from or for the benefit of minors and it shall be lawful for a registered society to pay to such minors the interest which may become due on such deposits. Any deposits made by a minor may, together with the interest accrued thereon, be paid to that minor; and any deposit made on behalf of a minor may, together with the interest accrued thereon, be paid to the guardian of that minor for the use of the minor.

(2) The receipt of any minor or guardian for money paid to him by a society under this section shall be a sufficient discharge of the liability of that society in respect of that money.

Liability of past member and estate of deceased member for debts of society.

29. (1) The liability of a past member for the debts of a registered society as they existed on the date on which he ceased to be a member shall continue for a period of two years reckoned from that date.

(2) The estate of a deceased member shall, for a period of two years reckoned from the date of his decease, be liable for the debts of the society as they existed on the date of his decease.

Register of members.

30. Any registered or list of members kept by any registered society shall be *prima facie* evidence of any of the following particulars entered therein—

- (a) the date on which the name of any person was entered in such registered or list as a member;
- (b) the date on which any such person ceased to be a member.

31. (1) A copy of any entry in a book of a registered society regularly kept in the course of business shall, if certified in such manner as may be prescribed, by the rules, be received in any legal proceeding, civil or criminal, as *prima facie* evidence of the existence of such entry, and shall be admitted as evidence of the matters, transactions, and accounts therein recorded in every case where, and to the same extent as, the original entry itself is admissible.

Proof of entries in books of society.

(2) No officer of any registered society shall in any legal proceedings to which the society is not a party, be compelled to produce any of the society's books, the contents of which can be proved under Sub-section (1) or to appear as a witness to prove any matters, transactions or accounts therein recorded, unless the court for special reasons so directs.

32. Notwithstanding any written or other law for the time being in force, a registered society may—

Deposits of securities as pledges by a society.

- (a) pledge as security for a general balance of account any securities held by it; and
- (b) authorised the creditor, in the event of default of payment on the date of the termination of a notice issued to the society, to sell any or all of such securities, without recourse to court, and to credit the proceeds to such balance of account.

33. A registered society may acquire by purchase, gift or otherwise and take on lease lands, buildings or other movable or immovable property, or sell, mortgage, lease, exchange or otherwise dispose of lands, buildings or other movable or immovable property for any purpose connected with its objects;

Right to acquire and sell property.

Provided, however, that the prior approval in writing of the Registrar shall be obtained in the case of any such transaction referred to in the preceding provisions of this section as relate to any immovable property or to any such movable property as is specified in the rules made under this Statute in that behalf.

34. (1) Where any land or building situated within the province is required for any purpose connected with the objects of a registered society, that purpose shall be deemed to be a public purpose and that land or building may be acquired compulsorily under the Land Acquisition Act and be transferred to that Co-operative Society.

Compulsory acquisition of lands and buildings.

(2) Where any land or building situated within the province is to be acquired under the Land Acquisition Act for a registered society, that society shall, before an order relating to that land or building is made under Section 38 of that Act, pay the amount determined under that Act as the compensation payable in respect of that land or building and also the costs incurred in the acquisition proceedings.

Provided, however, that where it becomes necessary to take possession of any land or building on the ground of any urgency before the amount of compensation it determined under that Act, that society shall pay before such order is made such amount as in the opinion of the Acquiring Officer is likely to be determined as the compensation payable in respect of that land or building, and shall pay the balance amount, if any, after the amount of compensation is determined under that Act.

CHAPTER V

GENERAL PROVISIONS RELATING TO BY-LAWS

35. (1) Every by-law of a registered society shall, upon registration, be binding upon the society and the members thereof to the same extent as if the by-law was signed by each member of the society and contained a covenant by each such member to observe the provisions of the by-law.

By-laws of a society to bind members.

(2) Any dispute arising out of the interpretation of a by-law of a registered society shall be referred to the Registrar for his decision, and his decision shall be final and conclusive in law.

36. No by-law made by a registered society in respect of any matter for which by-laws are authorised by any rule to be made, shall be called in question in any court of law on the ground only that such by-law constitutes a contract in restraint of trade.

Power to make by-laws in restraint of trade.

37. The by-laws made by any registered society may, subject to any rules, provide for the imposition of fines on the members of the society for contravention of the by-laws:

Power to make by-laws for the imposition of fines on members.

Provided, however, that no such fine shall be imposed on any member unless—

- (a) notice in writing of the intention to impose such fine and the reasons therefore have been given in writing to him by the society; and
- (b) he has failed to show, within such time and in such manner as may be prescribed by rules, sufficient cause against the imposition of the fine.

CHAPTER VI

PROPERTY AND FUNDS OF REGISTERED SOCIETIES

Loans made by
registered societies.

38. (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.

(2) Except with the permission of the Registrar a registered society shall not lend money on the security of any movable property other than agricultural produce.

Deposits and loans
received by
registered societies.

39. (1) A registered society shall receive deposits and loans from persons who are not members only to such extent and under such conditions as may be prescribed by the rules or by-laws.

(2) Where a loan is granted to a registered society by a bank on the mortgage of any immovable or movable property, such property shall, from and after the date of the registration of such mortgage under the Registration of Documents Ordinance, be charged with the payment of the moneys due under such mortgage in priority to every other debt of such registered society whatsoever and to every mortgage or charge effecting such property, except a mortgage or charge effecting such property which is secured by a mortgage duly registered under the Registration of Documents Ordinance prior to such date.

Restrictions on other
transactions with
non-member.

40. Save as provided in Sections 38 and 39 the transactions of a registered society with persons other than members shall be subject to such prohibitions and restrictions as may be prescribed by the rules.

41. (1) A registered society may deposit or invest its funds in any of the securities other than a first mortgage of immovable property specified in Section 20 of the Trusts Ordinance, or with any banker approved for this purpose by the Registrar or in the shares or on the security of any other registered society approved for this purpose by the Registrar or in any other mode permitted by the rules.

(2) Any deposit or investment made before the commencement of this Statute which would have been valid if this State had been in force is hereby ratified and confirmed.

Disposal of profits.

42. (1) Every registered society shall, out of its net profits in any financial year as ascertained by the audit under Section 44—

- (a) transfer an amount not being less than twenty-five per centum of the net profits to the reserve fund of the society; and
- (b) contribute such portion of the net profits as may be prescribed by rules to the Co-operative Fund established under the rules.

(2) The balance of the net profits may be utilized for all or any of the following purpose:—

- (a) payment of the dividends to members on their paid up share capital at a rate not exceeding the rate prescribed in the rules;
- (b) payment of rebates to members on the value of the business done by them with the society to the extent and in the manner specified in the by-laws;
- (c) contributions to such funds as may be prescribed in the by-laws;
- (d) payment of bonus to employees of the society;
- (e) payment on such other account as may be specified in the by-laws;
- (f) contributions of an amount not exceeding ten per centum of the profits to a Common Good Fund for expenditure on any social, cultural or recreational purpose, or the advancement of any other object of local or public utility.

(3) In the case of a society with unlimited liability, no distribution of profits shall be made without the general or special order of the Registrar.

CHAPTER VII

ACCOUNTS, BUDGET, AUDIT, INQUIRY, INSPECTION OR INVESTIGATION

43. (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.

Accounts of the Society.

(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 authorised by him. Such statement of accounts shall be submitted to the Registrar or other person authorised 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.

43A. (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.

Preparation of Budget.

(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.

44. (1) The Registrar shall audit or cause to be audited by some person authorised by him by general or special order in writing in that behalf the accounts of every registered society once at least in every year.

Audit.

(2) The audit under Sub-section (1) shall include an examination of overdue debts, if any, and valuation and verification of the assets and liabilities of the registered society.

(3) For the purpose of an audit under Sub-section (1), the Registrar or any person authorized by him to audit the accounts shall have the power—

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

(b) require the production of any book or document relating to the affairs of the society, or any cash, security, or other property belonging to 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 ; and

(c) to take into his custody books of accounts or the documents of the society where he discovers a fraud in the course of such audit.

(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 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.

(5) The Registrar and every person authorized by him to audit the accounts of registered society shall be deemed to be public servants within the meaning of the Penal Code.

(6) (a) If, in the course of, or at the conclusion of an audit under Sub-section (1), it is found that any person, who is or was entrusted with the organisation or management of society, or who is or has at any time been an officer or an employee of a society has at any time been an officer or an employee of a society has made any payment or has used any funds of the society contrary to the provisions of this Statute or the rules made under this Statute 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 or the by-laws of the society or the working rules of the society, the Registrar shall disallow every such payment and every such use of funds and surcharge the same on the person making or authorizing the making of such illegal payment or such use of funds and shall charge against any person, the amount of any deficiency or loss incurred by the negligence or misconduct of the person any amount which ought to have been, but is not, brought into account by that person and shall in each case certify the amount due from such person and communicate his decision in writing to such person.

(b) Before making any disallowance or surcharge against any person, the Registrar or any person authorized by general or special order in writing in that behalf by the Registrar shall offer an opportunity to such person to be heard or to make any representations with regard to the matters which he may think fit, and shall in the event of his making such disallowance or surcharge, furnish such persons in writing, on application being made to him for that purpose with the reasons for his decision in respect of such disallowance or surcharge.

(e) The provisions of Section 66 (2) shall apply, *mutatis mutandis*, in case where the decision made by the Registrar, is not complied with.

Communication of defects in audit to societies.

45. (1) If an audit held under Section 44 any defects in the working of a registered society are disclosed, the Registrar may bring the defects to the notice of the society and if the society is a member of another society, also to the notice of that other society.

(2) The Registrar may make an order directing the society or its officers to take such action as may be specified in the order within the time mentioned therein to remedy the defects disclosed.

Inquiry.

46. (1) The Registrar may of his own motion, and shall, on the application of a majority of the committee, or of not less than one third of the members, of a registered society, hold an inquiry or direct some persons authorized by him by order in writing in that behalf, to hold an inquiry into the constitution, working, and financial condition of the registered society.

(2) For the purpose of an inquiry under Sub-section (1) the Registrar or any person authorized by him to hold an inquiry, shall have the power—

- (a) to summon any past or present officer, agent, servant or member of the society or any other persons, who, in the opinion of the Registrar or the person authorized by him to inquire, can give material information about any transactions of the society or the management of its affairs ;
- (b) to require the production of any book or document relating to the affairs of the society, or any cash, security, or other property belonging to 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 member 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 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 inspection or investigation.

(3) Any meeting summoned under Sub-section 2 (c) shall have all the powers of a general meeting called under the by-laws of the society and its proceedings shall be regulated by such by-laws except that no quorum shall be necessary for such meeting and the provisions of the by-laws relating to the period of notice relating to a general meeting shall not be applicable. The Registrar or any person authorized by him may preside at such meeting but shall have no vote ; in the event of an equality of votes he shall have a casting vote.

(4) Where an inquiry is held under this section the Registrar shall communicate the result of the inquiry to the society and to the society, if any, of which that society is a member and to any bank to which the society is indebted.

(5) The Registrar and every person authorized by him to hold an inquiry under this section shall be deemed to be public servants within the meaning of the Penal Code.

47. (1) The Registrar may of his own motion, or on the application of a creditor of a registered society inspect, or direct any person authorized generally or specially by him by order in writing in that behalf to inspect the books of the society.

Inspection of books
and investigation of
the affairs of society.

Provided that no such inspection shall be made on the application of a creditor unless the applicant—

- (a) proves that an ascertained sum of money is then due to him and that he has demanded payment thereof and has not received satisfaction within a reasonable time ; and
- (b) deposits with the Registrar such sum as security for the costs of the proposed inspection as the Registrar may require.

(2) The Registrar may of his own motion investigate or direct any person authorized by him to investigate the affairs of any registered society.

(3) The Registrar or any person authorized by the Registrar under this section—

- (a) shall at all times have access to all the books, accounts, papers, and securities of a registered society, and shall be entitled to inspect the cash in hand ; and every officer or member of the society shall furnish such information in regard to the transactions and working of the society as the person making an inspection or an investigation may require ; and
- (b) shall have the power to take into his custody books of accounts or the documents of the society where he discovers fraud in the course of such inspections or investigation.

(4) The results of any such inspection—

- (a) where such inspection is held on the Registrar's own motion, may be communicated by the Registrar to the society and to any bank to which society is indebted ;
- (b) and where such inspection is held on the application of a creditor, shall be communicated by the Registrar to the creditor and to the society.

(5) Where an inspection is held under Sub-section (1) on the application of a creditor of a registered society, the Registrar may apportion the costs, or such part of the costs, as he may think fit between the society and the creditor.

(6) Any sum awarded by way of costs against any society or creditor under this section may be recovered, on application to the Magistrate's Court having jurisdiction in the place where the registered officer of the society is situated or the creditor resides, in like manner as a fine imposed by the Court.

(7) The Registrar and every person authorized by him, to inspect the books or investigate the affairs of a registered society shall be deemed to be public servants within the meaning of the Penal Code.

(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 the society or any other persons, who, in the opinion of the Registrar or the person authorized by him to inquire, can give material information about any transactions of the society or the 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 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 inspection or investigation.

CHAPTER VIII

SUSPENSION OR INTERDICTION AND REMOVAL OF A OFFICERS OF REGISTERED SOCIETY AND DISSOLUTION OF THE COMMITTEE
OF A REGISTERED SOCIETY

Dissolution of the
committee of a
society.

48. (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 the 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 ;

(2) Every direction under paragraph (b) of Sub-section (1) shall have effect for such period not exceeding two years as may be specified in the order containing such direction.

Provided, however, that the Registrar may in his direction from time to time amend the order for the purpose of extending the period during which the direction shall have effect, so however that the aggregate period during which the direction shall so have effect shall not exceed four years.

(3) Where any order is made under Sub-section (1) the Registrar shall by the same or a subsection order appoint a fit and proper person or two or more such persons to manage and administer the affairs of the society, and may from time to time remove or replace any person so appointed or appoint additional persons.

(4) Subject to the general direction and control of the Registrar any person or persons appointed under this section to manage the affairs of registered society—

- (a) shall have the power to recover the assets and discharge the liabilities of the society and take such other steps as may be necessary in its interests ; and
- (b) shall have and may exercise all the powers, rights and privileges of a 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

(5) Persons appointed under this section to manage the affairs of a registered society shall be jointly and severally responsible for any loss sustained through any such acts committed by them as are contrary to the law or the by-laws of the society.

(6) The Registrar may fix the remuneration payable to any person or persons appointed by him under this section to manage the affairs of a registered society, The amount of such remuneration and other expenses, if any, incurred in the management of the society shall be payable from its funds.

(7) It shall be the duty of the person or persons appointed under this section to manage the affairs of registered society and holding office immediately prior to the date on which the direction under paragraph (b) of Sub-section (1) ceases to have effect to arrange, prior to the date aforesaid, for the appointment of a new committee in accordance with the by-laws of the society.

(8) No order under Sub-section (1) shall be made by the Registrar in respect of any registered society—

- (a) if the society is indebted to any bank, except after prior consultation with the bank in regard to the dissolution of the committee and to the persons by whom and the manner in which the affairs of the society are to be managed and administered ; and
- (b) if the society is a co-operative bank, except with the prior approval of the People's Bank.

(9) Nothing in this section shall be deemed to affect the power of the Registrar to cancel the registration of the society under Section 49.

(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 Sub-section (1).

48A. (1) If the Registrar is of 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 he may notwithstanding anything to the contrary in this Statute, 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 :

Suspension or interdiction and removal of officers, etc.

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 this statute within a period of thirty days, and the decision of such Commission shall be final.

(2) Where any officer or employee is removed under Sub-section (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.

CHAPTER IX

DISSOLUTION OF A REGISTERED SOCIETY

49. (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 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.

Dissolution.

(2) Any member or creditor of a registered society may, within two months from the date of an order made under Sub-section (1), appeal from such order to the Minister.

(3) Where no appeal is presented within two months from the making of an order cancelling the registration of a society, the order shall take effect on the expiry of that period. Where an appeal is presented within the two months, the order shall not take effect until it is confirmed.

(4) Where the Registrar cancels the registration of a society under Sub-section (1), he may appoint one or more persons to be in charge of the books, documents and other property of the society and to manage the affairs of the society until the order cancelling take effect or until such order is reversed in an appeal by the Minister.

On the appointment of such person or persons the committee of the society or any other person in charge of the books, documents and other property of the society shall hand over such books, documents, or property to the first mentioned person or persons and such committee shall until the order cancelling the registration takes effect or until such order is reversed in appeal by the Minister, cease to function.

50. The registrar may by order in writing cancel the registration of any registered society—

Cancellation of registration of society.

- (a) Where it is a condition of the registration of the society that the society shall consist of at least ten members if the number of members of such society has been reduced to less than ten ; or
- (b) If a registered society has not commenced working during one year from the date of registration of such society or has ceased to work for a period of two years prior to the date of making the order of cancellation under this sections.

51. Where the registration of a society is cancelled by an order under Section 49 or under Section 50, the society shall cease to exist as a corporate body from the date on which the order takes effect, hereinafter referred to as the date of dissolution.

Effect of cancellation of registration.

Provided that any privileges conferred on the society by or under this Statute shall be deemed to be vested in any liquidator or liquidators appointed for that society by the Registrar.

52. Where the registration of a society is cancelled under Section 49 or Section 50 the Registrar may appoint one or more persons to be the liquidator or liquidators of the society.

Liquidation after cancellation of registration of society.

All the property of the society shall vest in the liquidator or liquidators on the date on which the order of cancellation under Section 49 or Section 50 as the case may be, takes effect.

Liquidator's powers.

53. (1) Liquidator appointed under Section 52 shall, subject to the guidance and control of the registrar and to any limitations imposed by the Registrar by order under Section 54, have power to—

- (a) determine from time to time the contributions to be made by members and past members or by the estates of deceased members of the society to its assets ;
- (b) Appoint a day by proclamation or notice before which creditors whose claims are not already recorded in the books of the society, shall state their claims for admission or be excluded from any distribution made before they have proved them ;
- (c) decide in accordance with the provisions of this Statute any question of priority which arises between creditors ;
- (d) refer for arbitration under Section 58 any dispute of any description mentioned in that section (references therein to the society being construed as references to the liquidator), and institute and defend suits and other legal proceedings on behalf of the society by his name or office ;
- (e) decide by which persons and in what proportions the costs of liquidation are to be borne ;
- (f) give such direction in regard to the collection and distribution of assets as may be necessary in the course of winding of the society ;
- (g) compromise any claim by or against the society provided the sanction of the Registrar has first been obtained ;
- (h) call such general meetings of members as may be necessary, for the proper conduct of the liquidation ;
- (i) take possession of the books, documents and assets of the society ;
- (j) sell the property of the society ;
- (k) carry on the business of the society so far as may be necessary for winding it up beneficially ;

Provided that nothing herein contained shall entitle the liquidator of a credit society to issue any loan ; and

- (l) arrange for the distribution of the assets of the society in a convenient manner when a scheme of distribution has been approved by the Registrar.

(2) Where there is any debt payable by any member or past member to a society whose registration is cancelled under Section 49 or Section 50 and such person is a member of any other society registered under this Statute after the date of such cancellation, then the liquidator of such first mentioned society appointed under Section 52 shall, subject to the guidance and control of the Registrar and to any other limitation imposed by the Registrar by order under Section 54, have power to require that such other society shall recover, from any sum of money due from such society to such person a sum not exceeding such debt in like manner as if it was a debt due from such member to such other society and transmit the same to the liquidator.

(3) Subject to such rules as may be made in that behalf, any liquidator appointed under this Statute shall, in so far as such powers are necessary for carrying out the purposes of this section, have power to summon and enforce the attendance of parties and witnesses and to compel the production of documents by the same means and (so far as may be) in the same manner as is provided in the case of a District Court under the Civil Procedure Code.

Power of Registrar
to control
Liquidations.

54. A liquidator shall exercise his powers subject to the control and direction of the Registrar, who may —

- (a) rescind or vary any order made by a liquidator and make whatever new order is required ;
- (b) remove a liquidator from office ;
- (c) call for all books, documents and assets of the society ;
- (d) by order in writing limit the powers of a liquidator under section 53 ;
- (e) require accounts to be rendered to him by the liquidator at his discretion ;
- (f) procure the auditing of the liquidators accounts and authorise the distribution of the assets of the society ;
- (g) make order for the remuneration of the liquidator ; or
- (h) refer for arbitration any dispute (not being a dispute as referable under Section 53 (1) (d)) between the liquidator and any third party, if such party consents in writing to be bound by the decision of the arbitrator.

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55. (1) The decision of an arbitrator on any matter referred to him under Section 54 shall be binding upon the parties and shall be enforceable in like manner as an order made by the Registrar under that section.

Enforcement of order.

(2) An order made by a liquidator or by the Registrar under Section 53 or Section 54 shall not be called in question in any Civil court, and shall be enforced by any Civil court having jurisdiction over the place where the registered office of the society is situated in like manner as a decree of that court :

Provided that any bank which is a creditor of a society whose registration has been cancelled shall be entitled to appeal to the Minister from an Order made by a liquidator or by the Registrar under Section 53 or section 54 within two months from the date of such order of the liquidator or the Registrar.

(3) Where no appeal is presented to the Minister within two months of the making of an order by a liquidator or by the Register under Section 53 or Section 54, such order of the liquidator or the Registrar shall take effect on expiry of that period. There an appeal is presented to the Minister within the two months, the order of the liquidator or the Registrar shall not take effect until it is confirmed by the Minister.

56. Save in so far as herein before expressly provided, no civil court shall have any jurisdiction in respect of any matter concerned with the dissolution of a registered society under this Statute.

Limitation of the Jurisdiction of the civil court.

57. (1) In the liquidation of a society whose registration has been cancelled, the funds, including the reserve fund, shall subject to the provisions of Section 40(2) be applied first to the costs of liquidation, then to the repayment of Government loans and Government guaranteed loans, Provincial Council loans, and Provincial Council guaranteed loans, then to the discharge of the other liabilities of the society, then to the payment of a dividend at a rate not exceeding six per centum per annum for any period for which no disposal of profits has made where such period is immediately preceding the date of dissolution.

Closure of liquidation.

(2) When the liquidation of a society has been closed and any creditor of that society has not claimed or received what is due to him under the scheme of distribution, notice of the closing of the liquidation shall be published in the *Gazette* ; and in respect of any claim against the funds of such society, no action shall be maintainable unless it is commenced within three months from the date of the publication of such notice in the *Gazette*.

(3) Any surplus remaining after the application of the funds to the purposes specified in Sub-section (1) and the payment of any claims for which an action is instituted under Sub-section (2), may be applied to such subject of local or public utility as may be selected, subject to the approval of the Registrar, by the persons who were officers of the society at the date of the dissolution thereof.

If such persons fails within three months after the date on which the liquidation of the society is closed to select as aforesaid an object approved by the Registrar, the Registrar shall deposit the surplus in a bank or with a registered society.

The surplus so deposited may be paid into such Surplus Fund as may be constituted for the purposes of this Statute. Disbursement out of such Surplus Fund may be made at the discretion of the Registrar for such purposes and in such manner as may be provided in the rules :

Provided, however, that any interest accruing on the surplus may be paid into the Co-operative Fund.

CHAPTER X

DISPUTES

58. (1) If any dispute touching the business of a registered society arises —

Settlement of disputes.

- (a) among members, past members and persons claiming through members, past members and deceased members, or among officers or employees of the society, whether past or present, or among heirs or legal representatives of deceased officers or employees ; or
- (b) between a member, past member or person claiming through a member, past member or deceased member, and the society, its committee or any officer or employee of the society, whether past or present, or any heir or legal representative or any deceased officer or employee ; or
- (c) between the society or its committee and any officer or employee of the society, whether past or present, or any heir or legal representative of any deceased officer or employee ; or

- (d) between the society or its committee ; and
- (i) any person who was a member or an officer or employee of any other society whose business or part thereof was transferred to the society ; to
 - (ii) any person who claims through any member or past member or deceased member or the society referred to in Sub-paragraph (1) ;
 - (iii) any person who is the heir or legal representative of any officer or employee of the society referred to in Sub-paragraph (i) ; or
- (e) between the society and any other registered society

such disputes shall be referred to the Registrar for decision.

A claim by a registered society for any debt, demand or damages due to it from a member, officer or employee, whether past or present, or any nominee, heir or legal representative of a deceased member, officer or employee, whether such debt, demand or damages be admitted or not, shall be deemed to be a dispute touching the business of the society within the meaning of this subsection.

(2) The Registrar may, on receipt of a reference under Sub-section (1) —

- (a) decide the dispute himself, or
- (b) refer it for dispose to an arbitrator or arbitrators.

(3) Any party aggrieved by the award of the arbitrator or arbitrators may appeal therefrom to the Registrar within such period and in such manner as may be prescribed by rules.

(4) No party to any appeal made to the Registrar under Sub-section (3) shall be entitled, either by himself or by any representative, to appear before and be heard by the Registrar on such appeal.

(5) A decision of the Registrar under Sub-section (2) or in appeal under Sub-section (3) shall be final and shall not be called to question in any Civil Court.

(6) The award of the arbitrator or arbitrators under Sub-section (2) shall, if no appeal is preferred to the Registrar under Sub-section (3) or if any such appeal is abandoned or withdrawn, be final and shall not be called in question in any Civil Court.

(7) The provisions of the Prescription Ordinance shall not apply to any claim which is the subject of a dispute under this section.

(8) If any question arises whether a dispute referred to the Registrar under this section is a dispute touching the business of a registered society, the decision thereon of the Registrar shall be final and shall not be called in question in any Civil court.

(9) In this section "member" includes associate member.

Enforcement of on
award.

59. (1) Where a decision of the Registrar on a dispute or an appeal referred or made to him under Section 58, hereafter in this section called "decision" or an award of an arbitrator on a dispute referred to him under that section, hereafter in this section called an "award" is that a sum of money is due from any party to the dispute to another party to the dispute, and such sum together with costs and interest, if any, has not been paid, the Registrar may in respect of the party from whom such sum is due, hereafter in this section called the "defaulter"—

- (a) issue a certificate to a Government Agent, Assistant Government Agent, Fiscal or Deputy Fiscal, containing particulars of such sum, together with the costs and interest, and the name of such defaulter ; or
- (b) issue a certificate to a District Court having jurisdiction in any district where the defaulter resides or in which any property movable or immovable owned by the defaulter is situate containing particulars of the sum due together with costs and interest, if any, and the name of the defaulter ; or
- (c) issue a certificate containing particulars of the amount due together with cost and interest and the name and last known place of business or residence of the defaulter to a Magistrate having jurisdiction in the division in which such place is situate.

(2) (a) Where the Registrar issues a certificate under paragraph (a) of Sub-section (1) to a Government Agent, assistant Government Agent, Fiscal or Deputy Fiscal, such officer is hereby empowered and required to cause such sum together with costs and interest to be recovered from the defaulter by seizure and sale of his movable property.

(b) The said seizure shall be effected in such manner as such officer shall deem most expedient in that behalf, and every property so seized shall be kept four, five days at the cost and charge of the defaulter. If the defaulter does not pay such sum as is due together with costs and interest and the cost and charge of seizing and keeping the property, within the said five days, the Government Agent, Assistant Government Agent, Fiscal or Deputy Fiscal, as the case may be, shall cause the said property to be sold by public auction.

(c) The sum realised by the sale shall be applied—

- (i) First, in payment of the cost and charge of seizing, keeping and selling the property ; and
- (ii) secondly, in satisfaction of the sum of money due together with costs and interest

and any balance shall be restored to the owner of the property seized.

(3) Where a certificate is issued to a District Court under paragraph (b), of Sub-section (1), the Court shall whereupon direct a writ of execution to issue to the Fiscal authorising and requiring him to seize and sell all or any of the property movable and immovable of the defaulter, or such part thereof as he may deem necessary for the recovery of such sum, and the provisions of Sections 226 to 297 of the Civil Procedure Code shall mutatis mutandis, apply to such seizure and sale ; and

(4) Where a certificate is issued to a Magistrate under Paragraph (c) of Sub-section (1), the Magistrate shall thereupon summon such defaulter before him to show cause why further proceedings for the recovery of the amount should not be taken against him, and in default of sufficient cause being shown, the amount shall be deemed to be a fine imposed by a sentence of the Magistrate on such defaulter for an offence punishable with fine only or not punishable with imprisonment, and the provisions of Section 291 (except Paragraphs (a) and (d) of Sub-section (1) of that section) of the Code of Criminal Procedure Act, No. 15 of 1979 shall thereupon apply, and the Magistrate may make any direction which, by the provisions of that section, he could have made at the time of imposing such sentence.

(5) Where the Registrar issues a certificate under this section, he shall issue to the defaulter a notification thereof by personal service, registered post or telegraph ; but non-receipt of such notification by the defaulter shall not invalidate proceedings under this section.

(6) Nothing in this section shall authorise or require a District Court or Magistrate in any proceedings thereunder to consider, examine or decide the correctness of any statement in the certificate of the Registrar.

(7) Any sum realised by a sale under Sub-section (3) and any sum paid or levied as fine under Sub-section (4) shall be transmitted by the District Court or the Magistrate, as the case may be, to the Registrar who shall dispose of such sum in accordance with the relevant decision or award.

60. (1) Where the application for a membership of a registered society made by any person is refused by the society, such person may appeal to the Registrar against the refusal and the decision of the Registrar on such appeal shall be final and binding on the society.

Registrar to decide certain other matters.

(2) Where any question arises as to whether a member of a registered society has been duly elected to any office in the society or whether a member has ceased to be a member or officer of the society, or whether any general meeting of the society had been validly held, that question shall be decided by the Registrar whose decision shall be final.

CHAPTER XI

RULES

61. (1) The Minister may make all such rules as may be necessary for the purpose of carrying out or giving effect to the principles and provisions of this Statute.

Rules.

(2) In particular, and without prejudice to the generality of the powers conferred by Sub-section (1), such rules may—

- (a) prescribe the conditions to be complied with in applying for the registration of a society and the procedure in the matter of such applications ;
- (b) prescribe the conditions to be complied with any persons applying for admission or admitted as members, and provide for the election and admission of members, from time to time and the payment to be made and interest to be acquired before exercising rights of membership ;
- (c) provide for the withdrawal and expulsion of members and for the payments to be made to members who withdraw or are expelled, and for the liabilities of past members ;

- (d) prescribe the extent to which the registered society may limit the number of its members ;
- (e) provide for the mode in which the value of a deceased member's interest shall be ascertained, and for the nomination of a person to whom such interest may be paid or transferred ;
- (f) subject to the provisions of Section (3), prescribe the maximum number of shares or portion of the capital of a registered society which may be held by a member ;
- (g) prescribe the payments to be made, the conditions to be complied with, and the forms of the bonds, instruments or other documents to be executed, by members, applying for loans or cash credits, the period for which loans may be made or credits granted, and the maximum amount which may be lent and the maximum credit which may be allowed to individual members ;
- (h) prescribe the conditions under which profits may be distributed to the members of a society with unlimited liability, and the maximum rate of dividend which may be paid by societies ;
- (i) regulate the manners in which funds may be raised by means of shares or debentures or otherwise and the rate of interest which may be paid on deposits ;
- (j) provide for general meetings of the members, and for the procedure at such meetings and the powers to be exercised by such meetings ;
- (k) 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 ;
- (l) provide for the appointment, suspension, and removal of the members of the committee and other officers, and for the procedure at meetings of the committee, and for the powers to be exercised and the duties to be performed by the committee and other officers ;
- (m) prescribe the matters in respect of which a society may or shall make by-laws, and for the procedure to be followed in making, altering and rescinding the by-laws under conditions to be satisfied prior to such meeting alteration, or rescission ;
- (n) prescribe the accounts and books to be kept by a registered society, and for the periodical publication of a balance sheet showing the assets and liabilities of a registered society ;
- (o) provide for the audit of the accounts of registered societies and for the charges, if any, to be made for such audit and provide for the levy of contributions from all or any registered societies to a fund to be known as the Co-operative Fund, of the Central Province Provincial Council, to be used for the audit and supervision of and assistance to the existing societies and co-operative propaganda, for Co-operative education and training, and provide for the administration of that Fund ;
- (p) prescribe the returns to be submitted by registered societies to the Registrar, and the persons by whom and the form in which the same are to be made ;
- (q) provide for the persons by whom, and the form in which copies of entries in books of registered societies may be certified ;
- (r) provide for the formation and maintenance of a register of members, and, whose the liability of the members is limited by shares of a register of shares ;
- (s) provide for the formation and the maintenance of reserve funds, and the objects to which such funds may be applied, and for the investment of any funds under the control of any registered society ;
- (t) prescribe the manner in which any question, as to the breach of any by-laws or contract relating to the disposal of produce to or through a society, may be determined, and the manner in which the liquidated damages for any such breach may be ascertained or assessed ;
- (u) prescribe the mode of appointing an arbitrator or arbitrators, and the procedure to be followed in proceedings before Registrar or such arbitrator or arbitrators, and the enforcement of the decisions of the Registrar or the awards of arbitrators ;
- (v) prescribe the conditions to be observed by a registered society applying for the financial assistance of Government ;
- (w) determine the cases, not expressly provided for in this Statute, in which an appeal shall lie to the Minister of the Central Province Provincial Council against orders made by the Registrar ;
- (x) prescribe the procedure to be followed by a liquidator appointed under Section 52, and the cases in which appeals shall lie from the orders of such liquidator ;
- (y) provide for the establishment and maintenance of the Surplus Fund referred to in Section 57 and prescribe the manner and purposes for which the moneys of such Fund may be disbursed ;

(z) prescribe the forms to be used, the fees to be paid, the procedure to be observed, and all other matters connected with or incidental to be presentation, hearing and disposal of appeals under this Statute or the rules made thereunder.

(3) No rules shall have effect unless it has been approved by the Provincial Council of the Central Province. Notifications of such approval shall be published in the *Gazette*.

(4) Every rule shall, upon the publication in the *Gazette* of the Notification referred to in Sub-section (3), be as valid and effectual as thought it were herein enacted.

CHAPTER XII

DEBTS DUE TO THE GOVERNMENT AND PROVINCIAL COUNCIL

62. (1) All sums due from a registered society, or from an officer or member or past member of a registered society as such, to the Government, including sums due on Government loans and Government guaranteed loans, Provincial Council loans and Provincial Council Guaranteed loans and any costs awarded to the Government under Section 46 may be recovered in a manner provided for the recovery of debts due to the Republic by the Crown Debtors Ordinance, and shall, subject to the provisions of Section 40 (2), be entitled to a preference of payment over sums due to any other person or persons.

Recovery of sums due to Government.

(2) Sums due from a registered society to Government and recoverable under Sub-section (1) may be recovered, first from the property of the society; secondly in the case of registered society of which the liability of the members is limited, from the members, subject to the limit of their liability; and thirdly, in the case of other societies from the members.

CHAPTER XIV

MISCELLANEOUS

63. Notwithstanding anything contained in this Statute the Minister may by special order in each case, and subject to such conditions as he may impose, exempt any society from any of the requirements of this Statute as to registration.

Special power of Minister to exempt any society from requirements as to registration.

64. The Minister may by general or special order exempt any registered society or class of society from any of the provisions of this Statute or may direct that such provisions shall apply to any society or class of societies with effect from such date or with such modifications as may be specified in the order.

Special power of Minister to exempt societies from provisions of this Statute.

65. (1) No persons other than a registered society shall, without the sanction of the Minister trade or carry on business under any name or title of which the word "Co-operative", or in Sinhala the words "Eksath Sahakara" (එක්සත් සහකාර) or "Samupakara" (සමුපකාර) or in Tamil the word "Aikkiya" (அகியா) or "Kutturavu" (கூட்டுறுவு) from part :

Registration of use of word "Co-operative".

Provided that nothing in this section shall apply to the use by any person or his successor in interest of any name or title under which he traded or carried on business prior to the twenty-second day of September, 1921.

(2) Whoever contravenes the provisions of this section shall be liable on conviction after summary trial by a Magistrate Court to a fine which may extend to five hundred rupees, and in the case of a continuing offence, with a further fine of fifty rupees for each day on which the offence is continued after conviction therefor.

66. (1) Where in the course of an audit under Section 44 or an inquiry under Section 46, or inspection of books and investigation of affairs of a society under Section 47, or in the course of the liquidation of a registered society, it appears that any sum of money or other property is due to the society from any person or group of persons who or which has taken part in the organisation or management of the society or from any past or present officer or employee of the society, who has utilized the funds of the society contrary to the provisions of this Statute 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 of his own motion or upon the application of the committee or the liquidator or any creditor or contributor of the

Registrar may order repayment or restoration of money or other property due to a society.

society, as the case may be, examine the conduct of such person or group of persons or officer or employee and make an order requiring him or such group—

- (a) to repay with such interest as the Registrar thinks fit such money or part thereof ;
- (b) to restore such other property or part thereof ; or
- (c) to contribute such sum as the Registrar thinks fit to the assets of the society by way of compensation.

Before making any such order against any person or group of persons the Registrar shall give that person or group of persons an opportunity of being heard and of showing cause why such order should not be made.

(2) Where an order under Subsection (1) for the repayment of any sum to a registered society, or for the contribution of any sum to its assets by way of compensation, has not been complied with, such sum may be recovered by the Registrar on application to the Magistrate having jurisdiction in the division in which the registered place of business of the society is situated or in which the person or group of persons or officer or employee against whom the order was made resides or carries on business as though it were a fine imposed by a sentence of the Magistrate, on such person or group of persons or officer or employee for an offence punishable with fine only or not punishable with imprisonment, and the provisions of Section 291 (except Paragraphs (a) and (d) of Sub-section (1) of that section) of the Code of Criminal Procedure Act, No. 15 of 1979 shall thereupon apply, and the Magistrate may make any direction which, by the provisions of that section he could have made at the time of imposing such sentence. Nothing in this section shall authorise or require the Magistrate in any proceedings thereunder to consider, examine or decide the correctness at any order made by the Registrar.

(3) Neither the preceding provisions of this section nor the making of any order thereunder may be deemed or construed to preclude or otherwise effect the institution or maintenance of a prosecution against any person or group of persons, or officer or employee referred to in Sub-section (1) in respect of any offence under any other written law.

Nomination of
Members.

67. 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 Co-operation, he may, notwithstanding anything to the contrary in this Statute 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.

Liability of officers,
etc., for breach of
trust.

68. 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 thereof, 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.

Registrar may
require bank to
produce any
information, etc.

69. Notwithstanding anything in any other written law, the Registrar may, where he considers it necessary to do so, require any bank—

- (a) to furnish any information regarding the transactions of any registered society with the bank ;
- (b) to produce a copy showing the amount of the society with the bank from the ledger kept by the bank ;
or
- (c) to produce any cheques paid to the credit of the society or endorsed by the society.

Who may conduct
prosecutions.

70. 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.

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71. The provisions of Companies Ordinance and of the Trade Union Ordinance, and of any enactment amending those Ordinances shall not apply to societies registered under this Statute.

Companies Ordinance and Trade Union Ordinance not to apply.

72. (1) Every society registered or deemed to be registered under Co-operative Societies Law, No. 05 of 1972, shall be deemed to be registered under this Statute and the by-laws of such society shall, so far as they are not inconsistent with the express provisions of this statute, continue in force until altered or rescinded.

Savings.

(2) All rules made under Co-operative Societies Law, No. 05 of 1972, and in force at the time of the commencement of this statute shall, in so far as they are not inconsistent with the provisions of this statute, be deemed to have been made this statute and shall continue in force until new rules are made under Section 61 in substitution for those rules.

(3) All appointments and orders made, notifications and notices issued, awards made by arbitrators and decisions made by the Registrar, Co-operative Societies appointed under Section 2, and suits and other proceedings instituted or deemed to have been made, issued or instituted and all disputes that have arisen under Co-operative Societies Law, No. 05 of 1972, shall be deemed to have been respectively made, issued and instituted and to have arisen under this statute.

73. Where any registered society carrying on banking business of any kind has insured its deposits under Part II of Chapter IV B of the Monetary Law Act, the assets relating to the deposits insured under that Part, shall notwithstanding anything in any other provisions of this statute not be utilized for any purpose other than to meet the liabilities relating to such deposits.

Assets relating to deposits insured under Monetary Law Act not to be utilized except for meeting liabilities.

74. (1) Every registered society or an officer or employee or member thereof which or who wilfully neglects or refuses to do any act or to furnish any information required for the purpose of this statute by the Registrar or other person duly authorised by him in that behalf, and every person who wilfully or without any reasonable excuse disobeys any summons, requisition or lawful written order issued under the provisions of this statute, or fails to furnish any information lawfully required from him by a person authorized to do so under the provisions of this statute, and every registered society or officer or employee or member thereof which or who wilfully makes a false return or furnishes false information, shall be guilty of an offence under this statute.

Penalty for non-compliance with this statute.

(2) Every person who commits any offence referred to in Sub-section (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 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.

(3) Where any offence under this statute is committed by a registered society, every officer of the society bound by the by-laws or the rules to perform any duty thereof the offence is a breach, or if there is no such officer, then every member of the Committee, unless that member is proved to have been ignorant of or to have attempted to prevent the commission of the offence, shall be liable to the same penalty as if he had committed the offence.

75. No suit or prosecution shall lie against the Registrar, Deputy Registrar, Senior assistant registrar, Assistant registrar or any other person duly authorized or appointed by the Registrar under Section 44, 46, 47, 49, 52, 66 and 67 of this statute or any act which in good faith is done or purperated to be done in performance of their duties or the discharge of their functions under this statute.

Protection of action of Registrar.

76. The Minister may, by order published in the *Gazette*, exempt from the succeeding Provisions of this statute—

Power of Minister to exempt Co-operative Societies 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 specifide

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.

77. In this statute unless the context otherwise requires "Bank" means—

Interpretation.

- (a) any person or body of persons corporate or unincorporate which carries on in Sri Lanka the business of accepting from the Public or creating, demand deposits;

- (b) any agency or institution acting on behalf of the Government (whether established by any written law or otherwise) which make loans, advances or investments or accepts deposits of money from the public;
- (c) the Development Finance Corporation established under the Development Finance Corporation of Ceylon Act; and,
- (d) any other person or body of persons declared by the Minister in charge of the subject of finance in consultation with the minister incharge of the subject of Co-operative development by order published in the *Gazette*.

“By-laws” means the registered by-laws for the time being inforce and includes an registered amendment of the by-laws.

“Committee” Means the governing body of a registered society to whom the management of its affairs is entrusted and includes the board of directors of a registered society and persons appointed by the registrar under Sections 48.

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

“Primary Society” means a registered society not being a society established with any object or for any purpose referred to in paragraph (b), (c) of Section 3 (1).

“Registered Society” means a society registered or deemed to be registered under this statute.

“Resistrar” means the person appointed to perform the duties of the registrar of co-operative societies of the Central Province Provincial Council under this statute.

“Rules” means rules made or deemed to have been made under this statute.

“Minister” means the Minister of the Central Province Provincial Council in-charge of Co-operative development and other affairs connected with the same.

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CO-OPERATIVE SOCIETIES ACT, No. 05 OF 1972, READ WITH THE CO-OPERATIVE SOCIETIES (AMENDMENT) ACT, No. 32 OF 1983 THE CO-OPERATIVE SOCIETIES (AMENDMENT) ACT, No. 11 OF 1992 AND THE PROVINCIAL COUNCIL'S CONSEQUENTIAL ACT, No. 12 OF 1989

Conferment of Powers

I, Mohamed Hashim Abdul Haleem, Provincial Minister of Health, Food and Co-operative, Trade and Commerce, Sports and Tourism of the Central Province, by virtue of Powers, vested in me under Section 2(4) of the Co-operative Societies Act, No. 05 of 1972, read with the Co-operative Societies (Amendment) Act, No. 32 of 1983, the Co-operative Societies (Amendment) Act, No. 11 of 1992, and the Provincial Councils (Consequential) Act, No. 12 of 1989, do hereby confer all powers vested in a registrar under Co-operative Societies Act, No. 05 of 1972 read with the Co-operative Societies Amendment Act, No. 32 of 1983, the Co-operative Societies Amendment Act No. 11 of 1992 and the Provincial Council's (Consequential) Act, No. 12 of 1989 and the regulations made there-under and shown in Column III of the Schedule here below, to persons, whose names are indicated in Column I of the Schedule and to exercise all such powers within the area of operation of each person with effect from the dates indicated in Column II of the Schedule in order to assist the Commissioner/Registrar of Co-operative Development of the Central Province.

MOHAMED HASHIM ABDUL HALEEM,
Minister of Health, Food and Co-operative,
Trade and Commerce, Sports and Tourism
of the Central Province.

Kandy,
23rd December, 1992.