

PARLIAMENT OF CEYLON

5th Session 1964-65



Co-operative Societies (Amendment) Act, No. 27 of 1964

Date of Assent : November 12, 1964

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AN ACT TO AMEND THE CO-OPERATIVE SOCIETIES
ORDINANCE.

Chapter 124.
Vol. V.,
page 430.

[Date of Assent: November 12, 1964]

BE it enacted by the Queen's Most Excellent Majesty,
by and with the advice and consent of the Senate and
the House of Representatives of Ceylon in this present
Parliament assembled, and by the authority of the
same, as follows:—

1. This Act may be cited as the Co-operative
Societies (Amendment) Act, No. 27 of 1964.

Short title.

2. Section 9 of the Co-operative Societies Ordinance, hereinafter referred to as the "principal enactment", is hereby amended as follows:—

Amendment of
section 9 of
Chapter 124.

(1) by the renumbering of that section as sub-section (1) of section 9; and

(2) by the addition, immediately after the re-numbered sub-section (1) of that section, of the following new sub-section:—

"(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)."

3. Section 22 of the principal enactment is hereby amended in paragraph (a) of that section as follows:—

Amendment of
section 22 of
the principal
enactment.

(1) in sub-paragraph (i) of that paragraph, by the substitution, for the words "or past member; and", of the words "or past member;"

(2) in the proviso to sub-paragraph (ii) of that paragraph, by the substitution, for the words "materials for manufacture;", of the words "materials for manufacture; and"; and

(3) by the addition, immediately after sub-paragraph (ii) of that paragraph, of the following new sub-paragraph:—

" (iii) upon 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;".

Amendment of
section 48 of
the principal
enactment.

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

(1) by the renumbering of sub-section (2) of that section as sub-section (3) of that section; and

(2) by the insertion, immediately after sub-section (1) of that section, of the following new sub-section:—

" (2) Where there is any debt payable by any member or past member to a society whose registration is cancelled under section 44 or section 45, and such person is a member of any other society registered under this Ordinance after the date of such cancellation, then the liquidator of such first-mentioned society appointed under section 47 shall, subject to the guidance and control of the Registrar and to any other limitations imposed by the Registrar by order under section 49, 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."

5. The following new section is hereby inserted immediately after section 53 of the principal enactment, and shall have effect as section 53A of that enactment:—

Insertion of
new section 53A
in the principal
enactment.

Enforcement
of a decision
or award.

53A. (1) Where a decision of the Registrar on a dispute or an appeal referred or made to him under section 53, hereafter in this section called a “decision”, or an award of an arbitrator on a dispute referred to him under that section, from which award no appeal has been duly made to the Registrar under that section, hereafter in this section called an “award”, is that a sum of money is due from one 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 issue a certificate to a Government Agent, Assistant Government Agent, Fiscal or Deputy Fiscal, containing particulars of such sum, together with costs and interest, and the name of the party from whom such sum is due, hereafter in this section called the “defaulter”, and the officer to whom such certificate is issued 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.

(2) The said seizure shall be effected in such manner as the said officer shall deem most expedient in that behalf, and every property so seized shall be kept for 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 shall cause the said property to be sold by public auction.

(3) The sum realized by the sale shall be applied—

(a) first, in payment of the cost and charge of seizing, keeping and selling the property, and

(b) 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.

(4) Where a decision or an award is that a sum of money is due from one party to the dispute to another party to the dispute, and such sum together with costs and interest, if any, has not been paid, and the Registrar is of opinion that recovery of the amount due by the means provided in the preceding subsections is impracticable or inexpedient, or where the full amount has not been recovered by such means, he may 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, and the court shall thereupon direct a writ of execution to issue to the Fiscal authorizing 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.

(5) Where a decision or an award is that a sum of money is due from an individual who is one party to the dispute to another party to the dispute, and such sum, together with costs and interest, if any, has not been paid, and

the Registrar is of opinion that recovery of the amount due by seizure and sale is impracticable or inexpedient, or where the full amount has not been recovered by seizure or sale, he may issue a certificate containing particulars of the amount due 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. 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 312 (except paragraphs (a) and (c) of sub-section (1) of that section) of the Criminal Procedure Code 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.

(6) When as often as 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.

(7) Nothing in this section shall authorize 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.

(8) Any sum realized by a sale under sub-section (4) and any sum paid or levied as fine under sub-section (5) 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.'.

Amendment of
section 59 of
the principal
enactment.

6. Section 59 of the principal enactment is hereby amended, in sub-section (2) of that section, by the substitution, for all the words from "as though it were a fine" to the end of that sub-section, of the words "as though it were a fine imposed by a sentence of the Magistrate on such person or officer for an offence punishable with fine only or not punishable with imprisonment, and the provisions of section 312 (except paragraphs (a) and (c) of sub-section (1) of that section) of the Criminal Procedure Code 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 authorize or require the Magistrate in any proceedings thereunder to consider, examine or decide the correctness of any order made by the Registrar."

Amendment of
section 60 of
the principal
enactment.

7. Section 60 of the principal enactment is hereby amended by the substitution, for the words "being a person entrusted with or having the dominion of any money", of the words "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", which amendment shall have retrospective effect from the date of commencement of the principal enactment.

Applications
under Rule
38 (13) of the
Co-operative
Societies
Rules, 1950.

8. Where any application has been made to a civil court under Rule 38 (13) of the Co-operative Societies Rules, 1950, published in *Gazette* No. 10,086 of March 24, 1950, for the enforcement of a decision of the Registrar of Co-operative Societies on a dispute or an appeal referred or made to him under section 53 of the Co-operative Societies Ordinance or the award of an arbitrator on a dispute referred to him under that section, it shall be presumed that such decision or award has been duly made and such court shall not, in any proceedings under such Rule, consider, examine or decide the correctness of any decision or award purported to be made under section 53 of the Co-operative Societies Ordinance.