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PART IV (A) - PROVINCIAL COUNCILS

Provincial Councils Notifications

No. NWP/PC/2/1/4/1.

NORTH WESTERN PROVINCE PROVINCIAL COUNCIL

North Western Co-operative Employees' Pension Statute No. 01 of 2008 of the North Western Province

THE above mentioned statute made by the Provincial Council of the North Western Province on 15th July, 2008 and assented to by the Governor of North Western Province 28th July, 2008 is hereby published for the information of the public.

H. M. SUNIL PADMASHANTHA,
Secretary,
Provincial Council, North Western Province.

Council Office,
North Western Provincial Council,
Kurunegala,
01st August, 2008.

CO-OPERATIVE EMPLOYEES' PENSION STATUTE NO. 01 OF 2008 OF THE NORTH WESTERN PROVINCIAL COUNCIL

DEPARTMENT OF CO-OPERATIVE DEVELOPMENT (NORTH WESTERN)

A Statute to provide for the establishment of a pension scheme for the co-operative employees of the North Western Province ; to provide for the operation of the scheme in the North Western Province by the Commissioner ; and the Registrar of Co-operative Development ; and to provide for matters connected therewith or incidental thereto.

Be it enacted by the North Western Provincial Council as follows :

01. This Statute may be cited as the Co-operative Employees' Pension Statute, No. 01 of 2008 of the North Western Provincial Council and will be effective from the date approved by the governor of the North Western Province.

Short title and
date of
operation.

PART I

ESTABLISHMENT OF THE CO-OPERATIVE EMPLOYEES' PENSION SCHEME

Establishment of the Co-operative Employees' Pension Scheme.

02. (I) There shall be established a scheme which shall be called the Co-operative Employee's Pension Scheme to be operated in compliance with the provisions of this Statute.

To be a body corporate.

(II) The Pension Scheme shall be a body corporate with perpetual succession and a common seal, and powers to execute all what is required for the purpose of this Statute, and may sue and be sued in all courts.

Appointment of the Director.

03. (I) The person holding the post of Commissioner of Co-operative Development of the North Western Province shall be the Director of the Co-operative Employees' Pension Scheme for the purpose of administration of the Scheme.

The duty of the Director.

(II) The Director shall be held responsible for the supervision and control of the duties and functions of the scheme.

Advisory Committee.

(III) The Minister may appoint an Advisory Committee, which shall consist of the following seven members to advise and make recommendations to the Director with regard to the management and administration of all matters connected with the scheme. Out of such members those who are referred to in Section 3.IV (f) and (g) shall be appointed by the Minister.

(IV) The Advisory Committee shall consist of :

Composition of the Advisory Committee.

- (a) The Secretary to the Ministry in charge of the subject of Co-operatives of the North-Western Provincial Council ;
- (b) The Deputy Chief Secretary (Finance Management) North-Western Provincial Council ;
- (c) The Commissioner of Labour or an executive officer of his Department nominated by him ;
- (d) The Secretary to the North Western Provincial Co-operative Employees' Commission ;
- (e) The Chairman of the Wayamba Co-operative Rural Bank Union Ltd. ;
- (f) A co-operative chairman who is possessing not less than 05 years of service experience and not convicted by a legal inquiry ; and
- (g) A serving or retired employee of a co-operative society or a union in the North-Western Province who is possessing not less than 20 years of service experience and not convicted by a legal inquiry.

The Staff.

(V) The staff required for the operation of the Scheme shall be deployed only from those who are employed in the North-Western Provincial Department of Co-operative Development.

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| <p>04. (I) (a) The term of office of the member of the Advisory Committee referred to in Section 3.IV (a), (b), (d) and (e) of this Statute shall limit for the period in which they hold the official post.</p> <p>(b) In the event the member of the Advisory Committee appointed under Section 3.IV. (c) be the Commissioner General of Labour himself, his term of office shall limit for the period in which he holds the official post. In the event an executive officer nominated by the Commissioner General of Labour is appointed as a member of the Advisory Committee, he shall, unless he vacates office earlier by reason of death or resignation, hold office for a period of 03 years. Provided however that when the Commissioner General of Labour nominates other officer, the previously appointed member shall cease to hold office.</p> <p>(c) Any member of the Advisory Committee appointed under Section 3.IV (f), and (g) of this Statute shall unless he vacates office earlier by reason of death or resignation by letter on that behalf addressed to the Minister or removal by the Minister, hold office for a period of 03 years.</p> <p>(II) Where a member appointed to the Advisory Committee under Section 3.IV (f) and (g), vacates office as aforesaid, some other person shall be appointed in his place having regard to the provisions of Sub-Section 3.III and the member so appointed shall hold office for the unexpired period of the term of office of his predecessor.</p> <p>(III) Where an appointed member of the Advisory Committee is temporarily unable to perform the duties of his office due to ill health, absence from Sri Lanka or other cause ; the Minister may appoint another person to act in his place.</p> <p>(IV) Any appointed member of the Advisory Committee who vacates office other than a member who is removed from office shall be eligible for reappointment.</p> | <p>Qualifications and term of office of the members of the Advisory Committee.</p> |
| <p>05. The Advisory Committee may exercise all or any of the following powers :</p> <p>(I) to formulate policies for the implementation of the Scheme ;</p> <p>(II) to advise the Director on matters relating to the management, operation and implementation of the Scheme ; and</p> <p>(III) to review the functions of the Scheme.</p> | <p>Functions of the Advisory Committee.</p> |
| <p>06. (I) The Secretary to the Ministry in charge of the subject of Co-operatives shall chair every meeting of the Advisory Committee, where he is absent from any meeting of the Advisory Committee, any person shall be elected from and among the members of the Advisory Committee to chair such meeting.</p> <p>(II) The Director shall be the Secretary to the Advisory Committee. He shall convene the meetings of the Advisory Committee and such meetings shall be convened regularly as may be required for the purpose of execution of functions of the Scheme under this Statute.</p> <p>(III) In the event a decision is made by the Advisory Committee where there is/are a vacancy/ vacancies, such decision shall not invalidate for the reason of such vacancy.</p> <p>(IV) The quorum of any meeting of the Advisory Committee shall be four members.</p> | <p>Meetings of the Advisory Committee.</p> <p>Vacancy/ vacancies</p> <p>The quorum</p> |

Remuneration to the Director and the members of the Advisory Committee and to the staff.

07. (I) Such remuneration as determined by the Minister may be paid to the Director for implementation and execution of the scheme.
- (II) The Director may, with the approval of the Minister, pay remuneration to the members of the Advisory Committee for attending the meetings of the Advisory Committee. The director shall, with the approval of the Advisory Committee reimburse to each of the member such travelling and other expenses as he may incur for purposes connected with the work of the Advisory Committee.
- (III) A remuneration as may be determined by the Advisory Committee may be paid to those who are employed.

PART II

IMPLEMENTATION OF THE CO-OPERATIVE EMPLOYEES' PENSIONS SCHEME

Eligibility to join the scheme.

08. Any co-operative employee who is not less than 18 years and up to 60 years of age and has been in service from any date prior to the date of coming into operation of this Statute and has been confirmed in the Service shall be entitled to join the Scheme.

Compulsory to join the scheme.

09. All co-operative employees joining the permanent service from the date of coming into operation of this Statute shall compulsorily contribute to the Scheme.

Benefits under the scheme.

10. (I) A Co-operative employee who joins the scheme (hereinafter referred to as the "contributor") shall be entitled to following benefits, under the scheme on such basis as may be prescribed by regulations :

(a) a periodical pension as may be prescribed ;

(b) a periodical death as may be prescribed (hereinafter referred to as the "gratuity").

- (II) The basis of payment of pension or gratuity shall be prescribed having regard to the period of contribution, age of the contributor and the contribution made by the contributor.

When pension is payable.

11. (I) The contributor shall be entitled to a pension once he attains 60 years of age, Provided that, any contributor who has started making contributions, irrespective of the fact that he has completed the payment of required total contribution, shall be entitled to the pension after the elapse of 01 year from the approval of the scheme.

- (II) The pension shall be paid up to the end of the month in which the contributor dies irrespective of the date on which the death occurs.

Death gratuity.

12. In the event of the death of a contributor before the becomes entitled to receive his pension, a death gratuity on such basis as may be required by regulations, shall be paid to the surviving dependents.

Non-entitlement to the pension.

13. (I) Where it has been established through a legal inquiry that, any contributor, before he becomes entitled to receive his pension, has caused any damage to the co-operative society or to the union, such contributor shall not be entitled to any benefit or pension under this Statute. Provided, such contributor shall be entitled to remain in the scheme by reimbursing the damage to the society or to the union in terms of the regulations which so require and the provisions of Section 14.

- (II) (a) If a legal inquiry is pending against any contributor for any damage caused by him to his employer co-operative society of union at the time of his retirement, the Director shall have the power to suspend any pension payable to such contributor under this Statute.
- (b) If the final determination of any legal inquiry held under Section 13 II (a) is delayed more than six (06) months, the pension in full or any part thereof may be paid to the contributor on the approval of the Advisory Committee.
- (c) If the contributor is relieved of charges against him at the said legal inquiry, such contributor shall be entitled to receive pension from the day of his retirement.

14. (I) The director shall on enrollment of any co-operative employee as a contributor to the Scheme, issue him with a policy which shall specify :

The director to issue a policy to each contributor.

- (a) the contribution to be made by the contributor ;
(b) the contribution to be made by the co-operative society or the union ;
(c) terms and conditions of the Policy ; and
(d) the benefits to which the contribution is entitled under the policy issued to him.

- (II) Where any contributor has failed from time to time or consecutively to pay three installments at any given date, such contributor shall forfeit the benefits under the policy issued to him.

Forfeiture of benefits.

- (III) Where any contributor is to forfeit the benefits under the certificate issued to him, the Director shall issue such contributor a notice to that effect.

- (IV) The contributor shall have the right to make an appeal in such manner as required by regulations to the Director to validate his policy and the director shall validate the policy if he is satisfied that the reasons for failure to pay the installments were beyond the control of the contributor.

- (V) Where the Director decides to validate a policy, the contributor shall be informed of the date, prior to which the arrears in installments has to be paid. If the contributor fails to pay the said contributions before such date, his policy shall be deemed forfeited.

15. The Contributor and the co-operative society or the union concerned shall make the contributions under this scheme as may be required by regulations. The co-operative society or the union shall remit the contributions made by the contributors of this Scheme who are employees of such society or union to the Scheme. The date, prior to which the contributions have to be made as per such regulation, shall be specified and any co-operative society or union, which fails to make contributions on the specified date, shall be liable to a fine prescribed by the regulations.

The contribution.

16. (I) Where the registration of any co-operative society or union has been cancelled for the purpose of liquidation by law, and the contributor has made contributions up to the date of such cancellation the payments shall be made on such basis as prescribed by regulations.

The pension not to be forfeited by reason of liquidation, amalgamation or separation of co-operative societies or unions.

- (II) When any co-operative society or union has been amalgamated with another co-operative society or union or separated from any co-operative societies or unions by law, it shall not be construed as a forfeiture of the pension of the contributor under this Scheme but be construed as the contributor continues to be in the Scheme through his employer society or union.

The director to determine the award of benefits.	17. The Director shall in accordance with the terms required by regulations, determine the award of benefits under the scheme to any contributor.
Board of Appeal.	18. (I) There shall be a Board of Appeal consisting of the following five members for any contributor who is not satisfied with the determination of the Director to make an appeal.
Composition of the Board of Appeal.	(II) The composition of the Board of Appeal is as follows: <ul style="list-style-type: none"> (a) Deputy Chief Secretary (Establishments) of the North-Western Provincial Council ; (b) Secretary of the Co-operative Employees' Commission ; (c) An executive officer of the Department of Labour appointed by the Minister in consultation with the Commissioner General of Labour ; and (d) two employees of any co-operative society or union in the North-Western province who has a service of not less than 20 years and has not been convicted at a legal inquiry appointed by the Minister.
The quorum.	(III) The quorum of any meeting of the Board of Appeal shall be three members.
Appeals to be made within thirty days.	(IV) Any contributor who is not satisfied with the determination of the Director may, within thirty days of receiving the notice of such determination, make an appeal to the Board of Appeal stating the ground of his appeal.
The determination to be given in 90 days.	(V) The Board of Appeal shall intimate its determination to the appellant within 90 days. (VI) The decision of the Board of Appeal on such appeal shall be final and conclusive.
Pension, gratuity or allowance not to be assigned or levied upon.	19. No pension, gratuity or allowance payable from the Scheme shall be assigned or transferred, and every assignment or transfer shall be absolutely null and void and of no effect. No such pension or gratuity or allowance shall be attached or taken in execution on account of any debt or payment due by the person to whom such pension or gratuity or allowance is payable except such is effected in terms of the powers vested in the Director under this Statute or the regulations made under this Statute.

PART III

CO-OPERATIVE EMPLOYEES' PENSION FUND

Co-operative Employees' Pension Fund.	20. (I) There shall be established a Co-operative Employees' Pension Fund (hereinafter referred to as the "Fund").
	(II) There shall be paid into the Fund :- <ul style="list-style-type: none"> (a) such sums of money as may be voted from time to time by the North Western Provincial Council for the operation of the Scheme ; (b) such sums of money as may be advanced to the director from time to time by the North Western Provincial Minister in charge of the subject of Finance ;

- (c) all sums of money as may be received annually or from time to time from any co-operative society or union ;
- (d) all sums of money received in the exercise, performance and discharge of its powers, duties and functions under this Statute ;
- (e) all sums of money received from any source as gifts and donations ;
- (f) all sums of money paid as contributions to the scheme by the contributors to the scheme ;
- (g) all sums of money earned as interest or profits from investments ;
- (h) all sums of money as may be received from any source to the Fund and such sums of money as may be advanced to the Director by Co-operative Societies or Unions in the discharge of functions of this Scheme.

(III) There shall be maintained a current account in a State Bank for the purpose of execution of functions of this Fund and all moneys received to the Fund shall be credited to this account.

(IV) There shall be paid out of the Fund all sums of money required to defray any expenditure incurred by the Advisory Committee or the Director in the exercise, performance and discharge of the powers, duties and functions of the Advisory Committee and the Director under this Statute and the sums of money required to be paid out of the Fund by this Statute or under the regulations.

21. All moneys in the Fund, which are not immediately required by the Director under this Statute, may be invested by the may be invested by the Director with the concurrence of the Advisory Committee in any state Bank, Statute finance institute or in the Wayamba co-operative Rural Bank Ltd.

Investment of funds

22. The Director may with the concurrence of the Advisory Committee borrow by way of bank overdraft or otherwise, or negotiate and obtain from any co-operative society, union or State finance institution of credit terms such sums as the Director may require for the purpose of fulfilling the obligation of the Director or for the operation of the Scheme under this Statute.

Borrowing power of the Director

23. (I) The financial year of the Scheme shall be the calendar year.

Financial year and accounts.

(II) The Director shall cause books of the Scheme to be balanced as on the 31st day of December in each year and shall before the 31st day of March next cause to be prepared an income and expenditure account and balance sheet containing a summery of the assets and liabilities of the Scheme made up to the first mentioned date.

(III) The particulars referred to in Section 23.II above shall be presented to the Provincial Council before the 30th day of June same year.

Accounts are to be presented to the Provincial Council.

(IV) The accounts of the Scheme shall be audited every year by the officer in-charge of Auditing in the Provincial Council or by the Auditor General according to the law.

Auditing of accounts.

PART IV

GENERAL

Regulations.

24. (I) The Minister may make regulations in respect of all matters which are stated or required by this Statute to be prescribed or for which regulations are required by this Statute to be made, including :-

- (a) the regulation, administration and management of the Scheme ;
- (b) the qualifications, conditions and circumstances in which and the restrictions subject to which any co-operative employee shall be eligible to join the scheme ;
- (c) the determination of the amount of contribution to be made by the contributor and by the the co-operative societies or unions for such contributor ;
- (d) the determination of the basis on which pensions, gratuities or allowances are payable to contributors ;
- (e) conditions governing the default of payment of contributions ;
- (f) regulation of the procedure and transactions of business of the Advisory Committee ;
- (g) formulation of procedures and regulations regarding the appellate procedure ;
- (h) the termination or forfeiture of the policy ;
- (i) the determination of the basis of payment and the amount of death gratuity ; and
- (j) the prescription of relevant forms.

(II). Every regulation made by the Minister shall be published in the *Gazette* and come into operation on the date of such publication or such later dates as may be specified in the regulation.

(III) Every such regulation shall as soon as convenient after its publication in the *Gazette* be brought before the Provincial Council for approval. Any regulation, which is not so approved, shall deem to be rescinded as from the date of such disapproval but without prejudice to anything previously done thereunder. Notification of the date on which a regulation shall deem to be rescinded shall be published in the *Gazette*.

Protection for
action taken
under this
Statute or on
direction of the
Director.

25. No suit or prosecution shall lie :-

- (I) against the Director, the Advisory Committee or any member of the Advisory Committee or the Board of Appeal or any member of the Board of Appeal for any act which in good faith is done by the Director, the Advisory Committee or the Board of Appeal under this Statute, or
- (II) against any officer or employee who assist the implementation of the Scheme for any act which in good faith is done or purported to be done by him under this Statute or on the direction of the Director, the Advisory Committee or the Board of Appeal.

26. Every person who contravenes or fails to comply with any provision of this Statute, or of any regulation made thereunder shall be guilty of an offence and shall on conviction after summary trial before a Magistrate be liable to imprisonment of either description for a term not exceeding six months or to a fine of rupees one thousand five hundred or to both such imprisonment and fine.

Offences.

27. In this Statute unless the context otherwise requires :-

Interpretation.

“Provincial Council” means the North-Western Provincial Council ;

“Minister” means the North Western Provincial Minister in-charge of the subject of Co-operatives ;

“Co-operative Society” means any Co-operative society/union registered within the North Western Province, under the Co-operative Societies Act, No. 5 of 1972 as amended by Amendment Acts, No. 11 of 1992 and No. 32 of 1983 ;

“Co-operative Union” means a co-operative union consisting of several co-operative societies registered within the North Western Province, under the Co-operative Societies Act, No. 5 of 1972 as amended by Amendment Acts, No. 11 of 1992 and No. 32 of 1983 ;

“Employee” means a permanent employee of a co-operative society/union within the meaning of the Co-operative Employees” Commission Act, No. 12 of 1972 and North Western Provincial Co-operative Employees” Commission Statute No. 05 of 1995.

“Legal Inquiry” means a formal disciplinary inquiry/an inquiry conducted in pursuance of the provisions of the Co-operative Societies Act No. 5 of 1972 as amended by the Amendments Acts, No. 11 of 1992 and No. 32 of 1983.

28. In the event of any inconsistency between the Sinhala, Tamil and English texts of this Statute the Sinhala text shall prevail.

Sinhala text to prevail in case of inconsistency.