

THE CO-OPERATIVES (AMENDMENT) BILL
(No IX of 2006)

Explanatory Memorandum

The main object of this Bill is to amend the Co-operatives Act 2005 in order to provide for –

- (a) the registration of a co-operative society with either limited or unlimited liability;
- (b) the publication in one or more newspapers or the sending to the members by post of the notice of a general meeting of a co-operative society;
- (c) the non-eligibility of the internal controller of a co-operative society to be a director of the Board;
- (d) the better implementation of an order, award or decision made by the Registrar, an arbitrator or a liquidator, as the case may be;
- (e) the appointment of a liquidator by the Registrar in such cases as he may deem fit;
- (f) the appointment of an auditor or an officer not below the level of Senior Co-operative Officer as a liquidator by the Registrar;
- (g) the automatic registration of existing co-operative societies as primary or secondary societies under the Co-operatives Act 2005.

26 May 2006

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ARRANGEMENT OF CLAUSES

Clause

1. Short title
2. Interpretation
3. Section 9 of principal Act repealed and replaced
4. Section 41 of principal Act amended
5. Section 43 of principal Act amended
6. Section 46 of principal Act amended
7. Section 66 of principal Act amended
8. Section 70 of principal Act repealed
9. Section 74 of principal Act amended
10. Section 99 of principal Act amended
11. New section 129A added to principal Act
12. Section 135 of principal Act amended
13. Commencement

A BILL

To amend the Co-operatives Act 2005

ENACTED by the Parliament of Mauritius, as follows -

1. Short title

This Act may be cited as the Co-operatives (Amendment) Act 2006.

2. Interpretation

In this Act –

“principal Act” means the Co-operatives Act 2005.

3. Section 9 of principal Act repealed and replaced

Section 9 of the principal Act is repealed and replaced by the following section -

9. Liability of society

(1) Subject to subsection (2), a society may be registered with limited or unlimited liability.

(2) Where the Government has contributed to the share capital of a society, the liability of the Government shall be limited to the amount of the shares held by it.

(3) Where a society is registered with limited liability, the liability of the members shall be limited to –

- (a) the amount unpaid on shares held by them; and
- (b) such other amount as they may undertake under its rules to contribute to the assets of the society in the event of its being wound up.

(4) Every society with limited liability shall have the word “Limited” as the last word of its name.

4. Section 41 of principal Act amended

Section 41 of the principal Act is amended in subsection (1), by deleting the words “31 December of each year” and replacing them by the words “the end of February of each year”.

5. Section 43 of principal Act amended

Section 43 of the principal Act is amended by repealing subsection (2) and replacing it by the following subsection -

- (2) (a) Notice under subsection (1) shall be displayed conspicuously at the registered office of the society.
- (b) The rules shall provide for the notice to be published in one or more newspapers or to be sent to the members by post.

6. Section 46 of principal Act amended

Section 46 of the principal Act is amended by adding immediately after subsection (4), the following new subsection –

- (5) The internal controller shall not be a director of the Board.

7. Section 66 of principal Act amended

Section 66 of the principal Act is amended in subsection (2), by deleting the words “an auditor” and replacing them by the words “the Registrar or an auditor, as the case may be,”.

8. Section 70 of principal Act repealed

Section 70 of the principal Act is repealed.

9. Section 74 of principal Act amended

Section 74 of the principal Act is amended in subsection (4), by deleting the words “2 months” and replacing them by the words “3 months”.

10. Section 99 of principal Act amended

Section 99 of the principal Act is amended –

- (a) in subsection (1), by deleting the word “shall” and replacing it by the word “may”; and
- (b) in subsection (2), by inserting immediately after the words “an auditor”, the words “or a person who holds or has held an office not below the level of Senior Co-operative Officer”.

11. New section 129A added to principal Act

The principal Act is amended by inserting immediately after section 129, the following new section –

129A. Execution of orders and awards

(1) Notwithstanding section 104(1) of the Courts Act and any regulations made thereunder, where –

- (a) an order made by the Registrar under section 82(3), 84(1) or 103(1);
- (b) an award or decision made under section 85 or 103(2);
- (c) an order made by a liquidator under section 100,

in respect of a society is not implemented, the Registrar may lodge with the clerk of the court of the district where the registered office of the society is situated a certified copy of the order, award or decision together with an application for the execution of the order, award or decision.

(2) On an application under subsection (1), any order, award or decision shall be executed as a judgment of the court.

12. Section 135 of principal Act amended

Section 135 of the principal Act is amended by repealing subsection (2) and replacing it by the following subsection –

(2) Every society which, upon the coming into operation of this Act, was carrying on business as a primary society or a federal society under the repealed Act -

- (a) shall be deemed to have been registered as a primary society or a secondary society, respectively, under this Act; and
- (b) shall, within 2 years from the coming into operation of this Act, amend its rules to bring them in conformity with the provisions of this Act.

13. Commencement

This Act shall come into operation on 10 June 2006.