

JAMAICA

No. 25-2010

I assent,

[L.S.]

(sgs) P. L. Allen

Governor-General

3rd day of August 2010

AN ACT to Amend the Industrial and Provident Societies Act.

**The date notified by the Minister
[bringing the Act into operation]**

BE IT ENACTED by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Jamaica, and by the authority of the same, as follows:—

1. This Act may be cited as the Industrial and Provident Societies (Amendment) Act, 2010, and shall be read and construed as one with the Industrial and Provident Societies Act (hereinafter referred to as the principal Act) and all amendments thereto and shall come into operation on a day to be appointed by the Minister by notice published in the *Gazette*.

Short title,
construction
and com-
mencement.

Amendment
of section 2
of principal
Act.

2. Section 2 of the principal Act is amended by deleting the definitions of “the committee” and “the Registrar” and inserting therein in the correct alphabetical sequence the following—

“ “the committee” means the governing body of a registered society to whom the management of its affairs is entrusted;

“Registrar” means the Registrar of Co-operatives appointed under the Co-operatives Societies Act;

“Tribunal” means the Appeals Tribunal established under section 6A;”.

Amendment
of section 3
of principal
Act.

3. Section 3 of the principal Act is amended by deleting from paragraph (a) of the proviso the words “four hundred dollars” and substituting therefor the words “twenty per cent of the society’s share capital”.

Amendment
of section 4
of principal
Act.

4. Paragraph (b) of section 4 of the principal Act is amended by deleting the words “and the” and substituting therefor the words “including the”.

Amendment
of section 6
of principal
Act.

5. Section 6 of the principal Act is amended by deleting subsection (1) and substituting therefor the following—

“ (1) If the Registrar refuses to register the society or any rules or amendments of rules—

(a) the Registrar shall, within thirty days after such refusal, notify the society in writing of the reasons for the refusal; and

(b) an appeal shall lie to the Tribunal within thirty days after the date of notification of the refusal.”.

Insertion of
new section
6A in principal
Act.

6. The principal Act is amended by inserting next after section 6 the following as section 6A—

“Appeals Tribunal. 6A.—(1) There is hereby established an Appeals Tribunal for the purposes of hearing appeals under sections 6, 8 and 51.

Fourth Schedule. (2) The provisions of the Fourth Schedule shall have effect as to the constitution of the Tribunal and otherwise in relation thereto.”.

7. Section 8 of the principal Act is amended—

Amendment
of section 8
of principal
Act.

- (a) in subsection (1), by—
 - (i) deleting from paragraph (a) the words “Agricultural Credit Board” and “Agricultural Credit Board Act”, and substituting therefor the words “Registrar” and “Cooperative Societies Act”, respectively;
 - (ii) deleting from paragraph (j) the words “if in the opinion of the said Agricultural Credit Board to be evidenced by a resolution of the said Board bearing the signature of the secretary of the said Board” and substituting therefor the words “if, in the opinion of the Registrar,”;
 - (iii) deleting the full stop appearing at the end of paragraph (m) and substituting therefor a semi-colon; and
 - (iv) inserting next after paragraph (m) the following—
 - “(n) if the society fails to maintain a capital base of not less than twenty per cent of its prescribed liabilities;”;
- (b) in subsection (4), by deleting the words “a Judge in Chambers who may if he think fit” and substituting therefor the words “the Tribunal; and the Tribunal may, if it thinks fit,”;
- (c) in subsection (6), by deleting the words “a Judge in Chambers” and substituting therefor the words “the Tribunal”;
- (d) in subsection (7), by deleting the words “Rules of Court may prescribe” and substituting therefor the words “The Tribunal may make rules prescribing”;
- (e) by inserting next after subsection (7) the following as subsection (8)—
 - “(8) in subsection (1), “capital base” shall have the meaning and manner of calculation as prescribed”.

Amendment
of section 9
of principal
Act.

8. Subsection (4) of section 9 of the principal Act is amended by deleting the words “a sum not exceeding ten cents” and substituting therefor the words “such fee as may be determined by the society”.

Amendment
of section 12
of principal
Act.

9. Section 12 of the principal Act is amended—

(a) in subsection (3) by deleting all the words appearing after the word “Minister” and deleting the proviso;

(b) by deleting subsection (5) and substituting therefor the following—

“ (5) Notwithstanding the provisions of subsection (1), the accounts for each financial year of an agricultural loan society (within the meaning of the Agricultural Credit Board Act) may be audited by an approved auditor appointed annually by the shareholders in general meeting.”.

Amendment
of section 17
of principal
Act.

10. Subsection (1) of section 17 of the principal Act is amended by deleting the words “ten members” and substituting therefor the words “not less than one-third of the members”.

Amendment
of section 18
of principal
Act.

11. Subsection (4) of section 18 of the principal Act is deleted and the following substituted therefor—

“ (4) The taking of deposits, not exceeding the amount prescribed in respect of—

(a) any one payment; or

(b) any one depositor,

payable on not less than two clear days’ notice, shall not be included in banking business within the meaning of subsection (1); but no society which takes such deposits shall make any payment of withdrawable capital while any claim due on account of any such deposit is unsatisfied.”.

Amendment
of section 23
of principal
Act.

12. Subsection (1) of section 23 of the principal Act is amended by deleting the words “two hundred dollars” and substituting therefor the words “twenty per cent of the share capital of the registered society”.

- 13.** Section 24 of the principal Act is amended—
- Amendment
of section 24
of principal
Act
- (a) by deleting from subsection (1) the words “four hundred dollars” and substituting therefor the words “twenty per cent of the share capital of the registered society”;
 - (b) in subsection (2) by—
 - (i) inserting next after the words “any payment” the words “or transfer”;
 - (ii) delete the words “duly stamped receipt for the succession or legacy duty” and substituting therefor the words “a receipt evidencing the payment of Transfer Tax”.
- 14.** Section 25 of the principal Act is amended—
- Amendment
of section 25
of principal
Act.
- (a) by deleting the words “two hundred dollars” and substituting therefor the words “twenty per cent of the share capital of the registered society”;
 - (b) by deleting all the words appearing after the words “to receive the same”.
- 15.** Section 26 of the principal Act is repealed.
- Repeal of
section 26 of
principal Act.
- 16.** Section 27 of the principal Act is amended by deleting the words “two hundred dollars” and substituting therefor the words “twenty per cent of the share capital of the registered society”.
- Amendment
of section 27
of principal
Act.
- 17.** Section 36 of the principal Act is repealed.
- Repeal of
section 36 of
principal Act.
- 18.** Subsection (2) of section 40 of the principal Act is amended by deleting the words “a fee of twenty five cents” and substituting therefor the words “such fee as may be prescribed”.
- Amendment
of section 40
of principal
Act.
- 19.** Subsection (2) of section 49 of the principal Act is amended by inserting immediately after the word “association” wherever it appears the words “or articles of incorporation” in each case.
- Amendment
of section 49
of principal
Act.

Amendment
of section 50
of principal
Act.

20. Subsection (1) of section 50 of the principal Act is amended—

- (a) by deleting the words “nominal value of its shares” and substituting therefor “capital credited as paid up on the shares”;
- (b) by deleting the words “exceeds four hundred dollars” and substituting therefor the words “exceeds twenty per cent of the share capital of the company”;
- (c) by deleting the words “over four hundred dollars” and substituting therefor the words “over that percentage”.

Amendment
of section 51
of principal
Act

21. Section 51 of the principal Act is amended—

- (a) by renumbering the section as subsection (1) of the section;
- (b) in subsection (1) as renumbered, by—
 - (i) deleting the words “and registered,” and substituting therefor the words “for approval and registration”;
 - (ii) inserting immediately after the words “copy is so” the words “approved and”;

(c) by inserting next after subsection (1) as renumbered the following as subsections (2)—

“ (2) If the Society disagrees with the decision of the Registrar not to approve a special resolution under subsection (1), the society may, within twenty-eight days of the date of the decision or within such further period as the Minister may in any special circumstances allow, appeal to the Tribunal.”.

Amendment
of section 53
of principal
Act

22. Section 53 of the principal Act is amended in paragraph (b) by deleting the words “instrument of dissolution” and substituting therefor the words “application for dissolution, and the provisions of the Companies Act in relation to the winding up of companies shall apply thereto.”.

Amendment
of section 54
of principal
Act.

23. Section 54 of the principal Act is amended by deleting the words “or resolution” and substituting therefor the words “under section 53”.

24. Section 58 of the principal Act is amended by deleting the word “forty” and substituting therefor the words “five hundred thousand”.

Amendment of section 58 of principal Act.

25. Sections 59 and 60 of the principal Act are amended by deleting the words “one hundred” wherever they appear and substituting therefor in each case the words “five hundred thousand”.

Amendment of sections 59 and 60 of principal Act.

26. Section 62 of the principal Act is amended by deleting the word “ten” and substituting therefor the words “five hundred thousand”.

Amendment of section 62 of principal Act.

27. Section 64 of the principal Act is amended by inserting next after subsection (2) the following as subsections (2A) and (2B)—

Amendment of section 64 of principal Act.

“ (2A) Regulations made under this Act shall be subject to affirmative resolution.

(2B) Notwithstanding the provisions of section 29(b) of the Interpretation Act, regulations made under this Act may provide for the imposition of greater penalties than those specified in that section so, however, that the maximum penalty that may be imposed shall be on summary conviction in a Resident Magistrate's Court of a fine not exceeding one million dollars or imprisonment for a term not exceeding one year or both such fine and imprisonment.”.

28. The principal Act is amended by inserting next after section 64 the following as section 64A—

Insertion of new section 64A in principal Act.

“Amendment of fines and penalties by order. 64A. The Minister may, by order, subject to affirmative resolution, amend any fines or monetary penalties prescribed by this Act.”.

29. The principal Act is amended by inserting next after section 65 the following as section 66—

Insertion of new section 66 in principal Act

“Restriction on use of title “People's Co-operative Bank”. 66.—(1) Except with the approval in writing of the Minister, no person other than a society duly registered under this Act shall, in connection with any trade or business carried on by that person, use the words “People's Co-operative Bank” or “National People's Co-operative Banks” or any grammatical variation thereof.

(2) A person who contravenes subsection (1) shall be guilty of an offence.

(3) Subsection (1) shall not apply to any association formed by People's Co-operative Banks or National People's Co-operative Banks for the purpose of representing the common interests of the members of such association.”.

Insertion of
Fourth
Schedule.

30. The principal Act is amended by inserting next after the Third Schedule the following as the Fourth Schedule—

“ FORTH SCHEDULE (Section 6A(2))

1.—(1) The Appeals Tribunal shall consist of an attorney-at-law as chairman and two other persons, all of whom shall be appointed by the Minister.

(2) The members of the Tribunal shall hold office for two years and shall be eligible for reappointment.

2.—(1) Every appeal to the Tribunal shall—

- (a) be in writing;
- (b) state the grounds of appeal; and
- (c) be lodged with the Tribunal not later than—
 - (i) one month from the date of the decision, in respect of an appeal under sections 6(1) and 51 of the Act;
 - (ii) two months from the date of an order, in respect of an appeal under section 53(1) of the Act.

(2) A copy of the appeal lodged under paragraph (1) shall be served on the Registrar.

3.—(1) The proceedings before the Tribunal shall as nearly as possible be conducted in the same way as proceedings before a court of law and in particular the following provisions shall have effect in respect thereof—

- (a) notice of the time and place at which the proceedings are to be held shall be given to the parties to the dispute, and such notice shall be of not less than ten days;
- (b) a record of the evidence adduced before the Tribunal shall be made, dated and signed by the members;
- (c) documents produced as exhibits before the Tribunal shall be marked, dated and initialled by the chairman and shall be attached to the file of the proceedings; and

- (d) in the absence of any party duly notified to attend, the dispute may be decided by the Tribunal *ex parte*.
- (2) The Tribunal may, in relation to an appeal—
 - (a) dismiss the appeal and confirm the decision of the Registrar;
 - (b) allow the appeal and set aside the decision of the Registrar; or
 - (c) allow the appeal and return the proceedings to the Registrar for a new hearing or such other action as the Tribunal thinks fit.
- (3) The decision of the Tribunal shall—
 - (a) be given in writing to the Appellant;
 - (b) be dated and signed by the members; and
 - (c) state the amount of the costs and expenses of the appeal, if any, and by which party or parties to the dispute the same are to be paid.
- (4) Upon the completion of the proceedings, the Tribunal shall forward to the Registrar—
 - (a) the file of the proceedings; and
 - (b) the decision.”.

Passed in the Senate this 23rd day of April, 2010 with twelve (12) amendments.

OSWALD G. HARDING, O.J., C.D., Q.C.
President.

Passed in the Honourable House of Representatives this 13th day of July, 2010.

MARISA DALRYMPLE PHILIBERT,
Deputy Speaker.

This printed impression has been carefully compared by me with the authenticated impression of the foregoing Act, and has been found by me to be a true and correct printed copy of the said Act.

Clerk to the Houses of Parliament.

