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Trinidad and Tobago

SENATE

BILL

AN ACT to amend the Co-operative Societies Act,
Chap. 81:03

THE CO-OPERATIVE SOCIETIES (AMENDMENT)
BILL, 2014

Explanatory Note

(These notes form no part of the Bill but are intended only to indicate its general purport)

The Bill seeks to amend the Co-operative Societies Act to remove from the Commissioner of Co-operative Development, (hereinafter referred to as “the Commissioner”) his responsibility over the financial activities of credit unions.

Clause 1 would provide for the short title and commencement of the Bill.

Clause 2 would provide for the interpretation of the Bill.

Clause 3 would amend section 2 of the Act to redefine certain terms.

Clause 4 would repeal and substitute section 3 of the Act to provide for a Commissioner for Co-operative Development who shall be the Registrar of Societies.

Clause 5 would repeal and substitute section 4 of the Act to provide for the functions of the Commissioner.

Clause 6 would provide for the insertion of sections 4A to 4F which would outline procedures with respect to initiating an inquiry into the affairs of a society; the failure of a board of a society to adhere to its statutory duties and improper performance of its duties; the insolvency of a non-financial co-operative society; the dissolution of a board of a society; the voluntary dissolution of a board of a non-financial co-operative society and the involuntary immediate dissolution of a board of a non-financial co-operative society.

Clause 7 would amend section 5, by deleting the word “The” and substituting the words “In the exercise of his functions under section 4(1), the”.

Clause 8 would insert section 6A to provide for the prohibition against disclosures.

Clause 9 would amend section 9 which would provide for every society which is registered shall be required to issue shares; the words “credit union” shall form part of the name of every registered society save secondary bodies.

Clause 10 would provide for the insertion of section 9A which would provide for the registration of credit unions providing non-financial co-operative services and secondary bodies.

Clause 11 would amend section 15 of the Act by inserting before the word “society” the first and third time it occurs, the words “non-financial co-operative”.

Clause 12 would amend the Act by inserting after section 17, new section 17A, which would provide that the society holds its first general meeting within one month of receipt of the certification of registration and elects a board and a supervisory committee from among its members. Additionally, the credit union shall elect a credit committee.

Clause 13 would amend section 18 of the Act by inserting before the word “society” wherever it occurs, the words “non-financial co-operative”.

Clause 14 would insert a new section 18A to empower the Commissioner to cancel the registration of a credit union.

Clause 15 would amend section 36 of the Act by deleting the word “society” and substituting the words “credit union”; by renumbering that section as section “36(1)”; and by inserting subsection (2), which would provide that notwithstanding sections 29, 30, 32, 33 and 37 a non-financial co-operative society shall have a charge or lien in respect of a debt due from a member or a past member upon his shares or interest in the capital.

Clause 16 would amend section 38 of the Act by repealing subsection (1) and in subsection (2) by inserting after the word “deposit” the words “in a non-financial co-operative”.

Clause 17 would amend section 39 of the Act by inserting before the word “society” wherever it occurs, the words “non-financial co-operative”, and the clause would also repeal subsection (3).

Clause 18 would amend section 40 of the Act by inserting after the word “36” the words “(1) and (2)”.

Clause 19 would repeal section 41 of the Act and substitute a clause which would provide for payments of moneys and transfer of shares to a beneficiary on the death of a member.

Clause 20 would amend section 42 of the Act by inserting before the word “society” wherever it occurs, the words, “non-financial co-operative” and by inserting the words “who is not deceased” to describe the member.

Clause 21 would amend the heading of Part IV of the Act to insert the words “NON-FINANCIAL CO-OPERATIVE” to describe societies.

Clause 22 would amend section 43 of the Act by inserting before the word “society” wherever it occurs, the words “non-financial co-operative” and by deleting in subsection (3), the words “the credit committee” and “credit union” and substituting the words “non-financial co-operative society”.

Clause 23 would amend section 45 by inserting before the word “society” the first and second time it occurs, the words “non-financial co-operative”.

Clause 24 would amend section 50 of the Act by inserting before the word “society” the words “non-financial co-operative”, and by inserting after the words “reserve fund” the words “under section 47” to stipulate the specific reserve fund.

Clause 25 would provide for the insertion of section 50A which would mandate that each credit union set aside one per cent of its annual net surplus to be used solely for public, co-operative and charitable purposes.

Clause 26 would repeal section 51(1) of the Act and substitute a clause which would provide for every non-financial co-operative society to have its accounts audited annually by the Commissioner or other person authorised by him.

Clause 27 would amend the heading of Part V of the Act to insert the words “NON-FINANCIAL CO-OPERATIVE” to describe societies and would provide for the insertion of new section 51A which would provide for Part V to apply only to non-financial co-operative societies.

Clause 28 would amend section 58 of the Act by inserting subsection (1) and in that subsection, by inserting before the word “society” wherever it occurs, the words “non-financial co-operative”; and by inserting new subsection (2), which would provide that if the Commissioner, after an inquiry has been held under section 4, is of the opinion that the credit union ought to be wound up, he shall inform the Central Bank accordingly.

Clause 29 would amend section 60 to delete the word “officer” and substitute the word “employee” and by inserting the words “non-financial co-operative” before the word “society” wherever it occurs.

Clause 30 would amend section 61 by inserting the words “non-financial co-operative” before the word “society” wherever it occurs.

Clause 31 would amend section 62 by inserting before the word “society” wherever it occurs, the words “non-financial co-operatives”.

Clause 32 would repeal section 63 and substitute a provision which would provide a bar of action in reconstruction, winding up and dissolution matters.

Clause 33 would amend section 64 of the Act by renumbering that section as “64(1)” and in the subsection as renumbered, by inserting before the word “society” wherever it occurs, the words “non-financial co-operative”; by deleting the word “bank” and substituting the words “financial institution”; and by inserting new subsection (2), which would provide that upon the winding up of a credit union, any surplus assets shall be divided amongst members, except in respect of any monies in the fund referred to in section 50A which shall be used solely for public, co-operative and charitable purposes.

Clause 34 would amend section 67 of the Act to provide the procedure for the referral of a dispute to the Commissioner.

Clause 35 would amend the Act by inserting after section 67, new sections 67A to 67D which would provide *inter alia*, for the identification of a list of persons by the Commissioner, from which a Dispute Panel may be selected and its functions.

Clause 36 would amend section 68(1) of the Act by inserting the reference to the new clause 67A and deleting certain words.

Clause 37 would insert new section 73A to extend the jurisdiction of the Court to offences committed by an entity in any place at which it has a place of business, and by an individual in any place at which he is for the time being located. The clause would also extend the period within which an offence triable by a Magistrate's Court in Trinidad and Tobago may be tried, to within ten years after the commission of the offence or within eighteen months after the date on which evidence sufficient in the opinion of the Bank to justify the institution of summary proceedings comes to its knowledge.

Clause 38 would repeal section 74 and substitute a provision which would provide for an appeal to the High Court from the decision of the Commissioner.

Clause 39 would amend section 77 of the Act by deleting the word "not" the second time it occurs and inserting a new subsection which would provide that for the purposes of winding up a credit union under the Credit Unions Act, 2014, the Companies Act shall apply to credit unions.

Clause 40 would amend section 81(1) of the Act in paragraphs (d) and (g), by inserting before the word "society" the words "non-financial co-operative" and in paragraph (h) by deleting the word "4" and substituting the word "4A".

Clause 41 would provide for certain sections of the Act to be amended to insert the words "non-financial co-operative" and "non-financial co-operatives" to specify the type of society.

THE CO-OPERATIVE SOCIETIES (AMENDMENT) BILL,
2014

Arrangement of Clauses

Clause

1. Short title and commencement
2. Interpretation
3. Section 2 amended
4. Section 3 repealed and substituted
5. Section 4 repealed and substituted
6. Sections 4A to 4F inserted
7. Section 5 amended
8. Section 6A inserted
9. Section 9 amended
10. Section 9A inserted
11. Section 15 amended
12. Section 17A inserted
13. Section 18 amended
14. Section 18A inserted
15. Section 36 amended
16. Section 38 amended
17. Section 39 amended
18. Section 40 amended
19. Section 41 repealed and substituted
20. Section 42 amended
21. The heading of Part IV amended
22. Section 43 amended

23. Section 45 amended
24. Section 50 amended
25. Section 50A inserted
26. Section 51 amended
27. Part V amended
28. Section 58 amended
29. Section 60 amended
30. Section 61 amended
31. Section 62 amended
32. Section 63 amended
33. Section 64 amended
34. Section 67 amended
35. Sections 67A to 67E inserted
36. Section 68(1) amended
37. Section 73A inserted
38. Section 74 repealed and substituted
39. Section 77 amended
40. Section 81(1) amended
41. Certain sections of the Act amended

BILL

AN ACT to amend the Co-operative Societies Act,
Chap. 81:03

[, 2015]

ENACTED by the Parliament of Trinidad and Tobago as Enactment
follows:

1. This Act may be cited as the Co-operative Societies Short title and
(Amendment) Act, 2014 and shall come in to operation commencement
on such day as is fixed by the President by
Proclamation.

Interpretation
Chap. 81:03

2. In this Act—

“the Act” means the Co-operative Societies Act;
“the Regulations” means the Co-operative Societies Regulations.

Section 2
amended

3. Section 2 of the Act is amended—

(a) in the definition of “Commissioner”, by deleting the words “under this Act” and substituting the words “referred to in section 3”;

(b) by deleting the definition of “credit union” and substituting the following definitions:

“Bank” means the Central Bank of Trinidad and Tobago established under the Central Bank Act;

“credit union” means a financial co-operative society which has as its main objects the promotion of thrift and the creation of a source of credit for its members, for provident and productive purposes and which is registered under section 17 and which has been issued an operating certificate under section 22 or 26 of the Credit Unions Act, 2014;”;

(c) in the definition of “society”, by—

(i) inserting after the word “a” the words “financial or non-financial co-operative”; and

(ii) by inserting after the word “Act” the words “and societies has the same meaning”;

(d) in the definition of “member”—

(i) by deleting after the word “member” the word “include” and substituting the word “means”; and

Chap. 79:02

- (ii) by deleting the words “a person” wherever they occur and substituting the words “an individual”;
- (e) in the definition of “officer”, by inserting after the words “member of the board” the words “, member of any committee required to be established in accordance with this Act”; and
- (f) by inserting in the appropriate alphabetical sequence the following definitions:

“credit committee” means the committee comprising members of the credit union pursuant to section 17A(2);

“Division” means the Co-operative Development Division of the Ministry;

“non-financial co-operative society” means a society which provides goods and services to its members and other persons as its main object, and which may provide a source of credit to its members;

“Minister” means the Minister to whom the responsibility for co-operatives is assigned and “Ministry” shall be construed accordingly;

“supervisory committee” means the committee comprising members of the society pursuant to section 17A(1).”.

4. Section 3 of the Act is repealed and the following section is substituted: Section 3 repealed and substituted

“Commissioner for Co-operative Development and duties as Registrar of Societies”

3. (1) There shall be a Commissioner for Co-operative Development who shall be the Registrar of Societies.

(2) The Commissioner shall keep or cause to be kept at his office a register to be called "The Register of Societies" wherein he shall register societies in accordance with section 17 and enter particulars relating to such societies and their bye-laws.

(3) The particulars referred to in subsection (2) shall include the following:

- (a) the name and address of the society;
- (b) the date the society was registered;
- (c) the registration number of the society;
- (d) the main objective of the society; and
- (e) any other particulars relating to societies and their bye-laws.

(4) All entries in the Register of Societies shall be made by, or under the directions of the Commissioner and shall be signed by him.

(5) Every alteration, interlineation or erasure in the Register of Societies shall be initialled by the Commissioner.

(6) The Register of Societies shall be open to inspection by the public at all reasonable times."

Section 4 repealed
and substituted

5. Section 4 of the Act is repealed and the following section is substituted:

"Functions
of the
Commissioner

4. (1) Subject to this Act, the functions of Commissioner are to—

- (a) supervise the affairs of societies except the financial affairs of credit unions;

- (b) register societies;
- (c) oversee constitutional matters pertaining to a society;
- (d) oversee membership matters;
- (e) hear and determine disputes; and
- (f) ensure compliance with the provisions of this Act.

(2) Subject to this Act and in the exercise of his functions, the Commissioner may—

- (a) cancel the registration of a society;
- (b) inspect the books, accounts, records, cash and securities of societies;
- (c) request information from officers of a society with respect to the affairs and transactions of a society; and
- (d) hold an inquiry into the financial affairs of a non-financial co-operative society and constitutional and membership matters of any society.

(3) The constitutional matters referred to in subsections (1)(c) and (2)(d) include—

- (a) approval of bye-laws;
- (b) bye-laws regarding name, address and objects;
- (c) breach of bye-laws;
- (d) adherence to co-operative principles;
- (e) minimum number of members required to establish a society;

- (f) rights and obligations of members;
- (g) election of a board;
- (h) election of a supervisory committee of a non-financial society;
- (i) election of a supervisory committee and a credit committee of a credit union;
- (j) the conduct of Board Meetings;
- (k) the conduct of Annual General Meetings;
- (l) the conduct of Special General Meetings;
- (m) reconstruction of societies; and
- (n) such other matters as the Commissioner may determine.

(4) The membership matters referred to in subsection (1)(d) include—

- (a) the common bond of occupation or association or of residence in a defined neighbourhood or district of the society;
- (b) qualification for membership;
- (c) voting rights of members;
- (d) rights and liabilities of infant members; and
- (e) rights and obligations of the membership.

(5) Within seven days of receipt by his office of a complaint relating to a delay in the payment by a credit union of deposits or shares to a member, the Commissioner shall provide the Bank with a copy of the complaint.”.

6. The Act is amended by inserting after section 4, Sections 4A to 4F inserted
the following sections:

Initiation of procedures in order to hold an inquiry into the affairs of a society

4A. (1) The Commissioner may—

- (a) on his own motion;
- (b) on the application of a creditor of a society;
- (c) on the application of a majority of members of the board; or
- (d) on the application of one-third of the members of a society,

hold an inquiry—

- (i) in the case of a non-financial co-operative society, into the constitutional matters and financial operations; and
- (ii) in the case of a credit union, into the constitutional matters.

(2) In the course of such inquiry under subsection (1), the Commissioner shall inspect the books, accounts and other records of the society in order to determine whether —

- (a) a society has failed to adhere to its statutory duties or otherwise performed its duties improperly under this Act; or
- (b) the financial statements indicate that a non-financial society is insolvent and its continuation in operation is likely to result in loss to its creditors and members.

(3) Where a creditor applies to have an inquiry instituted under

subsection (1)(b), he shall first satisfy the Commissioner that his debt is due and that payment was demanded and not satisfied and he shall deposit as security towards the cost of the inquiry, such sums as the Commissioner may determine.

(4) The Commissioner shall, within fourteen days after the completion of the inquiry, give to the board of the society, notice, in writing, of his findings and of a meeting to be held between the Commissioner and the board where the board will be given the opportunity to make representation.

(5) Where the Commissioner, after the meeting referred to in subsection (4), determines that there is no evidence that the credit union or non-financial co-operative society has contravened subsection (2), no further action is to be taken with respect to the inquiry.

(6) Where the Commissioner has determined, after the meeting referred to in subsection (4), that there is sufficient evidence that a board of a society has failed to adhere to its statutory duties or improperly performed its duties under this Act, the Commissioner shall give notice of his findings, in writing, to the board and request that the board submit a written response within fourteen days of receiving the said notice.

(7) The Commissioner shall make a determination of the case within fourteen days of receipt of the board's written response or within a reasonable time depending on the circumstances of the case.

(8) Where a board fails to submit a response in accordance with subsection (6), the Commissioner may proceed to make a determination within fourteen days of the expiration of the period referred to in subsection (6).

(9) A determination of the Commissioner under this section shall be in writing addressed to the board.

Failure of a board of a society to adhere to its statutory duties and improper performance of its duties

4B. (1) Where the Commissioner determines under section 4A, that a board of a society has failed to adhere to its statutory duties or otherwise performed its duties improperly under this Act, he may—

(a) by notice in writing to the society—

- (i) call upon it to remedy the situation within three months from the date of such service;
- (ii) require the society to take certain steps or refrain from adopting or pursuing a particular course of action or restrict the scope of its functions in a particular way;
- (iii) in relation to a non-financial co-operative society, impose limitations on the—
 - (A) granting of loans;
 - (B) granting of credit;
 - (C) taking of deposits;
 - or
 - (D) making of investments;

(iv) in relation to a non-financial co-operative society, prohibit the society from entering into any other transaction or class of transaction; or

(v) require the removal of any director or officer;

(b) dissolve the board pursuant to section 4D;

(c) in relation to a non-financial co-operative society, wind up the society pursuant to section 58; or

(d) cancel the registration of the society pursuant to section 18.

(2) Where a society fails to comply with the notice referred to in subsection (1)(a), the Commissioner shall dissolve the board pursuant to section 4D.

Insolvency of
a non-financial
co-operative
society

4C. (1) Where the Commissioner determines under section 4A, that a non-financial co-operative society is insolvent and its continuation in operation is likely to result in loss to its creditors and members, the Commissioner may—

(a) dissolve the board of the non-financial co-operative society pursuant to section 4D; or

(b) cancel the registration of the non-financial co-operative society pursuant to section 18.

(2) For the purposes of this section, a society is insolvent where the society is unable to pay its debts as they become due in the ordinary course of business.

(3) For the purposes of this section, a society is unable to pay its debts where the value of its assets does not exceed the amount of its liabilities.

Dissolution of a board of a society for failure to adhere to its statutory duties or of a non-financial co-operative society for insolvency

4D. (1) Where the Commissioner determines after an inquiry under section 4A that—

- (a) a board of a society shall be dissolved for failure to adhere to its statutory duties or improper performance of its duties under this Act; or
- (b) the board of a non-financial co-operative society shall be dissolved for insolvency,

the Commissioner shall, in the exercise of his power to dissolve a board under sections 4B(1)(b) or 4C(1)(a)—

- (i) notify the board of a society, in writing, stating that the board is dissolved and assume the responsibilities of the board;
- (ii) in the case of a credit union, notify the Central Bank, in writing, of his intention to dissolve the board two days prior to the notice of dissolution is served on the credit union and the Central Bank shall take appropriate action under the Credit Union Act, 2014;
- (iii) in the case of a non-financial co-operative society, call a special

general meeting of the society to inform the members of the society that the board has been dissolved, and appoint a new board for a period not exceeding two years to manage the affairs of the society, but which term may be extended to a period not exceeding the aggregate of four years;

- (iv) in the case of a non-financial co-operative society, publish a notice in the *Gazette* and two daily newspapers circulating in Trinidad and Tobago stating that the board has been dissolved and that a new board has been appointed; and
- (v) in the case of a credit union, publish a notice in the *Gazette* and two daily newspapers circulating in Trinidad and Tobago stating that the board has been dissolved.

(2) Persons who are appointed to a board of a non-financial co-operative society under section 4D(1)(iii) shall—

- (a) exercise the powers and perform all the functions as a duly constituted board;
- (b) make arrangements prior to the end of their term of management for the election of a new board in

accordance with the bye-laws of the non-financial co-operative society;

- (c) have access to all books, accounts, securities, documents, vouchers, cash, articles or things held by the non-financial co-operative society; and
- (d) submit a monthly report to the Commissioner in such form as the Commissioner may require and upon the completion of the period of management, submit a final report to the Commissioner.

(3) The Commissioner may determine the remuneration and expenses to be paid to the persons appointed under this section and any moneys required for this purpose shall be payable from the funds of the non-financial co-operative society.

Voluntary
dissolution of
a board of a
non-financial
co-operative
society

4E. (1) Where a majority of members of the board of a non-financial co-operative society wishes to voluntarily dissolve the board, they shall apply in writing to the Commissioner to voluntarily dissolve the board, stating clear and valid reasons for the application, and request that a new board be elected.

(2) The Commissioner shall make a determination as to the validity of the application referred to in subsection (1) within thirty days of receipt of the application and shall notify the board of his decision in writing, stating reasons for his decision.

(3) In making a determination under subsection (2), the Commissioner may hold discussions with the board within fourteen days of his receipt of the application.

(4) The board shall, within thirty days of receipt of the notification under subsection (2), by the Commissioner, convene a special general meeting in accordance with its bye-laws, to consider a resolution to dissolve the board and to elect a new board.

(5) A resolution under subsection (4) shall not be valid unless it is passed by the majority of not less than three-fourths of the members present at the special general meeting.

(6) Where a special general meeting is convened by the board pursuant to subsection (4), and the membership fails to elect a new board in accordance with its bye-laws, the Commissioner may appoint a new board for a period not exceeding two years to manage the affairs of the society and section 4D(2) and (3) shall apply.

Involuntary
immediate
dissolution of
a board of a
non-financial
co-operative
society

4F. (1) Notwithstanding section 4A, where the Commissioner in the exercise of his general powers of supervision of the affairs of non-financial co-operative societies, is of the opinion that a board is in need of immediate dissolution due to—

- (a) failure to adhere to its statutory duties or has otherwise performed its duties improperly under this Act;
- (b) insolvency;
- (c) non-performance of its duties; or
- (d) its refusal to adhere to the directive of the Commissioner,

he may notify the board in writing of his intention to dissolve the board and state the reasons for his intention.

(2) The board shall, within fourteen days of receipt of the notice of the Commissioner referred to in subsection (1), respond to the notice in writing, showing good reasons why the board should not be dissolved.

(3) The Commissioner shall notify the board of his decision, in writing, within seven days of receipt of the response of the board.

(4) Where the Commissioner makes a determination to dissolve the board, he shall—

- (a) notify the board in writing stating that it is dissolved and assume the responsibilities of the board;
- (b) call a special general meeting of the society within fourteen days of the issue of the notification referred to in paragraph (a), to inform the non-financial co-operative society that the board has been dissolved;
- (c) appoint a new board at the special general meeting for a period not exceeding two years to manage the affairs of the non-financial co-operative society; and
- (d) publish a notice in the *Gazette* and two daily newspapers circulating in Trinidad and Tobago stating that the board has been dissolved and that a new board has been appointed.

(5) Where the Commissioner appoints the board under subsection (4)(c), section 4D(2) to (3) shall apply.”.

Section 5
amended

7. Section 5 of the Act is amended by deleting the word “The” and substituting the words “In the exercise of his functions under section 4(1), the”.

Section 6A
inserted

8. The Act is amended by inserting after section 6 the following section:

“Prohibition
against
disclosures

6A. (1) Except as is provided under subsections (2) to (5), or as is required under any written law or order of the High Court, the Commissioner, officer or employee of the Division or person acting under the direction of the Commissioner, shall not disclose—

- (a) any information regarding the business or affairs of a society; or
- (b) any information regarding a member or other person dealing with a society,

that is obtained in the course of official duties.

(2) The Commissioner or an authorised person may disclose the information referred to in subsection (1), in writing, to—

- (a) the Bank and any local or foreign regulatory agency or body that regulates societies and for purposes related to such regulation;
- (b) any entity providing insurance for deposits and shares for members of societies and consumers of financial services in Trinidad and Tobago for purposes related to its operations; or

(c) the Financial Intelligence Unit established under the Financial Intelligence Unit of Trinidad and Tobago Act,

if the Commissioner is satisfied that the information will be treated as confidential by the agency or body to whom it is disclosed and used strictly for the purpose for which it is disclosed.

(3) The Commissioner may enter into a Memorandum of Understanding with any person or entity mentioned in subsection (2) with respect to sharing information, but the absence of such Memorandum of Understanding shall not prevent the disclosure of appropriate information by the Commissioner, pursuant to subsection (2).

(4) Subject to subsection (5), an officer or employee of the Division, in response to a written request, may disclose, at such times and in such manner as the Commissioner deems appropriate—

(a) information obtained by it under this Act in relation to a non-financial co-operative society;
or

(b) non-financial information in relation to a credit union.

(5) The information which may be disclosed under subsection (4) shall be restricted to information which—

(a) is contained in any return, statement or other document required to be filed with the Commissioner, pursuant to this Act; or

(b) has been obtained as a result of any industry-wide or sectoral survey conducted by the Commissioner, in relation to an issue or circumstance that could have an impact on the condition of societies or the Co-operative sector of Trinidad and Tobago.

(6) Where the Commissioner determines that the disclosure of information, in addition to that referred to in subsections (4) and (5), concerning a society, would be to protect the interests of—

(a) the Co-operative sector of Trinidad and Tobago; or

(b) the members of such a society,

the Commissioner, or any person acting under the direction of the Commissioner, may disclose such information by publication in the *Gazette* and in at least two daily newspapers in circulation in Trinidad and Tobago, or by electronic or any other means that the Commissioner considers appropriate.

(7) The Commissioner may publish information relating to the societies so long as the publication does not disclose details regarding any particular society or member of a society.

(8) This section does not apply to information which at the time of the disclosure is, or has already been made available to the public from other sources or to information in the form of a summary or collection of information so framed as not to enable information relating to any particular individual to be ascertained from it.

(9) No action shall lie against the Commissioner, or any person acting under the direction of the Commissioner, for the disclosure of information authorised under this section.”.

9. Section 9 of the Act is amended—

Section 9
amended

(a) by inserting after subsection (2), the following subsection:

“ (2A) Every society registered under this Act shall be required to issue shares to members in accordance with bye-laws.”;

(b) by inserting after subsection (3), the following subsections:

“ (3A) The words “credit union” shall form part of the name of every society which is registered as a credit union.

(3B) Notwithstanding subsection (3A), a secondary body is not required to have the name “credit union” form part of its name.”; and

(c) by inserting after subsection (4), the following subsection:

“ (5) For the purposes of this section, “secondary body” has the meaning assigned to it under section 2 of the Credit Unions Act, 2014.”.

10. The Act is amended by inserting after section 9 the following new section:

Section 9A
inserted

“Registration of one or more credit unions as a non-financial co-operative”
9A. The membership of any one or more credit unions may come together to apply for registration of a co-operative to provide non-financial services to its members.”.

11. Section 15 of the Act is amended by inserting before the word “society” the first and third times it occurs, the words “non-financial co-operative”.

Section 15
amended

Section 17A inserted

12. The Act is amended by inserting after section 17, the following new section:

“Election of a board, credit committee and supervisory committee” 17A. (1) Every society shall hold its first general meeting within one month of receipt of the certificate of registration, and shall elect from among its members, a board and a supervisory committee.

(2) The supervisory committee shall supervise all activities related to a society.

(3) In the case of a credit union, and without prejudice to subsection (1), during its first general meeting referred to in subsection (1), the credit union shall elect from among its members, a credit committee for the granting of loans.”.

Section 18 amended

13. Section 18 of the Act is amended by inserting before the word “society” wherever it occurs, the words “non-financial co-operative” including the marginal note.

Section 18A inserted

14. The Act is amended by inserting after section 18, the following new section:

“Power of the Commissioner to cancel the registration of a credit union” 18A. (1) Upon receipt of a notification from the Central Bank that the credit union’s operating certificate has been revoked and it has been wound up, the Commissioner shall—

(a) cancel the registration of a credit union; and

(b) publish the fact of cancellation referred to in paragraph (a), in the *Gazette*, and in at least two daily newspapers in circulation in Trinidad and Tobago or by electronic or any other means.

(2) No appeal shall lie to the High Court where the cancellation of the registration of a credit union arises under a condition referred to in subsection (2).”.

15. Section 36 of the Act is amended—Section 36
amended

- (a) by deleting the word “society” and substituting the words “credit union”;
- (b) by renumbering section 36 as section 36(1); and
- (c) by inserting after section 36(1), as renumbered, the following subsection:

“ (2) Notwithstanding anything contained in sections 29, 30, 32, 33 and 37, a non-financial co-operative society shall have a charge or lien in respect of any debt due from a member or past member upon his shares or interest in the capital.”.

16. Section 38 of the Act is amended—Section 38
amended

- (a) by repealing subsection (1); and
- (b) in subsection (2), by inserting after the word “deposit” the words “in a non-financial co-operative”.

17. Section 39 of the Act is amended by—Section 39
amended

- (a) inserting before the word “society” wherever it occurs, the words “non-financial co-operative”; and
- (b) repealing subsection (3).

18. Section 40 of the Act is amended by inserting after the word “36” the words “(1) and (2)”.Section 40
amended**19. Section 41 of the Act is repealed and the following section is substituted:**Section 41 repealed
and substituted

“Payments of moneys and transfer of shares to beneficiary on death of member”

41. (1) Where a person is nominated as a beneficiary by a member in accordance with the bye-laws of a society and the beneficiary has not been admitted to

membership of the society, the society shall, within one year of the death of the member, pay the beneficiary—

(a) all the shares and dividends of the deceased member less the deceased member's liabilities to the society; and

(b) where the deceased member had a deposit, the deposit and accumulated interest.

(2) Subject to section 30, a society shall, within three days of receiving proof of death of a member, and unless prevented by a Court Order, pay to the nominee or his authorised representative, a sum not exceeding thirty thousand dollars due to the deceased member from the society but within the value of the moneys held by the deceased.

(3) Where a person has been nominated as a beneficiary by a member in accordance with the bye-laws of a society and the beneficiary has been admitted to membership, the beneficiary may, at anytime after the death of a member, elect to—

(a) receive payment of the deceased member's shares and dividends and any deposit and accumulated interest, as the case may be; or

(b) accept a transfer of the deceased member's shares and dividends to his account, and receive payment of any deposit and accumulated interest of the deceased member,

and the society shall, within one year of the death of the member, comply with the wishes of the beneficiary.

(4) A society shall not be liable for payments made to a nominee pursuant to the nomination made by the deceased prior to his death.”.

20. Section 42 of the Act is amended— Section 42
amended

- (a) by inserting before the word “society” wherever it occurs, the words “non-financial co-operative”;
- (b) in subsection (1), by inserting after the words “past member”, the words “, who is not deceased,”; and
- (c) in the marginal note, insert the words “non-financial co-operative” after the words “debts of”.

21. The heading of Part IV of the Act is amended The heading of Part
IV amended by inserting before the word “SOCIETIES” the words “NON-FINANCIAL CO-OPERATIVE”.

22. Section 43 of the Act is amended— Section 43
amended

- (a) by inserting before the word “society” wherever it occurs, the words “non-financial co-operative”; and
- (b) in subsection (3)—
 - (i) by deleting after the words “officer of a” the words “credit union” and substituting the words “non-financial co-operative society”; and
 - (ii) by deleting the words “, the committee” wherever they occur.

23. Section 45 of the Act is amended by inserting Section 45
amended before the word “society” the first time it occurs, the words “non-financial co-operative”.

24. Section 50 of the Act is amended— Section 50
amended

- (a) by inserting before the word “society” the words “non-financial co-operative”; and

(b) by inserting after the words “reserve fund” the words “under section 47”.

Section 50A
inserted

25. The Act is amended by inserting after section 50, the following section:

“Fund for public, co-operative and charitable purposes” 50A. Each credit union shall set aside one per cent of its annual net surplus to be used solely for public, co-operative and charitable purposes.”.

Section 51
amended

26. Section 51(1) of the Act is repealed and the following subsection is substituted:

“ (1) Every non-financial co-operative society shall have its accounts audited annually by the Commissioner or other person authorised by him and approved by the society’s annual general meeting or by an auditor selected by the board of the society and approved by the Commissioner and the society’s annual general meeting.”.

Part V amended

27. The Act is amended—

(a) in the heading of Part V, by inserting after the word “OF” the words “NON-FINANCIAL CO-OPERATIVE”; and

(b) by inserting after the heading, the following section:

“Application of Part V” 51A. This Part applies only to non-financial co-operative societies.”.

Section 58 amended

28. (1) Section 58 of the Act is amended—

(a) by renumbering section 58 as section 58(1);

(b) in subsection (1) as renumbered, by—

(i) deleting after the word “section” the word “4” and substituting the word “4A”; and

(ii) inserting before the word “society” wherever it occurs, the words “non-financial co-operative”; and

(c) by inserting the following subsection:

“ (2) If the Commissioner, after an inquiry has been held under section 4, is of the opinion that the credit union ought to be wound up he shall inform the Central Bank accordingly.”.

29. Section 60 of the Act is amended—

Section 60
amended

(a) in the subsection (2), by deleting after the words “liquidator to an” the word “officer” and substituting the word “employee”;

(b) in subsection (4), by deleting after the words “Commissioner or the” the word “officer” and substituting the word “employee”; and

(c) by inserting before the word “society” wherever it occurs, the words “non-financial co-operative”.

30. Section 61 of the Act is amended by inserting before the word “society” wherever it occurs, the words “non-financial co-operative”.

Section 61
amended

31. Section 62 of the Act is amended by inserting before the word “society” wherever it occurs, the words “non-financial co-operative”.

Section 62
amended

32. Section 63 of the Act is amended by inserting before the word “society” wherever it occurs, the words “non-financial co-operative”.

Section 63
amended

33. Section 64 of the Act is amended—

Section 64
amended

(a) by renumbering section 64 as section 64(1);

(b) in subsection (1), as renumbered—

(i) by inserting before the word “society” wherever it occurs, the words “non-financial co-operative”;

(ii) by deleting after the words “deposit with a” the word “bank” and substituting the words “financial institution”; and

(c) by inserting after subsection (1), the following subsections:

“ (2) Upon the winding up of a credit union, after all the liabilities including the paid-up share capital of a cancelled credit union have been met, any surplus assets shall be divided equitably amongst its members in accordance with the bye-laws except any monies in the fund referred to in section 50A which shall be used solely for public, co-operative and charitable purposes.

(3) All surplus monies referred to in section 50A may be assigned by the Commissioner to public, co-operative and charitable purposes.”.

Section 67
amended

34. Section 67 of the Act is amended—

(a) in subsection (1), by deleting all the words after the word “Commissioner” and substituting the words “in the form of a report, for a decision on the facts, by any society, board of a society, officer of the society, member, or creditor referred to in paragraphs (a) to (f).”;

(b) by inserting after subsection (1), the following subsections:

“ (1A) A society, who wishes to refer a dispute to the Commissioner under section 1 shall first pass a resolution to that effect, at a general meeting before submitting its report.

(1B) A report of a dispute made in pursuance of subsections (1) and (1A), shall be made in writing to the Commissioner, dated and signed by the party referring the dispute and shall specify—

- (a) the parties to the dispute;
- (b) the address of the principal place of business or address of each of the parties;
- (c) the particulars of the dispute stating the nature and scope of the dispute; and
- (d) what steps, if any, have been taken for the settlement of the dispute,

and request that the Commissioner makes a determination on the dispute or facilitates a voluntary settlement.

(1C) The Commissioner shall inform the other party to the dispute in writing, that there is a case being made against him, state the allegations being made and request that he responds within fourteen days of receipt of the information.

(1D) Where the Commissioner does not receive a response from the other party referred to in subsection (1C) within fourteen days of his receipt of the information, the Commissioner shall proceed to hear and determine the dispute.”;

(c) in subsection (3)—

(i) in paragraph (a), by deleting the word “or” occurring after the words “himself;” and

(ii) in paragraph (b), by deleting the full stop and substituting the words “; or”; and

(d) by inserting after subsection (3) as renumbered, the following subsections:

“ (3A) In determining a dispute which has been referred to him under subsection (1), the Commissioner may refer the matter to a Dispute Panel for a hearing and the making of a finding on the facts.

(3B) The Dispute Panel, on completion of its deliberations pursuant to subsection (3A), shall report to the Commissioner on the findings of facts.

(3C) The Commissioner shall not refer a dispute to a Dispute Panel where he has commenced hearing the parties.”;

(e) by inserting after subsection (6), the following subsection:

“ (6A) The Commissioner shall within one year of a dispute being referred to him, communicate his decision in writing to the parties to the dispute, stating the reasons for the decision.”; and

(f) by repealing subsection (9).

35. The Act is amended by inserting after section 67, ^{Sections 67A to 67D} inserted the following sections:

“Dispute
settlement
Dispute
Panel

67A. (1) The Commissioner shall identify a list of persons from which the Dispute Panel shall be selected and shall publish the names in the *Gazette*.

(2) Where there is an amendment to the list, the Commissioner shall publish the same in the *Gazette*.

(3) For the purposes of appointing a Dispute Panel, the Commissioner shall establish and maintain a list of persons who shall be of no less than five years standing in their respective professions in the areas of law, accountancy, co-operatives, management, and any other professions as he thinks fit.

(4) The Commissioner shall remove from the Dispute Panel and the list any person—

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(a) who has been adjudged a bankrupt under the Bankruptcy Act;

(b) for incapacity;

(c) for improper or unlawful behaviour in office;

(d) who has been convicted by a court for an offence involving fraud, dishonesty or a contravention of the Proceeds of Crime Act or the Anti-Terrorism Act;

- (e) who has been convicted of an offence under this Act; or
- (f) for failure to perform his duties under the Act.

Appointment
and
composition
of Dispute
Panel

67B. (1) Where the Commissioner decides to refer a dispute to a Dispute Panel in accordance with section 67(3A), he shall appoint a Dispute Panel for that purpose.

(2) A Dispute Panel shall consist of three members from the list referred to in section 67A(1), one of whom shall be appointed as Chairman.

(3) A person appointed under section 67A(2) to the Dispute Panel shall be paid such remuneration as is recommended by the Commissioner and approved by the Permanent Secretary.

Functions of
the Dispute
Panel

67C. (1) The function of a Dispute Panel is to assist the Commissioner in the resolution of a dispute and without prejudice to the generality of the foregoing, to—

- (a) review and examine the report referred to in section 67B(1);
- (b) hear the parties to the dispute;
- (c) receive and review written submissions of the parties, if any;
- (d) hear and review, as the case may be, such oral or written evidence as is tendered by, or on behalf of, the parties to the dispute; and

- (e) report to the Commissioner their findings of facts and make recommendations.

(2) In the exercise of its functions a Dispute Panel may—

- (a) administer oaths;
- (b) require the attendance of all parties concerned and witnesses;
- (c) require the production of all books, documents and things related to the dispute;
- (d) hear and determine a dispute in the absence of any party who has been duly summoned to appear before the Dispute Panel and has failed to do so; and
- (e) submit to the Commissioner a report stating its—
 - (i) findings of fact;
 - (ii) recommendations of such order, award or cost as it thinks fit; and
 - (iii) reasons for its recommendations.

(3) A report of the Dispute Panel shall be submitted to the Commissioner within six months of the dispute being referred to them.

(4) A Dispute Panel may order any person who, in the opinion of the Dispute Panel, may be affected by an order or award, to be joined as a party to the dispute.

(5) A Dispute Panel may regulate its own procedure and shall operate in accordance with regulation 55 and do all such things as are necessary or expedient for the just hearing and review of the dispute.

Determination by the Commissioner or Dispute Panel 67D. The Commissioner may, on the consideration of the report of the Dispute Panel, accept or reject the recommendations of the Dispute Panel giving his reasons for so doing and shall inform the Dispute Panel and notify the parties in writing of his decision.”.

Section 68 amended

36. Section 68(1) of the Act is amended by—

- (a) inserting after the words “section 67” the words “and 67A”; and
- (b) deleting all the words from “or the Minister” to the words “this Act”.

Section 73A inserted

37. The Act is amended by inserting after section 73 the following new section:

“Jurisdiction and limitation 73A. (1) Summary proceedings for an offence under this Act may, without prejudice to any jurisdiction exercisable apart from this subsection, be taken against an entity in any place at which it has a place of business, and against an individual in any place at which he is for the time being located.

(2) Notwithstanding anything in any other law to the contrary, any complaint relating to an offence under this Act which is triable by a Magistrate’s Court in Trinidad and Tobago may be so

tried if it is laid at any time within ten years after the commission of the offence or within eighteen months after the relevant date.

(3) In this section, the “relevant date” means the date on which evidence sufficient in the opinion of the Commissioner to justify the institution of summary proceedings comes to its knowledge.

(4) For the purposes of subsection (3), a certificate as to the date on which evidence referred to in subsection (3) came to the knowledge of the Commissioner shall be conclusive evidence of that fact.”.

38. Section 74 of the Act is repealed and the following section is substituted: Section 74 repealed and substituted

“Appeals 74. A party aggrieved or adversely affected by any order or decision of the Commissioner under this Act may appeal therefrom to the High Court within two months of such order or decision.”.

39. Section 77 of the Act is amended by— Section 77 amended

- (a) numbering the section as section 77(1);
- (b) deleting the word “not” the second time it occurs; and
- (c) inserting after subsection (1) as renumbered, the following subsection:

“ (2) For the purposes of winding up a credit union under the Credit Unions Act, the Companies Act shall apply to credit unions.”.

Section 81
amended

40. Section 81(1) is amended—

- (a) in paragraphs (d) and (g), by inserting before the word “society” the words “non-financial co-operative”; and
- (b) in paragraph (h), by deleting the word “4” and substituting the word “4A”.

Certain sections of
the Act amended

41. The Act is amended—

- (a) in sections 12, 13, 30(6), 33(2) and 39(2)(b), by deleting the word “person” wherever it occurs and substituting the words “individual or society”;

(b) in—

- (i) section 2 in the definition of “member”; and
- (ii) sections 38(5), 38(6), 41(1) and 41(3),

by deleting the word “person” wherever it occurs and substituting the word “individual”;

- (c) in sections 28, 44, 46 to 48, 51 and 65, by inserting before the word “society” wherever it occurs, the words “non-financial co-operative”;
- (d) in section 81(b) and (k), by inserting before the word “societies” the words “non-financial co-operative”; and
- (e) in section 81(f), by inserting after the word “debts”, the words “with respect to non-financial co-operatives”.

Passed in the Senate this day of ,
2015.

Clerk of the Senate

I confirm the above.

President of the Senate

Passed in the House of Representatives this day
of , 2015.

Clerk of the House

I confirm the above.

Speaker

No. 9 of 2014

FIFTH SESSION
TENTH PARLIAMENT
REPUBLIC OF
TRINIDAD AND TOBAGO

BILL

AN ACT to amend the Co-operative
Societies Act, Chap. 81:03

Received and read the

First time

Second time

Third time
