



TRINIDAD AND TOBAGO

No. 44—1952

[L.S.]

I ASSENT,

P. M. RENISON,  
*Acting Governor.*

17th June, 1952.

AN ORDINANCE to amend the Agricultural Credit Societies Ordinance, Ch. 23. No. 4.

[19th June, 1952]

ENACTED by the Governor of Trinidad and Tobago with the advice and consent of the Legislative Council thereof.

1. This Ordinance may be cited as the Agricultural Credit Societies (Amendment) Ordinance, 1952, and shall be read as one with the Agricultural Credit Societies Ordinance, as amended by the Agricultural Credit Societies (Amendment) Ordinance, 1945, and by the Agricultural Credit Societies (Amendment) Ordinance, 1948, which Ordinance as so amended is hereinafter referred to as the Principal Ordinance.

Commence-  
ment

Enactment

Short title

Ch. 23. No. 4.

No. 16 of 1945.

No. 20 of 1948.

Section 3 of  
Principal  
Ordinance  
amended

2. Section 3 of the Principal Ordinance is hereby amended by substituting the words "Commissioner for Co-operative Development" for the words "Director of Agriculture" wherever the latter words appear.

Section 12 of  
Principal  
Ordinance  
repealed and  
replaced.

3. Section 12 of the Principal Ordinance is hereby repealed and replaced by the following:—

"Property  
rights of  
societies.

12. (1) A society registered under this Ordinance may, with the consent of the Registrar, hold or purchase freehold land or take on lease land with an unexpired residue of not less than twenty years, in the names of the trustees of the society and may sell, exchange, mortgage, lease or build upon that land with the like consent (with power to alter and pull down buildings, and again rebuild): Provided that no sale of freehold or leasehold land of a society shall be effected by the trustees thereof save with the unanimous consent of the committee or a majority of the members present and entitled to vote in general meeting; but a purchaser, assignee mortgagee or tenant shall not be bound to enquire as to the authority of any sale, exchange, mortgage, or lease by the trustees, and the receipt of the trustees shall be a discharge for all sums of money arising from or in connection with the sale, exchange, mortgage or lease.

(2) A society registered under this Ordinance may enter into contracts, institute and defend actions and other legal proceedings touching the rights, property and obligations of the society, and do all things necessary for the purposes of its constitution, in the names of the trustees of the society.

(3) All property belonging to a society registered under this Ordinance shall vest in the trustees for the time being of the society, for the use and benefit of the society and the members thereof, and of all persons claiming through the members according to the rules of the society.

(4) Upon the death, resignation, or removal of a trustee of a society the property vested in that trustee shall, without conveyance or assignment, and whether the property is real or personal, vest, as personal estate subject to the same trusts, in the succeeding trustees of that trustee either solely or together with any surviving

or continuing trustees, and, until the appointment of succeeding trustees, shall so vest in the surviving or continuing trustees only, or in the executors or administrators of the last surviving or continuing trustee.

(5) In all legal proceedings whatsoever concerning any property vested in the trustees of a society, the property may be stated to be the property of the trustees in their proper names as trustees of the society without further description.

4. Section 21 of the Principal Ordinance is hereby repealed and replaced by the following section:—

“Penalty for dealing with property charged.

21. (1) Any person who fraudulently or clandestinely removes or attempts fraudulently or clandestinely to remove any property comprised in any charge from the place where such property was situate at the time of the execution of the charge pursuant to the provisions of section 19 or who knowingly disposes of or deals with, or attempts to dispose of or deal with, any property comprised in any charge in favour of a society under section 18 without first obtaining the leave in writing of the committee of the society shall be liable on summary conviction to a fine of four hundred and eighty dollars.

Section 21 of Principal Ordinance repealed and replaced.

(2) Where any person is convicted of an offence under this section, there shall be imposed on him, in addition to any fine, a penalty equal to such amount of the loan made in respect of which such offence was committed as has not been repaid with interest thereon to the date of such conviction, and such penalty shall be paid to the society by which such loan was made, and payment of such penalty shall discharge the liability of the borrower to repay such loan.

(3) Where the court has imposed a penalty under subsection (2) hereof and such penalty is not paid, the court may order the defendant who is convicted of such offence in default of payment of the penalty adjudged to be paid, to be imprisoned for six months.

(4) No complaint shall be laid under this section without the consent in writing of the Registrar.”

Section 27 of  
Principal  
Ordinance  
repealed and  
replaced.

5. Section 27 of the Principal Ordinance is hereby repealed and replaced by the following:—

“Powers of  
audit

27. (1) The Registrar shall audit or cause to be audited by some person authorised by him by general or special order in writing the accounts of every society once at least in every year.

(2) The audit under subsection (1) of this section shall include an examination of overdue debts, if any, the verification of cash balances and securities, and a valuation of the assets and liabilities of the society.

(3) The Registrar or other person auditing the accounts of any society shall have free access to the books, accounts and vouchers of such society and shall be allowed to verify its cash balances and securities. The officers, agents and servants of the society shall furnish to the Registrar or other person appointed to audit the accounts of the society all such information as to its transactions and working as the Registrar or such other person may require.

(4) The Registrar and every other person appointed to audit the accounts of a society shall have power, when necessary—

(a) to summon at the time of his audit any past or present officer, agent, servant or member of the society or any other person who he has reason to believe can give valuable information in regard to any transaction of the society or the management of its affairs, or

(b) to require the production of any book or document relating to the affairs of the society, or any cash, security, or other property belonging to the society by any past or present officer, agent, servant or member of the society or other person in possession of or having the custody of such book, document, cash, security or other property.”

New sections  
added to  
Principal  
Ordinance

6. The following new sections are hereby added to the Principal Ordinance immediately after section 30 thereof:—

“Investment  
of society’s  
funds.

31. A society may deposit or invest its funds in Government securities or in any bank or in such other manner as may be approved for this purpose by the Registrar.

Reserve Fund  
and disposal  
of profits.

32. The whole of the net profits of every society, as ascertained by the audit prescribed by section 27, or such proportion thereof, to be determined by the Registrar, shall be carried to a reserve fund, and no distribution of profits shall be made without the general or special order of the Registrar.

Inspection of  
societies

33. (1) The Registrar may by general or special order direct Co-operative Officers of the Department for Co-operative Development:—

- (a) to inspect, enquire and examine into the affairs of societies registered under this Ordinance, and for such purpose a Co-operative Officer shall at all times have access to all the books, accounts, papers and securities of a society, and shall be entitled to inspect the cash in hand;
- (b) to report to the Registrar respecting the financial status of such societies; and
- (c) to perform such other duties respecting societies registered under this Ordinance as may from time to time be assigned to them by the Registrar.

(2) Every officer, agent or servant of a society shall furnish such information in regard to the transactions and working of the society as the Co-operative Officer making an inspection, enquiry or examination may require.

(3) If it is made to appear to the Registrar by the report of a Co-operative Officer made after investigation that the affairs of a society are being mismanaged or are not being conducted in accordance with the provisions of this Ordinance, or the rules made under this Ordinance, or are being conducted on an unsound basis, he may direct a Co-operative Officer to call a general meeting of the members of the society; and thereupon such Co-operative Officer shall:—

- (a) require the secretary of the society to convene the meeting by sending a written notice by hand or by post to each member to his last known address at least seven days before the date of the meeting; and

(b) attend the meeting and submit to the meeting his report and any other information he has with reference to the affairs of the society; and

(c) following the meeting, submit a full report thereon to the Registrar.

(4) The Registrar may, after receiving the report, if in his opinion it is advisable so to do, recommend to the Governor in Council that the registration of the society be cancelled.

(5) (a) It shall be the duty of all officers, agents and servants of a society to produce to the Co-operative Officer at his request all books and documents in their custody and power.

(b) A Co-operative Officer duly authorised by the Registrar in writing in that behalf may examine on oath the officers, agents and servants of any society in relation to its affairs and business and may administer an oath accordingly.

(6) If any officer, agent or servant of a society refuses to produce any book or document which under this section it is his duty to produce, or answer any question relating to the affairs or business of the society he shall be guilty of an offence and liable on summary conviction to a penalty of two hundred and forty dollars in respect of each offence.

Power to  
borrow from  
society  
registered  
under Ordi-  
nance No.  
of 1952.

34. Notwithstanding anything herein contained a society may borrow money for agricultural purposes or for purposes incidental to agriculture from a society established with the object of facilitating the operations of co-operative societies and registered under the Co-operative Societies Ordinance, 1952, or from any bank approved for the purpose by the Registrar on the security of a charge made under section 18 and executed and registered in accordance with the provisions of this Ordinance.

Removal of  
officer.

35. (1) If at any time it appears to the satisfaction of the Registrar after due inquiry into the facts, the officer being afforded a full opportunity of being heard, that an officer of a society has been guilty of fraud, negligence, irregularity or misconduct, such officer may be removed from office by order of the Registrar, and may be required to deliver up to him or to any person authorised by him in writing any books, ledgers, vouchers, registers, bills, documents, moneys or other property or matter belonging to the society of which he has the custody. And the Registrar may appoint a suitable person to fill the place or discharge the duties temporarily of such officer.

(2) Any officer who is removed by order of the Registrar under or by virtue of the preceding subsection may apply to a Magistrate for a review of such order within fourteen days from the day upon which the Order of removal was issued, provided that any such application shall not, pending the hearing and determination thereof, suspend or affect the requirement of the Registrar as respects the delivery up of any books, ledgers, vouchers, registers, bills, documents, moneys or other property or matter belonging to the society of which he has the custody.

(3) The Registrar shall, if required to do so by an order of a Magistrate, transmit forthwith to such Magistrate any papers, documents, report or other matter upon which such order of removal was made and if the Magistrate on perusing and considering the same shall be of opinion that the officer ought not to have been removed, he may call upon the Registrar to show cause why an order should not be made for the reinstatement of such officer.

(4) The Magistrate shall review the whole case or matter and may confirm the order of removal or order the reinstatement of the officer upon such terms and conditions as he may think fit and may command such officer either forthwith or on the expiration of any given time as may appear to the Magistrate to be just, to do, execute or perform any duty or duties appertaining to or in connection with his said office and may order the payment by such officer of such costs and expenses as the Magistrate may think fit.

(5) If at the expiration of fourteen days from the day upon which the order of removal was issued no application has been made to a Magistrate for a review of such order or if no order for reinstatement of the officer is made by a Magistrate to whom any such application has been made the society shall proceed to elect an officer in the place of the officer so removed.

(6) Any officer removed from office under the provisions of this section shall thereupon cease to hold office in the said society from the date of such order for the remainder of his then current term of office and shall be disqualified for being elected and for being an officer of any society for a period not exceeding five years as the Registrar shall determine, next after the end of his aforesaid current term of office.

(7) Every officer having the custody of any books, ledgers, vouchers, registers, bills, documents, moneys or other property or matter belonging to a society or relating to the business or affairs of a society who is removed by order of the Registrar shall forthwith deliver up to the Registrar or to any person authorised by him such books, ledgers, vouchers, registers, bills, documents, moneys or other property or matter.

(8) Any officer who shall fail to deliver up all or any such books, ledgers, vouchers, registers, bills, documents, moneys, property or matter, shall be guilty of an offence against this Ordinance.

Special powers  
of Registrar  
for recovery  
of loans.

36. (1) Where a society is unwilling or unable to pay, meet or satisfy any claim or demand on it, or has made default in the payment of any moneys due for or in respect of a loan made to it by the Agricultural Credit Bank of Trinidad and Tobago or by a society established with the object of facilitating the operations of societies and registered under the Co-operative Societies Ordinance, 1952, the Registrar may, at the request of the Agricultural Credit Bank of Trinidad and Tobago or either society or any creditor and without proceeding to liquidation of the society registered under this Ordinance:—

(a) make any compromise or arrangement with creditors or persons claiming to be creditors

- of the society or having or alleging themselves to have any claim whereby the society may be rendered liable;
- (b) order the society to pay the Agricultural Credit Bank of Trinidad and Tobago or society established with the object of facilitating the operations of societies or any creditor, class or classes of creditors in full, or in part, as he may deem fit;
  - (c) levy or distrain upon any property real or personal of any member of a society for the recovery of all moneys payable by such member to the society;
  - (d) irrespective of all other powers and privileges attaching to the society under the provisions of this Ordinance sell the property, assets, and things of a member or members of the society the subject of any charge executed under section 19 of this Ordinance, as a whole, or in lots or parcels, on such terms as he may think fit, by public auction, or private contract, for the purpose of paying the Agricultural Credit Bank of Trinidad and Tobago or society established with the object of facilitating the operations of societies, or any creditor or creditors;
  - (e) sell the property, assets and things of the society as a whole or in lots or parcels, on such terms as he may think fit, by public auction or private contract, for the purpose of paying the Agricultural Credit Bank of Trinidad and Tobago or society established with the object of facilitating the operations of societies, or any creditor or creditors of the society; and after payment of all the debts and obligations of the society make such distribution of the net proceeds or any surplus funds, property, assets and moneys, if any, of the society between the Agricultural Credit Bank of Trinidad and Tobago or society established with the object of facilitating the operations of societies and any creditor or creditors, as may appear to him to be just and equitable; and

- (f) make such order for the reconstitution or reconstruction of the society as may appear necessary or proper :

Provided that the Registrar may at any stage issue an order staying all proceedings under this section and may recommend to the Governor in Council that the registration of the society be cancelled under section 9 of this Ordinance.

(2) Every order made by the Registrar under subsection (1) of this section shall be in writing and shall be carried out without delay by the society or member or members, as the case may be, and every officer or member of a society who shall in any way disobey or shall not carry into effect such written order shall be guilty of an offence under this Ordinance.

Offences

37. It shall be an offence under this Ordinance if—

- (a) a society or an officer or a member thereof fails without any reasonable excuse to give any notice, send any return or document, do or allow to be done anything which the society, officer or member is by this Ordinance required to give, send, do or allow to be done; or
- (b) a society or an officer or a member thereof wilfully neglects or refuses to do any act or to furnish any information required for the purposes of this Ordinance by the Registrar or other person duly authorised by him in writing in this behalf; or
- (c) a society or an officer or member thereof wilfully makes a false return or furnishes false information; or
- (d) any person wilfully or without any reasonable excuse disobeys any summons, requisition or lawful written order issued under the provisions of this Ordinance or does not furnish any information lawfully required from him by a person authorised to do so under the provisions of this Ordinance; or

- (e) any officer of a society or any member thereof wilfully refuses to observe or comply with any of the provisions of the rules of the society relating to his duties or functions under such rules.

Penalty for offences not otherwise provided for

38. Every society, officer or member of a society or other person guilty of an offence under this Ordinance for which no penalty is expressly provided herein shall be liable to a fine of two hundred and forty dollars, and in the case of a continuing offence to a further fine of ten dollars for each week in which the offence is continued or the default continues after conviction therefor.

Unauthorised application of loans

39. (1) Any person who shall make any statement in any application to a society for a loan which is false in any material respect or particular or which he knows to be false or does not believe to be true shall be guilty of an offence under this Ordinance and shall be liable on summary conviction to a fine of two hundred and forty dollars or to imprisonment for three months, or to both such fine and imprisonment.

(2) Any borrower who shall apply any loan or any part thereof made to it or him under the provisions of this Ordinance for any purpose other than that specified in its or his application or that for which the loan has been made, shall be liable on summary conviction to a fine of four hundred and eighty dollars.

(3) The onus of proving the manner in which a loan has been applied shall be upon the borrower to whom the loan was made.

Holding of rented land and personal property

40. (1) A society may, with the consent of the Registrar, rent land for a period of not less than three years and may transfer, assign or sublet or build upon that land (with power to the society or a member thereof or any other person holding from such society as assignee, lessee or tenant thereof to alter and pull down, and again rebuild): Provided that no transfer or assignment of rented land held by a society shall be effected save with the consent of the majority of the members present in general or special meeting.

(2) A society may buy, lease, hold and exercise all privileges of ownership over such personal property as may be necessary or convenient for the conduct and operation of the business of the society or incidental thereto.

(3) A society shall be empowered to include in any lease or agreement of tenancy, land rented pursuant to the provisions of this section, such terms and conditions affecting the same or any cultivation, products or shrubs grown or to be grown thereon as to the society may seem necessary or expedient.

Passed in Council this twenty-third day of May in the year of Our Lord one thousand nine hundred and fifty-two.

T. F. FARRELL,  
*Clerk of the Council*