



LAWS OF MALAYSIA

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Act 665

MALAYSIA CO-OPERATIVE SOCIETIES COMMISSION ACT 2007

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**MALAYSIA CO-OPERATIVE SOCIETIES COMMISSION
ACT 2007**

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LAWS OF MALAYSIA**Act 665****MALAYSIA CO-OPERATIVE SOCIETIES
COMMISSION ACT 2007**

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LAWS OF MALAYSIA**Act 665****MALAYSIA CO-OPERATIVE SOCIETIES
COMMISSION ACT 2007**

An Act to provide for the establishment of the Malaysia Co-operative Societies Commission and for matters incidental thereto and connected therewith.

[1 January 2008, P.U.(B) 464/2007]

ENACTED by the Parliament of Malaysia as follows:

PART I**PRELIMINARY****Short title and commencement**

1. (1) This Act may be cited as the Malaysia Co-operative Societies Commission Act 2007.

(2) This Act comes into operation on a date to be appointed by the Minister by notification in the *Gazette* and the Minister may appoint different dates for the coming into operation of different provisions of this Act.

Interpretation

2. In this Act, unless the context otherwise requires—

“Bank Negara Malaysia” means the Central Bank of Malaysia established under the Central Bank of Malaysia Act 2009 [Act 701];

“security” includes a mortgage or charge, whether legal or equitable, debenture, bill of exchange, promissory note, guarantee, lien or pledge, whether actual or constructive, letter of hypothecation, indemnity, undertaking or other means of securing payment or discharge of debt or liability, whether present or future, or whether vested or contingent;

“specified”, where no mode is mentioned, means specified from time to time in writing;

“prescribed”, where no mode is mentioned, means prescribed from time to time by order published in the *Gazette*;

“document” has the same meaning as defined under section 3 of the Evidence Act 1950 [*Act 56*];

“property” means any movable or immovable property and includes—

- (a) any right, interest, title, claim, chose in action, power or privilege, whether present or future, or whether vested or contingent, in relation to any property, or which is otherwise of value;
- (b) any conveyance executed for conveying, assigning, appointing, surrendering, or otherwise transferring or disposing of property where the person executing the conveyance is the proprietor or possessor, or wherein he is entitled to a contingent right, either for the whole or part of the interest;
- (c) any security, including any stock, share, debenture, bonds, loan stocks, transferable subscription rights or warrants;
- (d) any negotiable instrument, including any bank note, bearer note, Treasury bill, dividend warrant, bill of exchange, promissory note, cheque and negotiable certificate of deposit;

- (e) any mortgage or charge, whether legal or equitable, guarantee, lien or pledge, whether actual or constructive, letter of hypothecation or trust receipt, indemnity, undertaking or other means of securing payment or discharge of a debt or liability, whether present or future, or whether vested or contingent; and
- (f) any other tangible or intangible property;

“honorarium” means a portion of the audited net profit of the Commission distributed among some or all of the members of the Board in consideration of their services which would not otherwise be remunerated;

“credit facility” means—

- (a) the giving of any advance, loan, trade credit or other facility in whatever form or by whatever name called whereby the person to whom the advance, loan, trade credit or other facility is given has access, directly or indirectly, to the funds or property of the person giving the same;
- (b) hire-purchase, leasing, factoring and such similar dealings or transactions;
- (c) the giving of a guarantee or the provision of any security in relation to the obligations of any person; or
- (d) any other like dealing or transaction as may be prescribed by the Commission;

“co-operative society” has the same meaning as defined under section 2 of the Co-operative Societies Act 1993 [*Act 502*];

“Board” means the board of directors of the Commission;

“Syariah Advisory Council” means the Syariah Advisory Council established under section 51 of the Central Bank of Malaysia Act 2009;

“Minister” means the Minister charged with the responsibility for co-operative development;

“Islamic financing” means the giving of any credit facility in accordance with the Syariah as may be approved by the Syariah Advisory Council and includes any other like dealing or transaction as may be prescribed under section 63;

“director” means a member of the Board;

“related corporation” means a subsidiary or associate corporation of a co-operative society or an associate corporation of a subsidiary or subsidiaries of a co-operative society.

“return” includes any form of rental, profit, dividend or benefit, including any fee or gift, payable or to be given in relation to any Islamic financing instrument;

“securities” has the same meaning as defined under section 2 of the Securities Commission Act 1993 [*Act 498*];

“subsidiary” has the same meaning as assigned to it under section 5 of the Companies Act 1965 [*Act 125*];

“Commission” means the Malaysia Co-operative Societies Commission established under section 3;

“share” has the same meaning as defined under section 4 of the Companies Act 1965 or section 2 of the Co-operative Societies Act 1993, as the case may be;

“appointed date” means the date on which this Act comes into operation.

PART II

THE COMMISSION

Chapter 1

Establishment

Establishment of the Commission

3. (1) A body corporate by the name of “Malaysia Co-operative Societies Commission” is established.

(2) The Commission shall have perpetual succession and a common seal, and may sue and be sued in its corporate name.

(3) The Commission, subject to and for the purposes of this Act, upon such terms as it deems fit, may—

- (a) enter into contracts;
- (b) acquire, purchase, take, hold and enjoy movable and immovable property of every description; and
- (c) sell, convey, assign, surrender, yield up, charge, mortgage, demise, reassign, transfer, lease, let, sub-let or otherwise dispose of, or deal with any movable or immovable property or any interest vested in the Commission.

Objects of the Commission

4. The objects of the Commission are to—

- (a) foster sound and orderly development of co-operative societies and the co-operative sector in accordance with co-operative values and principles to contribute towards achieving the socio-economic objectives of the nation;
- (b) promote a financially sound, progressive and resilient co-operative sector; and

- (c) maintain confidence in the co-operative movement.

Vesting provisions

5. (1) Subject to this Act, the Minister may, by order published in the *Gazette*, appoint a vesting date and on such date all property, rights and liabilities of—

- (a) the Government of Malaysia;
- (b) the Registrar-General of Co-operative Societies for Malaysia under the Co-operative Societies Act 1993;
- (c) the Registrar of Fishermen's Associations under the Fishermen's Associations Act 1971 [*Act 44*]; and
- (d) the Registrar of Farmers' Organizations under the Farmers' Organization Act 1973 [*Act 109*],

(hereinafter in this section, the persons mentioned in paragraphs (b), (c) and (d) collectively referred to as "the transferor") relating to co-operative societies and as specified by the Minister in such order shall, by virtue of this Act, be transferred to and vested in the Commission without any conveyance, assignment or transfer.

(2) Every power, function and duty of the transferor shall, by virtue of this Act, be transferred to and vest in the Commission.

(3) Every property vested by virtue of subsection (1) in the Commission shall be so vested in the Commission for the like title, estate or interest and on the like tenure as the property was vested or held immediately before the vesting date.

(4) Every chose in action, right or liability vested by virtue of subsection (1) in the Commission may, on and after the vesting date, be sued on, recovered or enforced by the Commission in its own name and it shall not be necessary for the Commission, the Government of Malaysia or the transferor to give notice—

(a) to the person bound by the chose in action of; or

(b) to the person whose right or liability is affected by,

the vesting effected under subsection (1).

(5) Any pending legal proceedings by or against the Government of Malaysia or the transferor which relates to any property, right or liability transferred to and vested in the Commission by virtue of subsection (1) may, on and after the vesting date, be continued by or against the Commission:

Provided that nothing in subsection 61(1) shall apply to the disclosure by the Commission of any record, book, register, correspondence, other document whatsoever, material or information, relating to the business and affairs of the Commission to the Government of Malaysia in relation to this subsection.

(6) In the case of rights and liabilities arising under any loan which are vested in the Commission on the vesting date, the Commission may enter into such agreements or arrangements over such rights and liabilities with the Government of Malaysia or any other person.

(7) On and after the vesting date, any agreement, deed or other arrangement relating to any property, right and liability transferred to and vested in the Commission under subsection (1) to which the Government of Malaysia or the transferor was a party immediately before the vesting date, whether in writing or not, and whether or not of such a nature that rights and liabilities under the agreement, deed or other arrangement, as the case may be, could be assigned by the Government of Malaysia or the transferor shall have effect as if the Commission had been a party to such agreement, deed or other arrangement.

Common seal

6. (1) The common seal of the Commission may from time to time be broken, changed, altered and made anew as the Commission may think fit.

(2) Until a seal is provided by the Commission, a stamp bearing the words “Malaysia Co-operative Societies Commission” may be used and shall be deemed to be the common seal of the Commission.

(3) The common seal shall be used with the authority of the Board and every instrument to which the common seal is affixed shall be signed by the Executive Chairman or any director and shall be counter signed by the secretary or by a second director or by some other person as may be authorised by the Board and all deeds, documents and other instruments purporting to be sealed with the common seal, authenticated as aforesaid, shall, until the contrary is proven, be deemed to have been validly executed:

Provided that any document or instrument which, if executed by a person not being a body corporate, would not be required to be under seal, may in like manner be executed by the Commission, and any such document or instrument may be executed on behalf of the Commission by any officer or employee of the Commission generally or specifically authorised by the Board on that behalf.

(4) The common seal shall be kept in the custody of the secretary or such other person as may be authorised by the Board.

(5) The common seal of the Commission shall be officially and judicially noticed.

Power to appoint Attorney

7. The Commission may, by instrument under its common seal, appoint a person whether in Malaysia or in a place outside Malaysia to be its Attorney, and the person so appointed may, subject to the instrument, do any act or execute any power or function which he is authorized by the instrument to do or execute.

Power to establish office and subsidiary and to appoint agents

8. (1) The Commission may establish an office within Malaysia.

(2) The Commission may establish, within Malaysia, a subsidiary subject to the prior written approval of the Minister, and where the Minister so provides in the terms and conditions of the approval, such subsidiary shall have immunity of the Commission as provided in section 60 in carrying out the powers, duties or functions on behalf of the Commission.

(3) The Commission may appoint and employ agents to manage, administer, transact any business or to do any act required to be transacted or done in the execution of its functions or for the better carrying into effect the purposes of this Act, the Co-operative Societies Act 1993 and any other written law enforced by the Commission.

Appointment of person other than officer or employee

9. The Commission may, either generally or in any particular case, appoint any person who is not an officer or employee of the Commission to render such service as it may specify in the exercise of its powers, the performance of its functions, or the discharge of its duties under this Act, the Co-operative Societies Act 1993 and any other written law enforced by the Commission, or to exercise, perform or discharge the same on behalf of and in the name of the Commission.

Commission may establish committee

10. (1) The Commission may establish such committee as it considers necessary or expedient to assist it in the performance of its functions under this Act.

(2) The Commission may appoint any person to be a member of any committee established under subsection (1).

(3) A committee may elect any of its members to be chairman and may regulate its own procedure and, in the exercise of its powers under this subsection, such committee shall be subject to and act in accordance with any direction given to the committee by the Commission.

(4) Meetings of a committee shall be held at such times and places as the chairman of the committee may determine.

(5) A committee may invite any person to attend any meeting of the committee for the purpose of advising it on any matter under discussion but the person so invited shall not be entitled to vote.

(6) The members of a committee or any person invited to attend any meeting of the committee may be paid such allowances and other expenses as the Commission may determine.

(7) Section 15 shall apply to a member of a committee appointed under this section in the same manner as it applies to a director of the Board.

Chapter 2

Board of directors

Duties and composition

11. (1) The Commission shall have a board of directors who shall be responsible for the policy and general administration of the affairs and business of the Commission.

(2) The Board may give decisions and exercise all powers and do all acts which may be exercised or done by the Commission.

(3) The Board shall consist of the following directors:

(a) an Executive Chairman appointed by the Yang di-Pertuan Agong;

- (b) a Deputy Executive Chairman appointed by the Yang di-Pertuan Agong;
 - (c) the Governor, or a Deputy Governor or an Assistant Governor of Bank Negara Malaysia as nominated by the Governor;
 - (d) the Secretary General or a Deputy Secretary General of the Ministry charged with the responsibility for co-operative development as nominated by the Minister;
 - (e) the Secretary General, a Deputy Secretary General or any representative of the Ministry of Finance as nominated by the Minister of Finance;
 - (f) a Secretary General or a Deputy Secretary General of a ministry as appointed by the Minister; and
 - (g) six persons appointed by the Minister, at least two of whom shall be persons of standing and experience in the co-operative movement.
- (4) The Board shall entrust the Executive Chairman with the day-to-day administration of the business and affairs of the Commission.
- (5) The Executive Chairman and the Deputy Executive Chairman shall devote the whole of their professional time to the service of the Commission and while holding office shall not occupy any other office or employment whether remunerated or not.
- (6) The Executive Chairman and the Deputy Executive Chairman shall be answerable and accountable to the Board for the exercise of their powers and the performance of their duties, functions and decisions.
- (7) The Executive Chairman and the Deputy Executive Chairman shall be appointed on such terms and conditions as may be provided for in their respective letters of appointment.

(8) In the event that the Executive Chairman is unable to act due to inability or any other cause, the Deputy Executive Chairman shall exercise the powers and perform the duties, functions and responsibilities of the Executive Chairman during the period of such inability including any power or function delegated to the Executive Chairman by the Board under section 24.

By-laws of Board

12. (1) The Board may make such by-laws as are necessary or expedient in relation to the administration, management, control, business, assets and affairs of the Commission including—

- (a) the functions, powers, duties, remuneration, allowance, honorarium, benefits and terms and conditions of service, code of conduct of or surcharge on officers, employees, agents and consultants of the Commission;
- (b) the conflicts of interest in respect of directors, officers and employees of the Commission;
- (c) the appointment, terms of reference and activities of agents, consultants or committees established by the Commission;
- (d) the rules and procedure to be observed by the directors at Board meetings; or
- (e) such other matters as may be required to be provided for under by-laws in this Act.

(2) By-laws made under this section shall be binding on all persons to whom the by-laws apply and no person shall be convicted of an offence under this Act, unless the by-laws were given on him or he knew, or avoided getting to know, of the giving thereof.

Tenure of office

13. (1) The Executive Chairman and the Deputy Executive Chairman shall each be appointed for a term not exceeding five years and shall be eligible for re-appointment.

(2) The directors who hold appointment as members of the Board in accordance with paragraphs 11(3)(c), (d), (e) and (f) shall be *ex-officio* members.

(3) Subject to such conditions as may be specified in his instrument of appointment, the tenure of office of a director other than those provided in subsections (1) and (2) shall be for a term not exceeding three years and shall be eligible for re-appointment.

Resignation

14. A director appointed under paragraph 11(3)(g) may at any time resign his office by a written notice addressed to the Minister.

Disqualification and termination of director

15. (1) No person shall be appointed, or shall remain, as a director who is an officer of a co-operative society as defined in section 2 of the Co-operative Societies Act 1993.

(2) The Minister may terminate or suspend the appointment of any director if the director—

- (a) resigns his office;
- (b) becomes of unsound mind or otherwise becomes incapable of carrying out his duties;
- (c) has been imposed any form of restriction or supervision by bond or otherwise, under any law relating to prevention of crime, or to preventive detention for prevention of crime or

drug trafficking, or to restricted residence, or to banishment or immigration;

- (d) becomes a bankrupt or commits an act of bankruptcy as provided for in the Bankruptcy Act 1967 [Act 360];
- (e) has been charged for a criminal offence under any written law punishable with imprisonment, whether by itself, or in lieu of, or in addition to, a fine, in any court in or outside Malaysia;
- (f) is guilty of serious misconduct in relation to his duties under this Act; or
- (g) is absent, except on leave granted by the Minister in the case of the Executive Chairman or by the Executive Chairman in the case of all other directors, from two consecutive meetings of the Board.

Actions and proceedings of Board not affected by vacancy, etc.

16. The Board may act notwithstanding any vacancy and its proceedings shall not be invalidated by—

- (a) the absence of any director;
- (b) any defect afterwards discovered in the appointment or qualification of any director or the constitution of the Board;
- (c) any omission, defect or irregularity in the convening or conduct of a meeting; or
- (d) the presence or participation of a person who is not a director.

Allowance or honorarium

17. All directors may be paid such allowance or honorarium as the Minister may determine.

Duties of director

18. (1) A director shall, at all times, act honestly and in the best interest of the Commission and use reasonable diligence in the discharge of the duties of his office.

(2) A director or any person who has been a director shall not—

(a) make improper use of any information acquired by virtue of his position as a director to gain, directly or indirectly, an advantage for himself or for any other person; or

(b) do, say or publish anything which may be detrimental to the interests of the Commission.

Meeting

19. (1) The Executive Chairman, or in his absence the Deputy Executive Chairman, shall summon meetings of the Board as often as may be necessary but not less than six times a year.

(2) The quorum for a meeting of the Board shall be five, at least two of whom shall be directors referred to in paragraphs 11(3)(c), (d), (e) and (f).

(3) The Executive Chairman, or in his absence the Deputy Executive Chairman, shall preside at all meetings of the Board.

(4) The decision of the Board shall be adopted by a simple majority of the votes of the directors present and voting.

(5) In the case of an equality of votes, the chairman shall have a casting vote.

(6) A resolution in writing, signed by all the directors for the time being entitled to receive notice of a meeting of the Board, shall be as valid and effectual as if it had been passed at a meeting of the Board duly convened and held and any such resolution may consist of several documents in like form, each signed by one or more directors.

(7) Nothing in this section shall prevent the Executive Chairman, or in his absence the Deputy Executive Chairman, from authorizing a director to use live video, television links or other appropriate communication or multimedia facilities to participate in any meeting of the Board where, prior to the meeting, the director, by notification to the Executive Chairman or the Deputy Executive Chairman, as the case may be, has requested for such authorization.

Board may invite others to meeting

20. (1) The Board may invite any person to attend any meeting of the Board for the purpose of advising it on any matter under discussion but the person so invited shall not be entitled to vote.

(2) The person so invited to attend any meeting of the Board may be paid such allowances and other expenses as the Commission may determine.

Disclosure of interest

21. (1) A director, or a member of a committee, who has or acquires, a direct or indirect, interest in relation to any matter under discussion by the Board or committee shall disclose to the Board or committee, as the case may be, the existence of his interest and nature thereof.

(2) A disclosure under subsection (1) shall be recorded in the minutes of the Board or committee, as the case may be, and after the disclosure, the director or member of the committee shall—

- (a) not take part nor be present in any deliberation or decision of the Board or committee, as the case may be; and

- (b) be disregarded for the purpose of constituting a quorum of the Board or committee, as the case may be, relating to the matter.

(3) No act or proceedings of the Board or committee shall be invalidated on the ground that any director or any member of the committee has contravened the provisions of this section.

Minutes of meeting

22. (1) The Board or committee shall cause minutes of all their meetings to be maintained and kept in a proper form.

(2) Any minutes of meetings of the Board or any committee established under section 10, if duly signed, shall, in any legal proceedings, be admissible as *prima facie* evidence of the facts stated therein and every meeting of the Board or committee in respect of the proceedings of which minutes have been so made shall be deemed to have been duly convened and held and all members thereof to have been duly qualified to act.

PART III

POWERS OF THE COMMISSION

Powers and functions of the Commission

23. The Commission shall have all powers, functions and duties imposed on it under this Act, the Co-operative Societies Act 1993 or any other written law, and without prejudice to the generality of the foregoing, the Commission shall also have the following functions:

- (a) to promote and maintain stability of the co-operative sector;
- (b) to be responsible for the surveillance, supervision and regulation of co-operative societies and the co-operative sector;

- (c) to encourage and promote sound and orderly development of co-operative societies and the co-operative sector;
- (d) to foster co-operative values and principles;
- (e) to create a conducive environment for co-operative societies to carry out their activities;
- (f) to register and revoke the registration of co-operative societies;
- (g) to act as trustee and to manage any scheme of Islamic financing or credit facility set up by the Government of Malaysia for co-operative societies;
- (h) to advise the Minister on all matters relating to co-operative societies and the co-operative sector; and
- (i) to carry out any function under any written law as may be prescribed by the Minister by notification published in the *Gazette*.

Delegation of Commission's power or function

24. (1) The Commission may, except the power to make subsidiary legislation, delegate any of its powers or functions under this Act, the Co-operative Societies Act 1993 or any other written law to the Executive Chairman, the Deputy Executive Chairman or to any committee established under section 10.

(2) Any power or function delegated under this section—

- (a) may be so delegated subject to such conditions or restrictions as the Commission may either generally or specifically impose; and
- (b) shall be exercised by the Executive Chairman, the Deputy Executive Chairman or committee in the name and on behalf of the Commission.

(3) A delegation under this section shall not preclude the Commission from performing or exercising at any time any of the powers or functions so delegated.

(4) The Executive Chairman may authorize or instruct any officer or employee of the Commission to exercise any of the powers or perform any of the functions delegated to the Executive Chairman under subsection (1).

Power of the Minister to give directive and require information

25. (1) The Minister may give to the Commission any directive of a general character not inconsistent with this Act relating to the functions of the Commission and such directive shall be binding on the Commission.

(2) The Commission shall furnish the Minister with such returns, statistics, accounts, documentation or information with respect to the performance of any of its functions or exercising of its duties under this Act as the Minister may require.

Power to consult the Syariah Advisory Council

26. (1) The Commission shall consult the Syariah Advisory Council on Syariah matters relating to any co-operative business which is based on Syariah and may issue written directive in relation to such business in accordance with the advice of the Syariah Advisory Council.

(2) Where in any proceedings relating to co-operative business which is based on Syariah and is supervised and regulated by the Commission before any court or arbitrator, any question arises concerning a Syariah matter, the court or the arbitrator, as the case may be, may—

- (a) take into consideration any written directive issued by the Commission pursuant to subsection (1); or

(b) refer such question to the Syariah Advisory Council for its ruling.

(3) Any ruling made by the Syariah Advisory Council pursuant to a reference made under paragraph (2)(b) shall, for the purposes of the proceedings in respect of which the reference was made—

(a) if the reference was made by a court, be taken into consideration by the court in arriving at its decision; and

(b) if the reference was made by an arbitrator, be binding on the arbitrator.

PART IV

PROVISIONS RELATING TO OFFICER AND EMPLOYEE

Officer and employee of the Commission

27. (1) The Commission may appoint and employ persons to be its officers and employees as it considers to be necessary for the efficient conduct of the business and affairs of the Commission, proper administration of this Act, the Co-operative Societies Act 1993 or any other written law enforced by the Commission:

Provided that the Commission shall, on the appointed date, accept into its employment every person who immediately before that date was employed by the Government of Malaysia for the purposes of implementing the Co-operative Societies Act 1993 and who was given an option by the Government of Malaysia and has opted to serve as an officer or employee of the Commission.

(2) Every such person who opts under subsection (1) to serve as an officer or employee of the Commission shall be employed by the Commission on terms and conditions of service not less favourable from the terms and conditions of service to which he was entitled immediately before the appointed date.

(3) Officers and employees of the Commission shall hold office for such period, receive such salaries, allowances or benefits, and be subject to such terms and conditions of service as may be determined by the Commission.

(4) The Commission may, with the approval of the Minister, out of the funds of the Commission establish and maintain a pension and provident fund for its officers, employees and their dependents.

(5) Where officers or employees of the Commission have been seconded or transferred to the service of the Commission from, or have previously been in the service of the Federal or a State Government or other public authority approved by the Board, the appointments of those officers or employees shall, subject to any Federal or State law, be made in accordance with such arrangements as to pensions and allowance for previous service as the Board may determine.

(6) The Commission may, with the approval of the Minister, out of the funds of the Commission, create and maintain a trust account to be called “The Malaysia Co-operative Societies Commission Staff Welfare Account” for the benefit of its officers, employees, including their dependants.

(7) The Malaysia Co-operative Societies Commission Staff Welfare Account shall be utilized for such purposes conducive to the welfare of the officers and employees of the Commission, including their dependants, as may from time to time be provided in trust directives to be issued by the Board with the approval of the Minister, and such directives may provide for the manner and the procedure for the making of the grants, loans or other payments from such Account.

Financial assistance to officer, employee and other persons

28. The Commission may provide—

- (a) subsidy, grant, Islamic financing or credit facility, with or without return or interest, to its officers and employees; or

- (b) Islamic financing or credit facility, with or without return or interest, for educational purposes or scholarships to its officers and employees or any other persons,

on such terms and conditions as the Commission may determine.

Application of Statutory Bodies (Discipline and Surcharge) Act 2000

29. (1) The Statutory Bodies (Discipline and Surcharge) Act 2000 [Act 605] shall apply to the Commission.

(2) Without prejudice to anything contained in the Statutory Bodies (Discipline and Surcharge) Act 2000, an officer or employee of the Commission shall, at all times, act in good faith and comply with such functions and duties as may be provided in the by-laws issued by the Board under paragraph 12(1)(a).

Continuation and completion of disciplinary proceedings

30. (1) Where on the appointed date, disciplinary proceedings are pending or exist against any officer or employee of the Government who has opted into the service of the Commission, such proceedings shall be continued and completed by the Commission, and the law applicable to such officer or employee immediately before the appointed date in relation to such proceedings shall apply to the proceedings continued and completed under this section.

(2) An order, ruling or direction made or given by a disciplinary authority of the Commission pursuant to this section shall, in respect of such officer or employee, have the same force and effect as an order, ruling or direction made or given by the Disciplinary Authority, Disciplinary Board or Disciplinary Appeal Board, as the case may be, under the laws referred to in subsection (1).

(3) Subsection 61(1) shall not apply to the disclosure by the Commission of any record, book, register, correspondence, document whatsoever, material or information, relating to the business and

affairs of the Commission required by the Government of Malaysia pursuant to this section.

(4) The Minister may by order make such modifications to the laws referred to in subsection (1) in their application to such officer or employee as may be necessary for the purpose of removing difficulties as a consequence of the provisions of that subsection.

PART V

FINANCE

Chapter 1

Finance

Capital

31. (1) The authorized capital of the Commission shall be three hundred million ringgit.

(2) Fifty million ringgit of the authorized capital shall be subscribed and paid up by the Government on the establishment of the Commission.

(3) The paid-up portion of the authorized capital may be increased by such amount as the Minister may approve from time to time and the Government shall subscribe and pay the amount of the increase to the Commission:

Provided that the payment of the increase in capital may be made by way of transfer from the General Reserve Fund as the Minister may from time to time approve.

General Reserve Fund

32. (1) A General Reserve Fund of the Commission is established.

(2) At the end of each financial year, the net profit of the Commission for that year shall be determined after allowing for the expenses of operation and after provision has been made for bad and doubtful debts, depreciation in assets, contributions to staff and pension funds and such other contingencies as are usually provided for by the Commission.

(3) The net profit of the Commission shall be placed to the credit of the General Reserve Fund.

Annual Government grant

33. The Government shall annually grant a sum of money to the Commission for the purpose of meeting the cost of operation of the Commission.

Operating fund

34. (1) An operating fund, to be administered and controlled by the Commission, is established.

- (2) The operating fund shall consist of all moneys—
- (a) received by the Commission by way of grants from the Government;
 - (b) received by the Commission as fees and payment of compounds;
 - (c) received by the Commission for services rendered by the Commission to the Government or for services rendered by the Commission to any person;
 - (d) derived as income from investments by the Commission;
 - (e) derived from the disposal, lease or hire of, or any other dealing with any property vested in or acquired by the Commission;

- (f) borrowed or raised by the Commission under section 35; and
 - (g) which may in any manner become payable to or vested in the Commission in respect of any matter incidental to its functions and powers or otherwise lawfully received by the Commission.
- (3) The operating fund shall be utilized for the purpose of—
- (a) paying any expenditure lawfully incurred by the Commission including—
 - (i) the remuneration of, or the granting of Islamic financing, credit facility, superannuation allowances or gratuities to the directors, officers, employees or other persons employed or appointed by the Commission; or
 - (ii) legal fees and costs and other fees and costs;
 - (b) paying any other expenses, costs or expenditure properly incurred or accepted by the Commission in the performance of its functions or the exercise of its powers or duties under this Act;
 - (c) providing grants for the development of co-operative societies under this Act, the Co-operative Societies Act 1993 or any other written law enforced by the Commission;
 - (d) repaying any money borrowed under this Act and the payment of any return or interest payable thereon;
 - (e) purchasing or hiring equipment, machinery and any other materials, acquiring immovable property and erecting buildings, and carrying out any other works and undertakings in the performance of its functions or the exercise of its powers or duties under this Act;

- (f) meeting any financial obligation lawfully incurred by the Commission;
- (g) granting any Islamic financing or credit facility under this Act; or
- (h) generally, paying any expenses for carrying into effect the provisions of this Act.

(4) The Commission shall manage the operating fund with prudence and due care.

Power to borrow or raise fund

35. The Commission may, from time to time, with the prior written approval of the Minister and the Minister of Finance, raise funds as follows:

- (a) borrow money from the Government, agencies of the Government or any other person; or
- (b) issue bonds, debentures, debenture stocks or such other securities,

in such manner as the Commission thinks fit or upon such terms and conditions as it deems expedient for meeting any of its obligations or performing any of its functions, powers or duties under this Act.

Power to lend

36. In the exercise of its powers and functions under this Act, the Commission may provide Islamic financing or credit facility to any person on such terms and conditions as it deems fit with the approval of the Minister and the Minister of Finance.

Investment

37. The moneys of the Commission including the money in the operating fund or any money held by the Commission pursuant to section 41, may, in so far as they are not required to be expended or utilized by the Commission under this Act, be invested in such manner as the Commission deems fit with the approval of the Minister and the Minister of Finance.

Chapter 2

Account and report

Requirements to keep book, record, account, etc.

38. The Commission shall cause proper books, records and accounts to be kept and shall, as soon as practicable after the end of each financial year, cause to be prepared for that financial year a statement of account of the Commission which shall include a balance sheet and account of income and expenditure.

Reporting requirement

39. (1) The Commission shall, as soon as possible after the close of its financial year, send to the Minister—

- (a) a copy of its statement of accounts certified by the Auditor General and a copy of the Auditor General's report; and
- (b) an annual report on the working of the Commission under this Act during the financial year.

(2) The Minister shall, as soon as may be, table a copy of the statement of accounts certified by the Auditor General, a copy of the Auditor General's report and the annual report before the Dewan Rakyat and Dewan Negara.

(3) The Statutory Bodies (Accounts and Annual Reports) Act 1980 [Act 240] shall apply to the Commission subject to the provisions of this Act.

Financial year

40. Unless otherwise directed by the Minister, the financial year of the Commission shall begin on the first day of January and end on the thirty-first day of December of each year.

Chapter 3

Fund

Maintenance of fund and account

41. (1) In this Chapter—

“Co-operative Deposit Account” means an account established under section 43;

“Co-operative Societies Liquidation Account” means the trust account determined by the Commission under subsection 75(4) of the Co-operative Societies Act 1993 where the funds of any dissolved co-operative society are held pursuant to subsection 75(7) of the Co-operative Societies Act 1993 pending their distribution to the beneficiaries in accordance with the scheme approved by the Commission;

“Central Liquidity Fund” means the fund established under section 42 to provide liquidity support to a co-operative society experiencing unusual or unexpected liquidity shortfalls;

“Co-operative Development Trust Fund” means the fund established, held, administered and used pursuant to the Co-operative Societies (Co-operative Development Trust Fund) Regulations 2010 [P.U. (A) 127/2010];

“Co-operative Education Trust Fund” means the fund established, held, administered and used pursuant to the Co-operative Societies (Co-operative Education Trust Fund) Regulations 2010 [P.U. (A) 128/2010];

“Co-operative Central Fund” means the fund established, held, administered and used by the Commission under subsection 75(8) of the Co-operative Societies Act 1993.

(2) The Commission may, with the approval of the Minister pursuant to this Act, the Co-operative Societies Act 1993 or any other written law, operate, manage and maintain any fund in furtherance of its objects.

(3) The Commission shall hold and administer the following:

- (a) the Co-operative Central Fund;
- (b) the Co-operative Deposit Account;
- (c) the Co-operative Development Trust Fund;
- (d) the Co-operative Education Trust Fund;
- (e) the Co-operative Societies Liquidation Account;
- (f) the Central Liquidity Fund; and
- (g) such other funds as the Commission may set up with the approval of the Minister.

(4) The Minister may, on the recommendation of the Commission, by order published in the *Gazette*, vary, delete, add to, substitute for or otherwise amend subsection (3) and upon publication of such order, subsection (3), as varied, deleted, added to, substituted for or otherwise amended, shall come into full force and effect and shall be deemed to be an integral part of this Act as from the date of such publication or from such later date as may be specified in the order.

(5) The Commission shall disclose the working of the funds under subsection (3) in its annual report under paragraph 39(1)(b).

Central Liquidity Fund

42. (1) The Commission may require any co-operative society or any class, category or description of co-operative society by order in writing to contribute to the Central Liquidity Fund.

(2) Any co-operative society required by the Commission to contribute to the Central Liquidity Fund under subsection (1) shall pay to the Commission or to its agent as specified in the order such amount of contribution or such rate of contribution as a percentage of its share capital, subscription capital, assets or liabilities or a combination thereof as may be determined by the Commission from time to time not later than such date as may be specified in the order.

(3) The Commission may, with prior written approval of the Minister, make regulations on the scope, operation and management of the Central Liquidity Fund.

Co-operative Deposit Account

43. (1) Within two years of coming into operation of this section or such longer period not more than five years as may be permitted in writing by the Commission, all co-operative societies shall deposit their funds not immediately needed for operations or investments into the Co-operative Deposit Account.

(2) The Commission may, with prior written approval of the Minister, make regulations on the scope, operation and management of the Co-operative Deposit Account.

PART VI

INVESTIGATION, SEARCH AND SEIZURE

Application of this Part

44. This Part shall apply to offences committed by any person under this Act, the Co-operative Societies Act 1993, any other written law enforced by the Commission, regulations, orders and directives made under these Acts or such written law.

Appointment, power, function and duty of investigating officer

45. (1) For the purposes of this Part, the Commission may appoint any officer or employee of the Commission or any person appointed under section 9 to be an investigating officer.

(2) Subject to subsection (3), an investigating officer appointed under subsection (1) shall have all the powers, functions and duties conferred on an investigating officer under this Act, and where such investigating officer is not an officer or employee of the Commission, he shall, in relation to such powers, functions and duties—

(a) be subject to; and

(b) enjoy such rights, privileges, protections, immunities and indemnities as may be specified in,

the provisions of this Act, the Co-operative Societies Act 1993 or any other written law enforced by the Commission applicable to an officer or employee of the Commission as if he were an officer or employee of the Commission.

(3) An investigating officer shall be subject to the direction and control of the Executive Chairman or of such other officer as may be authorized by the Executive Chairman to act on behalf of him or of any other investigating officer or officers superior in rank, and shall exercise his powers, perform his functions and discharge his duties referred to in subsection (2) in compliance with such directions,

instructions, conditions, restrictions or limitations as the Executive Chairman or of such other officer as may be authorized by the Executive Chairman to act on behalf of him or an investigating officer or officer superior in rank, may specify orally or in writing, either generally, or in any particular case or circumstance.

(4) The Executive Chairman or any officer, employee or any person authorized by the Executive Chairman to act on behalf of him shall have all the powers, functions and duties of an investigating officer.

(5) An investigating officer conducting any inquiry of any person under section 66 of the Co-operative Societies Act 1993 shall have the power to administer an oath or affirmation to the person who is being examined.

Powers of entry, search and seizure

46. (1) Where an investigating officer is satisfied or has any reason to believe that any person has committed an offence under this Act, the Co-operative Societies Act 1993 or any other written law enforced by the Commission, he may, if in his opinion it is reasonably necessary to do so for the purpose of investigating into such offence—

- (a) enter any premises and there search for, seize and detain any property, book or other document;
- (b) inspect, make copies of, or take extracts from, any book or other document so seized and detained;
- (c) take possession of, and remove from the premises, any property, book or other document so seized and detained;
- (d) search any person who is in, or on, such premises, and for the purpose of such search detain such person and remove him to such place as may be necessary to facilitate such search, and seize and detain any property, book or other document found on such person;

- (e) break open, examine, and search, any article, container or receptacle; or
 - (f) stop, detain or search any conveyance.
- (2) An investigating officer may if it is necessary so to do—
- (a) break open any outer or inner door of such premises and enter thereinto;
 - (b) forcibly enter such premises and every part thereof;
 - (c) remove by force any obstruction to such entry, search, inspection, seizure, detention or removal as he is empowered to effect; or
 - (d) detain all or any person found on any premise, or in any conveyance, searched under subsection (1) until such premises or conveyance have been searched.
- (3) A list of all things seized in the course of a search made under this section and of the premises in which they are respectively found shall be prepared by the investigating officer conducting the search and signed by him.
- (4) The occupant of the premises entered under subsection (1) or any person on his behalf shall in every instance be permitted to attend during the search, and a copy of the list prepared and signed under this section shall be delivered to such occupant or person at his request.
- (5) An investigating officer shall, unless otherwise ordered by any court—
- (a) at the close of investigations or any proceedings arising therefrom, or
 - (b) with the prior written consent of the Executive Chairman or any investigating officer superior to him in rank, at any time before the close of investigations,

release any property, book or other document seized, detained or removed by him or any other investigating officer, to such person as he determines to be lawfully entitled to the property, book or other document if he is satisfied that it is not required for the purpose of any prosecution or proceedings under this Act, the Co-operative Societies Act 1993 or any other written law enforced by the Commission, or for the purpose of any prosecution under any other written law.

(6) A record in writing shall be made by the investigating officer effecting any release of any property, book or other document under subsection (5) in respect of such release specifying therein in detail the circumstances of, and the reason for, such release.

(7) Where the investigating officer is unable to determine the person who is lawfully entitled to the property, book or other document or where there is more than one claimant to such property, book or other document, the investigating officer shall report the matter to a Magistrate who shall then deal with the property, book or other document as provided for in subsections 413(2), (3) and (4), sections 414, 415 and 416 of the Criminal Procedure Code [*Act 593*]:

Provided that where the property is land, the Magistrate shall deal with the issue of possession of the property.

Search of person

47. (1) An investigating officer may search any person whom he has reason to believe has in his possession any property, book or other document, or other article whatsoever, necessary, in his opinion, for the purpose of investigation into any offence under this Act, the Co-operative Societies Act 1993 or any other written law enforced by the Commission, and for the purpose of such search may detain such person for such period as may be necessary to have the search carried out, which shall not in any case exceed twenty-four hours without the authorization in writing of a Magistrate, and may remove him in custody to such place as may be necessary to facilitate such search.

(2) An investigating officer making a search of a person under subsection (1) may seize, detain or take possession of any property, book, document or article, found upon such person for the purpose of the investigation being carried out by him.

(3) No female person shall be searched under this section and section 46 except by another female.

Obstruction to exercise of power by investigating officer

48. No person shall—

- (a) refuse any investigating officer exercising his powers under section 46 or 47, access to any premises or part thereof, or fail to submit to the search of his person;
- (b) assault, obstruct, hinder or delay such investigating officer in effecting any entrance which he is entitled to effect;
- (c) fail to comply with any lawful demand of any investigating officer in the execution of his duties under section 46 or 47;
- (d) refuse to give to an investigating officer any information which may reasonably be required of him and which he has it in his power to give;
- (e) fail to produce to, or conceal or attempt to conceal from, an investigating officer, any property, book, other document or article in relation to which the investigating officer has reasonable grounds for suspecting that an offence has been or is being committed under this Act, the Co-operative Societies Act 1993 or any other written law enforced by the Commission;
- (f) rescue or endeavour to rescue anything which has been duly seized;
- (g) furnish to an investigating officer as true, information which he knows or has reason to believe to be false; or

- (h) before or after any seizure, break or otherwise destroy anything to prevent the seizure thereof, or the securing of the same.

Requirement to provide translation

49. (1) Where an investigating officer finds, seizes, detains, or takes possession of, any book or other document in the exercise of any power under this Part, and such book or other document or any part thereof is in a language other than the national language or the English language, or in any sign or code, the investigating officer may in writing require the person who had the possession, custody or control of such book or other document to furnish to the investigating officer a translation in the national language of such book or other document within such period as, in the opinion of the investigating officer, would be reasonable having regard to the length of the book or other document, or other circumstances relating to it.

(2) No person shall knowingly furnish a translation under subsection (1) which is not an accurate, faithful and true translation, or knowingly make a translation under that subsection which is not accurate, faithful and true.

(3) Where the person required to furnish a translation under subsection (1) is not the person who is suspected to have committed the offence under investigation, the Commission shall pay to him reasonable fees for the translation.

Power to examine person

50. (1) Where an investigating officer suspects any person to have committed an offence under this Act, the Co-operative Societies Act 1993 or any other written law enforced by the Commission, he may, if in his opinion it is reasonably necessary to do so for the purposes of investigation into such offence—

- (a) order any person in writing to attend before him for the purpose of being examined by the investigating officer in relation to any matter which may, in the opinion of the investigating officer, assist in the investigation into the offence;
- (b) order any person in writing to produce before the investigating officer books, other documents, properties, articles or things which may, in the opinion of the investigating officer, assist in the investigation into the offence; or
- (c) by written notice require any person to furnish a statement in writing made on oath or affirmation setting out therein all such information which may be required under the notice, being information which, in the opinion of the investigating officer, would be of assistance in the investigation into the offence.

(2) A person to whom an order under paragraph (1)(a) or (b), or a written notice under paragraph (1)(c) has been given shall comply with the terms of such order or written notice, as the case may be, and in particular—

- (a) a person to whom an order under paragraph (1)(a) has been given shall attend in accordance with the terms of the order to be examined, and shall continue to so attend from day to day as directed by the investigating officer until the examination is completed, and shall during such examination disclose all information which is within his knowledge, or which is available to him, or which is capable of being obtained by him, in respect of the matter in relation to which he is being examined, whether or not any question is put to him with regard thereto, and where any question is put to him he shall answer the same truthfully and to the best of his knowledge and belief, and shall not refuse to answer any question on the ground that it tends to incriminate him or his spouse, as the case may be;

- (b) a person to whom an order has been given under paragraph (1)(b) shall not conceal, hide, destroy, alter, remove from or send out of Malaysia, or deal with, expend, or dispose of, any book, other document, property, article or thing specified in the order, or alter or deface any entry in any such book or other document, or cause the same to be done, or assist or conspire to do the same; and
- (c) a person to whom a written notice has been given under subsection (1)(c) shall, in his statement made on oath or affirmation, furnish and disclose truthfully all information required under the notice which is within his knowledge, or which is available to him, or which is capable of being obtained by him, and shall not fail to furnish or disclose the same on the ground that it tends to incriminate him or his spouse, as the case may be.

(3) A person to whom an order or a notice is given under subsection (1) shall comply with such notice or order and with the provisions of subsection (2) in relation thereto, notwithstanding the provisions of any written law, whether enacted before or after the commencement of this Act, the Co-operative Societies Act 1993 or any other written law enforced by the Commission, or of any oath, undertaking or requirement of secrecy, or of any obligation under any contract, agreement or arrangement, whether express or implied, to the contrary.

(4) Where any person discloses any information or produces any property, book, document, article, or thing pursuant to subsections (1) and (2), neither the first mentioned person, nor any other person on whose behalf or direction or as whose agent or employee, the first mentioned person may be acting, shall, on account of such disclosure or production, be liable to any prosecution for any offence under or by virtue of any law, or to any proceeding or claim in any form or of any description by any person under or by virtue of any agreement or arrangement, or otherwise howsoever.

(5) An investigating officer may seize, take possession of and retain for such duration as he deems necessary, any property, book, document, article or thing produced before him in the course of an

investigation under subsection (1), or search the person who is being examined by him under paragraph (1)(a) or who is producing anything to him under paragraph (1)(b), for ascertaining whether anything relevant to the investigation is concealed, or otherwise, upon such person.

(6) An examination under paragraph (1)(a) shall be reduced into writing by the investigating officer and shall be read to and signed by the person being examined, and where such person refuses to sign the record, the investigating officer shall endorse thereon under his hand the fact of such refusal and the reasons therefore, if any, stated by the person examined.

(7) The record of an examination under paragraph (1)(a), or a written statement on oath or affirmation made pursuant to paragraph (1)(c), or any property, book, document, article or thing produced under paragraph (1)(b) or otherwise in the course of an examination under paragraph (1)(a) or under a written statement on oath or affirmation made pursuant to paragraph (1)(c), shall, notwithstanding any written law or rule of law to the contrary, be admissible in evidence in any proceedings in any court—

- (a) for, or in relation to, an offence under this Act, the Co-operative Societies Act 1993 or any other written law enforced by the Commission;
- (b) for, or in relation to, any other matter under this Act, the Co-operative Societies Act 1993 or any other written law enforced by the Commission; or
- (c) for, or in relation to, any offence under any other written law,

regardless whether such proceedings are against the person who was examined, or who produced the property, book, document, article or thing, or who made the written statement on oath or affirmation, or against any other person.

Specific person in respect of whom power of investigation may be exercised

51. (1) For the purpose of this section—

“related”, in relation to a body corporate, means related within the meaning of section 6 of the Companies Act 1965;

“interest in the share” has the same meaning as in the Companies Act 1965;

“relative”, in relation to a person, means—

- (a) the spouse of the person;
- (b) the brother or sister of the person;
- (c) the brother or sister of the spouse of the person;
- (d) any lineal ascendant or descendant of the person;
- (e) any lineal ascendant or descendant of the spouse of the person;
- (f) the spouse of any person referred to in paragraph (b), (c), (d) or (e);
- (g) any lineal descendant of a person referred to in paragraph (b), (c) or (f);
- (h) any uncle, aunt or cousin of the person, or of the spouse of the person; or
- (i) any spouse, or any lineal ascendant or descendant, of a person referred to in paragraph (h);

“business associate” of a person includes—

- (a) a banker, accountant, auditor, advocate, nominee or other person employed or appointed by such person at any time before or after the effective date;
- (b) any body corporate or unincorporate of which such person is a director, and any other director of such body corporate or unincorporate;
- (c) if such person is a body corporate—
 - (i) any director of such body corporate;
 - (ii) any associate or related corporation of such body corporate; and
 - (iii) any business associate of such associate or related corporation as is referred to in subparagraph (ii);
- (d) any person having possession of any property belonging to such person;
- (e) any person indebted to such person;
- (f) any person having any knowledge or information relating to the business, dealings, affairs or property of such person; and
- (g) any person acting in concert with such person.

(2) Without prejudice to the generality of other powers of investigation conferred on an investigating officer under this Part, such powers may be exercised by him against any—

- (a) (i) past or present business associate;
- (ii) person who is or was a relative;
- (iii) person who is or was a member or who has or had made a deposit with, or who is or was a creditor;

- (iv) person who is or was concerned with the control or management, in whole or in part of the affairs of the co-operative society; or
 - (v) person who has or had an interest in the shares, or otherwise has or had an interest in the property, of the person suspected to have committed an offence under this Act, the Co-operative Societies Act 1993 or any other written law enforced by the Commission;
- (b) any business associate or relative of a person referred to in paragraph (a); or
- (c) any body corporate or unincorporate in which any person referred to in paragraph (a) is a director or officer or, where such body is a body corporate, has an interest in the shares of the body corporate.

Assistance to police, public officer, etc.

52. The Commission may at its own initiative, or on the request of a police officer, public officer, authority or person having power to investigate under, or enforce the provision of any law—

- (a) supply—
- (i) a copy of any book or other document seized, detained or taken possession of under section 46 or 47;
 - (ii) any record of examination under paragraph 50(1)(a);
 - (iii) any written statement on oath or affirmation made under paragraph 50(1)(c); or
 - (iv) any book or other document produced under paragraph 50(1)(b) or otherwise in the course of any examination under paragraph 50(1)(a),

and such police officer, public officer, authority or person having power to investigate under, or enforce the provision of such law, may make such use of such copy of such record, statement, book or other document as may be necessary or expedient in relation to the exercise of his powers, the performance of his functions, or the discharge of his duties, in respect of any person; or

- (b) allow a police officer, public officer, authority or person having power to investigate under, or enforce the provision of such law, to have access to and inspect any property, book, document, article or thing which had been produced before, or seized, detained or taken possession of, by an investigating officer under this Part, and such police officer, public officer, authority or person having power to investigate under, or enforce the provision of such law, may make such use of any knowledge gained by such access or inspection as may be necessary or expedient in relation to the exercise of his powers, the performance of his functions, or the discharge of his duties, in respect of any person.

Joinder of offences

53. Notwithstanding anything contained in any other written law, where a person is accused of more than one offence under this Act, the Co-operative Societies Act 1993 or any other written law enforced by the Commission, he may be charged with and tried at one trial for any number of such offences committed within the space of any length of time.

Offence to be seizable offence

54. Every offence punishable under this Act, the Co-operative Societies Act 1993 or any other written law enforced by the Commission shall be a seizable offence, and a police officer not below the rank of Inspector, or an investigating officer appointed under subsection 45(1) may arrest without warrant any person whom

he reasonably suspects to have committed or to be committing any such offence.

PART VII

GENERAL

Specific offence

55. (1) Any co-operative society who fails to comply with the requirements under subsections 42(2) and 43(1) shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding one million ringgit and shall in addition, be liable to a daily fine not exceeding five thousand ringgit for every day the offence continues.

(2) Any person who fails to comply with the requirements under section 48 or subsections 49(1), 49(2) or 50(2) shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding one million ringgit or to imprisonment not exceeding two years or to both and shall in addition, be liable to a daily fine not exceeding ten thousand ringgit for every day the offence continues.

Power of Commission to compound offence

56. (1) The Executive Chairman may, with the consent of the Public Prosecutor in writing, compound any offence committed by any person which is punishable under this Act, by making a written offer to such person to compound the offence by paying to the Commission within such time as may be specified in the offer such sum of money which shall not exceed fifty per centum of the amount of the maximum fine (including the daily fine, if any, in the case of a continuing offence) to which that person would have been liable if he had been convicted of the offence.

(2) Any money paid to the Commission pursuant to the provisions of subsection (1) shall be paid into and form part of the operating fund of the Commission.

(3) An offer under subsection (1) may be made at any time after the offence has been committed but before any prosecution for it has been instituted, and where the amount specified in the offer is not paid within the time specified in the offer, or any extension of it which the Commission may grant, prosecution for the offence may be instituted at any time thereafter against the person to whom the offer was made.

(4) Where an offence has been compounded under subsection (1), no prosecution shall thereafter be instituted in respect of such offence against the person to whom the offer to compound was made, subject to subsection 62(1).

Duty of investigating officer to make over arrested person to police

57. An investigating officer appointed under subsection 45(1) making an arrest under section 54 shall without unnecessary delay make over the person so arrested to the nearest police officer or, in the absence of a police officer, take such person to the nearest police station, and thereafter the person arrested as aforesaid shall be dealt with as provided by the law relating to criminal procedure for the time being in force as if he had been arrested by a police officer.

Public servant

58. All directors, members of a committee of the Commission, officers or employees of the Commission or investigating officers while discharging their duties as such a director, member, officer, employee or investigating officer shall be deemed to be public servants within the meaning of the Penal Code [*Act 574*].

Public Authorities Protection Act 1948

59. The Public Authorities Protection Act 1948 [*Act 198*] shall apply to any action, suit, prosecution or proceedings against the Commission, officers, employees or agents of the Commission in respect of any act,

neglect or default done or committed by him in such capacity or in the capacity of the officers or employees as described in the laws specified in the Co-operative Societies Act 1993.

Immunity

60. (1) No action, suit, prosecution or other proceeding whatsoever shall lie or be brought, instituted, or maintained in any court or before any other authority against—

- (a) the Government of Malaysia or State Government;
- (b) the Commission;
- (c) any director, officer or employee of any such Government or of the Commission, either personally or in his official capacity; or
- (d) any person lawfully acting on behalf of any such Government, Commission, officer or employee, either personally or in his capacity as a person acting on such behalf,

for or on account of, or in respect of, any act done or statement made or omitted to be done or made, or purporting to be done or made or omitted to be done or made, in pursuance or in execution of, or intended pursuance or execution of, this Act, the Co-operative Societies Act 1993 or any other written law enforced by the Commission, or any order in writing, direction, instruction, notice or other thing whatsoever issued under this Act, the Co-operative Societies Act 1993 or any other written law enforced by the Commission:

Provided that such act or such statement was done or made, or was omitted to be done or made, in good faith.

- (2) For the purposes of this section—

- (a) any member of the administration of the Government of Malaysia or a State Government shall be deemed to be an officer of the respective Government; and
- (b) the Executive Chairman, the Deputy Executive Chairman, director, member of a committee of the Commission, officer, employee or any person appointed by the Commission pursuant to section 9, subsections 8(2) and 10(2) and paragraph 69A(2) of the Co-operative Societies Act 1993 and any liquidator appointed under section 74 of the Co-operative Societies Act 1993, shall be deemed to be an officer of the Commission.

(3) In subsection (2) “member of the administration” has the same meaning as assigned to it in Article 160(2) of the Federal Constitution.

Preservation of secrecy

61. (1) No director, officer, employee, agent or consultant of the Commission or any person who for any reason, has by any means access to any record, book, register, correspondence, document whatsoever, material or information, relating to the business and affairs of the Commission which he has acquired in the performance of his duties or the exercise of his functions, shall give, divulge, reveal, publish or otherwise disclose to any person, such document, material or information unless the disclosure is required or authorized—

- (a) under this Act, the Co-operative Societies Act 1993 or any other written law enforced by the Commission, regulations, orders, directives or guidelines issued under this Act, the Co-operative Societies Act 1993 or any other written law enforced by the Commission;
- (b) under any written law;
- (c) by any court; or

(d) for the performance of his duties or the exercise of his functions under this Act, the Co-operative Societies Act 1993 or any other written law enforced by the Commission, regulations, orders, directives or guidelines issued under this Act, the Co-operative Societies Act 1993 or any other written law enforced by the Commission.

(2) This section shall not apply to any document, material or information which at the time of the disclosure is, or has already been made, lawfully available to the public from any source or to information which is in the form of a summary or collection of information relating to a particular co-operative society, its members or depositors is not explicitly stated.

(3) No person who has any document, material or information which to his knowledge has been disclosed in contravention of subsection (1) shall in any manner however disclose the same to any other person.

(4) Where the Commission in the course of the exercise of any of its powers, or the discharge of any of its duties or functions, under this Act, the Co-operative Societies Act 1993, any written law enforced by the Commission or any written law whatsoever, suspects any person to have committed any offence under this Act, the Co-operative Societies Act 1993, any written law enforced by the Commission or any other written law whatsoever, it shall be lawful for the Commission to give information of such commission to a police officer, or to convey any or all information in relation to such offence to any authority or person having power to investigate under, or enforce, the law under which the offence is suspected by the Commission to have been committed.

(5) Subsection (4) shall have full force and effect, notwithstanding any inconsistency therewith, or contrary thereto, in this Act, the Co-operative Societies Act 1993, any written law enforced by the Commission or any other written law.

Institution of prosecution

62. (1) Any officer or employee of the Commission authorized in writing by the Commission may, with the consent of the Public Prosecutor in writing, prosecute in any court any case in respect of any offence committed under this Act, the Co-operative Societies Act 1993 or any other written law enforced by the Commission.

(2) For the purpose of section 380 of the Criminal Procedure Code, an officer or employee of the Commission authorized under subsection (1) shall be deemed to be a public officer.

Representation in civil proceedings

62A. Notwithstanding the provisions of any other written law—

- (a) in any civil proceedings by or against the Commission; or
- (b) in any other civil proceedings in which the Commission is required or permitted by the court to be represented, or to be heard, or is otherwise entitled to be represented or to be heard,

any officer of the Commission authorized by the Executive Chairman for that purpose may, on behalf of the Commission, institute such proceedings or appear in such proceedings and may make all appearances and applications and do all acts in respect of the proceedings on behalf of the Commission.

Power to make regulations

63. The Commission may, with prior written approval of the Minister, make regulations for carrying into effect the objects of this Act or any provision of this Act and for prescribing anything which under this Act is to be prescribed.

LAWS OF MALAYSIA**Act 665****MALAYSIA CO-OPERATIVE SOCIETIES COMMISSION****LIST OF AMENDMENTS**

Amending law	Short title	In force from
Act A1470	Malaysia Co-operative Societies Commission (Amendment) Act 2014	07-01-2015

LAWS OF MALAYSIA**Act 665****MALAYSIA CO-OPERATIVE SOCIETIES COMMISSION**

LIST OF SECTIONS AMENDED

Section	Amending authority	In force from
11	Act A1470	07-01-2015
62A	Act A1470	07-01-2015
