

Twelfth Kerala Legislative Assembly
Bill No. 229

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**THE KERALA CO-OPERATIVE SOCIETIES (AMENDMENT)
BILL, 2008**

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Kerala Legislature Secretariat
2008

KERALA NIYAMASABHA PRINTING PRESS.

875/2008.

THE KERALA CO-OPERATIVE SOCIETIES
(AMENDMENT) BILL, 2008

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BILL

further to amend the Kerala Co-operative Societies Act, 1969.

Preamble.—WHEREAS, it is expedient further to amend the Kerala Co-operative Societies Act, 1969 for the purposes hereinafter appearing ;

BE it enacted in the Fifty-ninth Year of the Republic of India as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Co-operative Societies (Amendment) Act, 2008.

(2) It shall be deemed to have come into force on the 11th day of December, 2007.

2. *Amendment of section 2.*— In section 2 of the Kerala Co-operative Societies Act, 1969 (21 of 1969) (hereinafter referred to as the principal Act),—

(1) for clause (ia), the following clause shall be substituted, namely :—

“(ia) “District Co-operative Bank” means a Central Society having jurisdiction over one revenue district and having as its members Primary Agricultural Credit Societies and Urban Co-operative Banks and the principal object of which is to raise funds to be lent to its members, including nominal or associate members;”;

(2) after clause (oc), the following clause shall be inserted, namely :—

“(od) “Primary Co-operative Society” means a society having jurisdiction over a revenue district as a whole or over any specified area within such revenue district and having individual or individuals and other Co-operative Societies as its members;”;

(3) for clause (ta), the following clause shall be substituted, namely :—

“(ta) “Urban Co-operative Bank” means a society registered under this Act having its area of operation in the Urban areas and which undertakes banking business with the licence obtained from Reserve Bank of India;”.

3. *Amendment of section 18.*— In section 18 of the principal Act,—

(1) In sub-section (1), before the existing proviso, the following provisos shall be inserted, namely :—

“Provided that a District Co-operative Bank may admit any Co-operative Society registered under the provisions of this Act, other than Primary Agricultural Credit Societies and Urban Co-operative Banks functioning within its area of operation as nominal or associate member :

Provided further that the members of a District Co-operative Bank other than Primary Agricultural Credit Societies and Urban Co-operative Banks as on the date of commencement of the Kerala Co-operative Societies (Amendment) Act, 2008 shall become nominal or associated members of such District Co-operative Banks at such commencement;”;

(2) in the existing proviso, after the word “provided” the word “also” shall be inserted.

4. *Amendment of section 63.*—In section 63 of the principal Act, after sub-section (4), the following sub-sections shall be inserted, namely:—

“(5) The Government shall prescribe the manner, in which audit is to be conducted by the Director of Co-operative Audit.

(6) Notwithstanding anything contained in any other law for the time being in force, the Audit certificate issued by the Director of Co-operative Audit, or by any officer authorized by him shall be valid for all purposes required to be filed before the State Government and non-Government authorities.”.

5. *Amendment of section 70.*—In section 70 of the principal Act, in sub-section (1), after the words “shall pass an award” the words “within one year” shall be inserted.

6. *Repeal and savings.*—(1) The Kerala Co-operative Societies (Amendment) Ordinance, 2008 (29 of 2008), is hereby repealed.

(2) Notwithstanding such repeal anything done or deemed to have been done or any action taken or deemed to have been taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act, as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

For the effective guidance and control of the Co-operatives in the State it was decided to amend the definitions of ‘District Co-operative Bank’, ‘Urban

Co-operative Bank’ and to insert the definition of “Primary Co-operative Society” in the Kerala Co-operative Societies Act, 1969 (21 of 1969). It was also proposed to empower the Government to prescribe the manner in which the audit is to be conducted by the Director of Co-operative Audit.

2. As the Legislative Assembly was not in session and the said proposals had to be given effect to immediately, the Kerala Co-operative Societies (Amendment) Ordinance, 2007 was promulgated by the Governor on the 11th day of December, 2007 and the same was published as Ordinance No. 62 of 2007 in the Kerala Gazette Extraordinary No. 2224 dated the 11th December, 2007.

3. A Bill to replace the said Ordinance by an Act of State Legislature could not be introduced in, and passed by, the Legislative Assembly during its session, which commenced on the 20th day of February, 2008 and ended on the 19th day of March, 2008.

4. As the Legislative Assembly of the State of Kerala was not in session, and in order to keep alive the provisions of Ordinance No. 62 of 2007, the Kerala Co-operative Societies (Amendment) Ordinance, 2008 was promulgated by the Governor on the 1st April, 2008 and the same was published as Ordinance No. 11 of 2008 in the Kerala Gazette Extraordinary No. 654 dated the 1st April, 2008.

5. A Bill to replace the said Ordinance by an Act of the State Legislature could not be introduced in, and passed by the Legislative Assembly of the State of Kerala during its eighth session which commenced on the 23rd June, 2008 and ended on the 24th July, 2008.

6. Therefore, in order to keep alive the provisions of Ordinance No. 11 of 2008, the Kerala Co-operative Societies (Amendment) Ordinance, 2008 was promulgated by the Governor on the 1st day of August, 2008 and was published as Ordinance No. 29 of 2008 in the Kerala Gazette Extraordinary No. 1672 dated the 2nd August, 2008.

7. The Bill seeks to replace the said Ordinance by an Act of the State Legislature.

FINANCIAL MEMORANDUM

The Bill, if enacted and brought into operation, would not involve any expenditure from the Consolidated Fund of the State.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (5) proposed to be inserted to section 63 of the Act by clause 4 of the bill seeks to empower the Government to prescribe the manner in which audit is to be conducted by the Director of Co-operative Audit.

The matter in respect of which rules are to be made are matters of procedure and are of routine or administrative in nature. Further, the rules, after they are made, are subject to scrutiny by the Legislative Assembly. The delegation of the Legislative power is, thus, of a normal character.

G. SUDHAKARAN

EXTRACT FROM THE KERALA CO-OPERATIVE SOCIETIES ACT, 1969
(21 OF 1969)

** ** ** **

CHAPTER I

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2. *Definitions.*—

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(ia) “District Co-operative Bank” means a Central Society the principal object of which is to raise funds to be lent to its members, with jurisdiction over one revenue district and having as its members any type of primary societies and Federal and Central Societies having head quarters in such district ;

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(oc) “Primary Co-operative Agricultural and Rural Development Bank” means a society having its area of operation confined to a taluk and the principal object of which is to provide for long term credit for agricultural and rural development activities ;

Provided that the societies in existence at the commencement of the Kerala Co-operative Societies (Amendment) Act, 1999, having more than, one taluk where the headquarters of such society is situated, within a period of six months.

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(ta) “Urban Co-operative Bank” means a Society registered under this Act having its area of operation in the urban areas and which undertakes banking business ;

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CHAPTER II

MEMBERS OF CO-OPERATIVE SOCIETIES AND THEIR RIGHTS AND LIABILITIES

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18. *Nominal or associate members.*—(1) A society may admit any individual as a nominal or associate member.

Provided that a Hospital Co-operative Society may admit any other society as nominal or associate member.

Explanation: The term ‘Hospital Co-operative Society’ shall have the same meaning as in the Explanation to the fourth proviso to sub-section (1) of section 16.

(2) A nominal or associate member shall not be entitled to any share, in any form whatsoever, in the assets or profits of the society or to be elected to the committee of a society.

(3) Save as provided in this section, a nominal or associate member shall have such privileges and rights of a member and be subject to such liabilities of a member, as may be specified in the bye-laws of the society.

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CHAPTER VIII

PART A

AUDIT

63. *Director of Co-operative Audit.*—(1) The Government shall, by notification in the official Gazette, appoint a person to be the Director of Co-operative Audit with jurisdiction over the whole of the State.

(2) The qualification and the terms and conditions of the person to be appointed as the Director of Co-operative Audit shall be such, as may be prescribed.

(3) The Government may by general or special order, confer on any officer all or any of the powers of the Director of Co-operative Audit under this Act.

(4) It shall be the duty of the Director of Co-operative Audit to audit or to cause to be audited through persons authorised by him, the accounts of every society, at least once in each year.

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CHAPTER IX

SETTLEMENT OF DISPUTES

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70. *Award on Disputes.*—(1) The Co-operative Arbitration Court, on receipt of reference of a dispute under sub-section (1) of Section 69, shall pass an award in accordance with the provisions of this Act and the rules and the bye-laws made thereunder and such award shall, subject to the provisions of Section 82, be final.

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