

Thirteenth Kerala Legislative Assembly
Bill No. 103

THE KERALA CO-OPERATIVE SOCIETIES (AMENDMENT) BILL, 2012

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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 Sixty-third 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, 2012.

(2) Clauses (ii) and (iii) of section 2 and clause (i) of section 4 shall be deemed to have come into force on the 12th day of August, 2011, clause (i) of section 2, section 3, clause (ii) of section 4 and section 5 shall be deemed to have come into force on the 11th day of February, 2012 and the remaining provisions of this Act shall be deemed to have come into force on the 11th day of April, 2012.

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

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

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

(ii) in clause (oc), for the existing proviso, the following proviso shall be substituted, namely:—

“Provided that no Primary Co-operative Agricultural and Rural Development Bank shall be registered without the bifurcation of assets and liabilities of the existing societies having the area of operation in more than one Taluk and the societies shall restrict their operation in the area of the respective society on such bifurcation.”.

(iii) after clause (qb), the following clause shall be inserted, namely:—

“(qc) “Special Officer” means an officer, not below the rank of an Assistant Registrar, appointed by the Registrar to take into custody the assets and liabilities of the society which secured registration without bifurcating the area of operation of an existing society and to register new societies and to constitute committees as provided in section 28 of the Act.”.

3. *Amendment of section 18.*—In section 18 of the principal Act, in sub-section (1), the first and the second provisos shall be omitted.

4. *Amendment of section 28.*—In section 28 of the principal Act,—

(i) after sub-section (1C), the following sub-sections shall be inserted, namely:—

“(1D) Notwithstanding anything contained in this Act or in any judgment, decree or order of any court, the registration of any Primary Co-operative Agricultural and Rural Development Bank without the bifurcation of area, assets and liabilities of the society and the constitution of the committee pursuant to any such registration without such bifurcation shall be void and the Registrar shall appoint Special Officer for each of such societies which were registered without bifurcation of area, assets and liabilities.

(1E) The Special Officer so appointed shall,—

(i) take into custody or bring under his control, the property, effects and actionable claims to which the erstwhile society is or appears to be entitled to and shall take steps as may be necessary or expedient to prevent loss or deterioration of or damage to, such property, effects and claims;

(ii) take such steps for the bifurcation of area, assets and liabilities of the society and also shall take all steps to register new society with the members of the society so bifurcated and constitute the committee;

(iii) such bifurcation shall be completed within a period of one year from the date of commencement of the Kerala Co-operative Societies (Amendment) Ordinance, 2012 (9 of 2012).”;

(ii) after sub-section (1E) as so inserted, the following sub-sections shall be inserted, namely:—

“(1F) Notwithstanding anything contained in the bye-laws of the District Co-operative Bank, two seats in the committee of each District Co-operative Bank shall be reserved for depositors in the Bank.

(IG) Notwithstanding anything contained in the bye-laws of the District Co-operative Bank, two seats in the committee of each District Co-operative Bank shall be reserved for representatives who possess experience in Banking or professional qualification:

Provided that, if no person is elected to the committee from the above, the Registrar can co-opt the members to the committee, for the time being, from among the members of the society or who are otherwise qualified.

(IH) Notwithstanding anything contained in the bye-laws of the District Co-operative Bank, atleast one seat in respect of each taluk shall be reserved for the representatives of Primary Agricultural Credit Societies in the committee of the District Co-operative Bank.

(I I) Notwithstanding anything contained in the bye-laws of the District Co-operative Bank, at least four seats in the committee of the District Co-operative Bank shall be reserved for other types of co-operative societies as members in the District Co-operative Bank.” .

5. *Special provision in respect of the existing District Co-operative Banks.*—(1) Notwithstanding anything contained in the principal Act, or in any judgment, decree or order of any court, tribunal or other authority, on the commencement of the Kerala Co-operative Societies (Second Amendment) Ordinance, 2012 (18 of 2012),—

(a) any primary society which had ceased to be a member of the District Co-operative Bank as on the commencement of the Kerala Co-operative Societies (Amendment) Act, 2008 (9 of 2009) shall be deemed to have become members of such District Co-operative Bank and the share amount, if any, of such society transferred to suspense account shall be deemed to be the share amount in respect of the said society;

(b) the nominal or associate member admitted after the commencement of the Kerala Co-operative Societies (Amendment) Act, 2008 (9 of 2009) shall cease to be the members of the District Co-operative Bank and shall apply for membership in the District Co-operative Bank afresh;

(c) the committee in office of the District Co-operative Bank at such commencement shall cease to exist and the Registrar shall be competent to appoint a new committee or one or more administrator or administrators who need not be members of the society, to manage the affairs of the Bank for a period not exceeding six months, as may be specified in the order, which period may, at the discretion of the Registrar, be extended from time to time, so however, that the aggregate period does not exceed one year.

(2) The committee or the administrator or the administrators appointed under sub-section (1) shall, subject to the control of the Registrar and to such instructions as he may, from time to time give, have the power to exercise the powers and perform the functions of the committee or of any officer of the society and take such action as may be required in the interest of the society.

(3) The committee or the administrator or the administrators shall before the expiry of its or his or their term of office, arrange for the constitution of a new committee in accordance with the provisions contained in the principal Act and the bye-laws of the Bank.

6. *Repeal and Saving.*—(1) The Kerala Co-operative Societies (Amendment) Ordinance, 2012 (26 of 2012) 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

As per the existing proviso to clause (oc) of section 2 of the Kerala Co-operative Societies Act, 1969, the Primary Co-operative Agricultural and Rural Development Banks having area of operation in more than one Taluk shall restrict their area of operation within one Taluk, within six months from the date of commencement of the Kerala Co-operative Societies (Amendment) Act, 1999. However, such societies did not comply with the said stipulation. Therefore, the Government decided to amend the Kerala Co-operative Societies Act, 1969 (21 of 1969) suitably so that the assets and liabilities of such societies shall be bifurcated to form new societies and the existing committees of the societies are to be declared void whereby the management of the existing societies shall be entrusted with a Special Officer to be appointed by the Registrar. It was also proposed to make necessary provisions in the Act to constitute committees as provided in section 28 of the Act within a period of six months.

2. As the Legislative Assembly was not in session, and as the said proposals had to be given effect to immediately, the Kerala Co-operative Societies (Third Amendment) Ordinance, 2011 was promulgated by the Governor on the 12th day of August, 2011 and was published as Ordinance No. 45 of 2011 in the Kerala Gazette Extra-ordinary No. 1534 dated 12th August, 2011.

3. A Bill to replace the said Ordinance by an Act of the State Legislature could not be introduced in, and passed by, the Kerala Legislative Assembly in its session which commenced on the 26th day of September, 2011 and ended on

the 4th day of November, 2011. The said Ordinance ceased to operate on the 7th day of November, 2011 by virtue of the provisions contained in sub-clause (a) of clause (2) of article 213 of the Constitution of India.

4. As the Legislative Assembly of the State of Kerala was not in session and as it was highly necessary to keep alive the provisions of the said Ordinance and to validate the actions taken under the said Ordinance, the Kerala Co-operative Societies (Third Amendment) Ordinance, 2011 was promulgated by the Governor on the 18th day of November, 2011 and published as Ordinance No. 51 of 2011 in the Kerala Gazette Extraordinary No. 2173 dated the 18th November, 2011.

5. A Bill to replace the said Ordinance by an Act of the State Legislature could not be introduced in, and passed by, the Kerala Legislative Assembly in its session which commenced on the 9th day of December, 2011 and ended on the same day.

6. As the Legislative Assembly of the State of Kerala was not in session and as it was highly necessary to keep alive the provisions of the said Ordinance, and to extend the time limit fixed for completing the bifurcation of areas, assets and liabilities of existing societies from six months to one year the Kerala Co-operative Societies (Amendment) Ordinance, 2012 was promulgated by the Governor on the 19th day of January, 2012 and published as Ordinance No.9 of 2012 in the Kerala Gazette Extraordinary No. 146 dated the 20th January, 2012.

7. It was also proposed to amend section 2 of the Kerala Co-operative Societies Act, 1969 (21 of 1969) for substituting clause (ia) and to omit the second and third provisos to sub-section (1) of section 18 which deals with the admission of nominal or associate members in the District Co-operative Banks and Hospital Co-operative Societies and to insert sub-sections (1-F) and (1-G) in section 28 of the Act so as to reserve two seats in the committee for depositors in the Bank, two seats for persons who possess experience in banking or professional qualification and to insert sub-sections (1-H) and (1-I) in section 28 of the above said Act to make provisions for ensuring that at least one seat in respect of each Taluk be reserved for the representatives of Primary Agricultural Credit Society in the committee of the District Co-operative Bank and also to ensure that at least four seats in the committee of the District Co-operative Bank are reserved for other types of Co-operative Societies as members in the District Co-operative Banks. As the Legislative Assembly was not in session and as the proposals had to be given effect to immediately the Kerala Co-operative Societies (Second Amendment) Ordinance, 2012 was promulgated by the Governor on the 11th day of February, 2012 and published as Ordinance

No. 18 of 2012 in the Kerala Gazette Extraordinary No. 288 dated the 11th February, 2012.

8. Bills to replace Ordinance No. 9 of 2012 and Ordinance No. 18 of 2012 by Acts of the State Legislature could not be introduced in, and passed by the Legislative Assembly of the State of Kerala during its fourth session which commenced on the 1st day of March, 2012 and ended on the 23rd day of March, 2012.

9. As the Legislative Assembly was not in session and as it was highly necessary to keep alive the provisions of the above said Ordinances and in order to combine the proposals contained in both the Ordinances with certain modifications the Kerala Co-operative Societies (Amendment) Ordinance, 2012 was promulgated by the Governor of Kerala on the 11th day of April, 2012 and was published as Ordinance No. 26 of 2012 in the Kerala Gazette Extraordinary No. 728 dated 11th April, 2012.

10. 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 additional expenditure from the Consolidated Fund of the State.

C. N. BALAKRISHNAN

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

** ** ** **

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

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(i a) “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.

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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 as its area of operation shall, restrict such area of operation to the taluk where the headquarters of such society is situated, within a period of six months.

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(qb) “Scheduled Tribes” means the Scheduled Tribes in relation to the State of Kerala as specified in the Constitution (Scheduled Tribes) Order, 1950;

(r) “ State” means the State of Kerala;

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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 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 associate members of such District Co-operative Bank at such commencement:

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

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28. *Appointment of Committee.*—(1) The general body of a society shall constitute a committee, for a period not exceeding five years, in accordance with the bye-laws and entrust the management of the affairs of the society to such committee:

Provided that in case of society registered after the commencement of this Act, the persons who have signed the application to register the society may appoint a committee to conduct the affairs of the society for a period of three months from the date of registration or for such further period as the Registrar may consider necessary; but the committee appointed under the proviso shall ceased to function as soon as a committee has been constituted in accordance with the bye-laws:

Provided further that where the bye-laws so provide, the Government or the Registrar may nominate all or any of the members of the first committee, including the President or Chairman, for a period not exceeding six months.

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(1 C) Notwithstanding anything contained in the bye- laws of a Primary Credit Society or an Urban Co-operative Bank, one seat in the committee of each such society shall be reserved for the members having a deposit of ten thousand rupees and above.

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(2) Notwithstanding anything contained in any law for the time being in force, a person shall be disqualified for appointment as, or for being, a member of a committee—

(a) if he is a member of the committee of more than one society of the same type ; or

(b) if he is a member of the committees of more than two societies of different types:

Provided that nothing contained in the sub-section shall be deemed to disqualify a person for election as, or for being, a delegate of a society.

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