

Thirteenth Kerala Legislative Assembly
Bill No. 202

**THE KERALA CO-OPERATIVE SOCIETIES
(SECOND AMENDMENT) BILL, 2013**

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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-fourth Year of the Republic of India, as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Co-operative Societies (Second Amendment) Act, 2013.

(2) Sections 3 and 7 shall be deemed to have come into force on the 30th day of April, 2011, Section 2, clause (i) of Section 4, Sections 5 and 6 shall be deemed to have come into force on the 28th day of April, 2010, clause (ii) of Section 4 shall be deemed to have come into force on the 5th day of June, 2007 and the remaining provisions of this Act shall be deemed to have come into force on the 13th day of August, 2012.

2. *Amendment of Section 33.*—In the Kerala Co-operative Societies Act, 1969 (21 of 1969) (hereinafter referred to as the principal Act), in Section 33,—

(i) in clause (b) of sub-section (1), for the words “one among them as convener, who need not be member of the society”, the words “who need not be members of the society, one among them as convener,” shall be substituted ;

(ii) in sub-section (1A), for the words “committee, administrator or administrators” occurring at both places, the words “administrator or administrative committee” shall be substituted ;

(iii) in sub-section (2), for the words “committee or administrator or administrators”, the words “administrator or administrative committee” shall be substituted ;

(iv) in sub-section (3), for the words “committee or administrator or administrators”, the words “administrator or administrative committee” shall be substituted.

3. *Insertion of new Section 56A.*—After Section 56 of the principal Act, the following section shall be inserted, namely:—

“56A. *Disposal of non-banking assets.*—The immovable property acquired by a society through a sale by the sale officer or through any legal proceedings for realisation of loan amount shall be disposed of by the society within seven years from the acquisition thereof with prior sanction of the Registrar.”.

4. *Amendment of Section 63.*—In Section 63 of the principal Act,—

(i) in sub-section (3), after the words “to his subordinate officers”, the words “or to the subordinate officers of the Registrar” shall be inserted;

(ii) after sub-section (12), the following sub-section shall be inserted, namely:—

“(13) The Government may issue notification, either prospectively or retrospectively, by publishing the same in the Gazette, to carry out the purposes of this section.”.

5. *Amendment of Section 66.*—In Section 66 of the principal Act, in Explanation 2 of sub-section (11), for the word, figure and brackets “sub-section (4)”, the word, figure, letter and brackets “sub-section (4A)” shall be substituted.

6. *Amendment of Section 69A.*—In Section 69A of the principal Act, in sub-section (3), for the words “sixty five years”, the words “attaining the age of sixty five years” shall be substituted.

7. *Insertion of new Sections 80C, 80D and 80E.*—After Section 80B of the principal Act, the following sections shall be inserted, namely:—

“80C. *The Kerala Co-operative Employees’ Welfare Scheme.*—(1) The Government may, by notification in the Gazette, frame a Scheme to be called the Kerala Co-operative Employees’ Welfare Scheme for the establishment and management of a Fund by name “the Kerala Co-operative Employees’ Welfare Fund” and there shall be established, as soon as may be, after framing of the Scheme, a fund in accordance with the provisions of this Act and the Scheme.

(2) The Welfare Fund established under the Scheme shall vest in the Kerala State Co-operative Employees' Welfare Board and be administered by such body or authority as may be specified in the Scheme.

(3) Subject to the provisions of this Act, the Scheme may provide for the following matters, namely:—

- (i) the management and administration of the Kerala State Co-operative Employees' Welfare Fund;
- (ii) powers and functions of the authority or body to be constituted thereunder; and
- (iii) the composition and pattern of the establishment set-up of the Kerala State Co-operative Employees' Welfare Board constituted under the Scheme.

80D. *The Kerala State Co-operative Employees' Welfare Board.*—(1) The Government shall, by notification in the Gazette, constitute a Board to be called “the Kerala State Co-operative Employees' Welfare Board” for implementing the welfare schemes for the regular employees, commission agents and the persons working in the capacity of any other name on commission basis in a co-operative society registered or deemed to be registered under this Act and coming under the administrative control of the Registrar of Co-operative Societies as well as other departments of the State Government in accordance with the provisions of this Act and the Scheme.

(2) The Board constituted under sub-section (1) shall provide for the constitution of a Welfare Fund and specify therein, the manner in which its fund shall be raised and administered for the welfare of the employees and the rates of contribution to be paid by the employees and the co-operative societies towards the fund.

(3) The Board may provide money and other aids to the employees in their indigent conditions and for the following purposes, namely:—

- (i) for the payment of financial assistance to the family of the deceased employees ;
- (ii) for the payment of medical assistance to the employees who have undergone treatment for diseases to be specified therein ;

- (iii) for refund of the contributions made by the employees on their retirement or relief on other grounds ;
- (iv) for the grant of advances to the employees for meeting their medical expenses ;
- (v) for awarding cash prizes to the children of employees at such rates and subject to such conditions as may be specified therein ; and
- (vi) for any other purposes provided for in the Scheme or which may be found necessary or proper for the implementation of the Scheme.

(4) The Government may make Rules with regard to the staff regulations and service conditions of the employees of the Kerala State Co-operative Employees' Welfare Board.

80E. *Transfer of assets and control of the existing Kerala State Co-operative Employees' Welfare Board.*—(1) Notwithstanding anything contained in the Rules for the constitution and administration of the Kerala State Co-operative Employees' Welfare Board issued under G. O. (Rt.) No. 383/86/Co-op. dated 30th September, 1986, on and from the date of constitution of the Kerala State Co-operative Employees' Welfare Board under sub-section (1) of Section 80D, all assets and liabilities of the existing Kerala State Co-operative Employees' Welfare Board shall be transferred to the Kerala State Co-operative Employees' Welfare Board constituted under the said sub-section.

(2) On and from the date of constitution of the Kerala State Co-operative Employees' Welfare Board under sub-section (1) of Section 80D, the existing Kerala State Co-operative Employees' Welfare Fund constituted under G. O. (Rt.) No. 383/86/Co-op. dated 30th September, 1986 shall vest in the Kerala State Co-operative Employees' Welfare Board constituted under the said sub-section and the control and supervision of the existing fund shall be with the said Board.”.

8. *Repeal and saving.*—(1) The Kerala Co-operative Societies (Amendment) Ordinance, 2013 (25 of 2013) 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 sub-section (3) of Section 63 of the Kerala Co-operative Societies Act, 1969 (21 of 1969) the Government may, by general or special order, delegate all or any of the powers of the Director of Co-operative Audit, in the Act to his subordinate officers. In order to extend that power to the subordinate officers of the Registrar and to empower the Government to issue notification either prospectively or retrospectively to carry out the purposes of Section 63, the Kerala Co-operative Societies (Amendment) Ordinance, 2010 (22 of 2010) was promulgated by the Governor of Kerala on the 10th day of June, 2010.

2. As 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 session which commenced on the 28th day of June, 2010 and ended on the 29th day of July, 2010 and in order to keep alive the provisions of the said Ordinance, the Kerala Co-operative Societies (Amendment) Ordinance, 2010 (49 of 2010) was promulgated by the Governor of Kerala on the 8th day of August, 2010.

3. As a Bill to replace Ordinance No. 49 of 2010 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 session which commenced on the 21st day of December, 2010 and ended on the 3rd day of January, 2011 and in order to keep alive the provisions of the said Ordinance, the Kerala Co-operative Societies (Amendment) Ordinance, 2011 (18 of 2011) was promulgated by the Governor of Kerala on the 22nd day of January, 2011.

4. As a Bill to replace Ordinance No. 18 of 2011 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 session which commenced on the 4th day of February, 2011 and ended on the 24th day of February, 2011 and in order to keep alive the provisions of the said Ordinance, the Kerala Co-operative Societies (Amendment) Ordinance, 2011 (22 of 2011) was promulgated by the Governor of Kerala on the 17th day of March, 2011.

5. As per the Kerala Co-operative Societies (Amendment) Act, 2010 (7 of 2010) sub-section (1) of Section 33 was amended, but no corresponding amendment was made in sub-sections (1A), (2) and (3). Therefore these sub-sections also have to be amended accordingly. Even though the Kerala Co-operative Employees' Welfare Board was constituted by the Government as

per G. O. (Rt.) No. 383/86/Co-op. dated 30th September, 1986 to raise and administer fund for the welfare of the employees of the Co-operative Societies registered or deemed to be registered under the Kerala Co-operative Societies Act, 1969 there were no statutory provisions in the Kerala Co-operative Societies Act with regard to the powers and functions of the Welfare Board and therefore it has no statutory backing. Therefore Government decided to include necessary provisions in the Act and for the purpose the Kerala Co-operative Societies (Second Amendment) Ordinance, 2011 (44 of 2011) was promulgated by the Governor of Kerala on the 28th day of April, 2011.

6. The accumulation of non-banking assets by societies was creating problems to the societies. Therefore provision relating to the procedure for disposal of immovable properties acquired by a society within seven years from the acquisition thereof was inserted as Section 56A by Ordinance No. 44 of 2011.

7. As Bills to replace Ordinance No. 22 of 2011 and Ordinance No. 44 of 2011 by Acts of the State Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 1st day of June, 2011 and ended on the 20th day of July, 2011 and as per sub-clause (a) of clause (2) of Article 213 of the Constitution of India, the Kerala Co-operative Societies (Amendment) Ordinance, 2011 (22 of 2011) and the Kerala Co-operative Societies (Second Amendment) Ordinance, 2011 (44 of 2011) ceased to operate on the 13th day of July, 2011 and in order to keep alive the provisions both the Ordinances were combined except the provisions contained in Section 4 and Section 9 of Ordinance No. 44 of 2011, and the Kerala Co-operative Societies (Second Amendment) Ordinance, 2012 was promulgated by the Governor of Kerala on the 26th day of May, 2012 and the same was published as Ordinance No. 38 of 2012 in the Kerala Gazette Extraordinary No. 1077 dated 26th May, 2012.

8. A Bill to replace Ordinance No. 38 of 2012 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 session which commenced on the 11th day of June, 2012 and ended on the 25th day of July, 2012. As per sub-clause (a) of clause (2) of Article 213 of the Constitution of India, Ordinance No. 38 of 2012 ceased to operate on the 23rd day of July, 2012. In order to keep alive the provisions of the said Ordinance with necessary validation clause, the Kerala Co-operative Societies (Second Amendment) Ordinance, 2012 (44 of 2012) was promulgated by the Governor of Kerala on the 11th day of August, 2012 and the same was published in the Kerala Gazette Extraordinary No. 1699 dated 13th August, 2012.

9. A Bill to replace Ordinance No. 44 of 2012 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 session which commenced on the 10th day of December, 2012 and ended on the 21st day of December, 2012. As per sub-clause (a) of clause (2) of Article 213 of the Constitution of India, Ordinance No. 44 of 2012 would have ceased to operate on the 21st day of January, 2013. In order to keep alive the provisions of the said Ordinance, the Kerala Co-operative Societies (Amendment) Ordinance, 2013 (16 of 2013) was promulgated by the Governor of Kerala on the 14th day of January, 2013 and the same was published in the Kerala Gazette Extraordinary No. 124 dated 15th January, 2013.

10. A Bill to replace Ordinance No. 16 of 2013 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 session which commenced on the 1st day of February, 2013 and ended on the 19th day of February, 2013. In order to keep alive the provisions of the said Ordinance, the Kerala Co-operative Societies (Amendment) Ordinance, 2013 was promulgated by the Governor of Kerala on the 26th day of February, 2013 and the same was published as Ordinance No. 25 of 2013 in the Kerala Gazette Extraordinary No. 564 dated 27th February, 2013.

11. 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.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-section (13) of Section 63 proposed to be inserted in the principal Act by Clause 4 of the Bill seeks to empower the Government to issue notification either prospectively or retrospectively to carry out the purposes of Section 63.

2. Sub-section (1) of Section 80C proposed to be inserted in the principal Act by Clause 7 of the Bill seeks to empower the Government to frame a scheme to be called the Kerala Co-operative Employee's Welfare Scheme by notification and to establish "the Kerala Co-operative Employees' Welfare Fund".

3. Sub-section (3) of Section 80C proposed to be inserted in the principal Act by Clause 7 of the Bill enumerates the matters which may be provided in the Scheme.

4. Sub-section (1) of Section 80D proposed to be inserted in the principal Act by Clause 7 of the Bill seeks to empower the Government to constitute, by notification in the Gazette, the Kerala State Co-operative Employees' Welfare Board.

5. Sub-section (4) of Section 80D proposed to be inserted in the principal Act by Clause 7 of the Bill seeks to empower the Government to make rules with regard to the staff regulations and service conditions of the employees of the Kerala State Co-operative Employees' Welfare Board.

6. Matters in respect of which rules may be made, schemes may be framed and notifications may be issued are matters of procedure or administrative in nature. Further, the rules after they are made are subject to the scrutiny by the Legislative Assembly. The delegation of legislative power is, thus, of a normal character.

C. N. BALAKRISHNAN.

EXTRACT OF THE RELEVANT PORTIONS FROM THE KERALA
CO-OPERATIVE SOCIETIES ACT, 1969

(21 OF 1969)

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33. *Appointment of new committee or administrator on failure to constitute committee, etc.*—(1) Where the term of office of a committee has expired and a new committee has not been constituted, or where a no-confidence motion is passed by the general body against the existing committee or where the existing committee resigns enbloc or where vacancies occur in the committee either by resignation or otherwise and the number of remaining members cannot constitute the quorum for the meeting of the committee, or where the committee fails to hold its regular meeting consecutively for six months or where the Registrar is satisfied.

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(b) that a new committee is prevented from entering upon office or a new committee fails to enter upon office, on the date on which the term of office of the existing committee expires, the Registrar may, either *suo motu* or on the application of any member of the society, after intimating the circle co-operative union, appoint one administrator or an administrative committee consisting of not more than three individuals, one among them as convener, who need not be member of the society to manage the affairs of the society, for a period not exceeding six months as may be specified in the order, which period may, at the discretion of the Registrar and for reasons to be recorded in writing, be extended from time to time, so however, that the aggregate period shall not, in any case, exceed one year or till a new committee enters upon office, whichever is earlier.

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(1A) Notwithstanding anything contained in sub-section (1), where on receipt of a report from the Registrar, the Government are satisfied that a new committee cannot be constituted or cannot enter upon office of the society before the expiry of the term of office of the committee, administrator or administrators, as the case may be, appointed by the Registrar under sub-section (1) and that it is necessary in the public interest to manage the affairs of the society and to enable a new elected committee to enter upon office, the Government may, by notification in the Gazette, for reasons to be recorded,

permit the Registrar to extend the term of the said committee, administrator or administrators, as the case may be, for a further period not exceeding one year in the aggregate or till a new committee enters upon office, whichever is earlier.

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

(3) The committee or administrator or administrators shall arrange for the constitution of a new committee or for the entering upon office of the new committee as the case may be.

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56. *Disposal of net profit.*—(1) A society shall, out of its net profits in any year,—

(a) ** ** * * * *

(b) ** ** * * * *

(2) ** ** * * * *

(3) Notwithstanding anything contained in section 18 of this Act, in the case of District Co-operative Banks the term ‘member’ shall include nominal and associate members, for the purpose of clause (a) of sub-section (2).

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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.

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(3) The Government may by general or special order, delegate all or any of the powers of the Director of Co-operative Audit, in the Act to his subordinate officers.

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(12) It is responsibility of the managing committee to convene general body meeting or special general body meeting in order to appoint auditors or auditing firms within the stipulated time from among the panel approved by Director of Co-operative Audit, failing which, the members of the managing

committee shall cease to hold their office. In such cases to avoid administrative stalemate, the Registrar may *suo motu* or on application from the Director of Co-operative Audit or from any person authorised in this behalf, appoint an administrator or an administrative committee consisting of not more than three persons, who need not be members of the society, one among them as convener, to manage the affairs of the society, for a period not exceeding six months as may be specified in the order:

Provided that administrator or administrative committee shall arrange for the constitution of a new committee or for entering upon office of the new committee, as the case may be.

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66. *Supervision and inspection.*—(1) The Registrar shall supervise or cause to be supervised by a person authorised by him by general or special order in writing in this behalf, the working of every society as frequently as he may consider necessary. The supervision under this sub-section may include an inspection of the books of the society.

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(11) Notwithstanding anything contained in sub-sections (1) and (2) above, the Registrar or his subordinate officers authorized by him under sub-section (1), shall have power to hold an enquiry with necessary records of a society, on any petition received, and to inspect the affairs of a society periodically, in such cases the inspecting officers shall have the same powers as specified in sub-section (4).

Explanation 1:—The “affairs of a society” for the purpose of this sub-section includes, among other things, matters relating to administration, management and the business of a society.

Explanation 2:—The duty of the officers and chief executive of a society and the nature of offences and penalties mentioned in sub-section (4) shall be applicable to this sub-section also.

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69A. *Co-operative Ombudsman.*—(1) The Government may, by notification in the Official Gazette, frame a scheme to be called the “Kerala Co-operative Ombudsman Scheme” with the object of enabling redressal of complaints relating to deficiency in banking or other services rendered by co-operative societies dealing with banking business.

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