
REPORT OF THE SUBJECT COMMITTEE
ON
THE KERALA CO-OPERATIVE SOCIETIES
(AMENDMENT) BILL, 2019

Presented on 6th February 2019.

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SUBJECT COMMITTEE XI
(FOOD, CIVIL SUPPLIES AND CO-OPERATION)
(2019-2021)

Composition

Chairman :

Shri Kadakampally Surendran,
Minister for Co-operation, Tourism and Devaswom.

Ex-Officio Member :

Shri P. Thilothaman,
Minister for Food and Civil Supplies.

Members :

Shri Abdul Hameed. P., M.L.A.

Shri Anoop Jacob, M.L.A.

Shri Eldose P. Kunnappillil, M.L.A.

Shri George M. Thomas, M.L.A.

Shri P. C. George, M.L.A.

Shri V. Joy, M.L.A.

Shri Muhammed Muhassin P., M.L.A.

Shri Murali Perunelli, M.L.A.

Legislature Secretariat :

Shri V. K. Babu Prakash, Secretary

Shri Mathewkutty G., Joint Secretary

Shri Zacharia P. Samuel, Deputy Secretary

Shri V. G. Riju, Under Secretary.

THE KERALA CO-OPERATIVE SOCIETIES

(AMENDMENT) BILL, 2019

(Report of the Subject Committee)
Subject Committee XI (Food, Civil Supplies and Co-operation) to which
The Kerala Co-operative Societies (Amendment) Bill, 2019
to which (Bill No. 178) was referred, considered the Bill clause by clause and now
submits its Report.

2. The Kerala Co-operative Societies (Amendment) Bill, 2019 was published as a Gazette Extraordinary dated 24th January 2019. The Bill was introduced in the Assembly on 1st February, 2019 and was referred to the Subject Committee XI on the same day.

3. The Committee considered the Bill clause by clause at its meeting held on 4th February 2019 and recommends to adopt the Bill with the following modifications.

Clause 3

In the proviso to sub-section (3) of section 14 A proposed to be inserted by clause 3, after the words "date of resolution that" the word "they" shall be inserted.

Clause 7

After the words, symbols and figure "In sub-section (3)" the words and figures "of section 56" shall be inserted.

Clause 10

1. In entry against item (i) of sub-section (6) of section 74H proposed to be inserted by clause 10, for the word "Chairman" the word "Chairperson" shall be substituted;

2. In sub-section (9) of section 74H proposed to be inserted by clause 10, after the words and figures "section 31" the words "of this Act" shall be inserted;

3. In sub-section (11) of section 74H proposed to be inserted by clause 10, for the words "the principal" the word "this" shall be substituted;

4. In sub-section (14) of section 74H proposed to be inserted by clause 10, the words “officers and” shall be omitted;

5. In sub-section (16) of section 74H proposed to be inserted by clause 10, for the words “officers or other employees” the words “employees of the transferor banks” shall be substituted;

6. In sub-section (17) of section 74H proposed to be inserted by clause 10, after the words “Banking Regulation Act” the words, symbols and figures, “, 1949 (Central Act X of 1949)” shall be inserted;

7. In sub-section (18) of section 74H proposed to be inserted by clause 10, for the word “The” the words “ Notwithstanding anything contained in this Act, the” shall be substituted and for the word 'provision' the word 'provisions' shall be substituted.

Clause 12

In item (b) of sub-clause (ii) for the words and symbols “clause (c) shall be substituted as follows” the words and symbols “for clause (c) the following clause shall be substituted,” shall be substituted.

Clause 13

After the words “In sub-section (6)” the words and figures “of section 94 of the principal Act,” shall be inserted.

4. All other changes are either verbal or consequential.

5. The minutes of dissent and the Bill as reported by the Subject Committee are appended.

Thiruvananthapuram,
4th February 2019.

KADAKAMPALLY SURENDRAN,
Chairman,
Subject Committee XI.

APPENDIX I

വിയോജന കുറിപ്പ്

2019-ലെ കേരള സംസ്ഥാന സഹകരണ സംഘ (ഭേദഗതി) ബിൽ സംബന്ധിച്ച സബ്ജക്ട് കമ്മിറ്റി റിപ്പോർട്ടിനെ താഴെ പറയുന്ന കാരണങ്ങളാൽ വിയോജിപ്പ് രേഖപ്പെടുത്തുന്നു:

1. സംസ്ഥാനത്തെ പതിനാല് ജില്ലാ സഹകരണ ബാങ്കുകൾ, സംസ്ഥാന സഹകരണ ബാങ്കിൽ ലയിപ്പിച്ച് കേരള ബാങ്ക് രൂപീകരിക്കുന്നതിനായാണ് സർക്കാർ തീരുമാനിച്ചിട്ടുള്ളത്. കേരള ബാങ്ക് രൂപീകരിക്കുവാൻ തത്വത്തിൽ അംഗീകാരം നൽകിക്കൊണ്ട് റിസർവ് ബാങ്ക് 19 വ്യവസ്ഥകൾ മുന്നോട്ട് വെച്ചിട്ടുണ്ട്. ഇതിൽ ഏറ്റവും പ്രധാനപ്പെട്ട വ്യവസ്ഥ സംസ്ഥാന, ജില്ലാ സഹകരണ ബാങ്കുകൾ ലയന പദ്ധതി തയ്യാറാക്കി അംഗങ്ങളുടെ മുന്നിൽ സമർപ്പിക്കണമെന്നും, മുന്നിൽ രണ്ട് ഭൂരിപക്ഷത്തോടുകൂടി ലയനത്തിനായുള്ള പ്രമേയം മേൽ പറഞ്ഞ ബാങ്കുകളുടെ ജനറൽ ബോഡി മുൻപാകെ അവതരിപ്പിച്ച് പാസ്സാക്കണമെന്നും ഉള്ളതാണ്. ഇത് മറികടക്കുന്നതിനായി കൊണ്ടുവന്നിട്ടുള്ള നിർദ്ദേശം റിസർവ് ബാങ്കിന്റെ നിർദ്ദേശങ്ങൾക്ക് ഘടകവിരുദ്ധമാണ്. അതുകൊണ്ടുതന്നെ ഈ നിയമം പാസ്സായാൽ കേരള ബാങ്കിന് റിസർവ് ബാങ്കിന്റെ അംഗീകാരം ലഭിക്കുകയില്ല.

2. റബ്കോ അടക്കമുള്ള സ്ഥാപനങ്ങൾ സംസ്ഥാന ജില്ലാ സഹകരണ ബാങ്കുകൾക്ക് നൽകുവാനുള്ള കോടിക്കണക്കിന് രൂപ സർക്കാർ ഏറ്റെടുക്കേണ്ട അവസ്ഥ സംജാതമാകും. ഇതിലൂടെ മാത്രമേ റിസർവ് ബാങ്കിന്റെ നിർദ്ദേശം പ്രാവർത്തികമാക്കുവാൻ സാധിക്കുകയുള്ളൂ. അത് സർക്കാരിന് വൻ ബാധ്യതയാകും.

3. നിലവിൽ ജില്ലാ സഹകരണ ബാങ്കിൽ ജീവനക്കാർ അധികമാണെന്ന് കണ്ടെത്തിയിട്ടുണ്ട്. സംസ്ഥാന സഹകരണ ബാങ്കിൽ ജില്ലാ സഹകരണ ബാങ്ക് ലയിച്ച് കേരള ബാങ്ക് രൂപീകരിക്കുന്നതോടുകൂടി ഇപ്പോഴുള്ള അധിക ജീവനക്കാരെയും സംരക്ഷിക്കേണ്ടിവരും. 2017-ൽ പ്രസിദ്ധീകരിച്ച ക്ലാർക്ക് കം കാഷ്യർ തസ്തികയിൽ നിന്നും ഒരു നിയമനവും ഇനി നടത്തുവാൻ സാധ്യമല്ല 10 വർഷത്തേയ്ക്ക് കേരള ബാങ്കിൽ പുതിയ നിയമനവും ഇതിനാൽ സാധ്യമല്ല. ഇത് പി.എസ്.സി. പരീക്ഷ എഴുതി റാങ്ക് ലിസ്റ്റിൽ ഇടം പിടിച്ചിട്ടുള്ള ഉദ്യോഗാർത്ഥികളോട് കാണിക്കുന്ന ശ്രമതയാണ്. 200/2019.

4. സഹകരണ മേഖലയെ ആശ്രയിക്കുന്ന ലക്ഷക്കണക്കിന് ഇടപാടുകാർ നിക്ഷേപകർ, ചെറുകിട വ്യാപാരികൾ, കർഷകർ, പതിനായിരക്കണക്കിന് ഉദ്യോഗാർത്ഥികൾ എന്നിവർക്ക് ബുദ്ധിമുട്ട് ഉണ്ടാക്കുന്നതും, സഹകരണ മേഖലയിലെ ജനാധിപത്യം തച്ചടച്ചുകൊണ്ട് സർക്കാരിന്റെ സാമ്പത്തിക താല്പര്യം മാത്രം മുൻനിർത്തിയും രൂപീകരിക്കുന്ന ഒന്നാണ് കേരള ബാങ്ക്.

പ്രസ്തുത കാര്യത്തിനുവേണ്ടി സഹകരണ നിയമത്തിൽ കൊണ്ടുവന്നിട്ടുള്ള ഭേദഗതികളോട് ശക്തമായ വിധേജിപ്പ് മേൽപ്പറഞ്ഞ കാരണങ്ങളാൽ രേഖപ്പെടുത്തുന്നു.

അബ്ദുൽ ഹമീദ്. പി., എം.എൽ.എ.

ഒപ്പ്.

അനൂപ് ജേക്കബ്, എം.എൽ.എ.

ഒപ്പ്.

APPENDIX II

THE KERALA CO-OPERATIVE SOCIETIES (AMENDMENT) BILL, 2019

(As reported by the Subject Committee)

[The words underlined /sidelined indicate the modifications suggested by the Committee. Omissions are indicated by asterisks]

A

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 (21 of 1969), for the purposes hereinafter appearing;

BE it enacted in the Seventieth 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, 2019.

(2) Section 3 shall be deemed to have come into force on 8th day of January, 2019 and other sections shall come into force on such date as the State Government may, by notification in the Official Gazette appoint and different dates may be appointed for different sections.

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),—

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

“(ia) “District Co-operative Bank” means a central society having jurisdiction over one revenue district and having as its members Primary Agricultural Credit Societies, 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, which existed under this Act, immediately before the commencement of the Kerala Co-operative Societies (Amendment) Act, 2019 and which has ceased to exist after the commencement of the said Amendment Act.”;

(ii) after clause (k) the following clause shall be inserted, namely:—

“(ka) “Kerala State Co-operative Bank” means an apex society having Primary Agricultural Credit Societies and Urban Co-operative Banks as its members including nominal or associate members of the District Co-operative Banks who shall continue as nominal or associate members of the Kerala State Co-operative Bank;”;

(iii) clause (rb) shall be omitted;

(iv) after clause (s), the following clauses shall be inserted, namely:—

“(sa) “Transferee Bank” means the Kerala State Co-operative Bank”.

“(sb) ‘Transferor Bank’ means the District Co-operative Bank as defined under clause (ia) of this section .”.

3. *Insertion of new section 14A.*—In the principal Act, existing section 14A shall be renumbered as “14AA” and before section 14AA as so renumbered, the following section shall be inserted, namely:—

“14A. *Provision regarding transfer of assets and liabilities of District Co-operative Banks to the Kerala State Co-operative Bank.*—(1) Notwithstanding anything contained in this Act or in any other law for the time being in force, the District Co-operative Banks may by a resolution passed by a simple majority of the members present and voting at the special general body meeting of the members, transfer its assets and liabilities in whole to the Kerala State Co-operative Bank and such transfer shall take effect from the date on which the Registrar approves the resolution.

(2) The resolution shall contain particulars of the assets and liabilities to be transferred.

(3) When a District Co-operative Bank has passed any such resolution, under sub-section (1), it shall give notice thereof in writing to all its members within seven days from the date of resolution, notwithstanding anything contained in the provisions of section 24 or any rules or any bye-laws and sub-rules or any contract to the contrary, any member shall, within a period of thirty days from the date of issuance of the said notice, have the option of withdrawing his shares, deposits or loans, as the case may be:

Provided that any other debtor or creditor shall be informed of such resolution through publication of notice in two leading daily newspapers in vernacular language within seven days from the date of resolution that they have the option to withdraw deposit, loans, as the case may be, within a period of thirty days from the date of publication of notice.

(4) Any member or creditor who does not exercise his option within the period specified in sub-section (3) shall be deemed to have given his assent to the proposals contained in the resolution.

(5) On and from the date of approval of transfer of assets and liabilities of each District Co-operative Bank by the Registrar, all the assets and liabilities as it stood immediately before the transfer shall without any further act, instrument or deed, stand transferred to and vested in the Kerala State Co-operative Bank.

(6) On and from the date of approval of transfer of assets and liabilities of each of the District Co-operative Bank by the Registrar, all pending suits or legal proceedings by or against such Banks shall be continued by the Kerala State Co-operative Bank.

4. *Amendment of section 18.*—In section 18 of the principal Act, the second and third provisos shall be omitted.

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

(i) sub-section (1F) shall be omitted.

(ii) sub-section (1H) shall be omitted.

6. *Amendment of section 36A.*— In section 36A of the principal Act, the words “or a District Co-operative Bank”, “or District Co-operative Banks” wherever they occur shall be omitted and for the words “State Co-operative Bank” the words “Kerala State Co-operative Bank” shall be substituted.

7. *Amendment of section 56.*—In sub-section (3) of section 56 of the principal Act, for the words “District Co-operative Banks” the words “Kerala State Co-operative Bank” shall be substituted.

8. *Amendment of section 59.*—In sub-section (1) of section 59 of the principal Act, for the first proviso the following proviso shall be substituted, namely:—

“Provided that the above restriction shall not be applicable to the Kerala State Co-operative Bank.”.

9. *Substitution of section 74B.*—For section 74B of the Principal Act, the following shall be substituted, namely:—

“ 74B. *Opening of Branches.*—The State Co-operative Agricultural and Rural Development Bank and all primary co-operative societies/banks may open branches in their area of operation with the prior written permission of the Registrar.”.

10. *Insertion of new Chapter XC.*—After Chapter XB of the principal Act, the following Chapter shall be inserted, namely:—

“CHAPTER XC

SPECIAL PROVISIONS RELATING TO THE AMALGAMATION THROUGH TRANSFER OF ASSETS AND LIABILITIES OF THE DISTRICT CO-OPERATIVE BANKS TO THE KERALA STATE CO-OPERATIVE BANK

74H. *Amalgamation of District Co-operative Banks to the Kerala State Co-operative Bank.*—(1) Notwithstanding anything contained in this Act or in any other law for the time being in force, the Registrar shall order the amalgamation of District Co-operative Banks in Kerala with the Kerala State Co-operative Bank on the basis of the resolution passed by the general body as provided under section 14A of this Act.

(2) With the prior approval of the Government the Registrar shall bring into effect the scheme of amalgamation, proposed by the Kerala State Co-operative Bank which is to be presented to the transferor banks.

(3) On and from the date of amalgamation, the shares held by the members of the transferor banks shall be deemed to be the shares of the transferee bank as such:

Provided that the value of shares shall be on the basis of face value of shares held by the members of the transferor banks.

(4) Notwithstanding anything contained in section 15 of this Act, on and from the date of amalgamation of the transferor banks and the transferee bank, the Registration Certificate of transferor banks shall stand cancelled:

Provided that transferor banks shall be deemed to have been dissolved and shall cease to exist as a Corporate Body:

Provided further that no new Registration Certificate is required for the transferee bank.

(5) The existing Board of Directors of transferor banks and transferee bank shall cease to exist on the date of amalgamation and the Government shall nominate an interim Board consisting of not more than three members for a period not exceeding one year from the date of amalgamation or till a newly elected Board of Directors takes charge, whichever is earlier.

(6) The interim board shall consist of the following members, namely:—

- (i) an officer not below the rank of Secretary to Government Chairperson, Ex-officio
- (ii) The Managing Director/Chief Executive Officer of the Kerala State Co-operative Bank Member, Ex-officio
- (iii) an officer not below the rank of Additional Secretary to Government in Finance Department Member, Ex-officio

(7) The interim Board shall exercise all the powers of the Board of Directors of the Transferee Bank as per the Act, Rules and the bye-laws issued thereunder and shall take such necessary steps to complete the amalgamation procedures and conduct election to the Board of Directors.

(8) The Board of Directors of the Kerala State Co-operative Bank shall consist of not more than 21 members as may be prescribed in the rules.

(9) For the purpose of election to the Board of Directors, section 28, section 28A and section 31 of this Act shall apply.

(10) There shall be a Board of Management for taking decisions relating to the banking business and the structure, powers and functions of the Board of Management shall be as may be prescribed in the bye-laws.

(11) Notwithstanding anything contained in sub-section (10) of section 63 of this Act,—

(i) the audit of the financial accounts, as prescribed by the Reserve Bank of India, in the Kerala State Co-operative Bank shall be done by the Chartered Accountants from among the panel of Auditors/Audit Firms approved by the Director of Co-operative Audit;

(ii) the audit of the administrative matters and related accounts of the Kerala State Co-operative Bank shall be done by a panel of departmental auditors;

(iii) the above auditors shall exercise all powers mentioned under clauses (a), (b) and (c) of sub-section (2) of section 64.

(12) Any proceedings, suits, decrees, recovery certificates, appeals, and all other legal proceedings pending or existing immediately before the date of amalgamation before any Court or Tribunal or any other authority, by or against the transferor banks may, as from the date of amalgamation be continued and enforced by or against the transferee bank.

(13) Every permanent and regular employee of the transferor bank or employees on probation, serving in the employment of the transferor bank immediately before the date of amalgamation, shall become, on and from the date of amalgamation, an employee of the transferee bank and shall hold office therein or serve the transferee bank, as the case may be, and shall continue to work in accordance therewith:

Provided that the Government shall make a scheme for cadre integration, seniority, promotion and transfer and such other matters related to employees of the transferor bank and the transferee bank in the service of the transferee bank.

(14) Notwithstanding anything contained in the staff regulation or recruitment rules of the transferor and transferee bank, the service conditions of the *** employees on amalgamation shall be as prescribed by the Government.

(15) The employees who have retired before the date of amalgamation from the service of the transferor banks or opted not to join in the service of the transferee bank on and from the date of amalgamation, and are entitled to benefits, rights or privileges, if any, from transferor bank, shall receive such benefits, rights or privileges from the transferee bank.

(16) The Provident Fund/Gratuity Fund/Pension Fund or any other funds of the transferor bank and any other bodies created, established or constituted as the case may be, for the *** employees of the transferor banks shall continue with the transferee bank.

(17) The transferee bank may open branches based on the prudent financial analysis in line with the provisions of the Banking Regulation Act, 1949 (Central Act X of 1949).

(18) Notwithstanding anything contained in this Act, the provisions of this Chapter shall have overriding effect on all other provisions of the Act ”.

11. *Amendment of section 88.*— In sub-section (1) of section 88 of the principal Act,—

(i) clause (b) shall be omitted;

(ii) clauses (c) to (g) shall be renumbered as clauses (b) to (f).

12. *Amendment of Section 89.*—In section 89 of the principal Act,—

(i) for sub-section (3) the following sub-section shall be substituted namely:—

“(3) Each of the Circle Co-operative Unions, apex societies and central societies shall elect a delegate in such manner as may be prescribed, and all such delegates, the employees’ representatives, the representative of the women members, the representatives of the members belonging to the Scheduled Castes or Scheduled Tribes, the ex-officio members and the Government nominees in the managing committee of the State Co-operative Union shall constitute the General Body of the State Co-operative Union.”;

(ii) in sub-section (4),—

(a) for clause (b) the following clause shall be substituted, namely:—

“(b) one member elected, in such manner as may be prescribed, by the delegates of the apex societies in the State other than the Kerala State Co-operative Bank, from among themselves;”;

(b) for clause (c) the following clause shall be substituted, namely:—

“(c) two members elected by the Board of Directors of the Kerala State Co-operative Bank from among themselves;”.

13. *Amendment of section 94.*—In sub-section (6) of section 94 of the principal Act the words “a Central Co-operative Bank” shall be omitted.

14. *Amendment to the schedule.*—In Schedule I of the principal Act the serial numbers 16 to 29 and entries against it shall be omitted.

15. *Repeal and saving.*—(1) The Kerala Co-operative Societies (Amendment) Ordinance, 2019 (7 of 2019) is hereby repealed.

(2) Notwithstanding such repeal anything done or any action 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.

Secretariat of the Kerala Legislature,
Thiruvananthapuram,
4th February 2019.

V. K. BABU PRAKASH,
Secretary.