

Fourteenth Kerala Legislative Assembly

Bill No. 75

**THE KERALA CO-OPERATIVE SOCIETIES
(AMENDMENT) BILL, 2017**

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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-eighth 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, 2017.

(2) It shall be deemed to have come into force on the 10th day of April, 2017.

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), 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 having jurisdiction over one revenue district and having as its members only Primary Agricultural Credit Societies and Urban Co-operative Banks;”.

3. *Omission of section 16 A.*—Section 16A of the principal Act shall be omitted.

4. *Amendment of section 18.*—In section 18 of the principal Act, to sub-section (1), after the second proviso, the following proviso shall be added, namely:—

“Provided also 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 members.”.

5. *Omission of section 19 A.*—Section 19 A of the principal Act shall be omitted.

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

(a) in sub-section (1), the third proviso shall be omitted;

(b) in sub-section (1H), for the words “at least one”, the words “at least two” shall be substituted;

(c) sub-section (1I), shall be omitted.

7. *Amendment of section 28 AB.*— In section 28 AB of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) No member of a society shall be eligible to hold office as its President or Vice-President for more than two consecutive terms:

Provided that the provisions of this sub-section shall not apply to the President or Vice-President of the societies holding office as such on the date of commencement of the Kerala Co-operative Societies (Amendment) Ordinance, 2017 (4 of 2017), till the completion of their present term.”.

8. *Amendment of section 32.*—In section 32 of the principal Act, in sub-section (1), after the third proviso, the existing Explanation shall be numbered as *Explanation II* and before *Explanation II*, as so numbered, the following Explanation shall be inserted, namely:—

“*Explanation I.*—For the purposes of this proviso, financial assistance includes any financial assistance from the Kerala Co-operative Development and Welfare Fund Board, Deposit Guarantee Scheme implemented by the Kerala State Co-operative Deposit Guarantee Fund Board, Risk Fund Scheme implemented by the Kerala Co-operative Development and Welfare Fund Board, NABARD, National Co-operative Development Corporation and any other financial institution under the control of the State or Central Government and also any financial assistance guaranteed by the said institutions.”.

9. *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 date of commencement of the Kerala Co-operative Societies (Amendment) Ordinance, 2017 (4 of 2017),—

(a) the members of a District Co-operative Bank, other than Primary Agricultural Credit Societies and Urban Co-operative Banks, shall become nominal or associate members of such District Co-operative Banks;

(b) the committees in office of the District Co-operative Banks 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 shall 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 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 committees or administrator or 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.

10. *Repeal and Saving.*—(1) The Kerala Co-operative Societies (Amendment) Ordinance, 2017 (17 of 2017) 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

A three tier short term agricultural credit system is functioning in the Co-operative Sector of Kerala. It consists of Primary Agricultural Credit Societies, District Co-operative Banks and State Co-operative Bank. The District Co-operative Bank was designed to provide financial assistance to Primary Agricultural Credit Co-operative Societies functioning under the provisions of the Kerala Co-operative Societies Act, 1969 and the rules made there under. But, during different intervals, Non-Agricultural Credit Societies were also given voting membership in the District Bank. Due to this, the representation of Primary Agricultural Credit Societies in the Board of District Co-operative Banks are drastically reduced. Under this circumstance, Government had appointed a committee to study, how the changes in representative character in District Co-operative Banks will affect the strength of present three tier credit institutional system and the committee had submitted a detailed report with its recommendations.

2. Representation of Primary Agricultural Credit Societies in District Co-operative Bank is 31% only. Out of the 11759 societies affiliated with District Co-operative Banks, number of Primary Agricultural Credit Co-operative Societies is only 1670. Thus, it is only 14.2%. The paid up capital of 14 District Co-operative Banks is Rs. 835.44 crore. Out of this Rs. 751.26 crore is contributed by Primary Agricultural Credit Societies, which is 84.18% of the total capital. Total Deposit in District Co-operative Banks is Rs. 52455.98 crore. The contribution of Primary Agricultural Co-operative Society is Rs. 26066 crore, which constitute 49.69% in total deposit. But, non-Agricultural Credit Societies have a deposit of Rs. 7629.45 crore only. Balance is personal deposit. Hence, the committee suggested that the voting right in District Co-operative Banks should be limited to Primary Agricultural Credit Societies and Urban Co-operative Banks. Therefore, to ensure that only Primary Agricultural Credit Societies and Urban Co-operative Banks have the voting power in District Co-operative Banks, Sections 2 and 18 of the Kerala Co-operative Societies Act, 1969 have to be amended.

3. Corruption, illegal appointment, misappropriation of funds and illegal promotion are being reported from various institutions functioning in the Co-operative Sector. But, the Government could not safeguard the interest of the co-operative sector in the matter due to legal restrictions. In order to safeguard the interest of the co-operative sector, an amendment in the Kerala Co-operative Societies Act, 1969 is necessary. Therefore, the Government have decided to amend section 32 of the said Act.

4. Certain provisions under the Kerala Co-operative Societies Act, 1969 hinder the free and fair elections to the committees of the co-operative societies. Hence, the provisions for cancelling the membership of a person if he fails to utilise service of the society for two consecutive years and not attending three Annual General Body Meeting of the society have to be amended. Therefore, Sections 16A & 19A of the Kerala Co-operative Societies Act, 1969 are to be omitted.

5. In order to promote transparency and to avoid developing vested interests in co-operative governance, the term of office of the President and Vice President should also be fixed. Therefore, Section 28 and Section 28 AB have to be amended.

6. As the Legislative Assembly of the State of Kerala was not in session and the said proposals had to be given effect to immediately, the Kerala Co-operative Societies (Amendment) Ordinance, 2017 was promulgated by the Governor of Kerala on the 10th day of April, 2017 and the same was published as Ordinance No. 4 of 2017 in the Kerala Gazette Extraordinary No. 703 dated the 10th day of April, 2017.

7. Even though a Bill to replace the said Ordinance by an act of the State Legislature was published as Bill No. 56 of the Fourteenth Kerala Legislative Assembly, the same could not be introduced in, and passed by, the Legislative Assembly during its session which commenced on the 25th day of April, 2017 and ended on the 25th day of May, 2017. Therefore, the Kerala Co-operative Societies (Amendment) Ordinance, 2017 was promulgated by the Governor on the 1st day of June, 2017 and the same was published as Ordinance No. 8 of 2017 in the Kerala Gazette extraordinary No. 1133 dated the 1st day of June, 2017.

8. A Bill to replace Ordinance No. 8 of 2017 by an Act of the State Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of the Kerala during its session which commence on the 8th day of June, 2017 and ended on the same day. Therefore, the Kerala Co-operative Societies (Amendment) Ordinance, 2017 was promulgated by the Governor on the 18th day of July, 2017 and the same was published as Ordinance No. 17 of 2017 in the Kerala Gazette Extraordinary No. 1487 dated the 18th day of July, 2017.

9. The Bill is intended to replace the Ordinance No. 17 of 2017 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.

KADAKAMPALLY SURENDRAN.

(1H) Notwithstanding anything contained in bye-laws of the District Co-operative Bank, at least 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.

(1I) 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.

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28AB. *Election and Removal of President, Vice-President etc.*—(1) A Committee constituted under sub-section (1) of Section 28 shall elect from themselves a President, a Vice-President, a Treasurer or any other officer, by whatever name he is designated in the manner as may be prescribed.

(2) A committee shall remove from office the President, Vice-President or the Treasurer or any other officer of the Committee if a motion expressing want of confidence in any or all of them is carried with the support of the majority of the members of such committee in accordance with the procedure as may be prescribed.

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32. *Supersession of committee.*—(1) If the Registrar, after an inquiry by himself or through his subordinates or on a report of the financing bank, or the Vigilance and Anticorruption Bureau of the Government or the Vigilance Officer or otherwise, is satisfied that the committee of any society,—

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Provided also that the board of a co-operative society shall not be superseded or kept under suspension where there is no Government share holding or loan or financial assistance or any guarantee by the Government or any Board or Institutions constituted by the Government.

Explanation.—A notice and an order given as per this clause to the President, in his absence to the Vice-President or any committee members who is holding charge of President or Vice-President or to the Chief Executive of a society shall be treated as an order given to committee of the society.

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