

**Fifteenth Kerala Legislative Assembly**

**Bill No. 9**

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**THE KERALA CO-OPERATIVE SOCIETIES  
(AMENDMENT) BILL, 2021**

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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 (21 of 1969) for the purposes hereinafter appearing;

BE it enacted in the Seventy second 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, 2021.

(2) Clause (ii) of section 2 and clause (i) of section 9 shall be deemed to have come into force on the 15<sup>th</sup> day of January, 2020, Clause (ii) of section 9 shall be deemed to have come into force on the 11<sup>th</sup> day of April, 2020 and the remaining provisions shall be deemed to have come into force on the 12<sup>th</sup> day of February, 2021.

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) after clause (ab) following clause shall be inserted, namely:—

“(ac) “Anand Pattern Milk Co-operative Society” means a Primary Dairy Co-operative Society, otherwise known as ‘Ksheerolpadaka Sahakarana Sangham’ registered in or after the year 1980, for the implementation of ‘Operation Flood Project’ in Kerala and is functioning as per the model bye-laws of Anand Pattern, with the principal objective of procurement, chilling and marketing of milk and milk products within the area of operation of the society and for providing inputs to the dairy farmers;”;

(ii) 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 Primary Agricultural Credit Societies and Urban Co-operative Banks as its members 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 passing of the orders by the Registrar under sub-section (1) or sub-section (1)(a) of section 74H and has ceased to exist by virtue of such orders:

Provided that, if the general body of a District Co-operative Bank has not passed the resolution under section 14A, it shall continue as such for a period of two years from the date of commencement of the Kerala Co-operative Societies (Amendment) Act, 2021 or till the Registrar completes the process under clauses (a), (b) and (c) of sub-section (1) of section 74H, whichever is earlier;”;

(iii) after clause (p), following clauses shall be inserted, namely:—

“(pa) “Recruitment Committees” means the committees constituted under section 80BB for the purpose of conducting the selection and recruitment process of all categories of employees of the Regional Co-operative Milk Producers' Union;

(pb) “Regional Co-operative Milk Producers' Union” is a central society having Anand Pattern Primary Dairy Co-operative Societies as their members with the principal objective of undertaking procurement, processing and marketing of milk and milk products and to provide technical, financial and production input assistance to their member societies and dairy farmers within the area of operation comprising two or more revenue districts;”.

3. *Amendment of section 8A.*— In section 8A of the principal Act, after sub-section (3) the following sub-section shall be added, namely:—

“(4) Notwithstanding anything contained in this Act or rules made thereunder or bye-laws of a Regional Co-operative Milk Producers' Union, the Anand Pattern Milk Co-operative Societies having a regular elected Managing

Committee and doing the business of milk procurement and sales within the area of operation of the Regional Co-operative Milk Producers' Union shall be admitted as members of the Regional Co-operative Milk Producers' Union.”

4. *Amendment of section 16.*—In section 16 of the principal Act, to sub-section (1), after the fourth proviso, the following proviso shall be added, namely:—

“Provided also that in the case of Anand Pattern Milk Co-operative Societies, dairy farmers who own one or more milch cows or buffaloes and residing within the area of operation of the society or running dairy farms in own or leased land within the area of operation of the society and poured milk not less than five hundred litres for a period of one hundred and eighty days in a year to the society, shall be admitted as members.”.

5. *Insertion of new section 16B.*—In the principal Act, after section 16 the following section shall be inserted, namely:—

“16B. *Eligibility conditions to continue to be an active member of an Anand Pattern Milk Co-operative Societies.*— (1) No member shall be eligible to continue to be an active member of an Anand Pattern Milk Co-operative Society if he/she-

(a) is not pouring milk not less than five hundred litres to the society for one hundred and eighty days during the preceding twelve months; and

(b) is not owning at least one milch cow or buffalo by rearing them in a cattle shed near to his residence or rearing them in farms set up either in his own land or in leased land.

(2) Only those who satisfy the conditions provided in sub-section (1) can become a member of the managing committee of an Anand Pattern Milk Co-operative Society and continue to be the member of the managing committee.”.

6. *Amendment of section 28.*— In section 28 of the principal Act, after sub-section (5) the following sub-sections shall be added, namely:—

“(6) Notwithstanding anything contained in this Act or rules made thereunder or bye-laws of a Regional Co-operative Milk Producers' Union, no President of an Anand Pattern Milk Co-operative Society which is a member of a Regional Co-operative Milk Producers' Union, shall be eligible to hold office as a member of the committee of the Regional Co-operative Milk Producers' Union for more than three terms or fifteen years whichever is higher:

Provided that the provisions of this sub-section shall not apply to members of the committee of the Regional Co-operative Milk Producers' Union holding office as such on the date of commencement of the Kerala Co-operative Societies (Amendment) Act, 2021 till the completion of their original term of five years:

Provided further that the provisions in the above proviso shall not apply to the members of the committee whose tenure was extended beyond their original term of five years.”

(7) The President of an Anand Pattern Milk Co-operative Society, which is a member of the Regional Co-operative Milk Producers' Union only shall be eligible to contest the elections to the committee of the Regional Co-operative Milk Producers' Union and hold office as a member of the committee of the Regional Co-operative Milk Producers' Union if the Anand Pattern Milk Co-operative Society to which he/she belongs, satisfies the following conditions, namely:—

(a) if the society is placed in audit classification A or B during the last audit conducted; and

(b) supply milk procured and pooled by the member society to the Regional Co-operative Milk Producers' Union subject to a minimum quantity as fixed by the committee of the Regional Co-operative Milk Producers' Union:

Provided that the provisions of this sub-section shall not apply to those member societies for a period of two years which are revived after long duration of inactivity and those Primary Dairy Co-operative Societies whose bye-laws were amended to Anand Pattern either from the date of restart of the society or from the date of registration of amendment of bye-laws to Anand Pattern model bye-laws.

(8) Notwithstanding anything contained in this Act or rules made thereunder, the delegate of the member Anand Pattern Milk Co-operative Society to attend the general body meetings and to contest the elections to the managing committee of the Regional Co-operative Milk Producers' Union shall be the President of member Anand Pattern Milk Co-operative Societies only."

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

"(3) Notwithstanding anything contained in this Act or rules made thereunder or the bye-laws of a Regional Co-operative Milk Producers' Union, no President of an Anand Pattern Milk Co-operative Society shall be eligible to hold office as President or Chairman of a Regional Co-operative Milk Producers' Union and its apex society for more than two consecutive terms, whether in full or in part.

(4) Notwithstanding anything contained in this Act or the rules made thereunder or the bye-laws of an Anand Pattern Milk Co-operative Society, the post of the Vice President of Anand Pattern Milk Co-operative Societies shall be reserved for women members."

8. *Amendment of Section 64.*— In section 64 of the principal Act, after sub-section (12) the following sub-section shall be added, namely:—

"(13) Notwithstanding anything contained in this Act or rules made thereunder or bye-laws of a Regional Co-operative Milk Producers' Union, Annual Performance Audit shall be conducted for every financial year by engaging auditors from among the panel of auditors who have adequate experience in dairy industry recommended by the apex society and approved by the functional Registrar of Dairy Co-operatives."

9. *Amendment of section 74H.*—In section 74H of the principal Act,—

(i) in sub-section (1) the following clauses shall be added at the end, namely:—

"(a) if the general body of a District Co-operative Bank has not passed the resolution under section 14A, the Registrar may, after consulting Reserve Bank of India, order merger of such District Co-operative Bank with Kerala State Co-operative Bank, on public interest. No order shall be passed under this clause unless,—

(i) a copy of the proposed order of merger has been sent to the member society or member societies concerned by registered post and published the same in two vernacular dailies having wide circulation in the district in which the society situates, for their objections or suggestions;

(ii) the Registrar shall consider the objections/suggestions, if any, received from the society or societies concerned or from any member or creditor of such society or societies within such period, being not less than fifteen days from the date of posting of the proposed order of merger, as may be specified by the Registrar in this behalf;

(b) the Registrar may after considering the objections/ suggestions referred to in sub-clause (ii) of clause(a), make such modifications, in the proposed order as he may deem fit and the order shall contain such incidental, consequential and supplemental provisions as the Registrar may deem necessary, to give effect to the same;

(c) a member or creditor who has objected the proposed order under clause (b) shall have the option of withdrawing his share and/or deposits or close loans, as the case may be, on application, which shall be made to the society, to which its share, deposit or outstanding loan stands allocated, within a period of thirty days from such order;

(d) on merger all other relevant provisions in this chapter shall apply *mutatis mutandis* to the entities merged under clause (a)."

(ii) after sub-section (1) following sub-section shall be added, namely:—

"(1A) On and from the date of the passing of the order of merger by the Registrar under sub-section (1)(a), all the assets and liabilities of the District Co-operative Bank as it stood immediately before the order of merger shall, without any further act, instrument or deed, stand transferred to and vested in the Kerala State Co-operative Bank."



10. *Insertion of new section 80BB.*— After section 80B of the principal Act, the following section shall be inserted, namely :—

**“80BB. Recruitment Committees for appointments in Regional Co-operative Milk Producers’ Union.**— (1) Notwithstanding anything contained in this Act or rules made thereunder Government shall, by notification in the Gazette, constitute Recruitment Committees which shall be the competent committees for the entire selection and recruitment process of all permanent employees of the Regional Co-operative Milk Producers’ Union.

(2) The Recruitment Committee for undertaking the selection process of all employees other than the Managing Director shall consist of not more than eight members. The Secretary to Government in charge of Dairy Development Department shall be the Chairman of the Committee and the Managing Director of the apex body of the Regional Co-operative Milk Producers’ Union, appointed by the Government, shall be the Convenor of the Committee. The other members shall be as follows,—

(i) Registrar of Dairy (Co-operatives);

(ii) Chairman of the Apex Society;

(iii) Joint Director (General) or Joint Secretary to Government, Dairy Development Department;

(iv) Southern Regional Head of the National Dairy Development Board;

(v) Chairman, Regional Co-operative Milk Producers’ Union;

(vi) Managing Director, Regional Co-operative Milk Producers’ Union.

(3) The Recruitment Committee for undertaking the selection process of the Chief Executive or the Managing Director of the Regional Co-operative Milk Producers’ Union shall consist of not more than four members. The Secretary to Government in charge of Dairy Development Department shall be the Chairman of the Committee and the Chairman of Regional Co-operative Milk Producers’ Union shall be the Convenor of the Committee. The other members shall be the Managing Director of the apex society and the Southern Regional Head of the National Dairy Development Board.”

**11. Repeal and saving.—**(1) The Kerala Co-operative Societies (Amendment) Ordinance, 2021 (92 of 2021) and the Kerala Co-operative Societies (Second Amendment) Ordinance, 2021 (93 of 2021) are 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 ordinances 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 section 14 of the Kerala Co-operative Societies Act, 1969 two third majority of the members of the society is required for amalgamation and transfer of assets and liabilities of two or more co-operative societies. As far as District Co-operative Banks are concerned, as it created difficulty in complying with the transfer of assets and liabilities, the Act was amended incorporating a new section 14A, to relax the condition of two third majority as simple majority, in the case of merger of District Co-operative Banks along with provisions for protecting the interests of its members, creditors and depositors, as per the Kerala Co-operative Societies (Amendment) Act, 2019 (Act 1 of 2019). In pursuance to the provisions of the said Act, out of 14 District Co-operative Banks, 13 have passed resolution in favour of amalgamation with the Kerala State Co-operative Bank, but one District Co-operative Bank, i.e., Malappuram District Co-operative Bank has not passed the resolution and not adopted the scheme of amalgamation as suggested by the Registrar.

2. The spirit behind the amalgamation of District Co-operative Banks with the State Co-operative Bank is that, on the existence of two higher tiers viz., KSCB at apex level and DCBs at middle level adds to the cost on interest without offering any significant benefit to the lowest tier, viz., Primary Agricultural Co-operative Societies (PACs). De-layering of one tier will help in unlocking these funds which can be put to more productive uses.

3. As per the provisions of the Kerala Co-operative Societies (Amendment) Act, 2019 (1 of 2019) the District Co-operative Banks will cease to exist, and the members of the said banks i.e., primary co-operative societies will become the members of the Kerala State Co-operative Bank. There is no provision in the Kerala Co-operative Societies Act, 1969 or any other law to control and regulate

the functioning of the District Co-operative Bank which has not adopted the scheme of amalgamation. Moreover, the majority of the funds of the DCBs are the contributions of PACs and PACs became the members of the SCB. Since the DCBs have no existence, if the PACs withdraw their deposits from DCB, then the existence of DCB itself also will be under challenge.

4. In the above circumstance, Government have decided to merge the District Co-operative Bank which has not passed resolution in favour of amalgamation, with the Kerala State Co-operative Bank by adopting a reasonable method by providing opportunities to its members, depositors and creditors, by an order of the Registrar in consultation with the Reserve Bank of India.

5. As the Legislative Assembly of the State of Kerala was not in session and the said proposal had to be given effect immediately, the Kerala Co-operative Societies (Amendment) Ordinance, 2020 was promulgated by the Hon'ble Governor of Kerala on 14<sup>th</sup> January, 2020 and the same was published as Ordinance No. 6 of 2020.

6. As 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 during its session which commenced on the 29<sup>th</sup> day of January, 2020 and ended on the 12<sup>th</sup> day of February, 2020, the Kerala Co-operative Societies (Amendment) Ordinance, 2020 was promulgated by the Hon'ble Governor of Kerala and published as Ordinance No. 16 of 2020.

7. As 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 during its session which commenced on the 2<sup>nd</sup> March, 2020 and ended on the 13<sup>th</sup> day of March, 2020, the Kerala Co-operative Societies (Amendment) Ordinance, 2020 was promulgated by the Hon'ble Governor of Kerala on 1<sup>st</sup> April, 2020 and was published as Ordinance No.20 of 2020.

8. The Hon'ble High Court of Kerala in its interim order, passed in certain Writ Petitions, directed the Reserve Bank of India not to proceed further as per the provisions of the Ordinance. Moreover, the recent scenario of lockdown introduced throughout the country, also affected the completion of merging process. Hence

the merging process could not be completed within a period of 3 months from the date of commencement of the Ordinance. Hence Government decided to make suitable amendments.

9. As the Legislative Assembly of the State of Kerala was not in session and as the said proposal had to be given effect immediately the Kerala Co-operative Societies (Second Amendment) Ordinance, 2020 was promulgated by the Hon'ble Governor on the 9<sup>th</sup> day of April, 2020 and was published as Ordinance No. 27 of 2020.

10. As 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 during its session which commenced on the 24<sup>th</sup> day of August, 2020 and ended on the same day and in order to keep alive the provisions of the Ordinance Kerala Co-operative Societies (Second Amendment) Ordinance, 2020 was promulgated by the Hon'ble Governor of Kerala on the 28<sup>th</sup> day of September, 2020 and was published as Ordinance No. 58 of 2020.

11. Though Bill No. 274 of 2021 of the Fourteenth Kerala Legislative Assembly was published to replace the said Ordinance by an Act of the State Legislature, the same could not be introduced in and passed by the Kerala Legislative Assembly during its session which commenced on the 31<sup>st</sup> day of December, 2020 and ended on the same day and during its session which commenced on the 8<sup>th</sup> day of January, 2021 and ended on 22<sup>nd</sup> January, 2021 due to paucity of time.

12. In order to keep alive the provisions of the said Ordinance, the Kerala Co-operative Societies (Amendment) Ordinance, 2021 was promulgated by the Governor of Kerala on the 9<sup>th</sup> day of February, 2021 and the same was published as Ordinance No. 24 of 2021 in the Kerala Gazette Extraordinary No. 649 dated 10<sup>th</sup> February, 2021.

13. As 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 during its session which commenced on the 24<sup>th</sup> day of May, 2021 and ended on the 10<sup>th</sup> day of June, 2021 and in order to keep alive the provisions of the said

Ordinance, the Kerala Co-operative Societies (Amendment) Ordinance, 2021 (92 of 2021) was promulgated by the Hon'ble Governor of Kerala on 2<sup>nd</sup> day of July, 2021 and the same was published in the Kerala Gazette Extraordinary No.1954 dated 3<sup>rd</sup> July, 2021.

14. There exists two types of Primary Dairy Co-operative Societies, i.e., traditional Dairy Co-operative Societies and Anand Pattern Co-operative Societies (APCOS). As per G.O. (P) No.183/ 79/AD dated 27<sup>th</sup> April, 1979, it was directed to take necessary steps to amend the Kerala Co-operative Societies Act, 1969 with regard to the establishment and functioning of Anand Pattern Dairy Co-operative Societies, Regional Co-operative Milk Producers' Unions and State Federation.

15. The expert committee under the Chairmanship of former Dairy Development Commissioner Smt. Lida Jacob, IAS (Rtd.), constituted to conduct a comprehensive study on the three-tier Dairy Co-operative structure in the Kerala State recommended for limiting the term of members of the managing committee to a maximum of 3 terms, women participation etc. The same was reiterated in the report submitted by the High Level Committee consisting of experts from all fields of Animal Husbandary and Dairy Sectors.

16. In the above circumstances, with a view to strengthen the functioning of the Primary Dairy Co-operative Societies and the Regional Co-operative Milk Producers' Union, to ensure that only the real dairy farmers can become the active members of the Dairy Co-operative Societies and its managing committees, to limit the term of the members of the managing committees of Regional Co-operative Milk Producers' Union to a maximum of three terms, to ensure women participation in these societies and to constitute recruitment committees to ensure fair recruitment process in the Regional Co-operative Milk Producers' Union, new provisions were needed to be incorporated in the Kerala Co-operative Societies Act, 1969 (21 of 1969) by amending sections 2, 8A, 16, 28, 28AB, 64 and by inserting new sections 16B and 80BB.

17. As the Kerala Legislative Assembly of the State of Kerala was not in session and as the said proposals had to be given effect immediately, the Kerala Co-operative Societies (Second Amendment) Ordinance, 2021 was promulgated by the Governor of Kerala on the 12<sup>th</sup> day of February, 2021 and published as

Ordinance No. 32 of 2021. Due to inadvertent omission, certain clerical errors were crept in certain provisions of the said Ordinance. Hence, the Government have decided to make necessary amendments in the relevant provisions to rectify the clerical errors. As the Legislative Assembly of the State of Kerala was not in session and as the said proposals had to be given effect immediately, the Kerala Co-operative Societies (Third Amendment) Ordinance, 2021 was promulgated by the Hon'ble Governor of Kerala on the 24<sup>th</sup> day of February, 2021 and published as Ordinance No. 47 of 2021.

18. A Bill to replace the said two Ordinances by an Act of the State Legislature could not be introduced in and passed by the Kerala Legislative Assembly during its session which commenced on the 24<sup>th</sup> day of May, 2021 and ended on 10<sup>th</sup> day of June, 2021.

19. As the Legislative Assembly of the State of Kerala was not in session and as the said proposals had to be given effect immediately the Kerala Co-operative Societies (Second Amendment) Ordinance, 2021 (93 of 2021) was promulgated by the Hon'ble Governor on 2<sup>nd</sup> day of July, 2021 and the same was published in the Kerala Gazette Extraordinary No. 1952 dated 3<sup>rd</sup> July, 2021.

20. The Bill seeks to replace the above said Ordinance Nos. 92 of 2021 and 93 of 2021 by conjoining the provisions in the said Ordinances.

#### 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 (1)(a) of section 74H proposed to be inserted in the principal Act by clause 3 of the Bill seeks to empower the Registrar to issue order of merger.

2. Sub-section (1) of section 80BB proposed to be inserted in the principal Act by clause 10 of the Bill empowers the Government to constitute Recruitment Committees for the entire selection and recruitment process of all permanent employees of the Regional Co-operative Milk Producers' Union.

3. The matter in respect of which notifications or orders may be issued or rules may be made are matter of procedure and are of routine and administrative in nature. Further, the rules to be made are subject to the scrutiny of the Kerala Legislative Assembly. The delegation of Legislative power is therefore, of a normal character.

V. N. VASAVAN.







**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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**64. Scope of audit, powers of the Director of Co-operative Audit and procedure for audit.—**(1) The audit shall include an examination of overdue debts, if any, the verification of the cash balance and securities and a valuation of the assets and liabilities of the society concerned and such other audit matters, as may be prescribed.

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(12) Notwithstanding anything contained in this Act it shall be the duty of the committee of a society,—

(a) to request the Director of Co-operative Audit to get its accounts audited every year by remitting the required fee or cost for audit in advance or as determined by the Director of Co-operative Audit and to get its books, accounts, financial statements and all other statements required by the auditor for audit, written up and completed and to submit them for audit through its Chief Executive, to the Director of Co-operative Audit or officer authorised by him for the purpose of audit within the time limit stipulated in sub-section (4), before a request for audit is made to the Director of Co-operative Audit;

(b) to place the audit certificate in full before the general body or the representative general body and to read over to the General Body or representative general body of the defects mentioned in it and also to place the rectification reports of each defects before the general body or the representative general body;

(c) to rectify all the defects mentioned in the audit certificate and to submit the rectification reports on the defects mentioned in the audit certificate, to the Director of Co-operative Audit and to the Registrar within two months of the receipt of the audit certificate.

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**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.

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**80B. Co-operative Service Examination Board.**—(1) Notwithstanding anything contained in this Act or the rules or in the bye-laws of any society relating to the recruitment of officers and servants thereof, the Government shall, by notification in the Gazette, constitute a Co-operative Service Examination Board for the conduct of written examination for all direct recruitment to posts of and above the category of Junior Clerks in the Primary Agricultural Credit Societies, Primary Credit Societies, Urban Co-operative Banks and Primary Agricultural and Rural Development Banks in the State.

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