

**Thirteenth Kerala Legislative Assembly
Bill No. 179**

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

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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-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 (Amendment) Act, 2013.

(2) It shall come into force at once.

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 (a), the following clauses shall be inserted, namely:—

“(aa) “assisted society” means a co-operative society which has received the Government assistance in the form of share capital, loan, grant or any other financial assistance or any guarantee by the Government or from Boards constituted by the Government for repayment of loan, interest or deposits;

(ab) “auditing of accounts of co-operative societies” means a close examination of financial transactions, overdue debts, if any, maintenance of books of accounts, documents and other records of a business and includes an inquiry into the affairs of the society and subsidiary institutions in order to ascertain the correctness of accounts and the extent to which its activities were useful in promoting the economic welfare of the members in accordance with co-operative principles;”;

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

“(da) “chief executive” means any employee of a co-operative society by whatever designation called and includes an officer of the State Government or an employee of any other institution or co-operative society, who discharges the functions of a chief executive under the Act, the Rules or the bye-laws;”;

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

“(ecc) “co-operative principles” means the co-operative principles listed in Schedule II appended to this Act;”;

(iv) for clause (1 a), the following clause shall be substituted, namely:—

“(1a) “miscellaneous societies” means such societies, as may be prescribed, and which accept deposits from their members only and no deposits shall be accepted from nominal or associate members, and shall undertake business activities for the welfare of its members as per the bye-laws and shall issue loans only to members:

Provided that no agricultural loans or schematic loans shall be issued to the members except the loans for welfare activities;”;

(v) the existing clause (oa) shall be re-numbered as clause (oaa) and before that clause as so re-numbered the following clause shall be inserted, namely:—

“(oa) “prescribed period” means the period of limitation specified in Schedule III appended to this Act;”.

3. *Amendment of section 4.*—To section 4 of the principal Act, the following proviso shall be added, namely:—

“Provided that no co-operative society shall be registered if it is likely to be economically unsound, or the registration of which have an adverse effect on development of co-operative movement.”.

4. *Amendment of section 8.*—In section 8 of the principal Act,—

(i) the existing section shall be numbered as sub-section (1) of that section and after that sub-section as so numbered, the following sub-section shall be inserted, namely:—

“(2) Notwithstanding anything contained in sub-section (1), where the Registrar is satisfied that the original registration certificate is irrecoverably lost and a duplicate certificate could not be issued as the files or records regarding the Registration of the co-operative society was lost, after registration, the Registrar shall issue a certificate stating the registration number and date of registration of a co-operative society, on the basis of the details available in the audit certificate and the records available with the Registrar, signed and sealed by him, which shall be conclusive proof that the said society is duly registered and it shall be treated as a certificate of registration.”.

5. *Amendment of section 9.*—In the proviso to section 9 of the principal Act, the words “and control” shall be omitted.

6. *Insertion of new section 9A.*—In the principal Act, after section 9, the following section shall be inserted, namely:—

“9A. *Publication of name by a co-operative society.*—Every co-operative society,—

(a) shall paint or affix its name, register number and the address of its registered office and keep the same painted or affixed in conspicuous position, in letters easily legible to members in vernacular language and in English language, on the outside of every office or place in which its business is carried on;

(b) shall have its name engraved in legible characters on its seal with common emblem; and

(c) shall have its name and address of its registered office, mentioned in legible characters in all its business letters in all its bill heads and letter paper, and in all its notices and other official publications, and also have its name so mentioned in all bills of exchange, hundies, promissory notes, endorsements, cheques and orders for money or goods purporting to be signed by or on behalf of the co-operative society, and in all bills of parcels, invoices, receipts and letters of credit of the co-operative society.”.

7. *Amendment of section 12.*—In section 12 of the principal Act, sub-sections (5), (6) and (7) shall be omitted.

8. *Insertion of new section 13A.*—After section 13 of the principal Act, the following section shall be inserted, namely:—

“13A. *Subject matter of bye-laws.*—Every co-operative society shall make its bye-laws consistent with the provisions of this Act and Rules and no provision in the bye-laws of a co-operative society shall be contrary to the provisions of the Act and the Rules.”.

9. *Amendment of section 14.*—In section 14 of the principal Act,—

(i) in sub-section (1) the words “with the previous approval of the Registrar and” shall be omitted;

(ii) in sub-section (2), the words “with the previous approval of the Registrar and” shall be omitted;

(iii) sub-sections (8) and (9) shall be omitted.

10. *Insertion of new sections 14A and 14B.*—After section 14 of the principal Act, the following sections shall be inserted, namely:—

“14A. *Promotion of subsidiary institutions for the economic welfare of members.*—(1) A co-operative society may by a resolution passed at general meeting by a majority of members present and voting, promote, one or more subsidiary institutions, which may be registered under any law for the time being in force, for the furtherance of its stated objects.

(2) Any subsidiary institution promoted under sub-section (1) shall exist only as long as the general body of the co-operative society deems its existence necessary:

Provided that a co-operative society, while promoting such a subsidiary institution shall not transfer or assign its substantive part of business or activities undertaken in furtherance of its stated objects to such subsidiary institutions.

Explanation:—For the purpose of this section,—

(a) an institution shall be deemed to be a subsidiary institution where the co-operative society,—

(i) controls the management or board of directors or members of governing body of such institutions; or

(ii) holds more than half in nominal value of equity shares of such institutions.

(b) a subsidiary institution shall not include a partnership firm.

(3) The annual reports and audited accounts of any such subsidiary institution shall be placed each year before general body meeting of the promoting co-operative society.

14B. *Partnership of co-operative societies.*—(1) Any two or more co-operative societies with prior permission of the Registrar, may by resolution passed by the majority of the members present and voting at a general body meeting of each of such co-operative societies, may enter into partnership to carry out anyone or more specific business. Written notice of the general body meeting shall be given to each member before fifteen clear days of such meeting.

(2) The partnership shall be in the interest of the members of the co-operative society or the co-operative societies or shall be in the public

interest or shall be in the interest of the co-operative movement in general and it does not mean to be a partnership firm registered under Indian Partnership Act, 1932 (Central Act 9 of 1932).”.

11. *Insertion of new section 16A.*—After section 16 of the principal Act, the following section shall be inserted, namely:—

“16A. *Ensuring participation of members in the management of societies.*—(1) No member shall be eligible to continue to be a member of a co-operative society if he,—

(a) is not using the services of the society for two consecutive years or using the services below the minimum level as may be prescribed in the rules or the bye-laws;

(b) is doing business which is in conflict or competition with the business of such co-operative society;

(c) has not attended three consecutive general meetings of the society and such absence has not been condoned by the members in the general meeting.

(2) Where any person becomes ineligible for continuing as a member as per sub-section (1), the committee of the society may remove the person from membership after giving him an opportunity for making his representation, if any, and the person concerned shall thereupon cease to be a member of the society:

Provided that no member of the society removed as above shall be eligible for re-admission as a member of that society for a period of one year from the date of such removal.”.

12. *Amendment of section 17.*—In section 17 of the principal Act,—

(i) in sub-section (1), after the words, “the interest of the society” the words “or persistently defaulting payment of his dues, or has failed to comply with the provisions of the bye-laws” shall be inserted;

(ii) after sub-section (3), the following sub-sections shall be added, namely:—

“(4) The expulsion from membership may involve forfeiture of shares held by the member.

(5) No member of the society who has been expelled under sub-section (1) shall be eligible for re-admission as a member of that society, for a period of one year from the date of such expulsion.”.

13. *Insertion of new sections 19A and 19B.*—After section 19 of the principal Act, the following sections shall be inserted, namely:—

“19A. *Member participation.*—No member of a society shall exercise the right of a member unless he has attended the minimum required general body meeting and minimum level of services as may be prescribed.

19B. *Right of a member to get information.*—Every society shall keep open to inspection for its members, free of charge, at all reasonable times, at the registered address of the society,—

- (a) an up-to-date copy of the Kerala Co-operative Societies Act, 1969;
- (b) an up-to-date copy of the Kerala Co-operative Societies Rules, 1969;
- (c) an up-to-date copy of the bye-laws of the society;
- (d) a register of members;
- (e) the latest audited balance sheet of the society; and
- (f) the accounts of the society in so far as they relate to his transaction only.”.

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

(i) in sub-section (1), for the words “not exceeding” the word “of” shall be substituted.

(ii) to sub-section (1), the following explanation shall be added, namely:—

“*Explanation:*—Notwithstanding anything contained in the bye-laws, for the purpose of calculating the term of committee, five years from the date of election will be taken to be the term of the committee.”;

(iii) to sub-section (1), after the second proviso, the following proviso shall be added, namely:—

“Provided also that in the case of the following type of co-operative societies election shall be conducted on ward basis in accordance with the bye-laws, namely:—

- (a) Primary Agricultural Credit Societies/Service Co-operative Banks/ Farmers Service Co-operative Banks/Rural Banks/Regional Banks;
- (b) Urban Co-operative Banks;
- (c) Urban Co-operative Societies;
- (d) Primary Agricultural and Rural Development Banks;
- (e) Primary Housing Co-operative Societies.”;

(iv) in sub-section (1A), for the words “thirteen” and “twenty five” the words “fifteen” and “twenty one” shall respectively be substituted;

(v) to sub-section (1A), after the existing proviso, the following provisos shall be added, namely:—

“Provided further that this section shall not be applicable to the committees of Primary Co-operative Societies and all other types of co-operative societies constituted prior to the commencement of the Kerala Co-operative Societies (Amendment) Act, 2013:

Provided also that this section shall not be applicable to the societies where election notification was issued and election procedure was started on the basis of the existing provisions of the Act, prior to the commencement of the Kerala Co-operative Societies (Amendment) Act, 2013.”;

(vi) in sub-section (1B), after the words “as the case may be”, the words “subject to the limit specified in sub-section (1A) of section 28” shall be inserted;

(vii) for sub-section (1G), the following sub-section shall be substituted, namely:—

“(1G) Notwithstanding anything contained in the bye-laws of a society, the committee in office shall be competent to co-opt two persons or representatives who are having experience in the field of banking, management, finance or specialization in any other field, relating to the objects and activities undertaken by the co-operative society as members of the Board of such society:

Provided that the number of such co-opted members shall not exceed two in addition to maximum limit specified in sub-section (1A):

Provided further that such co-opted members shall not have the right to vote in any election of the co-operative society in their capacity as such member and is not eligible to be elected as office bearers of the board:

Provided also that such co-opted members of a co-operative society shall also be members of the board and such members shall be excluded for the purpose of counting the total number of directors specified in sub-section (1A).”;

(viii) after sub-section (1I), the following sub-section shall be added, namely:—

“(1J) Notwithstanding anything contained in the bye-laws of the society, casual vacancy of an elected member of the committee shall be filled up by nomination out of the same class of members, if the term of office of the board is less than half of its original term.”;

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

(i) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) Notwithstanding anything contained in this Act or in the Rules, the Government shall by notification in the Gazette, constitute a State Co-operative Election Commission for the superintendence, direction and control of the preparation of electoral rolls and for the conduct of all elections to co-operative societies including election to the President/Vice President and Representative General Body.”;

(ii) the proviso to sub-section (1) shall be omitted;

(iii) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) The State Co-operative Election Commission shall consist of not more than three members, one among them shall be the State Chief Co-operative Election Commissioner and others shall be Commissioners. The State Chief Co-operative Election Commissioner shall be an officer not below the rank of Special Secretary to Government. The Commissioners shall be persons, who are or have been officers of the Department of Co-operation, not below the rank of Additional Registrar of Co-operative Societies. The appointment of State Chief Co-operative Election Commissioner and the Commissioners shall be for a period of five years from the date of assumption of office or sixty two years, whichever is earlier:

Provided that, in the case of officers in service, the Chief Election Commissioner and the Commissioners shall vacate their offices on their date of superannuation:

Provided further that the Government may appoint Regional or District Election Officers not below the rank of Joint Registrars of Department of Co-operation for the superintendence, direction and control of the preparation of electoral rolls and for the conduct of all elections to co-operative societies in the regional/district level:

Provided also that,—

(i) the State Co-operative Election Commission shall in consultation with the Registrar have power to fix, alter or revise the maximum and minimum limit of election expenses to be spent by different classes of societies by special or general order;

(ii) the Election Commission may fix fee or cost for election process, in accordance with rules made in this behalf;

(iii) the procedure for payment of election fee or cost shall be such, as may be prescribed.”.

16. *Amendment of section 29.*—In section 29 of the principal Act,—

(i) in sub-section (1), for the words “once in a year”, the words “within a period of six months of close of the financial year” shall be substituted;

(ii) in clause (c) of sub-section (1), after the words ‘audit report’, the words “and the report and follow up action of the committee thereon” shall be inserted;

(iii) after clause (c), the following clauses shall be added, namely:—

(ca) review of operational deficit/loss, if any, and programme to reduce such deficit;

(cb) approval of the programme of activities of the society prepared by the committee for the ensuing year;

(cc) review of annual report and accounts of any subsidiary organization, if any;

(cd) amendment of bye-laws;

(ce) declaration regarding date of holding of its general body meeting and conduct of elections when due; and

(cf) any other information required by the Registrar in pursuance of the provisions of the Act;

(iv) after sub-section (2), the following sub-sections shall be inserted, namely:—

“(3) Where the board of a co-operative society fails to convene the annual general meeting within the period specified in sub-section (1), the Registrar or the person authorized by him in this behalf shall be competent to convene such annual general meeting within a period of ninety days from the date of expiry of the period mentioned in sub-section (1) and the expenditure incurred on such meeting shall be borne by the co-operative society.

(4) The person or persons who, in the opinion of the Registrar, were responsible for not convening the annual general meeting within the stipulated period shall be disqualified for one term for being elected as committee members and to continue as members of a society in addition to being liable for any other provisions under this Act:

Provided that the Registrar shall, before passing order under this sub-section, afford a reasonable opportunity of being heard to each such person, who in his opinion were responsible for not convening the annual general meeting within the specified period.

(5) A notice of the general meeting stating the place, date and hour of the meeting together with the agenda shall be given to every member, as may be prescribed.”.

17. *Amendment of section 31.*—In section 31 of the principal Act,—

(i) in the last portion of sub-section (1), for the words “ the government or any other authority specified by them in this behalf shall have the right to nominate not more than three persons or one-third of the total number of members of the committee of such apex or central society, whichever is less, to be the members of the committee” the words “ the government or any other authority shall have the right to nominate not more than two persons to the committee of an Assisted, Apex or Central Society” shall be substituted;

(ii) after sub-section (2), the following sub-section shall be inserted, namely:—

“(2A) The person nominated under sub-section (1) shall not be eligible to hold the office of the president/chairman or vice-president/vice-chairman of the Apex or Central Society nor will be eligible for being sent as the delegate of the Apex or Central Society.”;

(iii) sub-section (4) shall be omitted.

18. *Amendment of section 32.*—In section 32 of the principal Act,—

(i) in the last portion of sub-section (1), the words “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” shall be omitted.”.

(ii) before “Explanation” to clause (d) of sub-section (1), the following provisos shall be added, namely:—

“Provided that in the case of co-operative society, carrying on the business of banking, the provisions of the Banking Regulation Act, 1949(Central Act 10 of 1949) shall also apply:

Provided further that in the case of a co-operative society, carrying on the business of Banking, appointment of administrator/administrative committee shall not exceed one year in the aggregate:

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.”.

19. *Amendment of section 33.*—In section 33 of the principal Act, after clause (a) of sub-section (1) the following clause shall be inserted, namely:—

“(aa) there is stalemate in the constitution or functions of the committee.”.

20. *Amendment of section 56.*—In section 56 of the principal Act, in sub-section (1), after clause (b), the following clause shall be inserted, namely:—

“(c) ten percent of the net profit to the Co-operative Member Relief Fund as may be prescribed.”.

21. *Amendment of section 57 B.*—In section 57B of the principal Act, after sub-section (2), the following sub-sections shall be inserted, namely:—

“(3) All societies covered under the Deposit Guarantee Scheme shall enroll and contribute towards the Scheme within six months from the date of commencement of the Kerala Co-operative Societies (Amendment) Act, 2013 failing which the societies have no right to accept deposit from depositors and the Registrar shall be competent to issue prohibition order, restraining the society from accepting deposits for such period specified in the order:

Provided that before making such order, the Registrar shall give an opportunity to the chief executive of the society to state his objection, if any, to the proposed action.

(4) Notwithstanding anything contained in sub-section (3) the Registrar may exempt any society for a period upto one year by a general or special order from enrolling such societies under the Deposit Guarantee Scheme with reasons to be recorded:

Provided that if any society violate the prohibition order under sub-section (3) the Registrar shall be competent to demand a sum of rupees five thousand only as penalty. If any society fails to pay such penalty, within two weeks from the date of receipt of demand notice, the Registrar shall be competent to issue direction to the financing bank to recover the amount from the account maintained in the financing bank by the society, or to recover the amount under the provisions of the Kerala Revenue Recovery Act, 1968 (15 of 1968). If the violation is a continuing one, a further penalty of rupees one thousand for every day shall be levied, after the first day, during which the violation continues.”.

22. *Amendment of section 57 D.*—In section 57 D of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) All societies covered under the Co-operative Risk Fund Scheme shall contribute towards the scheme at the rate specified in the scheme within three months from the date of commencement of the Kerala Co-operative Societies (Amendment) Act, 2013 failing which the societies have no right to issue loans to members and general public and the Registrar shall be competent to issue prohibition order, restraining the society from providing loans:

Provided that before making such order, the Registrar shall give an opportunity to the chief executive of the society to state his objection, if any, to the proposed action:

Provided further that if any society violate the prohibition order, the Registrar shall be competent to demand a sum of rupees five thousand only as penalty. If any society fails to pay such penalty, within two weeks from the date of receipt of demand notice, the Registrar shall be competent to issue direction to the financing bank to recover the amount from the account maintained in the financing bank by the society, or to recover the amount under the provisions of the Kerala Revenue Recovery Act, 1968 (15 of 1968).” .

23. *Amendment of section 63.*—In section 63 of the principal Act,—

(i) for sub-section (4), the following sub-section shall be substituted, namely:—

“(4) It shall be the duty of the managing committee to audit the accounts of every society at least once in every year :

Provided that the accounts of every society shall be audited within six months of the close of the financial year to which such accounts relate.”;

(ii) for sub-section (5), the following sub-sections shall be substituted, namely:—

“(5) The procedure to be adopted in auditing the accounts of different types of co-operative societies should be in the manner specified in the audit manual approved by Director of Co-operative Audit or guidelines, directions as may be issued, from time to time, by the Registrar, the National Bank for Agricultural and Rural Development or Reserve Bank of India, as the case may be, from time to time.

(5A) It shall be the duty of the Director of Co-operative Audit in consultation with Registrar to revise, amend or update audit manual in every five years, as may be prescribed.”;

(iii) after sub-section (7), the following sub-sections shall be inserted, namely:—

“(8) The minimum qualification and experience of auditors for auditing accounts of the co-operative society may be such, as may be prescribed.

(9) Every co-operative society shall cause to be audited by an auditor or auditors or team of auditors referred to in sub-section (8) appointed by general body or special general body from among the panel of auditors approved by the Director of Co-operative Audit:

Provided that if there are no auditors available from the above panel, the general body of a society may appoint auditing firms from among a panel approved by the Director of Co-operative Audit.

(10) The financial accounts of all apex societies shall be audited by auditing firms from among the panel approved by the Director of Co-operative Audit and the administrative matters and related accounts of assisted apex societies shall be audited by the Departmental auditors from among the panel approved by the Director of Co-operative Audit as may be prescribed and submit the audit reports to the Director of Co-operative Audit.

(11) The audit report of the accounts of an apex co-operative society, shall be laid by the Government, before the Legislative Assembly, in the manner prescribed.

(12) It is the 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 authorized 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.”.

24. *Amendment of section 64.*—In section 64 of the principal Act,—

(i) for sub-section (4), the following sub-sections shall be substituted, namely:—

“(4) The financial statements and other statutory statements as required by auditors shall be prepared by the chief executive of the society within one month from the date of close of the financial year and submit it before managing committee and the fact shall be reported to the Director of Co-operative Audit or to the persons authorized by him in this behalf.

(4A) It shall be the duty of the managing committee of every society to ensure the accuracy of financial and other statutory statements. It is the responsibility of the managing committee to submit the above statements for audit within one month from the date of receipt of the above statements before the auditor. Lapse on the part of managing committee in this regard will be considered as a disqualification to hold office and they shall cease to be a member of the committee as may be prescribed. In such cases to avoid administrative stalemate, the Registrar may *suo motu* or on application from the Director of Co-operative Audit or by any person authorized 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.

(4B) Within three months from the date of receipt of the audit report, the Director of Co-operative Audit shall issue an audit certificate to the concerned society with a copy of audit memorandum as may be prescribed.”;

(ii) for sub-section (5), the following sub-section shall be substituted, namely:—

“(5) The auditor or auditing firms appointed as per section 63 shall complete the audit within four months from the date of receipt of the statements and submit audit report to the Director of Co-operative Audit or to the persons authorized by him in this behalf.”;

(iii) in sub-section (7), the words “or can be recovered from the account maintained in the financing bank by the society, through an order issued by the Registrar upon the request from the Director of Co-operative Audit” shall be added at the end.

25. *Amendment of section 65.*—In sub-section (5) of section 65 of the principal Act, the words “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 way, exceed one year” shall be added at the end.

26. *Insertion of new section 66 C.*—In the principal Act, after section 66 B, the following section shall be inserted, namely:—

“66C. *Submission of returns to the Registrar.*—Every co-operative society shall file returns, within six months of the closure of every financial year, before the Registrar, containing the following particulars, namely :—

- (a) a comprehensive annual report of its activities ;
- (b) its audited statements of accounts ;
- (c) plan for surplus disposal as approved by the general body of the co-operative society ;
- (d) list of amendments to the bye-laws of the co-operative society, if any ;
- (e) declaration regarding date of holding of its general body meeting and conduct of elections when due ; and

- (f) any other information required by the Registrar in pursuance of any of the provisions of this Act or the Rules.

27. *Amendment of section 69.*—In section 69 of the principal Act, after sub-section (3), the following sub-section shall be inserted, namely:—

“(4) All monetary disputes mentioned in Schedule III to the Act shall be filed within the time limit specified in the said Schedule.”.

28. *Amendment of section 69A.*—In section 69A of the principal Act, for sub-section (4), the following sub-section shall be substituted, namely :—

“(4) The Ombudsman or Ombudsmen so appointed under sub-section (2) shall be a person or persons having minimum of fifteen years of Bar practice and having experience and expertise in banking or co-operative field.” .

29. *Amendment of section 74B.*—In section 74B of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely:—

“(2) All primary credit societies including Primary Agricultural Credit Societies may open branches in their area of operation with the prior written permission of the Registrar.”.

30. *Amendment of section 79.*—In section 79 of the principal Act, in sub-section (1) after the word “Registrar” the words “or Director of Co-operative Audit” shall be inserted.

31. *Amendment of section 80.*—In section 80 of the principal Act,—

(i) in sub-section (2), for the words “State Co-operative Union” the word “Registrar” shall be substituted;

(ii) in sub-section (3), the words “in consultation with the State Co-operative Union” shall be omitted;

(iii) in sub-section (3A), for the word “Schedule”, the words and number “Schedule I” shall be substituted;

(iv) for sub-section (6), the following sub-section shall be substituted, namely:—

“(6) Government shall have power to fix or alter the maximum and minimum limit of establishment expenses of co-operative societies including the pay and allowances and other benefits of employees of co-operative societies :

Provided that the Registrar shall have power to give direction to the managing committee and chief executive of a society that under no circumstances establishment expense is met out of borrowed fund or deposits received from members and non members :

Provided further that societies run on net loss can give pay and allowances to its employees below the minimum limit fixed by the Government.”;

(v) after sub-section (9), the following sub-section shall be inserted, namely:—

“(10) The Government may, on mutually agreed terms and on application of a society, depute a Government servant to the service of the society for the purpose of managing its affairs and the Government servant so deputed shall exercise such powers and perform such duties as may be prescribed.”.

32. *Insertion of new sections 88 B and 88C.*—After section 88A of the principal Act, the following sections shall be inserted, namely:—

“88B. *Appointment of officer on failure to constitute the Circle Co-operative Union.*—Where the term of office of the Circle Co-operative Union has expired and a new union has not been constituted, or where the members of the existing Circle Co-operative Union resigns enblock or where vacancies occur in the Circle Co-operative Union either by resignation or otherwise and the number of remaining members cannot constitute the quorum or where the Circle Co-operative Union fails to hold its regular meeting consecutively for six months or where the Registrar is satisfied,—

(i) that a new Circle Co-operative Union cannot be constituted before the expiry of the term of office of the existing Circle Co-operative Union ; or

(ii) on the date on which the term of office of the existing Circle Co-operative Union expires ; or

(iii) a new Circle Co-operative Union is prevented from entering upon office or the new Circle Co-operative Union fails to enter upon office,

the Registrar may appoint an officer to manage the affairs of the Circle Co-operative Union, for a period of 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 the said Circle Co-operative Union is reconstituted, whichever is earlier.”.

88C. *Removal of Chairman.*—A committee shall remove from office the Chairman, 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.”.

33. *Insertion of new sections 89B and 89C.*—After section 89A of the principal Act, the following sections shall be inserted, namely:—

“89B. *Appointment of officers or committee on failure to constitute the managing committee of the State Co-operative Union.*—Where the term of the managing committee of the State Co-operative Union has expired and a new managing committee has not been constituted or where the members of the existing managing committee resigns enblock or where vacancies occur in the managing committee either by resignation or otherwise and the number of remaining members cannot constitute the quorum or where the State Co-operative Union fails to hold its regular meeting consecutively for six months or where the Government are satisfied,—

(i) that a new managing committee cannot be constituted before the expiry of the term of office of the existing managing committee ; or

(ii) that on the date on which the term of the existing managing committee expires ; or

(iii) that a new managing committee is prevented from entering upon office or a new managing committee fails to enter upon office, the Government may appoint an officer of the Co-operative Department to manage the affairs of the State Co-operative Union, for a period of six months as may be specified in the order, which period may at the discretion of the Government 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 the managing committee is reconstituted, whichever is earlier.

89C. *Removal of Chairman, Vice Chairman etc.*—The committee shall remove from office the Chairman, the Vice-chairman 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.”.

34. *Amendment of section 94.*— In section 94 of the principal Act,—

(i) after sub-section (4), the following sub-sections shall be inserted, namely:—

“(4A) Any officer or custodian, willfully fails to handover custody of books, accounts, documents, records, cash, security and other property belonging to a society of which he is an officer or custodian, to an authorised

officer such as Administrator, Administrative Committee, Liquidator, Auditor, or to any person authorised in this behalf by the Registrar or by the Director of Co-operative Audit, shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to five thousand rupees or with both.

(4B) Whoever, before, during or after the election of members of the committee or of office bearer or of delegates indulges in or adopt any corrupt practices mentioned hereunder shall be punishable with imprisonment which may extend up to six months or with fine which may extend up to one thousand rupees or with both,—

(a) fraudulently defaces or fraudulently destroys any nomination paper; or

(b) fraudulently defaces, destroys or removes any list, notice or other document affixed by or under the authority of the Co-operative Election Commission or the Electoral Officer or the Returning Officer; or

(c) fraudulently defaces or fraudulently destroys any ballot paper or the official mark or the ballot box or any identity card for election relating to any society; or

(d) supplies any forged ballot paper or forged identity card; or

(e) fraudulently put any other matter other than ballot paper in the ballot box which he is not authorised by law; or

(f) commits any criminal offence against the Electoral Officer or the Returning officer or the Polling Personnel or other office bearers and employees of a society; or

(g) offers any gift or promise with the intention to influence members to vote in favour of him or to any other person; or

(h) compel any person to withdraw or not to withdraw from being a candidate at an election to any society.”.

35. *Amendment of section 95.*—In section 95 of the principal Act, for sub-section (1) the following sub-section shall be substituted, namely:—

“(1) The offences punishable under sub-sections (4A), (4B), (8), (8A) and (8B) of section 94 shall be cognizable.”.

36. *Insertion of new Schedules.*—In the principal Act, the existing Schedule shall be numbered as Schedule I and after Schedule I as so numbered, the following Schedules shall be inserted, namely:—

“SCHEDULE II

[see clause (eccc) of section 2]

Co-operative Principles

1. Open and Voluntary membership
2. Democratic Member Control
3. Member Economic Participation
4. Autonomy and Independence
5. Education, Training and Information
6. Co-operation among Co-operatives
7. Concern for community

SCHEDULE III

[see sub-section (4) of section 69]

<i>Description of Dispute or Suit</i>	<i>Period of limitation</i>	<i>Time from which period begins to run</i>
(1)	(2)	(3)
1. For money payable for money lent	Three years	when repayment period is over
2. For money lent under an agreement that it shall be payable on demand	Three years	when loan is made
3. For money deposited under an agreement that it shall be payable on demand, including money for a member or a customer in the hands of society	Three years	when demand is made

(1)	(2)	(3)
4. For the price of Work done by the parties to the dispute, where no time has been fixed for payment	Three years	when work is done
5. By a surety against the principal debtor	Three years	when the surety pays the creditor
6. By a surety against a co-surety	Three years	when the surety pays anything in excess of his own share
7. For the balance of money advanced in payment of goods to be delivered	Three years	when goods ought to be delivered
8. For the price of goods sold and delivered where no fixed period of credit is agreed upon	Three years	The date of the delivery of the goods
9. For the price of goods sold and delivered to be paid for after the expiry of a fixed period of credit	Three years	when period of credit expires

STATEMENT OF OBJECTS AND REASONS

By the Constitution (Ninety Seventh Amendment) Act, 2011 a new Part, namely, Part IXB “The Co-operative Societies” was included in the Constitution of India. In exercise of the powers conferred by sub-section (2) of section 1 of the said Act, the Central Government appointed the 15th day of February, 2012 as the date on which the said Act shall come into force. Article 243ZT provides that notwithstanding anything in that Part, any provision of any law relating Co-operative Societies in force in a State immediately before the commencement of the Constitution (Ninety Seventh Amendment) Act, 2011, which is inconsistent with the provisions of that Part, shall continue to be in force until amended or repealed by a competent Legislature or other competent authority or until the 95/2013.

expiration of one year from such commencement, whichever is less. Hence in compliance with this constitutional mandate it is necessary to amend or repeal the existing provisions of the law relating to co-operative societies in Kerala which are found inconsistent with the provisions of the Part IXB of the Constitution of India within the time limit prescribed in article 243ZT.

2. The inclusion of a new Chapter IXB “The Co-operative Societies” in the Constitution is very important and a major initiative to strengthen and reinvigorate the co-operative sector in the country, which has emerged as a unique institution in the service of economically weaker sections of people with widest reach. The object of the constitutional amendment is to ensure that the co-operative societies in the country function in a democratic, professional, autonomous and economically sound manner. The amendment in the Constitution, in addition to including the right to form co-operative societies as a fundamental right under article 19 of the Constitution, also seeks to empower the Parliament in respect of multi-state co-operative societies and the State Legislatures in case of other co-operative societies to make appropriate law. Therefore the Government have decided to amend the Kerala Co-operative Societies Act, 1969 (21 of 1969) in tune with the Constitutional amendment.

3. The Bill seeks to achieve the above object.

FINANCIAL MEMORANDUM

Clause 15 of the Bill seeks to provide that the existing single member State Co-operative Election Commission shall be strengthened by appointing a State Chief Co-operative Election Commissioner who shall be an officer not below the rank of a Special Secretary to Government and two Commissioners. The Commissioners shall be the officers, who are in service or retired from the Department of Co-operation, not below the rank of Additional Registrar of Co-operative Societies. It also provides that the Government may appoint regional or District Election Officers not below the rank of Joint Registrars of Department of Co-operation for the superintendence, direction and control of the preparation of electoral rolls and for the conduct of all elections to co-operative societies in the regional/district level.

2. A recurring annual expenditure of Rs. 24,00,000 is required for payment of salary and allowances to the two new Commissioners. Since the existing office of the State Co-operative Election Commission can be utilized for accommodating the new officers, an amount of Rs. 10,00,000 only is required additionally as initial non-recurring expenditure.

3. A recurring annual expenditure of Rs. 25,00,000 is required for payment of salary and allowances to the three new regional election officers and for payment of rent for the office buildings. The regional offices of the election commission can be operated by deploying the existing staff of the Department and an initial non-recurring expenditure of Rs. 15,00,000 is required in this regard.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause (1a) of section 2 proposed to be inserted in the principal Act by sub-clause (iv) of clause 2 of the Bill seeks to empower the Government to prescribe the nature of the miscellaneous societies which accepts deposits from their members only.

2. Clause (a) of sub-section (1) of section 16A proposed to be inserted III the principal Act by clause 11 of the Bill seeks to empower the Government to make rules prescribing the minimum level of services to be used by a member of a co-operative society.

3. The third proviso to sub-section (2) of section 28B proposed to be inserted in the principal Act by clause 15 of the Bill seeks to empower the Government to make rules fixing the fee or cost for election processes and for the payment of election fee or cost by different classes of societies.

4. Sub-section (5) of section 29 proposed to be inserted in the principal Act by sub-clause (iv) of clause 16 of the Bill seeks to empower the Government to make rules providing for the manner in which the notice of the general meeting shall be given to every member.

5. Clause (c) of sub-section (1) of section 56 proposed to be inserted in the principal Act by clause 20 of the Bill seeks to empower the Government to make rules prescribing the mode of payment out of net profit to the Co-operative Member Relief Fund.

6. Sub-section (5A) of section 63 proposed to be inserted in the principal Act by sub-clause (ii) of clause 23 of the Bill seeks to empower the Government to make rules prescribing the manner in which the audit manual shall be revised, amended, undated in every 5 years. Sub-section (8) of the said section proposed to be inserted in the principal Act by sub-clause (iii) of the said clause of the Bill seeks to empower the Government to make rules fixing the minimum qualification and experience of auditors for auditing the accounts of co-operative society. Sub-section (10) of the said section proposed to be inserted in the principal Act by the said sub-clause of the Bill seeks to empower the Government to make rules prescribing the manner in which the panel of auditors

shall be approved by the Director of Co-operative Audit. Sub-section (11) of the said section proposed to be inserted in the principal Act by the said sub-clause of the Bill seeks to empower the Government to make rules providing the manner in which the audit report of accounts of an apex co-operative society shall be laid before the Legislative Assembly.

7. Sub-section (4A) proposed to be inserted in section 64 of the principal Act by sub-clause (i) of clause 24 of the Bill seeks to empower the Government to make rules regarding the manner in which a member of a committee shall cease to hold office on lapse on the part of the managing committee to submit financial and other statutory statements for audit. Sub-section (4B) proposed to be inserted in said section of the principal Act by the said sub-clause of the Bill seeks to empower the Government to make Rules prescribing the manner in which the audit certificate and audit memorandum shall be issued by the Director of Co-operative Audit to the societies.

8. Sub-section (10) proposed to be inserted in section 80 of the principal Act by sub-clause (v) of clause 31 of the Bill seeks to empower the Government to make Rules prescribing the powers and duties of Government servants deputed to a society for the purpose of managing its affairs.

9. Section 88C proposed to be inserted in the principal Act by clause 32 of the Bill seeks to empower the Government to make Rules prescribing the procedure for no-confidence motion for removal of a Chairman or any other officer of the committee of a Circle Co-operative Union.

10. Section 89C proposed to be inserted in the principal Act by clause 33 of the Bill seeks to empower the Government to make Rules prescribing the procedure for no-confidence motion for removal of a Chairman or any other officer of the committee of a State Co-operative Union.

C. N. BALAKRISHNAN.

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

** ** ** **

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

(a) “apex society” means a society having the whole of the State as its area of operation and having as its members only other societies with similar objects and declared as such by the Registrar;

** ** ** **

(d) “central society” means a society having jurisdiction over one or more Revenue Districts but not the whole of the State as its area of operation; and having as its members only other societies and declared as such by the Registrar or the Government;

** ** ** **

(ecc) “Co-operative Ombudsman” means the person or persons appointed under sub-section (2) of section 69A;

** ** ** **

(la) “miscellaneous societies” means such societies as may be prescribed and which accept deposits from their members only and undertake business activities for the welfare of their members, as per their approved bye-laws except providing of agricultural and schematic loans and which do not deal with negotiable instruments under the Negotiable Instruments Act, 1881 (Central Act 26 of 1881);

** ** ** **

(o) “prescribed” means prescribed by rules made under this Act;

** ** ** **

4. *Societies which may be registered.*—Subject to the provisions of this Act, a co-operative society which has as its object the promotion of the economic interests of its members or of the interests of the public in accordance with co-operative principles, or a society established with the object of facilitating the operations of such a society, may be registered under this Act.

** ** ** **

8. *Registration certificate.*—Where a co-operative society is registered under this Act, the Registrar shall issue a certificate of registration signed and sealed by him, which shall be conclusive evidence that the said society is duly registered under this Act.

** ** ** **

9. *Co-operative societies to be bodies corporate.*—The registration of a society shall render it a body corporate by the name under which it is registered, having perpetual succession and a common seal, and with power to hold property, enter into contracts, institute and defend suits and other legal proceedings and to do all things necessary for the purposes for which it was constituted:

Provided that the Government and the Registrar shall have power to regulate and control the working of a society for the economic and social betterment of its members and the general public.

** ** ** **

12. *Amendment of bye-law of society.*—(1) No amendment to any bye-law of a society shall be valid unless such amendment has been registered under this Act.

(2) ** ** **

(5) Notwithstanding anything contained in this Act or the rules or bye-laws, if the Registrar is satisfied that for the purpose of altering the area of operation of a registered society or for the purpose of improving the services rendered by it, an amendment of the bye-laws of a society is necessary or desirable, he may, after consulting the financing bank, if any, to which the society is affiliated and the circle co-operative union, by order in writing, require the society to make the amendment within such time as may be specified in such order or within such further time as he may grant for the purpose.

(6) If within the time specified under sub-section (5), the society fails to make the amendment, as required by the Registrar or with such further changes as he may agree to, the Registrar may, after giving the society an opportunity for

making its representations, register the amendments as required or agreed to by him and issue to the society a copy of such amendments together with a certificate of registration signed and sealed by him and thereupon such amendment shall be binding on the society and its members.

(7) The provisions of sub-section (4) of section 11 shall not apply when action is taken under sub-sections (5) and (6) of this section.

13. *When amendments of bye-laws come into force.*—An amendment of the bye-laws of a society shall, unless it is expressed to come into operation on a particular day, come into force on the day on which it is registered.

14. *Amalgamation, transfer of assets and liabilities and division of societies.*—(1) A society may, with the previous approval of the Registrar and by a resolution passed by a two-thirds majority of the members present and voting at a general body meeting of the society,—

(a) transfer its assets and liabilities in whole or in part to any other society;

(b) divide itself into two or more societies;

(2) Any two or more societies may, with the previous approval of the Registrar and by a resolution passed by a two-thirds majority of the members present and voting at a general body meeting of each such society, amalgamate themselves and form a new society.

(3)	**	**	**
(4)	**	**	**
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(6)	**	**	**
(7)	**	**	**

(8) (i) Where, in the opinion of the Registrar, the amalgamation of two or more societies is necessary or desirable for increasing their strength or usefulness, he may, after consulting, in the manner prescribed, the financing bank to which the societies are affiliated and the circle co-operative union, call upon such societies to amalgamate within such time as may be specified by him into one society in accordance with the provisions of sub-sections (2) to (7).

(ii) If the societies fail to amalgamate into one society within the time specified by the Registrar, he may, after giving an opportunity to the committee of each of the societies to state its objections, if any direct the amalgamation of the societies into one society.

(iii) Every society so directed shall, within one month of the receipt of the Registrar's direction, give notice of the direction to all its members and creditors.

(iv) (a) Any member of any of the societies so directed may not withstanding the provisions of section 24 or any bye-law to the contrary, by notice given to the society of which he is a member, within a period of two months from the date of receipt by him of the direction, intimate his intention not to become a member of the new society and shall have the option of withdrawing his shares, deposits or loans, as the case may be.

(b) Any creditor of any of the societies so directed may, notwithstanding any agreement to the contrary, by notice given to the society of which he is a creditor, within a period of two months from the date of receipt by him of the direction, demand a return of the amount due to him.

(v) Any member or creditor who does not exercise his option within the period aforesaid shall be deemed to have given his assent to the amalgamation.

(vi) After the repayment of the share capital of the members and the discharge of the claims of the creditors, if any, under clause (iv) by the societies directed to be amalgamated or after a majority of the members and creditors of such societies have given their assent to the amalgamation the Registrar may register the new society. On such registration, the registration of the old societies shall be deemed to have been cancelled. The registration of the new society shall be a sufficient conveyance to vest in it all the assets and liabilities of the original societies.

(9) (i) Where, in the opinion of the Registrar it is desirable for increasing the usefulness of a society by restricting the area of its operation, he may, after consulting, in the manner prescribed, the financing bank, if any, to which the society is affiliated and the circle co-operative union, by order call upon the society to divide itself into two or more societies within such time as may be specified in the order in accordance with the provisions of sub-sections (2) to (7).

(ii) If the society fails to divide itself within the time specified by the Registrar, he may, after giving an opportunity to the committee of the society to state its objections, if any, by order direct the division of the society into two or more societies. The order of the Registrar shall contain directions for the division of the assets and liabilities of the society among the new society into which it is directed to be divided and may specify the area of operation of, and the members who will constitute, each of the new societies. The proposed bye-laws of the new societies shall be annexed to the order.

(iii) The society shall, within one month of the receipt of the order of the Registrar, give notice of the direction to all its members and creditors.

(iv) Any members of the society may, notwithstanding the provisions of section 24 or any bye law to the contrary, by notice given to the society within a period of two months from the date of receipt by him of the direction, intimate his intention not to become a member of any of the new societies and shall have the option of withdrawing his shares, deposits or loans, as the case may be.

(v) Any creditor of the society may, notwithstanding any agreement to the contrary, by notice given to the society within the period referred to the clause (iv), demand a return of the amount due to him.

(vi) Any member or creditor who does not exercise his option within the period aforesaid shall be deemed to have given his assent to the division in the manner specified in the order of the Registrar under clause (ii).

(vii) After the repayment of the share capital of the members and the discharge of the claims of the creditors, if any, under clauses (iv) and (v) by the society directed to be divided or after a majority of the members and creditors of the society have given their assent to the division, the Registrar may register the new societies. On such registration the registration of the old society shall be deemed to have been cancelled. The registration of the new societies shall be sufficient conveyance to vest in the new societies all the assets and liabilities of the old society in the manner specified in the order of the Registrar under clause (ii).

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16. *Persons who may become members.*—(1) No person shall be admitted as a member of a society except the following, namely:—

(a) an individual-

(i) who has attained the age of eighteen years:

Provided that this sub-clause shall not apply in the case of a society formed exclusively for the benefit of the students of any school or college;

(ii) who is not of unsound mind;

(iii) who is a resident within, or is in occupation of land in the area of operation of the society;

(b) any other society;

(ba) a local self government;

(c) the Government; and

(d) any body of persons, whether incorporated or not and whether or not established by or under any law, if such body is approved by the Government in this behalf by general or special order:

Provided that in a society formed for the promotion of the economic interests of its members through a specified activity no person other than who is likely to be benefited directly by such activity may be admitted as a member of such society unless such admission is permitted specifically by rules:

Provided further that where a society is formed exclusively for the benefit of persons engaged in any particular industry, no person who is not an actual worker in the industry shall be admitted in excess of such percentage of the total membership of the society as may be prescribed:

Provided also that the Coffee Board, the Rubber Board and any other statutory or non-statutory Board, Committee or Corporation constituted for the purpose of the development of an industry, may be admitted as a member of a society engaged in marketing and processing of the products of the industry concerned and formed for the workers and growers of such industry, so however that no such Board, Committee or Corporation shall be admitted as a member of a co-operative credit society:

Provided also that in the case of hospital co-operative societies, industrial and commercial establishments and other organizations registered under any other law may be admitted as members.

*Explanation:—*For the purpose of this sub-section ‘hospital co-operative society’ means a society, the main object of which is to run a hospital or to conduct medical or paramedical courses or to run medical shops.”

(2) Membership in any society other than a society formed for the benefit of the Scheduled Castes or the Scheduled Tribes shall not be refused merely on the ground that a person belongs or does not belong to a particular religion, race, community, caste, sect or denomination. A decision on an application for membership shall be taken within two months from the date of receipt of the application.

(2A) Where an application for membership in a society is not disposed of within the time specified in sub-section (2), the Registrar shall be bound, on the written request of the applicant, to determine whether such membership shall be given or not;

(2B) Where the Registrar does not, within one month of the date of receipt of such written request determine whether such membership should be given or not, the applicant may make a representation,—

(a) before the Registrar, if the request referred to in sub-section (2A) is made to a person on whom, the powers of the Registrar is conferred under sub-section (2) of section 3; or

(b) before the Government, if the request referred to in sub-section (2A) is made to the Registrar;

and the Registrar or the Government, as the case may be, shall, within thirty days from the date of receipt of such representation, determine whether such membership should be given or not.

(3) Where a person is refused admission as a member in a society, the decision refusing admission together with the reasons therefore shall be communicated by the society to that person within a period of fifteen days from the date of the decision.

17. *Expulsion of members.*—(1) Any member of a society, who has acted adversely to the interests of the society, may be expelled upon a resolution of the general body passed at a special meeting convened for the purpose by the votes of not less than two-thirds of the total number of members present and voting at the meeting.

(2) No member shall be expelled under sub-section (1) without being given an opportunity of making his representation.

(3) A copy of the resolution expelling a member shall be communicated to the member within a period of fifteen days from the date of passing of the resolution.

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19. *Member not to exercise rights till due payment made.*—No member of a society shall exercise the rights of a member unless he has made such payments to the society in respect of membership or has acquired such interest in the society, as may be prescribed by the rules or the bye-laws.

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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 the case of a 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 this proviso shall cease 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 twelve months.

(1A) Notwithstanding anything contained in the bye-laws of a society, the maximum number of members of the committee shall not exceed fifteen, in the case of primary co-operative societies and twenty-five in the case of all other types of co-operative societies:

Provided that in the case of committees of Primary Co-operative Societies constituted prior to the commencement of the Kerala Co-operative Societies (Amendment) Act, 2010 the maximum number of members shall be fifteen.

(1B) Notwithstanding anything contained in the bye-laws of any Federal Co-operative Society, the number of individuals in the society and the Committee thereof shall not exceed twenty-five per cent of the total number of members in the society or in the Committee, as the case may be.

(1C)	**	**	**
(1D)	**	**	**
(1E)	**	**	**
(1F)	**	**	**

(1G) 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.

(1H)	**	**	**
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(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.

(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 member of the committee of more than one society of the same type; or

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

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

(3) Nothing contained in clause (a) of sub-section (2) shall be deemed to disqualify a member of the committee of a society for appointment as, or for being, a member of the committee of the apex or central society of the same type:

Provided that no member of a committee shall be the President or Chairman of more than one society of the same type.

(4) The members of a committee may be paid honorarium at such rates as may be prescribed.

(5) The quorum for a meeting of a committee shall be such number of members just above fifty per cent of the total number of members of that committee.

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28B. *State Co-operative Election Commission.*—(1) Notwithstanding anything contained in this Act or in the rules the Government shall, by notification in the Gazette, constitute a State Co-operative Election Commission for the superintendence, directions and control of the conduct of elections to the committees and Representative General Bodies of all credit, apex, central and federal societies in the State. The Government may, by notification in the Gazette, entrust the superintendence, directions and control of the conduct of election to the committee and Representative General Bodies of any other society or any other class of societies to the State Co-operative Election Commission:

Provided that in respect of societies not coming under this sub-section, the provisions contained in this Act and the Rules made thereunder shall be followed for the conduct of elections to the committees and Representative General Bodies thereof.

(2) The State Co-operative Election Commission shall be an officer not below the rank of Secretary to Government appointed by the Government for a

period of five years. The terms and conditions of appointment of the State Co-operative Election Commission shall be such, as may be prescribed.

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29. *Annual general body meeting.*—(1) A general body meeting of a society shall be held once in a year for the purpose of—

- (a) approval of the budget with reference to the programme of the activities of the society prepared by the committee for the ensuing year;
- (b) election, if any, in the prescribed manner of the members of the committee other than nominated members;
- (c) consideration of the audit report and the annual report;
- (d) disposal of the net profit; and
- (e) consideration of any other matter which may be brought forward in accordance with the bye-laws.

(2) The Registrar or any other person deputed by him shall have the right to attend the committee or general body meeting of any society.

**

**

**

31. *Nominees of Government on committee of an apex or a central society.*—(1) Where the Government,—

- (a) have subscribed to the share capital of an apex or a central society; or
- (b) have assisted indirectly in the formation or augmentation of the share capital of an apex or a central society; or
- (c) have guaranteed the repayment of principal and payment of interest on debentures issued by an apex or a central society; or
- (d) have guaranteed the repayment of principal and payment of interest on loans and advances to an apex or a central society,

the Government or any authority specified by them in this behalf shall have the right to nominate not more than three persons or one-third of the total number of members of the committee of such apex or central society, whichever is less, to be members of the committee.

(2) A person nominated to the committee of an apex or a central society under sub-section (1) shall hold office during the pleasure of the Government or the specified authority, as the case may be.

(3) ** ** *

(4) Any person who holds office as a nominated member of the committee of a society, other than an apex or a central society, at the commencement of the Kerala Co-operative Societies (Amendment) Act, 1987 shall cease to hold such office at such commencement.

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,—

(a) persistently makes default or is negligent in the performance of the duties imposed on it by this Act or the rules or the bye-laws or does anything which is prejudicial to the interests of the society; or

(b) wilfully disobeys or fails to comply with any lawful order or direction issued under this Act or the rules; or

(c) makes any payment contrary to this Act or the rules or the bye-laws or causes any loss or damage to the assets of the society, by breach of trust or wilful negligence; or

(d) misappropriates or destroys or tampers with the records or causes the destruction of records to cover up any misconduct or malpractice,

he may, after giving the committee an opportunity to state its objections, if any, by order in writing, remove the committee and, appoint in its place, one administrator or an administrative committee consisting of not more than three individuals, one among them as convenor, who need not be members 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, be extended from time to time, so however that the aggregate period does not exceed one year.

Explanation:—A notice and an order given as per this clause to the President, in his absence to the Vice President or any committee member 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.

(e) Every members of the committee superseded under this section shall from the date of order of such supersession stand disqualified to contest in the election to or to be nominated to the committee of any society or to be appointed as an administrator in any society for two consecutive terms.

(2)	**	**	**
(3)	**	**	**
(4)	**	**	**
(5)	**	**	**
(6)	**	**	**

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 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,

(a) that a new committee cannot be constituted before the expiry of the term of office of the existing committee; or

(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 terms 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 who need not be members of the society, one among them as convenor 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.

Provided that before making such order, the Registrar shall publish a notice on the notice board of the head office of the society inviting objections to the making of the order within a period specified in the notice and consider such objections:

Provided further that it shall not be necessary to publish such notice in cases where the Registrar is satisfied that it is not reasonably practicable to do so:

Provided also that, where a committee, administrator or administrators, as the case may be, is in office at the commencement of the Kerala Co-operative Societies (Amendment) Act, 1992, the Registrar may extend the term of such committee, administrator or administrators, as the case may be, for a further period not exceeding one year from the date of such commencement.

Explanation:—For the purposes of this sub-section a tender or resignation by a member of the committee shall have the effect of terminating his membership from the committee.

(1A)	**	**	**
(2)	**	**	**
(3)	**	**	**
	**	**	**

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

(a) transfer an amount not being less than fifteen per cent of the net profits to the reserve fund; and

(b) credit such portion of the net profits, not exceeding five per cent, as may be prescribed, to the Co-operative Education Fund referred to in clause (xix) of sub-section (2) of section 109.

(2) The balance of the net profits may be utilized for all or any of the following purposes, namely:—

(a) payment of dividends to members on their paid-up share capital at such rate not exceeding twenty-five per cent as may be prescribed;

(b) payment of bonus to members on the amount or volume of business done by them with the society, to the extent and the manner specified in the bye-laws;

(c) seven per cent of the net profit to Agricultural Credit Stabilization Fund;

(cc) five per cent of the net profit to the professional education fund maintained by the Registrar;

(d) donations of amounts not exceeding ten per cent of the net profits for any charitable purpose as defined in section 2 of Charitable Endowments Act, 1890 (Central Act 6 of 1890); and

(e) balance of net profit may be utilized for any or all of the purposes specified in the bye-laws of the societies except for payment of bonus to employees.

** ** *

57B. *Deposit Guarantee Scheme.*—(1) The Government may, by notification in the Gazette, frame a scheme to be called “the Deposit Guarantee Scheme” specifying the purpose of the scheme and shall be administered in such manner, as may be specified therein.

(2) A society may contribute to the Deposit Guarantee Scheme at such rates as may be provided in the said scheme.

** ** *

57D. *Co-operative Risk Fund Scheme.*—(1) ** ** *

(2) The types of societies and the types of loans covered by the scheme, the rate and manner of contribution towards the fund by the societies, the manner of administration and utilisation of the fund and the maintenance of books of accounts in respect of the fund and its audit shall be such as may be specified in the scheme.

** ** *

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.

(2) ** ** *

(3) ** ** *

(4) ** ** *

(5) The Government shall prescribe the manner, in which audit is to be conducted by the Director of Co-operative Audit.

(6) ** ** *

(7) The Director of Co-operative Audit shall be under the control of the Registrar of Co-operative Societies.

(8) ** ** *

64. *Scope of audit, powers of the Director of Co-operative Audit and procedure for audit.*—(1) ** ** *

(2) ** ** *

(3) ** ** *

(4) The financial statement and other details required for the completion of audit shall be prepared by the society, within three months from the date of completion of the year and the fact shall be reported to the Director of Co-operative Audit or to the person authorised by him in this behalf.

(5) The audit shall be commenced within one month from the date of receipt of the report under sub-section (4) by the Director of Co-operative Audit or the person authorised by him, as the case may be, and shall be completed within a period of nine months.

(6) ** ** *

(7) The fee or cost shall be paid by the society concerned within thirty days of intimation thereof and in case of non-payment of the fee within the period it shall be recoverable in the manner specified in section 79.

(iii) in sub-section (3), the words “in consultation with the State Co-operative Union” shall be omitted;

** ** *

65. *Inquiry by the Registrar.*—(1) ** ** *

(2) ** ** *

(3) ** ** *

(4) ** ** *

(5) The inquiry under this section shall be completed within a period of six months.

(6) ** ** *

(iii) in sub-section (3), the words “in consultation with the State Co-operative Union” shall be omitted;

66B. *Suspension of Officers.*—If the Registrar, in the course of any inquiry under section 65 or on inspection under section 66 or on audit under section 64 or on the report of the Vigilance Officer appointed under section 68A, is satisfied that any officer other than the President, Vice President, Chairman, Vice Chairman

(4) The Ombudsman or Ombudsmen so appointed under sub-section (2) shall be a person or persons having experience and expertise in banking or co-operative field and shall have a degree in management or law.

** ** * ** *

74B. *Opening of Branches.*—The State Co-operative Bank, the State Co-operative Agricultural and Rural Development Bank and District Co-operative Banks may open branches in the area of operation of their member credit societies if such member credit societies are weak and not functioning enough to provide service to the members or to the public.

** ** * ** *

79. *Recovery of sums due to Government.*—(1) All sums due from a society or from an officer or member or past member or deceased member of a society as such to the Government, including any costs awarded to the Government under any provision of this Act, may, on a certificate issued by the Registrar in this behalf, be recovered in the same manner as arrears of public revenue due on land.

(2) ** * ** *

80. *Officers, etc. of Co-operative Societies.*—(1) The Government shall classify the societies in the State according to their type and financial position.

(2) The Government shall, in consultation with the State Co-operative Union, fix or alter the number and designation of the officer and servants of the different classes of societies specified in sub-section (1).

(3) The Government shall, in consultation with the State Co-operative Union, make rules either prospectively or retrospectively regulating the qualification, remuneration, allowances and other conditions of service of the officers and servants of the different classes of societies specified in sub-section (1).

(3A) Notwithstanding anything contained in this Act or the rules made or orders issued thereunder or in the bye-laws of any society relating to the recruitment and conditions of service of officers and servants of societies, all appointments of officers and servants of the societies mentioned in the Scheduled for which direct recruitment is resorted to shall be made from a select list of candidates furnished by the Kerala Public Service Commission and in making such recruitment the reservation principles under rule 14 to 17 of the Kerala State and Subordinate Service Rules, 1958 shall be followed.

(3AA) Notwithstanding anything contained in this Act or any other law or judgment or order of any court, all appointments already made on the advice by

the Kerala Public Service Commission following the reservation principles under rule 14 to 17 of the Kerala State and Subordinate Service Rules, 1958 to the societies mentioned in the Schedule for which direct recruitment shall be resorted to shall be deemed to have been validly done as if such provisions were in force at that time.

- (3B) ** ** *
- (4) ** ** *
- (5) ** ** *

(6) Government shall have power to fix the pay, allowances and other benefits of employees of co-operative societies:

Provided that the Government may direct the Registrar to fix the pay and allowances of employees of co-operative societies, whose pay and allowances are not fixed by Government as per this sub-section.

- (7) ** ** *
- (8) ** ** *

(9) Suspension and disciplinary action in relation to an officer, employee or servant of a co-operative society shall be such, as may be prescribed.

** ** ** *

88A. *Appointment of officer on default or negligence of members of a Circle Co-operative Union.*—If the Registrar is satisfied that the members of a Circle Co-operative Union persistently make default or are negligent in the performance of the duties imposed on them as per the provisions of this Act or the rules made thereunder or commit any act which is prejudicial to the interest of that Circle Co-operative Union or willfully disobey or fail to comply with any lawful order or direction, the Registrar may, after giving the member an opportunity to state their objections, if any, by an order in writing, remove the members and appoint an officer of the Co-operative Department not below the rank of an Assistant Registrar to manage its affairs 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 the said Circle Co-operative Union is reconstituted, whichever is earlier.

** ** ** *

89A. *Appointment of Officer or Committee on default or negligence of the managing committee of the State Co-operative Union.*—If the Government are satisfied that the managing committee of the State Co-operative Union persistently makes default or is negligent in the performance of the duties imposed on it by the provision of this Act or the rules made thereunder or commits any act which is prejudicial to the interest of the State Co-operative Union or willfully disobeys or fails to comply with any lawful order or direction issued under this Act or the rules, the Government may, after giving the managing committee an opportunity to state its objections, if any, by order in writing, remove the members and appoint an officer of the Co-operative Department or a committee consisting of three members to manage its affairs for a period not exceeding six months, as may be specified in the order, which period, at the discretion of the Government 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 the State Co-operative Union is reconstituted, whichever is earlier.

** ** * ** * ** * **

94. *Offences.*—(1) No person other than a society shall trade or carry on business under any name or title of which the word ‘co-operative’ or its equivalent in any Indian language in part without the sanction of the Government:

Provided that nothing in this section shall apply in any area to the use by any person or his successor in interest of any name or title under which he carried on business at the date on which the Co-operative Societies Act, 1912 (Central Act 2 of 1912), the Co-operative Societies Act (Travancore Act X of 1089) or the Cochin Co-operative Societies Act, XXVI of 1113, as the case may be, came into operation in that area.

(2) ** * ** * ** * **
 (3) ** * ** * ** * **

(4) The committee of a society or an officer or member thereof willfully making a false return or furnishing false information or failing to produce cash balance on demand or failing to make the records available for audit, inquiry or inspection, or any person willfully or without any reasonable excuse disobeying any summons, requisition or lawful written order issued under the provisions of this Act or willfully not furnishing any information required from him by a person authorized in this behalf under the provisions of this Act shall be punishable with fine which may extend to five thousand rupees.

95. *Cognizance of offences.*—(1) The offences punishable under sub-section (8), (8A) and (8B) of section 94 shall be cognizable.

(2)	**	**	**
(3)	**	**	**
(4)	**	**	**
**	**	**	**
