

शुक्रवार, एप्रिल ८, १९८८/चैत्र १९, शके १९९०

MAHARASHTRA LEGISLATURE SECRETARIAT

The following Bill which was introduced in the Maharashtra Legislative Council on 8th April 1988 is published under Rule 111 of the Maharashtra Legislative Council Rules:—

L. C. BILL No. VII OF 1988.

A BILL

further to amend the Maharashtra Co-operative Societies Act, 1960.

Mah.
XXIV
of
1961.

WHEREAS it is expedient further to amend the Maharashtra Co-operative Societies Act, 1960, for the purposes hereinafter appearing; It is hereby enacted in the Thirty-ninth Year of the Republic of India as follows :—

1. (1) This Act may be called the Maharashtra Co-operative Societies (Amendment) Act, 1988. Short title and commencement.
- (2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

- Amendment of section 2 of Mah. XXIV of 1961.** 2. In section 2 of the Maharashtra Co-operative Societies Act, 1960 (hereinafter referred to as "the principal Act"), in clause (10), for the words "a Land Development Bank" the words "an Agriculture and Rural Development Bank" shall be substituted.
- Amendment of section 18-C of Mah. XXIV of 1961.** 3. In section 18-C of the principal Act, in sub-section (2), in clause (e), after the proviso, the following proviso shall be inserted, namely :—
"Provided further that, it shall be competent for the State Government to alter and appoint, from time to time, during the said period or extended period and for any reason whatsoever, any other Administrator or an interim committee of management or any or all the members of such committee, as it deems fit, notwithstanding that the term or extended term of office of the Administrator or an interim committee of management or of any or all the members of such committee has not expired."
- Amendment of section 20A of Mah. XXIV of 1961.** 4. In section 20A of the principal Act, in sub-section (1), after the words "State Government", where they occur for the first time, the following shall be inserted, namely :—
"and subject to such terms and conditions as the State Government may impose and in such manner as may be prescribed".
- Amendment of section 21 of Mah. XXIV of 1961.** 5. In section 21 of the principal Act, after the words "are wound up," the words, brackets, figures and letter "or it is de-registered under the provisions of sub-section (1) of section 21A" shall be inserted.
- Amendment of section 21A of Mah. XXIV of 1961.** 6. In section 21A of the principal Act, in sub-section (5), for the portion beginning with the word "person" and ending with the word and figure "section 3" the words "officer below the rank of a Joint Registrar of Co-operative Societies" shall be substituted.
- Amendment of section 27 of Mah. XXIV of 1961.** 7. In section 27 of the principal Act, in sub-section (3),—
(a) the first proviso shall be deleted; and
(b) in the second proviso, for the words "Provided further that" the words "Provided that," shall be substituted.
- Amendment of section 44A of Mah. XXIV of 1961.** 8. In section 44A of the principal Act, for the words "a land development bank" the words "an Agriculture and Rural Development Bank" shall be substituted.
- Amendment of section 48 of Mah. XXIV of 1961.** 9. In section 48 of the principal Act,—
(a) in clause (d), in the first proviso, for the words "a Land Development Bank" the words "an Agriculture and Rural Development Bank" shall be substituted ;
(b) in clause (f), for the words "Land Development Bank" the words "Agriculture and Rural Development Bank" shall be substituted.
- Amendment of section 48A of Mah. XXIV of 1961.** 10. In section 48A of the principal Act,—
(a) in sub-section (1), for the words "a Land Development Bank" the words "an Agriculture and Rural Development Bank" shall be substituted ;
(b) in sub-section (3), in the proviso, for the words "Land Development Bank" the words "Agriculture and Rural Development Bank" shall be substituted.
- Amendment of section 73A of Mah. XXIV of 1961.** 11. In section 73A of the principal Act, in sub-section (4),—
(a) for the words "ninety days", in both the places where they occur, the words "ten days" shall be substituted ;

(b) after the words "of all such societies" the following shall be inserted, namely :—

"and thereupon, notwithstanding anything contained in any other provisions of this Act, a person so resigning or ceasing to be a designated officer of any or all such societies shall not be eligible for being re-elected or re-appointed as a designated officer of such society or societies during the remainder of the term of office for which he was so elected or appointed ; and at no point of time such person shall be a designated officer of societies in excess of the number prescribed under sub-section (2)".

12. In section 73B of the principal Act, for sub-section (4), the following sub-section shall be substituted, namely:—

Amendment of section 73B of Mah. XXIV of 1961.

"(4) Where no person is elected to any of the two reserved seats, then,—

(a) in the case of a society other than a society mentioned in clauses (b) and (c), the Chief Executive Officer such as the Chairman, Secretary or Manager or any other officer by whatever designation called ;

(b) in the case of a society notified under section 73-IC, the Registrar ; and

(c) in the case of a society specified under section 73-G, the collector ;

shall call a meeting of the elected members of the committee to co-opt a member or, as the case may be, members on the committee from amongst the persons entitled to contest the election under sub-section (3), and such meeting shall be presided over by the Chairman, if it is a society referred to in clause (a), or by the Collector or any other officer authorised by him, if it is a specified society, or by the Registrar or any other officer authorised by him, if it is a notified society. If no member is co-opted at such meeting, the Chairman or the Collector or where the meeting is presided over by an officer authorised by the Registrar, such officer, as the case may be, shall, within a period of seven days from the date of such meeting, report the fact to the Registrar, and thereupon the Registrar shall, within a period of seven days from the date of receipt of such report by him or where the Registrar himself has presided over such meeting, within a period of seven days from the date of such meeting, appoint on the committee a person or persons, as the case may be, from amongst the persons entitled to contest the election to the reserved seats under sub-section (3)."

13. In section 73C of the principal Act, in sub-section (2), for the words "a Land Development Bank or an Apex Land Development Bank" the words "an Agriculture and Rural Development Bank or an Apex Agriculture and Rural Development Bank" shall be substituted.

Amendment of section 73C of Mah. XXIV of 1961.

14. In section 73G of the principal Act, in sub-section (1), for clause (iii), the following clause shall be substituted, namely :—

Amendment of section 73 G of Mah. XXIV of 1961.

"(iii) all primary Agriculture and Rural Development Banks;"

15. In section 78 of the principal Act, in sub-section (1), after the words "properly and diligently" the following shall be inserted, namely :—

Amendment of section 78 of Mah. XXIV of 1961.

"or where a situation has arisen in which the committee or any member of such committee refuses or has ceased to discharge its or his functions".

16. In section 81 of the principal Act, in sub-section (2A), after the words "by order, direct" the following shall be inserted, namely :—

Amendment of section 81 of Mah. XXIV of 1961.

"that such society or class of societies shall prepare and maintain its accounts in the form determined by the State Government, from time, to time and".

Amendment
of section
91 of Mah.
XXIV of
1961.

17. In section 91 of the principal Act,—

(a) in sub-section (1),—

(i) in clause (a), after the words “Liquidator of the society” the words “or the Official Assignee of a de-registered society” shall be inserted;

(ii) in clause (e), after the words “such a society” the words “or de-registered society or the Official Assignee of such a de-registered society” shall be inserted;

(iii) in the proviso, after the words “any person qualified therefor,” the following shall be inserted, namely:—

“or any proceeding for the recovery of the amount as arrear of land revenue on a certificate granted by the Registrar under sub-section (1) or (2) of section 101 or sub-section (1) of section 137 or the recovery proceeding of the Registrar or any officer subordinate to him or an officer of society notified by the State Government, who is empowered by the Registrar under sub-section (1) of section 156.”;

(b) in *Explanation 1*, after the words “of a society” the words “or an Official Assignee of a de-registered society” shall be inserted.

Amendment
of section
98 of Mah.
XXIV of
1961.

18. In section 98 of the principal Act,—

(a) after the words “Every order passed” the words, brackets, figures and letter “by the Official Assignee of a de-registered society under sub-section (3) of section 21A or every order passed” shall be inserted;

(b) in clause (a), after the words “signed by” the words “the Official Assignee or” shall be inserted;

Amendment
of Chapter
XI of Mah.
XXIV of
1961.

19. Throughout Chapter XI of the principal Act, including in the heading of that Chapter and marginal notes to sections thereof, for the words “Land Development Bank”, “Land Development Banks”, “a Land Development Bank”, “Primary Land Development Bank”, “Primary Land Development Banks”, and “State Land Development Bank” the words “Agriculture and Rural Development Bank”, “Agriculture and Rural Development Banks”, “an Agriculture and Rural Development Bank”, “Primary Agriculture and Rural Development Bank”, “Primary Agriculture and Rural Development Banks” and “State Agriculture and Rural Development Bank”, respectively, shall be substituted.

Amendment
of section
112 of Mah.
XXIV of
1961.

20. In section 112 of the principal Act,—

(a) in sub-section (2), after the words “Land Mortgage Bank” the words “or to a Land Development Bank” shall be inserted;

(b) in sub-section (3), after the words “Land Mortgage Banks” the words, “or of the Land Development Banks” shall be inserted.

Insertion
of section
112AA in
Mah. XXIV
of 1961.

21. After section 112A of the principal Act, the following section shall be inserted, namely:—

“112AA. (1) Notwithstanding anything contained in this Act or the rules made thereunder, the members of the Agriculture and Rural Development Bank from the City of Bombay District and Bombay Suburban District shall elect one delegate from amongst themselves for every general body meeting of the members of the Bank.

(2) Subject to the provisions of section 14, the Agriculture and Rural Development Bank shall make bye-laws for the purpose of the election of a delegate under sub-section (1).

(3) The power to make bye-laws conferred by sub-section (2) is subject to the condition of the bye-laws being made after previous approval of the Registrar.”

Election
of delegate
as member
of Agricul-
ture and
Rural
Development
Bank from
City of
Bombay
District
and Bombay
Suburban
District.

22. In section 112B of the principal Act,—

(a) in sub-section (1), in clause (a), after the word, figures and letter " section 112A " the words, brackets, figures and letters " and sub-section (1) of section 112AA " shall be inserted ;

(b) sub-section (3) shall be re-lettered as clause (a) of the said sub-section (3), and in clause (a) as so re-lettered, after the word " Chairman ", in both the places where it occurs, the words " and a Vice-Chairman " shall be inserted ;

(c) in sub-section (3), after clause (a) as so re-lettered, the following clause shall be inserted, namely :—

" (b) Notwithstanding anything contained in clause (a), within 15 days from the date of commencement of the Maharashtra Co-operative Societies (Amendment) Act, 1988, the Collector or an officer authorised by him in that behalf shall convene a meeting of the members of the Committee for the election of a Vice-Chairman who shall be from the members referred to in sub-clause (i) of clause (b) of sub-section (1) and such meeting shall be presided over by the Collector or by such authorised officer, but such presiding officer and the members referred to in sub-clauses (iii) to (vii) of clause (b) of sub-section (1) shall not have a right to vote at such meeting. The Vice-Chairman so elected shall hold office as such Vice-Chairman subject to the provisions of sub-section (4).";

(d) in sub-section (4), after the word " Chairman ", wherever it occurs, except for the second time, the words " and Vice-Chairman " shall be inserted ; and after the word " Chairman ", where it occurs for the second time, the words " or Vice-Chairman " shall be inserted.

23. Section 112C of the principal Act shall be deleted.

Deletion of section 112C of Mah. XXIV of 1961.

24. Section 118 of the principal Act shall be deleted.

Deletion of section 118 of Mah. XXIV of 1961.

25. Section 124 of the principal Act shall be deleted.

Deletion of section 124 of Mah. XXIV of 1961.

26. In section 138 of the principal Act, in sub-section (2), after the words " any officer " the words " including an officer of the Agriculture and Rural Development Bank " shall be inserted.

Amendment of section 138 of Mah. XXIV of 1961.

27. In section 142 of the principal Act,—

(a) after the words " any society " the words " or a class of societies " shall be inserted ;

(b) in the marginal note, after the words " any society " the words " or class of societies " shall be inserted.

Amendment of section 142 of Mah. XXIV of 1961.

28. Section 144-1B of the principal Act shall be deleted.

Deletion of section 144-1B of Mah. XXIV of 1961.

- Amendment of section 144-A of Mah. XXIV of 1961. **29.** In section 144-A of the principal Act,—
 (a) in sub-section (1), for the words, figures and letter “ Except section 144-Y, this Chapter ” the words “ This Chapter ” shall be substituted ;
 (b) in sub-section (2), in clause (b), after the word “ committee ” the words “ or of officer or officers ” shall be inserted.
- Amendment of section 152 of Mah. XXIV of 1961. **30.** In section 152 of the principal Act, in sub-section (1), for the words and figures “ under sections 4, 9, 12, 13, 14, 17, 18, 19, 21, 29, 35, 78 and 105 ” the words, figures and letters “ under sections 4, 9, 11, 12, 13, 14, 17, 18, 19, 21, 21A, 29, 35, 77A, 78 and 105 ” shall be substituted.
- Amendment of section 152A of Mah. XXIV of 1961. **31.** In section 152A of the principal Act, in sub-section (1), after the words “ the decision of the Registrar in such appeal ” “ the following shall be inserted at the end, namely :—
 “ In the case of a society specified by or under section 73 G, an appeal shall lie to the Divisional Commissioner who shall dispose of such appeal within ten days from the date of receipt of such appeal and the decision of the Commissioner in appeal shall be final and no further appeal or revision shall lie against the decision of the Divisional Commissioner in such appeal. ”
- Amendment of section 165 of Mah. XXIV of 1961. **32.** In section 165 of the principal Act, in sub-section (2), after clause (v-c), the following clause shall be inserted, namely :—
 “ (v-d) prescribe the manner for entering into collaboration by any society or societies with any Government undertaking or any undertaking approved by Government for carrying on any business ; ”.

STATEMENT OF OBJECTS AND REASONS.

The Maharashtra Co-operative Societies Act, 1966 was extensively amended by Maharashtra Act No. XX of 1986. While administering the Act, certain more amendments are found necessary and expedient with a view to have effective implementation of the provisions of the Act. The following notes on some of the important clauses explain the provisions made in the Bill :—

Clause 3.—At present, there is no explicit provision in section 18C of the Maharashtra Co-operative Societies Act empowering the Government to change or remove the Administrator or an interim committee of management which is appointed by Government under this section. This clause, therefore, seeks to amend section 18C to take appropriate power to the State Government in this behalf.

Clause 4.—The existing section 20A provides for collaboration by society or societies, with prior approval of the State Government, between a society and the Government undertaking or any undertaking approved by the State Government for carrying on any specific business. This section does not, however, provide for the terms and conditions subject to which, and the manner in which, such collaboration shall be given effect to. It is, therefore, proposed to take power to the State Government to impose suitable terms and conditions and to prescribe by rules the manner in which such collaboration can take place.

Clause 5.—Section 21 of the Act provides for cancellation of registration of a co-operative society but it does not provide for the cancellation of registration certificate of the societies de-registered under section 21A. Since the registration certificate is itself the proof of registration of a society, it is necessary that consequent upon de-registration of a society under this section, there should be a provision for cancellation of registration certificate. It is, therefore, proposed to amend section 21 for that purpose suitably.

Clause 6.—Section 21A(5) provides that the power to de-register a society and to make such incidental or consequential orders including appointment of Official Assignee as the circumstances may require shall not be exercised by any person or persons on whom all or any of the powers of the Registrar are conferred under section 3. Due to the increased workload of the Registrar in exercising the various powers and performing many other duties under the Act, it may not be possible for the Registrar to effectively deal with the proceedings under this section. It is, therefore, proposed to vest these powers in the officer not below the rank of a Joint Registrar of Co-operative Societies. This clause, therefore, seeks to amend section 21A to provide for the same.

Clause 11.—Section 73A(4) provides that when a person becomes, at the same time, a designated officer on societies in excess of the number prescribed under sub-section (2), he has to resign within a period of 90 days from the date of his election or appointment as a designated officer of more than the permissible number of societies or from the date of declaration of the result on the last of elections or appointments which are held or made simultaneously, and thereupon he shall at the expiration of the said period of 90 days cease to be a designated officer of all such societies. It is noticed that some persons, on their becoming designated officer in more than permissible number of societies, resign within the period of 90 days, but they do it so ingeniously that they again get elected as designated officer of such society and continue for a period of another about 90 days before expiry of which they of course resign; and in this manner continue to repeat the same process. With a view to check this mischief, it is proposed to amend this section suitably.

Clause 15.—This clause seeks to amend section 78 to add one more contingency in which the Registrar will have power to remove the committee of a society and appoint a committee consisting of three or more members or to appoint one or more administrators to manage the affairs of the society or to remove the member and appoint any person as member in his place, where a situation has arisen in which the committee or any member of such committee refuses or has ceased to discharge its or his functions.

Clause 19.—As the Land Development Bank has been advancing loans for Agricultural or Rural Development under various items as specified in the definition of the expression "Agricultural or Rural Development" in clause (II) of the *Explanation* to section 111, it is proposed to change the name of the Bank so as to reflect properly the actual functions of the Bank.

Clause 21.—This clause proposes to insert section 112AA to provide for election of delegate to represent the members of Agriculture and Rural Development Bank for City of Bombay District and Bombay Suburban District.

Clause 22.—It is proposed to provide that in addition to the Chairman, there shall be a Vice-Chairman also for the State Agriculture and Rural Development Bank. This clause, therefore, seeks to amend section 112B.

Clause 23.—Section 112C provides for appointment of sub-committees by the State Agriculture and Rural Development Bank as specified therein. It is considered expedient that the question as to which sub-committees should be appointed should best be left to the Bank itself, and that should be determined by its bye-laws. This section is, therefore, proposed to be deleted.

Clause 24.—This clause seeks to delete section 118 which provides for the procedure, of inviting objections by public notice while dealing with applications for loans, which is found to be very cumbersome procedure.

Clause 25.—It is proposed to delete section 124 which provides for right of the Agriculture and Rural Development Bank to pay prior debts of mortgagor. The National Bank for Agriculture and Rural Development has restrained the Agriculture and the Rural Development Bank from advancing loans for payment of prior debts of mortgagor and hence, this deletion.

Clause 28.—This clause seeks to delete section 144-1B as Government considers that it is not necessary to have the power with the State Government to appoint committee of the State Agriculture and Rural Development Bank in any circumstances and the functioning of the Bank should be only through its committee as provided for in section 112B.

Bombay, dated the 30th March, 1988.

VILASRAO DESHMUKH,
Minister for Co-operation.

Bombay, dated the 8th April, 1988

C. M. DHOPARE,
Secretary (II),
Maharashtra Legislative Council.