



महाराष्ट्र शासन राजपत्र

असाधारण

प्राधिकृत प्रकाशन

शुक्रवार, नोव्हेंबर २३, २००७/अग्रहायण २, शके १९२९

स्वतंत्र संकलन म्हणून फाईल करण्यासाठी या भागाला वेगळे पृष्ठ क्रमांक दिले आहेत.

भाग आठ

(अध्यादेश, विधेयके व अधिनियम यांचा इंग्रजी अनुवाद)

In pursuance of clause (3) of Article 348 of the Constitution of India, the following translation in English of the Maharashtra Co-operative Societies (Second Amendment) Bill 2007 (L. A. Bill No. LXXIV of 2007), introduced in the Maharashtra Legislative Assembly on the 22nd November 2007, is hereby published under the authority of the Governor.

By order and in the name of the
Governor of Maharashtra,

A. M. SHINDEKAR,
Secretary to Government,
Law and Judiciary Department.

L. A. BILL No. LXXIV OF 2007

A BILL

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

WHEREAS both Houses of the State Legislature were not in session;

AND WHEREAS the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action further to amend the Maharashtra Co-operative Societies Act, 1960, for the purposes hereinafter appearing; and, therefore, promulgated the Maharashtra Co-operative Societies (Second Amendment) Ordinance, 2007, on the 29th October 2007;

Mah. XXIV of 1961. Mah. Ord. VII of 2007.

AND WHEREAS it is expedient to replace the said Ordinance by an Act of the State Legislature; it is hereby enacted in the Fifty-eighth Year of the Republic of India as follows :—

शामुना-एचबी-१७९२-आठ-१०७.

(४५१)

[किंमत : रुपये ९.००]

- Short title and commencement. 1. (1) This Act may be called the Maharashtra Co-operative Societies (Second Amendment) Act, 2007.
- (2) It shall be deemed to have come into force on the 29th October 2007.
- 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"),—
- (a) after clause (10-aii), the following clause shall be inserted, namely :—
- “(10-aii-l) “co-operative credit structure entity” means the primary agricultural credit co-operative society, the District Central Co-operative Bank or the State Co-operative Bank;” ;
- (b) after clause (10-A), the following clause shall be inserted, namely :—
- “(10-B) “depositor” or “financial service user” means a person who deposits certain amount in primary agricultural co-operative credit society for such period as may be prescribed;”;
- (c) in clause (19), in sub-clause (a), the following words shall be added at the end, namely :—
- “and any depositor or financial service user of primary agricultural co-operative credit society”;
- (d) after clause (19), the following clause shall be inserted namely:—
- “(19A) “National Bank” means the National Bank for Agriculture and Rural Development (NABARD), constituted under the provisions of the National Bank for Agriculture and Rural Development Act, 1981;”.
- Amendment of section 6 of Mah. XXIV of 1961. 3. In section 6 of the principal Act, in sub-section (1), after the first proviso, the following proviso shall be added, namely :—
- “Provided further that, the condition regarding residence of the members in the area of operation of the society shall not apply for registration of the society, being the co-operative credit structure entity.”.
- Amendment of section 13 of Mah. XXIV of 1961. 4. In section 13 of the principal Act, to sub-section (1), the following proviso shall be added, namely :—
- “Provided that, the application for registration of the amendment of by-laws of the co-operative credit structure entity shall be disposed of, by the Registrar within a period of one month from the date of its receipt.”.

Mah.
XXIV
of
1961.61 of
1981.

5. In section 21A of the principal Act, in sub-section (1), after the word "served", the following words shall be inserted, namely :—

Amendment
of section
21A of
Mah. XXIV
of 1961

" or any primary agricultural co-operative credit society using the word 'Bank', 'Banking', 'Banker' or any other derivative of the word 'Bank' in its name,".

6. In section 22 of the principal Act, in sub-section (1), after clause (f), the following clause shall be inserted, namely :—

Amendment
of section
22 of
Mah. XXIV
of 1961.

" (g) the depositor or the financial service user :".

7. In section 27 of the principal Act, after sub-section (11), the following sub-section shall be added, namely :—

Amendment
of section
27 of
Mah. XXIV
of 1961.

" (12) In the case of a primary agricultural credit co-operative society, the depositor or financial service user shall have right to vote :

Provided that, out of joint depositors, joint financial service users whose name stands first in the relevant documents shall have the right to vote and in his absence whose name stands second and in the absence of both, the next shall have the right to vote :

Provided also that, unless two years by an individual depositors or financial service users are completed from the date of deposit or financial service use, no such person shall have right to vote ; and, the depositor or the financial service user, other than an individual, shall have right to vote in the affairs of a primary agricultural credit co-operative society, provided they complete three years from the date of deposit or financial service use."

8. In section 43 of the principal Act,—

Amendment
of section
43 of
Mah. XXIV
of 1961.

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

" Provided that, the co-operative credit structure entity shall adopt its own policies regarding interest rates on deposits and loans in conformity with the Reserve Bank of India guidelines.";

(b) in sub-section (2), after the first proviso, the following proviso shall be added, namely :—

" Provided further that, nothing in this sub-section shall apply to the co-operative credit structure entity. However, such entity may adopt its own policy in conformity with the Reserve Bank of India guidelines.";

(c) after sub-section (2), the following sub-section shall be added, namely :—

“(3) Notwithstanding anything contained in sub-sections (1) and (2), and subject to the guidelines issued by the Reserve Bank of India and the National Bank, from time to time, a co-operative credit structure entity may,—

(a) borrow from any financial institution regulated by the Reserve Bank of India, keeping in view the interest of the society and its members ;

(b) decide interest rates on deposits and loans ; and

(c) decide loan policies and issues relating to individual loans.”.

Amendment of section 44 of Mah. XXIV of 1961. **9.** In section 44 of the principal Act, after the first proviso, the following proviso shall be added, namely :—

“ Provided further that, nothing in this section shall apply to the loan making policy made by the co-operative credit structure entity. However, such entity shall adopt its own policy in conformity with the Reserve Bank of India guidelines. ”.

Deletion of section 44A of Mah. XXIV of 1961. **10.** Section 44A of the principal Act shall be deleted.

Amendment of section 50 of Mah. XXIV of 1961. **11.** To section 50 of the principal Act, the following proviso shall be added, namely :—

“ Provided that, in the case of the co-operative credit structure entity, the State Government shall not hold more than 25% of the total share capital and the entity shall have option to further reduce the share capital contributed by the Government.”.

Amendment of section 67 of Mah. XXIV of 1961. **12.** To section 67 of the principal Act, the following proviso shall be added, namely :—

“ Provided that, the primary agricultural credit co-operative society shall pay dividend to its members as per the guidelines issued by the Registrar, in accordance with criteria specified by the National Bank.”.

Amendment of section 68 of Mah. XXIV of 1961. **13.** In section 68 of the principal Act, in sub-section (1), for the words “ Every society ” the words “ Every society not being co-operative credit structure entity ” shall be substituted.

14. Section 69A of the principal Act shall be deleted. Deletion of section 69A of Mah. XXIV of 1961.
15. After section 69A of the principal Act, the following section shall be inserted, namely :— Insertion of section 69B in Mah. XXIV of 1961.
- “69B. The State Government shall constitute District Level Committees and the State Level Committee, from time to time, as it shall deem fit, for solving the problems of Group Secretaries in the State.”. Constitution of District level and State Level Committees.
16. For section 70 of the principal Act, the following section shall be substituted, namely :— Substitution of section 70 of Mah. XXIV of 1961.
- “70. Every society other than the co-operative credit structure entity shall invest or deposit its funds in one or more of the following :— Investment of Funds.
- (a) in a Central Bank, or the State Co-operative Bank ;
- (b) in any of the securities specified in section 20 of the Indian Trusts Act, 1882 ;
- (c) in the shares, or security bonds, or debentures, issued by any other society with limited liability and having the same classification to which it belongs :
- Provided that, no society shall invest more than such proportion of its paid up share capital as may be prescribed :
- Provided further that, the co-operative credit structure entity shall invest its funds subject to guidelines as may be issued, from time to time, by the Reserve Bank of India.”.
17. After section 72 of the principal Act, the following section shall be inserted, namely :— Insertion of section 72A in Mah. XXIV of 1961.
- “72A. Notwithstanding anything contained in this Act or any other law for the time being in force, the co-operative credit structure entity shall have the liberty for the affiliation or disaffiliation with the federal structure of its choice : Freedom of affiliation or disaffiliation with a federal structure of choice.
- Provided that, in the general meeting of the co-operative credit structure entity, a resolution for this purpose is passed by a majority of not less than three fourths of the total members of such entity.”.

Insertion of section 73-EA in Mah. XXIV of 1961.

18. After section 73-E of the principal Act, the following section shall be inserted, namely :—

Disqualification for being director of District Central Co-operative Bank or State Co-operative Bank.

"73-EA. Without prejudice to the other provisions of this Act or the rules made thereunder, in relation to the disqualification of being a member of a committee, no person shall be eligible for being appointed, nominated, co-opted or, for being a director of a District Central Co-operative Bank or of the State Co-operative Bank, if he,—

(i) is a person who represents a society other than a primary agricultural credit co-operative society on the board of a District Central Co-operative Bank or State Co-operative Bank, if the society to whom he represents has committed a default towards the payments of such Bank for a period exceeding ninety days;

(ii) is a person who is defaulter of a primary agricultural credit Co-operative society or is a representative of a defaulting primary agricultural co-operative credit society;

(iii) is a person, who represents a society whose Managing Committee is superseded."

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

19. In section 73-G of the principal Act, after sub-section (3), the following sub-section shall be inserted, namely:—

"(4) (a) There shall be two professionals on the board of directors of District Central Co-operative Bank and State Co-operative Bank having qualifications prescribed by the Reserve Bank of India or the National Bank.

(b) The Registrar shall direct the bank concerned to co-opt such professionals on the board of directors within the time limit specified in the direction by the Registrar. If the bank fails to comply with the aforesaid directions, the Registrar himself shall appoint such professional directors and such appointment shall be binding on the said bank. The professional director shall have all the rights inclusive of voting right."

Amendment of section 73-H of Mah. XXIV of 1961.

20. In section 73-H of the principal Act, after sub-section (2), the following proviso shall be added, namely :—

" Provided that, in the case of co-operative credit structure entity, the Registrar or administrator shall hold election within a period of two months from the date of taking over the management of the society."

21. In section 74 of the principal Act, to sub-section (2), the following proviso shall be added, namely :—

Amendment
of section
74 of
Mah. XXIV
of 1961.

“ Provided that, the qualifications for appointment of the Chief Executive Officer of the District Central Co-operative Bank and the State Co-operative Bank shall be such as may be prescribed by the Reserve Bank of India, from time to time.”.

22. In section 77A of the principal Act, in sub-section (3), for the proviso, the following provisos shall be substituted, namely :—

Amendment
of section
77A of
Mah. XXIV
of 1961.

“ Provided that, a committee or administrator so appointed shall make necessary arrangements for constituting a new committee of the co-operative credit structure entity within two months from the date of assuming the management of the society :

Provided further that, if a committee is not, or cannot be, constituted at the expiry or determination of the term of office of the committee or the administrator, the term of office of the committee or the administrator, as the case may be, shall be deemed to be extended until the new committee is duly constituted.”.

23. In section 78 of the principal Act,—

Amendment
of section
78 of
Mah. XXIV
of 1961.

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

“ Provided further that, the supersession or removal of the committee of the District Central Co-operative Bank or the State Co-operative Bank under this sub-section shall not be done without prior consultation with the Reserve Bank of India :

Provided also that, the committee of a primary agricultural co-operative credit society shall not be superseded by the Registrar, except under the following circumstances, namely :—

(i) if a society incurs losses for three consecutive years ; or

(ii) if serious financial irregularities or frauds have been identified ; or

(iii) if there are judicial directives to this effect ; or

(iv) if there is perpetual lack of quorum :

Provided also that, the members of the Board of a primary agricultural credit co-operative society which has been superseded shall not be eligible to be re-elected.

re-appointed, re-nominated or re-co-opted, as a member of the committee for a period of three years from the date of supersession of the Board.” ;

(b) in sub-section (4),—

(i) before the existing proviso, the following proviso shall be inserted, namely :—

“Provided that, the administrator shall make arrangements for constitution of a new committee of co-operative credit structure entity, within a period of two months from the date of order of supersession of board of co-operative credit structure entity :” ;

(ii) in the existing proviso, for the words “ Provided that ” the words “ Provided further that ” shall be substituted.

Amendment
of section
81 of
Mah. XXIV
of 1961.

24. In section 81 of the principal Act,—

(i) in sub-section (1),—

(a) after sub-clause (a), the following proviso shall be inserted, namely :—

“Provided that, the audit of the District Central Co-operative Bank and the State Co-operative Bank shall be conducted by a Chartered Accountant approved by the National Bank ;”;

(b) in sub-clause (b), after the existing proviso, the following proviso shall be inserted, namely :—

“Provided further that, the primary agricultural credit co-operative societies shall arrange to get their accounts audited at least once in each co-operative year by an auditor from the panel of auditors maintained by the Registrar; or by a Chartered Accountant holding a certificate in co-operative audit issued by the Institute of Chartered Accountants of India. The District Central Co-operative Bank and the State Co-operative Bank shall arrange to get their accounts audited at least once in each co-operative year through a Chartered Accountant from the panel of auditors approved by the National Bank.” ;

(ii) after sub-section (6), the following sub-section shall be added, namely :—

“(7) Special audit of Co-operative Bank if requested by the Reserve Bank of India shall be conducted and report thereof shall be submitted to the Reserve Bank of India under intimation to the Registrar alongwith the Special Audit Report.”.

25. Section 110A of the principal Act shall be re-numbered as sub-section (1) thereof ; and after the sub-section (1), so re-numbered, the following sub-section shall be inserted, namely :—

Amendment of section 110A of Mah. XXIV of 1961.

“ (2) Notwithstanding anything contained in this Act, in the case of the District Central Co-operative Bank and the State Co-operative Bank, the supersession of the Board and appointment of liquidator shall be made by the Registrar, within one month of being so advised by the Reserve Bank of India.”.

26. In section 157 of the principal Act, after the word “societies”, at both the places where it occurs, the words “ other than co-operative credit structure entity ” shall be inserted.

Amendment of section 157 of Mah. XXIV of 1961.

27. In section 165 of the principal Act, in sub-section (2), clause (xxxii-a) shall be deleted.

Amendment of section 165 of Mah. XXIV of 1961.

Mah. Ord. VII of 2007. **28.** (1) The Maharashtra Co-operative Societies (Second Amendment) Ordinance, 2007, is hereby repealed.

Repeal of Mah. Ord. VII of 2007 and saving.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

STATEMENT OF OBJECTS AND REASONS.

The Government of India has accepted the recommendations of the "Task Force" appointed under the Chairmanship of Prof. Vaidyanathan for revitalisation of Co-operative Credit Structure. Accordingly, the Government of Maharashtra, the Government of India and the National Bank for Agriculture and Rural Development (NABARD) have signed Memorandum of Understanding. As a result, it will now be possible for the Primary Agriculture Credit Societies, the District Central Co-operative Banks and the State Co-operative Bank to make up their losses. As per the Memorandum of Understanding, Government of India has agreed to provide 100% grants for recouping the losses of the Primary Agriculture Credit Societies, the District Central Co-operative Banks and the State Co-operative Bank arising out of agricultural credit business. The 50% losses of Primary Agriculture Credit Societies, District Central Co-operative Banks and State Co-operative Banks arising out of non-agricultural credit business are to be borne by the Government of India. The Government of India has also agreed to provide 100% financial assistance for computerisation, human resource development, technology upgradation reforms in accounting system and development of Management Information System of co-operative credit structure entities.

2. In order to get the financial assistance from the Government of India, as mentioned above, it was expedient on the part of the Government of Maharashtra to carry out certain amendments in the Maharashtra Co-operative Societies Act, 1960.

3. As both Houses of the State Legislature were not in session and the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action further to amend the Maharashtra Co-operative Societies Act, 1960, for the purposes aforesaid, the Maharashtra Co-operative Societies (Second Amendment) Ordinance, 2007 (Mah. Ord. VII of 2007), was promulgated by the Governor of Maharashtra on the 29th October, 2007.

4. The salient features of the amendments carried out in the Maharashtra Co-operative Societies Act, 1960, by promulgation of the said Ordinance, are as under :—

(i) The Co-operative credit structure entity will adopt its own policies regarding interest rates on deposits and loans in conformity with the Reserve Bank of India guidelines.

(ii) The Co-operative credit structure entity will borrow, subject to the guidelines of the Reserve Bank of India and NABARD, from financial institutions regulated by the Reserve Bank of India.

(iii) The Primary Agricultural Credit Co-operative Society will pay dividend to its members as per the guidelines issued by the Registrar, in accordance with the criteria specified by the NABARD.

(iv) The Primary Agricultural Credit Co-operative Society will admit the depositor and financial service users as members of the society with voting rights.

(v) The Co-operative credit structure entity shall be at liberty to affiliate with the federal structure of its choice.

(vi) Appointment of professional Directors on the Board of the Directors of District Central Co-operative Banks and the State Co-operative Bank.

(vii) Supersession or removal of the Committee of the District Central Co-operative Bank or the State Co-operative Bank with the prior consultation with the Reserve Bank of India.

5. The amendments carried out in the Maharashtra Co-operative Societies Act, 1960 by promulgation of the said Ordinance, shall definitely help in strengthening the Co-operative credit structure and pave the way to make the Co-operative credit entities economically viable and more autonomous.

6. The Bill is intended to replace the said Ordinance by an Act of the State Legislature.

Mumbai,
Dated the 14th November, 2007.

PATANGRAO KADAM,
Minister for Co-operation.

MEMORANDUM REGARDING DELEGATED
LEGISLATION

The Bill involves the following proposals for delegation of legislative power, namely :—

Clause 2.—By this clause, which seeks to insert clause (10-B) in section 2, power is taken to the Government to prescribe the period for which the depositor or financial service user may deposit the amount in primary agricultural Co-operative credit society.

Clause 16.—By this clause, which seeks to substitute section 70, power is taken to the Government to prescribe the proportion of paid up share capital of the society upto which the society may invest or deposit amount in Banks, securities or shares.

2. The above-mentioned proposals for delegation of legislative power are of normal character.