



महाराष्ट्र शासन राजपत्र

असाधारण

प्राधिकृत प्रकाशन

सोमवार, ऑक्टोबर २९, २००७/कार्तिक ७, शके १९२९

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

भाग आठ

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधी व न्याय विभागाकडून आलेली विधेयके (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) Ordinance, 2007 (Mah. Ord. VII of 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.

[Translation in English of the Maharashtra Co-operative Societies (Second Amendment) Ordinance, 2007 (Mah. Ord. VII of 2007), published under the authority of the Governor.]

CO-OPERATION, MARKETING AND TEXTILES DEPARTMENT

Mantralaya, Mumbai 400 032, dated the 29th October 2007.

MAHARASHTRA ORDINANCE No. VII OF 2007.

AN ORDINANCE

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

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

AND WHEREAS the Governor of Maharashtra is satisfied that circumstances exist which render it necessary for him to take immediate action further to amend the Maharashtra Co-operative Societies Act, 1960, for the purposes hereinafter appearing;

Mah.
XXIV
of
1961.

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Maharashtra is hereby pleased to promulgate the following Ordinance, namely:—

Short title and commencement. 1. (1) This Ordinance may be called the Maharashtra Co-operative Societies (Second Amendment) Ordinance, 2007.
(2) It shall come into force at once.

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-1) "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;" .

Act No. 61 of 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."

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 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 the 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 Reserve Bank of India.”

17. After section 72 of the principal Act, the following section shall be inserted, namely:— Insertion of section 72A of 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 3/4th 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 supereceded;

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 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,—

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

Amendment
of section
78 of
Mah. XXIV
of 1961.

“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 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 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. Act 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, 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.

STATEMENT

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 Bank 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 is now expedient on the part of Government of Maharashtra to carry out certain amendments in the Maharashtra Co-operative Societies Act, 1960.

3. The salient features of the amendments proposed to be carried out in the Maharashtra Co-operative Societies Act, 1960, 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.

4. The amendments proposed to be carried out in the Maharashtra Co-operative Societies Act, 1960 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.

5. As both Houses of the State Legislature are not in session and the Governor of Maharashtra is satisfied that circumstances exist which render it necessary for him to take immediate action further to amend the Maharashtra Co-operative Societies Act, 1960, for the purposes aforesaid, this Ordinance is promulgated.

Mumbai,

Dated the 24th October 2007.

S. M. KRISHNA,

Governor of Maharashtra.

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

SUDHIR KUMAR GOEL,

Principal Secretary to Government.