

THE KERALA CO-OPERATIVE SOCIETIES (SECOND
AMENDMENT) ACT, 1997

(Act 15 of 1997)

CONTENTS

Preamble

Sections

1. Short title and Commencement
2. Amendment of Section 2
3. Amendment of Section 18
4. Amendment of Section 20
5. Amendment of Section 56
6. Amendment of Section 59
7. Substitution of Chapter IX
8. Amendment of Section 82
9. Substitution of Section 88
10. Substitution of Section 89
11. Special Provision in respect of the existing District Co-operative Banks, Circle Co-operative Unions and the State Co-operative Union.
12. Exclusion of time
13. Repeal and Saving.

ACT 15 OF 1997*THE KERALA CO-OPERATIVE SOCIETIES (SECOND AMENDMENT)
ACT, 1997**

An Act 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 Forty-eighth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Co-operative Societies (Second Amendment) Act, 1997.

(2) The provisions of this Act, except sections 7, 8 and 12 shall be deemed to have come into force on the 3rd day of June, 1997, section 12 shall be deemed to have come into force on the 3rd day of August, 1997 and sections 7 and 8 shall come into force on such date as the Government may, by notification in the Gazette, appoint.

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 (e), the following clause shall be inserted, namely—
“(ee) “Co-operative Arbitration Court” means a court constituted under section 70A, ”;

(ii) after clause (i), the following clause shall be inserted, namely —
“(ii) “District Co-operative Bank” means a central society having jurisdiction over one revenue district and having as its members Primary Agricultural Credit Societies and Urban Co-operative Banks and the principal object of which is to raise funds to be lent to its members, including nominal or associate members,”;

(iii) existing clause (oa) shall be relettered as clause (ob) and before the clause as so relettered, the following clause shall be inserted, namely:—

“(oa) “Primary Agricultural Credit Society” means a Service Co-operative Society, a Service Co-operative Bank, a Farmers’ Service Co-operative Bank and a Rural Bank, the principal object of which is to undertake agricultural credit activities;”;

*Received the assent of the Governor on the 28th day of December, 1997 and published in the Kerala Gazette Extraordinary No. 1881 dated 29th December, 1997.

(iv) after clause (t), the following clause shall be inserted, namely:—

“(tt) “Urban Co-operative Bank” means a Primary Co-operative Society having its area of operation in the urban areas and which does not undertake any agricultural credit activities.”.

3. *Amendment of section 18.*—In section 18 of the principal Act, to sub-section (1), the following provisos shall be added, namely:—

“Provided that a District Co-operative Bank may admit any Co-operative Society registered under the provisions of this Act, other than Primary Agricultural Credit Societies and Urban Co-operative Banks functioning within its area of operation, as nominal or associate member:

Provided further that the members of a District Co-operative Bank, other than Primary Agricultural Credit Societies and Urban Co-operative Banks, as on the date of commencement of the Kerala Co-operative Societies (Second Amendment) Act, 1997, shall become nominal or associate members of such District Co-operative Bank, at such commencement.”.

4. *Amendment of section 20.*—In section 20 of the principal Act, after clause (b), the following clause shall be inserted, namely:—

“(bb) an *ex-officio* member on the committee of a society shall have one vote.”.

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

“(c) pay, in the case of a Central Society, including a District Co-operative Bank, dividend to its members, on their paid up share capital at such rate not exceeding twenty per cent.”.

6. *Amendment of section 59.*—In section 59 of the principal Act, for the existing proviso to sub-section (1), the following provisos shall be substituted, namely:—

“Provided that District Co-operative Bank may make loan to its nominal or associate members:

Provided further that, with the general or special sanction of the Registrar, a society may make loans to another society.”.

7. *Substitution of Chapter IX.*—In the principal Act, for the existing Chapter IX, the following Chapter shall be substituted, namely:—

"CHAPTER IX

SETTLEMENT OF DISPUTES

69. *Disputes to be decided by Co-operative Arbitration Courts.*—(1) Notwithstanding anything contained in any law for the time being in force, if a dispute arises—

(a) among members, past members and persons claiming through members, past members and deceased members; or

(b) between a member, past member or person claiming through a member, a past member or deceased member and the society, its committee or any officer, agent or employee of the society, or

(c) between the society or its committee and any past committee any officer, agent or employee or any past officer, past agent or past employee or the nominee, heirs or legal representatives of any deceased officer, deceased agent or deceased employee of the society; or

(d) between the society and any other society; or

(e) between a society and the members of a society affiliated to it; or

(f) between the society and a person, other than a member of the society, who has been granted a loan by the society or with whom the society has or had business transactions or any person claiming through such a person; or

(g) between the society and a surety of a member, past member, deceased member or employee or a person, other than a member, who has been granted a loan by the society, whether such a society is or is not a member of the society; or

(h) between the society and a creditor of the society,

such dispute shall be referred to, and decided by, the Co-operative Arbitration Court constituted under section 70A and no other court or authority shall have jurisdiction to entertain any suit or other proceeding in respect of such dispute.

(2) For the purposes of sub-section (1), the following shall also be deemed to be disputes, namely.—

(a) a claim by the society for any debt or demand due to it from a member or the nominee, heirs or legal representatives of a deceased member whether such debt or demand be admitted or not;

(b) a claim by a surety against the principal debtor where the society has recovered from the surety any amount in respect of any debt or demand due to it from the principal debtor as a result of the default of the principal debtor, whether such debt or demand is admitted or not,

(c) any dispute arising in connection with the election of the Board of Management or any officer of the society,

Explanation—A dispute arising at any stage of an election commencing from the convening of the general body meeting for the election shall be deemed to be a dispute arising in connection with the election.

(d) any dispute arising in connection with employment of officers and servant of the different classes of societies specified in sub-section (1) of section 80, including their promotion and *inter se* seniority

(3) No dispute arising in connection with the election of the Board of Management or an officer of the society shall be entertained by the Co-operative Arbitration Court unless it is referred to it within one month from the date of the election

70. *Award on disputes*—(1) The Co-operative Arbitration Court, on receipt of reference of a dispute under section 69, shall pass an award in accordance with the provisions of this Act and the rules and the bye-laws made thereunder and such award shall, subject to the provisions of section 82, be final

(2) The Co-operative Arbitration Court may, pending award of a dispute referred to it under section 69, make such interlocutory orders as it may deem necessary in the interest of justice.

(3) The Co-operative Arbitration Court shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (Central Act 5 of 1908), while trying a suit in respect of the following matters, namely—

- (i) the summoning and enforcing the attendance of any defendant or witness and examining the witness on oath,
- (ii) the discovery and production of any document or other material object producible as evidence,
- (iii) the reception of evidence on affidavits;
- (iv) issuing of any commission for the examination of any witness; and
- (v) any other matter which may be prescribed

70A. *Co-operative Arbitration Courts*—(1) The Government shall constitute such number of Co-operative Arbitration Courts as are necessary to exercise the powers and discharge the functions conferred on it under this Act.

(2) The qualifications, term, salary and allowances and other conditions of service of the person to be appointed as the Co-operative Arbitration Court shall be such as may be decided by the Government from time to time.

(3) The Government shall make rules for regulating the procedure and disposal of the business of the Co-operative Arbitration Court.

(4) The Registrar or the Government shall lend the services of such number of officers and employees, as may be necessary, to assist the Co-operative Arbitration Court.

(5) The officers and employees referred to in sub-section (4), shall continue to be Government servants for all purposes and their terms and conditions of service shall continue to be the same as applicable to them under the Government.

70B *Provisions as to pending proceedings.*—On the constitution of a Co-operative Arbitration Court, every dispute pending before the Registrar or any person invested with the power to dispose of the dispute by the Government or the arbitrator appointed by the Registrar, relating to the local area of jurisdiction of the Arbitration Court, shall be transferred to such Arbitration Court and that Court shall dispose of the same as if it were a dispute referred to it under section 69.”

8. *Amendment of section 82.*—In the principal Act, in section 82, for sub-section (1), the following sub-section shall be substituted, namely.—

“(1) Any person aggrieved by—

- (a) an order of the Registrar made under clause (ii) of sub-section (8) or clause (ii) of sub-section (9) of section 14; or
- (b) an award of the Co-operative Arbitration Court under sub-section (1) of section 70,

may, within sixty days from the date of such decision or award, as the case may be, appeal to the Tribunal and the Tribunal may pass such order on the appeal as it may deem fit.”

9. *Substitution of section 88*—For section 88 of the principal Act, the following sections shall be substituted, namely:—

“88. *Constitution of Circle Co-operative Unions.*—(1) The Government shall, by notification in the Gazette, constitute a Circle Co-operative Union for each circle in the State with the following members, namely:—

- (a) seven members elected, in such manner as may be prescribed, by the members of the committees of the affiliated societies within the circle from among themselves;

(b) one member elected by the Board of Directors of the District Co-operative Bank having jurisdiction over the circle, from among themselves;

(c) two members elected, in such manner as may be prescribed by the employees of the affiliated Co-operative Societies within the circle, from among themselves.

(d) one member elected by the women members of the committees of the affiliated societies referred to in clause (a), from among themselves;

(e) one member belonging to the Scheduled Castes or Scheduled Tribes elected by the Scheduled Caste or Scheduled Tribe members of the committees of the affiliated societies referred to in clause (a), from among themselves;

(f) the Assistant Registrar of Co-operative Societies (Audit), having jurisdiction over the circle, *ex-officio*,

(g) the Assistant Registrar of Co-operative Societies (General), having jurisdiction over the circle *ex-officio*, who shall be the Secretary of the Circle Co-operative Union

(2) Each Circle Co-operative Union shall elect one of the members, other than an *ex-officio* member, to be its Chairman.

(3) The term of office of an elected member shall be three years from the date on which he enters upon office.

(4) The *ex-officio* members shall have all the powers of an elected member.

(5) The affiliated and functioning societies alone shall have the right to vote and contest in the election to the Circle Co-operative Union.

Explanation.—For the purpose of this sub-section a society which is carrying on activities in accordance with its principal object shall be a functioning society.

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 wilfully disobey or fail to comply with any lawful order or direction, the Registrar may, after giving the members 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.”.

10. *Substitution of section 89.*—For section 89 of the principal Act, the following sections shall be substituted, namely:—

“89. *Establishment of State Co-operative Union.*—(1) The Government shall, by notification in the Gazette, establish a State Co-operative Union.

(2) The State Co-operative Union shall consist of—

- (a) a general body; and
- (b) a managing committee.

(3) Each of the Circle Co-operative Unions, Apex Societies, District Co-operative Banks and Central Societies other than the District Co-operative Banks shall elect a delegate in such manner as may be prescribed, and all such delegates, the employees’ representatives, the representative of the women members, the representative of the members belonging to the Scheduled Castes or Scheduled Tribes, the Ex-officio members and the Government nominees in the managing committee of the State Co-operative Union shall constitute the General Body of the State Co-operative Union.

(4) The Managing Committee referred to in clause (b) of sub-section (2) shall consist of the following members, namely:—

(a) one member from each Revenue District in the State, elected, in such manner as may be prescribed, by the delegates of the Circle Co-operative Unions, of that District from among themselves;

(b) two members elected, in such manner as may be prescribed, by the delegates of the Apex Societies in the State, from among themselves;

(c) one member elected, in such manner as may be prescribed, by the delegates of the District Co-operative Banks, from among themselves;

(d) one member elected, in such manner as may be prescribed by the members of the Circle Co-operative Unions elected under clause (c) of sub-section (1) of section 88, from among themselves;

(e) one member elected, in such manner as may be prescribed, by the members of the Circle Co-operative Union elected under clause (d) of sub-section (1) of section 88, from among themselves;

(f) one member elected, in such manner as may be prescribed, by the members of the Circle Co-operative Unions elected under clause (e) of sub-section (1) of section 88, from among themselves;

(g) two members nominated by the Government;

(h) the Secretary of the State Co-operative Union, *ex-Officio*.

(5) The managing committee shall elect one of its members, other than the *ex-officio* member to be the Chairman of the State Co-operative Union.

(6) The term of office of the members of the general body and of the managing committee of the State Co-operative Union shall be three years from the date on which they enter upon office.

(7) The Registrar or any Officer, not below the rank of Additional Registrar of Co-operative Societies, nominated by him shall be the Secretary of the State Co-operative Union.

(8) An *ex-officio* member and a nominated member shall have all the powers of an elected member of the managing committee.

89A *Appointment of officer or committee of default on 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 wilfully 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 not below the rank of an Additional Registrar 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.”

11. *Special provision in respect of the existing District Co-operative Banks, Circle Co-operative Unions and the State Co-operative Union.*—Notwithstanding anything contained in the principal Act or in any judgment, decree or order of any court, tribunal or other authority, on the commencement of this Act.—

(a) the committee in office of a District Co-operative Bank, at such commencement, shall cease to exist and the Registrar shall be competent to appoint a new committee or one or more administrator or administrators in

accordance with the provisions in sub-section (1A) of section 28 of the principal Act and the provisions in sub-sections (IAA) and (IB) shall also apply in respect of such committee, administrator or administrators, as the case may be;

(b) every Circle Co-operative Union in existence at such commencement shall continue for a period of four months from such commencement or till a new circle co-operative union, in accordance with the provisions of the principal Act, as amended by this Act, is constituted, whichever is earlier; and

(c) the State Co-operative Union in existence at such commencement shall continue for a period of ten months from such commencement or till a new State Co-operative Union in accordance with the provisions of the principal Act as amended by this Act, is constituted, whichever is earlier.

12. *Exclusion of time.*—For the purpose of calculating the period of one month for referring a dispute in connection with election to the Registrar under sub-section (3) of section 69 of the principal Act, the period from the 3rd day of June, 1997 to the 3rd day of August, 1997 shall be excluded.

13. *Repeal and saving* —(1) The Kerala Co-operative Societies (Second Amendment) Ordinance, 1997 (12 of 1997), is hereby repealed.

(2) No withstanding such repeal, anything done or deemed to have been done or any action taken or deemed to have been taken under the said Ordinance or under the principal Act as amended by that Ordinance shall be deemed to have been done or taken under this Act or, as the case may be under the principal Act as amended by this Act.