

THE KERALA CO-OPERATIVE SOCIETIES

(AMENDMENT) ACT 1999

(Act 1 of 2000)

CONTENTS

*Preamble**Sections*

1. Short title and commencement
2. Amendment of the preamble
3. Amendment of Section 2
4. Amendment of Section 7
5. Insertion of new section 8A
6. Amendment of Section 12
7. Amendment of Section 16
8. Amendment of Section 18
9. Substitution of Section 20
10. Amendment of Section 22
11. Amendment of Section 28
12. Amendment of Section 28 A
13. Insertion of Section 28B
14. Amendment of Section 32
15. Amendment of Section 33
16. Insertion of new Section 57A, 57B, and 57C
17. Substitution of Chapter VIII
18. Substitution of Chapter IX
19. Amendment of Section 71
20. Amendment of Section 73
21. Insertion of new Section 80B
22. Amendment of Section 82
23. Amendment of Section 88
24. Amendment of Section 89
25. Amendment of Section 91
26. Amendment of Section 94
27. Repeal

THE KERALA CO-OPERATIVE SOCIETIES (AMENDMENT)
ACT, 1999*

(Act 1 of 2000)

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 Fiftieth 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, 1999.

(2) Sections 13, 16, 17, 18 and 21 of this Act shall come into force on such dates as the Government may by notification in the Gazette appoint, and different dates may be appointed for different provisions of this Act, and the other provisions of this Act shall come into force at once.

2. *Amendment of the preamble.*—In the Kerala Co-operative Societies Act, 1969 (21 of 1969) (hereinafter referred to as the principal Act), for the existing preamble, the following preamble shall be substituted, namely:—

“*Preamble.*—WHEREAS with a view to provide for the orderly development of the co-operative sector in the State, by organising the co-operative societies as self governing democratic institutions, to achieve the objects of equity, social justice and economic development, as envisaged in the directive principles of State Policy of the Constitution of India, it is expedient to consolidate, amend and unify the law relating to Co-operative societies in the State;”.

3. *Amendment of section 2*—In section 2 of the principal Act,—

(i) Clause (ee) shall be re-lettered as clause (ea) and after clause (ea) as so re-lettered, the following clauses shall be inserted, namely.—

*Received the assent of the Governor on the first day of January 2000 and published in the Kerala Gazette Extraordinary No. 1 dated 1st January, 2000.

“(eb) “Consortium Lending Scheme” means the Consortium Lending Scheme framed under section 57C;

(ec) “Co-operative Development and Welfare Fund” means the Co-operative Development and Welfare Fund established under section 57A;

(ed) “Co-operative Service Examination Board” means the Co-operative Service Examination Board constituted under section 80B,”;

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

“(ha) “Deposit Guarantee Scheme” means the Deposit Guarantee Scheme framed under section 57B;

(hb) “Director of Co-operative Audit” means the Director of Co-operative Audit appointed under sub-section (1) of section 63 and includes any office on whom all or any of the powers of the Director of Co-operative Audit under this Act are conferred,”

(iii) clause (ii) shall be re-lettered as clause (ia) and after clause (ia), as so re-lettered, the following clause shall be inserted, namely:—

“(ib) “Federal Co-operative Society” means a society having more than one district as its area of operation and having individuals and other co-operative societies as its members,”

(iv) for clause (oa), the following shall be substituted, 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 and having its area of operation confined to a Village Panchayat or a Municipality

Provided that the restriction regarding the area of operation shall not apply to Societies or Banks in existence at the commencement of the Kerala Co-operative Societies (Amendment) Act, 1999,”.

(v) after clause (ob) the following clause shall be inserted, namely:—

“(oc) “Primary Co-operative Agricultural and Rural Development Bank” means a society having its area of operation confined to a taluk and the principal object of which is to provide for long term credit for agricultural and rural development activities:

Provided that the societies in existence at the commencement of the Kerala Co-operative Societies (Amendment) Act, 1999, having more than one taluk as its area of operation shall, restrict such area of operation to the taluk where the headquarters of such society is situated, within a period of six months.”.

(vi) after clause (r) the following clauses shall be inserted, namely.—

“(1a) “State Co-operative Agricultural and Rural Development Bank” means an apex society having only Primary Co-operative Agricultural and Rural Development Banks as its members and functioning in accordance with the provisions contained in the Kerala State Co-operative Agricultural and Rural Development Banks Act, 1984 (20 of 1984);

(rb) “State Co-operative Bank” means an apex society having only District Co-operative Banks as its members;

(rc) “State Co-operative Election Commission” means the State Co-operative Election Commission constituted under section 28B;”;

(vii) for clause (tt), the following shall be substituted, namely:—

“(ta) “Urban Co-operative Bank” means a society registered under this Act having its area of operation in the urban areas and which undertakes banking business;

(tb) “Vigilance Officer” means the Vigilance Officer appointed under section 68A;”.

4. *Amendment of section 7.*—In section 7 of the principal Act,—

(i) in sub-section (1), the words “within a period of ninety days from the date of receipt of the application” shall be added at the end;

(ii) in sub-section (3), for the words “within three months”, the words “within ninety days” shall be substituted;

(iii) after sub-section (3), the following sub-section shall be inserted, namely:—

“(4) Where an application for registration of a society is not disposed of within the time specified in sub-section (3), the applicant may make a representation,—

(a) before the Registrar, if the application for registration 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 application for registration is made before Registrar,

and the Registrar or the Government, as the case may be, shall, within sixty days from the date of receipt of such representation, issue directions to the authority concerned to take appropriate decision on the application for registration and the authority concerned shall comply with such directions.”.

5. *Insertion of new section 8A.*—In the principal Act, after section-8, the following section shall be inserted, namely:—

“8A. *Affiliation to apex society*—(1) Every Primary Co-operative Society or Central Co-operative Society may, within such time and in such manner, as may be prescribed, apply for affiliation to the concerned apex society or Central Society, as the case may be

(2) Where the apex society or central society does not, within sixty days from the date of receipt of the application for affiliation, determine whether such affiliation should be given or not, such affiliation shall be deemed to have been given to the applicant society from the date on which the said period of sixty days expires.

(3) When the apex or central society, as the case may be, rejects an application for affiliation under sub-section (1), the aggrieved society may file an appeal before the Registrar against such rejection within thirty days from the date of receipt of the order of rejection and the Registrar shall dispose of the appeal within sixty days from the date of appeal.”.

6. *Amendment of section 12.*—In section 12 of the principal Act, after sub-section (4), the following sub-sections shall be inserted, namely:—

“(4A) An application to register an amendment of the bye-laws of a society shall be disposed of by the Registrar within ninety days from the date of receipt of the same.

(4B) Where an application to register an amendment of the bye-laws of a society is not disposed of within the time specified in sub-section (4A), the society may make a representation,—

(a) before the Registrar of Co-operative Societies, if the application to register the amendment of the bye-laws 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 application for registration of the amendment of the bye-laws is made before the Registrar,

and the Registrar or the Government, as the case may be, shall within sixty days from the date of receipt of such representation, issue directions to the authority concerned, to dispose of the same.”.

7. *Amendment of section 16.*—In section 16 of the principal Act, in sub-section (1),—

(i) after clause (b), the following clause shall be inserted, namely,—

“(ba) a local self government.”;

(ii) after the third proviso, the following proviso shall be added, namely —

“Provided also that in the case of hospital co-operative societies, industrial and commercial establishments and other organisations 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.”;

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

“(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.

8 *Amendment of section 18* — In section 18 of the principal Act, after the existing provisos, the following proviso shall be inserted, namely:—

“Provided also that a hospital co-operative society may admit any other society as nominal or associate member.

Explanation — The term ‘hospital co-operative society’ shall have the same meaning as in the Explanation to the fourth proviso to sub-section (1) of section 16.”

9 *Substitution of section 20* — For section 20 of the principal Act the following shall be substituted namely:—

‘20 *Vote of members* — Notwithstanding anything contained in any other provision of this Act or any other law, every active member of a society shall have one vote in the affairs of the society.’

Provided that,—

(a) a member admitted within sixty days immediately prior to the date of election shall not have the right to vote,

(b) a nominal or associate member shall not have the right to vote;

(c) Where the Government is a member of a society, each person nominated by the Government on the committee of the society shall have one vote each including the right to vote for election of office bearers of the society,

(d) an ex-officio member of the committee of a society shall have one vote but shall not have right to vote for election of office bearers of the society,

(e) in the case of an equality of votes, the Chairman shall have and exercise a second or casting vote:

Provided further that the procedure and manner in which an active member may be identified shall be such as may be prescribed.

Explanation — For the purpose of this section, active member means,—

(i) in the case of a credit society, a member who has made a deposit or has become a borrower or surety or has attended any general body meeting of the society during the period of five years immediately preceding the date of resolution of the committee for the conduct of election;

(ii) in the case of any other society, a member who has involved in all or any of the objects of the society specified in the bye-laws thereof during the period of five years immediately preceding the date of resolution of the committee for the conduct of election.”.

10. *Amendment of section 22.*—For section 22 of principal Act the following section shall be substituted, namely,—

“22 *Restriction on holding shares.*—In any society, no member other than the Government, any statutory or non-statutory Board, Committee or Corporation approved by the Government in this behalf or any other society, shall hold more than such portion of the total share capital of the society not exceeding one fifth thereof, as may be prescribed.

Provided that the Government may, by notification in the Gazette, specify in respect of any class of societies a higher maximum than one fifth of the share capital’

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

(i) in sub-section (1), for the words “three years”, the words “five years” shall be substituted; and for the third proviso thereunder, the following provisos shall be substituted, namely —

“Provided also that a Committee constituted prior to the commencement of the Kerala Co-operative Societies (Amendment) Act, 1999, shall be eligible to continue for a period of five years.

Provided also that the above proviso is not applicable to a committee where the committee has passed a resolution before the commencement of the Kerala Co-operative Societies (Amendment) Act, 1999, for the conduct of election thereof”

(ii) for sub-sections (1A), (1A') and (1B) the following sub-sections shall be substituted, namely,—

(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

(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."

12 *Amendment of section 28A*—In section 28A of the principal Act,—

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

"(1) Notwithstanding anything contained in this Acts the rules or the bye-laws, there shall be reserved in the committee of every society, one seat for a woman member and one seat for a member belonging to the Scheduled Castes or the Scheduled Tribes".

(11) for sub-section (3), the following sub-section shall be substituted, namely —

"(3) Where there is no representation of woman or of a member belonging to the Scheduled Castes or Scheduled Tribes in the committee of any apex or central society at the commencement of the Kerala Co-operative Societies (Amendment) Act, 1999, the Government or the Registrar, respectively, may nominate a woman member or a member belonging to the Scheduled Castes or Scheduled Tribes to the Committee."

13. *Insertion of new section 28 B*—In the principal Act, after section 28 A, the following section shall be inserted, namely —

"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 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 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 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.

(3) The State Co-operative Election Commission shall, in consultation with the Government, designate or nominate officers and employees of the Government to assist the Commission in the conduct of election to the committee of such society.

(4) Subject to the provisions of this Act, the Government may, by rule, make provision with respect to all matters relating to, or in connection with elections to the committee of a society."

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

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

“(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 a new committee consisting of not more than three members of the society in its place or appoint not more than three administrators, 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.”,

(ii) in sub-section (4), for the words “have power to exercise all or any of the functions”, the words “have power to exercise all or any of the powers and functions”, shall be substituted

15. *Amendment of Section 33.*—In section 33 of the principal Act,—

(i) in sub-clause (ii) of clause (b) of sub-section (1), for the words “one or more administrator or administrators who need not be a member or.” the words “not more than three Administrators who need not be”, shall be substituted

(ii) in sub-section (2), for the words “have power to exercise all or any of the functions”, the words “have power to exercise all or any of the powers and functions” shall be substituted

16. *Insertion of new sections 57A, 57B and 57C* —In the principal Act, after section 57, the following sections shall be inserted, namely.—

“57A. *The Co-operative Development and Welfare Fund*—(1) The Government may, by notification in the Gazette, frame a scheme to be called the Co-operative Welfare and Development Scheme for the establishment of a Fund under this Act and there shall be established, as soon as may be after the framing of the scheme, a Fund to be called the Co-operative Development and Welfare Fund, in accordance with the provisions of this Act and the scheme

(2) A society may contribute to the Fund at such rates, as may be specified in the scheme

(3) There shall be credited to the Fund,—

(a) the contribution to be paid by the society under sub-section (2), and

(b) any other amount which, under the provisions of the scheme shall be credited to the Fund.

(4) Subject to the provisions of this Act and the scheme, the Co-operative Development and Welfare Fund shall be utilised for payment of grant or loans to societies for the following purposes, namely —

(i) for the purpose of safeguarding the interests of the societies against any loss or damage to their assets and properties, despite reasonable precautions to prevent such loss or damage;

(ii) for utilising for the developmental activities of the societies, and

(iii) for any other purpose, as may be specified in the scheme

(5) Subject to the provisions of this Act the scheme may provide for the following matters, namely:—

(i) the time and manner in which contribution shall be made to the Fund by the societies,

(ii) the rate of contribution;

(iii) the administration of the Fund;

(iv) the purposes for which the Fund may be utilised for developmental activities of the societies,

(v) the conditions under which the Fund may be expended for payment of reliefs to the societies;

(vi) the manner in which the accounts of the Fund shall be kept, and

(vii) any other matter which is to be provided for in the scheme or which may be necessary or proper for the purpose of implementing the scheme.

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

57C. *Consortium Lending Scheme.*—(1) The Government may, by notification in the Gazette, frame a scheme to be called the “Consortium Lending Scheme” for the purpose of providing loans for

infrastructure development, to societies, local authorities, development authorities or similar institutions, on government guarantee subject to such terms and conditions, as may be specified in the said scheme.

(2) A society may contribute to the Consortium Lending Scheme, at such rates, as may be specified in the scheme.”.

17. *Substitution of Chapter VIII.*—In the principal Act, for Chapter VIII, the following Chapter shall be substituted, namely.—

“CHAPTER VIII

PART-A

AUDIT

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) The qualification and the terms and conditions of the person to be appointed as the Director of Co-operative Audit shall be such, as may be prescribed.

(3) The Government may by general or special order, confer on any officer all or any of the powers of the Director of Co-operative Audit under this Act

(4) It shall be the duty of the Director of Co-operative Audit to audit or to cause to be audited through persons authorised by him, the accounts of every society, at least once in each year

64. *Scope of audit, powers of the Director of Co-operative Audit and procedure for audit*—(1) The audit shall include an examination of overdue debts, if any, the verification of the cash balance and securities and a valuation of the assets and liabilities of the society concerned and such other audit matters, as may be prescribed

(2) For the purpose of audit, the Director of Co-operative Audit or the person authorised by him under section 63 shall have the following powers, namely:—

(a) he shall, at all reasonable times, have access to all the books, accounts, documents, papers and all other relevant records, securities, cash and other properties belonging to, or in the custody or control of the society;

(b) he may summon any person in possession of, or responsible for the custody, of any such books, accounts, documents, papers, other records, securities, cash or other properties, to produce the same at any place at the headquarters of the society or any branch thereof or, where there is no working office for a society, at the office of the Director of Co-operative Audit or at the office of any of his subordinate officers, as may be specified by him, and

(c) such other powers as may be prescribed.

(3) Every person who is or has been, at any time, an officer or employee of the society and every member and past member of the society, who is in possession of any information and records in regard to the transactions and working of the society, shall furnish such information in regard to the transactions and working of the society, as the Director or the person authorised by the Government under sub-section (3) of section 63 may require.

(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) The amount of fee for the audit of accounts of society for each year shall be such, as may be fixed by the Director of Co-operative Audit, in accordance with the rules made in this behalf.

(7) The fee 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.

(8) The procedure for payment of the fee shall be such, as may be prescribed.

(9) If the result of the audit held under section 63 discloses any defects in the working of a society, the Director of Co-operative Audit may bring such defects to the notice of the society and if the society is affiliated to another society, also to the notice of that other society.

(10) If the result of the audit held under section 63 discloses any serious defect in the working of the society, the Director of Co-operative Audit or the person authorised by him shall communicate the same forthwith to the Registrar for immediate further action.

(11) The Director of Co-operative Audit may, by order in writing, direct the society or its officers to take such action, as may be specified in the order, within the time mentioned therein to rectify the defects disclosed in the audit, under intimation to the Registrar.

PART-B

INQUIRY, SUSPENSION, INVESTIGATION AND SURCHARGE

65 *Inquiry by the Registrar* —(1) The Registrar may,—

- (a) on his own motion; or
- (b) on an inquiry report of the Vigilance Officer appointed under section 68A, or
- (c) on a report of the Director of Co-operative Audit appointed under section 63; or
- (d) on an application by the majority of the members of the committee of the society, or by not less than one third of the quorum for the general body meeting, whichever is less, or
- (e) on an application by the apex society or financing bank of which such society is a member, or
- (f) on an application of a society to which the society concerned is affiliated;

hold an enquiry by himself or by a person authorised by order in writing, into the constitution, working and financial condition of the society, if he is satisfied that it is necessary so to do.

(2) The Registrar or the person authorised by him under sub-section (1) shall, for the purpose of an inquiry under this section, have the following powers, namely:—

(a) he shall, at all reasonable times, have free access to the books, accounts, documents, securities, cash and other properties belonging to, or in the custody of the society and may summon any person in possession of or responsible for the custody of any such books, accounts, documents, securities, cash or other properties, to produce the same at any place at the headquarters of the society or at any branch thereof or where there is no working office for the society, at the office of the Registrar or at the office of any of his subordinate officers,

(b) he may summon any person who, he has reason to believe, has knowledge of any of the affairs of the society, to appear before him at any place at the headquarters of the society or any branch thereof and may examine such person on oath; and

(c) (1) he may, notwithstanding any rule or bye-law specifying the period of notice for a general body meeting of the society, himself call a general body meeting or require the President or Secretary of the society to call a general body meeting at such time and place at the headquarters of the society or any branch thereof, to determine such matters as may be directed by him;

(u) any meeting called under sub-clause (i), shall have all the powers of a general body meeting called under the bye-laws of the society.

(3) When an inquiry is made under this section, the Registrar may communicate the result of the inquiry to the financing bank, if any, to the society to which such society is affiliated and to the Circle Co-operative Union.

(4) When an inquiry made under this section reveals only minor defects which, in the opinion of the Registrar, can be remedied by the society, he shall communicate the result of the inquiry to the society and the society, if any, to which that society is affiliated. He shall also direct the society or its officers to take such action within the time specified therein to rectify the defects disclosed in such inquiry

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

(6) If the Registrar, on completion of the inquiry finds that there is a major defect in the constitution or working or financial condition of the society, he may initiate action in accordance with the provisions of section 32.

66. *Supervision and Inspection.*—(1) The Registrar shall supervise or cause to be supervised by a person authorised by him by general or special order in writing in this behalf, the working of every society as frequently, as he may consider necessary. The supervision under this sub-section may include an inspection of the books of the society.

(2) The Registrar may, on his own motion, or on the application of a creditor of a society, inspect or direct any person authorised by him, by order in writing in this behalf, to inspect the books of the society:

Provided that no such inspection shall be made on the application of a creditor unless the applicant,—

(a) satisfies the Registrar that the debt is a sum then due and that he has demanded payment thereof and has not received satisfaction within a reasonable time, and

(b) deposits with the Registrar such a sum as security for the costs of the proposed inspection as the Registrar may require.

(3) Where the inspection under sub-section (2) is made on the application of a creditor, the Registrar shall communicate the result of such inspection to such creditor

(4) The Registrar or any person authorised by the Registrar under sub-section (1) or sub-section (2) shall at all reasonable time have free access to the books, records and accounts of the society and may summon any person in possession of or responsible for the custody of any such books, records and accounts, to produce the same for inspection at any place at the headquarters of the society or any branch thereof or where there is no working office for the society, at the office of the Registrar or at the office of any of his subordinate officers. It shall be the duty of every officer and employee of the society to assist in such supervision or inspection and to furnish any information that may be required for the purpose.

(5) The Registrar or the person authorised by him under sub-section (1) or sub-section (2) may, by order in writing, direct the society or its officers to take such action, as may be specified in such order, within the time that may be mentioned in such order.

(6) The Circle Co-operative Union shall have the power to direct that a non-official member thereof shall be present at an inspection under sub-section (2):

Provided that such non-official member shall not have the power to make the inspection himself

(7) Apex Society or Federal Co-operative Society or a financing bank shall have the right to inspect the books of any registered society which is affiliated to it, through its officers

(8) An officer of an Apex Society or Federal Co-operative Society or a financing bank, inspecting the books of a society shall at all reasonable times have the access to the books, accounts, documents, securities, cash and other properties belonging to the society and may call for such information, statements and return, as may be necessary to ascertain the financial condition of the society and the safety of the sums lent to it.

(9) An officer referred to in sub-section (8) shall also have power to summon any person in possession of or responsible for the custody of any books, accounts, documents, securities, cash and other properties, referred to in that sub-section to produce the same for inspection or verification at any place at the headquarters of the society or any branch thereof.

(10) Apex Society or Federal Co-operative Society or the financing bank may also report to the Registrar about the action to be taken against the society, as a result of the inspection by its officers.

66A. *Powers of Registrar to give directions.*—Subject to the provisions contained in this Act and the rules made thereunder, the Registrar may issue general directions and guidelines to the Co-operative Societies in furtherance of the purposes of this Act.

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 Vigilance Officer appointed under section, 68A, is satisfied that any officer other than the President, Vice President, Chairman, Vice Chairman and member of the committee of any society, has done any act detrimental to the interest of the society or its members and that there is reason to believe that such officer has indulged in misappropriation, manipulation of accounts, forgery, destruction or tampering of records of the society, he may, for reasons to be recorded in writing issue a direction to the committee of the said society to suspend the officer or officers responsible for the offence forthwith.

67. *Cost of inquiry or inspection.*—Where an inquiry is held under section 65, or an inspection is held under section 66 on the application of a creditor, the Registrar may, by order, apportion the cost, or such portion of the cost, as he may deem fit, between the society to which the society concerned is affiliated, the society, the member or creditor demanding an inquiry or inspection and the officers or former officers, of the society.

Provided that,—

- (a) no order of apportionment of the cost shall be made under this section unless the society or the person sought to be made liable to pay the costs thereunder has had a reasonable opportunity of being heard,
- (b) the Registrar shall state in writing the grounds on which the costs are apportioned.

68. *Surcharge* —(1) If in the course of an audit, inquiry, inspection or the winding up of a society, it is found that any person, who is or was entrusted with the organisation or management of such society or who is or has, at any time been an officer or an employee of the society, has made any payment contrary to the Act and the rules or the bye-laws, or has caused any loss or damage in the assets of the society by breach of trust or wilful negligence or mismanagement or has misappropriated or fraudulently retained any money or other property belonging to such society or has destroyed or caused the destruction of the records, the Registrar may, of his own motion or on the application of the committee, liquidator or any creditor, inquire himself or direct any person authorised by him by an order in writing in this behalf, to inquire into the conduct of such person.

(2) Where an inquiry is made under sub-section (1), the Registrar may, after giving the person concerned, an opportunity of being heard, by order in writing, require him to repay or restore the money or other property or any part thereof, with interest at such rate, or to pay contribution and costs or compensation to such extent, as the Registrar may consider just and equitable.

68A. *Vigilance Officer.*—(1) The Government shall appoint an officer, not below the rank of Deputy Inspector General of Police, as Vigilance Officer with powers to inquire into and investigate the cases of misappropriation, corruption and any other major irregularity in the societies as may be referred to him by the Registrar.

(2) The Vigilance Officer shall conduct the inquiry and investigation in such manner, as may be prescribed.

(3) The Vigilance Officer shall be under the administrative control of the Registrar of Co-operative Societies.

Provided that the powers of the Registrar of Co-operative Societies under this section shall not be conferred on any other person ”

18. *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 Court and Registrar.*—(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 surety 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 the Co-operative Arbitration Court constituted under section 70A in the case of non-monetary disputes and to the Registrar, in the case of monetary disputes; and the Arbitration Court?

or the Registrar, as the case may be, shall decide such dispute and no other court or other authority shall have jurisdiction to entertain any suit or other proceedings 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 servants 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 sub-section (1) of 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 interests 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.

(4) The Registrar may, on receipt of the reference of a dispute under sub-section (1) of section 69,—

- (a) elect to decide the dispute himself; or
- (b) transfer it for disposal to any person who has been invested by the Government with powers in that behalf; or
- (c) refer it for disposal to an arbitrator appointed by the Registrar:

Provided that a transfer under clause (b) or a reference under clause (c) shall not be made to a person equal or superior to him in rank

(5) The Registrar may withdraw any reference transferred under clause (b) of sub-section (4) or referred under clause (c) of that sub-section and he may elect to decide the dispute himself or transfer it to any other person under clause (b) of sub-section (4) or refer it to any other arbitrator under clause (c) of that sub-section

(6) The Registrar or the person invested with powers in this behalf shall, decide the dispute or the arbitrator shall pass an award, in accordance with the provisions of this Act and the rules and the bye-laws and such decision or award shall, subject to the provisions of section 82, be final. Pending decision or award, the Registrar, such person or the arbitrator, as the case may be, may make such interlocutory orders as he may deem necessary in the interests of justice

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 business of the Co-operative Arbitration Court.

(4) The Registrar or the Government shall lend the service 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 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, in respect of non-monetary disputes, relating to the local area of jurisdiction of the Arbitration Court, shall be transferred to such Arbitration Court and the Court shall dispose of the same as if it were a dispute referred to it under section 69”.

19 *Amendment of Section 71* —In section 71 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) If a proposal for revitalisation of a society, in respect of which an order under sub-section (2) has been passed, is received by the Registrar within a period of one year from the date of such order, the Registrar may cancel the same and allow the society to continue to exist.

Provided that this sub-section shall not apply in the case of a society which does not commence functioning within a period of six months from the date of registration”.

20. *Amendment of Section 73* —In section 73 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

“(2A) The liquidator shall complete the winding up proceedings within a period of three years from the date of his appointment under sub-section (1) of section 72

Explanation—In computing the period of three years the period during which an appeal, if any, preferred against an order of winding up of a society under section 71 is pending, shall be excluded.”

21. *Insertion of new section 80B*—In the principal Act, after section 80 A, the following section shall be inserted, namely:—

“80B *Co-operative Service Examination Board*.—(1) Notwithstanding anything contained in this Act or the rules or in the bye-laws of any society relating to the recruitment of officers and servants thereof, the Government shall, by notification in the Gazette, constitute a Co-operative Service Examination Board for the conduct of written examination for all direct recruitment to posts of and above the category of Junior Clerks in the Primary Agricultural Credit Societies, Primary Credit Societies, Urban Co-operative Banks and Primary Agricultural and Rural Development Banks in the State.

(2) The Examination Board shall consist of not more than three members and the term of the Board shall be five years. The powers and functions and other conditions of appointment of the members of the Board and the procedures to be followed by the Board for the conduct of examination and the preparation of list of candidates to be interviewed for appointment shall be such as may be prescribed.

(3) All appointments shall be made by the committee concerned from the list of candidates after conducting an interview of the candidates and making a select list therefrom in such manner as may be prescribed.

(4) Notwithstanding anything contained in sub-section (3A) of section 80 and in sub-section (1) of this section, the committee of a society may, with the prior approval of the Registrar, appoint persons who are professionally or technically qualified or persons with experience and expertise to posts requiring such technical or professional qualifications on contract basis or by the method of deputation for such period, but not exceeding five years, as may be specified.”

22. *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 award of the Co-operative Arbitration Court under sub-section (1) of section 70, or
- (b) an order of the Registrar made under clause (ii) of sub-section (8) or clause (ii) of sub-section (9) of section 14, or
- (c) any decision of the Registrar made under sub-section (6) of section 70, or
- (d) any decision under sub-section (6) of section 70 of the person invested with powers in that behalf by the Government, or
- (e) any award of the arbitrator under sub-section (6) 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 orders on the appeal, as it may deem fit ”

23. *Amendment of section 88* —In section 88 of the principal Act, in sub-section (3), for the word “three”, the word “five” shall be substituted

24. *Amendment of Section 89* —In section 89 of the principal Act, in sub-section (6), for the word “three”, the word “five” shall be substituted.

25. *Amendment of section 91* —In section 91 of the principal Act, in sub-section (1), after clause (c), the following clauses shall be inserted, namely.—

“(d) to participate in the developmental activities and decentralised planning of the local authorities,

(e) to organise training programmes for the employees of the societies and for the members of the committee and to ensure their participation in such programmes ”

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

(i) in sub-section (2), for the words “two hundred rupees” the words “two thousand rupees” shall be substituted,

(ii) in sub-section (3), for the words “two hundred rupees” the words “two thousand rupees” shall be substituted,

(iii) in sub-section (4), for the words "five hundred rupees" the words "five thousand rupees" shall be substituted;

(iv) in sub-section (5), for the words "five hundred rupees" the words "five thousand rupees" shall be substituted;

(v) in sub-section (6), for the words "five hundred rupees" the words "five thousand rupees" shall be substituted;

(vi) in sub-section (7), for the words "five hundred rupees" the words "five thousand rupees" shall be substituted;

(vii) in sub-section (8), for the words "one year" the words, "three years" and for the words "one thousand rupees" the words, "ten thousand rupees" shall, respectively, be substituted.

27. *Repeal of section 7 and section 8 of the Kerala Co-operative Societies (Second Amendment) Act, 1997.*—Section 7 and section 8 of the Kerala Co-operative Societies (Second Amendment) Act, 1997 (15 of 1997), are hereby repealed.