

THE KERALA CO-OPERATIVE SOCIETIES (AMENDMENT) BILL, 2019

(As passed by the Assembly)

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*BILL*

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 (21 of 1969), for the purposes hereinafter appearing;

BE it enacted in the Seventieth 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, 2019.

(2) Section 3 shall be deemed to have come into force on 8th day of January, 2019 and other sections shall come into force on such date as the State Government may, by notification in the Official Gazette appoint and different dates may be appointed for different sections.

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) for clause (ia) the following clause shall be substituted,—

“(ia) “District Co-operative Bank” means a central society having jurisdiction over one revenue district and having as its members Primary Agricultural Credit Societies, 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, which existed under this Act, immediately before the commencement of the Kerala Co-operative Societies (Amendment) Act, 2019 and which has ceased to exist after the commencement of the said Amendment Act.”;

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

“(ka) “Kerala State Co-operative Bank” means an apex society having Primary Agricultural Credit Societies and Urban Co-operative Banks as its members including nominal or associate members of the District Co-operative Banks who shall continue as nominal or associate members of the Kerala State Co-operative Bank;”;

(iii) clause (rb) shall be omitted;

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

“(sa) “Transferee Bank” means the Kerala State Co-operative Bank.

(sb) ‘Transferor Bank’ means the District Co-operative Bank as defined under clause (ia) of this section.”.

3. *Insertion of new section 14A.*—In the principal Act, existing section 14A shall be renumbered as “14AA” and before section 14AA as so renumbered, the following section shall be inserted, namely:—

“14A. *Provisions regarding transfer of assets and liabilities of District Co-operative Banks to the Kerala State Co-operative Bank.*—(1) Notwithstanding anything contained in this Act or in any other law for the time being in force, the District Co-operative Banks may by a resolution passed by a simple majority of the members present and voting at the special general body meeting of the members, transfer its assets and liabilities in whole to the Kerala State Co-operative Bank and such transfer shall take effect from the date on which the Registrar approves the resolution.

(2) The resolution shall contain particulars of the assets and liabilities to be transferred.

(3) When a District Co-operative Bank has passed any such resolution, under sub-section (1), it shall give notice thereof in writing to all its members within seven days from the date of resolution, notwithstanding anything contained in the provisions of section 24 or any rules or any bye-laws and sub-rules or any contract to the contrary, any member shall, within a period of thirty days from the date of issuance of the said notice, have the option of withdrawing his shares, deposits or closing loans, as the case may be:

Provided that any other debtor or creditor shall be informed of such resolution through publication of notice in two leading daily newspapers in vernacular language within seven days from the date of resolution that they have the option to withdraw deposit, loans, as the case may be, within a period of thirty days from the date of publication of notice.

(4) Any member or creditor or debtor who does not exercise his option within the period specified in sub-section (3) shall be deemed to have given his assent to the proposals contained in the resolution.

(5) On and from the date of approval of transfer of assets and liabilities of each District Co-operative Bank by the Registrar, all the assets and liabilities as it stood immediately before the transfer shall without any further act, instrument or deed, stand transferred to and vested in the Kerala State Co-operative Bank.

(6) On and from the date of approval of transfer of assets and liabilities of each of the District Co-operative Bank by the Registrar, all pending suits or legal proceedings by or against such Banks shall be continued by the Kerala State Co-operative Bank.

4. *Amendment of section 18.*—In section 18 of the principal Act, the second and third provisos shall be omitted.

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

(i) sub-section (1F) shall be omitted.

(ii) sub-section (1H) shall be omitted.

6. *Amendment of section 36A.*— In section 36A of the principal Act, the words “or a District Co-operative Bank”, “or District Co-operative Banks” wherever they occur shall be omitted and for the words “State Co-operative Bank” the words “Kerala State Co-operative Bank” shall be substituted.

7. *Amendment of section 56.*—In sub-section (3) of section 56 of the principal Act, for the words “District Co-operative Banks” the words “Kerala State Co-operative Bank” shall be substituted.

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

“Provided that the above restriction shall not be applicable to the Kerala State Co-operative Bank.”.

9. *Substitution of section 74B.*—For section 74B of the Principal Act, the following shall be substituted, namely:—

“74B. *Opening of Branches.*—The Kerala State Co-operative Agricultural and Rural Development Bank and all primary co-operative societies/banks may open branches in their area of operation with the prior written permission of the Registrar.”.

10. *Insertion of new Chapter XC.*—After Chapter XB of the principal Act, the following Chapter shall be inserted, namely:—

### “CHAPTER XC

#### SPECIAL PROVISIONS RELATING TO THE AMALGAMATION THROUGH TRANSFER OF ASSETS AND LIABILITIES OF THE DISTRICT CO-OPERATIVE BANKS TO THE KERALA STATE CO-OPERATIVE BANK

74H. *Amalgamation of District Co-operative Banks to the Kerala State Co-operative Bank.*—(1) Notwithstanding anything contained in this Act or in any other law for the time being in force, the Registrar shall order the amalgamation of District Co-operative Banks in Kerala with the Kerala State Co-operative Bank on the basis of the resolution passed by the general body as provided under section 14A of this Act.

(2) With the prior approval of the Government the Registrar shall bring into effect the scheme of amalgamation, proposed by the Kerala State Co-operative Bank which is to be presented to the transferor banks.

(3) On and from the date of amalgamation, the shares held by the members of the transferor banks shall be deemed to be the shares of the transferee bank as such:

Provided that the value of shares shall be on the basis of face value of shares held by the members of the transferor banks.

(4) Notwithstanding anything contained in section 15 of this Act, on and from the date of amalgamation of the transferor banks and the transferee bank, the transferor banks shall cease to exist and its registration shall stand cancelled:

Provided that no new Registration Certificate is required for the transferee bank.

(5) The existing Board of Directors of transferor banks and transferee bank shall cease to exist on the date of amalgamation and the Government shall nominate an interim Board consisting of not more than three members for a period not exceeding one year from the date of amalgamation or till a newly elected Board of Directors takes charge, whichever is earlier.

(6) The interim board shall consist of the following members, namely:—

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|-------|---|-------------------------|
| (i)   | an officer not below the rank of Secretary to Government                                  | Chairperson, Ex-officio |
| (ii)  | The Managing Director/Chief Executive Officer of the Kerala State Co-operative Bank       | Member, Ex-officio      |
| (iii) | an officer not below the rank of Additional Secretary to Government in Finance Department | Member, Ex-officio      |

(7) The interim Board shall exercise all the powers of the Board of Directors of the Transferee Bank as per the Act, Rules and the bye-laws issued thereunder and shall take such necessary steps to complete the amalgamation procedures and conduct election to the Board of Directors.

(8) The Board of Directors of the Kerala State Co-operative Bank shall consist of not more than Twenty one members as may be prescribed in the rules .

(9) For the purpose of election to the Board of Directors, section 28, section 28A and section 31 of this Act shall apply.

(10) There shall be a Board of Management for taking decisions relating to the banking business and the structure, powers and functions of the Board of Management shall be as may be prescribed in the bye-laws.

(11) Notwithstanding anything contained in sub-section (10) of section 63 of this Act,—

(i) the audit of the financial accounts, as prescribed by the Reserve Bank of India, in the Kerala State Co-operative Bank shall be done by the Chartered Accountants from among the panel of Auditors/Audit Firms approved by the Director of Co-operative Audit;

(ii) the audit of the administrative matters and related accounts of the Kerala State Co-operative Bank shall be done by a panel of departmental auditors;

(iii) the above auditors shall exercise all powers mentioned under clauses (a), (b) and (c) of sub-section (2) of section 64.

(12) Any proceedings, suits, decrees, recovery certificates, appeals, and all other legal proceedings pending or existing immediately before the date of amalgamation before any Court or Tribunal or any other authority, by or against the transferor banks may, as from the date of amalgamation be continued and enforced by or against the transferee bank.

(13) Every permanent and regular employee of the transferor bank or employees on probation, serving in the employment of the transferor bank immediately before the date of amalgamation, shall become, on and from the date of amalgamation, an employee of the transferee bank and shall hold office therein or serve the transferee bank, as the case may be, and shall continue to work in accordance therewith:

Provided that the Government shall make a scheme for cadre integration, seniority, promotion and transfer and such other matters related to employees of the transferor bank and the transferee bank in the service of the transferee bank.

(14) Notwithstanding anything contained in the staff regulation or recruitment rules of the transferor and transferee bank, the service conditions of the employees on amalgamation shall be as prescribed by the Government.

(15) The employees who have retired before the date of amalgamation from the service of the transferor banks or opted not to join in the service of the transferee bank on and from the date of amalgamation, and are entitled to benefits, rights or privileges, if any, from transferor bank, shall receive such benefits, rights or privileges from the transferee bank.

(16) The Provident Fund/Gratuity Fund/Pension Fund or any other funds of the transferor bank and any other bodies created, established or constituted as the case may be, for the employees of the transferor banks shall continue with the transferee bank.

(17) The transferee bank may open branches based on the prudent financial analysis in line with the provisions of the Banking Regulation Act, 1949 (Central Act X of 1949).

(18) Notwithstanding anything contained in this Act, the provisions of this Chapter shall have overriding effect on all other provisions of the Act".

11. *Amendment of section 88.*— In sub-section (1) of section 88 of the principal Act,—

(i) clause (b) shall be omitted;

(ii) clauses (c) to (g) shall be renumbered as clauses (b) to (f).

12. *Amendment of Section 89.*—In section 89 of the principal Act,—

(i) for sub-section (3) the following sub-section shall be substituted namely:—

“(3) Each of the Circle Co-operative Unions, apex societies and central societies 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 representatives 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.”;

(ii) in sub-section (4),—

(a) for clause (b) the following clause shall be substituted, namely:—

“(b) one member elected, in such manner as may be prescribed, by the delegates of the apex societies in the State other than the Kerala State Co-operative Bank, from among themselves;”;

(b) for clause (c) the following clause shall be substituted, namely:—

“(c) two members elected by the Board of Directors of the Kerala State Co-operative Bank from among themselves;”.

13. *Amendment of section 94.*—In sub-section (6) of section 94 of the principal Act the words “a Central Co-operative Bank” shall be omitted.

14. *Amendment to the schedule.*—In Schedule I of the principal Act the serial numbers 16 to 29 and entries against it shall be omitted.

15. *Repeal and saving.*—(1) The Kerala Co-operative Societies (Amendment) Ordinance, 2019 (7 of 2019) is hereby repealed.

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

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