

Bill No. 123 of 2010

**THE MULTI-STATE CO-OPERATIVE SOCIETIES
(AMENDMENT) BILL, 2010**

A

BILL

to amend the Multi-State Co-operative Societies Act, 2002.

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Multi-State Co-operative Societies (Amendment) Act, 2010.

Short title
and
commencement.

5 (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

39 of 2002.

2. In the Multi-State Co-operative Societies Act, 2002 (hereinafter referred to as the principal Act), in section 5, in sub-section (1),—

Amendment
of section 5.

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(i) in clause (a), the word "and" occurring at the end shall be omitted;

(ii) in clause (b), for the words "co-operative principles", the words "co-operative principles; and" shall be substituted;

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

"(c) it gives an undertaking that, after its registration as multi-State co-operative society under this Act, it shall make available its products and services to its members:

Provided that the multi-State co-operative societies which have already been registered shall also comply with the provisions of this clause. "

Amendment
of section 7.

3. In section 7 of the principal Act,—

(a) in sub-section (2), the following proviso shall be inserted, namely:—

"Provided that the Central Registrar may, for reasons to be recorded in writing, extend the said period of four months to five months.";

(b) in sub-section (3),—

(i) for the words "a period of four months from the date of receipt of application for registration", the words, brackets and figure "a period specified for disposal of application under sub-section (2)" shall be substituted;

(ii) in the second proviso, for the words "a period of four months" the words "the period" shall be substituted.

Amendment
of section 10.

4. In section 10 of the principal Act, in sub-section (2), in clause (a), for the word "address", the words and brackets "address (including electronic-mail address)" shall be substituted.

Amendment
of section 11.

5. In section 11 of the principal Act, in sub-section (7), the following proviso shall be inserted, namely:—

"Provided that the Central Registrar may Register the amendments with such modifications as may be necessary to bring them in conformity with the provisions of this Act."

Amendment
of section 17.

6. In section 17 of the principal Act,—

(a) in sub-section (1), after clause (c), the following clause shall be inserted, namely:—

"(d) decide, with the approval of the Central Registrar, to wind up or convert itself into any other legal entity and to transfer its assets and liabilities in whole or in part to such legal entity.";

(b) in sub-section (3), after the word "amalgamation" the words "or winding up or conversion" shall be inserted;

(c) in sub-section (7),—

(a) after the words "formed by division", the words "or winding up or conversion into any other legal entity" shall be inserted;

(b) after the words "and the bye-laws thereof", the words "or permit winding up of the society or conversion of it into any other legal entity, as the case may be" shall be inserted;

(d) after sub-section (9), the following sub-sections, shall be inserted, namely:—

"(10) The provisions of this section and section 18 shall, as far as may be, apply to a multi-State co-operative society which decides to wind up or convert into any other legal entity as they apply in the case of amalgamation of a co-operative bank with any other co-operative bank.

(11) The Central Government may for the reasons to be recorded in writing, notwithstanding anything contained in this Act, issue such directions on such matters relating to winding up or conversion into any other legal entity, as it may deem fit."

7. In section 21 of the principal Act,—

Amendment
of section 21.

(a) in sub-section (1), after the words "or to a co-operative society", the words "or to any other legal entity" shall be inserted;

(b) in sub-section (3),—

5 (i) after the words "or two or more co-operative societies" the words "or converts itself into any other legal entity" shall be inserted;

(ii) after the words "registration of the new societies", the words "or its conversion into any new legal entity" shall be inserted;

(c) after sub-section (4), the following sub-section shall be inserted, namely:—

10 "(5) The Central Registrar may cancel the registration of a multi-State co-operative society, if he has reasons to believe that,—

(a) the registration was obtained by misrepresentation of facts, submission of false or misleading information, suppression of material facts or fraud; or

15 (b) the number of members or the number of societies or the number of persons as the case may be, have been, at any time reduced below the number of members or societies or persons as specified in sub-section (2) of section 6:

20 Provided that no registration shall be cancelled without providing an opportunity of being heard to the multi-State co-operative society."

8. In section 22 of the principal Act, in sub-section (5), for clause (c), the following clause shall be substituted, namely:—

Amendment
of section 22.

25 "(c) The co-operative society shall cease to be as such under the law relating to co-operative societies in force in the State, from the date of registration of amendment of its bye-laws under sub-section (3) by the Central Registrar and the Registrar of Co-operative Societies referred to in clause (b) shall make an order to this effect, within a period of one month from the receipt of the copy of certificate under clause (b)."

9. In section 25 of the principal Act, in sub-section (4),—

Amendment
of section 25.

30 (a) for the words "four months" at both the places where they occur, the words "six months" shall be substituted;

(b) for the words "refusing admission to the applicant" the words "accepting admission to the applicant" shall be substituted;

(c) after the proviso, the following proviso shall be inserted, namely:—

35 "Provided further that the administrator or administrators, as the case may be, appointed under this Act to manage the affairs of a multi-State co-operative society shall not admit any new member to such society without the prior approval of the Central Registrar."

40 10. In section 28 of the principal Act, for the words "unless he has made the payment to the society in respect of membership, or" the words "unless he has made payment in respect of all dues to the society including the payment in respect of membership or availed such minimum level of services or" shall be substituted.

Amendment
of section 28.

11. In section 29 of the principal Act,—

Amendment
of section 29.

(a) in clause (d), for the words "such society", the words "such society; or" shall be substituted;

45 (b) after clause (d), the following clause shall be inserted, namely:—

"(e) he fails to avail the products and services made available by such multi-State co-operative society as specified in the bye-laws."

- Amendment of section 30. **12.** In section 30 of the principal Act, in sub-section (2), for the words "for a period of one year from the date of such expulsion", the words "for a period which shall not exceed three years but shall not be less than one year, from the date of such expulsion, as may be specified in the bye-laws" shall be substituted. 5
- Amendment of section 32. **13.** In section 32 of the principal Act, after the proviso the following proviso and *Explanation* shall be inserted, namely:—
- 'Provided further that unless the bye-laws provide otherwise, a member may exercise his vote at a meeting by electronic form in such manner as may be prescribed. 10
- Explanation.*— For the purposes of this section, "electronic form" with reference to information means any information generated, sent, received, or stored in media, magnetic, optical, computer memory, micro film, computer generated micro fiche or similar device.'
- Amendment of section 35. **14.** In section 35 of the principal Act,— 15
- (a) in sub-section (1), the following proviso shall be inserted, namely:—
- "Provided that the multi-State co-operative society may refund full or part of the share capital held by the Government who shall accept such redemption.";
- (b) in sub-section (2), for the words "on the face value of the shares" the words " on the face value or book value of shares, whichever is higher" shall be substituted; 20
- (c) after sub-section (2), the following *Explanation* shall be inserted, namely:—
- Explanation.*— For the purposes of this sub-section, "book value" means the value of the shares as shown in the books of account taking into account the total share capital, free reserves and surpluses.' 25
- Amendment of section 38. **15.** In section 38 of the principal Act, in sub-section (3), after the proviso the following proviso shall be inserted, namely:—
- "Provided further that such administrator shall not represent the co-operative society or other multi-State co-operative society in such meetings beyond a period of six months." 30
- Amendment of section 41. **16.** In section 41 of the principal Act,—
- (a) in sub-section (3), for the second and third provisos the following provisos shall be substituted, namely:—
- "Provided further that the board may co-opt two directors, in addition to twenty-one directors specified in the first proviso, having experience in the field of banking, management and finance or having specialisation in any field relating to the objects and activities undertaken by such multi-State co-operative society: 35
- Provided also that so co-opted directors shall not have power to vote in the election of the office bearers or represent the multi-State co-operative society in any other multi-State co-operative society: 40
- Provided also that a person who has lost in election to the board shall not be co-opted as director in the board on casual vacancy or otherwise:
- Provided also that one seat shall be reserved for the Scheduled Castes or the Scheduled Tribes and two seats for women in the board of a multi-State co-operative society consisting of individuals as members and having members from such class or category of persons: 45

Provided also that the functional directors in a national co-operative society, who are officers of such society (other than the chief executive of the rank of director or above), shall also be the members of the board in accordance with its bye-laws and such members shall be excluded for the purpose of counting the total number of directors in the first proviso.";

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

‘(4) Every member of a board of multi-State co-operative society who, whether directly or indirectly, is concerned or interested in a contract or arrangement or proposed contract or arrangement, entered into or to be entered into, by or on behalf of such society shall disclose the nature of his concern or interest and that of his relatives at a meeting of the board.

Explanation.— For the purposes of this clause, the term "relative" with reference to an individual means the spouse, brother, sister and all lineal ascendants and descendants of such individual related to him either by marriage or adoption.

(5) No director of a multi-State co-operative society shall, as a director, be present in the discussion of, or vote on, any contract or arrangement entered into, or to be entered into, by or on behalf of such society, if he is directly or indirectly concerned or interested in the contract or arrangement.

(6) The board of a multi-State co-operative society shall be collectively responsible to the general body of the society.’.

17. After section 41 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 41A.

‘41A. (1) If the Central Registrar at any time, is of the opinion that a multi-State co-operative society has become sick, it may, by order, declare such society as a sick co-operative society.

Constitution of interim board.

(2) Where a multi-State co-operative society is declared sick under sub-section (1), the Central Government may, on the recommendation of Central Registrar, constitute an interim board for a maximum period of five years consisting of experts in the field of co-operation, management, finance, accountancy and in other areas relating to such multi-State co-operative society for the purpose of preparing and implementing a scheme for rehabilitation or revival of such multi-State co-operative society.

(3) The board of directors of such multi-State co-operative society, after constitution of interim board, shall not function and discharge its functions as such:

Provided that the board of directors shall cease to exist on the completion of its term.

(4) The Central Registrar, if at any time during which the interim board has been constituted, is of the opinion that the society has become viable, it may dissolve such interim board and thereafter the board of directors existing before constitution of interim board shall function as per provisions of this Act.

Explanation. — For the purpose of this section "sick co-operative society" means a multi-State co-operative society being a society registered under the provisions of this Act which has at the end of any financial year accumulated losses equal to or exceeding total of its paid-up capital, free reserves and surpluses and has also suffered cash losses in such financial year and the financial year immediately preceding such financial year.’.

Amendment
of section 43.

18. In section 43 of the principal Act, in sub-section (2),—

(a) in clause (c), for the words "general meeting", the words "general meeting; or" shall be substituted;

(b) after clause (c), the following clauses shall be inserted, namely:—

"(d) to make contribution to the co-operative education fund referred to in clause (b) of sub-section (1) of section 63 or Co-operative Rehabilitation and Reconstruction Fund established under section 63A; or

(e) to file the statutory returns within the time specified under section 120."

Amendment
of section 45.

19. In section 45 of the principal Act,—

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

"(1) The Central Government may, by notification, appoint an Authority to be known as the Co-operative Election Authority for conduct of elections for such societies as may be prescribed and the superintendence, direction and control of preparation of electoral rolls for, and the conduct of election of such multi-State co-operative societies shall be vested in returning officer as may be appointed by the Election Authority and the returning officer shall discharge such function under the control of the Election Authority in such manner as may be prescribed:

Provided that where such Authority has not been appointed in respect of a multi-State co-operative society, the elections to the boards of such society shall be conducted by the existing board of such society.";

(b) in sub-section (5), after the proviso the following provisos shall be inserted, namely:—

"Provided further that the term of office bearers shall be co-terminus with the term of board of directors:

Provided also that only elected or nominated members of the board shall be eligible to be elected as chairman or vice-chairman or president or vice-president of the board:

Provided also that the board may fill a casual vacancy of the members of the board by nomination out of the same class of members in respect of which the casual vacancy has arisen, if the term of office of the board is less than half of its original term.";

(c) in sub-section (6), the following proviso and *Explanation* shall be inserted, namely:—

"Provided that the Central Registrar may, for the reasons to be recorded in writing, extend said period of ninety days up to one year.

Explanation.— For the purpose of this proviso, the period of one year specified therein shall be reckoned from the date on which the election became due and any period for which such elections were stayed by any tribunal or court shall be excluded.";

(d) for sub-section (7), the following sub-sections shall be substituted, namely:—

"(7) No person shall be eligible to be elected as a member of the board or office bearer of a multi-State co-operative society unless he is an active member of the general body of that society.

Explanation.— For the purpose of this sub-section "active member" shall mean any member availing such minimum level of services or products of the society as may be specified in the bye-laws of the society.

5 (7A) A member of the board or office bearer of a multi-State co-operative society shall cease to be such member or office bearer if he ceases to be a member of general body of that society.";

(e) in sub-section (8), after the words "by the Central Registrar" the words "or the Election Authority" shall be inserted.

10 **20.** In section 49 of the principal Act, in sub-section (2), for clause (m), the following clauses shall be substituted, namely:— Amendment of section 49.

"(m) to elect president and vice-president of the multi-State co-operative society from amongst the elected or nominated members of the board in accordance with the bye-laws of the multi-State co-operative society; and

15 (n) to take such other measures or to do such other acts as may be prescribed or required under this Act or the bye-laws or as may be delegated by the general body.".

21. In section 50 of the principal Act,— Amendment of section 50.

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

20 "Provided that where the chairperson or president of a multi-State co-operative society fails to fix a date of the meeting of the board, the Chief Executive shall, on receipt of requisition from one-fourth of the directors, convene the meeting of the board.";

(b) in sub-section (3), after the words "meeting of the board", the words "the vice-chairperson and in the absence of both," shall be inserted;

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

"(4) The quorum for a meeting of the board of directors of a multi-State co-operative society shall be one-third of its total strength and the participation of the directors by video-conferencing or by other electronic means shall also be counted for the purpose of quorum under this sub-section.".

30 **22.** In section 52 of the principal Act, in clause (j), for the words "thirty days", the words "forty-five days" shall be substituted. Amendment of section 52.

23. In section 53 of the principal Act, for sub-section (1), the following sub-sections shall be substituted, namely:— Amendment of section 53.

35 "(1) The board may constitute an Executive Committee, and such other committees or sub-committees as may be specified in the bye-laws of the multi-State co-operative society.

(1A) The board shall constitute an audit and ethics committee in accordance with bye-laws which shall meet once in three months.".

40 **24.** After section 63 of the principal Act, the following section shall be inserted, Insertion of new section 63A.

'63A. (1) The Central Government shall establish a fund to be called the Co-operative Rehabilitation and Reconstruction Fund (hereafter in this section referred to as the "Fund"). Establishment of Co-operative Rehabilitation and Reconstruction Fund.

(2) There shall be credited to the Fund the following amounts, namely:—

(a) a multi-State co-operative society registered under this Act shall credit 0.005% to 0.1% of its turnover, subject to a maximum of Rs. 3.00 crores per year, as may be prescribed;

(b) grants and donations given to the Fund by the Central Government, State Government and other National and International agencies approved by the Government from time to time for making contribution to this Fund;

(c) the interest or other income received out of the investment made from the Fund.

(3) The Fund shall be utilised for rehabilitation and strengthening of sick co-operative societies referred to in section 41A.

(4) The Central Government shall by notification in the Official Gazette, specify an authority or committee, with such members as the Central Government may appoint, to administer the Fund, and maintain separate accounts and other relevant records in relation to the Fund in such form as may be prescribed in consultation with the Comptroller and Auditor-General of India.

(5) It shall be competent for the authority or committee appointed under sub-section (4) to spend moneys out of the Fund for carrying out the objects for which the Fund has been established.

Amendment
of section 67.

25. In section 67 of the principal Act,—

(a) in sub-section (1), after the second proviso, the following proviso shall be inserted, namely:—

"Provided also that the multi-State co-operative society doing the banking business shall be governed by directions issued by Reserve Bank of India in this behalf.";

(b) in sub-section (3),—

(a) for the words "twenty-five per cent. of its paid-up share capital" the words "its paid-up share capital, free reserves and surpluses" shall be substituted;

(b) the following proviso shall be inserted, namely:—

"Provided that the multi-State co-operative society doing the banking business shall be governed by directions issued by the Reserve Bank of India or any other authority competent to do so under any law for the time being in force in this behalf."

Amendment
of section 70.

26. In section 70 of the principal Act, in sub-section (7), in clause (a), for the proviso the following proviso shall be substituted, namely:—

"Provided that where such vacancy is caused by the resignation or death of an auditor, the vacancy shall be filled by the board out of the panel of auditors approved by the Central Registrar."

Amendment
of section 73.

27. In section 73 of the principal Act, after sub-section (5), the following sub-section shall be inserted, namely:—

"(6) The Central Government may, by notification, lay down auditing and accounting standards to be adopted by multi-State co-operative societies or class of multi-State co-operative societies:

Provided that multi-State co-operative societies doing the banking business shall adopt accounting and auditing standards if any laid down by Reserve Bank of India in this behalf:

Provided further that until such auditing standards are laid down, auditing standards specified by the Institute of Chartered Accountants of India shall be deemed to be the auditing and accounting standards."

28. In section 77 of the principal Act,—

Amendment
of section 77.

5 (a) in sub-section (I), the proviso shall be omitted;

(b) after sub-section (I), the following sub-section shall be inserted, namely:—

"(IA) The Central Government may order for a special audit of a multi-State co-operative society where the Central Government or a State Government holds any share capital or shares in such multi-State co-operative society."

10 **29.** In section 78 of the principal Act, for sub-section (I), the following sub-sections shall be substituted, namely:—

Amendment
of section 78.

15 "(I) Where on a scrutiny of any document filed by a multi-State co-operative society or otherwise, the Central Registrar is of the opinion that any further information or explanation or any further documents relating to the multi-State co-operative society is necessary, he may, by a written notice, require the multi-State co-operative society—

(i) to furnish in writing such information or explanation; or

(ii) to produce such documents,

within such reasonable time, as may be specified in the notice.

20 (IA) If the Central Registrar is satisfied on the basis of information available with or furnished to him or on a representation made to him by any person that the business of a multi-State co-operative society is being carried on for a fraudulent or unlawful purpose, he may, after informing the multi-State co-operative society of the allegations made against it by a written order, call on the multi-State co-operative society to furnish in writing any information or explanation on matters specified in the order within such time as he may specify therein, and hold such inquiry as he deems fit:

25 Provided that the Central Government may, if it is satisfied that circumstances so warrant, direct, the Central Registrar or an inspector appointed by it for the purpose, to hold an inquiry under this sub-section.

30 (IB) The Central Registrar may, on a request from a federal co-operative to which a multi-State co-operative society is affiliated or a creditor or not less than one-third of the members of the board or not less than one-fifth of the total number of members of a multi-State co-operative society, hold an inquiry or direct some person authorised by him by order in writing in this behalf to hold an inquiry into the constitution, working and financial condition of a multi-State co-operative society:

35 Provided that no inquiry under this sub-section shall be held unless a notice of not less than fifteen days has been given to the multi-State co-operative society."

30. In section 84 of the principal Act,—

Amendment
of section 84.

40 (a) in sub-section (I), for the words "such dispute shall be referred to arbitration", the words "such dispute shall be referred to the Central Registrar" shall be substituted;

(b) after sub-section (I), the following sub-section shall be inserted, namely:—

"(IA) The Central Registrar may, on receipt of the reference of dispute under sub-section (I),—

45 (a) decide the dispute himself; or

(b) transfer it for decision to such person and upon such terms and conditions as may be specified,

and the order passed under this sub-section shall be final and binding on the multi-State co-operative societies and other concerned parties and shall not be called in question in any court:

Provided that the Central Registrar may, at any time after transferring the dispute under clause (b) and after recording the reason for doing so withdraw the dispute so transferred and decide the dispute himself. 5

Explanation.— For the removal of doubts, it is clarified that power to decide dispute under this section includes the power to pass interim order;

(c) in sub-section (3), —

(a) for the word "arbitration", the words "Central Registrar" shall be substituted; 10

(b) for the word "arbitrator", the words, brackets, letters and figures "Central Registrar or person authorised by him under clause (b) of sub-section (1A)" shall be substituted;

(d) sub-sections (4) and (5) shall be omitted. 15

Amendment
of section 94.

31. In section 94 of the principal Act,—

(a) in the opening paragraph, after the words and figures "section 83 or" the words and figures "section 84 or" shall be inserted;

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

"(d) where the decision or order provides for recovery on account of the default in contribution to the co-operative education fund referred to in clause (b) of sub-section (1) of section 63 or Co-operative Rehabilitation and Reconstruction Fund established under section 63A, the Central Registrar shall issue the certificate of recovery and forward it to any other authority for execution according to the law for the time being in force for the recovery as arrears of land revenue." 20 25

Amendment
of section
103.

32. In section 103 of the principal Act, after sub-section (1), the following provisos shall be inserted, namely :—

"Provided that the said multi-State co-operative society shall submit an application for registration and such information to obtain the certificate of registration from the Central Registrar as provided in this Act: 30

Provided further that in case all the successor States take necessary steps to divide or reorganise the said multi-State co-operative society into State co-operative Societies to confine their objects, services and the members to respective States within such period as may be prescribed, such society shall not be deemed to be a multi-State co-operative society under the provisions of this Act and the Central Registrar may cancel the registration of such multi-State co-operative society by an order in writing." 35

Amendment
of section
104.

33. In section 104 of the principal Act,—

(a) in sub-section (1),— 40

(i) after the words "making a false return", the words "or failing to file returns" shall be inserted;

(ii) for the words "two thousand rupees" the words "five thousand rupees" shall be substituted;

(iii) for the words "extend to ten thousand rupees", the words "extend to fifty thousand rupees" shall be substituted; 45

(b) in sub-section (2), for the words "five thousand rupees", the words "ten thousand rupees" shall be substituted;

(c) in sub-section (3), —

5 (i) after the word and figures "section 89", the words and figures "or to a person required to file return under section 120" shall be inserted;

(ii) for the words "two thousand rupees", the words "five thousand rupees" shall be substituted;

(iii) for the words "five thousand rupees", the words "ten thousand rupees" shall be substituted.

10 **34.** Section 106 of the principal Act shall be numbered as sub-section (1) thereof and after sub-section (1), so numbered the following sub-section shall be inserted, namely:— Amendment of section 106.

"(2) Every multi-State co-operative society shall appoint a Co-operative Information Officer to provide, on application made to him and on payment of such fee as may be prescribed, information about the affairs and management of the society, within thirty days from the date of receipt of application.

(3) Every multi-State co-operative society shall also appoint a Chief Information Officer who shall hear and dispose of any complaint regarding the non-supply of information by the Co-operative Information Officer within the time specified in sub-section (2).

20 (4) Any person, aggrieved by the order of the Chief Information Officer, may file an appeal before the Central Registrar whose decision thereon shall be final:

Provided that the Central Registrar may impose penalty on the officers responsible for non-furnishing of information to the amount of two hundred and fifty rupees for each day of delay above the specified period.

25 (5) The manner of appeal, the time within which such appeal may be filed and the procedure of appeal shall be such as may be prescribed.”.

35. In section 108 of the principal Act, in sub-section (1), in clause (i), after the words "Central Registrar", the words "or any person authorised by him in this behalf" shall be inserted. Amendment of section 108.

30 **36.** After section 120 of the principal Act, the following section shall be inserted, namely:— Insertion of new section 120A.

21 of 2000 "120A. (1) Notwithstanding anything to the contrary contained in this Act, and without prejudice to the provisions contained in the Information Technology Act, 2000, the Central Government may, from such date as may be prescribed, require that— Filing of applications, documents, inspections, etc. in electronic form.

35 (a) such applications, balance sheet, return, or any other particulars or document as may be required to be filed or delivered under this Act or rules made thereunder, shall be filed in the electronic form and authenticated in such manner as may be prescribed;

40 (b) such document, notice, any communication or intimation, as may be required to be served or delivered under this Act, shall be served or delivered under this Act in the electronic form and authenticated in such manner as may be prescribed;

45 (c) such applications, balance sheets, returns, registers, bye-laws or any other particulars or documents and returns filed under this Act or rules made thereunder shall be maintained by the Central Registrar in the electronic form and registered or authenticated, as the case may be, in such manner as may be prescribed;

(d) such inspection of the bye-laws, balance sheets, returns or any other particulars or documents maintained in the electronic form, as is otherwise available for inspection under this Act or rules made thereunder, may be made by any person through the electronic form in such manner as may be prescribed;

(e) such fees, charges or other sums payable under this Act or rules made thereunder shall be paid through the electronic form and in such manner as may be prescribed. 5

(2) The Central Registrar shall register change of registered office, amendment of bye-laws, issue certificate of registration, register such document, issue such certificate, record notice, receive such communication as may be required to be registered or issued or recorded or received, as the case may be, under this Act or rules made thereunder or perform duties or discharge functions or exercise powers under this Act or rules made thereunder or do any act which is by this Act directed to be performed or discharged or exercised or done by the Central Registrar in the electronic form in such manner as may be prescribed. 10 15

(3) The Central Government may also provide that the electronic form for the purpose in this section shall be exclusive or alternative or in addition to the physical form in such manner as may be prescribed.

Explanation.— For the removal of doubts, it is hereby clarified that the rules made under this section shall not relate to imposition of fines or other pecuniary penalties or demand or payment of fees or contravention of any of the provisions of this Act or punishment therefor. 20

(4) The Central Government may, by notification, frame a scheme to carry out the provisions of sub-section (1) through the electronic form.”.

Amendment
of section
124.

37. In section 124 of the principal Act, in sub-section (2),— 25

(a) after clause (g), the following clause shall be inserted, namely:—

"(ga) the manner of exercising vote in electronic form under the proviso to section 32";

(b) after clause (j), the following clauses shall be inserted, namely:—

"(ja) the co-operative societies for which the election shall be conducted; 30

(jb) the functions to be discharged and the manner in which those are to be discharged by the returning officer";

(c) after clause (m), the following clause shall be inserted, namely:—

"(ma) other measures or acts under clause (n) of sub-section (2) of section 49"; 35

(d) after clause (r), the following clauses shall be inserted, namely:—

"(ra) the turnover under clause (a) of sub-section (2) of section 63A;

(rb) the form in which the accounts or other relevant records shall be maintained under sub-section (4) of section 63A";

(e) after clause (w), the following clauses shall be inserted, namely:— 40

"(wa) period within which the multi-State Co-operative society shall divide or reorganise under the proviso to sub-section (1) of section 103;

(wb) the fee under sub-section (2) of section 106;

(wc) the manner, time and procedure of appeal under sub-section (5) of section 106"; 45

(f) after clause (x), the following clauses shall be inserted, namely:—

"(xa) the documents, notice, etc., required to be filed or delivered, or served in electronic form under sub-section (1) of section 120A;

(xb) the manner of electronic form under sub-section (2) of section 120A;"

STATEMENT OF OBJECTS AND REASONS

The Multi-State Co-operative Societies Act, 2002 repealing the earlier law, that is, the Multi-State Co-operative Societies Act, 1984 was enacted with a view to consolidating the provisions relating to the Multi-State Co-operative Societies registered with objects not confined to one State and serving the interests of members in more than one State, to facilitate the voluntary formation and democratic functioning of co-operatives as people's institutions based on self-help and mutual aid and to enable them to promote their economic and social betterment and to provide functional autonomy. The Multi-State Co-operative Societies Act, 2002 came in force with effect from the 19th August, 2002.

2. With the passage of time and developments in the co-operative movement in the country, certain difficulties have been experienced by the Multi-State Co-operative Societies in the implementation of the Multi-State Co-operative Societies Act, 2002. Conference of the State Co-operative Ministers was held on the 7th December, 2004 to, *inter alia*, ascertain the difficulties experienced by the Multi-State Co-operative Societies. In pursuance of the resolution passed in the said conference, a High Powered Committee on Co-operatives was constituted under the Chairmanship of Shri S.G. Patil.

3. In view of the recommendations made in the Report of aforesaid High Powered Committee and suggestions received from the co-operative sector and other stake holders and considering the importance of Multi-State Co-operative Societies in the national economy and the experience gained during the last eight years of implementation of the Multi-State Co-operative Societies Act, 2002, it has been felt that the said Act should be amended to keep the legislation in tune with the changing economic policies and to facilitate the Multi-State Co-operative Societies to take advantage of the new and emerging opportunities and to keep pace with other economic entities and facilitate raising of resources by the Multi-State Co-operative Societies more efficiently and effectively by making appropriate provisions for promoting their functional autonomy.

4. The Bill proposes to amend the Multi-State Co-operative Societies Act, 2002, *inter alia*, to—

(a) make the management of these co-operative societies more responsible to the members and accountable by making provision for (i) constitution of Interim Board, (ii) accounting standards, (iii) constitution of Audit and Ethics Committee; (iv) calling for information or explanation by the Central Registrar of the Multi-State Co-operative Societies, (v) Special Audit;

(b) strengthen the provision relating to election of the members of the Board of the Multi-State Co-operative Societies;

(c) make provisions for broad based representation in the Board of the Multi-State Co-operative Societies by providing reservation for the Scheduled Castes, the Scheduled Tribes and women;

(d) take certain measures which would facilitate the building of self-reliant, democratic and professionally efficient co-operative institutions;

(e) bringing transparency in the functioning of the Multi-State Co-operative Societies by making provision for appointment of Co-operative Information Officer, Chief Information Officer for providing information about the affairs and management of the Multi-State Co-operative Societies and also make provision for appeal.

5. The Notes on clauses appended to the Bill explain the provisions of the Bill in detail.

6. The Bill seeks to achieve the above objectives.

NEW DELHI;
the 22nd October, 2010.

SHARAD PAWAR

Notes on clauses

Clause 2.—This clause seeks to amend section 5 of the Multi-State Co-operative Societies Act, 2002 relating to the Multi-State Co-operative Societies which may be registered.

It is proposed to amend sub-section (1) of the aforesaid section, *inter alia*, to impose an obligation upon the Multi-State Co-operative Societies to give an undertaking to the effect that it shall make available its products and services to its members, after its registration as multi-State co-operative society under the Multi-State Co-operative Societies Act, 2002.

Clause 3.—This clause seeks to amend section 7 of the Multi-State Co-operative Societies Act, 2002 relating to registration of the Multi-State Co-operative Societies.

It is proposed to amend the aforesaid section to extend the period for disposal of application for registration from four months to five months after recording reasons therefor.

Clause 4.— This clause seeks to amend section 10 of the Multi-State Co-operative Societies Act, 2002 relating to bye-laws of the Multi-State Co-operative Societies.

It is proposed to amend sub-section (2) of the aforesaid section to include electronic-mail address in the address of the society.

Clause 5.—This clause seeks to amend section 11 of the Multi-State Co-operative Societies Act, 2002 relating to amendment of bye-laws of the Multi-State Co-operative Societies.

It is proposed to amend sub-section (7) of the aforesaid section to provide for registration of amendments with such modifications as may be necessary to bring them in conformity with the provisions of the Act.

Clause 6.—This clause seeks to amend section 17 of the Multi-State Co-operative Societies Act, 2002 relating to amalgamation or transfer of assets and liabilities or division of Multi-State Co-operative Societies.

It is proposed to amend the aforesaid section, *inter alia*, to enable the Society to decide, with the approval of the Central Registrar, to wind up or convert itself into any other legal entity and to transfer its assets and liabilities in whole or in part to such legal entity.

Clause 7.—This clause seeks to amend section 21 of the Multi-State Co-operative Societies Act, 2002 relating to cancellation of registration certificate of Multi-State Co-operative Societies.

It is proposed to amend the aforesaid section, *inter alia*, providing for cancellation of registration if such registration has been obtained by misrepresentation of facts, submission of false or misleading information, suppression of material facts or fraud; or the number of members or the number of societies or the number of persons as the case may be, which have been at any time reduced below the number of members or societies or persons as specified in sub-section (2) of section 6 of the principal Act.

Clause 8. —This clause seeks to amend section 22 of the Multi-State Co-operative Societies Act, 2002 relating to conversion of a co-operative society into a Multi-State Co-operative Society.

It is proposed to amend sub-section (5) of the aforesaid section to provide that the co-operative society shall cease to be as such under the law relating to co-operative societies in force in the State, from the date of registration of amendment of its bye-laws by the Central Registrar and the Registrar of co-operative societies of the State shall make an order to this effect, within a period of one month from the receipt of the copy of registration certificate.

Clause 9.—This clause seeks to amend section 25 of the Multi-State Co-operative Societies Act, 2002 relating to persons who may become members of the Multi-State Co-operative Societies.

It is Proposed to amend sub-section (4) of the aforesaid section to extend the period for disposal of application for admission as a member of the society from four to six months and providing for that the administrator or administrators, as the case may be, appointed under this Act to manage the affairs of a multi-State co-operative society shall not admit any new member to such society without the prior approval of the Central Registrar.

Clause 10.—This clause seeks to amend section 28 of the Multi-State Co-operative Societies Act, 2002 relating to exercising the rights by members.

It is proposed to amend the aforesaid section to provide that the member shall not exercise his rights unless he has made payment in respect of all dues to the society including the payment in respect of membership or availed minimum level of services as may be specified in the bye-laws.

Clause 11.—This clause seeks to amend section 29 of the Multi-State Co-operative Societies Act, 2002 relating to disqualifications for being member of a Multi-State Co-operative Society.

It is proposed to amend the aforesaid section to provide that failure to avail the product and services made available by the society as specified in its bye-laws may render a person ineligible for being a member of the society.

Clause 12.—This clause seeks to amend section 30 of the Multi-State Co-operative Societies Act, 2002 relating to expulsion of members.

It is proposed to amend sub-section (2) of the aforesaid section to extend the time period from one to three years as may be specified in the bye-laws from the date of expulsion of the member for being eligible for re-admission as member.

Clause 13.—This clause seeks to amend section 32 of the Multi-State Co-operative Societies Act, 2002 relating to manner of exercising vote.

It is proposed to provide that the member may also exercise his vote at a meeting through electronic form.

Clause 14.— This clause seeks to amend section 35 of the Multi-State Co-operative Societies Act, 2002 relating to redemption of shares in Multi-State Co-operative Society.

It is proposed to amend sub-section (1) and sub-section (2) of the aforesaid section to provide that the society may refund full or part of the share capital held by the Government who shall accept such redemption on the face value or book value of shares, whichever is higher.

Clause 15.—This clause seeks to amend section 38 of the Multi-State Co-operative Societies Act, 2002 relating to constitution, powers and functions of general body.

It is proposed to amend sub-section (3) of the aforesaid section with a view to provide that the administrator shall not represent the co-operative society or other multi-State co-operative society beyond a period of six months.

Clause 16.—This clause seeks to amend section 41 of the Multi-State Co-operative Societies Act, 2002 relating to board of directors of Multi-State Co-operative Societies.

It is proposed to amend sub-section (3) and insert sub-sections (4), (5) and (6) in the aforesaid section to specify the field of expertise for the co-opted directors and to provide reservation of seat for the Scheduled Castes and the Scheduled Tribes and women in the board of the society. It is also proposed to provide that the director shall disclose the nature of his concern or interest and of that of his relatives at the meeting of the board of the society and he shall not be present in the discussion of or vote on any contract or arrangement in which he is concerned or interested.

Clause 17.—This clause seeks to insert section 41A after section 41 of the Multi-State Co-operative Societies Act, 2002.

It is proposed to insert the aforesaid section to provide for the constitution of interim board for rehabilitation or revival of sick society.

Clause 18.—This clause seeks to amend section 43 of the Multi-State Co-operative Societies Act, 2002 relating to disqualification for being a member of the board of Multi-State Co-operative Society.

It is proposed to amend sub-section (2) of the aforesaid section with a view, *inter alia*, to provide that default by members in making contribution to the Co-operative Education Fund or Co-operative Rehabilitation and Reconstruction Fund and filing the statutory returns within the specified time shall render them ineligible for being elected as members of the board.

Clause 19.—This clause seeks to amend section 45 of the Multi-State Co-operative Societies Act, 2002 relating to elections of members of the board of Multi-State Co-operative Societies.

It is proposed to amend the aforesaid section to provide, *inter alia*, that the Central Government shall appoint Co-operative Election Authority for conduct of elections in the society. It also seeks to provide that the term of office bearers shall be co-terminus with the term of board of directors and only elected or nominated members of the board shall be eligible to be elected as Chairman or Vice-Chairman or President or Vice-President of the board. It further seeks to provide that the board may fill a causal vacancy of the members of the board by nomination out of the same class of members in respect of which the casual vacancy has arisen, if the term of office of the board is less than half of its original term. It also seeks to provide for extension of period for conduct of election by the Central Registrar from ninety days up to one year. It also seeks to stipulate that no person shall be eligible to be elected as a member of the board or office bearer of a multi-State co-operative society unless he is an active member of the general body of that society.

Clause 20.—This clause seeks to amend section 49 of the Multi-State Co-operative Societies Act, 2002 relating to powers and functions of the board of Multi-State Co-operative Society.

It is proposed to amend sub-section (2) of the aforesaid section with a view to empower the board to elect President and Vice-President of the society from amongst the elected or nominated members of the board.

Clause 21.—This clause seeks to amend section 50 of the Multi-State Co-operative Societies Act, 2002 relating to meetings of the board of Multi-State Co-operative Society.

It is proposed to amend the aforesaid section to provide for convening of meeting of the board by the chief executive on receipt of requisition from one-fourth of the directors. It also provides for quorum of the meeting of the board of directors and participation of the directors through video conferencing or through other electronic means to be counted for the purpose of quorum.

Clause 22.—This clause seeks to amend section 52 of the Multi-State Co-operative Societies Act, 2002 relating to powers and functions of the Chief Executive.

It is proposed to amend the aforesaid section with a view to extend the period for presentation of the draft, annual report and financial statement for the approval of board from thirty to forty-five days.

Clause 23.—This clause seeks to amend section 53 of the Multi-State Co-operative Societies Act, 2002 relating to the committees of the board of Multi-State Co-operative Society.

It is proposed to amend sub-section (I) and insert sub-section (1A) in the aforesaid section with a view to empower the board to constitute executive committee and other committees or sub-committees. It also seeks to provide that the board shall constitute an audit and ethics committee.

Clause 24.—This clause seeks to insert section 63A after section 63 of the Multi-State Co-operative Societies Act, 2002.

It is proposed to insert the aforesaid section with a view to provide for establishment of Co-operative Rehabilitation and Reconstruction Fund.

Clause 25.—This clause seeks to amend section 67 of the Multi-State Co-operative Societies Act, 2002 relating to restrictions on borrowing by the Multi-State Co-operative Society.

It is proposed to amend the aforesaid section to provide that the multi-State co-operative society doing banking business shall be governed by the directions issued by Reserve Bank of India. It also seeks to remove the existing restriction on borrowings by the society to the extent of only twenty-five per cent. of its paid-up share capital and proposes to allow the society to raise resources to the extent of its paid-up share capital, free reserves and surpluses.

Clause 26.—This clause seeks to amend section 70 of the Multi-State Co-operative Societies Act, 2002 relating to appointment and remuneration of auditors.

It is proposed to amend sub-section (7) of the aforesaid section to empower the board to fill up the vacancy of auditor caused by the resignation or death of auditor from out of the panel of auditors approved by the Central Registrar.

Clause 27.—This clause seeks to amend section 73 of the Multi-State Co-operative Societies Act, 2002 relating to powers and duties of auditors.

It is proposed to insert sub-section (6) to the aforesaid section to provide for laying down of auditing and accounting standards by the Central Government.

Clause 28.—This clause seeks to amend section 77 of the Multi-State Co-operative Societies Act, 2002 relating to the power of the Central Government to direct special audit in certain cases.

It is proposed to amend sub-section (I) and insert sub-section (IA) in the aforesaid section to empower the Central Government to order for special audit where Central or State Government holds share capital or shares.

Clause 29.—This clause seeks to amend section 78 relating to inquiry by the Central Registrar.

It is proposed to amend sub-section (I) and insert sub-sections (IA) and (IB) in the aforesaid section to empower the Central Registrar to call from the society any information or explanation and documents. It also provides for holding of enquiry by the Central Registrar if it is found that the business of the society is being carried on for a fraudulent or unlawful purpose.

Clause 30.—This clause seeks to amend section 84 of the Multi-State Co-operative Societies Act, 2002 relating to reference of disputes.

It is proposed to amend the aforesaid section, *inter alia*, to provide that any of dispute shall be referred to the Central Registrar instead of arbitrator and that the Central Registrar on receipt of the reference of dispute may decide the dispute himself or transfer it for decision to such person and upon such terms and conditions as may be specified.

Clause 31.—This clause seeks to amend section 94 of the Multi-State Co-operative Societies Act, 2002 relating to execution of decisions etc.

It is proposed to amend the aforesaid section to provide that in case of default, the contribution to the co-operative education fund shall be recovered as land revenue.

Clause 32.—This clause seeks to amend section 103 of the Multi-State Co-operative Societies Act, 2002 relating to co-operative societies functioning immediately before reorganisation of States.

It is proposed to amend sub-section (1) of the aforesaid section to provide for cancellation of registration by Central Registrar of the deemed multi-State co-operative society if all the successor States take necessary steps to divide or reorganise the said multi-State co-operative society into State co-operative societies.

Clause 33.—This clause seeks to amend section 104 of the Multi-State Co-operative Societies Act, 2002 relating to offences and penalties.

It is proposed to amend the aforesaid section to increase the amount of penalty for the specified offences.

Clause 34.—This clause seeks to amend section 106 of the Multi-State Co-operative Societies Act, 2002 relating to copies of bye laws etc. to be made open to inspection.

It is proposed to insert sub-section (2) to the aforesaid section to provide for appointment of Co-operative Information Officer, Chief Information Officer for providing information about the affairs and management of the society and also make a provision for appeal.

Clause 35.—This clause seeks to amend section 108 of the Multi-State Co-operative Societies Act, 2002 relating to inspection of books of accounts, etc. of Multi-State Co-operative Societies.

It is proposed to amend sub-section (1) of the aforesaid section to provide for inspection of books of accounts, etc. of the society by Central Registrar or any person authorised by him on his behalf.

Clause 36.—This clause seeks to insert section 120A after section 120 of the Multi-State Co-operative Societies Act, 2002.

It is proposed to insert the aforesaid section to provide for filing of applications, documents, etc. in electronic form.

Clause 37.—This clause seeks to amend section 124 of the Multi-State Co-operative Societies Act, 2002 relating to the power of the Central Government to make rules.

It is proposed to amend sub-section (2) of the aforesaid section to include certain specified matters under the provision of power to make rules.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 13 of the Bill empowers the Central Government to make rules to provide for the manner of exercising vote in electronic form.

2. Clause 19 of the Bill empowers the Central Government to make rules for specifying (a) the co-operative societies for which the elections shall be conducted by the Cooperative Election Authority; (b) the function to be discharged and the manner in which those are to be discharged by the returning officer appointed by the Election Authority.

3. Clause 24 of the Bill empowers the Central Government to make rules to provide for (a) the percentage of turnover of a multi-State co-operative society to be credited to the Co-operative Rehabilitation and Reconstruction Fund; and (b) the form for maintenance of separate account and other relevant records in relation to the Fund in consultation with the Comptroller and Auditor General of India.

4. Clause 32 of the Bill empowers the Central Government to specify the period within which all the successor States shall take necessary steps to divide or re-organise the multi-State co-operative societies into State co-operative societies to confine their objects, services and the members to respective States.

5. Clause 34 of the Bill empowers the Central Government to make rules to specify (a) the fee for obtaining information from the Co-operative Information Officer about the affairs and management of the society; and (b) the manner, time for filing and procedure of appeal.

6. Clause 36 of the Bill empowers the Central Government to make rules (a) to specify a date and the manner of authentication of application and other documents to be filed or delivered in electronic form, (b) for the manner of authentication of the document and notice, etc. served or delivered in the electronic form, (c) the manner for registration or authentication of applications, balance sheet, etc. maintained by the Central Registrar in electronic form, (d) the manner of inspection of bye-laws, balance sheet, etc. to be made through the electronic form, (e) the manner of payment of fees, charges or other sums through the electronic form, (f) the manner of performing duties or discharging functions or exercising powers or doing any other act to be performed or discharged or exercised or done by the Central Registrar in the electronic form, and (g) the manner to provide the electronic form to be exclusive or alternative or in addition to the physical form.

7. The matters in respect of which rules may be made under the aforesaid provisions are matters of procedure and administrative detail and it is not practical to provide for them in the Bill itself. The rules made under this Bill are also required to be laid before Parliament. The delegation of legislative power is, therefore, of a normal character.

ANNEXURE

EXTRACTS FROM THE MULTI-STATE CO-OPERATIVE SOCIETIES ACT, 2002
(39 OF 2002)

	*	*	*	*	*	
Multi-State co-operative societies which may be registered.	5. (1)	No multi-State co-operative society shall be registered under this Act, unless,—				
		(a) its main objects are to serve the interests of members in more than one State;				
		and				
		(b) its bye-laws provide for social and economic betterment of its members through self-help and mutual aid in accordance with the co-operative principles.				
	*	*	*	*	*	
Registration.	7. (1)	*	*	*	*	
		(2) The application for registration shall be disposed of by the Central Registrar within a period of four months from the date of receipt thereof by him.				
		(3) Where the Central Registrar refuses to register a multi-State co-operative society, he shall communicate, within a period of four months from the date of receipt of the application for registration, the order of refusal together with the reasons therefor to the applicant or applicants, as the case may be:				
		Provided that no order of refusal shall be made unless the applicants have been given a reasonable opportunity of being heard:				
		Provided further that if the application for registration is not disposed of within a period of four months specified in sub-section (2) or the Central Registrar fails to communicate the order of refusal within that period, the application shall be deemed to have been accepted for registration and the Central Registrar shall issue the registration certificate in accordance with the provisions of this Act and the rules made thereunder.				
	*	*	*	*	*	
Bye-laws of multi-State co-operative societies.	10. (1)	*	*	*	*	
		(2) In particular, and without prejudice to the generality of the foregoing power, such bye-laws may provide for all or any of the following matters, namely:—				
		(a) the name, address and area of operation of the society;				
	*	*	*	*	*	
Amendment of bye-laws of a multi-State co-operative society.	11. (1)	*	*	*	*	
		(7) If, on receipt of application under sub-section (5), the Central Registrar is satisfied that the proposed amendment—				
		(a) is not contrary to the provisions of this Act or of the rules;				
		(b) does not conflict with co-operative principles; and				
		(c) will promote the economic interests of the members of the multi-State co-operative society,				
		he may register the amendment within a period of three months from the date of receipt thereof by him.				
	*	*	*	*	*	
Amalgamation or transfer of assets and liabilities, or division of multi-State co-operative societies.	17. (1)	A multi-State co-operative society may, by a resolution passed by a majority of not less than two-thirds of the members, present and voting at a general meeting of the society held for the purpose,—				
	*	*	*	*	*	

(3) The resolution of a multi-State co-operative society under sub-section (1) or sub-section (2) shall contain all particulars of the transfer or division or amalgamation, as the case may be.

* * * * *

(7) On receipt of an application for the registration of new societies formed by division in accordance with the resolution passed under sub-section (1) or of a new society formed by amalgamation in accordance with the resolution passed under sub-section (2), the Central Registrar, on being satisfied that the resolution has become effective under sub-section (6) shall, unless for reasons to be recorded in writing he thinks fit to refuse so to do, register the new society or societies, as the case may be, and the bye-laws thereof.

* * * * *

21. (1) Where the whole of the assets and liabilities of a multi-State co-operative society are transferred to another multi-State co-operative society or to a co-operative society in accordance with the provisions of section 17, the registration of the first-mentioned multi-State co-operative society shall stand cancelled and the society shall be deemed to have been dissolved and shall cease to exist as a corporate body.

Cancellation of registration certificate of multi-State co-operative societies in certain cases.

* * * * *

(3) Where a multi-State co-operative society divides itself into two or more multi-State co-operative societies or two or more co-operative societies in accordance with the provisions of section 17, the registration of that society shall stand cancelled on the registration of the new societies, and that society shall be deemed to have been dissolved and shall cease to exist as a corporate body.

* * * * *

22. (1) * * * * *

(5) (a) * * * * *

Conversion of a co-operative society into a multi-State co-operative society.

(c) The Registrar of Co-operative Societies referred to in clause (b) shall thereupon make an order directing that the society had, as from the date of registration by the Central Registrar, ceased to be a society under the law relating to co-operative societies in force in that State.

* * * * *

CHAPTER IV

MEMBERS OF MULTI-STATE CO-OPERATIVE SOCIETIES AND THEIR DUTIES, RIGHTS AND LIABILITIES

25. (1) * * * * *

Persons who may become members.

(4) Every application for admission as a member of a multi-State co-operative society shall be disposed of by such society within a period of four months from the date of receipt of the application, and the decision of such society on the application shall be communicated to the applicant within fifteen days from the date of such decision:

Provided that if the application is not disposed of within the period aforesaid, or the decision is not communicated within a period of fifteen days of the expiry of the aforesaid period of four months, the multi-State co-operative society shall be deemed to have made a decision, on the date of expiry of such period, refusing admission to the applicant.

* * * * *

28. No member of a multi-State co-operative society shall exercise the rights of a member, unless he has made the payment to the society in respect of membership, or has acquired such interest in the society, as may be specified in the bye-laws.

Members not to exercise rights till due payment made.

29. No person shall be eligible for being a member of a multi-State co-operative society if—

* * * * *

Disqualification for member of a multi-State co-operative society.

(d) he has made any default in payment of any amount to be paid to the multi-State co-operative society under the bye-laws of such society.

Expulsion of members.

30.(1) * * * * *

(2) No member of the multi-State co-operative society who has been expelled under sub-section (1), shall be eligible for re-admission as a member of that society, for a period of one year, from the date of such expulsion.

* * * * *

Manner of exercising vote.

32. Every member of a multi-State co-operative society shall exercise his vote in person and no member shall be permitted to vote by proxy:

Provided that a multi-State co-operative society or a co-operative society or any other institution which is a member of any other multi-State co-operative society may, subject to the provisions of sub-section (3) of section 38 and the rules, appoint its representative to vote on its behalf in the affairs of such multi-State co-operative society.

* * * * *

Redemption of shares.

35. (1) Shares held in a multi-State co-operative society by any of the authorities referred to in clauses (c) to (g) of sub-section (1) of section 25 shall be redeemable in accordance with the bye-laws of such multi-State co-operative society and in a case where the bye-laws do not contain any provision in this regard, in such manner as may be agreed upon between the multi-State co-operative society and such authority.

(2) The redemption of shares referred to in sub-section (1) shall be on the face value of the shares.

* * * * *

CHAPTER V

DIRECTION AND MANAGEMENT OF MULTI-STATE CO-OPERATIVE SOCIETIES

Constitution, powers and functions of general body.

38.(1) * * * * *

(3) Where in any meeting of the general body or the board of a multi-State co-operative society, a co-operative society or another multi-State co-operative society is to be represented, such co-operative society or other multi-State co-operative society shall be represented in such meeting only through the Chairperson or the president or the Chief Executive or a member of the board of such co-operative society or other multi-State co-operative society, as the case may be, if such member is so authorised by the board and where there is no board of such co-operative society or other multi-State co-operative society, for whatever reasons, through the administrator, by whatever name called, of such co-operative society or other multi-State co-operative society:

Provided that where the bye-laws of a multi-State co-operative society provide for representation of other institutions in any meeting of general body or the board of such multi-State co-operative society, such institutions shall be represented through its nominee.

* * * * *

Board of Directors.

41. (1) * * * * *

(3) The board shall consist of such number of directors as may be specified in the bye-laws:

Provided that the maximum number of directors in no case shall exceed twenty-one:

Provided further that the board may co-opt two directors in addition to twenty-one directors specified in the first proviso:

Provided also that the functional directors in the national co-operative societies shall also be the members of the board and such members shall be excluded for the purpose of counting the total number of directors specified in the first proviso.

* * * * *

43. (1) * * * * *

(2) A person shall not be eligible for being elected as member of board of a multi-State co-operative society for a period of five years if the board of such multi-State co-operative society fails—

Disqualifications for being a member of board.

* * * * *

(c) to prepare the financial statement and present the same in the annual general meeting.

* * * * *

45. (1) The conduct of elections to the board of a multi-State co-operative society shall be the responsibility of the existing board.

Elections of members of board.

* * * * *

(5) The term of office of the elected members of the board shall be such, not exceeding five years from the date of elections, as may be specified in the bye-laws of a multi-State co-operative society:

Provided that elected members shall continue to hold office till their successors are elected or nominated under the provisions of this Act or the rules or bye-laws and assume charge of their office.

(6) Where the board fails to conduct election of the members of board, the Central Registrar shall hold the election within a period of ninety days from the date when such election became due.

(7) No person shall be eligible to be elected as a member of the board of a multi-State co-operative society unless he is a member of the general body of that society.

(8) The expenses for holding election by the Central Registrar shall be borne by the multi-State co-operative society.

* * * * *

49. (1) * * * * *

(2) Without prejudice to the generality of the foregoing powers, such powers shall include the power—

Powers and functions of board.

* * * * *

(m) to take such other measures or to do such other acts as may be prescribed or required under this Act or the bye-laws or as may be delegated by the general body.

50. (1) The Chief Executive shall convene the meetings of the board at the instance of the chairperson or president of the multi-State co-operative society.

Meeting of board.

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52. The Chief Executive shall under the general superintendence, direction and control of the board, exercise the powers and discharge the functions specified below, namely:—

Powers and functions of Chief Executive.

* * * * *

(j) present the draft annual report and financial statements for the approval of the board within thirty days of closure of the financial year;

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53. (1) The board may, subject to such conditions as may be prescribed, constitute an Executive Committee and other committees or sub-committees as may be considered necessary:

Committees of board.

Provided that other committees or sub-committees, other than the Executive Committee shall not exceed three.

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Restrictions on borrowing.

67. (1) A multi-State co-operative society may receive deposits, raise loans and receive grants from external sources to such extent and under such conditions as may be specified in the bye-laws:

Provided that the total amount of deposits and loans received during any financial year shall not exceed ten times of the sum of subscribed share capital and accumulated reserves:

Provided further that while calculating the total sum of subscribed share capital and accumulated reserves, the accumulated losses shall be deducted.

* * * * *

(3) A multi-State co-operative society may issue non-convertible debentures or other instruments subject to the provisions of any law for the time being in force to raise resources for the fulfilment of its objects to the extent of twenty-five per cent. of its paid-up share capital.

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CHAPTER VIII

AUDIT, INQUIRY, INSPECTION AND SURCHARGE

Appointment and remuneration of auditors.

70. (1) * * * * *

(7) (a) The multi-State co-operative society may fill any casual vacancy in the office of an auditor; but while any such vacancy continues, the remaining auditor or auditors, if any, may act:

Provided that where such vacancy is caused by the resignation of an auditor, the vacancy shall only be filled by the multi-State co-operative society in general meeting.

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Power of Central Government to direct special audit in certain cases.

77. (1) Where the Central Government is of the opinion—

(a) that the affairs of any multi-State co-operative society are not being managed in accordance with self-help and mutual aid and co-operative principles or prudent commercial practices; or with sound business principles; or

(b) that any multi-State co-operative society is being managed in a manner likely to cause serious injury or damage to the interests of the trade, industry or business to which it pertains; or

(c) that the financial position of any multi-State co-operative society is such as to endanger its solvency,

the Central Government may at any time by order direct that a special audit of the multi-State co-operative society's accounts for such period or periods as may be specified in the order, shall be conducted and may by the same or a different order appoint either a chartered accountant as defined in clause (b) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949 or the multi-State co-operative society's auditor himself to conduct with special audit:

Provided that the Central Government shall not order for special audit of a multi-State co-operative society's accounts if that Government or the State Government either by itself or both hold less than fifty-one per cent. of the paid-up share capital or of the shares in such multi-State co-operative society.

* * * * *

78. (1) The Central Registrar may, on a request from a federal co-operative to which a multi-State co-operative society is affiliated or a creditor or not less than one-third of the members of the board or not less than one-fifth of the total number of members of a multi-State co-operative society hold an inquiry or direct some person authorised by him by order in writing in this behalf to hold an inquiry into the constitution, working and financial condition of a multi-State co-operative society:

Inquiry by Central Registrar.

Provided that no inquiry under this sub-section shall be held unless a notice of not less than fifteen days has been given to the multi-State co-operative society.

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CHAPTER IX

SETTLEMENT OF DISPUTES

84. (1) Notwithstanding anything contained in any other law for the time being in force, if any dispute other than a dispute regarding disciplinary action taken by a multi-State co-operative society against its paid employee or an industrial dispute as defined in clause (k) of section 2 of the Industrial Disputes Act, 1947] touching the constitution, management or business of a multi-State co-operative society arises—

Reference of disputes.

14 of 1947

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

(b) between a member, past members and persons claiming through a member, past member or deceased member and the multi-State co-operative society, its board or any officer, agent or employee of the multi-State co-operative society or liquidator, past or present, or

(c) between the multi-State co-operative society or its board and any past board, any officer, agent or employee, or any past officer, past agent or past employee, heirs or legal representatives of any deceased officer, deceased agent or deceased employee of the multi-State co-operative society, or

(d) between the multi-State co-operative society and any other multi-State co-operative society, between a multi-State co-operative society and liquidator of another multi-State co-operative society or between the liquidator of one multi-State co-operative society and the liquidator of another multi-State co-operative society, such dispute shall be referred to arbitration.

* * * * *

(3) If any question arises whether a dispute referred to arbitration under this section is or is not a dispute touching the constitution, management or business of a multi-State co-operative society, the decision thereon of the arbitrator shall be final and shall not be called in question in any court.

(4) Where a dispute has been referred to arbitration under sub-section (1), the same shall be settled or decided by the arbitrator to be appointed by the Central Registrar.

(5) Save as otherwise provided under this Act, the provisions of the Arbitration and Conciliation Act, 1996 shall apply to all arbitration under this Act as if the proceedings for arbitration were referred for settlement or decision under the provisions of the Arbitration and Conciliation Act, 1996.

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CHAPTER XI

EXECUTION OF DECREES, ORDERS AND DECISIONS

94. Every decision or order made under section 39 or section 40 or section 83 or section 99 or section 101 shall, if not carried out,—

Execution of decisions, etc.

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CHAPTER XIII

SOCIETIES WHICH BECOME MULTI-STATE CO-OPERATIVE SOCIETIES
CONSEQUENT ON REORGANISATION OF STATES

Co-operative societies functioning immediately before reorganisation of States.

103. (1) Where, by virtue of the provisions of Part II of the State Reorganisation Act, 1956 or any other enactment relating to reorganisation of States, any co-operative society which immediately before the day on which the reorganisation takes place, had its objects confined to one State becomes, as from that day, a multi-State co-operative society, it shall be deemed to be a multi-State co-operative society registered under the corresponding provisions of this Act and the bye-laws of such society shall, insofar as they are not inconsistent with the provisions of this Act, continue to be in force until altered or rescinded.

37 of 1956

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CHAPTER XIV

OFFENCES AND PENALTIES

26 of 1996

Offences and penalties.

104. (1) A multi-State co-operative society or an officer or member thereof wilfully making a false return or furnishing false information, or any person wilfully or without any reasonable excuse disobeying any summons, requisition or lawful written order issued under the provisions of this Act, or wilfully not furnishing any information required from him by a person authorised in this behalf under the provisions of this Act, shall be punishable with fine which shall not be less than two thousand rupees and which may extend to ten thousand rupees.

(2) Any employer who, without sufficient cause, fails to pay to a multi-State co-operative society the amount deducted by him under section 60 within a period of fourteen days from the date on which such deduction is made shall, without prejudice to any action that may be taken against him under any other law for the time being in force, be punishable with fine which may extend to five thousand rupees.

(3) Any officer or custodian who wilfully fails to hand over custody of books, accounts, documents, records, cash, security and other property belonging to a multi-State co-operative society of which he is an officer or custodian, to a person entitled under section 54, or section 70, or section 78, or section 79, or section 89 shall be punishable with fine which may extend to two thousand rupees and in the case of a continuing breach, with a further fine which may extend to five thousand rupees for every day during which the breach is continued after conviction for the first such breach.

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Copies of bye-laws, etc., to be open to inspection.

106. Every multi-State co-operative society shall keep a copy of the rules and its bye-laws and also a list of its members, open to inspection free or charge at all reasonable times, at the registered address of the society.

Inspection of books of account, etc. of multi-State co-operative society.

108. (1) The book of account and other books and papers of every multi-State co-operative society shall be open to inspection during business hours—

(i) by the Central Registrar, or

(ii) by such officer of the Government as may be authorised by the Central Government in this behalf:

Provided that such inspection may be made without giving any previous notice to that society or any officer thereof;

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Power to make rules.

124.(1) * * * * *

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters :—

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LOK SABHA

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BILL

to amend the Multi-State Co-operative Societies Act, 2002.

*(Shri Sharad Pawar, Minister of Agriculture, Consumer Affairs,
Food and Public Distribution)*