

**LOK SABHA**

**REPORT OF THE JOINT COMMITTEE**

**ON**

**THE MULTI-STATE CO-OPERATIVE SOCIETIES**  
**(AMENDMENT) BILL, 2022**

**SEVENTEENTH LOK SABHA**



**LOK SABHA SECRETARIAT**

**NEW DELHI**

**MARCH, 2023 /PHALGUNA, 1944 (SAKA)**

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**Presented to Lok Sabha on 15.03.2023**

**Laid in Rajya Sabha on 15.03.2023**



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<b>INDEX</b>		
<b>PART</b>	<b>CONTENT</b>	<b>PAGE NO.</b>
	Composition of the Joint Committee	(vi)
	Introduction	(viii)
<b>REPORT</b>		
CHAPTER-1	Genesis and features of the Multi-State Cooperative Societies Act, 2002 and its amendment Bill, 2022	1
CHAPTER-2	Clause by Clause Examination on the Multi-State Co-operative Societies (Amendment) Bill, 2022	6
<b>APPENDICES</b>		
I	Motion in Lok Sabha for reference of the Bill to the Joint Committee	125
II	Motion in Rajya Sabha for reference of the Bill to the Joint Committee	126
III	List of Government Agencies and Experts/ Stakeholders/ Organisations who submitted Memoranda	127
IV	Details of the sittings of the Joint Committee on the Multi-State Co-operative Societies (Amendment) Bill, 2022	128
V	List of witnesses who tendered oral evidence before the Committee	129
VI	Minutes of the sittings	130
VII	Notes of Dissent	148
<b>ANNEXURES</b>		
I	Bill as reported by the Joint Committee	1-49

## ABBREVIATIONS

AGM	-	Annual General Meeting
BR Act	-	Banking Regulation Act
CARE	-	Credit Analysis & Research
CEA	-	Cooperative Election Authority
CEF	-	Cooperative Education Fund
CIO	-	Co-operative Information Officer
CRAFICARD-		Committee to Review Arrangements for Institutional Credit for Agriculture and Rural Development
CRCS	-	Central Registrar of Cooperative Societies
CRISIL	-	Credit Rating Information Services of India Limited
CRRDF	-	Cooperative Rehabilitation, Reconstruction and Development Fund
CSR	-	Cooperative Social Responsibility
DEAF	-	Depositor Education and Awareness Fund
DFS	-	Department of Financial Services
DICGC	-	Deposit Insurance and Credit Guarantee Corporation
ICAI	-	Institute of Chartered Accountants of India
ICRA	-	Investment Information and Credit Rating Agency of India Limited
IFFCO	-	Indian Farmers Fertilizer Cooperative Limited
JPC	-	Joint Parliamentary Committee
KRIBHKO	-	Krishak Bharati Cooperative Limited
MD/CEO	-	Managing Director/Chief Executive Officer
MSCS	-	Multi State Cooperative Societies
NABARD	-	National Bank for Agriculture and Rural Development
NAFCARD	-	National Cooperative Agriculture & Rural Development Banks Federation Limited
NAFCUB	-	National Federation of Urban Cooperative Banks and Credit Societies Ltd.
NAFED	-	National Agricultural Cooperative Marketing Federation of India Limited
NAFSCOB	-	National Federation of State Cooperative Banks
NCCF	-	National Cooperative Consumers Federation of India
NCDC	-	National Cooperative Development Council
NCUI	-	National Cooperative Union of India
NPA	-	Non Performing Assets
ONICRA	-	Onida Individual Credit Rating Agency of India
PSUs	-	Public Sector Undertakings
RBI	-	Reserve Bank of India
RBI-IOS	-	Reserve Bank of India - Integrated Ombudsman Scheme
RCS	-	Registrar of Cooperative societies
RE	-	Regulated Entities
SAF	-	Supervisory Action Framework
SARFAESI Act-		The Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act
SC/ST	-	Scheduled Castes/Scheduled Tribes
UCB	-	Urban Cooperative Banks
WTD	-	Whole Time Director

## **COMMITTEE ON MULTI-STATE CO-OPERATIVE SOCIETIES (AMENDMENT) BILL, 2022**

**Chairperson- Shri Chandra Prakash Joshi**

### **Lok Sabha**

2. Shri Jagdambika Pal
3. Shri Parbatbhai Savabhai Patel
4. Smt. Poonamben Hematbhai Maadam
5. Shri Ramdas Chandrabhanji Tadas
6. Shri Annasaheb Shankar Jolle
7. Dr. Nishikant Dubey
8. Smt. Sunita Duggal
9. Shri Brijendra Singh
10. Smt. Jaskaur Meena
11. Shri Ram Kripal Yadav
12. Dr. Dhal Singh Bisen
13. Shri Suresh Kodikunnil
14. Shri Manish Tewari
15. Smt. Kanimozhi Karunanidhi
16. Shri Kalyan Banerjee
17. Shri Sri Krishna Devarayalu Lavu
18. Shri Hemant Shriram Patil
19. Shri Dulal Chandra Goswami
20. Shri Chandra Sekhar Sahu
21. Shri Girish Chandra

### **Rajya Sabha**

22. Shri Ghanshyam Tiwari
23. Shri Surendra Singh Nagar
24. Shri Dhananjay Bhimrao Mahadik
25. Shri Ram Chander Jangra
26. \*Smt. Rajani Ashokrao Patil
27. Shri Sukhendu Sekhar Ray
28. Shri N.R. Elango
29. Shri Vikramjit Singh Sahney
30. Shri Sujeet Kumar
31. Shri S. Niranjana Reddy

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\*Suspended w.e.f 10<sup>th</sup> Feb, 2023 for the remaining part of 259<sup>th</sup> session vide Rajya Sabha Secretariat circular no.RS.50/2023-T dated 10 Feb, 2023 under Rule 256 of Rules of Procedure and Conduct of Business in Rajya Sabha.

## SECRETARIAT

1. Shri J.M. Baisakh - Joint Secretary
2. Shri C. Kalyanasundaram - Director
3. Shri Sumesh Kumar - Deputy Secretary
4. Smt. Rachna Saxena - Deputy Secretary
5. Shri Bharat Lal Meena - Deputy Director
6. Smt. Sonia Gupta - Committee Officer

## INTRODUCTION

I, the Chairperson of the Joint Committee on the Multi-State Co-operatives Societies (Amendment) Bill, 2022 to which 'the Multi-State Co-operatives Societies (Amendment) Bill, 2022' was referred, having been authorized to submit the Report on their behalf, present this Report with the Bill, as reported by the Joint Committee annexed thereto.

2. The Multi-State Co-operatives Societies (Amendment) Bill, 2022 was introduced in Lok Sabha on 7<sup>th</sup> December, 2022. The Motion for reference of the Bill to a Joint Committee of both the Houses of Parliament was moved in Lok Sabha by Shri Amit Shah, the Minister of Home Affairs and the Minister of Cooperation, (*Vide Appendix-I*) and concurred by Rajya Sabha on 21<sup>st</sup> December, 2022 (*Vide Appendix-II*).

3. The Joint Committee was given time till last day of the first week of second part of the Budget Session, 2023 of Parliament to present Report to the House.

4. The Joint Committee held 08 sittings. The Committee took the oral evidence of the representatives of the Ministry of Cooperation, Department of Financial Services and Reserve Bank of India on the provisions contained in the Bill. The representatives of the Ministry of Law & Justice were also present during the sittings of the Committee in order to provide clarifications to the points raised by the Members. The Joint Committee heard the views of the national level federations of cooperative societies and cooperative banks including NABARD. The Joint Committee also heard the views of some of the prominent Multi-State Co-operative Societies. Thereafter, the Joint Committee completed Clause by Clause consideration of the Bill. The Bill as reported by the Joint Committee is appended with the Report. Details of the sittings are given in **Appendix-IV**.

5. The Joint Committee heard the views/ suggestions of 12 stakeholders. Sitting-wise list of witnesses who appeared before the Joint Committee for oral evidence is enclosed (*vide Appendix-V*).

6. The Joint Committee, in their 8<sup>th</sup> sitting held on 13<sup>th</sup> March 2023 considered and adopted draft report and authorized the Chairperson to present the report on their behalf.

7. The notes of dissent received from Shri N.R. Elango is appended to the Report (*Vide Appendix-VII*)



8. The Joint Committee wish to express their thanks to representatives of the Ministry of Cooperation, Ministry of Law and Justice (Legislative Department and Department of Legal Affairs), Ministry of Finance (Department of Financial services), Reserve Bank of India and NABARD who appeared before the Joint Committee and placed their considered views to the points raised by the Joint Committee during the sittings held in connection with the examination of the Bill. The Joint Committee would like to express their sincere thanks to representatives of national level federations of cooperative societies, cooperative banks and other Multi-State Co-operative Societies who appeared before the Joint Committee and candidly presented their views about the impact of various provisions of Bill in the sphere of Multi-State Co-operative Societies. The Joint Committee would also like to acknowledge sincere and devoted efforts made by the Officers of Lok Sabha Secretariat by facilitating conduct of all sittings of the Joint Committee smoothly and for preparing the draft Report of the Joint Committee.

**SHRI CHANDRA PRAKASH JOSHI**  
**CHAIRPERSON,**  
**JOINT COMMITTEE ON THE**  
**MULTI-STATE CO-OPERATIVE SOCIETIES (AMENDMENT) BILL, 2022**

**NEW DELHI;**

**13 March, 2023**

**22 Phalguna 1944 (SAKA)**

# REPORT

## CHAPTER-I

### **Genesis and features of the Multi-State Cooperative Societies Act, 2002 and its amendment Bill, 2022**

1.1 A cooperative is an autonomous association of persons united voluntarily to meet their common economic, social and cultural needs and aspirations through a jointly owned and democratically controlled enterprise. Cooperatives are based on the values of self-help, self-responsibility, democracy, equality, equity and solidarity. In the tradition of their founders, cooperative members believe in the ethical values of honesty, openness, social responsibility and caring for others.

### **Origin and brief history of Cooperative laws in India**

1.2 The cooperative movement in India traces its origin to the agriculture and allied sector and was originally evolved as a mechanism for pooling the people's meager resources with a view to providing to them the advantages of the economies of scales. The first attempt to institutionalize cooperatives began with the enactment of the Cooperative Credit Societies Act, 1904 the scope of which was subsequently enlarged by the more comprehensive Cooperative Societies Act of 1912. Under the Government of India Act, 1919, the subject of Cooperation was transferred to the then Provinces which were allowed to enact their own cooperative laws. Under the Government of India Act, 1935, cooperatives remained a provincial subject. Presently, the item "Cooperative Societies" is a State subject under entry 32 of the State List of the Constitution of India. In order to administer the operations of cooperative societies where membership was from more than one province, the Government of India enacted the Multi-Unit Cooperative Societies Act, 1942 which was subsequently replaced by the Multi-State Cooperative Societies Act, 1984. under entry 44 of the Union List of the Constitution of India.

### **Multi State Cooperative Societies Act (MSCS Act), 2002**

1.3 An Act to consolidate and amend the law relating to co-operative societies, 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 ,was being felt necessary by the various cooperative societies, federations of various cooperative societies as well as by the Government. In this regard, a Committee under the Chairmanship of Choudhary BrahmPerkash was set up. The report of the said Committee suggested a model cooperative law. Based on the report, it was proposed to replace the existing Multi-State Cooperative Societies Act,1984 by a proposed legislation, namely, **the Multi State Cooperative Societies Bill, 2000** which was introduced in the Parliament. The bill having been passed by both the Houses of Parliament received the assent of the President on 3rd July 2002 and it came on the Statute Book as The Multi State Cooperative Societies Act 2002 (39 of 2002).

### **Constitution (Ninety-seventh Amendment) Act, 2011**

1.4 Constitution (Ninety Seventh Amendment) Act, 2011 incorporated Part IX B in the Constitution of India. The part deals with the provisions relating to Cooperative Societies. All Central and State Cooperative Acts were to be aligned with this Constitutional Amendment within one year of its commencement i.e. by 15.02.2013. However, Hon'ble High Court of Gujarat struck down Part IX-B of the 97<sup>th</sup> Constitutional Amendment on 22.04.2013 as it required ratifications of the majority State Legislatures as per the specific provision of Article 368(2) of the Constitution of India. Subsequently, Government of India filed a Civil Appeal against this judgement in the Hon'ble Supreme Court of India which in its majority judgement dated 20.07.2021 pronounced that Part IXB of the Constitution of India is operative only insofar as it concerns Multi State Co-operative Societies both within the various States and in the Union territories of India.

### **Need for amendment of Multi State Cooperative Societies Act, 2002**

1.5 In view of the above developments, Ministry of Cooperation, which is the nodal Ministry dealing with the subject "Cooperation" at Central level, has stated that MSCS Act needs to be amended to bring it in consistence with the Constitution (Ninety-Seventh) (Amendment) Act, 2011, to plug loopholes in the existing legislation and to

strengthen governance in the Multi State Cooperative Societies, in accordance with the following Cooperative Principles, namely: -

Voluntary and Open Membership;  
Democratic Member Control;  
Member's Economic Participation;  
Autonomy and Independence;  
Education, Training and Information;  
Co-operation among Co-operatives; and  
Concern for Community.

1.6 According to the Ministry of Cooperation, need has been felt to amend the Multi State Cooperative Societies Act, 2002 to address some instances of malfunctioning noticed in some of the Multi State Cooperative Societies. For example, there have been complaints in some of the Multi State Cooperative Societies about financial embezzlements, delay and disputes regarding holding elections, biased selection of auditors, and favoritism in recruitment, lack of active participation of members, etc. Developments over the years also necessitated required changes in the Act so as to strengthen the cooperative movement in the multi-state cooperative societies. Moreover, there is a need to proactively implement various reforms e.g., 'Ease of Doing Business' by making registration process easier, allowing digital registration, making membership more vibrant and active, providing Information Officer for increasing transparency, appointing Ombudsman for redressal of member grievances, etc.

1.7 Ministry of Cooperation also submitted that provisions for number of directors, their terms, cooption of members on the board, reservation of weaker sections in the board of directors, election authority, supersession and suspension of board on certain grounds, auditing, convening of general body meetings, right to get information and various offences and penalties have already been included in the Constitution for the Multi State Cooperative Societies through the Constitution (Ninety-Seventh Amendment) Act 2011. Hence, these provisions have to be incorporated in the Multi State Cooperative Societies Act, 2002 by way of suitable amendments. Many of these reforms have already been included in many state laws. Election Authority for conducting Cooperative Elections has already been established in many States. Provisions for active participation of members have also been included in the laws of various States.

1.8 As per the information furnished by the Ministry of Cooperation, there is also a need to create a fund out of contribution made by profitable multi state cooperative

societies for revival of sick multi-State cooperative societies. Further, it is necessary to incorporate the constitutional provisions relating to multi-State cooperative societies carrying on banking activity by stating that in respect of matters relating to incorporation, regulation and winding up, multi-State co-operative societies shall be governed by the provisions of the Multi State Cooperative Society Act, provided that the provisions of the Banking Regulation Act, 1949 shall also apply to a multi-State co-operative society carrying on the business of banking.

### **Multi-State Cooperative Societies (Amendment) Bill, 2022**

1.9 The Multi-State Co-operative Societies (Amendment) Bill 2022 was introduced in Lok Sabha on 7 December, 2022. The Bill aims to amend certain provisions of Multi-State Co-operative Societies Act, 2002. The Minister of Cooperation has stated in the 'Statement of Objects and Reasons' appended with the Multi-State Co-operative Societies (Amendment) Bill, 2022 that the Bill *inter alia* provides for the following, namely:—

- (i) to amend section 41 of the Principal Act so as to reform the composition of board of a multi-State co-operative society;
- (ii) to substitute section 45 of the Principal Act so as to establish an Authority to be known as the "Co-operative Election Authority" which shall consist of a Chairperson, a Vice-Chairperson and members not exceeding three to be appointed by the Central Government. The said Authority is proposed to be established with a view to bring electoral reforms in co-operative sector;
- (iii) to insert a new section 63A relating to "establishment of the Co-operative Rehabilitation, Reconstruction and Development Fund" for revival of "sick multi-State co-operative societies";
- (iv) to insert a new section 70A relating to "concurrent audit" for multi-State co-operative societies having an annual turnover or deposit of more than the amount as determined by the Central Government;
- (v) to insert a new Chapter IXA relating to "redressal of complaints" and for this purpose, the Central Government may appoint one or more "Co-operative Ombudsman" with a territorial jurisdiction for inquiring into the complaints made by the members;
- (vi) to amend section 104 of the Principal Act so as to increase the monetary penalties on multi-State co-operative societies for contravention of the provisions of the Act and the rules made there under;
- (vii) to substitute section 106 of the Principal Act relating to "appointment of Co-operative Information Officer" to provide information relating to affairs and management of the multi-State co-operative society to the members of such society; and

- (viii) to insert a new section 120A relating to "Filing of applications, documents, returns, statements, statement of accounts in electronic form.

### **Joint Committee on Multi-State Cooperative Societies (Amendment) Bill, 2022**

1.10 The Multi-State Cooperative Societies (Amendment) Bill, 2022 has been referred by the Parliament to this Joint Committee on Multi-State Cooperative Societies (Amendment) Bill, 2022 for examination and report. Motion in this regard was adopted by Lok Sabha on 20 December, 2022 and the same was concurred by Rajya Sabha on 21 December, 2022. Joint Committee is comprised of 31 Members with 21 Members from Lok Sabha and 10 Members from Rajya Sabha. Shri Chandra Prakash Joshi, MP (Lok Sabha) is the Chairperson of the Committee. The Committee took the oral evidence of the representatives of the Ministry of Cooperation, Department of Financial Services, Reserve Bank of India and Ministry of Law & Justice on the provisions contained in the Bill. The Committee also heard the views of national level federations of Cooperative Societies and cooperative banks. The Committee also heard the views of some of the prominent Multi-State Cooperative Societies. The following Chapter deals with the Clause-by-Clause examination of the Bill by the Committee.

## CHAPTER-II

### CLAUSE BY CLAUSE EXAMINATION ON THE MULTI-STATE CO-OPERATIVE SOCIETIES (AMENDMENT) BILL, 2022

#### Clause No. 1

##### **Short title and commencement**

2.1 Clause 1 of the Multi-State Cooperative Societies (Amendment) Bill, 2022 states as under:-

“1. (1) This Act may be called the Multi State Co-Operative Societies (Amendment) Act, 2022.

(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.”

##### **RBI's request for an overarching proviso after Clause(b) of Section 2 of the Principal Act**

2.2 During the course of examination of Amendment Bill, the RBI in their submission before Committee has opined that proposed amendments to the MSCS Act will have bearing on some provisions of the Banking Regulation Act. Further, though BR Act is a special law, the possibility of having different interpretations cannot be ruled out. As per them it might not be possible to foresee all possible conflicts that could arise in future and therefore, insertion of an overarching proviso after clause (b) of Section 2 as given below may be inserted:-

“Provided that in case of a co-operative bank, the application of provisions of this Act shall be subject to the provisions of the Banking Regulation Act, 1949 (10 of 1949) and the Rules, Regulations, Directions or Instructions issued there under by the Reserve Bank from time to time.”

## **Comments of Ministry of Cooperation**

2.3 The Ministry of Cooperation was asked to furnish its comments on the above suggestion made by RBI. In their written submission, the Ministry furnished the following comments:-

“The proposed provision 120B is as per Article 243ZI and the third proviso to Article 243 ZL of the Constitution.

- During the process of Inter-ministerial consultation, Department of Financial Services (DFS) vide their letter dated 04.10.2022 informed that proposed revised Bill is largely aligned with BR Act and thus, the DFS agrees with and supports the amendment Bill. Further, DFS will make suitable amendments in the BR Act so that its provisions are in consonance with the Constitution. The same was also stated by Secretary (DFS) in the JPC meeting held on 19.01.2023.
- As per the prevailing practice, Banking license by RBI is given to entities incorporated under different laws such as Indian Companies Act or various Cooperative Societies Acts. All such entities are governed by the respective acts under which they are incorporated as well as under Banking Regulation Act, 1949. As such dual regulation exists for all such entities. To bring clarity, the amendment Bill proposes in Section 120 B (new insertion) that the provisions of MSCS Act 2002 are applicable to a multi-State cooperative bank in respect of matters relating to incorporation, regulation and winding up: Provided that in case of a multi-State cooperative society carrying on the business of banking, the provisions of the Banking Regulation Act, 1949, shall also apply.”

## **Observation/recommendation of the Committee**

**2.4 The Committee deliberated upon the proposal made by RBI and reply given by the Ministry of Cooperation. The Committee concluded that with insertion of section 120B in the amended Act and the assurance of the Department of Financial Services to make suitable amendments in the Banking Regulation Act, 1949, the concern of RBI will be duly taken care of. Thus, the Committee decided that there is no need to insert an overarching proviso after clause (b) of section 2 of the Principal Act.**



## Clause No.2

### **Provision in the Principal Act**

#### **2.5 “Section3: Definitions**

In this Act, unless the context otherwise requires,-

- (a) “area of operation” means the area from which the persons are admitted as members;”

### **Amendment Proposed in the Bill**

2.6 “In the Multi-State Co-operative Societies Act,2002 (hereinafter referred to as the principal Act), in section 3,—

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

‘(aa)“Authority” means the Co-operative Election Authority established under sub-section(1)of section 45;”

### **Rationale behind the proposed amendment**

2.7 “In line with the Article 243ZK(2)of the Constitution.

#### **Electoral reforms**

Insertion of definition of Coop. Election Authority.”

### **Observation/recommendation of the Committee**

**2.8 The Committee deliberated upon the proposal made in the Clause including the suggestions made by the stake holders and the rationale/reply given by the Ministry of Cooperation and decided to accept the changes proposed under the Clause, which was in line with the article 243ZK(2) of the Constitution.**

### **Provision in the Principal Act**

2.9 “3(d)“Central Registrar” means the Central Registrar of Cooperative Societies appointed under sub-section (1) of section 4 and includes any officer empowered to exercise the powers of the Central Registrar under sub-section (2)of that section;”

#### **2.10 Amendment Proposed in the Bill**

“3(d) to be substituted by the following:

Central Registrar means Central Registrar of Cooperative Societies appointed **as per clause(f) of article 243ZH(f) of the constitution** read with subsection(1) of section4 and includes any officer empowered to exercise the powers of the Central Registrar under sub-section(2)of that section.”

### **Rationale behind the proposed amendment**

2.11 “Modification of Definition of Central Registrar to bring it in line with the Article 243ZH(f) of the Constitution.”  
Clause 2 section 3 (d)

2.12 When asked to explain meaning of Central Registrar and the need to amend relevant section, the Secretary, Ministry of Cooperation in evidence deposed:-

“The Central Registrar is only one. Section 4(1) says that “The Government may appoint such other persons ”. It says that “A Central Registrar may appoint a person to be a Central Registrar of Cooperative Societies”. This is in line with the Constitution. Now, 4(1) says that “...and may appoint such other persons as it may think fit to assist the Central Registrar”. They are not Central Registrar.

This provision in the definition has been taken from the Constitution, where the definition of a Registrar, Article 243zhf, which says that Registrar means the Central Registrar appointed by the Central Government in relation to the Multi-State Cooperative Societies. That is one aspect. The Act that was there earlier, along with the Section that we are reading, says that the Central Government may appoint a person—one person – to be the Central Registrar of cooperative societies and may appoint such other persons as it may think fit to assist the Central Registrar. The point is, anybody who is appointed to assist the Central Registrar does not become the Central Registrar. Rest comes the fiduciary part of it, other articles which were referred to....”

2.13 When asked to explain contradiction between Central Registrar and ‘inclusion of any Officer empowered to exercise the “power of the Central Registrar”, the Secretary, Ministry of Cooperation further elaborated as follows:--

“...The Central Government may by notification direct that any powers exercisable, which is part of perhaps any other law that there could be one Registrar of Companies and the Central Government can authorise any other person to exercise certain powers of the Registrar of Companies. Similarly, depending on the load or exigency of work which is part of literally any law, and it says similarly, and there is no contradiction, either with the Constitution or 4(1), 4(2) says that the Central Government may by notification direct that any power exercisable by the Central Registrar, it does not mean that that person becomes the Central Registrar, can exercise the power of the Central Registrar under this Act, and that too it has been circumscribed by saying

that other than the power of registration of the multi-State cooperative society, because perhaps that is the primary function, shall in relation to such society – there are 1,500 societies – there are certain powers with the Registrar which by way of exigencies required to be delegated by the Central Registrar to some other person and such matters may be specified in the notification that which powers of the notification of the Central Registrar will be exercised by that person so notified, be exercised also by an officer. It doesn't mean that person becomes the Central Registrar..."

### **Provision in the Principal Act**

2.14 “(f)“cooperative bank ”means a multi-state cooperative society which under takes banking business;”

### **Amendment Proposed in the Bill**

2.15 “(b)after clause(f),the following clause shall be inserted, namely:—

‘(fa)“Co-operative Ombudsman ”means the Ombudsman appointed by the Central Government under section 85A;”

### **Rationale behind the proposed amendment**

2.16 “Insertion of definition of Cooperative Ombudsman to be appointed by the Central Government under section 85A.”

### **Observation/recommendation of the Committee**

**2.17 The Committee deliberated upon the proposal made in the Clause including the rationale/reply given by the Ministry of Cooperation and decided to accept the amendment proposed under the Clause, which is in line with the Article 243ZH(f) of the Constitution.**

### **Provision in the Principal Act**

2.18 “(i) “cooperative year”, in relation to any multi-state cooperative society or class of such societies, means the year ending on the 31<sup>st</sup> day of March of the year and where the accounts of such society or class of such societies are, with the previous sanction of the Central Registrar, balanced on any other day, they are ending on such day;”

### **Amendment Proposed in the Bill**

2.19 “In clause (i), for the words “co-operative year”, the word “**co-operative or financial year**” shall be substituted:”

### **Rationale behind the proposed amendment**

2.20 “To cover all cases as some MSCS use word ‘financial year’ and some ‘co-operative year’.”

### **Examination by the Committee**

2.21 During briefing on the provisions contained in the Bill by the representatives of the Ministry of Cooperation, the Committee enquired about the logic behind the definition of Cooperative Year and Financial Year separately, when both end on 31<sup>st</sup> March. In this regard, the Ministry of Cooperation stated as under in its post briefing replies:-

“In the existing MSCS Act 2002, section 3(i) provides for definition of ‘co-operative year’ which means the year ending on the 31<sup>st</sup> day of March of the year and where the accounts of such society or class of such societies are, with the previous sanction of the Central Registrar, balanced on any other day, the year ending on such day.

In the amendment Bill vide clause 2 (section 3(i)), the word ‘financial year’ is being inserted alongside ‘co-operative year’ to remove any ambiguity and to cover all cases as some MSCS use word ‘financial year’ and some ‘co-operative year’.”

### **Suggestions by stakeholders**

2.22 NABARD has suggested to use the word ‘Financial Year’ in place of ‘Cooperative Year’ or “Financial Year’.

### **Observation/recommendation of the Committee**

**2.23 The Committee deliberated upon the proposal made in the Clause including the suggestions made by the stake holders and the rationale/reply given by the Ministry of Cooperation. Since the Cooperative Year and Financial Year denote same period of time i.e. first April of one year to thirty first March of the next year, the Committee have felt that both Cooperative Year and Financial may not be mentioned in the Bill. The Committee, therefore, recommend that the proposed amendment to the Bill may be read as follows:-**

**“In clause (i), for the words “co-operative year”, the word “ financial year” shall be substituted.”**

### **Provision in the Principal Act**

2.24 “(s)“notification ”means a notification published in the Official Gazette;”

### **Amendment Proposed in the Bill**

2.25 “In clause (s), after the words “Official Gazette”, the words“ **and the expression ‘notified’ with its cognate meanings and grammatical variations shall be construed accordingly**” shall be inserted.”

### **Rationale behind the proposed amendment**

2.26 “Definition of notification has been expanded to cover all possibilities.”

### **Observation/recommendation of the Committee**

**2.27 The Committee deliberated upon the proposal made in the Clause including the rationale/reply given by the Ministry of Cooperation and decided to accept the amendment proposed under the Clause.**

### **ClauseNo.3**

### **Provision in the Principal Act**

2.28 “**Section7: Registration**

(2) The application for registrations 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 refuse to register a multi-state cooperative society, he shall communicate, within a period of four month from the date of receipt of the application for registration, the order of refusal together with the reasons thereof to the applicant or applicants, as the case may be:

Provided that no order or 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 fail 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 there under.”

### **Amendment Proposed in the Bill**

2.29 “(2) Without prejudice to the provisions of sub-section(1), the Central Registrar may register a multi-State co- operative society if the aggregate value of the paid-up capital and provision of reserves along with liquidity, exposure and other prudential norms specified in the bye- laws of the proposed multi-State co-operative society in the business of thrift and credit are in accordance with such guidelines as may be prescribed:

Provided that the multi-State co-operative societies registered before the commencement of the Multi-State Co-operative Societies (Amendment) Act, 2022 shall meet such norms within a period of five years from the date of commencement of the said Act:

Provided further that if the liquidity, exposure, prudential and other parameters of the multi-State credit society do not meet such norms within the period mentioned above, the Central Registrar shall have powers to issue such directions as it deems appropriate to such society to take relevant action:

Provided also that in the case of multi-State co-operative bank, the aggregate value of the paid-up capital and provision of reserves along with liquidity norms provided in the bye-laws shall be such as may be laid down by the Reserve Bank from time to time.

(3) The application for registration shall be disposed of by the Central Registrar within a period of three months from the date of receipt of such application by him:

Provided that the Central Registrar may, for rectification of mistakes, if any, in the application, extend the period of three months with such further period, for reasons to be recorded in writing, not exceeding two months on the request of the applicant.

(4) Where the Central Registrar refuses to register a multi-State co-operative society, he shall communicate the order of such refusal stating therein the reasons for such refusal, to the applicant within the period specified in sub-section (3):

Provided that no order of refusal shall be made, unless the applicant has been given an opportunity of being heard:

Provided further that if the application for registration is not disposed of within the period specified in sub-section (3) or the Central Registrar fails to communicate the order of refusal within the said 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.”

### **Rationale behind the proposed amendment**

#### **“Strengthening Governance and Transparency**

2.30 No existing prudential norms are there for thrift and Credit MSCS leaving scope for malpractices. The amended provision will ensure financial discipline. Already existing credit societies will get 5 years to meet these norms. Multi-State co-operative banks will continue to follow RBI norms.

## **Ease of doing business**

2.31 This would expedite registration process and ensure ease of doing business. In case of deficiencies in the registration applications, additional time will be provided for rectification in place of rejecting the application.”

## **Examination by the Committee**

2.32 During briefing on the proposals made in the Bill by the representatives of the Ministry of Cooperation, the Committee pointed out that no limit has been prescribed for the MSCS for prudential norms under Section 7(2 & 3), the Ministry of Cooperation in its written reply stated that In the existing Act, there is no provision for prudential norms for credit MSCS, thus leaving scope for malpractices. The amendment in section 7 provides for prudential norms which will be applicable for all MSCS involved in business of credit and thrift. These will be specified in the related rules. The amended provision will ensure financial discipline. Multi- State co-operative banks will continue to follow RBI norms.

2.33 During oral evidence of the representatives of Reserve Bank of India(RBI) on the provisions contained in the Bill, the Committee asked about the RBI's views on the proposal made in Clause 3 of the Bill and also the manner in which multi-state cooperative societies or multi-state cooperative banks engaged in thrift and credit regulated at present. In this regard, RBI in its post evidence reply has stated as under:-

“All Multi-State Cooperative Societies are not regulated by Reserve Bank of India. Only the Multi-State Cooperative Societies engaged in banking activities are licensed and regulated by RBI under various provisions of Banking Regulation (BR) Act, 1949. The provisions of Chapter V of the BR Act,1949 are applicable to a cooperative society carrying on the business banking, which includes a multi-state cooperative society carrying on the business of banking also. Thus, the present status of regulation of multi-state cooperative societies engaged in the field of banking and thrift is as per the provisions of Chapter V of the BR Act and RBI is bestowed with regulatory powers. Further, all amendments made in Chapter V of the BR Act,1949, including the amendments made in 2020 are also applicable to a multi-state cooperative society carrying on the business of banking. Subsequent to the BR (Amendment) Act, 2020, the applicability of BR Act was extended to areas like shareholding, management, audit, amalgamation/ reconstruction and liquidation (winding up) of cooperative banks, in addition to capital and liquidity related provisions. In the absence of any provision in the proposed amendment in MSCS Act, requiring consequential amendments to other extant governing Acts such as BR Act, 1949, certain contradictions arise from the proposed amendments.

Under the proposed section 7(2) of the Multi-State Cooperative Societies (Amendment) Bill, 2022, the capital and liquidity provisions of MSCS will be governed by the Central Registrar for MSCS, while for Multi-State Cooperative Banks, the same will be as per the norms laid down by RBI. Unlike a cooperative society which collects resources from its members to be put to use for the benefit of those members only, a cooperative bank's main and substantial source of funds are non-member/public deposits. Therefore, in order to protect the interest of depositors, who are not part of the governance of the cooperative bank, ensure sufficiency of capital as a going concern and to ensure that a bank has sufficient liquid assets including cash to meet short-term liabilities, the capital and liquidity related regulations have been rightly emphasized to be the remit of RBI under 3rd proviso to section 7(2).

The BR (Amendment) Act, 2020 was intended to address the issue of 'dual regulation' in cooperative banking sector, without sacrificing the principle of proportionality or conformance to cooperative principles. As intended by the BR (Amendment) Act 2020, RBI has adopted a convergent but proportionate and risk-based regulatory approach for cooperative banks so that unfair regulatory arbitrage does not exist as compared to other category of banks as the same can be detrimental not only to the interest of the cooperative sector and their depositors but to the banking system as a whole. Further, experience shows that main reason for failure of several urban cooperative banks (UCBs) in the past have been due to governance or management generated issues which is one of the current focuses of regulation and supervision of UCBs. In view of the above, it is felt that BR Act needs continued primacy over any other law including MSCS Act for banking related activities undertaken by cooperative societies."

### **Suggestions by stakeholders**

2.34 In regard to proposal in Clause of the Bill which proposes to substitute sub sections (2) and (3) of Section 7 of the Principal Act on Registration, NAFCUB has suggested that nothing contained in this substitution shall apply to MSCS which are holding license from RBI for doing banking business and the provisions of Banking Regulation Act (BR Act) shall prevail as also the directions of RBI. It has been pointed out to Committee that Multi-State Cooperative Society Banks are facing dual regulation of RBI as well as Ministry of Cooperation and amendments proposed may blur the line of regulation even if the clause contains the compliance towards RBI guidance. Hence, they requested exemption to UCBs from these provisions as BR Act and RBI Act takes care of concerns expressed.

### **Comments of the Ministry of Cooperation**

2.35 Third proviso to proposed Section 7 explicitly mentions that in the case of multi-State co-operative bank, the aggregate value of the paid-up capital and provision of



reserves along with liquidity norms provided in the bye-laws shall be such as may be laid down by the Reserve Bank from time to time.

2.36 As per the prevailing practice, Banking license by RBI is given to entities incorporated under different laws such as Indian Companies Act or various Cooperative Societies Acts. All such entities are governed by the respective acts under which they are incorporated as well as under Banking Regulation Act, 1949. As such dual regulation exists for all such entities. To bring clarity, the amendment Bill proposes in Section 120 B (new insertion) that the provisions of MSCS Act 2002 are applicable to a multi-State cooperative bank in respect of matters relating to incorporation, regulation and winding up: Provided that in case of a multi-State cooperative society carrying on the business of banking, the provisions of the Banking Regulation Act, 1949, shall also apply. Therefore, the proposed provisions are as per Constitution and do not require any change.

2.37 When asked to explain rationale of amendment proposed in Clause 3 of the amendment Bill and Section 7 of the principal Act, the representative of Ministry of Cooperation stated as under:-

“...We have done this to strengthen the governance and transparency. Para 2(i) is not for multi-state cooperative banks; it is for cooperative societies which are doing credit and other things. For banks, this is the last para which clearly says that. Credit societies are not regulated by RBI. For them, the Registrar will prescribe what should be the liquidity norms. Since hon. Member has raised another point and it will come again and again, I would like to give a summary of it. As per the Constitution, the incorporation, regulation and winding up have been given to the Central Registrar or the Central Government for multi-state cooperative societies. As for the regulation part, first a company is registered, it meets RBI norms and then it may get banking license. Similarly, a cooperative society will get registered, it will have bylaws. There are regulations in this Act that these many Board members should be there, this much qualification of Board members should be there. These are all part of regulations which the cooperative society will have to meet. Once all this is done, the cooperative society may desire to go to RBI and take a banking license. The moment it takes a banking license, the provisions of BR Act shall also apply. It is also clearly stated in section 120B of this Act. Therefore, it is very clear that regulation will always be dual, in the sense that how many directors are there, how the shareholders' meetings take place, how the voting is done, etc. This is part of regulation as far as the DNA of a cooperative society is concerned. If the cooperative society wants to do banking also, then it will have to additionally conform to the BR Act. If you recollect, the Finance Secretary had also come here and he said that the Government is also amending the BR Act in line with the Constitution...”

### **Observation/recommendation of the Committee**

**2.38 The Committee deliberated upon the proposal made in the Clause including the suggestions made by the stake holders and the rationale/reply given by the Ministry of Cooperation and decided to accept the amendment proposed under the Clause.**

### **Clause No.4**

#### **Provision in the Principal Act**

**“Section 10: Bye-laws of multi-statecooperative societies:**

**2.39 (2) In particular, and without prejudice to thegenerality of the foregoing power, such bye- laws may provide for all or any of the following matters, namely:**

**the name, address and area of operation of the society;”**

#### **Amendment Proposed in the Bill**

**2.40 (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:**

**the name, address (including e-mail address)” and area of operation of the multi-State co-operative society;”**

#### **Rationale behind the proposed amendment**

**“Ease of doing business**

**2.41 Email address to be part of address for faster and efficient channel of communication with the multi-state coop.societies.”**

### **Observation/recommendation of the Committee**

**2.42 The Committee deliberated upon the proposal made in the Clause including the rationale/reply given by the Ministry of Cooperation and decided to accept the amendment proposed under the Clause.**

## Clause No.5

### Provision in the Principal Act

#### 2.43 **“Section 14: Change of address**

Every multi-state cooperative society shall have principal place of business and an address registered in the manner prescribed to which all notices and communications may be sent.”

### Amendment Proposed in the Bill

#### 2.44 **“Section 14: Address**

Every multi-state cooperative society shall have principal place of business and an address **including e-mail address** registered in the manner prescribed to which all notices and communications may be sent.”

### Rationale behind the proposed amendment

#### 2.45 **“Ease of doing business**

Email address to be part of address for faster and efficient channel of communication with the multi-state coop.societies.”

### Observation/recommendation of the Committee

**2.46 The Committee deliberated upon the proposal made in the Clause including the rationale/reply given by the Ministry of Cooperation and decided to insert a “,” after the word address in the proposed amendment. Hence, the proposed amendment will read as under:-**

**“Every multi-state cooperative society shall have principal place of business and an address, including e-mail address registered in the manner prescribed to which all notices and communications may be sent.”**

## Clause No.6

### Provision in the Principal Act

#### 2.47 **“Section 17: Amalgamation or transfer of assets and liabilities, or division of multi- state cooperative societies**

(9) Where a resolution passed by a multi- state cooperative society under this section involves the transfer of any assets and liabilities, the resolution shall, notwithstanding anything contained in any other law for the time being in force, be a sufficient conveyance to vest the assets and liabilities in the transferee without any further assurance.”

## **Amendment Proposed in the Bill**

2.48 “After sub-section (9), the following sub- section shall be inserted:

(10) Any co-operative society may, by a resolution passed by majority of not less than two-thirds of the members present and voting at a general meeting of such society, decide to merge into an existing multi-State co-operative society:

Provided that such resolution shall be subject to the provisions of the respective State Co-operative Societies Act for the time being in force under which such co- operative society is registered.”

## **Rationale behind the proposed amendment**

2.49 “In the existing Act, there is a provision for division of MSCS into two or more MSCS and into two or more State Cooperative Societies. Further, there is also provision for conversion of a State coop. society into an MSCS.

Now this proposed provision will provide for merger of a State cooperative into MSCS. However, such merger shall be subject to respective state coop. laws & with a resolution passed by 2/3<sup>rd</sup> of the members.”

## **Examination by the Committee**

2.50 During briefing on the provisions of the Bill by the representatives of the Ministry of Cooperation, in regard to the new provision for merger of State Cooperative Society into MSCS, when the Committee suggested that it should have a condition of working in the same line of business, the Ministry of Cooperation submitted in a written reply as under:-

“In the Existing MSCS Act, 2002, Section 17 relates to Amalgamation or transfer of assets and liabilities, or division of multi- state cooperative societies into two or more MSCS or State Cooperative Societies. Further, there is an existing provision for conversion of a state cooperative society into an MSCS under section 22 of MSCS Act, 2002.

In the amendment Bill, vide clause 6, a new sub-Section 17(10) is being proposed for inclusion in the existing Section 17 to allow for merger of a State Cooperative Society into an existing MSCS subject to the respective State Cooperative Acts and a resolution by 2/3<sup>rd</sup> of their members. This will help the existing State Cooperative Societies to improve their viability and achieve economies of scale by merger into MSCS.

In the existing Section 17 and Section 22, no condition of working in the same line of business is provided for amalgamation and division of MSCS or for conversion of State Society into MSCS. The suggestion of Hon’ble MP of placing the restriction of working in the same line of business for allowing merger would need to be further examined, as it might restrict flexibility and diversification.”

2.51 When it was enquired whether the proposed amendment ( in Section 17) is against the federal structure, the Ministry of Cooperation in its written reply commented as below:-

“No Sir. In the Existing MSCS Act, 2002, Section 17 relates to Amalgamation or transfer of assets and liabilities, or division of multi- state cooperative societies into two or more MSCS or State Cooperative Societies. Further, there is an existing provision for conversion of a state cooperative society into an MSCS under section 22 of MSCS Act, 2002.

A new sub-Section 17(10) is being proposed for inclusion in the existing Section 17 to allow for merger of a State Cooperative Society into an existing MSCS subject to the respective State Cooperative Acts and a resolution by 2/3<sup>rd</sup> of their members. This will help the existing State Cooperative Societies to improve their viability and achieve economies of scale by merger into MSCS.

Since the merger is subject to State Cooperative Acts only, it is not in violation of federal structure.”

2.52 RBI stated in its post evidence replies that the proposed amendments have implications on the regulatory effectiveness of RBI in regard to Multi State Cooperative Banks are concerned and highlighted the below submission as one of the implications:-

The existing provision in MSCS Act enables amalgamation between two or more MSCS. The proposed insertion of sub-section (10) under Section 17 enables any cooperative society to merge into an existing multi-state cooperative society, provided that such resolution shall be subject to the provisions of the respective State Cooperative Societies Act for the time being in force under which such cooperative society is registered. BR Act, 1949 as amended vide BR(Amendment) Act 2020 provides power to RBI to sanction the voluntary amalgamation between two UCBs under Section44A in accordance with the procedure specified thereunder and to frame scheme for compulsory amalgamation under Section45 to be sanctioned by the Central Government. Accordingly, RBI has issued RBI (Amalgamation of Urban Cooperative Banks) Directions, 2020 containing the policy and procedure for amalgamations of UCBs. Section 44A is a code in itself and no further approval under the cooperative law is required for amalgamation. Further, under Section 45 of BR Act, 1949, the Central Government is empowered to sanction a scheme prepared by RBI for compulsory amalgamation or reconstruction for UCBs. However, existing Section18 of the MSCS Act empowers Central Registrar to prepare scheme of amalgamation or reorganisation of a cooperative bank when an order of moratorium has been made by the Central Government under Section 45(2) of BR Act. Absence of any provision for requirement of prior approval of RBI for amalgamation of a cooperative bank may create conflicting situation. Here also a reference is invited to Section 2(gg) of the DICGC Act 1961.

### **Suggestion of stakeholders**

2.53 NAFCARD have suggested to allow merger of an existing cooperative society into an existing Multi State Cooperative Society having similar objectives and functions.

### **Observation/recommendation of the Committee**

**2.54 The Committee deliberated upon the proposal made in the Clause including suggestions made by the stakeholders and the rationale/reply given by the Ministry of Cooperation and decided to accept the amendment proposed under the Clause.**

### **Clause No.7**

#### **Provision in the Principal Act**

#### **2.55 “Section 19: Promotion of subsidiary institution**

(2) Any subsidiary institution promoted under sub-section (1) shall exist only as long as general body of the multi-state cooperative society deems its existence necessary. Provided that a multi-state cooperative society while promoting such a subsidiary institution, shall not transfer or assign its substantive part of business or activities undertaken in furtherance of its stated objects. Explanation – For the purposes of this section,-

- (a) an institution shall be deemed to be a subsidiary institution if the multi-state cooperative society,-
  - (i) controls the management or board of directors or members of governing body of such institution; or
  - (ii) holds more than half in nominal value of equity shares of such institutions; or
  - (iii) if one or more members of such multi-state cooperative society, hold whether by themselves or together with subsidiary institution or their relatives, as the case may be, the majority of equity shares in this institution;”

#### **Amendment Proposed in the Bill**

2.56 “In section 19 of the principal Act, in the Explanation, in clause (a), —

- (i) in sub-clause (ii), the word “or” occurring at the end shall be omitted; sub-clause (iii) shall be omitted.”

#### **Rationale behind the proposed amendment**

**2.57 Strengthening Governance and Transparency**

“This will ensure transparency in the governance of cooperatives and reduce chances of only a few members benefitting from investing in a subsidiary institution where the members or their relatives hold majority of Shares.”

### **Observation/recommendation of the Committee**

**2.58 The Committee deliberated upon the proposal made in the Clause including the rationale/reply given by the Ministry of Cooperation and decided to accept the amendment proposed under the Clause.**

### **Clause No.8**

### **Provision in the Principal Act**

**2.59 “Section 22: Conversion of a cooperative society into a multi-state cooperative society**

5(c) The Registrar of Cooperative 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 cooperative societies in force in that state.”

### **Amendment Proposed in the Bill**

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

(c) the co-operative society shall be deemed to have been de-registered under the law relating to such co-operative society for the time being in force in that State, from the date of the certificate as issued by the Central Registrar and forwarded to such co-operative society, along with a copy of the registered amendment under sub-section (3).”

### **Rationale behind the proposed amendment**

**2.61 Ease of doing business**

“This will reduce delay and ensure ease of doing business in cooperatives. RCS of the States are, in any case, consulted before conversion is approved as per section 22 of the Act.”

### **Examination by the Committee**

2.62 During briefing on the Bill, the Committee asked about the action taken on a State Society which has committed a fraud in case of deemed de-registration of a State Cooperative Society on conversion into MSCS. In regard to the above, the Ministry of

Cooperation in a written reply stated, “In the existing section 22 of the MSCS Act, 2002, Concerned State Registrar of Cooperative societies(RCS) is consulted at the time of conversion into MSCS and if any complaint against the society is found, the concerned RCS should take action against the society.”

### **Suggestion of stakeholders**

2.63 NAFCARD has requested to add an additional clause to Section 22 of the Principal Act regarding conversion of cooperative societies into multi state cooperative societies as 22(6) as under:-

“..State Cooperative Agriculture & Rural Development Bank after conversion into Multi State Cooperative Agriculture & Rural Development Bank shall continue to follow the provisions in the State Cooperative Act or State Cooperative Agriculture Rural Development Bank Act as may be applicable for recovery of loans issued on the security of registered mortgage of land or other properties..”

Reason:- Such a provision will obviate the likely hurdles in loan recovery due to absence of specific provisions in the principal Act to recover long term mortgage loans.

### **Observation/recommendation of the Committee**

**2.64 The Committee deliberated upon the proposal made in the Clause including the rationale/reply given by the Ministry of Cooperation and decided to accept the amendment proposed under the Clause.**

#### **Clause No.9**

### **Provision in the Principal Act**

#### **2.65 Section 26: Nominal or associate members of society**

“A multi-state cooperative society may, if provided in its bye-laws, admit a person as nominal or associate member:

Provided that no such nominal or associate member shall be entitled to subscribe the shares of such society or have any interest in the management thereof including right to vote, elect as a director of the board or participate in the general body meetings.”

### **Amendment Proposed in the Bill**

2.66 “In section 26 of the principal Act,—

(i) in the proviso, the words “be entitled to subscribe the shares of such society or” shall be omitted;



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

“Provided further that nominal or associate member can be issued nonvoting shares which may not confer any interest in the management of the multi-State co-operative society including right to vote, to be elected as a director of the board or participate in the general body meetings:

Provided also that in case of multi-State co-operative bank, such shares shall be issued in accordance with the instructions issued by the Reserve Bank from time to time.”

### **Rationale behind the proposed amendment**

#### **2.67 Enabling raising of funds by Cooperativesector**

“This will ensure enhancement of capital base of MSCS & lead to their growth. RBI has already allowed this for Co-operative banks”

### **Examination by the Committee**

2.68 During briefing on the Bill, the Committee observed that in case of provision of non-voting shares for raising capital the mechanism to control malpractices from raised capital should be there. In regard to the above observation, the Ministry of Cooperation in its written reply submitted as follows:-

“In the existing MSCS Act, 2002 under Section 26 there is a bar on issuing shares to the Nominal or Associate members. This condition restricts growth of Capital base of the MSCS.

In the amendment bill, a provision vide clause 9 (Section-26) is being proposed for issuance of non-voting shares to nominal/associate members without voting rights, interest in management and right to be elected.

This will enable MSCS to increase their Capital base. RBI has already permitted the same for cooperatives banks vide its circular dated 08.03.2022. There are other provisions existing in the present Act as well as proposed in the Amendment Bill to prevent financial malpractices by the MSCS.”

### **Comments of RBI**

2.69 During oral evidence of representatives of RBI on the proposals made in the Bill, the Committee asked for the comments of RBI on the above proposal. RBI in a written reply, furnished the following comments:-

“The amendment proposes that Nominal or Associate members of a multi-State cooperative society can be issued non-voting shares but shall not have any right

in the management thereof i.e., no right to vote, to be elected as a Director of the Board or participate in general body meetings. The amendment further proposes a proviso that “Provided also that in case of multi-state cooperative bank, such shares shall be issued in accordance with the instructions by the Reserve Bank from time to time”.

It may be mentioned that under Section 12 of the BR Act read with Section 56 (AACS), RBI has power to issue instructions, specify conditions and to approve issuance of such shares by a cooperative bank. RBI has, accordingly, vide circular DOR.CAP.REC.92/09.18.201/2021-22 dated March 8, 2022 issued guidelines to UCBs on “Issue and regulation of share capital and securities - Primary (Urban) Cooperative Banks”, which *inter-alia*, contains guidelines on non-voting shares. RBI has also issued guidelines to UCBs on Issuance of Preference Shares including its terms of issue vide “Master Circular - Prudential Norms on Capital Adequacy - Primary (Urban) Cooperative Banks (UCBs)” dated April 1, 2022.

The MSCS (Amendment) Act, 2022 has not proposed any amendment to the BR Act on this aspect. The proposed amendment to Section 26 clearly specifies that in case of multi-state cooperative bank, such shares shall be issued in accordance with the instructions issued by RBI from time to time. Further, the Bill has proposed a new Section 105A which states that the provisions of this Act shall be in addition to and not in derogation of, any other law for the time being in force. Therefore, as far as MSCS undertaking banking activity is concerned, it may need to be amply provided in the Bill that the provisions of BR Act shall be primarily applicable to multi state UCBs on types of capital instruments.”

### **Observation/recommendation of the Committee**

**2.70 The Committee deliberated upon the proposal made in the Clause including suggestions made by the stakeholders and the rationale/reply given by the Ministry of Cooperation and decided to accept the amendment proposed under the Clause.**

#### **Clause No.10**

### **Provision in the Principal Act**

**2.71 Section 28: Members not to exercise rights till due payment made**

“No member of a multi-state cooperative 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.”

### **Amendment Proposed in the Bill**

**2.72 “No member of a multi-state cooperative society shall exercise the rights of a member, unless he has made the payment **of all dues to the multi-State co-operative****

**society including the payment in respect of membership or has availed such minimum level of product or services as specified in the bye-laws, or has acquired such interest in the society, as may be specified in the bye-laws.”**

**Rationale behind the proposed amendment**

2.73 “In line with Article 243ZO(2) of the Constitution.

This will ensure payment of all dues to the society and will define the term “such interest” explicitly and promote active membership.”

**Observation/recommendation of the Committee**

**2.74 The Committee deliberated upon the proposal made in the Clause including the rationale/reply given by the Ministry of Cooperation and decided to accept the amendment proposed under the Clause.**

**ClauseNo.11**

**Provision in the Principal Act**

**2.75 “Section 29: Disqualification for member of a multi-state cooperative society**

No person shall be eligible for being a member of a multi-state cooperative society if-

(b) he used for two consecutive years the services below the minimum level specified in the bye-laws; or”

**Amendment Proposed in the Bill**

2.76 “In section 29 of the principal Act, for clause(b), the following clause shall be substituted, namely:—

(b) he fails to use the minimum level of the products or services as specified in the bye- laws for two consecutive years; or”.

**Rationale behind the proposed amendment**

2.77 This is in line with Article 243ZO(2) of the Constitution.

“There is a need to promote active membership. Hence word ‘product’ has been included to disqualify such members who do not use minimum services/products.”

## **Examination by the Committee**

2.78 During briefing by the representatives of the Ministry of Cooperation on the provisions contained in the Bill, a suggestion was made that active membership provision should be changed to attendance in 3 out of 5 general meetings for contesting elections as proposed in section 29 of amendment Bill. In its written reply, the Ministry of Cooperation stated in this regard as under:-

“The existing provision of section 29 of the Act relating to disqualification for members provides that no person shall be eligible for being a member of an MSCS if he has not attended three consecutive general meetings of the MSCS and such absence has not been condoned by the members in the general meeting. If a person is disqualified as member, he cannot contest election.

Article 243ZO(2) of the Constitution provides for ensuring active membership by incorporating minimum requirement of attending meeting by the members. Hence, the proposed amendment in Section 45(j) for attending not less than three consecutive general meetings for being eligible for contesting election is as per the existing provision of Section 29. Therefore, if the absence is condoned by the General Body, the member will be eligible to contest in the election.

2.79 During briefing when it was further enquired, How can a member be disqualified from election without being disqualified as member, the Ministry of Cooperation stated as below in its written reply:-

“In the existing MSCS Act, 2002, Section 29 provides for disqualifications for being a member of the MSCS,

Further, Section 43 of the existing MSCS Act, 2002 separately provides for disqualifications for being a member of the board.

The disqualifications for being a board member are much more elaborate and stricter as compared to disqualifications for being a member of the MSCS as the Board Members are entrusted with the responsibility of overall management of the MSCS.”

2.80 When asked about meaning of ‘minimum level of the products or services’ as proposed in Clause 11, Section 29 of Bill, the Secretary, Ministry of Cooperation stated as under during the Clause by Clause examination of the Bill:-

“...Clause 11, Section 29 the principal Act flows out of the Constitution. In addition to products, we are also saying that a minimum level of services also should be taken by the members. It is flowing out of the Article 243ZO(2). I will give you an example. IFFCO has now made a large base of cooperative societies. It will be buying nano fertilizers. It has started producing on its consumer base. In every society the AGM, the Board will decide that everybody should buy at least this much. That is how the

products come. And, similarly services. It could be grains, storage, services. It could be products and services both. They should not be the dummy members, putting just capital and neither use products nor use services. Perhaps, that is why in the Constitution, it is clearly written that if you have to be a member, you have to be an active member and for that you have to define the level of products and services...”

### **Observation/recommendation of the Committee**

**2.81 The Committee deliberated upon the proposal made in the Clause including the rationale/reply given by the Ministry of Cooperation and decided to accept the amendment proposed under the Clause.**

## **ClauseNo.12**

### **Provision in the Principal Act**

**2.82 “Section 30: Expulsion of members**

(2) No member of the multi-state cooperative 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.”

### **Amendment Proposed in the Bill**

2.83 “(2) No member of the multi-state cooperative 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 **three years** from the date of such expulsion.”

### **Rationale behind the proposed amendment**

**2.84 “Strengthening of Monitoring Mechanism**

This has been proposed as re-admission needs to be made more stringent to discourage members from acting against interests of MSCS.”

### **Observation/recommendation of the Committee**

**2.85 The Committee deliberated upon the proposal made in the Clause including the rationale/reply given by the Ministry of Cooperation and decided to accept the amendment proposed under the Clause.**

## ClauseNo.13

### **Provision in the Principal Act**

#### 2.86 “Section 35: Redemption of shares

(1) Shares held in a multi-state cooperative 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 cooperative 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 cooperative society and such authority.

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

### **Amendment Proposed in the Bill**

2.87 “35. (1) The shares of the authorities referred to in clauses (c) and (d) of sub-section (1) of section 25, held in multi State co-operative societies,—

- (a) shall not be redeemed without the prior approval of such authorities; and
- (b) may be redeemed in such manner as may be agreed upon between the multi-State co-operative society and such authorities.

(2) The shares held in a multi-State co-operative society by any of the authorities referred to in clauses (e) to (g) of sub-section (1) of section 25, shall be redeemed in accordance with the bye-laws of such multi-State co-operative society and in case, where the bye-laws do not contain any provision, in such manner as may be agreed upon between the multi-State co-operative society and such authorities.

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

### **Rationale behind the proposed amendment**

2.88 “Requirement of prior approval of government has been included to protect government interest and to prevent any unilateral surrender of government equity.”

### **Examination by the Committee**

#### **Suggestions from stakeholders**

2.89 On the issue of proposed amendment by clause 13 section 35 regarding redemption of share provides for ‘approval of Authority’, the Committee have received representations from National Cooperative Union of India (NCUI) and National

Federation of Urban Cooperative Banks and Credit Societies Ltd.(NAFCUB) that such provision may act as hindrance to the societies in becoming self sufficient. Further, it has been proposed that instead of this, societies which has obtained fund and non-fund based support from Government shall not be allowed to redeem the share of Government unless such fund or facilities has been returned.

### **Comments of RBI**

2.90 On this issue, the RBI has also submitted that Clause 13 of the Bill (Section 35 of the Principal Act) which stipulates redemption of share capital with prior approval of such authorities and in a manner agreed upon by MSCS and such authorities does not entirely conform to the provisions of Section 12(1) of the BR Act which authorizes Reserve Bank to specify conditions in such cases. This may also affect the extant instructions issued to UCBs on the subject.

2.91 Further, RBI in its post evidence replies stated that certain amendments may have implications on the regulatory effectiveness of RBI in regard to Multi State Cooperative Banks. In regard to redemption of shares, RBI has stated that the amendment to Section 35 of the MSCS Act, 2002 specifies that the shares held by Government shall not be redeemed without the prior approval of such authorities; and may be redeemed in the manner agreed upon between the MSCS and such authorities. Further, shares held in MSCS by Central Government, State Government, National Cooperative Development Corporation, any Government Corporation and any Government company respectively, shall be redeemable in accordance with the bye-laws of such MSCS, and in case bye-laws do not contain any provision, in such manner as may be agreed upon between the MSCS and such authorities. The terms of withdrawal of same category of share capital should ideally be same for both government and non-government investors or possibly little more stringent for government investors in order to develop confidence in the cooperatives. Section 12(2)(ii) of BR Act specifies that a cooperative bank shall not withdraw or reduce its share capital, except to the extent and subject to such conditions as the Reserve Bank may specify in this behalf. Accordingly, Reserve Bank vide circular on “Issue and regulation of share capital and securities - Primary (Urban) Cooperative Banks” dated March 8, 2022, had specified certain pre-conditions for refund of share capital of cooperative banks to avoid reduction in capital due to redemption of shares by any member, to ensure regulatory compliance and to provide for depositor protection. In view of the above, to the extent of Government shareholding in Multi-State

urban cooperative banks, the proposed amendments may have implications on capital position and can potentially interfere at the regulatory stipulations on capital adequacy and conservation.

### **Comments of Ministry of Cooperation**

2.92 The proposed provision in section 35 is to protect government interest and to prevent any unilateral surrender of government equity as has happened in some past cases.

Only shares held by State or Central government require permission before redemption. There is no restriction on redemption of ordinary shares which are not held by the Government. • Redemption of shares shall be on face value in the line with the cooperative principles.

This provision will not become hindrance to self-sufficiency & future growth of the MSCS. This will protect government's interest.

Regarding the point raised by RBI, the proposed section 120B already clarifies that the provisions of MSCS Act 2002 are applicable to a multi-State cooperative bank in respect of matters relating to incorporation, regulation and winding up: Provided that in case of a multi-State cooperative society carrying on the business of banking, the provisions of the Banking Regulation Act, 1949, shall also apply.

### **Observation/recommendation of the Committee**

**2.93 The Committee deliberated upon the proposal made in the Clause including suggestions made by the stakeholders and the rationale/reply given by the Ministry of Cooperation and decided to accept the amendment proposed under the Clause.**

#### **Clause No.14**

### **Provision in the Principal Act**

2.94 **“Section 39: Annual general meeting of general body**

(1) The board of every multi-state cooperative society shall, within such period as may be prescribed, and not later than six months after the close of the corresponding year, call the annual general meeting in the manner prescribed for the purpose of-

(o) election of members of the board, if any.”

### **Amendment Proposed in the Bill**

2.95 “In section 39 of the principal Act, in sub-section (1), after clause (o), the following clause shall be inserted, namely:—“(p) appointment of auditor.””



### **Rationale behind the proposed amendment**

2.96 “In line with the Article 243ZM(3) of the Constitution. ‘Appointment of auditor’ included in the agenda of AGM.”

### **Examination by the Committee**

#### **Suggestions from stakeholders**

2.97 National Federation of Urban Cooperative Banks and Credit Societies (NAFCUB) in its power point presentation before the Committee on 20 January, 2023 submitted that the appointment of statutory auditors now needs prior approval of RBI on some stringent guidelines. Thus, this eliminates any malpractice. As a result, the Board should be empowered to appoint statutory or other auditors so as to bring ease of doing business with the approval of RBI. For other MSCS, this may be retained if found essential.

### **Observation/recommendation of the Committee**

**2.98 The Committee deliberated upon the proposal made in the Clause including suggestion made by the stakeholder and the rationale/reply given by the Ministry of Cooperation and decided to accept the amendment proposed under the Clause.**

## **Clause No.15**

### **Provision in the Principal Act**

#### **2.99 “Section 41: Board of directors**

(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 cooperative 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.”

### **Amendment Proposed in the Bill**

2.100 (3) The board shall consist of such number of directors not exceeding twenty-one, as may be specified by the bye-laws, out of which one Member shall be Scheduled Caste

or Scheduled Tribe and two shall be women in the board of multi-state cooperative society consisting of individuals and having members from such class or category of persons:

“Provided that the board may co-opt as Members of the board having experience in the field of banking, management, co-operative management and finance or specialisation in any other field relating to the objects and activities undertaken by such multi-State co-operative society:

Provided further that the number of such co-opted Members shall not exceed two in addition to twenty-one directors specified in this sub-section.

(4) The co-opted directors referred to in sub-section (3) shall not have the right to vote in any election of the office bearers or be eligible to be elected as office bearers of the board.

(5) The functional directors in a multi-State co-operative society shall also be the members of the board and such directors shall be excluded for the purpose of counting the total number of directors specified in sub-section (3).

(6) 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 or his relative is directly or indirectly concerned or interested in such contract or arrangement and no relative of any of the sitting directors of the multi-State co-operative society shall be recruited as employee including the Chief Executive of that society.

Explanation.—For the purposes of this sub-section, the term “relative” with reference to an individual, includes—

- (a) spouse;
- (b) father (including step father);
- (c) mother (including step mother);
- (d) son (including step son);
- (e) son’s wife;
- (f) daughter (including step daughter);
- (g) daughter’s husband;
- (h) father’s father;
- (i) father’s mother;
- (j) mother’s father;
- (k) mother’s mother;
- (l) son’s son;
- (m) son’s son’s wife;
- (n) son’s daughter;
- (o) son’s daughter’s husband;
- (p) daughter’s son;
- (q) daughter’s son’s wife;
- (r) daughter’s daughter;

- (s) daughter's daughter's husband;
- (t) brother (including step brother);
- (u) brother's wife;
- (v) sister (including step sister);
- (w) sister's husband; and
- (x) Hindu undivided family.

(7) Any director of the board who violates the provision of sub-section (6), shall be disqualified for being a member of the board and deemed to have vacated his office from the date of such meeting of the board as is referred to in the said sub-section and such proceedings shall be deemed to be void."

### **Rationale behind the proposed amendment**

2.101 "In line with the Article 243ZJ(1) of the Constitution.

### **Reforms in the Composition of Board, Meetings & Membership.**

2.102 This would ensure representation of SC/ ST and women in the board of society. The proposed amendment relating to co-opted directors will bring professionalism in cooperatives management.

### **Strengthening Governance and Transparency**

2.103 This will reduce nepotism and malpractices."

### **Examination by the Committee**

#### **(i) Representation to SC/ST communities in the Board of MSCS**

2.104 During briefing by the representatives of the Ministry of Cooperation on the provisions contained in the Bill, there was a suggestion that the reservation in the Board for SC and ST communities should be on rotation basis. There was also another suggestion that more seats should be reserved for women and minimum one seat each for SC and St communities. In this regard, Ministry of Cooperation stated in its written reply that in the existing MSCS Act, 2002, there is no provision that provides for reservation of seats for SC/ST and women members in the Board of MSCS. The new provision is being proposed in Section 41(3) to bring the Act in line with Article 243ZJ of the Constitution which provides for reservation for SC/ST/Women. The reservation for SC/ST and women members shall be applicable to MSCS which consists of individuals and have members from such class or category of person. This provision is to ensure representation of weaker section of the society in the Board.

2.105 Further, a suggestion has been received from NAFSCOB that one Member shall be from Other Backward Class in the Board. The Committee have also received suggestion to include one SC and one ST members in place of one member from SC or ST Communities. When asked to submit views on these suggestions, the Ministry of Cooperation in its written reply stated as under:-

“In the existing MSCS Act, 2002, there is no provision that provides for reservation of seats for SC or ST and women members in the board of MSCS. The new provision is being proposed in Section 41(3) to bring the Act in line with Article 243ZJ of the Constitution which provides for reservation for one SC or ST and two women members in the board of MSCS.”

**(ii) Coopted Members in the Board**

2.106 During briefing on the provisions contained in the Bill by the representatives of the Ministry of Cooperation, the Committee suggested that there should be a team of specialist for the MSCS. In this regard, the Ministry of Cooperation stated in its written reply as below:-

“In the existing MSCS Act, 2002, Section 41 provides for maximum of two co-opted Directors in the board of Directors. However, qualification and experience for such co-opted Directors are not defined in the Act. In the amendment Bill, Sub-Section 41(3) is a new insertion in which the board may co-opt as Members of the board having experience in the field of banking, management, co-operative management and finance or specialisation in any other field relating to the objects and activities undertaken by such MSCS. The new provision proposed in Section 41(3) is in line with Article 243ZJ of the Constitution.”

2.107 NAFSCOB in its submission before the Committee has stated that a provision is being made to co-opt members of the board having in the field of banking, management, cooperative management and finance etc. and expressed its view that the provision should also be made to co-opt the members from the field of “Technology” as well. In this regard, views of the Ministry of Cooperation was sought. The Ministry in its written reply stated as below:-

“The proposed amendment is in line with Article 243ZJ(3) of the Constitution. The word ‘specialization in any other field’ used in the formulation gives sufficient flexibility to co-opt members from the field of technology as well.”

**(iii) Inclusion of MD/CEO within the purview of restriction on recruitment of relatives of a sitting director**

2.108 During the briefing on the Bill, to the query of the Committee regarding need of

inclusion of MD/CEO within the purview of the restrictions as provided under Section 41(6) about restriction on recruitment of relatives of a sitting director as an employee, the Ministry of Cooperation responded as under:-

“.....In the existing MSCS Act, 2002, Section 41 deals with the composition of Board of Directors. There is no bar under this section on recruitment of relatives of a sitting Board member. This leaves scope for nepotism & favouritism in recruitment of employees.

In the amendment bill, clause 15 (Sub-Section 41(6)) which is a new insertion bars the recruitment of relatives of a sitting Director of Board. This amendment is being proposed to prevent nepotism & favouritism in recruitment of employees. This step will increase transparency.

CEO/MD works under the general superintendence, directions and control of the Board as per Section 52 of the MSCS Act, 2002. The suggestion relating to extending the bar on recruitment of relatives to employees of MSCS including MD/CEO would need further examination...”

2.109 Further, NAFCUB in its submission to the Committee has stated that the definition of the term “Relative” has been widened as compared to RBI circular dated 05.02.2021 regarding loans and advances to Directors and their relatives. According to it, definition of relative should be kept as per the above RBI circular. When asked to submit views on this suggestion of NAFCUB, the Ministry of Cooperation has submitted as under:-

“The definition of ‘relatives’ as per RBI circular dated 05.02.2021 mentioned by NAFCUB is specifically regarding loans and advances to Directors and their relatives by the UCBs. However, definition of relative defined under section 41 of the principal Act (clause 15 of the Bill) is in relation to restriction on recruitment of employees and interested party transaction in all MSCS. This wider definition of relatives has been proposed to curb nepotism and favouritism in MSCS.”

2.110 In regard to the proposed amendment, NAFCUB has further submitted to the Committee that many sections refer to terms like “appointment of director” and Whole Time Director(WTD) which are made applicable to cooperative banks where board members are not appointed but elected. Unless the applicability of various provisions of Banking Regulation(Amendment) Act 2020 are reviewed, notwithstanding progressive amendments in MSCS Act, the multi state cooperative banks will continue to suffer. A better solution could be inclusion of a well drafted separate chapter for the multistate cooperative banks on the lines of Section 56(AACS) of BR Act, ensuring that cooperative character is preserved and there are no ambiguities in applicability of provisions of the

Constitution, MSCS Act and BR Act. Views/comments of the Ministry of Cooperation were sought on the above suggestion of NAFCUB. In its written reply, the Ministry stated as follows:-

- “• As per existing provision of section 45 of MSCS Act, 2002 Board of Directors are elected by the members.
- As per the prevailing practice, Banking license by RBI is given to entities incorporated under different laws such as Indian Companies Act or various Cooperative Societies Acts. All such entities are governed by the respective acts under which they are incorporated as well as under Banking Regulation Act, 1949. As such dual regulation exists for all such entities. To bring clarity, the amendment Bill proposes in Section 120 B (new insertion) that the provisions of MSCS Act 2002 are applicable to a multi-State cooperative bank in respect of matters relating to incorporation, regulation and winding up: Provided that in case of a multi-State cooperative society carrying on the business of banking, the provisions of the Banking Regulation Act, 1949, shall also apply.
- This is in line with Article 243ZI and the third proviso to Article 243 ZL of the Constitution. Therefore, there is no need to include a separate chapter.”

2.111 During the briefing on the Bill, it was suggested that in case of casual vacancies in the board, members should be nominated only. In this regard, the Ministry of Cooperation in its post briefing reply stated as follows:-

“In the existing MSCS Act, 2002, there is no provision for filling of casual vacancies in the board of an MSCS through nomination.

Filling of casual vacancy through nominations is a new provision i.e. 45(J)(5) in the amendment Bill which is in line with Article 243ZJ (2) of the Constitution. This will prevent the need of frequent elections in case of casual vacancies.

A limit has been kept at 1/3<sup>rd</sup> of total elected directors for filling casual vacancies by nomination in order to avoid fraudulent practices”.

### **Suggestion from stakeholders**

2.112 NABARD has suggested for filling up of casual vacancies upto 1/3<sup>rd</sup> of the total strength of the Board on nomination basis. They have advised to review this and restrict it to 1/4<sup>th</sup> or 1/5<sup>th</sup> of the total Board Strength.

2.113 In regard to the proposal that no relative of sitting Director to be recruited as employee, NABARD has stated that no such blanket bar may be (b)Recruitment Process (c)Disclosure regarding existing employees who are relatives of members of board (Sec 120) stipulated as it amounts to denial of opportunity to the relatives of sitting Directors.

**Observation/recommendation of the Committee**

**2.114 The Committee deliberated upon the proposal made in the Clause including suggestions made by the stakeholders and the rationale/reply given by the Ministry of Cooperation and decided to accept the amendment proposed under the Clause.**

**Clause No.16**

**Provision in the Principal Act**

**2.115 “Section 43. Disqualifications for being a member of Board**

(1) No member of any multi-state cooperative society or nominee of a member, society or anational cooperative society shall be eligible for being chosen as, or for being, a member of the Board of such multi-state cooperative society or a national cooperative society, or of any other cooperative society to which the multi-state cooperatives society is affiliated, if such member-

(a) has been adjudged by a competent court to be insolvent or of unsound mind;

.....

(h) is a person against whom any amount due under a decree, decision or order is pending recovery under this Act.

43(2) A person shall not be eligible for being elected as member of board of a multi-state cooperative society for a period of five years if the board of such multi-state cooperative society fails-

(a) to conduct elections of the board under section 45; or

(b) ....

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

**Amendment Proposed in the Bill**

**2.116 “In section 43 of the principal Act,—**

(i) in sub-section (1),—

(a) in clause (a), after the words **“to be insolvent”**, the words **“or has been a director of an insolvent company”** shall be inserted;

(b) in clause (h), after the words **“under this Act”**, the words **“or under any other Act specified in the Third Schedule”** shall be inserted;

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

**(o) has been disqualified under sub-section (7) of section 41.;**

(ii) after sub-section (1), the following sub-section shall be inserted, namely:—

(1A) A member who has been a director of the board of any multi-State co-operative society or co-operative bank, where such board has been superseded,

shall not be eligible to be elected as director of the board of another multi-State co-operative society or co-operative bank for a period of five years, from the date of such supersession:

Provided that no member shall be declared ineligible under this sub-section unless an opportunity of being heard has been given to such member by the Central Registrar and declaration for ineligibility shall be made only after ascertaining that the member concerned has been responsible by acts of omission or commission leading to such supersession.;

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

“(a) to provide information, documents, personnel, funds or expenses or any other assistance as required by the Co-operative Election Authority for conducting elections under this Act in such manner as may be prescribed;”;

(b) in clause (c), for the words “general meeting” occurring at the end, the words “general meeting; or” shall be substituted;

(c) 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 the Co-operative Rehabilitation, Reconstruction and Development Fund established under section 63A; or

(e) to file annual return specified in section 120 within the time specified therein; or

(f) to get the audit of the society conducted within six months of the close of the financial year to which such account relate:

Provided that before taking any action under this sub-section, he shall be given an opportunity of being heard by the Central Registrar.”

### **Rationale behind the proposed amendment**

#### **2.117 “Reforms in the Composition of Board, Meetings & Membership**

Additional grounds for disqualification needed to strengthen governance. With the addition of third schedule, Board of Directors would need to pay any outstanding dues under the Acts in the third schedule to avoid disqualification.

This will ensure that directors responsible for supersession of an MSCS earlier are debarred for directorship of another MSCS for five years.

This will ensure discipline in conduct of elections, making contribution to CEF/ CRRDF (proposed), etc.”



### **Examination by the Committee**

2.118 During briefing on the proposals made in the Bill by the representatives of the Ministry of Cooperation, the Committee observed that non filing of annual return should not be one of the reasons for disqualification of a director as it is responsibility of employee or society {Section 43(2)}. In this regard, the Ministry of Cooperation in its post-briefing reply submitted as follows:-

“In the existing MSCS Act, 2002 there is no provision for disqualification on account of non-filing of annual return. This leads to poor compliance and many of the MSCS fail to submit their annual returns. This Section 43(2) is a new insertion, as per which a person would not be eligible for being elected as a Board member for 5 years if the Board of such MSCS fails to file annual return. He will be given opportunity of hearing before disqualification. This would ensure better compliance of filing of annual returns by all the MSCS leading to transparency and better monitoring of functioning by the Central Registrar. It is the overall responsibility of Board to run affairs of the MSCS. The Board collectively and Director individually are responsible.”

2.119 Further during the course of the briefing, it was pointed out that there should be clarity on period of disqualification of board members. In this regard, the Ministry of Cooperation stated as under in its written reply:-

“In the amendment Bill, the new insertion of section 43(1A) is being introduced as additional grounds for disqualification for being a member of the Board. Under the proposed new insertion as Section 43(1A), the director of an MSCS where such board has been superseded and the member concerned has been ascertained to be responsible for supersession shall not be eligible to be elected as director of the board of another MSCS/ Bank for a period of five years, from the date of such supersession. Opportunity of hearing will be given to the member concerned by CRCS. This will ensure that directors responsible for supersession of an MSCS earlier are debarred from directorship of another MSCS for five years.”

### **Suggestions by stakeholders**

2.120 NCUI in its power point presentation to the Committee has stated that the proposed clause is arbitrary and against the principles of natural justice hence needs to be omitted otherwise the word ‘another’ may be substituted with ‘such’ as the period of five years is reasonable period for punishment. NAFED and NCCF have also suggested that the word ‘another’ may be substituted with the word ‘that’. When asked to submit views on these suggestions, the Ministry of Cooperation submitted in its written reply as follows:-

“As per proposed clause 16 (section 43(1A)), no members shall be declared ineligible under this sub-section unless an opportunity of being heard has been given to such member by the Central Registrar and declaration for ineligibility shall be made only after ascertaining that the member concerned has been responsible by acts of omission or commission leading to such supersession. Therefore, provision is in accordance with principles of natural justice. Further, once the responsibility of the concerned director for act of omission or commission has been ascertained, debarment from directorship in another MSCS/ banks will help in ensuring that such acts of omission or commission or fraud are not repeated elsewhere by them.”

NAFCUB has also submitted that such an ineligibility should not be there in case the said Director has given dissenting note or has taken effective steps to remove the ambiguity resulting in supersession of the Board. Ministry of Cooperation was asked to submit its views on this suggestion. The Ministry in its written reply stated, “The fact that any director has given any dissenting note or taken effective steps would be considered appropriately during the hearing while taking a decision under this section.”

2.121 As per Clause 16 (i)(b) of the Bill, (sub section (1) of Section 43 of the Principal Act), in clause (h), after the words “under this Act”, the words “or under any other Act specified in the Third Schedule” shall be inserted. In this regard, NCUI has stated that this provision is against the spirit of 97<sup>th</sup> Constitutional (Amendment) Act 2011 and also against the Principles of Cooperatives as the cooperative has a distinct character working for the cause of poor people. Hence, the Cooperative Act cannot have parity with any other Act. Therefore, the proposed additional words ‘or under any other Act specified in the Third Schedule’ needs to be deleted. In this regard, Ministry of Cooperation in its written reply submitted as below:-

“The proposed clause 16 will help in strengthening governance in cooperatives by ensuring greater compliance of law and realization of dues.”

2.122 NAFCUB has stated that such ineligibility should not be there in case the said Director has given dissenting note or has taken effective steps to remove the ambiguity resulting in supersession of the Board.

2.123 When asked to explain rationale of proposal for exclusion of Director of Insolvent company from holding the post of Director in multi-state cooperative society despite the fact that insolvency laws does not put bar on director of insolvent company from becoming the director in another company, the secretary, Ministry of Cooperation

stated as under during the clause by clause examination of the Bill as below:-

“.....Yes, we are talking about that only because unlike in companies, the Cooperative Society that have large number of members, it is not as easy to wind it up or it is not as easy to merge it. So, if a person who has got a bad track-record and if he enters a Cooperative Society, then it is going to be detrimental to the Cooperative sector. Hence, the ineligibility was extended from one year to three years, disqualification, etc. because the Cooperative sector, particularly majority of the cases for which Cooperative sector has got a bad name, we have seen statistically that it happens like this.

2.124 Further elaborating on the issue, the secretary, Ministry of Cooperation stated as under:-

“...The word ‘insolvency’ and the word ‘Bankruptcy Code’, these all are applicable to companies, which have got certain immunities or which have got certain privileges. As far as Cooperative structure is concerned, it has got different immunities and different privileges. Therefore, in Cooperative sector we will like to have people who have not had business failures. Otherwise, they will run up with depositors Rs. 80,000 crore or Rs. 20,000 crore. Why do we need such people?..”

### **Observation/recommendation of the Committee**

**2.125 The Committee deliberated upon the proposal made in the Clause including suggestions made by the stakeholders and the rationale/reply given by the Ministry of Cooperation and decided to accept the amendment proposed under the Clause.**

### **ClauseNo.17**

#### **Provision in the Principal Act**

2.126 “45. Elections of members of board

- (1) The conduct of elections to the board of a multi- state cooperative society shall be the responsibility of the existing board.
- (2) The election of members of board shall be held by secret ballot in the manner as may be prescribed.
- (3) The election of the members of the board shall be held in the general meeting of the members of the multi-state cooperative society.
- (4) The elected members of the board shall, if the bye-laws of such society permit, be eligible for re- election.
- (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 cooperative 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 cooperative 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 cooperative society.
- (9) The Central Government may make rules generally to provide for or to regulate matters in respect of election of members of the board.”

### **Amendment Proposed in the Bill**

2.127 “For section 45 of the principal Act, the following sections shall be substituted, namely:—

‘45. (1) The Central Government shall, by notification, establish an Authority to be known as the Co-operative Election Authority which shall consist of a Chairperson, a Vice-Chairperson and Members not exceeding three to be appointed by the Central Government on the recommendation of the Selection Committee consisting of such persons as may be prescribed.

(2) The head office of the Authority shall be at such place as may be notified by the Central Government.

(3) A person shall not be qualified for appointment as a,—

i. Chairperson of the Authority unless he held the post of Additional Secretary to the Government of India or equivalent rank;

ii. Vice-Chairperson of the Authority unless he held the post of Joint Secretary to the Government of India or equivalent rank; and

iii. Member unless he fulfils such qualification and experience as may be prescribed.

(4) The Chairperson, Vice-Chairperson or Member of the Authority shall hold office for a period of three years from the date on which they enter upon their office or until they attain the age of sixty-five years, whichever is earlier and they shall be eligible for re-appointment:

Provided that in case of appointment of a Government servant as the Chairperson, Vice-Chairperson or a Member, he shall be treated as an ex officio Member and he shall continue so long as he holds the office by virtue of which he is a Chairperson, Vice-Chairperson or Member.

(5) The salaries and allowances payable to, and the other terms and conditions of service of the Chairperson, Vice-Chairperson and Members of the Authority, other than the ex officio Member, shall be such as may be prescribed.

45A. The Chairperson of the Authority shall have powers of general superintendence and directions in the conduct of the affairs of the Authority and

he shall, in addition to presiding over the meetings of the Authority, exercise and discharge such other powers and functions as may be prescribed.

45B. (1) The Central Government may, by order, remove from office the Chairperson, Vice-Chairperson or Member of the Authority, other than ex officio Member, if the Chairperson, Vice-Chairperson or Member of the Authority, as the case may be, if he—

- a) has been adjudged as an insolvent;
- b) has been convicted of an offence which, in the opinion of the Central Government involves moral turpitude;
- c) has been physically or mentally incapable of acting as a Chairperson, Vice-Chairperson or Member of the Authority;
- d) has acquired such financial or other interests, as is likely to affect prejudicially his function as a Chairperson, Vice-Chairperson or Member of the Authority;
- e) has so abused his position, as to render his continuance in office prejudicial to the public interest; or
- f) has engaged at any time during his term of office in any other employment.

(2) The Chairperson, Vice-Chairperson or Member of the Authority shall not be removed from his office except by an order of the Central Government on the ground of his proved misbehaviour or incapacity after the Central Government has, on an inquiry, held in accordance with the procedure prescribed in this behalf by it, come to the conclusion that the Chairperson, Vice-Chairperson or Member of the Authority ought on any such ground to be removed.

(3) The Central Government may suspend the Chairperson, Vice-Chairperson or Member of the Authority in respect of whom an inquiry under sub-section (2) is being initiated or pending until the Central Government has passed an order on receipt of the report of the inquiry.

45C. (1) Before appointing any person as Chairperson, Vice-Chairperson or Member of the Authority, the Central Government shall satisfy itself that the person does not have any such financial or other interest as is likely to affect prejudicially his functions as such Chairperson, Vice-Chairperson or Member.

(2) The Chairperson, Vice-Chairperson or Members of the Authority shall immediately after entering office and every year thereafter, make a declaration as to the extent of their interest, whether direct or indirect and whether financial or otherwise, in any co-operative society.

(3) The declaration so made under sub-section (2) shall be placed in the public domain by the Authority.

45D. The Chairperson, Vice-Chairperson or Members of the Authority, other than ex officio Members, may, by notice in writing of not less than thirty days under their hand addressed to the Central Government, resign their office and on such

resignation being accepted by that Government, shall be deemed to have vacated their office:

Provided that the Chairperson, Vice-Chairperson or Member shall, unless he is permitted by the Central Government to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is earlier.

45E. If a casual vacancy occurs in the office of the Chairperson, Vice-Chairperson or Member of the Authority, whether by reason of his death, resignation or otherwise, such vacancy shall be filled within a period of ninety days by making a fresh appointment in accordance with the provisions of section 45 and the person so appointed shall hold office for the remainder of the term of office for which the Chairperson, Vice-Chairperson or Member of the Authority, as the case may be, in whose place he is so appointed.

45F. The Chairperson, Vice-Chairperson and Member of the Authority, on ceasing to hold office shall not, for a period of two years, accept any employment (including as consultant or otherwise) in any co-operative society:

Provided that nothing contained in this section shall apply to any employment under the Central Government or in any State Government or any Corporation established by or under any Central or State Act or a Government Company as defined under clause (45) of section 2 of the Companies Act, 2013.

45G. No act or proceeding of the Authority shall be invalid merely by reason of—

- (a) any vacancy in, or any defect in the constitution of, the Authority;
- (b) any defect in the appointment of a person as Chairperson or Member of the Authority; or
- (c) any irregularity in the procedure of the Authority not affecting the merits of the case.

45H. (1) The Authority shall meet at such places and times and shall observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at its meetings), as may be prescribed.

(2) The Chairperson of the Authority shall preside at the meeting of the Authority and if for any reason the Chairperson of the Authority is unable to attend a meeting of the Authority, the Vice-Chairperson of the Authority shall preside at the meeting.

(3) All questions which come up before any meeting of the Authority shall be decided by a majority of votes of the members present and voting and, in the event of an equality of votes, the Chairperson or the Vice-Chairperson of the Authority presiding shall have the right to exercise a second or casting vote.

(4) Save as otherwise provided in sub-section (3), every Member shall have one vote.

45-I. The Authority shall discharge the following functions, namely:—

- (i) conduct the elections of the multi-State co-operative society;
- (ii) supervise, direct and control the matters relating to preparation of electoral rolls; and
- (iii) such other functions as may be prescribed.

45J. (1) 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 purposes of this sub-section, the term “active member” means any member—

(i) availing minimum level of products or services of the society; or attending not less than three consecutive general meetings, as specified in section 29.

(2) 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.

(3) The election of members of board shall be held by secret ballot in such manner as may be prescribed.

(4) The election of the members of the board shall be held in the general meeting of the members of the multi-State co-operative society and the elected members of the board shall, if the bye-laws of such society permit, be eligible for re-election.

Provided that the board may fill casual vacancies upto one-third of number of elected directors on 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:

Provided further that in case the number of such casual vacancies in the same term of the board exceeds one-third of number of elected directors, such vacancies shall be filled by elections.

(6) The expenses for holding elections by the Authority shall be borne by the multi-State co-operative society in such manner as may be prescribed.

(7) The Central Government may make rules to provide for the powers and the procedure to be followed by the Authority for conduct of election of members of the board.

(8) The Chairperson and the Chief Executive of the multi-State co-operative society shall inform the Authority, six months before the expiry of the term of the existing board, to conduct the elections within time.

(9) The society in respect of which the election is being held shall provide such infrastructure, personnel, information, documents or other assistance to the Authority as it may require.

45K. (1) The Authority may appoint a Returning Officer to conduct the election of the multi-State co-operative societies and discharge such functions, as directed

by the Authority, in such manner as may be prescribed.

(2) The Central Government shall provide such staff and officers to the Authority as may be necessary for the efficient discharge of functions by the Authority under the Act.

(3) The Authority may appoint,—

(a) such observers as it may consider necessary to supervise the elections and discharge such other functions as may be prescribed; and

(b) such number of Assistant Returning Officers as it may consider necessary to assist the Returning Officer.

45L. The Authority may, by general or special order, issue such directions to the board, its members, Chief Executive and other staff of the society as may be necessary for the conduct of free and fair elections and the board, its members, Chief Executive and staff of the society shall comply with such directions.”

### **Rationale behind the proposed amendment**

2.128 “Establishment of a coop. Election authority is in line with the Article 243ZK (2) of the Constitution.

### **Electoral reform**

This reform will ensure impartial, timely & professional conduct of election to Board of MSCS.

Prescribes qualification for appointment of Coop. Election authority.

Terms & conditions of appointment of Coop. Election authority

Powers and grounds for removal of Coop. Election authority.

To ensure impartiality of Coop. Election authority.

Provision for resignation and filing of casual vacancies in the Election Authority.

Rules of business for CEA

In line with Article 243ZO(2) of the Constitution.

Section 29 provides for condonation of absence by the General meeting.

In line with Article 243ZO(2) of

the Constitution, 1st proviso to section 45(J)(5) is proposed to avoid the need for frequent elections.



## **Reforms in the Composition of Board, Meetings & Membership**

To facilitate conduct of election.

### **Examination by the Committee**

2.129 During briefing on the provisions contained in the Bill by the representatives of the Ministry of Cooperation, it was observed that having Election Authority is contradictory to democratic function and hits at the autonomy of the cooperatives and asked for reasons in regard to constitution of this Authority. In this regard, Ministry of Cooperation in its post briefing reply clarified as below:-

In the existing MSC Act, 2002 there is no provision regarding constitution of Election Authority. However, as per Section 45 of the existing Act, it is responsibility of the existing board to conduct elections. Article 243ZK (2) of the Constitution provides for establishment of Election Authority and its function. In the amendment bill vide substitution of Section 45 a new provision is being introduced for setting up of a Cooperative Election Authority. The Authority shall be appointed by the Central Government on recommendation of a Selection Committee. As per Section 45 (3) a person shall not be qualified for appointment as a;-

- i. Chairperson of the Authority unless he held the post of Additional Secretary to the Government of India or equivalent rank;
- ii. Vice-Chairperson of the Authority unless he held the post of Joint Secretary to the Government of India or equivalent rank; and
- iii. Member unless he fulfils such qualification and experience as may be prescribed.

Having Election Authority will help in timely conduct of elections in a free and fair manner and will strengthen democratic functioning of MSCS.

2.130 During briefing, it was enquired whether there is any provision to rectify the action of a person whose appointment in Election Authority has been made illegally. In this regard, Ministry of Cooperation has stated as follows:-

“Clause 17 (section 45G) provides that no act or proceeding of the Authority shall be invalid merely by reason of vacancies, or any defect in appointment of a person as Chairperson or Member of the Authority or any irregularity in the procedure of the Authority not affecting the merits of the case.

This is a standard provision which exists in other Acts also. For example, Section 93 of the Electricity Act, 2003 says that no act or proceedings of the Appropriate Commission shall be questioned or shall be invalidated merely on the ground of existence of any vacancy or defect in the constitution of the Appropriate Commission.

This standard clause is provided to ensure that valid actions taken by the authority are not questioned on grounds of defect in constitution of Authority & other procedural matters.”

### **Comments of RBI**

2.131 The RBI in their submission has raised objection regarding provisions in section 41 and 45 regarding Composition of Board of Director and election of members of Board. The RBI has informed that Banking Regulation Act has specified role of RBI in these matters of Co-operative banks. Further, the RBI submitted that proposed amendments to the MSCS Act do not assign any role to RBI/BR Act, in these matters. They have also opined that specific provisos be inserted in the relevant sections, providing that in case of multi-state co-operative banks, the regulations issued by RBI shall apply. When asked to furnish comments on these issues, the Ministry submitted as under:-

2.132 Further RBI In its post evidence has stated that Article 243ZJ (2) of the Constitution states that “The term of office of elected members of Board and its office bearers shall be five years from the date of election and the term of office bearers shall be coterminous with the term of the Board”. Accordingly, Section 45J (5) has been proposed in the MSCS (Amendment) Bill to give effect to the aforementioned Constitutional provision. However, as per Section 10A(2A)(i) of BR Act, no Director of a cooperative bank, other than its chairman or whole time director, by whatever name called, shall hold office continuously for a period exceeding eight years. Therefore, Article 243ZJ(2) and Section 45J(2) of MSCS Bill, if made applicable to multi-state urban cooperative banks, would be at variance with provision of BR Act. To address this issue and keep the provisions of BR Act in tune with Constitution of India RBI has recommended to the Government an amendment to Section 10A(2A)(i) of the BR Act in our proposals for the Union Budget 2023-24 to modify the continuous term of 8 years as 10 years for cooperative banks.

2.133 In regard to the above submission of RBI, the Secretary, Department of Financial Services stated before the Committee during oral evidence, “It was asked about the tenure that it has been said differently in the BR Act and the Constitution. The proposal to change the the BR Act in accordance with constitution and this bill is under consideration in the Ministry. Similarly, the period of supersession of the board, which is of six months and five years, is under consideration in the ministry to replace it with five

years as per the constitution. It will be made in accordance with the constitution and we will take immediate action in this.”

2.134 RBI has also stated that there are certain provisions in the Bill e.g. Section 41, 45 and 51 which can potentially be interpreted differently to have a board composition or directors/CEO not necessarily conforming to the extant instructions issued by RBI in the matter. They have further observed that few Clauses like Clause 6, 16,24 ,28,34 and 45 are coming under the domain of RBI regulations as per provisions of BR Act,1949 which may face the test of unambiguous interpretation in specific situations viewed against certain Amendments in the Bill. In regard to the above contention of RBI, Ministry of Cooperation was asked the manner in which these ambiguities are proposed to be resolved by the nodal Ministry. The furnished the following reply in writing:-

“• Clause 6, 16, 24, 28, 34 and 45 are related to Merger of Cooperative societies, Disqualification for being a member of board, Rehabilitation, Reconstruction and Development Fund, Concurrent audit, recovery of dues and Supersession respectively.

• Both RBI and DFS were consulted while finalising the bill and appropriate changes were made in the bill on the basis of consultations.

• During the process of Inter-ministerial consultation, Department of Financial Services (DFS) vide their letter dated 04.10.2022 informed that proposed revised Bill is largely aligned with BR Act and thus, the DFS agrees with and supports the amendment Bill. Further, DFS will make suitable amendments in the BR Act so that its provisions are in consonance with the Constitution. The same was also stated by Secretary (DFS) in the JPC meeting held on 19.01.2023.”

### **Suggestions by Stakeholders**

2.135 NAFSCOB has suggested that the proposed amendment to establish cooperative Election Authority to discharge the specified functions under Section 45(1) do not justify the cooperative character. Entire Section 45 is unacceptable as the provisions are against the Cooperative Principles, ethics, values, etc. Existing provision should continue. No need to amend Section 45. When asked to furnish comments on these issues, the Ministry submitted as under:-

2.136 When asked to justify that these proposals are not against the cooperative principles, ethics and values; the Ministry submitted as under:-

“In the amendment bill vide substitution of Section 45, a new provision is being introduced for setting up of a Cooperative Election Authority as per Article 243ZK

(2) of the Constitution. This will ensure timely, regular and transparent conduct of elections and will strengthen governance in the cooperative societies. Therefore, it is not against the cooperative principles, ethics and values.”

2.137 NAFCARD has suggested for amendment to Section 45 of Principal Act relating to establishment of cooperative election authority that proposes clause 45(J)(8) may be changed as “The Chief Executive of the Multi State Cooperative Society shall inform the authority six months before the expiry of the term of the existing Board, to conduct the election within time.

As per them instead of giving information to the authority jointly by Chairman and Chief Executive, the Chief Executive may give information to the authority for administrative convenience.

NAFCARD has also suggested for addition of an additional clause under Section 45 of Principal Act as 45 (J) (10) after proposed 45 (J)(9) as under:-

“On receipt of information from the society as required under Section 45(J)(8), authority shall fix the date of election of Board and office bearers in consultation with the society concerned.”

According to it, above provision will facilitate the authority to fix a mutually convenient date for the authority and the society to conduct elections within time.

### **Observation/recommendation of the Committee**

**2.138 The Committee deliberated upon the proposal made in the Clause including suggestions made by the stakeholders and the rationale/reply given by the Ministry of Cooperation and decided to accept the amendment proposed under the Clause.**

### **Clause No. 18**

#### **Provision in the Principal Act**

#### **2.139 “Section 49: Powers and functions of board**

(1) The board may exercise all such powers as may be necessary or expedient for the purpose of carrying out its functions under this Act.

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

(a) to admit members;

(b)...to (d)

(e) to make provisions for regulating the appointment of employees of the multi-state cooperative society and the scales of pay, allowances and other conditions of service of, including disciplinary action against such employees”

### **Amendment Proposed in the Bill**

2.140 In section 49 of the principal Act, in sub-section (2),—

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

“(aa) to elect the Chairperson and Vice- Chairperson or President and Vice-President of the multi-State co-operative society from amongst the elected members of the board in accordance with the directions of the Authority:

Provided that the certificate of election shall be issued by the Chief Executive of the multi-State co-operative society after conclusion of resolution by the board;”;

(ii) in clause (e), the following proviso shall be inserted, namely:—

“Provided that the recruitment of such employees shall be subject to such procedure as may be prescribed.”

### **Rationale behind the proposed amendment**

2.141 Strengthening Governance and Transparency

This will curb nepotism and increase transparency in recruitment. This will also help in prescribing a standardised recruitment policy.

### **Examination by the Committee**

2.142 During briefing on the provisions contained in the Bill by the representatives of the Ministry of Cooperation, on a query of the committee regarding need of Nation-wise recruitment Board in order to bring transparency in recruitment in Co-operative Societies, the Ministry submitted as under:-

“...The existing MSCS Act, 2002, does not provide for recruitment procedure for the employees of MSCSs to be prescribed. This leads to arbitrariness & nepotism as each MSCS follows its own procedure.

The proposed provision in section 49 provides for prescription by Government of recruitment procedure to curb nepotism and increase transparency in recruitment. This will also help in having a standardised recruitment policy.

The MSCS are economic entities and are accountable to their members. Formation of recruitment board might adversely affect their autonomous functioning. Hence, provision for only prescribing procedure for recruitment has been included...”

## **Suggestions by stakeholders**

2.143 In regard to the amendment for incorporation of a new para 'aa' under sub-section(2) of 49 of the principal Act to elect chairperson, Vice Chairperson or President and Vice President of the multi- State cooperative society from amongst the elected members of the board in accordance with the directions of the authority, NCUI has stated that the proposed provision will delay the election of office bearers of the society which is not required as the whole process of election of the board and office bearers of the society is being conducted under the overall supervision of the returning officer, appointed by the election authority hence the existing provision as per the MSCS Act & Rules 2002 may be retained. NAFED has also suggested that the election of office bearers of the Society may be held immediately after the new Board is constituted. Ministry of Cooperation was asked to furnish comments on these issues. In its written response, the Ministry submitted as follows:-

“There is no restriction on immediate election of chairperson, Vice Chairperson or President and Vice President of the multi- State cooperative society from amongst the elected members of the board. The entire election process including election of board members will be under superintendence, direction and control of Cooperative election authority”

2.144 NCUI has also opposed proposed amendment (Clause 18(ii) of the Bill) for insertion in sub-section 2(e) of Section 49 that the recruitment of employees shall be subject to such procedure as may be prescribed. According to NCUI, it may affect independent and autonomous character of the society and demanded that recruitment of employees shall be according to the service rule, duly approved by the Board of such society instead of procedure as may be prescribed by the Govt. NAFED also expressed similar opinion NAFED has also suggested that the Clause (e) may be revised as, “provided that recruitment of such employees shall be as prescribed in the recruitment rules/service rules of the organizations”. Attention of Ministry of Cooperation was drawn to the above suggestions and was asked to furnish comments on the same. The Ministry submitted as below:-

“The proposed amendment in Section 49 seeks to insert clause (e) in Section 49 (ii) which states that the recruitment of employees shall be subject to such procedure as may be prescribed. The power of recruitment of employees remains with the board of MSCS. The proposed amendment will help in curbing nepotism and increase transparency in recruitment.”

2.145 NAFCUB has suggested that this should not be made applicable to UCBs which hold license from RBI and there are directions by RBI u/s 35, 56 of BR Act. B R Act supersedes all other Acts on banking companies. This insertion will create avoidable controversies. Hence, request for non applicability. When asked to furnish comments on these issues, the Ministry of Cooperation submitted as under:-

‘As per the prevailing practice, Banking license by RBI is given to entities incorporated under different laws such as Indian Companies Act or various Cooperative Societies Acts. All such entities are governed by the respective acts under which they are incorporated as well as under Banking Regulation Act, 1949. As such dual regulation exists for all such entities. To bring clarity, the amendment Bill proposes in Section 120 B (new insertion) that the provisions of MSCS Act 2002 are applicable to a multi-State cooperative bank in respect of matters relating to incorporation, regulation and winding up: Provided that in case of a multi-State cooperative society carrying on the business of banking, the provisions of the Banking Regulation Act, 1949, shall also apply.’

### **Observation/recommendation of the Committee**

**2.146 The Committee deliberated upon the proposal made in the Clause including suggestions made by the stakeholders and the rationale/reply given by the Ministry of Cooperation and decided to accept the amendment proposed under the Clause.**

### **Clause No. 19**

#### **Provision in the Principal Act**

2.147 Section 50: Meeting of board

- (1) The Chief Executive shall convene the meetings of the board at the instance of the chairperson or president of the multi-state cooperative society.
- (2) ....
- (3) The Chairperson, or if for any reason, he is unable to attend a meeting of the board, any other member of the board chosen by the members of the board present from amongst themselves at the meeting, shall preside at the meeting.

#### **Amendment Proposed in the Bill**

2.148 “In section 50 of the principal Act,—

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

“Provided that where such Chairperson or President fails to direct the Chief Executive to convene the meeting of the board within the quarter, such Chief

Executive shall convene the meeting on the basis of requisition of the Vice-Chairperson or Vice-President or any other Member of the board:

Provided further that notwithstanding anything contained in the first proviso, the Chief Executive may also convene the meeting on the basis of requisition from at least fifty per cent. of Members of the board;

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

“(3) The Chairperson or President, if for any reason, is unable to attend a meeting of the board, the Vice-Chairperson or Vice- President and in the absence of both, any other Member of the board chosen by the Members of the board present from amongst themselves at the meeting, shall preside over the meeting.

(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 number of elected directors.”

### **Rationale behind the proposed amendment**

#### **2.149 “Reforms in the Composition of Board, Meetings & Membership**

It is seen that sometimes Board meetings get delayed if Chairman/ President is not interested. To prevent this, a proviso is being added under sub- section(1).

No quorum prescribed as on date. This will facilitate inclusive and transparent decision making in the board.”

### **Examination by the Committee**

2.150 During briefing on the provisions made in the Bill, the Committee observed that Quorum prescribed for board meetings should be at least 50% instead of proposed 1/3<sup>rd</sup>quorum. In this regard, Ministry of Cooperation has clarified in its post briefing replies as below :-

In the existing MSCS Act, 2002 there is no quorum specified for Board meetings. This leads to scope for decision making by only a few members of the Board.

A need is felt for participation of more members in the decisions of the Board and also to bring uniformity with regard to quorum, for the Board meetings.

The amendment in sub-section (4) is being inserted in Section 50 of the MSCS Act, 2002 to prescribe minimum Quorum for Board meetings. It has been kept at 1/3<sup>rd</sup> of elected directors as there might be difficulties in conducting meetings if a higher Quorum is prescribed for board meetings of the MSCS.

### **Suggestions received from stakeholders**

2.151 NAFCARD in its submission to the Committee stated that the Members participating in the meeting through video conferencing mode shall also be considered



for the quorum for a meeting of the Board, provided the agenda for the meeting does not include election of office bearers. Such a clause will facilitate better participation and lower cost of participation in terms of expenses and time, particularly for national level societies whose members are located far and wide in various States.

### **Comments of Ministry of Cooperation**

2.152 The Ministry in their replies stated that in clause 19(4) of the amendment Bill, the quorum for a meeting of the board of directors of an MSCS is proposed to be only one-third of total number of elected directors. Participation through physical mode will lead to more interaction and will strengthen democracy in MSCS.

### **Observation/recommendation of the Committee**

**2.153 The Committee deliberated upon the proposal made in the Clause including suggestions made by the stakeholder and the rationale/reply given by the Ministry of Cooperation and decided to accept the amendment proposed under the Clause.**

## **Clause No. 20**

### **Provision in the Principal Act**

2.154 Section 51: Chief Executive

- (1) There shall be a Chief Executive, by whatever designation called, of every multi-state cooperative society to be appointed by the board and he shall be a full-time employee of such multi-state cooperative society.

### **Amendment proposed in the Bill**

2.155 “In section 51 of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely:—

‘(1A) No multi-State co-operative society shall appoint or continue the employment of any person as the Chief Executive who—

(a) is below the age of twenty-one years or has attained the age of seventy years:

Provided that any person above the age of seventy years may be appointed by a special resolution passed by three-fourths of the board members, in which case the explanatory statement annexed to the notice for such motion shall indicate the justification for appointing such person;

(b) is an undischarged insolvent or has any time been adjudged as an insolvent;

(c) has at any time been convicted by a court of an offence and sentenced for a period of more than six months; or

(d) does not meet the criteria for “fit and proper”, as determined by the Central Registrar in case of multi-State credit societies; or in case of non-credit multi-State societies, does not meet the criteria as the Central Government may prescribe in terms of educational qualifications and relevant experience.”

### **Rationale behind the amendment**

#### 2.156 Strengthening Governance and Transparency

Criteria needed for appointment of CEO by the Board. More stringent criteria needed for appointment of CEOs in multi- State credit co-operative societies on the lines of ‘fit & proper’ criteria by RBI for appointment of CEOs in banks.

### **Examination by the Committee**

2.157 During briefing on the provisions contained in the Bill, the Committee enquired the representatives of Ministry of Cooperation whether the age of CEO should be within 21 to 70 years. In this regard, the Ministry of Cooperation submitted in its written reply stated as below:-

“Section 51 and Section 52 of the existing Act relate to the Chief Executive Officer and its Power and Functions, respectively. However, age limit for appointing CEO is not defined in the existing Act. Through insertion of new sub-section(1) in Section 51 vide clause 20 of the proposed amendment age limit for CEO has been prescribed. The criteria of age limit is in sync with Section 196(3) of the Companies Act 2013. “

### **Comments of RBI**

2.158 RBI in their submission before the Committee have stated that the proposed amendment to MSCS Act inserts a new provision under Section51(1A) which stipulates the age of the Chief Executive to be within 21 and 70 years. Further, a person above the age of 70 years may be appointed by a special resolution. In terms of powers conferred under Sections 10, 10B, 10BB, 35A, 35B, 36AA and 53A (read with Section 56) of the BR Act, 1949 (as amended from time to time), certain directions relating to appointment, re-appointment, termination and removal of Managing Director (MD) and Whole-Time Director (WTD) including Chief Executive Officer have been issued by RBI including the circular dated June 25, 2021. The minimum age to be appointed as the Chief Executive Officer is fixed as 35 years as per the circulars and directions issued by RBI including

circular dated June 25, 2021 considering the fact that the Chief Executive Officer is required to have a comprehensive experience and knowledge of banking, finance or administrative function to act as the head of the institution. The maximum age is 70 years and there is no provision to extend the maximum age limit of 70 years under the regulatory guidelines. However, the “fit and proper” criteria for UCBs have been prescribed by RBI vide aforementioned circular under para 3.4 (Eligibility) and 3.5 (Propriety Criteria). It would, therefore, be appropriate to add clarity on primacy of applicable regulations issued by RBI under BR Act, 1949 regarding minimum and maximum age of CEO/MD of UCBs, disqualifications and “fit and proper” criteria for Chairman and MD/CEO multi-state urban cooperative banks.

### **Observations/ Suggestions received from stakeholders**

2.159 NAFSCOB in its written submission before the Committee has stated that 21 years CEO is too immature to appreciate and execute the actions and resolutions of the Member driven cooperatives. They have suggested the age to be 35 years.

2.160 NABARD has suggested that additional provision may be incorporated under Sec 51 “ For CEO’s of multi-State cooperative Banks, criteria as per provisions of Sec 35 1. (b) and other relevant sections of the Banking Regulation Act,1949 will apply “.

2.161 NCUI has suggested that the proposed provision of Fit and proper criteria shall be applicable for multi-state credit societies only as the nature of cooperative business is different from private sector hence fixing the criteria for non credit cooperative societies be invested with the board of such multi state cooperative societies instead of Government of India.

### **Comments of Ministry of Cooperation**

2.162 In regard to the above submissions of NCUI and NAFSCOB, Ministry of Cooperation commented as under:-

“ The power for appointment of CEO continues to be with the board. The provision for prescription of criteria for appointment of CEO is proposed to strengthen governance in all MSCS. More stringent criteria is needed for appointment of CEOs in multi-State credit cooperative societies on the lines of ‘fit & proper’ criteria by RBI for appointment of CEOs in banks. For non-credit MSCS, the Central Government may prescribe appropriate criteria for CEO keeping in view the nature of business and requirement of non-credit MSCS.”

“ This provision only prescribes minimum and maximum age limit. The board is free to appoint CEO within these age limits depending upon requirements. The

proposed age limit is in sync with the age limits prescribed for MD as per Section 196(3) of the Companies Act”

2.163 In Response to RBI comments, During the process of Inter-ministerial consultation, Department of Financial Services (DFS) vide their letter dated 04.10.2022 informed that proposed revised Bill is largely aligned with BR Act and thus, the DFS agrees with and supports the amendment Bill. Further, DFS will make suitable amendments in the BR Act so that its provisions are in consonance with the Constitution. The same was also stated by Secretary (DFS) in the JPC meeting held on 19.01.2023.

As per the prevailing practice, Banking license by RBI is given to entities incorporated under different laws such as Indian Companies Act or various Cooperative Societies Acts. All such entities are governed by the respective acts under which they are incorporated as well as under Banking Regulation Act, 1949. As such dual regulation exists for all such entities. To bring clarity, the amendment Bill proposes in Section 120 B (new insertion) that the provisions of MSCS Act 2002 are applicable to a multi-State cooperative bank in respect of matters relating to incorporation, regulation and winding up: Provided that in case of a multi-State cooperative society carrying on the business of banking, the provisions of the Banking Regulation Act, 1949, shall also apply.

### **Observation/recommendation of the Committee**

**2.164 The Committee deliberated upon the proposal made in the Clause including suggestions made by the stakeholders and the rationale/reply given by the Ministry of Cooperation and decided to accept the amendment proposed under the Clause.**

### **Clause No. 21**

### **Provision in the Principal Act**

#### **2.165 Section 52: Powers and functions of Chief Executive**

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

- (a) day-to-day management of the business of the multi-state cooperative society;
- (b) to (i).....
- (j) present the draft annual report and financial statement for the approval of the board within thirty days of closure of the financial year;

### **Amendment proposed in the Bill**

2.166 “In section 52 of the principal Act, in clause (j), for the words “thirty days”, the words “forty-five days” shall be substituted.”

### **Rationale behind the amendment**

2.167 “Some additional time being provided for presenting draft Annual report and financial statements etc.”

### **Observation/recommendation of the Committee**

**2.168 The Committee deliberated upon the proposal made in the Clause including the rationale/reply given by the Ministry of Cooperation and decided to accept the amendment proposed under the Clause.**

## **Clause No. 22**

### **Provision in the Principal Act**

2.169           53. Committees of Board

(1) The board may, subject to such conditions as may be prescribed, constitute an Executive Committee and other committees or subcommittees as may be considered necessary: Provided that other committees or sub- committees, other than the Executive Committee shall not exceed three.

### **Amendment in the proposed Bill**

2.170 “In section 53 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

(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:

Provided that the board shall constitute—

- (a) an Audit and Ethics Committee;
- (b) a Committee on prevention of sexual harassment at work place.”

### **Rationale for the amendment**

#### **2.171 “Strengthening Governance and Transparency**

No existing provision for constitution of committees to ensure ethical practices, and to prevent sexual harassment. Guidance, supervision and mid-course correction through internal committees will ensure better governance in MSCS. “

### **Examination by the Committee**

2.172 During the briefing meeting with the Nodal Ministry, it was suggested by a Member to include one more Committee on financial security. To the said suggestion, the Ministry in their written reply stated that the Audit and Ethics Committee can monitor the financial security. Besides, the Board may constitute an executive Committee and other committees and subcommittees as may be considered necessary and number of such committees shall not exceed three.

### **Suggestions received from stake holders**

2.173 NABARD in its submission has stated that there has been no objection to the amended provisions from stakeholders. However, it has suggested to include "in accordance with byelaws" after " at work place."

### **Comments of Ministry of Cooperation**

2.174 The existing section 53 of the MSCS Act 2002 provides for functioning of the committee in accordance with bye-laws. Therefore, the suggested words "in accordance with byelaws" after "at work place." in clause 22 of the Bill are not required.

### **Observation/recommendation of the Committee**

**2.175 The Committee deliberated upon the proposal made in the Clause including suggestions made by the stakeholders and the rationale/reply given by the Ministry of Cooperation and decided to accept the amendment proposed under the Clause.**

## **Clause No. 23**

### **Provision in the Principal Act**

#### **2.176 "Section 63: Disposal of net profits**

(1) A multi-state cooperative society shall, out of its net profits in any year-

(a) .....

(b) credit one per cent, to cooperative education fund maintained, by the National Cooperative Union of India Limited, New Delhi, in the manner as may be prescribed"

### **Amendment proposed in the Bill**

2.177 “In section 63 of the principal Act, in sub-section (1), for clause (b), the following clause shall be substituted, namely:—

(b) credit annually one per cent of net profit to co-operative education fund to be maintained by the Central Government in such manner as may be prescribed and the proceeds from such fund shall be used for Co-operative Education and Training through the National Co-operative Union of India and any other agency in such manner as may be determined by the Central Government”.

### **Rationale behind the Amendment**

2.178 “Enabling raising of funds by Cooperative Sector .This will ensure flexibility in usage, better maintenance and compliance.”

### **Examination by the Committee**

#### **Suggestions received from stake holders**

2.179 NCUI submitted the following suggestions:-

(i) On recommendation of Working Group of Cooperation of Administrative reforms Commission in 1967 and Committee to review CRAFTICARD constituted by RBI in 1981, full Section 63 was introduced in MSCS Act 2002 for collection and management of CEF, which was entrusted to NCUI, since inception and maintained and managed by them. None of the MSCS have objected or made adverse observation on maintaining the fund by NCUI whose audit is being done regularly.

(ii) There is no contribution of GOI to this fund, hence it should remain with NCUI in the spirit of cooperative autonomy, cooperative principles and values of independence and cooperation among cooperatives. Government’s role should be as facilitator not as controller.

(iii) the respective State Governments may take control of such funds which may weaken State cooperative Unions and affect activities of education and training and will cause bureaucratic delays.

(iv) Proposed amendment may be deleted and existing provision as per MSCS Act may be retained.

2.180 In additional submission, they have stated that NCUI maintains separate Bank account for the Fund including interest on investments which is credited to the account. The budget for activities is approved by CEF Committee every year which are conducted through various National level Cooperative Federations, MSCS, State Cooperative Unions, VAMNCOM, NCCT, NCCE, RICM/ICM for which financial assistance is provided by NCUI. Further, as per M/o Cooperation’s directions, NCUI is now undertaking key initiatives in line with Ministry’s objective such as creation of database, formation of new

cooperatives especially in dairy, credit and fisheries, Marketing and branding of products setting up Resource Centre etc. A total budget of 100 crore has been earmarked from CEF for the above and would additionally require regular funds in future also. Hence the existing provision related to collection and management of CEF may continue

2.181 With regard to utilization of Fund, NCUI submitted that till FY 2021-22, a total sum of Rs 356.85 crore has been collected out of which Rs 228.145 crores has been utilized after due approvals by CEF Committee from time to time and after carrying out due diligence in maintaining the accounts thereby utilizing about 64 % of the Fund so collected . The amount being reflected as unutilized in the Fund is actually the compound interest accumulated over the years as a result of judicious investing by NCUI –being the custodian of CEF. This is a continuous Fund hence accumulated over the years to be used as per requirement of co-operative sector. Moreover due to Covid pandemic and restrictions by Government to curb it, all cooperative education and training was conducted online for 2 years and hence related in accumulation of Fund. The accounts are audited by statutory auditors every year and CAG audit every 3-4 years.

2.182 KRIBHKO have stated that NCUI is managing the fund efficiently and satisfactorily hence existing provision in the Act may continue. Similarly, NAFED have also advocated that existing provision of Section 63 of MSCS Act may continue.

2.183 NAFSCOB have submitted that resources of Cooperatives must be deposited with and used for cooperatives. The Proposal to maintain the Fund by Central Government is not strongly justified. NCUI should be the final authority in maintaining the Fund in all respects.

2.184 NABARD have however expressed the view that the provisions stipulated by way of amendment to the Act would help in building the internal resources in the cooperative sector and reduces dependency on budget allocations by government. It's like Cooperative Social Responsibility (CSR)

2.185 NAFUCB while deposing before Committee have stated that NCUI is not providing them anything and that some percent should be allocated to national level federations which are imparting education.



### **Comments/views of RBI**

2.186 The amendment to Section 63(1)(b) proposes that Cooperative Education Fund would be maintained by the Central Government and would be utilised for cooperative education and training purposes through National Cooperative Union of India. Such mandatory contribution to the Fund may interfere with RBI's supervisory and regulatory restrictions on its expenses imposed under different provisions of BR Act/ Regulations. This may also not be in the best interest of the bank if there are incipient signs of deposit erosion even though it is profitable and not under the Supervisory Action Framework (SAF) of RBI. This is more so as in addition to this fund, additional ₹1 crore or 1% of Net Profit (whichever is less) is required to be contributed for Rehabilitation Fund.

### **Comments of the Ministry of Cooperation**

2.187 Above suggestions/views of the stake holders were taken up with the Ministry of Cooperation and its comments were sought. In reply, Ministry of cooperation stated as follows:-

“The proposed provision will ensure more flexibility in usage, better compliance and utilization of Cooperative Education Fund. Presently, a corpus of approximately Rs.275 Crores is lying unutilized in the Cooperative Education Fund being maintained by NCUI. Since, this contribution is to be collected only from net profit making MSCS and that too only at the rate of 1% as per the existing section 63 of the MSCS Act 2002, this will not be a burden on contributing societies.”

2.188 On RBI's comments Ministry replied that the existing section 63 of the Act already provides for credit of one per cent to cooperative education fund maintained by the National Cooperative Union of India Limited (NCUI). This is an existing provision in terms of contribution. Therefore, the amendment Bill does not impose any extra burden on account of this section.

### **Observation/recommendation of the Committee**

**2.189 The Committee deliberated upon the proposal made in the Clause including suggestions made by the stakeholders and the rationale/reply given by the Ministry of Cooperation and decided to accept the amendment proposed under the Clause.**

## Clause No. 24

### New Insertion 63A to 63C

#### Amendment in the proposed Bill

2.190 “After section 63 of the principal Act, the following sections shall be inserted, namely:—

‘63A. (1) The Central Government shall establish a Fund, to be called the Co-operative Rehabilitation, Reconstruction and Development Fund for revival of sick multi-State co-operative societies as referred to in section 63B and for development purposes in such manner as may be determined by it and there shall be credited to such Fund annually by multi-State co-operative societies which are in profit for the preceding three financial years one crore rupees or one per cent. of the net profits of such multi-State co-operative society, whichever is less.

(2) The Central Government shall, by notification, constitute a Committee, consisting of such members as it may deem fit, to administer the Fund, and maintain separate accounts and other relevant records in relation to the Fund in such form as may be specified by the Central Government in consultation with the Comptroller and Auditor-General of India.

(3) The Committee shall spend the money out of the Fund for carrying out the objects for which such Fund has been established.

63B. (1) If, at any time, the Central Registrar, is of the opinion that a multi-State co-operative society has become sick, he may, by an order, declare such society as sick co-operative society.

(2) Where a multi-State co-operative society is declared as a sick co-operative society under sub-section (1), the Central Government or any person or agency authorised by it, may prepare a scheme for rehabilitation and reconstruction of the society and hand it over to the society for approval of the general body.

(3) The Central Government may, on the recommendation of the general body and to give effect to the scheme for rehabilitation and reconstruction referred to in sub-section (2), re-organise the board of such society with such persons, having experience in the field of co-operation, management, finance, accountancy and any other area relating to such societies as may be recommended by the general body:

Provided that in respect of a sick multi-State co-operative bank, any scheme for rehabilitation or reconstruction shall be done with the prior approval of the Reserve Bank.

Explanation.—For the purposes of this section, the expression “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.

63C. (1) The Central Government may, on an application made by a multi- State co-operative society which has contributed to the Fund for continuous five preceding financial years, grant such financial assistance as it may consider appropriate to the society out of the Fund for infrastructural requirement:

Provided that at least fifty per cent. of the total requirement shall be borne by the multi-State co-operative society and the financial assistance from the Fund shall not exceed more than the fifty per cent. of such requirement.

(3) The Committee constituted under sub-section (2) of section 63A shall examine and recommend to the Central Government for providing the financial assistance to the multi-State co-operative society to such extent and on such terms and conditions as it may consider necessary.”

### **Rationale behind the Amendment**

#### **2.191 “Enabling raising of funds by Cooperative sector**

This is a new provision to ensure revival and handholding of sick cooperatives who can be made viable through implementation of innovative and profitable business development plans.

Provision of contribution of 50% by the MSCS of the total requirement shall lead to more responsible utilization. “

### **Examination by the Committee**

2.192 During briefing on the provisions of the Bill by the representatives of the Ministry of Cooperation, the Committee observed that clarity is needed on the management of fund. It was also pointed out that it needs to be specified whether the society should be in profit for 3 consecutive years or otherwise. In this regard, the Ministry in its written comments stated as below:-

In the existing MSCS Act, 2002 there is no provision for any Fund for revival or assistance for sick MSCS. The proposed new insertion of Section-63(A) relates to Rehabilitation, Reconstruction and Development Fund which shall be maintained by Central Government. It will be funded by contribution of 1% of net profit or ₹1 crore whichever is less, by MSCSs in profit for last 3 financial years for revival of sick MSCSs & financial assistance for creation of infrastructure. Central Government will constitute a Committee to administer this Fund. The Central Govt. may, on an application made by an MSCS which has contributed to the Fund for continuous five preceding financial years, grant such financial assistance as it may consider appropriate to the society out of the Fund for infrastructural requirement, provided that 50 % of such requirement shall be met by the MSCS itself.

For the purposes of this section, the expression “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.

The proposed provision is in line with the cooperative principles of ‘Cooperation among Cooperatives’ and ‘concern for community’.

### **Comments/views of RBI**

2.193 The Bill under new Section 63A proposes to establish a fund (Cooperative Rehabilitation, Reconstruction and Development Fund) out of the profits of the MSCS which are making profit since last three years. The yearly contribution to the fund would be ₹1 crore or 1% of the net profit, whichever is less. This fund would be used to revive the sick MSCS, as declared by the Central Registrar. On such declaration, the Central Government would prepare the scheme of rehabilitation or reconstruction of the society and hand it over to the General body for approval. On recommendation of the general body, the Central Government may reorganise the Board of the Society. However, proviso to Section 63B (3) states that for Multi-State Cooperative Bank, any scheme of rehabilitation or reconstruction shall be done with the prior approval of RBI. As mentioned above, when a cooperative bank is resolved under Section 45 of BR Act, power is with RBI to recommend moratorium to the Central Government and prepare a scheme for reconstruction for approval of the Central Government. Under existing Section 18 of MSCS Act, the power to prepare scheme once moratorium is declared under Section 45 of BR Act is entrusted upon Central Registrar making it inconsistent with Section 45 of BR Act itself.

Besides, RBI has highlighted the following other inconsistencies:

a) If a Multi-state UCB is resolved under Section 45 of BR Act, there may be a possibility of both RBI and Central Registrar preparing a scheme for rehabilitation or reconstruction. As Section 45 has been recently made applicable to cooperative banks and is like a non-obstante clause giving primacy to BR Act and Section 105A of MSCS Bill states that the provisions of this Act shall be in addition to and not in derogation of, any other law for the time being in force, it is understood that BR Act would have primacy. This needs ample clarity in the Bill to avoid future interpretational issues.

b) If a Multi-state UCB is declared sick by the Central Registrar under Section 63B (1), then Central Government would have to frame scheme for rehabilitation or reconstruction and get it approved by the general body of the society. For Multi-State Cooperative Banks, proviso to Section 63B (3) states

that any scheme of rehabilitation or reconstruction shall be done with the prior approval of RBI. Therefore, when a Multi-state UCB is getting resolved, Central Government may have simultaneously two different roles viz. one under Section 63B (1) of MSCS Act to prepare a scheme and another under Section 45 to approve a scheme prepared by RBI. This may give rise to anomalous situations and would be prone to legal challenges.

c) The definition of 'sick' cooperative society is based on a single metric of profit. However, supervisory action by RBI on a cooperative bank under its Supervisory Action Framework (SAF) is more nuanced and is based on multiple indicators like breach of NPA threshold, profitability and regulatory capital for initiating early action. Keeping in view that cooperative banks handle public deposits, the prompt corrective action undertaken by RBI is multi-dimensional and is not limited to change in the management or infusing funds as prescribed under MSCS (Amendment) Bill, 2022. Accordingly, RBI has held the view that in the interest of bank depositors, it would be necessary to carve out cooperative banks from the general rehabilitation/reconstruction provisions of MSCS Act. It would be appropriate that for expeditious and specialised resolution of UCBs, the amended Act include a provision that any scheme for rehabilitation or reconstruction of a cooperative bank shall be done in accordance with the provisions of the BR Act, 1949 read with Section 56 of the Act *ibid* and in accordance with the RBI guidelines issued from time to time.

### **Comments of Ministry of Cooperation**

2.194 On the above said reservations of RBI, the Ministry replied as under :-

“As per the prevailing practice, Banking license by RBI is given to entities incorporated under different laws such as Indian Companies Act or various Cooperative Societies Acts. All such entities are governed by the respective acts under which they are incorporated as well as under Banking Regulation Act, 1949. As such dual regulation exists for all such entities. To bring clarity, the amendment Bill proposes in Section 120 B (new insertion) that the provisions of MSCS Act 2002 are applicable to a multi-State cooperative bank in respect of matters relating to incorporation, regulation and winding up: Provided that in case of a multi-State cooperative society carrying on the business of banking, the provisions of the Banking Regulation Act, 1949, shall also apply.”

As per proviso to section 63(B)(3) of the proposed amendment Bill, in respect of a sick multi-State co-operative bank, any scheme for rehabilitation or reconstruction shall be done with the prior approval of the Reserve Bank. Therefore, the suggestion by RBI is not accepted.

### **Suggestions received from stakeholders**

2.195 While supporting the insertion of Clause 24, stakeholder organization **NABARD** stated that the provisions would help in building the internal resources in the cooperative

sector and reduces dependency on budget allocations by government. It's like Cooperative Social Responsibility (CSR). Similarly, **NCDC** advocated that many cooperative societies that are in financial distress, but may run profitably if provided some monetary relief, will be benefitted with this Fund.

2.196 With regard to MSC Banks, **NAFCUB** held the view that contribution of Fund must be managed by Umbrella Organisation recently created and meant for cooperative Banking Sector only. Futuristic view needs to be taken. They also put forth the view that all the societies including those with meager profits will have to contribute to the Fund, putting unnecessary burden on them, who are already competing with MNCs and other industrial houses and is likely to burden the members of societies. They stated that there are only a few sick cooperative societies and forcing the cooperative societies to credit huge amount to the Fund is not justified. Accordingly they advocated that the Clause 24 and relating provision in Clause 16 must be omitted.

2.197 **NCUI** has stated that this is an additional burden for profit making MSCS and will hamper the requirement of funds for further business development. Secondly, even in respect of companies, no profit earning company is contributing for the revival of sick undertakings. On a parity of reasoning, the profit making cooperatives should not be used as a vehicle for subsidizing the functioning of sick MSCS. Rather such MSCS may be provided all the required policy support, concessions/exemption to overcome the situation. However, such fund may be created by Central Government itself for revival of sick Multi State Cooperative Societies .

### **Comments of Ministry of Cooperation.**

2.198 The proposed amendment in the bill is aimed at revival of sick cooperative societies and also to grant financial assistance for infrastructural requirement. This will help in handholding of sick cooperative societies which can be made viable through implementation of innovative and profitable business development plans. The contribution is limited to only 1 percent of net profit or Rs.1 Crore whichever is less, by only those MSCS which are in profit for preceding 3 financial years. Therefore, this will not impose significant burden on such societies. On the contrary, this will help in strengthening cooperative movement in the country in accordance with cooperative principle of 'cooperation among cooperatives'. Regarding Government aid to MSCS,

there is already an existing section 61 in the MSCS Act 2002. In the case of companies also, there is a provision for spending under Corporate Social Responsibility.

2.199 The Umbrella organization referred to by NAFSCUB would only cover Urban cooperative banks (UCBs) whereas this committee and the fund would be for MSCS in all sectors.

2.200 With regard to amendment proposed in Clause 63 C pertaining to grant of financial assistance for infrastructural requirement by MSCs, the Ministry responded that the financial assistance for infrastructural requirement is restricted to fifty per cent and to those societies which have contributed to the fund for continuous proceeding five financial years. These restrictions have been put to instill financial discipline and to ensure that societies seeking assistance are viable and also put in the necessary capita.

#### **Further suggestions by Stake holders**

2.201 As per Clause 24 of the Bill (Proposed Section 63 A(2)), the Central Government shall, by notification, constitute a Committee, consisting of such members as it may deem fit, to administer the Fund, and maintain separate accounts and other relevant records in relation to the Fund in such form as may be specified by the Central Government in consultation with the Comptroller and Auditor-General of India. In this regard, NAFSCOB has stated that the Committee Composition needs to be spelt out. It has also expressed its opinion that the Bill should in true sense give a feeling that MSC society is not Government owned but Govt. supported. The major objective of amendment of the MSCS Act, 2002 be to ensure democratic, dynamic, viable and autonomous MSCS.

#### **Comments of Ministry of Cooperation.**

2.202 The Ministry further stated that the committee to administer the Fund will be notified by the Central Government which will ensure proper utilization and transparency in administration of the Fund. This proposed amendment would strengthen cooperative movement by helping sick cooperative societies and providing financial assistance for infrastructural requirements of MSCS. For the CEF in the existing Act also, the composition of the committee is not detailed in the Act. Prescribing composition of committee in the Act would not be appropriate as it will restrict flexibility. In case of

existing cooperative education fund also, the manner of utilization of fund and composition of committee is not laid down in the Act but is in the rules.

2.203 During consideration of Clause by Clause provisions of the amendment Bill by the Committee, on the issue of composition of the proposed Committee in Sec 63 A (2) to be provided in the Bill itself including ex-officio Members for management of Fund, the Secretary informed that they are in consultation with C&AG.

### **Observation/recommendation of the Committee**

**2.204 The Committee deliberated upon the proposal made in the Clause including suggestions made by the stakeholders and the rationale/reply given by the Ministry of Cooperation and decided to accept the amendment proposed under the Clause.**

### **Clause No. 25**

#### **Provision in the Principal Act**

#### **2.205 Section 64: Investment of funds**

A multi-state cooperative society may invest or deposit its funds-

(a) in any of the securities specified in section 20 of the Indian Trust Act, 1882 (2 of 1882); or

(d) in the shares, securities or assets of a subsidiary institution or any other institution; or

(e) with any other bank; or

(f) in such other mode as may be provided in the bye-laws.

#### **Amendment proposed in the Bill**

2.206 “In section 64 of the principal Act,—

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

“(b) in any of the securities issued by the Central Government, State Government, Government Corporations, Government Companies, Authorities, Public Sector Undertakings or any other securities ensured by Government guarantees;”;

(ii) in clause (d), after the words “any other institution”, the words “in the same line of business as the multi-State co-operative society” shall be inserted;



(iii) for clauses (e) and (f), the following clauses shall be substituted, namely:—

“(e) with any other scheduled or nationalised bank.

Explanation.—For the purposes of this clause, the expression,—

(i) “scheduled bank” shall have the same meaning as assigned to it in clause (e) of section 2 of the Reserve Bank of India Act, 1934; and

(ii) “nationalised bank” means a corresponding new bank constituted under sub-section (1) of section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 and the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980; or

(f) in such other manner as may be determined by the Central Government.”.

### **Rationale behind the amendment**

#### **2.207 “Strengthening Governance and Transparency**

Some pre-independence era securities are included in the Indian Trust Act which have to be replaced.

Inclusion of phrase ‘any other institution’ in (d) and ‘as per bye-laws’ in (f) in the existing provisions makes it open-ended and have been misused by some MSCS. Investing in scheduled or nationalized banks in place of ‘any other bank’ would make the investment of MSCS safer.”

### **Examination by the Committee**

2.208 During the briefing by the representatives of the Ministry of Cooperation on the proposals made in the Bill , the Committee observed that investment of funds (Section 64) in other manner as may be decided by Central Govt. should be clearly defined. In regard to the above observation, the Ministry of Cooperation furnished its written reply as under:-

In the existing MSCS Act, 2002, Section 64 (f) provides that an MSCS may invest or deposit its funds ‘in such other modes as may be provided in the bye-laws’. This leaves scope for investment into dubious entities & fraudulent investment. In the amendment bill, clause 25 (section 64) is being proposed which will substitute in Section 64(f) the words “in such other mode as may be provided in the bye-laws” with “in such other manner as may be determined by Central Govt.” This will prevent misuse and fraudulent investments. Since the future emerging instruments/avenues for investments may vary from time to time, flexibility is required for the Central Government to determine the manner in which such investments can be made; keeping the overall interest of Cooperatives in mind.

## Suggestions received from stakeholders

2.209 Stakeholder organizations like **NCUI** have stated that this being a restrictive clause will hamper the diversification and promotion of new ventures and expansion of business, which will resultantly affect the economic growth of the cooperative society. NCUI have stated that investing in specified entities will adversely affect such MSCS which is required to invest its funds by promotion/creation of JV/SPV in India or abroad. Keeping such enabling provision for JV/SPV will encourage the Government's endeavour to push growth of cooperative sector and economy of India. MSCS may also require JV/SPV to flourish in export/import sector. Hence the words 'any other institution' may be retained.

2.210 Further, they have expressed the view that the proposed provision in Section 64 (f) erodes the erodes the autonomy and independent functioning of MSCS which is not in accordance with the spirit of the 97<sup>th</sup> Constitutional (Amendment) Act 2011.

2.211 On similar lines it has been advocated by **KRIBHCO** that investment of Funds in the same line of business will restrict MSCS in expanding in diversified sectors whereas the Govts endeavour is to push multifaceted growth of cooperative sector. They have suggested that they should be allowed to invest in any business permitted by its byelaws.

2.212 On amendment in Section 64(f) KRIBHCO stated that that the decision on investment or deposit is a commercial decision and best taken by in house professional experts. The manner and mode of such investments shall be as specified in the byelaws of MSCS, which in any case are approved and registered by Central Registrar.. Pg 2,3 They have also expressed the view that there is contradiction in section 19 and section 64.

2.213 With regard to Banks, **NAFSCOB** has stated that Scheduled Cooperative Bank should be explicitly incorporated to avoid complications. The Funds of cooperative societies should not be lodged and or pumped into Nationalised banks. These resources are infused as capital in Nationalised banks for their losses but not recapitalised to address the accumulated losses of cooperative banks. They have also suggested that 'Government Companies, authorities, PSUs or any other securities ensured by Government guarantees' must be deleted.

2.214 On similar lines **NABARD** has stated that Board approved investment policy which inter alia drafted as per the regulatory guidelines has to be in place. It needs to be reviewed from time to time.

### **Comments of Ministry of Cooperation**

2.215 Above suggestions of the stakeholders were brought to the notice of the Ministry of Cooperation. In its reply, the Ministry has stated, "In the existing section 64(b) of MSCS Act, 2002, some redundant and irrelevant securities such as securities of United Kingdom etc. were included as per Indian Trust Act, a pre-independence era Act. Therefore, this provision needed to be replaced with safe and risk-free investments of Central/ State Government. The amended provisions have taken care of this need. The phrase 'any other institution' in 64(d) is open-ended and has been misused by some societies for making dubious investment. The proposed amendment will help in preventing such kinds of investments. The existing provision in 64(e) for investment with any other bank is being replaced by scheduled or nationalised bank to ensure safety of investments of cooperative societies. Existing Section 64 (f) provides that an MSCS may invest or deposit its funds 'in such other modes as may be provided in the bye-laws'. This leaves scope for fraudulent investment. It is proposed to replace this with "in such other manner as may be determined by Central Govt." Since the future emerging instruments/avenues for investments may vary from time to time, flexibility is required for the Central Government to determine the manner in which such investments can be made; keeping the overall interest of Cooperatives in mind. Therefore, changes have been proposed in the interest of safety and security of deposits of the members. The businesses to be carried out by an MSCS are described in the bye-laws and the societies can frame their bye-laws democratically and autonomously to decide their line of business. There is no contradiction as the subsidiary institution as per section 19 has also to be in furtherance of the stated objects of the society which are in the bye-laws."

2.216 On the observation of NAFSCOB, the Ministry has inter alia replied that the existing section 64(a) already permits investment in cooperative bank, State Cooperative bank, cooperative land development bank or Central cooperative bank. The MSCS are free to invest in any of the above.

## Observation/recommendation of the Committee

2.217 The Committee deliberated upon the proposal made in the Clause including suggestions made by the stakeholders and the rationale/reply given by the Ministry of Cooperation and decided to accept the amendment proposed under the Clause.

### Clause No. 26

#### Provision in the Principal Act

##### 2.218 **Section 67: Restrictions on borrowing**

(1) A multi-state cooperative society may receive deposits from its voting members, 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.

#### Amendment proposed in the Bill

2.219 “In section 67 of the principal Act, in sub-section (1), in the first proviso, for the words “**ten times**”, the words “**such multiples as may be determined by the Central Government**” shall be substituted.”

#### Rationale behind the amendment

##### 2.220 “**Strengthening of Monitoring Mechanism**

This will ensure flexibility in borrowing & deposits.”

#### Examination by the Committee

##### Suggestions received by stake holders

2.221 Stakeholders appearing before the Committee have expressed reservation on the aforesaid provision which inter alia are as follows :-

**KRIBHCO**- The board of MSCS can determine their maximum borrowing limit based on their credit worthiness, borrowing capacity and credit rating . The matter should not be determined by the Central Government. It is suggested that reputed credit rating agencies of India like Credit Rating Information Services of India Limited (CRISIL), Investment Information and Credit Rating Agency of India Limited (ICRA), Credit Analysis & Research (CARE), Onida Individual Credit Rating Agency of India (ONICRA) etc. may assess the credit worthiness of multi-state cooperatives societies for raising of funds. MSCS are competing with companies who do not have such restrictions and

borrowing is determined by their board and shareholders. Maximum borrowing should be allowed to be determined by the MSCS only for level playing field

**NCUI**-To retain the autonomy and independent functioning of the society the existing provision under section 67(1) of MSCS Act 2002 may be retained. Only the Board or society is aware about the financial health, credit worthiness etc. of the Society and determining the same by the Central Government is a concern.

**NAFSCOB**– The proposal is vague and discretionary and not in interest of Cooperatives. The existing provision must continue.

**NABARD** has however stated that regulatory prescription is essential to avoid over leverage.

### **Comments of Ministry of Cooperation**

2.222 The existing section 67 provides for restriction on borrowings on MSCS wherein 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. This limit is being proposed to be changed from 'ten times' to 'such multiple as may be determined by the Central Government'. This will provide flexibility for fixing varying limits depending upon requirement and economic scenario in place of the existing fixed limit of ten times. This would also help in bringing financial discipline.

### **Observation/recommendation of the Committee**

**2.223 The Committee deliberated upon the proposal made in the Clause including suggestions made by the stakeholders and the rationale/reply given by the Ministry of Cooperation and decided to accept the amendment proposed under the Clause.**

## **Clause No. 27**

### **Section 70: Appointment and remuneration of auditors**

#### **Provision in the Principal Act**

2.224 (2) Every multi-state cooperative society shall, at each annual general meeting, appoint an auditor or auditors to hold office from the conclusion of that meeting until the conclusion of the next annual general meeting and shall, within seven days of the appointment, give intimation thereof to every auditor so appointed.

Provided that such auditor or auditors may be appointed from a panel of auditors approved by the Central Registrar or from a panel of auditors, if any, prepared by the multi- state cooperative society.

### **Amendment proposed in the Bill**

2.225 “In section 70 of the principal Act,—

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

“Provided that such auditors or auditing firm shall be appointed from a panel approved by the Central Registrar:

Provided further that in case of multi-State co-operative banks, multi-State credit societies with deposits of above five hundred crore rupees and multi-State non-credit societies with turnover of above five hundred crore rupees, the auditor shall be appointed from a panel of auditors approved for audit of such societies by the Central Registrar.”

### **Rationale behind the amendment**

2.226 “In line with Article 243ZM(3) of the Constitution

### **Strengthening Governance and Transparency**

The amended provision will bring objectivity in appointment of auditor

### **Observation/recommendation of the Committee**

**2.227 The Committee deliberated upon the proposal made in the Clause including the rationale/reply given by the Ministry of Cooperation and decided to accept the amendment proposed under the Clause.**

### **Provision in the Principal Act**

2.228 (3) Every auditor appointed under sub-section (1) shall, within thirty days of the receipt from the multi-state cooperative society of the intimation of his appointment, inform the Central Registrar in writing that he has accepted, or refused to accept, the appointment.

### **Amendment proposed in the Bill**

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

“(3A) An auditor appointed under sub-section (2) shall submit the audit of accounts report to the multi-State co- operative society, within six months from the date of closing of the financial year, to which such accounts relate.”;

### **Rationale behind the amendment**

2.230 “In line with Article 243ZM(4) of the Constitution.”

### **Observation/recommendation of the Committee**

**2.231 The Committee deliberated upon the proposal made in the Clause including the rationale/reply given by the Ministry of Cooperation and decided to accept the amendment proposed under the Clause.**

### **Provision in the Principal Act**

2.232 (7) (a) The multi-state cooperative society may fill any causal 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 cooperative society in general meeting.

### **Amendment proposed in the Bill**

2.233 (c) 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 from the panel of auditors from which such auditor was appointed.”;

### **Rationale behind the amendment**

2.234 “To keep in line with the procedure for appointment of Auditors from the panel.”

### **Provision in the Principal Act**

2.235 (9) The remuneration of the auditors of a multi-state cooperative society- in the case of an auditor appointed by the board or the Central Registrar may be fixed by the board or the Central Registrar, as the case may be; and subject to clause (a), shall be fixed by the multi-state cooperative society in general meeting or in such manner as the multi-state cooperative society in general meeting may determine.

Explanation- For the purposes of this sub-section, any sums paid by the multi-state cooperative society in respect of the auditors’ expenses shall be deemed to be included in the expression “remuneration”.

## **Amendment proposed in the Bill**

2.236 (d) after sub-section (9) and the Explanation thereunder, the following sub-section shall be inserted, namely:—

“(10) The audit report of the accounts of the national co-operative societies shall be laid before each House of Parliament.”

## **Rationale behind the amendment**

2.237 “In line with Article 243ZM(5) of the Constitution.  
Strengthening Governance and Transparency  
To bring more transparency in the operations of National Cooperative Societies listed in schedule 2 of the MSCS Act 2002.”

## **Examination by the Committee**

2.238 During briefing by the representatives of the Ministry of Cooperation on the provisions of the Bill, the Committee observed that in regard to appointment of Auditors (Section 70) the limit prescribed of Rs. 500 crore should be reduced to 100 crore for the panel of Auditors to be approved by Central Registrar. In this regard, the Ministry stated in writing as follows:-

“Existing Section 70 of MSCS Act, 2002 provides for appointment of Auditors in every MSCS wherein such auditor or auditors may be appointed from a panel of auditors approved by the Central Registrar or from a panel of auditors, if any, prepared by the MSCS.

This is as per Article 243ZM(3) of the Constitution which provides for appointment of auditor by the MSCS from a panel approved by Government or an authority authorized by the Government.

Hence, clause 27 (section 70) of the amendment bill prescribes for appointment of auditors from a panel approved by Central Registrar for all the MSCS. However, there will be two separate panels of auditors for the MSCS- One panel for MSCS Banks and MSCS societies with deposits/turnover of above Rs 500 crore rupees and other panel for remaining MSCS. “

## **Suggestions received from stake holders**

2.239 With regard to appointment of auditors **NAFSCOB** suggested that the existing provisions should continue. Auditor may be appointed from a panel of auditors, if any, prepared by the multi-state cooperative society. For UCBs the **NAFCUB** held that



appointment of Statutory Auditors now needs prior approval of RBI on some stringent guidelines. Thus this eliminates any malpractice. As a result, the Board should be empowered to appoint statutory or other auditors so as to bring ease of doing business with the approval of RBI. For other MSCS, this may be retained if found essential.

2.240 NAFCARD held the view that the General Body shall not reappoint an auditor or auditing firm after a continuous tenure of three years as auditors of the society without a break of at least one year. The above clause will facilitate fixing a ceiling on number of consecutive years for which an auditor or auditing firm can be appointed.

2.241 NABARD in their Presentation before the Committee held the view that MSC Banks are required to take permission of RBI for appointment of auditors , which has not been provided for in the Bill. They have stated that an additional provision under Sec 70 may be included “ as regards MSC Banks, section 30 of BR Act will be applicable “

#### **Comments of Ministry of Cooperation**

2.242 The proposed provision in section 70 is as per Article 243ZM (3) of the Constitution which provides for appointment of auditor by the MSCS from a panel approved by Government or an authority authorized by the Government. (ii) & (iii) Clause 27 (section 70) of the amendment bill prescribes for appointment of auditors from a panel approved by Central Registrar for all the MSCS. However, there will be two separate panels of auditors for the MSCS- One panel for MSCS Banks and MSCS societies with deposits/turnover of above Rs 500 crore rupees and other panel for remaining MSCS. Separate panel for bigger MSCS is proposed because they would require more experienced auditors and bigger teams.

2.243 The Ministry further stated that the suggestion of NAFCARD will be taken into consideration at the time of formulating standards for auditing.

#### **Observation/recommendation of the Committee**

**2.244 The Committee deliberated upon the proposal made in the Clause including the suggestions made by the stakeholders and the rationale/reply given by the Ministry of Cooperation and decided to accept the amendment proposed under the Clause.**

#### **Clause No. 28**

## **New insertion 70A**

### **Amendment proposed in the Bill**

2.245 “After section 70 of the principal Act, the following section shall be inserted, namely:—

70A. In case of multi-State co-operative societies,—

(i) having an annual turnover more than the amount as determined by the Central Government; or

(ii) having deposit of more than the amount as determined by the Central Government, the concurrent audit shall be carried out by an auditor appointed from a panel of auditors approved by the Central Registrar.”

### **Rationale behind the amendment**

#### **2.246 “Strengthening Governance and Transparency**

Concurrent audit for bigger MSCS will ensure early detection of fraud or irregularities in the society and accordingly prompt course corrections can be taken.”

### **Examination by the Committee**

#### **Comments of RBI**

2.247 RBI mentioned that they have not prescribed/ approved any panel of audit firms for undertaking the work of Concurrent Audit in any of its Regulated Entities (REs). RBI guidelines of “Master Circular on Inspection & Audit Systems in Primary Response of Reserve Bank of India, mandate that concurrent audit system is mandatory for all UCBs, irrespective of deposits or turnover criteria, whereas the draft bill states that Multi State Cooperative Societies with more than prescribed amount need to implement concurrent audit system. Hence, there could be conflict between the RBI guidelines on concurrent audit system of UCBs and the relevant clause in the MSCS Bill.

### **Suggestions by stake holders**

2.248 NAFCUB in their written submission before the Committee stated that since the Cooperative Banks are covered under the scope of RBI inspection and there are exhaustive guidelines issued by RBI of Audit, RBIA, Statutory Audit it should be exempted by way of specific provision

2.249 NCDL put forth the view that robust mechanism will be put in place for effective control to preclude the incidence of serious errors and fraudulent manipulations and protect the interest of members and other stakeholders. Provisions of concurrent audit

are also provided for banking Companies as per Banking Regulation Act, 1949 [Section 30 (1B)].

### **Comments of Ministry of Cooperation**

2.250 The Ministry apprised the Committee that DFS will make suitable amendments in the BR Act so that its provisions are in consonance with the Constitution. The same was also stated by Secretary (DFS) in the JPC meeting held on 19.01.2023. They also stated that as per the prevailing practice, Banking license by RBI is given to entities incorporated under different laws such as Indian Companies Act or various Cooperative Societies Acts. All such entities are governed by the respective acts under which they are incorporated as well as under Banking Regulation Act, 1949. As such dual regulation exists for all such entities. To bring clarity, the amendment Bill proposes in Section 120 B (new insertion) that the provisions of MSCS Act 2002 are applicable to a multi-State cooperative bank in respect of matters relating to incorporation, regulation and winding up: Provided that in case of a multi-State cooperative society carrying on the business of banking, the provisions of the Banking Regulation Act, 1949, shall also apply.

However, the concern on concurrent audit for UCBs expressed by RBI will be taken into account while prescribing criteria.

### **Observation/recommendation of the Committee**

**2.251 The Committee deliberated upon the proposal made in the Clause including the suggestions made by the stakeholders and the rationale/reply given by the Ministry of Cooperation and decided to accept the amendment proposed under the Clause.**

### **Clause No. 29**

#### **Provision in the Principal Act**

##### **2.252 Section 73: Powers and duties of auditors**

(5) Where any of the matters referred to in clauses (a) and (b) of subsection (3) or in clauses (a), (b), (c) and (d) of sub-section (4) is answered in the negative or with a qualification, the auditor's report shall state the reason for the answer.

#### **Amendment proposed in the Bill**

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

“(6) the multi-State co-operative society or class of multi-State co- operative societies, as the case may be, shall adopt such standards of auditing and accounting as may be determined by the Central Government:

Provided that until such standards of auditing and accounting are specified, the auditing and accounting standards specified by the Institute of Chartered Accountants of India constituted by sub-section (1) of section 3 of the Chartered Accountants Act, 1949 shall be deemed to be the standards of auditing and accounting:

Provided further that the multi-State co-operative banks shall adopt the standards of accounting and auditing, if any, laid down by the Reserve Bank.”

### **Rationale behind the amendment**

2.254 “In line with Article 243ZM(2) of the Constitution.

### **Strengthening Governance and Transparency**

There is no existing provision for prescription of standards for auditing & accounting. This will ensure standardisation and uniformity in accounting and auditing and bring in transparency and financial discipline.”

### **Examination by the Committee**

2.255 During briefing by the representatives of the Ministry of Cooperation on the provisions of the Bill, the Committee observed that auditing standards should be uniform for all MSCS (including MSCS Banks) and that there should be a change in Auditors every three years. In this regard, Ministry of Cooperation has stated in its post briefing reply as follows:-

“In the existing MSCS Act, 2002, Section 73 relates to powers and duties of Auditors. The standards for Auditing are not specifically mentioned in the existing Act.

In the amendment bill vide clause (section 73(6)), a provision for determining standards for Auditing is being introduced which is in line with the Article 243ZM(2) of the Constitution. This will ensure standardization and uniformity in accounting and auditing and also bring in transparency and financial discipline. The standards for auditing shall be uniform for all MSCS except co-operative banks which are required to follow standards laid down by RBI. The suggestions made by the Hon’ble MP will be examined as per the guidelines of the Institute of Chartered Accountants of India, Indian Companies Act etc..”

### **Suggestions by stake holders**

2.256 NAFCUB opined that ICAI is the regulator of accounting Standards and creator of it. On no choice basis the standards so prescribed by ICAI should be held mandatory. As a result, this provision is at a tangent to the economic needs of the country and requires deletion.

### **Comments of Ministry of Cooperation**

2.257 In the existing MSCS Act, 2002, Section 73 relates to powers and duties of Auditors. The standards for Auditing are not specifically mentioned in the existing Act. In the amendment bill vide section 73(6), a provision for determining standards for Auditing is being introduced which is in line with the Article 243ZM(2) of the Constitution. This will ensure standardization and uniformity in accounting and auditing and also bring in transparency and financial discipline. The standards for auditing shall be uniform for all MSCS except co-operative banks which are required to follow standards laid down by RBI.

Until such standards of auditing and accounting are specified, the auditing and accounting standards specified by the Institute of Chartered Accountants of India constituted by sub-section (1) of section 3 of the Chartered Accountants Act, 1949 shall be deemed to be the standards of auditing and accounting.

Since, cooperatives are governed by Cooperative principles and do not necessarily function as companies, the standards of auditing if need be, may be tailored accordingly

### **Observation/recommendation of the Committee**

**2.258 The Committee deliberated upon the proposal made in the Clause including the suggestions made by the stakeholders and the rationale/reply given by the Ministry of Cooperation and decided to accept the amendment proposed under the Clause.**

## Clause No. 30

### Provision in the principal Act

#### 2.259 **Section 78: Inquiry by Central Registrar**

(1) The Central Registrar may, on a request from a federal cooperative to which a multi-state cooperative 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 cooperative 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 cooperative society:

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 multistate cooperative society.

### Amendment proposed in the Bill

2.260 “In section 78 of the principal Act, after sub-section (1), the following sub-sections shall be inserted, namely:—

“(1A) If the Central Registrar is satisfied on the basis of information available with him or furnished to him by a Government agency, 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, with the endorsement of the board of the society, on matters contained in such order within the time specified therein:

Provided that if the Central Registrar is not satisfied with the explanation of the society, he shall either himself or through an office or agency authorised by him, conduct inquiry into the constitution, working and financial condition of the society.

(1B) Notwithstanding anything contained in this Act, the Central Registrar shall, either suo moto or through an officer or agency authorised by him, conduct inquiry into the constitution, working and financial condition of any multi-State co-operative society, once in such period as may be determined by the Central Government.”

### Rationale behind the amendment

#### 2.261 **“Strengthening of Monitoring Mechanism**

Present power of inquiry of CRCS are very restrictive. This provision will empower CRCS to inquire if he gets information that business of MSCS is being conducted in a fraudulent manner or for unlawful purposes.”

### **Suggestions received from stake holders**

2.262 With regard to the above, **NAFSCOB** proposed that Central Registrar should not depend on the information given by Govt agency. Central Registrar should have his own mechanism to take an unbiased decision

### **Comments of Ministry of Cooperation**

2.263 The proposed amendment empowers the Central Registrar to act not only on the basis of information furnished to him by government agency but also on the basis of information available with him.

On query of Committee during Clause by Clause consideration of the Bill regarding kind of a Government agency which will furnish information to the Central Registrar regarding fraudulent business etc, the Secretary, Ministry of Cooperation replied that it could be it could be SEBI; it could be SFIO, Income Tax, ED, any of them. It could be any agency.

### **Observation/recommendation of the Committee**

**2.264 The Committee deliberated upon the proposal made in the Clause including the suggestions made by the stakeholders and the rationale/reply given by the Ministry of Cooperation and decided to accept the amendment proposed under the Clause.**

### **Clause No. 31**

#### **New insertion 85A**

#### **Amendment proposed in the Bill**

2.265 “After Chapter IX of the principal Act, the following chapter shall be inserted, namely:–

#### **“CHAPTER IXA REDRESSAL OF COMPLAINTS**

85A. (1) The Central Government shall appoint, one or more Co-operative Ombudsman with territorial jurisdiction for inquiring into the complaints made by any member of the multi-State co-operative societies regarding their deposits, equitable benefits of society’s functioning or any other issue affecting the individual rights of the concerned member, in such manner, as may be prescribed.

(2) The Co-operative Ombudsman shall, on receipt of a complaint, complete the process of inquiry and adjudicate within a period of three months from the date of receipt of the complaint and may issue necessary directions to the society during

the course of inquiry and the society shall be bound to comply with the same within a period of one month from the date of issuance of such directions.

(3) The multi-State co-operative society aggrieved by any directions of the Ombudsman may file an appeal in such manner as may be prescribed, within a period of one month before the Central Registrar who shall decide the appeal within a period of forty-five days and the decision of the Central Registrar shall be final and binding:

Provided that the Central Registrar may entertain the appeal after the expiry of said period of one month, if he is satisfied that the society was prevented by sufficient cause from preferring the appeal in time.

(4) The Ombudsman shall submit periodic reports to the Central Registrar of Co-operative Societies.

(5) The Co-operative Ombudsman while conducting the inquiry under sub-section (1), shall exercise the same powers as are vested in a civil court under the Code of Civil Procedure, 1908,—

- (a) for summoning and enforcing the attendance of persons;
- (b) examining them on oath;
- (c) discovery and production of books of account and other documents; and
- (d) any other matter which may be prescribed.”

### **Rationale behind the amendment**

#### 2.266 “Strengthening Governance and Transparency

This newly proposed entity would address grievances of members and ensure financial and operational discipline through timely, expeditious and impartial redressal of complaints of the members.”

### **Examination by the Committee**

2.267 During briefing on the Bill by the representatives of the Ministry of Cooperation, the Committee enquired about the manner of appointment of Ombudsman and his/her qualifications. Further the Committee observed that Ombudsman (Section 85) name should be changed and should be clearly defined. It should be mandatory for appellate authority to dispose appeals within a fix time period. In regard to the above, the Ministry of Cooperation has stated as follows:-

“In the existing MSCS Act, 2002 there is no provision for ‘Ombudsman’. Appointment of Cooperative ‘Ombudsman’ is a new insertion in the amendment Bill. The definition of the Cooperative ‘Ombudsman’ is in clause(2)(iii)(fa). The Central Government shall appoint, one or more Co-operative Ombudsman for inquiring into the complaints made by any member of the MSCS. The Co-operative Ombudsman will complete the process of inquiry and adjudicate within a period of three months. The MSCS aggrieved by any directions of the Ombudsman may file an appeal within a period of one month before the Central



Registrar who shall decide the appeal within a period of **forty-five days** and the decision of the Central Registrar shall be final and binding. The manner of appointment by Central Government and qualifications of Co-operative Ombudsman will be detailed in the rules to be prescribed.” Ombudsman already exists in the Banking Sector.

### **Comments/Suggestions of RBI**

2.268 The Reserve Bank had launched the Integrated Ombudsman Scheme (RB-IOIS), 2021 in November 2021. This intends to make the process of redress of grievances easier by enabling the customers of the entities regulated by RBI to register their complaints, with one centralised reference point with the objective to resolve customer grievances in relation to services provided by entities regulated by RBI in an expeditious and cost-effective manner. The RB-IOIS, 2021 includes under its ambit, among other entities, scheduled Primary (Urban) Co-operative Banks and non-scheduled Primary (Urban) Co-operative Banks with a deposit size of ₹50 crore and above, which includes the MSCBs as well. Complaints against regulated entities of RBI presently not covered under RB-IOIS, 2021 shall be handled by the Consumer Education and Protection Cell (CEPC) of Reserve Bank of India. Further, RB-IOIS, 2021 endeavors to extend its ambit to all REs of RBI in a phased manner.

19. All complaints involving “deficiency in service” in banking, except those listed in the exclusion list, shall be covered under the RB-IOIS, 2021. Complainants can lodge their complaints online 24x7 on the Complaint Management System Portal of RBI. A Centralized Receipt and Processing Centre (CRPC) has been set up at Regional Office, Chandigarh as a single point receipt of complaints from customers of all entities regulated by RBI (for the Offices of RBI-Ombudsman and CEPCs) along with a Contact Center including multi-lingual support. The RB-IOIS, 2021 adopts ‘One Nation One Ombudsman’ approach by making the RBI Ombudsman mechanism jurisdiction neutral.

Thus they apprised that the Integrated Ombudsman Scheme and other mechanism for similar purpose for customers of multi-state cooperative UCBs which have been framed under Sec.35A of B R Act also serve similar purposes. Further RBI has accorded regulatory approval to NAFCUB in June 2019 for formation of UO for UCB sector to provide support to its member UCBs.

### **Comments of Ministry of Cooperation**

2.269 In regard to the above submission of RBI. the Ministry stated that as per the prevailing practice, Banking license by RBI is given to entities incorporated under different laws such as Indian Companies Act or various Cooperative Societies Acts. All such entities are governed by the respective acts under which they are incorporated as well as under Banking Regulation Act, 1949. As such dual regulation exists for all such entities. To bring clarity, the amendment Bill proposes in Section 120 B (new insertion) that the provisions of MSCS Act 2002 are applicable to a multi-State cooperative bank in respect of matters relating to incorporation, regulation and winding up: Provided that in case of a multi-State cooperative society carrying on the business of banking, the provisions of the Banking Regulation Act, 1949, shall also apply.

However, the concern on concurrent audit for UCBs expressed by RBI will be taken into account while prescribing criteria.

### **Suggestions by stake holders**

2.270 **NCDC** held that it would provide an easy, cheap and effective dispute redressal mechanism for the members of cooperative society and improve efficiency in its functioning and also speed up the disposal of the complaints. **NAFSCOB** recommended that the Criteria for appointment of Ombudsman should be clearly spelt out. They have further suggested that Cooperative Ombudsmen be drawn from cooperatives preferably those retired from National Level MSCS for better understanding of issues and give an unbiased judgement.

2.271 For UCBs, **NAFCUB** argued that since co-operative banks are covered under the purview of Banking Ombudsman Scheme as per RBI guidelines, there is no need for separate "Co-operative Ombudsman". This is more so with UCBS are also part of Integrated Ombudsman scheme of Central Govt./ RBI. apart from banking Ombudsman.

### **Comments of Ministry of Cooperation**

2.272 The criteria for appointment of Ombudsman under section 85A will be prescribed in the rules and the suggestion of NAFSCOB for drawing out people from Cooperatives preferably those retired from National Level MSCS will be taken into consideration at the time of framing Rules

The suggestion of NAFCUB will be considered at the time of framing rules for appointment of Ombudsman and the manner of addressing grievances by the Ombudsman.

2.273 The Ministry further apprised that the board of the MSCS is already responsible for grievance redressal of the members. However, the suggestion for members to approach society first for grievance redressal and thereafter, only aggrieved members to approach Ombudsman will be considered at the time of framing rules.

#### **Observation/recommendation of the Committee**

**2.274 The Committee deliberated upon the proposal made in the Clause including the suggestions made by the stakeholders and the rationale/reply given by the Ministry of Cooperation and decided to accept the amendment proposed under the Clause.**

#### **Clause No. 32**

#### **Provision in the Principal Act**

#### **2.275 Section 86: Winding up of multi-state cooperative societies**

(1) If the Central Registrar, after audit has been conducted under section 70 or special audit has been conducted under section 77 or an inquiry has been held under section 78 or an inspection has been made under section 79, is of opinion that the society ought to be wound up, he may, after giving the society a reasonable opportunity of making its representations by order, direct it to be wound up.

#### **Amendment proposed in the Bill**

2.276 “In section 86 of the principal Act,—

(a) in sub-section (1), after the words and figures “under section 79”, the words and figures “or section 108” shall be inserted;”

#### **Rationale behind the amendment**

2.277 “Section 108 i.e. proceedings relating to inspection also included as grounds for initiating winding up.”

#### **Observation/recommendation of the Committee**

**2.278 The Committee deliberated upon the proposal made in the Clause including the rationale/reply given by the Ministry of Cooperation and decided to accept the amendment proposed under the Clause.**

**Provision in the Principal Act**

2.279 (2) The Central Registrar may, of his own motion and after giving the multi-state cooperative society a reasonable opportunity of making its representation, make an order directing the winding up of the multi-state cooperative society,

(a) where it is a condition of the registration of the society that the society shall consist of at least fifty members and the number of members has been reduced to less than fifty; or

**Amendment proposed in the Bill**

2.280 “(b) in sub-section (2),—

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

“(a) where the number of members or the number of societies or the number of persons, as the case may be, has at any time reduced below the number of members or societies or persons as specified in sub-section (2) of section 6:

Provided that the multi-state society shall be given six months time to restore the number of members or societies or persons to the requisite number;”;

**Rationale behind the amendment**

2.281 **“Strengthening of Monitoring Mechanism**

This will give an opportunity to MSCS to restore the number of requisite members.”

**Observation/recommendation of the Committee**

**2.282 The Committee deliberated upon the proposal made in the Clause including the rationale/reply given by the Ministry of Cooperation and decided to accept the amendment proposed under the Clause.**

**Provision in the Principal Act**

2.283 (b) where the multi-state cooperative society has not commenced working within a period of six months of the date of its registration or such extended period as the Central Registrar may allow in this behalf or has ceased to function in accordance with **cooperative principles.**

### **Amendment proposed in the Bill**

2.284 “(ii) in clause (b), for the words “co-operative principles.”, the words “co- operative principles; or” shall be substituted;

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

“(c) where the Central Registrar has reasons to believe that the registration was obtained by misrepresentation of facts, submission of false or misleading information, suppression of material facts or fraud thereby compromising the spirit of co-operation.”.

### **Rationale behind the amendment**

2.285 “This will ensure weeding out of societies trying to get registered with false information and fraudulent documents.”

### **Observation/recommendation of the Committee**

**2.286 The Committee deliberated upon the proposal made in the Clause including the suggestions made by the stakeholders and the rationale/reply given by the Ministry of Cooperation and decided to accept the amendment proposed under the Clause.**

### **Provision in the Principal Act**

2.287 (5) Notwithstanding anything contained in this section, no cooperative bank shall be wound up except with the previous sanction, in writing of the Reserve Bank.

### **Amendment proposed in the Bill**

2.288 “(c) for sub-section (5), the following sub-section shall be substituted, namely:—

“(5) Notwithstanding anything contained in this section, in case of winding up of multi-State co-operative banks, the provisions of the Banking Regulation Act, 1949 shall also apply.”

### **Rationale behind the amendment**

2.289 “To ensure applicability of BR Act also in case of MSCS Banks.”

### **Provision in the Principal Act**

2.290 (6) Notwithstanding anything contained in this section, the Central Registrar shall make an order for the winding up of a multi-state cooperative society, if the society, by

a resolution passed by two-third majority of members present and voting in a general meeting decides for winding up of that society.

### **Amendment proposed in the Bill**

2.291 “(d) in sub-section (6), the following shall be inserted, namely:—

‘Provided that prior to winding up, “no objection” from the institutional lenders, who have outstanding loans from the society, shall be required in writing.

Explanation.—For the purposes of this proviso, the expression "institutional lenders" includes banks, savings and loan association, trust company, insurance company, real estate investment trust, pension fund and the like.”

### **Rationale behind the amendment**

2.292 “To ensure that interest of institutional lenders are protected in case of winding up.”

### **Comments/views of RBI**

2.293 In their submission before the Committee, RBI stated that the new provision says that “notwithstanding anything contained in this section, in case of winding up of multi-state cooperative banks, the provisions of the BR Act, 1949 shall also apply”. This clause does not recognise the requirement of prior approval of RBI. This may affect depositors’ interest and financial stability. Further, DICGC coverage is available only to eligible cooperative banks as defined in section 2(gg) of the DICGC Act. Section 2(gg) (i) of the DICGC Act 1961, provides that an order for the winding up, or an order sanctioning a scheme of compromise or arrangement or of amalgamation or reconstruction, of the bank may be made only with the previous sanction in writing of the Reserve Bank. Hence, if the proposed Section 86(5) of MSCS Act, 2002 is implemented, the multi-state cooperative banks may lose the deposit insurance cover provided under DICGC Act.

### **Examination by the Committee**

2.294 As per Clause No. 32, in case of winding up of Cooperative Bank, the provisions of the Banking Regulation Act, 1949 shall also apply. As per the Principal Act no cooperative bank could be wound up except with the previous sanction, in writing of the Reserve Bank. In this regard, Ministry of Cooperation was asked about the rationale for subjecting MSCS Banks to twin regulations when they should specifically be included within the jurisdiction of RBI.

**Ministry of Cooperation in its reply stated as follows:-**

2.295 As per the prevailing practice, Banking license by RBI is given to entities incorporated under different laws such as Indian Companies Act or various Cooperative Societies Acts. All such entities are governed by the respective acts under which they are incorporated as well as under Banking Regulation Act, 1949. As such dual regulation exists for all such entities. To bring clarity, the amendment Bill proposes in Section 120 B (new insertion) that the provisions of MSCS Act 2002 are applicable to a multi-State cooperative bank in respect of matters relating to incorporation, regulation and winding up: Provided that in case of a multi-State cooperative society carrying on the business of banking, the provisions of the Banking Regulation Act, 1949, shall also apply. This proposed provision is as per Article 243ZI and the third proviso to Article 243 ZL of the Constitution.

2.296 During the process of Inter-ministerial consultation, Department of Financial Services (DFS) vide their letter dated 04.10.2022 informed that proposed revised Bill is largely aligned with BR Act and thus, the DFS agrees with and supports the amendment Bill. Further, DFS will make suitable amendments in the BR Act so that its provisions are in consonance with the Constitution..

**Observation/recommendation of the Committee**

**2.297 The Committee deliberated upon the proposal made in the Clause including the suggestions made by the stakeholders and the rationale/reply given by the Ministry of Cooperation and decided to accept the amendment proposed under the Clause.**

**Clause No. 33**

**Provision in the Principal Act**

**2.298 Section 94: Execution of decisions, etc**

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,-

### **Amendment proposed in the Bill**

2.299 “In section 94 of the principal Act, in the opening paragraph, after the words and figures “**section 83 or**”, the words and figures “**section 84 or**” shall be inserted.”

### **Rationale behind the amendment**

2.300 “To put in place mechanism for implementation of awards of arbitrator.”

### **Observation/recommendation of the Committee**

**2.301 The Committee deliberated upon the proposal made in the Clause including the rationale/reply given by the Ministry of Cooperation and decided to accept the amendment proposed under the Clause.**

### **Clause No. 34**

### **Provision in the Principal Act**

#### **Section 98: Recovery of sums due to Government**

2.302 (2) Sums due from a multi-state cooperative society to the Central Government or a State Government and recoverable under subsection (1) may be recovered firstly from the property of the society and secondly from the members, past members or the estates of deceased members, subject to the limit of their liability: Provided that the liability of past members and the estate of deceased members shall in all cases be subject to the provisions of section 37.

### **Amendment proposed in the Bill**

2.303 “In section 98 of the principal Act, after sub- section (2), the following sub-section shall be inserted, namely:—

“(3) The Central Registrar shall also have the power to recover the following dues by attaching bank accounts of defaulting multi-State co- operative societies—

(a) the co-operative education fund referred to in clause (b) of sub-section (1) of section 63;

(b) the Co-operative Rehabilitation, Reconstruction and Development Fund established under section 63A; and

(c) the expenses incurred by the Co-operative Election Authority for conduct of elections.”.

### **Rationale behind the amendment**

**2.304 “Enabling raising of funds by Cooperative Sector**



To ensure recovery of dues of CEF, proposed rehabilitation Fund, etc.”

### **Examination by the Committee**

#### **Comments of RBI**

2.305 The proposed amendment to Section 98 gives power to Central Registrar to attach bank accounts of defaulting MSCS for recovery of dues to Cooperative Education Fund, Cooperative Rehabilitation, Reconstruction and Development Fund and expenses incurred by the Cooperative Election Authority. It may be mentioned that as per existing provisions (Section 94), Central Registrar is deemed to be a Civil Court when exercising any powers under this Act for the recovery of any amount by attachment or when passing any orders. With the amendment proposed, non-contribution to the said Funds has been made an offence making the bank accounts of defaulting MSCS liable for attachment. This may be adversarial in situations such as where there are incipient signs of net worth / deposit erosion or default in payment of deposit insurance premium or transfer of funds to Depositor Education and Awareness Fund (DEA Fund) or restrictions on expense have been imposed by RBI. It is therefore suggested that any attachment of bank accounts of Multi-state UCB should only be with prior approval of RBI.

#### **Comments of Ministry of Cooperation**

2.306 Contribution to Co-operative Rehabilitation, Reconstruction and Development Fund will be from MSCS which are in profit for the preceding three financial years, limited to one crore rupees or one per cent. of the net profits of such multi-State co-operative society, whichever is less. Contribution to cooperative education fund (CEF) is already there in the existing section 63 of the Act which provides for credit of one per cent of net profits to the National Cooperative Union of India Limited (NCUI). Since contribution to the aforementioned funds is a statutory compliance like Income Tax/ GST, the compliances and recovery has to be done without any prior approval of any other authority.

#### **Observation/recommendation of the Committee**

**2.307 The Committee deliberated upon the proposal made in the Clause including the suggestions made by the stakeholders and the rationale/reply given by the Ministry of Cooperation and decided to accept the amendment proposed under the Clause.**

## Clause No. 35

### **New insertion 98A**

#### **Amendment proposed in the Bill**

2.308 "After section 98 of the principal Act, the following section shall be inserted, namely:—

"98A. The Central Registrar may, on an application received from any party, review his decision under clause (a) or clause (b) or clause (c) of sub-section (1) of section 94:

Provided that no application for review shall be entertained against the recovery certificate issued by the Central Registrar or by any person authorised by him in writing in this behalf, unless the applicant deposits with the concerned society, fifty per cent. of the amount of the recoverable dues:

Provided further that no application for review shall be entertained, if made after sixty days of the date of receipt of the decision or order:

Provided also that the Central Registrar may entertain any such application made after such period, if the applicant satisfies that he had sufficient cause for not making the application within such period."

#### **Rationale behind the amendment**

2.309 "To provide an avenue for review of decisions for recovery of dues."

#### **Observation/recommendation of the Committee**

**2.310 The Committee deliberated upon the proposal made in the Clause including the rationale/reply given by the Ministry of Cooperation and decided to accept the amendment proposed under the Clause.**

## Clause No. 36

### **Provision in the Principal Act**

**2.311 Section 103: Cooperative societies functioning immediately before reorganisation of states**

(1) Where, by virtue of the provisions of Part II of the State Reorganisation Act, 1956 (37 of 1956) or any other enactment relating to reorganisation of states, any cooperative 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 cooperative society, it shall be deemed to be a multi- state cooperative society registered under the corresponding provisions of this Act and the bye-laws of such society shall, in so far as

they are not inconsistent with the provisions of this Act, continue to be in force until altered or rescinded.

### **Amendment proposed in the Bill**

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

"Provided that where all the successor States take necessary steps to divide or reorganise such deemed multi-State co-operative society into State co-operative societies in order to confine their objects, services and the members to respective States within a period of three years, such deemed multi-State co-operative society shall cease to be a multi-State co-operative society: Provided further that the deemed multi-State co-operative society other than those mentioned in the first proviso shall submit an application for registration and obtain the certificate of registration from the Central Registrar."

### **Rationale behind the amendment**

2.313 "Option for successor States for the re-organisation of deemed MSCs into State societies within a period of 3 years."

### **Suggestions by stake holders**

2.314 NABARD held the view that the provision is required to enable the continuation of good working Cooperative Societies as MSCS in the successor states. It will avoid unwarranted bifurcation of societies post reorganization of states.

### **Observation/recommendation of the Committee**

**2.315 The Committee deliberated upon the proposal made in the Clause including the suggestions made by the stakeholders and the rationale/reply given by the Ministry of Cooperation and decided to accept the amendment proposed under the Clause.**

## **Clause 37**

### **Provision in the Principal Act**

#### **2.316 Section 104: Offences and Penalties**

(1) A multi-state cooperative 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 multistate cooperative 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 cooperative 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.

(4) Whoever, before, during or after the election of delegates under the proviso to sub-section

(1) of section 38 or election of members of the board,-

.....

(h) offers any gift or promises to offer any gratification to any person with the object, directly or indirectly, of including-

.....

(iii) a member for having voted or refrained from voting, shall be punishable with imprisonment for a term which may extend to six months or with fine or with both.

### **Amendment Proposed in the Bill**

2.317 "In section 104 of the principal Act,—

(a) in sub-section (1),—

(i) after the words "furnishing false information", the words "or failing to file any return or information" shall be inserted;

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

(iii) for the words "ten thousand rupees", the words "one lakh rupees" shall be substituted;

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

(c) in sub-section (3),—

(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;

(d) in sub-section (4),—

(i) in clause (h), after the words "to any person", the words "or receives such gift, promise or gratification" shall be inserted;

(ii) in the long line, occurring after sub-clause (iii) of clause (h), after the words "or with both", the words "and shall also be debarred from contesting elections for a period of three years" shall be inserted;

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

"(5) Where a multi-State co-operative society,—

a) which is required to provide an explanation or make a statement during the course of inspection, inquiry or investigation, destroys, mutilates or falsifies, or conceals or tampers or unauthorisedly removes, or causes the destruction, mutilation or falsification or concealment or tampering or unauthorised removal of, any document relating to the property, assets or affairs of the society or makes or causes to make a false entry in any document concerning the society;

b) makes any investment in contravention of the provision of section 64 or the bye-laws made under this Act;

c) Causes unlawful loss to the assets and property of the society; or

d) causes unlawful loss to the depositor, the board of directors or the responsible officers of the multi-State co-operative society shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to one year or with fine which shall not be less than five thousand rupees but may extend to one lakh rupees or with both.

(6) Where the board of directors or officers of the multi-State co-operative society receive any unlawful gains while transacting matters related to such society or utilise any assets of the society for personal unlawful gains, such directors or officers concerned shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to one year or with fine which shall not be less than five thousand rupees but may extend to one lakh rupees or with both and the proceeds of such unlawful gains shall be recovered from them and deposited in such manner as may be prescribed."

## **Rationale for Amendment**

### **Strengthening of Monitoring Mechanism**

2.318 This will ensure member and Board directors discipline. Fine amount was fixed way back in 2002 and needed a revision. Provision needed to enforce furnishing of returns as many MSCS are not filing timely returns.

Receiving of Gifts, promise or gratification for electoral malpractices included as offence. Debarment to contest elections for 3 years will be a deterrent to committing electoral offences. Provision needed to punish for unlawful loss to society/depositors, unlawful personal gain to self, investment in contravention of Bye-laws/Act.

## **Examination by the Committee**

### **Suggestions by stakeholders**

2.319 NCDC has stated that 20 years have elapsed but no revision of penalty has been made. The proposed change is made in consonance with inflation. This will bring the discipline in the society for filing returns in time.

2.320 During the clause by clause consideration, the Committee raised the concern that we are moving towards decriminalisation then why we are using term penalty rather than fine. In this regard, a representative of the Ministry of Cooperation clarified, "After the words furnishing false information, the words are 'failing to file the returns. These are criminal offences."

### **Observation/recommendation of the Committee**

**2.321 The Committee deliberated upon the proposal made in the Clause including suggestion made by the stakeholder and the rationale/reply given by the Ministry of Cooperation and decided to accept the amendment proposed under the Clause.**

## **Clause 38**

### **Provision in the Principal Act**

#### **2.322 "Section 105: Cognizance of offences**

(1) No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence under this Act.

(2) No prosecution for offences under section 104 shall be instituted except on a complaint filed in writing by a member of a multi-state cooperative society or by the Central Registrar in the competent court."

### **Amendment Proposed in the Bill**

2.323 After section 105 of the principal Act, the following section shall be inserted, namely:—

"105A. The provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force."

### **Rationale for Amendment**

2.324 To clarify applicability of other Acts. The provisions of this Act shall be in addition to, and not in derogation to any other Act. In fact, this is not only for BR Act but for all other Acts.

### **Observation/recommendation of the Committee**

**2.325 The Committee deliberated upon the proposal made in the Clause including the rationale/reply given by the Ministry of Cooperation and decided to accept the amendment proposed under the Clause.**

### **Clause 39**

#### **Provision in the Principal Act**

#### **2.326 “Section 106 Copies of bye-laws, etc., to be open to inspection**

Every multi-state cooperative society shall keep a copy of the rules and its bye-laws and also a list of its members open to inspection free of charge at all reasonable times, at the registered address of the society.”

#### **Amendment Proposed in the Bill**

2.327 For section 106 of the principal Act, the following sections shall be substituted, namely:—

"106. (1) Every multi-State co-operative society shall appoint a Co-operative Information Officer to provide the information relating to affairs and management of the society to the members of the society and such information shall be confined to the information falling under the disclosure norms specified by the society in its bye-laws.

(2) Any member of multi-State co-operative society shall make an application, accompanying such fee as may be prescribed, to get information specified in sub-section (1).

(3) The Co-operative Information Officer shall, within thirty days from the date of receipt of application, either provide the information or reject the application specifying the reason to do so.

(4) Any member of the multi-State co-operative society whose application has been rejected may prefer an appeal to the Co-operative Ombudsman within a period of one month from the date of such rejection and his decision shall be final and binding.

106A. Every Chief Executive of 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

of charge at all reasonable times, at the registered address of the multi-State co-operative society."

### **Rationale for the proposed amendment**

2.328 "In line with Article 243ZO(1) of the Constitution.

**Strengthening Governance and Transparency:** More structured mechanism needed for furnishing information to members. This will bring in transparency in governance and will ensure accountability."

### **Examination by the Committee**

#### **Suggestions by stakeholders**

2.329 **As per NAFSCOB**, every multi-State cooperative society shall appoint a Co-operative Information Officer (CIO) or designate any officer in the MSCS to officiate as CIO to provide the information relating to affairs and management of the society to the members of the society and such information shall be confined to the information falling under the disclosure norms specified by the society in its bye-laws.

2.330 **NAFCUB** has suggested that the Right to Information Act, 2005 shall not be applicable to MSCSs provided they do not have equity stake or substantial interest in the society by way of funding or investment by Government of India or for that matter any Government company/organization or any State Government.

2.331 According to **NCDC**, this will bring in the transparency in the working of the society. The access to information will help in making cooperative societies accountable and also useful for other purposes which would serve the overall interests of the members of the society.

### **Comments of the Ministry**

2.332 The proposed provision for appointment of 'Information Officer' in MSCS is in line with Article 243ZO(1) of the Constitution. It is upon the MSCS to designate such Information Officer either from its existing employees or employ a separate officer for this purpose. Further, the information officer will provide the information relating to affairs and management of the society to the members of the society and such information shall be confined to the information falling under the disclosure norms specified by the society in its bye-laws. This will improve transparency in the working of cooperatives.



### Observation/recommendation of the Committee

2.333 The Committee deliberated upon the proposal made in the Clause including suggestions made by the stakeholders and the rationale/reply given by the Ministry of Cooperation and decided to accept the amendment proposed under the Clause.

### **Clause 40**

#### Provision in the Principal Act

2.334 **Section 108: Inspection of books of account, etc., of multi-state cooperative society**

(1) The books of account and other books and papers of every multistate cooperative society shall be open to inspection during business hours-

(i) By the **Central Registrar**, or

#### Amendment Proposed in the Bill

2.335 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, not below the rank of Assistant Commissioner or equivalent**" shall be inserted.

#### Rationale for the proposed amendment

2.336 To facilitate inspection by office of CRCS.

#### Examination by the Committee

2.337 During the Clause by Clause examination of the Bill, there was an observation about the additional financial burden of that legislation on the stakeholders and it was suggested to do a cost of compliance at some stage. In this regard, the Secretary, the Ministry of Cooperation submitted as under-

"It should be in the case of concurrent audit. Where there is a need for a concurrent audit, suppose the Government of India imposes a tax of Rs 10,000 crore or Rs 5,000 crore, a multi-state cooperative society with a turnover of more than Rs 5,000 crore will have to get a concurrent audit done. Concurrent audit is expensive. That's why you have to make efforts after seeing that. But we will have to work out the cost of compliance in the case of concurrent audit"

The Nodal Ministry further clarified that the suggestion to exclude members from inspecting the books of accounts and other books of the MSCS is not accepted as it goes against the principle of transparency.

### **Suggestions by stakeholders**

2.338 NAFSCOB has suggested, “by the Central Registrar, or any person authorized by him in this behalf, not below the rank of Assistant Commissioner or equivalent at a national level (Not at the state level)”

2.339 In this regard, NAFCUB has stated that this provision fails to maintain secrecy/and disclosure norms as stipulated by RBI for sharing of information. While there is no objection for sharing of any information with any of the regulatory authorities, for members this open provision violates of RBI secrecy and disclosure norms. It has proposed to add to clause (iii) of sub-section 1 of Section 108, “Provided any member of the bank may inspect any of the registers or records during office hours in so far as it relates to his/her own business transactions”.

2.340 Kendriya Bhandar has suggested that The Section 108(1)(iii) in the Principal Act i.e. MSCS Act 2002 provides similar power to members of a society as are vested in Central Registrar/Central Government and a number of members in existing societies are misusing this provision with vested interest. This is practically not feasible to provide access to every member, if they demands so, to inspect or to have copy of every books and papers of the society. If similar powers as vested in Central Registrar or officer authorized by him/Government, a situation may also arise when a member may like to inspect or ask copy of every book and paper held in any society and if this is allowed even large working/functional society will come to grinding halt.

Therefore, Section 108(1)(iii) may be deleted from the Principal Act. Further, in case, a member submits any credible information/ complaint to Central Registrar, based upon such information, Central Registrar may call for relevant information from the Society and may take such action as may be deemed fit & necessary as per MSCS Act, 2002.

### **Comments of the Ministry of Cooperation**

2.341 As per the existing provision of section 108 of MSCS Act 2002, the books of account and other books and papers of every multi-State cooperative society shall be open to inspection during business hours by the Central Registrar, or by such officer of the Government as may be authorised by the Central Government in this behalf or by the members of the multi-state cooperative society. In the proposed amendment, in

addition to Central Registrar, any person authorized by him not below the rank of Assistant Commissioner has been authorized for inspection.

2.342 View of the apprehensions of the Committee with regard to word penalty, the Ministry of Cooperation submitted as under-

“It should be in the case of concurrent audit. Where there is a need for a concurrent audit, suppose the Government of India imposes a tax of Rs 10,000 crore or Rs 5,000 crore, a multi-state cooperative society with a turnover of more than Rs 5,000 crore will have to get a concurrent audit done. Concurrent audit is expensive. That's why you have to make efforts after seeing that. But we will have to work out the cost of compliance in the case of concurrent audit”

2.343 The Nodal Ministry further clarified that the suggestion to exclude members from inspecting the books of accounts and other books of the MSCS is not accepted as it goes against the principle of transparency.

### **Observation/recommendation of the Committee**

**2.344 The Committee deliberated upon the proposal made in the Clause including the suggestions made by the stakeholders and the rationale/reply given by the Ministry of Cooperation and decided to accept the amendment proposed under the Clause.**

### **Clause 41**

#### **Provision in the Principal Act**

#### **2.345 Section 116: Power to amend Second Schedule**

(1) If the Central Government is satisfied that any multi-state cooperative society should be designate as a national cooperative society or any national cooperative society specified in the Second Schedule should be omitted from the said Schedule, it may, by notification, amend the said Schedule so at to include therein such multi-state cooperative society or exclude therefrom such national cooperative society, and thereupon the said Schedule shall be deemed to have been amended accordingly.

(2) (2) A copy of every notification under **sub- section (1)** shall be laid before each House of Parliament as soon as may be after it is made.

#### **Amendment Proposed in the Bill**

2.346 In section 116 of the principal Act,—

(i) for the marginal heading, the following marginal heading shall be substituted, namely:—

"Power to amend Schedules";

(ii) after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) If the Central Government is satisfied that it is necessary or expedient so to do, it may, by notification, amend the First Schedule and the Third Schedule and thereupon such Schedules shall be deemed to have been amended accordingly: Provided that in case of the First Schedule, such notification shall be used only for adding to the co-operative principles in the list;

(iii) in sub-section (2), for the word, brackets and figure "sub-section (1)", the words, brackets, figures and letter "**sub-sections (1) and (1A)**" shall be substituted."

### **Rationale for the proposed amendment**

2.347 To include powers to amend the proposed third schedule and facilitate addition of Cooperative principles to the first schedule.

### **Examination by the Committee**

#### **Suggestions by stakeholders**

2.348 As per Clause 41 of the Bill which aims to amend Section 116 of the Bill, if the Central Government is satisfied that it is necessary or expedient so to do, it may, by notification, amend the First Schedule and the Third Schedule and there upon such Schedules shall be deemed to have been amended accordingly, In this regard NAFCUB has stated that this schedule includes the cooperative principles agreed upon by the international cooperative alliance and the Government of India is a signatory to it. Therefore, there is no justification to empower the Government to amend the same. Secondly, a provision should be made that all the registered multistate cooperative societies shall be default deem to be member of their sectoral federations and National/State Level/Union Territory Cooperative Unions. NAFCUB has also suggested that in the third schedule the Acts like the Insolvency Act, SARFAESI Act, Income Tax and the Negotiable Instruments Act should also be included.

### **Comments of the Ministry of Cooperation**

2.349 (i) The proposed amendment in section 116 regarding amendment in first schedule containing Cooperative Principles is limited to only adding to the list of Cooperative Principles and any addition will be made keeping in consideration the National/ International obligations.

(ii) Regarding suggestion by NAFCUB that a provision should be made that all the registered multistate cooperative societies shall be deemed by default to be member of their sectoral federations and National/State Level/Union Territory Cooperative Unions. This is not in accordance with cooperative principle of

'Voluntary membership'. The National federations should make adequate efforts to expand their membership to all cooperatives.

(iii) The list of Acts covered in the third schedule is adequate

### **Observation/recommendation of the Committee**

**2.350 The Committee deliberated upon the proposal made in the Clause including the suggestions made by the stakeholders and the rationale/reply given by the Ministry of Cooperation and decided to accept the amendment proposed under the Clause.**

## **Clause 42**

### **Provision in the Principal Act**

#### **2.351 Section 120: Filing of returns**

Every year within six months of the closure of the accounting year every multi-state cooperative society shall file the following returns with the Central Registrar, namely-

(a) annual report of the activities

(b) audited statements of accounts;

(f) any other information required by the Central Registrar in pursuance of any of the provisions of this Act.

### **Amendment Proposed in the Bill**

2.352 In section 120 of the principal Act,—

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

"(a) annual report of the activities including details of board decisions which were not unanimous;"

(ii) for clause (f), the following clauses shall be substituted, namely:—

"(f) disclosure regarding employees who are relatives of Members of board;

(g) declaration of any related party transactions by the board of directors; and

(h) any other information required by the Central Registrar in pursuance of any of the provisions of this Act or the rules made thereunder."

### **Rationale for the proposed amendment**

#### **2.353 Strengthening Governance and Transparency**

This will increase transparency and help in keeping a watch over controversial decisions.

(f) To curb nepotism and increase transparency in recruitment

(g) Transparency in the board of MSCS.

### **Examination by the Committee**

2.354 During the briefing on the provisions contained in the Bill by the representatives of the Ministry of Cooperation, the Committee asked for the comments of the Ministry of Cooperation on board decisions which are not unanimous and whether the annual report will contain names of the members disagreeing (Section 120). Will there be a dissenting note? Why has the decision not been Unanimous? A Brief note on that could be made mandatory. In this regard, the Ministry of Cooperation in its post briefing reply stated as under:-

“In response to the concern of the committee the nodal ministry stated that in the existing MSCS Act, 2002 there is no provision for reporting board decisions which are not unanimous. Vide substitution of Section 120(i)(a) which is being proposed in the amendment bill, all MSCS will have to submit their Annual report along with the details of such Board decisions which were not unanimous. This will improve transparency in the functioning of the MSCS.”

### **Observation/recommendation of the Committee**

**2.355 The Committee deliberated upon the proposal made in the Clause including the rationale/reply given by the Ministry of Cooperation and decided to accept the amendment proposed under the Clause.**

**Clause 43: Insertion of new sections 120A and 120B.**

### **Provision in the Principal Act**

2.356 New insertion

### **Amendment Proposed in the Bill**

2.357 After section 120 of the principal Act, the following sections shall be inserted, namely:—

"120A. (1) Notwithstanding anything to the contrary contained in this Act, and without prejudice to the provisions of the Information Technology Act, 2000, the Central Government may, from such date as may be notified, require that—

(a) such applications, returns, reports, statement of accounts, or any other particulars or document as may be required to be filed or delivered under this Act or the rules made thereunder, shall be filed in the electronic form and authenticated;

(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 in the electronic form and authenticated;

- (c) such applications, returns, reports, statement of accounts, registers, bye-laws or any other particulars or documents and returns filed under this Act or the rules made thereunder shall be maintained by the Central Registrar in the electronic form and registered or authenticated, as the case may be;
- (d) such inspection of bye-laws, returns, reports, statement of accounts or any other particulars or documents maintained in the electronic form, as is otherwise available for inspection under this Act or the rules made thereunder, may be made by any person through the electronic form; and
- (e) such fees, charges or other sums payable under this Act or the rules made thereunder shall be paid through the electronic form,

in such manner as may be prescribed.

(2) The Central Registrar shall—

- (a) issue certificate of registration;
- (b) register the amendment of bye-laws;
- (c) register change of registered office;
- (d) register any document;
- (e) issue any certificate;
- (f) issue notice; and
- (g) 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 the rules made thereunder or perform duties or discharge functions or exercise powers under this Act or the 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.

120B. The provisions of this Act shall apply to a multi-State co- operative society in respect of matters relating to incorporation, regulation and winding up:

Provided that in case of a multi-State co-operative society carrying on the business of banking, the provisions of the Banking Regulation Act, 1949 shall also apply.”

### **Rationale for the proposed amendment**

#### **2.358 120A: Ease of doing business**

This is a newly added provision. Paperless / digital office is need of the hour. e-filing of reports/documents will be enabled under the Act. This will also promote ease of doing business. Separately, office of CRCS is being computerized.

120B: In line with Article 243ZI and 243ZL (3rd proviso) of the Constitution and This will clarify jurisdictional issues between BR Act and the present Act.

### **Examination by the Committee**

#### **Comments of RBI**

2.359 RBI with respect to the insertion of Section 120B, have stated that This proposed insertion of Section 120B may lead to uncertainty regarding the legal enforceability of

guidelines issued by RBI. The Reserve Bank is of the opinion that word “also” shall not provide primacy to the provisions of BR Act for multi-state co-operative societies carrying out banking business. It is of the opinion that proposed modified Section 120B addresses the concerns only to a limited extent and it cannot be treated as *non-obstante* clause giving primacy to the BR Act and providing overriding powers to RBI in case of multi-state cooperative banks. Though by virtue of the *non-obstante* clause in section 56 of the BR Act, it can be said that in case of any conflict between the provisions in these two Acts, the provisions of the BR Act will prevail, the possibility of further legal issues arising in this regard may not be ruled out in absence of express provision regarding primacy of the BR Act over the MSCS Act. Hence, in order to avoid possible conflict, it is suggested for deletion of the word ‘also’ from the proviso to the proposed section 120B or add an overarching provision in Section 2, as suggested.

### **Comments of the Ministry of Cooperation**

2.360 The proposed provision 120B is as per Article 243ZI and the third proviso to Article 243 ZL of the Constitution.

As per the prevailing practice, Banking license by RBI is given to entities incorporated under different laws such as Indian Companies Act or various Cooperative Societies Acts. All such entities are governed by the respective acts under which they are incorporated as well as under Banking Regulation Act, 1949. As such dual regulation exists for all such entities. To bring clarity, the amendment Bill proposes in Section 120 B (new insertion) that the provisions of MSCS Act 2002 are applicable to a multi-State cooperative bank in respect of matters relating to incorporation, regulation and winding up: Provided that in case of a multi-State cooperative society carrying on the business of banking, the provisions of the Banking Regulation Act, 1949, shall also apply.

2.361 When it was further asked, how do they intend to avoid potential dispute and ambiguity about the enforceability of RBI's guidelines under the law, the Ministry of Cooperation stated that during the process of Inter-ministerial consultation, Department of Financial Services (DFS) vide their letter dated 04.10.2022 informed that proposed revised Bill is largely aligned with BR Act and thus, the DFS agrees with and supports the amendment Bill and DFS will make suitable amendments in the BR Act so that its provisions are in consonance with the Constitution. The same was also stated by Secretary (DFS) in the JPC meeting held on 19.01.2023.



2.362 In response to the concern raised regarding dual regulation of the cooperative banks the nodal ministry further clarified that-

“As per the prevailing practice, Banking licence by RBI is given to entities incorporated under different laws such as Indian Companies Act or various Cooperative Societies Acts. All such entities are governed by the respective acts under which they are incorporated as well as under Banking Regulation Act, 1949. As such dual regulation exists for all such entities. To bring clarity, the amendment Bill proposes in Section 120 B (new insertion) that the provisions of MSCS Act 2002 are applicable to a multi-State cooperative bank in respect of matters relating to incorporation, regulation and winding up. However, the provisions of the Banking Regulation Act, 1949, shall also apply to multi-State Cooperative Banks. This is in line with Article 243ZI and the third proviso to Article 243 ZL of the Constitution”.

### **Suggestions by stakeholders**

2.363 **NCDC** :It will make process easier and faster for filing the returns and would promote digital governance as well as paperless offices.

2.364 According to NABARD, this is in tune with the provisions of State Cooperative Societies Act in various states and BR Act (AACS), 1949.

section 120A(1)- At all places where authentication is required, ‘by digital signature’ may be added.

section 120(j) -Details of frauds/ irregularities observed during the year can be added.

2.365 During clause by clause examination of the Bill, the Committee noted that in the case of multi-State cooperative society carrying on the business of banking, the provision of Banking Regulation Act shall also apply. So, there was an observation that whichever are the higher standards, should be applied. In this regard, the Secretary, the Ministry of Cooperation submitted that RBI regulations will be in addition to the regulations of this Act. But for example RBI cannot, through BR Act, change the DNA structure of any multiple-State cooperative society. Therefore, both will have to be concurrently applied. Both these lines have come out of Article 243ZI and 243ZL specifically written in the Constitution.

### **Observation/recommendation of the Committee**

2.366 The Committee deliberated upon the proposal made in the Clause including the suggestions made by the stakeholders and the rationale/reply given by the Ministry of Cooperation and decided to accept the amendment proposed under the Clause.

### **Clause 44**

#### **Provision in the Principal Act**

##### **2.367 Section 121: Certain Acts not to apply**

(1) The provisions of the **Companies Act, 1956 (1 of 1956)** and the **Monopolies and Restrictive Trade Practices Act, 1969 (54 of 1969)** shall not apply to the multi-state cooperative societies.

(2) The multi-state Cooperative societies registered or deemed to be registered under the provisions of this Act shall not indulge in monopolistic and restrictive trade practices as defined in the **Monopolies and Restrictive Trade Practices Act, 1969 (54 of 1969)**.

#### **Amendment Proposed in the Bill**

2.368 In section 121 of the principal Act,—

(i) in sub-section (1), for the words and figures "the Companies Act, 1956" and "the Monopoly and Restrictive Trade Practices Act, 1969", the words and figures "the Companies Act, 2013" and "the Competition Act, 2002" shall respectively be substituted;

(ii) in sub-section (2), for the words and figures "monopolistic and restrictive trade practices as defined in the Monopolies and Restrictive Trade Practices Act, 1969", the words and figures "monopoly activities as referred to in the Competition Act, 2002" shall be substituted.

#### **Rationale for the proposed amendment**

2.369 These are consequential changes owing to amendment in the respective Acts.

#### **Examination by the Committee**

##### **Suggestions by stakeholders**

2.370 NAFCUB has suggested that in the third schedule the Acts like the Insolvency Act, SARFAESI Act, Income Tax and the Negotiable Instruments Act should also be included.

## **Comments of the Ministry of Cooperation**

2.371 In view of the suggestion of NAFCUB with regard to insertion of the Insolvency Act, SARFAESI Act, Income Tax and the Negotiable Instruments Act in the third schedule, the Ministry of cooperation submitted that the list of Acts covered in the third schedule is adequate.

## **Observation/recommendation of the Committee**

**2.372 The Committee deliberated upon the proposal made in the Clause including the suggestions made by the stakeholders and the rationale/reply given by the Ministry of Cooperation and decided to accept the amendment proposed under the Clause.**

### **Clause 45**

#### **Provision in the Principal Act**

#### **2.373 Section 123: Supersession of board of specified multi- state cooperative society**

If in the opinion of the Central Government, the board of any specified multi-state cooperative society is persistently making default or is negligent in the performance of the duties imposed on it by this Act or the rules or the bye- laws or has committed any act which is prejudicial to the interests of the society or its members, or has omitted or failed to comply with any directions given to it under section 122 in public interest or that there is a stalemate in the constitution or functions of the board, the Central Government may, after giving the board an opportunity to state its objections, if any, and considering the objections, if received, by order in writing, remove the board and appoint one or more administrators, who need not be members of the society, to manage the affairs of the society for such period not exceeding six months, as may be specified in the order which period may, at the discretion of the Central Government, be extended from time to time, so, however, that the aggregate period does not exceed one year.

Provided that in the case of a cooperative bank, the provisions of this sub-section shall have effect as if for the words “one year”, the words “two years” had been substituted.

Explanation.- For the purposes of sections

122 and 123, “specified multi-state cooperative society” means any multi- state cooperative society in which not less than fifty-one per cent, of the paid-up share capital or of total shares, is held by the Central Government.

## **Amendment Proposed in the Bill**

2.374 In section 123 of the principal Act,—

(i) in sub-section (1),—

(a) for the portion beginning with "or has committed any act" and ending with "the aggregate period does not exceed one year", the following shall be substituted, namely:—

"or has committed any act including fraud, misappropriation and the like which is prejudicial to the interests of the society or its members, or has omitted or failed to comply with any directions given to it under section 122 in public interest or that there is a stalemate in the constitution or functions of the board or the Co-operative Election Authority has failed to conduct elections in accordance with the provisions of this Act, the Central Government may, after giving the board an opportunity to state its objections, if any, and considering the objections, if received, by order in writing, supersede or suspend the board and appoint one or more administrators, who need not be members of the society, to manage the affairs of the society for such period not exceeding six months, as may be specified in the order:";

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

"Provided that while taking a decision for supersession or suspension on grounds of failure to conduct election, such action shall only be taken if the Board had not given requisition to hold election to the Co-operative Election Authority within the time limit or not extended necessary assistance as per the provisions of section 45.";

(ii) for the Explanation, the following Explanation shall be substituted, namely:—  
'Explanation.—For the purposes of section 122 and this section, the expression "specified multi-State co-operative society" means any multi-State co-operative society where there is Government shareholding or loan or financial assistance or any guarantee by the Government.'

## **Rationale for the proposed amendment**

2.375 In line with Article 243ZL(1) of the Constitution.

### **Strengthening of Monitoring Mechanism**

Action needed in cases of fraud or embezzlement. 97th Constitutional Amendment provides for both supersession & suspension and includes additional ground as failure to conduct elections.

Definition of specified societies to be brought in line as per Article 243ZL(1) of the Constitution.

## **Examination by the Committee**

2.376 During the briefing on the provisions contained in the Bill by the representatives of the Ministry of Cooperation, the Committee observed that discussion needed on change in definition of specified Society. In this regard, the Ministry of Cooperation has stated in its post-briefing replies as below:-

“In the existing MSCS Act, 2002, explanation given under Section 123 (For the purpose of Section 122 and Section 123) states that “specified multi-State co-operative society” means any multi-State co-operative society in which not less than fifty-one per cent of paid-up share capital, or of the total shares, is held by the Central Government. Action for issue of directions by Central Government u/s 122 and supersession u/s 123 can only be taken in case of specified MSCS which are very few in number. The definition of ‘specified societies’ has to be changed to bring it in line with Article 243ZL(1) of the Constitution. Accordingly, in the amendment Bill, the definition of Specified society has been extended to include those MSCS where there is Government shareholding or loan or financial assistance or any guarantee by the Government”.

## **Suggestions by stakeholders**

2.377 NAFSCOB has stated that supersession of board of specified multi-state cooperative society (1) Role and responsibility of Central Registrar and Reserve Bank of India may be spelt out in Supersession of board of specified multistate cooperative society

2.378 National Cooperative Union of India (NCUI) in its submission has stated that the criteria for supersession of the board of specified multi-State cooperative society is well defined in section 123 sub section (1), (2), (3), (4), (5) & (6). The change of explanation/definition of specified MSCS cannot be a criteria of supersession. Where the Govt. having majority stake in any of the multi-State cooperative society there the govt. may take appropriate action as laid down under section 123 sub section (1), (2), (3), (4), (5) & (6). The existing explanation may continue as the revised explanation gives far reaching power to the government which is against the cooperative principles. Further the guarantee given by the Govt. for its scheme to the society should not be treated as guarantee to the society. The government should play the role of a facilitator only. Hence, the explanation under section 123 of the existing MSCS Act 2002 may be retained.

2.379 Krishak Bharati Cooperative Limited (KRIBHCO) in submission has stated as under:-

“There are seven principles which govern the overall functioning of the Cooperatives. The 4th Cooperative Principle is reproduced below:-

**Autonomy and Independence:** Cooperatives are autonomous, self-help organisations controlled by their members. If cooperatives enter into agreement with other organisations including Government or raise capital from external sources, they do so on terms that ensure their democratic control by members and maintenance of cooperative autonomy.

Article 43 B of the Constitution of India also envisages autonomous functioning and independence of cooperative societies and stipulates as follows:-

*“43B. The State shall endeavour to promote voluntary formation, autonomous functioning, democratic control and professional management of co-operative societies.”*

In the second proviso of Article 243 ZL (1) (Chapter IX B of the Constitution of India), incorporated by 97th Constitutional Amendment, also emphasizes autonomous functioning and democratic control of the cooperative societies.

In this line, Article 243 ZLI (Part IX B of the Constitution of India), incorporated by 97th Constitutional Amendment states that “subject to the provisions of this Part, the Legislature of a State may, make provisions with respect to the incorporation, regulation and winding up of cooperative societies based on the principles of voluntary formation, democratic member control, member economic participation and autonomous functioning”.

Further, in the second proviso of Article 243 ZL (1) is as follows:

*“Provided further that the board of any such cooperative society shall not be superseded or kept under suspension where there is no Government shareholding or loan or financial assistance or any guarantee by the Government”*

It is apparent from the above that 97th constitutional amendment has envisaged that in case government does not have any share holding or loan or financial assistance or any guarantee, then it will not supersede the Board of such cooperatives. Even in the case where government has any shareholding or provided any loan or financial assistance or any guarantee, the concept of materiality has to be seen. This was the reason that in case of Multi State Cooperative Act 2002, the shareholding was quantified in the explanation part of section 123 which is as follows:-

“Explanation.- For the purposes of sections 122 and 123, “specified multi-state cooperative society” means any multi-state cooperative society in which not less than fifty-one per cent, of the paid-up share capital or of total shares, is held by the Central Government.”

Keeping in view the spirit of Article 43B of Constitution, 97th Constitutional Amendment and 4th Cooperative Principle of Autonomy and Independence, we

submit that quantification of Government shareholding as specified in Explanation of Section 122 and 123 of MSCS Act 2002 may be retained. “

2.380 National Agricultural Cooperative Marketing Federation of India Limited (NAFED) in its submission stated, “While bringing the proposal amendment, quantum and purpose of various elements like government shareholding or loans or financial assistance or any guarantee by the government needs to be specified.”

2.381 NCDC has stated in its comments that the provision has been incorporated to bring in effect Article 243ZL (contained in Part IXB as added by the 97th Amendment, 2012) of the Constitution. This change in the definition of specified co-operative societies would help in better monitoring and control, in case any fraud is committed or serious malpractices are found.

2.382 In regard to Clause 45 of the Bill which proposes to amend Section 123 of the Principal Act, NAFSCOB has stated that the role and responsibility of Central Registrar and RBI should be spelt out in supersession of board of a specified multi state cooperative society

### **Comments of the Ministry of Cooperation**

2.383 The proposed definition of specified societies is as per Article 243ZL(1) (2nd proviso) of the Constitution . Further, as per article 243 ZT of Constitution, the provisions of the Multi State Cooperative Societies Act, 2002 that are not consistent with the provisions of Part IXB of the Constitution shall continue to be in force until amended or repealed or expiration of one year from the commencement of the Constitution (Ninety-Seventh) (Amendment) Act, 2011, whichever is less. The present proposal would strengthen governance in MSCS and also help in preventing cases of fraud and mismanagement.

2.384 The proposed amendment in section 123 is in line with Article 243ZL(1) of the Constitution. Further, to bring clarity, the amendment Bill proposes in Section 120 B (new insertion) that the provisions of MSCS Act 2002 are applicable to a multi-State cooperative bank in respect of matters relating to incorporation, regulation and winding up: Provided that in case of a multi-State cooperative society carrying on the business of banking, the provisions of the Banking Regulation Act, 1949, shall also apply.

- Cooperative Societies with objects confined to one State are governed under the respective State Cooperative Societies Act as per Entry 32 of the State List of the Constitution.
- Multi-State Cooperative Society (MSCS) is defined as per Article 243ZH(d) of the Constitution as a cooperative society that has objects not confined to one State. MSCS are governed under Entry 44 of the Union List-I & part IX B of the Constitution.
- Multi State Cooperative Societies Act, 1984 was passed in 1984 by the Parliament under the said entry of the Union List.
- The existing Multi State Cooperative Societies Act, 2002 was enacted by repealing the MSCS Act, 1984.

2.385 In response to the concern regarding violation of the Cooperative Principle mentioned in article 243 ZI and article 43 B on directive principles of State policy the nodal ministry clarified that The amendment bill is in consonance with the 97<sup>th</sup> Constitutional Amendment to plug loopholes in the existing legislation and to strengthen governance in the MSCSs, in accordance with the following Cooperative Principles, namely:-

- (a) Voluntary and Open Membership;
- (b) Democratic Member Control;
- (c) Member's Economic Participation;
- (d) Autonomy and Independence;
- (e) Education, Training and Information;
- (f) Co-operation among Co-operatives; and
- (g) Concern for Community.

It will strengthen democratic functioning and member participation in the MSCS in accordance with the Cooperative Principles. It will help in addressing some of the instances of malfunctioning noticed in the functioning of MSCS and will also bring reforms related to transparency, active membership, ease of doing business, etc.

As far as concerned about taking away the functional autonomy of MSCS, the ministry stated that the amendment bill is in consonance with the Co-operative principles of voluntary formation, democratic member control, member-economic participation and autonomous functioning. It will lead to more active member participation, transparent and responsive governance and free and fair elections. It does not take away the functional autonomy of MSCS. It will facilitate working of the MSCS by bringing in reforms related to ease of doing business.



## **Observation/recommendation of the Committee**

**2.386 The Committee deliberated upon the proposal made in the Clause including the suggestions made by the stakeholders and the rationale/reply given by the Ministry of Cooperation and decided to accept the amendment proposed under the Clause.**

### **Clause 46**

## **Provision in the Principal Act**

### **2.387 Section 124: Power to make rules**

(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, namely:-

(a) the form to be used, the particulars to be given and the conditions to be complied with in the making of applications under section 6 for the registration of a multi-state cooperative society and the procedure in the matter of such applications;

(3) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

## **Amendment Proposed in the Bill**

2.388 In section 124 of the principal Act,—

(a) in sub-section (2),—

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

"(aa) the guidelines under sub-section (2) of section 7;"

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

"(ja) the manner in which the board of a multi-State co-operative society shall provide information, documents, personnel, funds or expenses or any other assistance as sought by the Co-operative Election Authority for conducting elections under clause (a) of sub-section (2) of section 43;"

(iii) for clause (k), the following clauses shall be substituted, namely:—

"(k) the composition of the Selection Committee for appointment of Chairperson, Vice-Chairperson and Members of the Co-operative Election Authority under sub-section (1) of section 45;

(ka) the qualification and experience for appointment of Member of the Authority under clause (iii) of sub-section

(3) of section 45;

(kb) the salaries and allowances payable to, and other terms and conditions of service of the Chairperson, Vice- Chairperson and Members of the Authority under sub-section (5) of section 45;

(kc) the other powers and functions of Chairperson under section 45A; (kd) the procedure of inquiry under sub-section (2) of section 45B;

(ke) time, places and the procedure to be observed by the Authority in regard to transaction of business at its meetings under sub-section (1) of section 45H;

(kf) other functions of the Authority under clause (iii) of section 45-I;

(kg) the manner of election of members of board by secret ballot under sub-section (3) of section 45J;

(kh) the manner of bearing the expenses for holding elections by the Authority under sub-section (6) of section 45J; (ki) the manner of discharge of functions by the Returning Officers and observers under sub-section (1) and clause

(a) of sub-section (3) of section 45K;

(kj) other functions of the observers under clause (a) of sub-section (3) of section 45K;";

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

"(ma) the procedure for recruitment of employees under proviso to clause (e) of sub-section (2) of section 49;";

(v) clause (o) shall be omitted;

(vi) after clause (q), the following clause shall be inserted, namely:—

"(qa) the manner of maintenance of fund under clause (b) of sub-section (1) of section 63;";

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

"(sa) the manner of appointment of Co-operative Ombudsman and submission of complaints to such Ombudsman under sub-section (1) of section 85A;

(sb) the manner of filing an appeal by society against directions of Ombudsman under sub-section (3) of section 85A;

(sc) other matters under clause (d) of sub-section (5) of section 85A;";

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

"(wa) the manner of recovery and deposit of proceeds of unlawful gains under sub-section (6) of section 104;

(wb) the manner to make an application with such fee for the purpose of getting information under sub-section (2) of section 106;";

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

"(xa) the manner of powers being exercised by the Central Government in respect of matters relating to filing of applications, documents, inspections and the like in electronic form and fee payable to under sub-section (1) of section 120A;

(xb) the manner of discharging the functions or exercising powers with respect to matters mentioned therein by the Central Registrar in electronic form under sub-section (2) of section 120A;";

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

"(3) Every rule made under this section and any notification issued under section 116 shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree that the rules and any notification issued under section 116 should not be made, the rule and any notification issued under section 116 shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule and any notification issued under section 116."

### **Rationale for the proposed amendment**

2.389 The power to make rules to include all relevant sections.

For sub-section (3): Provide for laying of notification u/s 116 in Parliament. This provision is already there. It is only a change of place.

### **Examination by the Committee**

#### **Suggestions by stakeholders**

2.390 NAFSCOB has stated that the Central Government may, by notification, make rules to carry out the provisions of this Act. Except in case the following : (Ja) to (Kj) and (ma),(qa) , (xa),(xb) etc. Any agency vested with too many and unlimited powers may tend to fail in their performance.

#### **2.391 NABARD's Response to Annexure II of draft Cabinet Note dated 05/07/2022**

Section 124(2)(aa)- The words 'provision of' after '..paid up capital' and before 'reserves alongwith...' may be deleted.

### **Observation/recommendation of the Committee**

**2.392 The Committee deliberated upon the proposal made in the Clause including the suggestions made by the stakeholders and the rationale/reply given by the Ministry of Cooperation and decided to accept the amendment proposed under the Clause.**

## Clause 47: Amendment of section 125.

### Provision in the Principal Act

#### 2.393 Section 125: Power to remove difficulties

(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty. Provided that no order shall be made under this section after the expiry of two years from the commencement of this Act.

### Amendment Proposed in the Bill

2.394 "(1A) Notwithstanding anything contained in sub-section (1), if any difficulty arises in giving effect to the provisions of this Act as amended by the Multi-State Co-operative Societies (Amendment) Act, 2022, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty:

Provided that no such order shall be made under this section after the expiry of a period of two years from the date of commencement of the Multi-State Co-operative Societies (Amendment) Act, 2022."

### Rationale for the proposed amendment

2.395 Standard clauses for removal of difficulties for two years.

### Observation/recommendation of the Committee

**2.396 The Committee deliberated upon the proposal made in the Clause including the rationale/reply given by the Ministry of Cooperation and decided to accept the amendment proposed under the Clause.**

## Clause 48: INSERTION OF THIRD SCHEDULE.

### Provision in the Principal Act

#### 2.397 New insertion

### Amendment Proposed in the Bill

2.398 After Second Schedule to the principal Act, the following Schedule shall be inserted, namely:— "THE THIRD SCHEDULE  
[See clause (h) of sub-section (1) of section 43 ]

Sl. No.	Name of the Act	Act Number
1.	the Indian Stamp Act, 1899;	02 of 1899.
2.	the Reserve Bank of India Act, 1934;	02 of 1934.
3.	the Central Excises Act, 1944;	01 of 1944.
4.	the Industries (Development and Regulation) Act, 1951;	65 of 1951.

5.	the Prevention of Food Adulteration Act, 1954;	37 of 1954.
6.	the Essential Commodities Act, 1955;	10 of 1955.
7.	the Securities Contracts (Regulation) Act, 1956;	42 of 1956.
8.	the Wealth-tax Act, 1957;	27 of 1957.
9.	the Customs Act, 1962;	52 of 1962.
10.	the Prize Chits and Money Circulation Scheme (Banning) Act, 1978;	43 of 1978.
11.	the Sick Industrial Companies (Special provisions) Act, 1985;	01 of 1986.
12.	the Securities and Exchange Board of India Act, 1992;	15 of 1992.
13.	the Foreign Trade (Development and Regulation) Act, 1992;	22 of 1992.
14.	the Foreign Exchange Management Act, 1999;	42 of 1999.
15.	the Competition Act, 2002;	12 of 2003.
16.	the Prevention of Money Laundering Act, 2002;	15 of 2003.
17.	The Companies Act, 2013.”.	18 of 2013.

**Rationale for the proposed amendment**

2.399 Any default in payment of dues for the Acts mentioned in the third schedule will lead to disqualification of the Board of Directors.

**Observation/recommendation of the Committee**

**2.400 The Committee deliberated upon the proposal made in the Clause including the rationale/reply given by the Ministry of Cooperation and decided to accept the amendment proposed under the Clause.**

**SHRI CHANDRA PRAKASH JOSHI  
CHAIRPERSON,  
JOINT COMMITTEE ON THE  
MULTI-STATE CO-OPERATIVE SOCIETIES (AMENDMENT)  
BILL, 2022**

**NEW DELHI;  
13 March, 2023  
22 Phalguna 1944 (SAKA)**

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**MOTION IN LOK SABHA FOR REFERENCE OF THE BILL  
TO THE JOINT COMMITTEE**

Tuesday, December, 20, 2022/Agrahayana 29, 1944 (Saka)

Shri Amit Shah moved the following motion:-

“That the Bill further to amend the Multi-State Co- operative Societies Act, 2002 be referred to a Joint Committee of the Houses consisting of the following 21 Members from this House, namely:-

**Multi-State Co-operative Societies (Amendment) Bill, 2022.**

1. Shri Chandra Prakash Joshi
2. Shri Jagdambika Pal
3. Shri Parbatbhai Savabhai Patel
4. Smt. Poonamben Hematbhai Maadam
5. Shri Ramdas Chandrabhanji Tadas
6. Shri Annasaheb Shankar Jolle
7. Dr. Nishikant Dubey
8. Smt. Sunita Duggal
9. Shri Brijendra Singh
10. Smt. Jaskaur Meena
11. Shri Ram Kripal Yadav
12. Dr. Dhal Singh Bisen
13. Shri Suresh Kodikunnil
14. Shri Manish Tewari
15. Smt. Kanimozhi Karunanidhi,
16. Shri Kalyan Banerjee
17. Shri Sri Krishna Devarayalu Lavu
18. Shri Hemant Shriram Patil
19. Shri Dulal Chandra Goswami
20. Shri Chandra Sekhar Sahu
21. Shri Girish Chandra

and 10 Members from the Rajya Sabha;

that in order to constitute a sitting of the Joint Committee the quorum shall be one-third of the total number of Members of the Joint Committee;

that the Committee shall make a report to this House by the last day of the first week of second part of the Budget Session, 2023;

that in other respects the Rules of Procedure of this House relating to Parliamentary Committee shall apply with such variations and modifications as the Speaker may make;

that this House recommends to Rajya Sabha that Rajya Sabha do join the said Joint Committee and communicate to this House the names of the Members to be appointed by Rajya Sabha to the Joint Committee; and

that the Speaker shall appoint one of the Members of the Committee to be its Chairperson.”

The motion regarding reference was adopted.

**MOTION IN RAJYA SABHA FOR REFERENCE OF THE BILL  
TO THE JOINT COMMITTEE**

Monday, December 21, 2022

Message from Rajya Sabha:

“That at its sitting held on the 21<sup>st</sup> December, 2022, Rajya Sabha concurred in the recommendation of Lok Sabha to nominate 10 members from Rajya Sabha to associate with the Joint Committee of the Houses on the Multi-State Co-operative Societies (Amendment) Bill, 2022 and also communicated the names of the following members of Rajya Sabha who have been elected to the said Committee:-

1. Shri Ghanshyam Tiwari
2. Shri Surendra Singh Nagar
3. Shri Dhananjay Bhimrao Mahadik
4. Shri Ram Chander Jangra
5. Smt. Rajani Ashokrao Patil
6. Shri Sukhendu Sekhar Ray
7. Shri N.R. Elango
8. Shri Vikramjit Singh Sahney
9. Shri Surjeet Kumar
10. Shri S. Niranjan Reddy”

**LIST OF GOVERNMENT AGENCIES AND EXPERTS/  
STAKEHOLDERS/ORGANISATIONS  
WHO SUBMITTED MEMORANDA**

<b>Sl. No.</b>	<b>Name of Government Agencies and Experts/Stakeholders/Organisations/Individuals</b>
1.	Reserve Bank of India (RBI)
2.	National Federation of State Cooperative Banks (NAFSCOB)
3.	National Federation of Urban Cooperative Banks and Credit Societies(NAFCUB)
4.	National Cooperative Union of India (NCUI)
5.	Indian Farmers Fertilizer Cooperative Limited (IFFCO)
6.	Krishak Bharati Cooperative Limited (KRIBHCO)
7.	National Agricultural Cooperative Marketing Federation of India Limited (NAFED)
8.	National Bank for Agriculture and Rural Development (NABARD)
9.	National Cooperative Agriculture & Rural Development Banks Federation Ltd. (NAFCARD)
10.	National Cooperative Development Corporation (NCDC)
11.	National Cooperative Consumers Federation of India (NCCF)
12.	Kendriya Bhandar
13.	Sahakar Bharati
14.	Sahulat Micro Finance Society
15.	PRS Legislative Research



**DETAILS OF THE SITTINGS OF THE JOINT COMMITTEE ON MULTI-STATE CO-OPERATIVE SOCIETIES (AMENDMENT) BILL, 2022.**

<b>Sitting No.</b>	<b>Date of Sitting</b>	<b>Agenda of the sitting and witnesses appeared.</b>
1	05.01.2023	Briefing by the representatives of the Ministry of Cooperation on Multi-State Cooperative Societies (Amendment) Bill, 2022. (Present: Ministry of Cooperation, Ministry of Law & Justice- Department of Legal Affairs and Legislative Department)
2	19.01.2023	Oral Evidence of the representatives of Reserve Bank of India and Department of Financial Services, Ministry of Finance on Multi-State Cooperative Societies (Amendment) Bill, 2022. (Present: Ministry of Cooperation)
3	20.01.2023	To elicit the views of representatives of following organizations on Multi-State Cooperative Societies (Amendment) Bill, 2022: 1. National Federation of State Cooperative Banks (NAFSCOB); and 2. National Federation of Urban Cooperative Banks and Credit Societies (NAFCUB) (Present: Ministry of Cooperation)
4	20.01.2023	To elicit views of the representatives of following organizations on Multi-State Cooperative Societies (Amendment) Bill, 2022: 1. National Cooperative Union of India (NCUI); 2. Indian Farmers Fertilizer Cooperative Limited (IFFCO); 3. Krishak Bharati Cooperative Limited (KRIBHCO); and 4. National Agricultural Cooperative Marketing Federation of India Limited (NAFED) (Present: Ministry of Cooperation)
5	13.02.2023	To elicit views of the representatives of following organizations on Multi-State Cooperative Societies (Amendment) Bill, 2022: 1. National Bank for Agriculture and Rural Development (NABARD) 2. National Cooperative Agriculture & Rural Development Banks Federation Ltd. (NAFCARD) 3. National Cooperative Development Corporation (NCDC) 4. National Cooperative Consumers Federation of India (NCCF) (Present: Ministry of Cooperation, Ministry of Law & Justice- Legislative Department)
6	20.02.2023	Clause by Clause consideration of Multi-State Cooperative Societies (Amendment) Bill, 2022 (Present: Ministry of Cooperation, Ministry of Law & Justice- Legislative Department)
7	27.02.2023	Clause by Clause consideration of Multi-State Cooperative Societies (Amendment) Bill, 2022 (Present: Ministry of Cooperation, Ministry of Law & Justice- Department of Legal Affairs and Legislative Department)
8	13.03.2023	Consideration and adoption of the draft report on Multi-State Cooperative Societies (Amendment) Bill, 2022.

**APPENDIX-V****LIST OF WITNESSES WHO TENDERED ORAL EVIDENCE BEFORE THE COMMITTEE****LIST OF OFFICIAL WITNESSES**

<b>Sl. No.</b>	<b>Name of organizations</b>	<b>Date of oral evidence</b>
1.	Ministry of Cooperation	05.01.2023,
2.	Ministry of Law & Justice- Department of Legal Affairs	
3.	Ministry of Law & Justice- Legislative Department	
4.	Reserve Bank of India	19.01.2023
5.	Ministry of Cooperation	
6.	Ministry of Finance-Department of Financial Services	
7.	Ministry of Cooperation	20.01.2023
8.	Ministry of Cooperation	13.02.2023
9.	Ministry of Law & Justice- Legislative Department	
10.	Ministry of Cooperation	20.02.2023
11.	Ministry of Law & Justice- Legislative Department	
12.	Ministry of Cooperation	27.02.2023
13.	Ministry of Law & Justice- Department of Legal Affairs	
14.	Ministry of Law & Justice- Legislative Department	

**LIST OF WITNESSES**

<b>Sl. No.</b>	<b>Name of organizations</b>	<b>Date of oral evidence</b>
1.	National Federation of State Cooperative Banks (NAFSCOB)	20.01.2023
2.	National Federation of Urban Cooperative Banks and Credit Societies(NAFCUB)	
3.	National Cooperative Union of India (NCUI)	
4.	Indian Farmers Fertilizer Cooperative Limited (IFFCO)	
5.	Krishak Bharati Cooperative Limited (KRIBHCO)	
6.	National Agricultural Cooperative Marketing Federation of India Limited (NAFED)	
7.	National Bank for Agriculture and Rural Development (NABARD)-	13.02.2023
8.	National Cooperative Agriculture & Rural Development Banks Federation Ltd. (NAFCARD)	
9.	National Cooperative Development Corporation (NCDC)	
10.	National Cooperative Consumers Federation of India (NCCF)	

**MINUTES OF THE SITTINGS**

**Minutes of 1<sup>st</sup> Sitting of The Joint Committee on the Multi-State Cooperative Societies  
(Amendment) Bill, 2022**

The 1st sitting of the Joint Committee was held on Thursday, the 5th January, 2023 from 1100 hrs. to 1400 hrs. in Committee Room D, Parliament House Annexe, New Delhi.

**PRESENT**

**Shri Chandra Prakash Joshi - Chairperson**

**LOK SABHA**

2. Shri Parbatbhai Savabhai Patel
3. Smt. Poonamben Hematbhai Maadam
4. Shri Ramdas Chandrabhanji Tadas
5. Shri Annasaheb Shankar Jolle
6. Dr. Nishikant Dubey
7. Smt. Sunita Duggal
8. Shri Brijendra Singh
9. Smt. Jaskaur Meena
10. Shri Ram Kripal Yadav
11. Dr. Dhal Singh Bisen
12. Shri Manish Tewari
13. Shri Kalyan Banerjee
14. Shri Sri Krishna Devarayalu Lavu
15. Shri Hemant Shriram Patil
16. Shri Dulal Chandra Goswami
17. Shri Chandra Sekhar Sahu

**RAJYA SABHA**

18. Shri Dhananjay Bhimrao Mahadik
19. Shri Ram Chander Jangra
20. Shri N.R. Elango
21. Shri Sujeet Kumar

**SECRETARIAT**

1. Shri J.M. Baisakh - Joint Secretary
2. Shri C. Kalyanasundaram - Director
3. Shri Sumesh Kumar - Deputy Secretary
4. Ms. Rachna Saxena - Deputy Secretary

### **REPRESENTATIVES OF MINISTRY OF COOPERATION**

1. Shri Gyanesh Kumar, Secretary,
2. Shri Vijay Kumar, Additional Secretary,
3. Shri Kapil Meena, Deputy Secretary,
4. Shri Amit Sachdeva, Sr. Technical Assistant

### **REPRESENTATIVES OF MINISTRY OF LAW & JUSTICE**

5. Dr. Niten Chandra, Secretary, Department of Legal Affairs
6. Shri R.S. Verma, Additional Secretary, Department of Legal Affairs
7. Shri K. Biswal, Special Secretary, Legislative Department
8. Shri R. Sreenivas, Additional Legislative Counsel, Legislative Department

2. At the outset, the Chairperson welcomed the Members to the first sitting of the Joint Committee. While giving a brief background of the Multi-State Cooperative Societies (Amendment) Bill, 2022, he apprised the Members about the agenda of the sitting.

3. Thereafter, the Chairperson invited the representatives of the Ministry of Cooperation and the Ministry of Law & Justice (Department of Legal Affairs and Legislative Department) to brief the Committee on various aspects related to the Multi-State Cooperative Societies (Amendment) Bill, 2022. He then drew the attention of representatives from the Ministries to Direction 55(1) and Direction 58 of the Directions by the Speaker, Lok Sabha concerning the confidentiality of the Committee proceedings.

4. The representatives of the Ministry of Cooperation then made a Power Point presentation to the Committee covering the following aspects :- (i) Brief explanation on Multi-State Cooperative Societies and background of the Multi-State Cooperative Societies (Amendment) Bill, 2022. (ii) Need for the amendments to the Multi-State Cooperative Societies Act, 2002 especially in the context of aligning the Act with Constitutional provisions on cooperative societies (iii) Major Amendments relating to electoral reforms,, reforms in composition of Board, Membership and meetings ,strengthening governance and transparency, monitoring mechanism and other minor amendments proposed in the Bill.

5. The Members, thereafter, sought clarifications on various amendments being proposed in the Bill. Broadly these related to defining the powers of State and Centre in cooperative federalism, improving transparency in fund management and defining standards of audit, regulatory mechanism for cooperative Banks, ground of

disqualification in election of Board Members, manner of filling up of the casual vacancy, reservation for women, SC and ST communities, appointment of Members and functions of Cooperative Election Authority, eligibility age of CEO, functional autonomy of cooperatives, management of Rehabilitation, Reconstruction and Development Fund etc.

6. It was also pointed out by some Members that the Ministry must explain the philosophy behind the amendments and give clause by clause presentation in their next sitting. The Chairperson then directed the Ministry to provide written replies to all the points raised during the sitting.

**The representatives of the Ministries then withdrew**

7. The Committee, thereafter, briefly deliberated on future course of examination including date of next sitting and need for oral evidence of representatives of RBI and other stakeholders.

***The Committee then adjourned.***

**A copy of verbatim record of the proceedings is kept on record**

## **Minutes of 2<sup>nd</sup> Sitting of the Joint Committee on the Multi-State Cooperative Societies (Amendment) Bill, 2022**

The 2<sup>nd</sup> sitting of the Joint Committee was held on Thursday, the 19th January, 2023 from 1500 hrs. to 1630 hrs. in Committee Room D, Parliament House Annexe, New Delhi.

### **PRESENT**

**Shri Chandra Prakash Joshi - Chairperson**

### **LOK SABHA**

2. Shri Jagdambika Pal
3. Shri Ramdas Chandrabhanji Tadas
4. Shri Annasaheb Shankar Jolle
5. Dr. Nishikant Dubey
6. Shri Brijendra Singh
7. Smt. Jaskaur Meena
8. Shri Ram Kripal Yadav
9. Dr. Dhal Singh Bisen
10. Shri Suresh Kodikunnil
11. Shri Manish Tewari
12. Shri Sri Krishna Devarayalu Lavu
13. Shri Hemant Shriram Patil
14. Shri Dulal Chandra Goswami

### **RAJYA SABHA**

15. Shri Surendra Singh Nagar
16. Shri Dhananjay Bhimrao Mahadik
17. Shri S. Niranjan Reddy

### **SECRETARIAT**

- |    |                         |   |                  |
|----|-------------------------|---|------------------|
| 1. | Shri J.M. Baisakh       | - | Joint Secretary  |
| 2. | Shri C. Kalyanasundaram | - | Director         |
| 3. | Shri Sumesh Kumar       | - | Deputy Secretary |
| 4. | Ms. Rachna Saxena       | - | Deputy Secretary |
| 5. | Shri Bharat Lal Meena   | - | Deputy Director  |

### **REPRESENTATIVES OF MINISTRY OF COOPERATION**

1	Shri Gyanesh Kumar	Secretary
2	Shri Vijay Kumar	Additional Secretary
3	Shri Kapil Meena	Deputy Secretary
4	Shri Kumar Ram Krishna	Deputy Secretary

**REPRESENTATIVES OF RESERVE BANK OF INDIA (RBI)**

1	Shri Jayant Kumar Dash	Executive Director
2	Shri Joseph Raj	Legal Adviser

**REPRESENTATIVES OF DEPARTMENT OF FINANCIAL SERVICES**

1	Shri Vivek Joshi	Secretary
2	Shri M.P. Tangirala	Additional Secretary
3	Shri Parshant Kumar Goyal	Director

2. At the outset, the Chairperson welcomed the Members to the second sitting of the Joint Committee. Then he briefed the members about the agenda of the sitting and stakeholders called for the oral evidence.

3. Thereafter, the Chairperson invited the representatives of the Ministry of Cooperation, Reserve Bank of India (RBI) and the Ministry of Finance (Department of Financial Services) to brief the Committee on various aspects related to the Multi-State Cooperative Societies (Amendment) Bill, 2022. He also drew the attention of representatives to Direction 55(1) and Direction 58 of the Directions by the Speaker, Lok Sabha concerning the confidentiality of the Committee proceedings.

4. The representative of the Reserve Bank of India (RBI) explained the views of RBI on the amendments proposed in the Bill inter alia covering the following aspects:-

- (i) Applicability of Banking Regulations Act, 1949 to Urban Cooperative Banks (ii) Refund of Share Capital (iii) Board Composition/Fit and Proper Criteria for Directors (iv) Consumer grievance and redressal and (v) other Clauses which may face the test of unambiguous interpretation in specific situations.

5. The Members, thereafter, sought clarifications on various amendments being proposed in the Bill and the views of RBI and the Department of Financial Services which were briefly replied by the representatives of RBI and the Department of Financial Services. The Chairperson then directed the nodal Ministry, Department of Financial Services and Reserve Bank of India to provide written replies to all the points raised by the Members during the sitting.

***The representatives of Nodal Ministry, RBI and Department of Financial Services then withdrew.***

***The Committee then adjourned.***

**A copy of verbatim record of the proceedings is kept on record.**

**Minutes of 3<sup>rd</sup> Sitting of the Joint Committee on the Multi-State Cooperative Societies (Amendment) Bill, 2022**

The 3<sup>rd</sup> sitting of the Joint Committee was held on Friday, the 20th January, 2023 from 1100 hrs. to 1300 hrs. in Committee Room No. '1', EPHA, New Delhi.

**PRESENT**

**Shri Chandra Prakash Joshi - Chairperson**

**LOK SABHA**

2. Shri Ramdas Chandrabhanji Tadas
3. Shri Annasaheb Shankar Jolle
4. Dr. Nishikant Dubey
5. Smt. Sunita Duggal
6. Shri Brijendra Singh
7. Smt. Jaskaur Meena
8. Dr. Dhal Singh Bisen
9. Shri Suresh Kodikunnil
10. Shri Sri Krishna Devarayalu Lavu
11. Shri Dulal Chandra Goswami

**RAJYA SABHA**

12. Shri Surendra Singh Nagar
13. Shri Dhananjay Bhimrao Mahadik
14. Shri S. Niranjan Reddy

**SECRETARIAT**

- |    |                         |   |                  |
|----|-------------------------|---|------------------|
| 1. | Shri J.M. Baisakh       | - | Joint Secretary  |
| 2. | Shri C. Kalyanasundaram | - | Director         |
| 3. | Shri Sumesh Kumar       | - | Deputy Secretary |
| 4. | Ms. Rachna Saxena       | - | Deputy Secretary |
| 5. | Shri Bharat Lal Meena   | - | Deputy Director  |



### REPRESENTATIVES OF MINISTRY OF COOPERATION

1	Shri Gyanesh Kumar	Secretary
2	Shri Vijay Kumar	Additional Secretary
3	Shri Kapil Meena	Deputy Secretary

### REPRESENTATIVES OF NATIONAL FEDERATION OF STATE COOPERATIVE BANKS (NAFSCOB)

1	Shri Konduru Ravinder Rao	Chairman
2	Shri. Bhima Subrahmanyam	Managing Director

### REPRESENTATIVES OF NATIONAL FEDERATION OF URBAN COOPERATIVE BANKS AND CREDIT SOCIETIES LTD. (NAFCUB)

1	Sh. Jyotindra Mehta	President
2	Sh. Uday Joshi	Director
3	Sh. O.P. Sharma	Director
4	Sh. Atul Khirwadkar	Expert
5	Sh. Yogesh Sharma	CE I/C

2. At the outset, the Chairperson welcomed the Members to the third sitting of the Joint Committee. Then he briefed the Members about the agenda of the sitting.

3. Thereafter, the Chairperson invited the representatives of the National Federation of State Cooperative Banks (NAFSCOB), and National Federation of Urban Cooperative Banks and Credit Societies (NAFCUB) to hear their views on the provisions of the Multi-State Cooperative Societies (Amendment) Bill, 2022. He then drew their attention to Direction 55(1) and Direction 58 of the Directions by the Speaker, Lok Sabha concerning the confidentiality of the Committee proceedings.

4. The representatives from the credit Societies thereafter briefed the Committee on their views on various provisions of the proposed amendments in the Bill which included the Cooperative Election Authority under section 45, disposal of the net profits and restrictions on the borrowing, appointment of Cooperative Ombudsman, supersession of the Board under Section 123, increasing the percentage of priority sector lending etc. The Members, thereafter, sought clarifications on various amendments/suggestions being proposed in the Bill from the representatives of NAFSCOB and NAFCUB. The Chairperson then directed them to provide written replies to all the points raised by the Members during the sitting within a week.

#### **The representatives of the NAFSCOB and NAFCUB then withdrew**

5. Then the Committee decided to continue the next meeting, which was scheduled to begin at 1400 hours.

**A copy of verbatim record of the proceedings is kept on record.**

**Minutes of 4<sup>th</sup> Sitting of the Joint Committee on the Multi-State Cooperative Societies (Amendment) Bill, 2022**

The 4<sup>th</sup> sitting of the Joint Committee was held on Friday, the 20th January, 2023 from 1300 hrs. to 1400 hrs. in Committee Room No. '1', EPHA, New Delhi.

PRESENT

**Shri Chandra Prakash Joshi - Chairperson**

LOK SABHA

2. Shri Ramdas Chandrabhanji Tadas
3. Shri Annasaheb Shankar Jolle
4. Dr. Nishikant Dubey
5. Smt. Sunita Duggal
6. Shri Brijendra Singh
7. Smt. Jaskaur Meena
8. Dr. Dhal Singh Bisen
9. Shri Suresh Kodikunnil
10. Shri Sri Krishna Devarayalu Lavu
11. Shri Dulal Chandra Goswami

RAJYA SABHA

12. Shri Surendra Singh Nagar
13. Shri Dhananjay Bhimrao Mahadik
14. Shri S. Niranjan Reddy

SECRETARIAT

1. Shri J.M. Baisakh - Joint Secretary
2. Shri C. Kalyanasundaram - Director
3. Shri Sumesh Kumar - Deputy Secretary
4. Ms. Rachna Saxena - Deputy Secretary
5. Shri Bharat Lal Meena - Deputy Director

## REPRESENTATIVES OF MINISTRY OF COOPERATION

1	Shri Gyanesh Kumar	Secretary
2	Shri Vijay Kumar	Additional Secretary
3	Shri Kapil Meena	Deputy Secretary

### NATIONAL COOPERATIVE UNION OF INDIA (NCUI)

1	Shri Ved Prakash Setia	Executive Director
2	Shri Ritesh Dey	Director

### INDIAN FARMERS FERTILIZER COOPERATIVE LIMITED (IFFCO)

1	Dr. U S Awasthi	Managing Director and CEO
2	Shri Santosh Kumar Shukla	Joint General Manager (Cooperative Development)

### KRISHAK BHARATI COOPERATIVE LIMITED (KRIBHCO)

1	Shri Rajan Chowdhry	Managing Director
2	Shri Sunder Singh Yadav	Director (HR)
3	Shri L.P. Goodwin	DGM(M)

### NATIONAL AGRICULTURAL COOPERATIVE MARKETING FEDERATION OF INDIA LIMITED (NAFED)

1	Shri Rajbir Singh Panwar	Managing Director
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2. At the outset, the Chairperson welcomed all the Members of the Committee and the representatives from National Cooperative Union of India (NCUI); Indian Farmers Fertilizer Cooperative Limited (IFFCO); Krishak Bharati Cooperative Limited (KRIBHCO); and National Agricultural Cooperative Marketing Federation of India Limited (NAFED) to the sitting of the Committee. He then drew the attention of the witnesses to Direction 55(1) and 58 of the Directions by the Speaker, Lok Sabha, concerning the confidentiality of the Committee proceedings.

3. Then the representatives of NCUI, IFFCO, KRIBHCO and NAFED briefed the Committee about their concerns/views/suggestions on the various provisions of the proposed amendments *inter alia* covering the following aspects:- (i) Disqualification for being a member of the board, (ii) Powers and functions of the board, (iii) Section 63B related to Cooperative Education Fund, (iv) Investment of fund under section 64, (v) Restrictions on borrowings, and (vi) Supersession of Board of specified multi-State cooperative societies.

4. The Members, thereafter, sought clarification on various amendments being proposed in the Bill from the representatives of aforesaid organizations and also put forth their suggestions with respect to the proposed amendments. The Chairperson then directed the representatives of the aforesaid organizations to provide written replies to all the points raised during the sitting within a week.

***The representatives of Cooperative Societies then withdrew  
The Committee then adjourned.***

***A copy of verbatim record of the proceedings is kept on record.***

**MINUTES OF 5<sup>TH</sup> SITTING OF THE JOINT COMMITTEE ON THE MULTI-STATE  
COOPERATIVE SOCIETIES (AMENDMENT) BILL, 2022**

The 5<sup>th</sup> sitting of the Joint Committee was held on Friday, the 13th February, 2023 from 1500 hrs. to 1630 hrs. in Committee Room No. 'C', PHA, New Delhi.

**PRESENT**

**Shri Chandra Prakash Joshi - Chairperson**

**LOK SABHA**

2. Shri Jagdambika Pal
3. Shri Parbatbhai Savabhai Patel
4. Shri Ramdas Chandrabhanji Tadas
5. Shri Annasaheb Shankar Jolle
6. Dr. Nishikant Dubey
7. Smt. Sunita Duggal
8. Shri Brijendra Singh
9. Smt. Jaskaur Meena
10. Shri Ram Kripal Yadav
11. Dr. Dhal Singh Bisen
12. Shri Suresh Kodikunnil
13. Shri Manish Tewari
14. Shri Kalyan Banerjee
15. Shri Sri Krishna Devarayalu Lavu
16. Shri Hemant Shriram Patil
17. Shri Dulal Chandra Goswami

**RAJYA SABHA**

18. Shri Ghanshyam Tiwari
19. Shri Surendra Singh Nagar
20. Shri Dhananjay Bhimrao Mahadik
21. Shri S. Niranjana Reddy

**SECRETARIAT**

1. Shri J.M. Baisakh - Joint Secretary
2. Shri C. Kalyanasundaram - Director
3. Shri Sumesh Kumar - Deputy Secretary
4. Ms. Rachna Saxena - Deputy Secretary
5. Shri Bharat Lal Meena - Deputy Director

**REPRESENTATIVES OF MINISTRY OF COOPERATION**

1	Shri Gyanesh Kumar	Secretary
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2	Shri Vijay Kumar	Additional Secretary
3	Shri Kapil Meena	Deputy Secretary
4	Shri Jitender Nagar	Deputy Commissioner
5	Smt. Nisha Sagar	Assistant Commissioner
6	Shri Amit Sachdeva	Sr. Technical Assistant

**REPRESENTATIVES OF MINISTRY OF LAW & JUSTICE (LEGISLATIVE DEPARTMENT)**

1	Shri K. Biswal	Special Secretary
2	Shri R. Sreenivas	Additional Legislative Counsel

**National Bank for Agriculture and Rural Development (NABARD)**

1	Shri K.S. Raghupathi	Chief General Manager
2	Shri V.K. Pahwa	Deputy General Manager

**National Cooperative Agriculture & Rural Development Banks' Federation Ltd (NAFCARD)**

1	Shri Dolar Kotecha	Chairman
2	Shri K.K. Ravindran	Managing Director

**National Cooperative Development Corporation (NCDC)**

1	Shri R.K. Mangla	Director (P&C)
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**National Cooperative Consumers Federation of India (NCCF)**

1	Shri Vishal Singh	Chairman
2	Shri Vineet Mathur	Managing Director

2. At the outset the Chairperson welcomed the Members of the Committee and the representatives from National Bank for Agriculture and Rural Development (NABARD), National Cooperative Agriculture & Rural Development Banks Federation Limited (NAFCARD), National Cooperative Development Corporation (NCDC) and National Cooperative Consumers Federation of India (NCCF).

3. The Chairperson then asked the representative to introduce themselves and drew the attention of representatives from the Ministries and the representatives of Google to Directions 55 and 58 of the Directions by the Speaker, Lok Sabha concerning the confidentiality of the Committee proceedings.

4. After the introduction by the witnesses, representatives of NABARD made a presentation before the Committee. Then the representatives from NAFCARD, NCDC and NCCF were asked to brief the Committee about their concerns/views/suggestions on the various provisions of the proposed amendments. In their presentation and oral evidence, they highlighted the key inputs, regarding the Bill, concerning inter alia:-

(i) Overlapping of the Banking Regulation (Amendment) Act and provisions of the Bill  
(ii) Redemption of shares of multi-State cooperative bank under section 35(1) (iii) Qualification, Knowledge etc of the Board of Directors (iv) Disqualification for being a member of the board, (v) Cooperative Election Authority under section 45 (vi) Minimum and Maximum age for the CEO (vii) appointment of an Auditor (viii) Filing of returns under section 120 (ix) Supersession of Board of specified multi-State cooperative societies (x) definition of “cooperative year” (xi) conversion of a cooperative society into multi state cooperative society (xii) fund for sick Co-operative societies (xiii) Power and functions of Board under section 49.

5. During the course of deliberations, the Chairperson and the Members raised several points and sought clarifications from the representatives on various amendments proposed in the bill. The Chairman then directed the representatives to provide written replies to all the points raised during the sitting within a week.

**The witnesses then withdrew.**

**A copy of verbatim record of the proceedings is kept on record.**

***The Committee then adjourned.***

## **MINUTES OF 6<sup>TH</sup> SITTING OF THE JOINT COMMITTEE ON THE MULTI-STATE COOPERATIVE SOCIETIES (AMENDMENT) BILL, 2022**

The 6<sup>th</sup> sitting of the Joint Committee was held on Monday, the 20th February, 2023 from 1000 hrs. to 1600 hrs. in Committee Room No. 'C', PHA, New Delhi.

### **PRESENT**

**Shri Chandra Prakash Joshi** - **Chairperson**

### **LOK SABHA**

2. Shri Jagdambika Pal
3. Shri Parbatbhai Savabhai Patel
4. Dr. Nishikant Dubey
5. Smt. Sunita Duggal
6. Shri Brijendra Singh
7. Dr. Dhal Singh Bisen
8. Shri Suresh Kodikunnil
9. Shri Manish Tewari
10. Shri Kalyan Banerjee
11. Shri Sri Krishna Devarayalu Lavu
12. Shri Girish Chandra

### **RAJYA SABHA**

13. Shri Ghanshyam Tiwari
14. Shri Surendra Singh Nagar
15. Shri S. Niranjana Reddy

### **SECRETARIAT**

1. Shri J.M. Baisakh - Joint Secretary
2. Shri C. Kalyanasundaram - Director
3. Shri Sumesh Kumar - Deputy Secretary
4. Ms. Rachna Saxena - Deputy Secretary
5. Shri Bharat Lal Meena - Deputy Director

### REPRESENTATIVES OF MINISTRY OF COOPERATION

1	Shri Gyanesh Kumar	Secretary
2	Shri Vijay Kumar	Additional Secretary
3	Shri Kapil Meena	Deputy Secretary
4	Shri Satya Prakash Kumar	Under Secretary
5	Smt. Nisha Sagar	Assistant Commissioner
6	Shri Amit Sachdeva	Sr. Technical Assistant

### REPRESENTATIVES OF MINISTRY OF LAW & JUSTICE (LEGISLATIVE DEPARTMENT)

1	Shri K. Biswal	Special Secretary
2	Shri R. Sreenivas	Additional Legislative Counsel

2. At the outset, Chairperson welcomed Members and the representatives of the Ministry of Ministry of Cooperation and Ministry of Law & Justice (Legislative Department) to the sitting convened for the clause by clause consideration of the Multi-State Cooperative Societies (Amendment) Bill, 2022. Further the Chairperson drew attention of the Committee and officers to Direction 55 and 58 of the *Directions by the Speaker, Lok Sabha* regarding confidentiality of Committee proceedings.

3. After the introduction by the representatives, the Committee took up Clause by Clause examination of the Bill and deliberated on all the Clauses with the representatives of the Ministry of Cooperation and Ministry of Law & Justice (Legislative Department). During the deliberations, they responded to the queries of the Members on the Clauses of the Bill. The Committee had passed the Clauses of the Bill based on the replies/clarifications given by the Ministry of Cooperation including those Clauses on which the Ministry of Cooperation agreed to the suggestions made by the Committee and kept aside six clauses viz. (i) Clause 2 about the Definitions, (ii) Clause 12 regarding Expulsion of members, (iii) Clause 16 which State About The Disqualifications of Members of the Board, (iv) Clause 17 pertaining to Elections of members of board, (v) Clause 18 on Powers and functions of the board and (vi) Clause 20 on appointment of Chief Executive, for further detailed examination during the next sitting.

4. At the end the Chairperson extended vote of thanks to the Members and the representatives of the Ministries.

***The Committee then adjourned.***

**A copy of verbatim record of the proceedings is kept on record.**



**MINUTES OF 7<sup>TH</sup> SITTING OF THE JOINT COMMITTEE ON THE MULTI-STATE  
COOPERATIVE SOCIETIES (AMENDMENT) BILL, 2022**

The 7<sup>th</sup> sitting of the Joint Committee was held on Monday, the 27th February, 2023 from 1500 hrs. to 1630 hrs. in Committee Room No. 'C', PHA, New Delhi.

**PRESENT**

**Shri Chandra Prakash Joshi - Chairperson**

**LOK SABHA**

2. Shri Jagdambika Pal
3. Dr. Nishikant Dubey
4. Smt. Sunita Duggal
5. Shri Brijendra Singh
6. Smt. Jaskaur Meena
7. Dr. Dhal Singh Bisen
8. Shri Manish Tewari
9. Smt. Kanimozhi Karunanidhi
10. Shri Sri Krishna Devarayalu Lavu
11. Shri Hemant Shriram Patil
12. Shri Dulal Chandra Goswami
13. Shri Girish Chandra

**RAJYA SABHA**

14. Shri Ghanshyam Tiwari
15. Shri Surendra Singh Nagar
16. Shri S. Niranjana Reddy

**SECRETARIAT**

- |    |                         |   |                  |
|----|-------------------------|---|------------------|
| 1. | Shri J.M. Baisakh       | - | Joint Secretary  |
| 2. | Shri C. Kalyanasundaram | - | Director         |
| 3. | Shri Sumesh Kumar       | - | Deputy Secretary |
| 4. | Ms. Rachna Saxena       | - | Deputy Secretary |
| 5. | Shri Bharat Lal Meena   | - | Deputy Director  |

### REPRESENTATIVES OF MINISTRY OF COOPERATION

1	Shri Gyanesh Kumar	Secretary
2	Shri Vijay Kumar	Additional Secretary
3	Shri Kapil Meena	Deputy Secretary
4	Shri Jitender Nagar	Deputy Commissioner
5	Shri Satya Prakash Kumar	Under Secretary
6	Smt. Nisha Sagar	Assistant Commissioner

### REPRESENTATIVES OF MINISTRY OF LAW & JUSTICE (LEGISLATIVE DEPARTMENT)

1	Shri K. Biswal	Special Secretary
2	Shri R. Sreenivas	Additional Legislative Counsel

### REPRESENTATIVES OF MINISTRY OF LAW & JUSTICE (DEPARTMENT OF LEGAL AFFAIRS)

1	Shri R.S. Verma	Additional Secretary
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2. At the outset, Chairperson welcomed Members and the representatives of the Ministry of Ministry of Cooperation and Ministry of Law & Justice (Legislative Department) to the sitting convened for the clause by clause consideration of the Multi-State Cooperative Societies (Amendment) Bill, 2022. Further the Chairperson drew attention of the Committee and officers to Direction 55 and 58 of the *Directions by the Speaker, Lok Sabha* regarding confidentiality of Committee proceedings.

3. Thereafter, the Committee took up Clause by Clause consideration of the six clauses viz. (i) Clause 2 about the Definitions, (ii) Clause 12 regarding Expulsion of members, (iii) Clause 17 pertaining to Elections of members of board, (iv) Clause 18 on Powers and functions of the board and (v) Clause 20 on appointment of Chief Executive, and (vi) Clause 24 on establishment of a Co-operative rehabilitation, reconstruction and development fund for revival of sick multi-state co-operative societies. In addition, two members also moved their amendments on the bill pertaining to few clauses.

4. The Committee had exhaustive deliberation on these clauses and the representatives of the Ministries responded to the queries of Members and elucidated on proposed amendments. Then the Committee agreed to accept the amendments proposed by the Government under the Clauses and concluded the clause by clause discussion of the Bill. After that the Chairperson extended the vote of thanks to the representatives of the Ministries.

***The Committee then adjourned.***

**A copy of verbatim record of the proceedings is kept on record.**

## **MINUTES OF THE JOINT COMMITTEE ON THE MULTI-STATE COOPERATIVE SOCIETIES (AMENDMENT) BILL, 2022**

The 8<sup>th</sup> sitting of the Joint Committee was held on Monday, the 13<sup>th</sup> March, 2023 from 1500 hrs. to 1515 hrs. in Committee Room No. '4', EPHA, New Delhi.

### **PRESENT**

**Shri Chandra Prakash Joshi** - **Chairperson**

### **LOK SABHA**

2. Shri Parbatbhai Savabhai Patel
3. Dr. Nishikant Dubey
4. Smt. Sunita Duggal
5. Shri Brijendra Singh
6. Smt. Jaskaur Meena
7. Dr. Dhal Singh Bisen
8. Shri Suresh Kodikunnil
9. Shri Manish Tewari
10. Shri Kalyan Banerjee
11. Shri Hemant Shriram Patil
12. Shri Dulal Chandra Goswami
13. Shri Chandra Sekhar Sahu
14. Shri Girish Chandra

### **RAJYA SABHA**

15. Shri Ghanshyam Tiwari
16. Shri Surendra Singh Nagar
17. Shri Dhananjay Bhimrao Mahadik
18. Shri N.R. Elango

### **SECRETARIAT**

1. Shri J.M. Baisakh - Joint Secretary
2. Shri C. Kalyanasundaram - Director
3. Shri Sumesh Kumar - Deputy Secretary
4. Ms. Rachna Saxena - Deputy Secretary
5. Shri Bharat Lal Meena - Deputy Director

2. At the outset, Chairperson welcomed the Members of the Joint Committee to the sitting convened for consideration and adoption of Draft Report of the Committee. The Committee considered the Draft Report and adopted the same. The Committee also authorized the Hon'ble Chairperson to present the Report in Lok Sabha and lay Report on the table of the Rajya Sabha.

3. One of the members wanted to submit a dissent note. In this regard, the Chairperson decided that if any member wants to give any dissent note, he/she may submit the same by evening on the same day *i.e.* 13.03.2023.

4. The Chairperson in his concluding remarks thanked all the members of the Joint Committee for their unstinted support and cooperation which made the Committee to examine and finalize the report on a comprehensive and important legislation in the given time frame. The Chairperson thereafter placed on record the appreciation for the relentless assistance rendered to the Committee by the officers and staff of the Lok Sabha Secretariat.

***The Committee then adjourned.***



**N.R.ELANGO**  
**MEMBER OF PARLIAMENT**  
**( RAJYA SABHA )**  
**TAMILNADU**

13.03.2023

To

The Chairman,  
 Joint Committee,  
 Multi-State Cooperative Societies Amendment Bill 2022,  
 Lok Sabha, New Delhi – 110 001

Sir,

SUB: Dissent note – to the draft report  
 REF: mail from LAFEAS – JCMC018/8/2023 – JCMC

Vanakkam,

I express my sincere thanks to you and the members of the committee for having deliberated the Multi-State Cooperative Societies Amendment Bill 2022 at length. Though I could participate only in the few of the meetings of the committee, the deliberations were done in a democratic manner. The manner in which you have conducted the proceedings of the committee reemphasize the need for constituting such committees with respect to all important bills introduced in the parliament.

Though I concur with most of the draft report, I find myself not able to agree with the report on certain clauses. Hence, I propose the following dissent note and request you to place the same on record.

Thank you!

**N.R. ELANGO**  
**MEMBER OF PARLIAMENT**  
**RAJYA SABHA**  
**IC NO. 4881**

Encl: Dissent note - 6 pages.

**DISSENT NOTE SUBMITTED BY N.R.ELANGO TO THE DRAFT REPORT  
OF JOINT COMMITTEE OF MULTI-STATE COOPERATIVE SOCIETIES  
AMENDMENT BILL 2022**

While introducing the 97<sup>th</sup> Constitutional Amendment introduced in the year 2012, Part IX B of the constitution, it was observed that, "the state shall promote voluntary formation, **autonomous functioning**, democratic control and professional management of co-operative societies."

- Whereas the Bill No.215 of 2022, seeks to curtail the same, in different ways, especially to that of MSC Societies, which are exclusively meant for a class of members, such as Employees' Co-operative Societies.
- Under the Second Schedule of MSCS Act 2002, there are 21 National Co-operative Societies, which were either created under the act or created by an Act of Parliament, in which substantial funding, is made by the Central Government.
- Whereas Employees' Co-operative Societies, which are formed and managed by the employees, from out of their own funds of contribution, thrift deposits, borrowings etc. with absolutely no funding or subsidy or grant or credit guarantee by the State / Central Government and also the State / Central Government not having any share holding, then such societies, should be excluded from the purview of the following provisions, which are sought to be amended by the above Bill. They are mainly
  - I. Applicability and Jurisdiction of "**Co-operative Election Authority**".
  - II. Redressal of complaints under the proposed "**Co-operative Ombudsman**".
  - III. Guidelines/Restrictions sought to be introduced, in respect of recruitment of its employees including that of Chief Executive, under Section 49(2)(e) (Powers and Function of the Board).

N.R. Elango

DISSENT NOTE - I

CLAUSE NO.	PROVISIONS	AMENDMENT SUGGESTED
17	Section 45 (1) to Section 45 (L)	The above provisions relating to Co-operative Election Authority, shall not be applicable in respect of Employees' Co-operative Society's, wherein, there is no funding or shares holding or subsidy or principal/interest relief or waiver by the State / Central Government.

**REASONS FOR SUGGESTIONS:**

- As per the Principal Act, the election to the successor Board of the Society, is covered under Section 45 of the MSCS Act 2002.
- Whereas in the proposed amendment, the entire Section 45 of the Principal Act, is being substituted from Section 45(1) to Section 45(L) which deals with Co-operative Election Authority.
- When the constitution has provided for **Autonomous Functioning**, the need for a "Co-operative Election Authority" and that too, in the case of totally independent financial institutions, such as Employees' Co-operative Societies, is unwarranted and such Employees' Co-operative Society's should be excluded from the proposed amendment to section 45 of the Principal Act.
- Election to the Board of Directors of companies, are done by the Shareholders, themselves in their General Body meeting. In the similar manner, the members of Employees Co-operative Societies, should also be allowed to have autonomous functioning.
- Furthermore, there are various MSC Societies, with a membership of few thousands, however if the co-operative election authority, is introduced in the manner in which it is proposed to function then it shall cause additional burden on such Co-operative Societies which is totally unwarranted.
- Moreover, if the Central or State Government does not hold any shares or does not grant any subsidy or principal/interest relief or waiver, does not give any credit guarantee, then there is no need to bring in, such Employees' Co-operative Societies, under the ambit of proposed "Co-operative Election Authority".

N.R. D. V.

- Already there is a clear mandate, vide Sub-section 6, of Section 45, of the MSCS Act, 2002, where the existing Board fails to conduct Election to its successor Board, then the Central Registrar shall, hold Election, within a period of 90 days from the date, when such Election has become due and also such Board Members shall, incur disqualification, under Clause (a) of Sub-section 2, of Section 43, of the MSCS Act.
- Hence the Co-operative Societies which are not funded by these Governments such as Employee's Co-operative Societies, should be totally excluded from the ambit of proposed amendment to Section 45.

N.R.S.



DISSENT NOTE - II

CLAUSE NO.	PROVISIONS	AMENDMENT SUGGESTED
18	Section 49, Sub-section 2 Clause (e)	The above provision relating to powers and function of Board, shall not be applicable in the case of Employees' Co-operative Society, where, there is no funding or shareholding or subsidy or principal/interest relief or waiver, by the State / Central Government.

REASONS FOR SUGGESTIONS:

- A proviso to Clause (e) of sub-section 2 of Section 49 of the Principal Act, is proposed to be inserted namely "Provided that the recruitment of such employees shall be subject to such procedure as may be prescribed."
- When the State or Central Government does not hold any shares, does not grant any subsidy, does not grant any principal/interest waiver, does not give any credit guarantee, then in such circumstances, the recruitment of required number of personnel, as well as the qualifications of such personnel should be left to the discretion of the employer, namely the Co-operative Society, which functions on its own funds, having due regard to the area of operation, number of branches etc.,
- As such the proviso, which is sought to be introduced by delegated legislation i.e., "as may be prescribed", is unwarranted and the proposed insertion of proviso to Clause (e) of Sub-Section 2 of Section 49, in respect of powers and function of Board, should be deleted.

nr. J. f.

### DISSENT NOTE - III

CLAUSE NO.	PROVISIONS	AMENDMENT SUGGESTED
31	Section 85A (Sub-section 1 To Sub-section 5)	The above provision relating to Co-operative Ombudsman, shall not be applicable in the case of Employees' Co-operative Society, where, there is no funding or shareholding or subsidy or principal/interest relief or waiver, by the State / Central Government.

#### REASONS FOR SUGGESTIONS:

- A new chapter under the heading Chapter IXA "Redressal of Complaints" is sought to be inserted in the Principal Act.
- It is stated in the objects of the proposed amendment that "Co-operative Ombudsman", is being introduced, for "Redressal of Complaints".
- Whereas, already in terms of Section 84 of the Principal Act, there is a well-defined definition for "Dispute", and also parties to the "Dispute" such as relating to constitution, management or business of the society, among members, between member and the society, between the board and a member and such "Dispute", shall be referred for arbitration.
- Such disputes are settled or decided by the arbitrator, appointed by the Central Registrar and the proceedings of such arbitration, are covered under the Arbitration and Conciliation Act 1996. As such any dispute, including
- financial disputes, are already covered under the Principal Act.
- Further, with the amendment to Arbitration and Conciliation Act, in the year 2015, speedy redressal of the disputes, between the members and the society are already in existence.
- In the Banking Sector, the role of "Ombudsman", relates only to complaints relating to provision of services to a customer by the bank and in case of Loans and advances, only in so far as they relate to non-observance of RBI orders on interest rates, time limit, and other directions of RBI. It does not cover recovery of dues from a customer by the Bank.
- Furthermore, provision of "Co-operative Ombudsman" will not only confuse and complicate, but will also dilute the existing and effective dispute redressal provisions contained, in Section 84 of the Principal Act.

*N.R.S.*

- As such the "Co-operative Ombudsman", proposal needs to be rescinded, as it will dilute the provisions of Section 84 of the Principal Act, in respect of Employees' Co-operative Societies.

*[Handwritten signature]*

6.3.23  
(डॉ. रीटा वशिष्ठ)  
(Dr. REETA VASISHTA)  
सचिव/Secretary  
विधि और न्याय मंत्रालय  
Ministry of Law & Justice  
(विधायी विभाग/Legislative Deptt.)  
नई दिल्ली/New Delhi

**THE MULTI-STATE CO-OPERATIVE SOCIETIES (AMENDMENT)  
BILL, 2022 AS REPORTED BY THE JOINT COMMITTEE**

**[WORDS AND FIGURES IN BOLD AND UNDERLINED INDICATE  
THE AMENDMENTS AND (\*\*\*) MARK INDICATES THE OMISSION  
SUGGESTED BY THE JOINT COMMITTEE]**

	THE MULTI-STATE CO-OPERATIVE SOCIETIES (AMENDMENT) BILL, 202 <u>3</u>	
	A  BILL	
	<i>further to amend the Multi-State Co-operative Societies Act, 2002.</i>	
	BE it enacted by Parliament in the Seventy- <b>fourth</b> Year of the Republic of India as follows:—	
	1. (1) This Act may be called the Multi-State Co- operative Societies (Amendment) Act, 202 <u>3</u> .	Short title and commence- ment.
	(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 section 3 of the Multi-State Co-operative Societies Act, 2002 (hereinafter referred to as the	Amendment of section 3.

	principal Act), —	
	(i) after clause (a), the following clause shall be inserted, namely: —	
	‘(aa) “Authority” means the Co-operative Election Authority established under sub-section (1) of section 45;’;	
	(ii) in clause (d), for the words, brackets and figures “under sub-section (1) of section 4”, the words, brackets, letters and figures “as per clause (f) of article 243ZH of the Constitution read with sub-section (1) of section 4” shall be substituted;	
	(iii) after clause (f), the following clause shall be inserted, namely: —	
	‘(fa) “Co-operative Ombudsman” means the Ombudsman appointed by the Central Government under section 85A;’;	
	(iv) (***) clause (i), (***) shall be <u>omitted</u> ;	
	<u>(v) after clause (k), the following clause shall be inserted, namely:-</u>	
	<u>‘(ka) “financial year”, in relation to any multi-State co-operative society or class of such societies, means the year ending on the 31<sup>st</sup> day of March of the year and where the accounts of such society or class of such societies are, with the previous sanction of the Central Registrar, balanced on any other day, the year ending on such day;’;</u>	
	(vi) in clause (s), after the words “Official Gazette”, the words “and the expression ‘notified’ with its cognate meanings and grammatical variations shall be construed accordingly” shall be	

	inserted.	
	3. In section 7 of the principal Act, for sub-sections (2) and (3), the following sub-sections shall be substituted, namely: –	Amendment of section 7.
	“(2) Without prejudice to the provisions of sub-section (1), the Central Registrar may register a multi-State co-operative society if the aggregate value of the paid-up capital and provision of reserves along with liquidity, exposure and other prudential norms specified in the bye-laws of the proposed multi-State co-operative society in the business of thrift and credit are in accordance with such guidelines as may be prescribed:	
	Provided that the multi-State co-operative societies registered before the commencement of the Multi-State Co-operative Societies (Amendment) Act, 2023 shall meet such norms within a period of five years from the date of commencement of the said Act:	
	Provided further that if the liquidity, exposure, prudential and other parameters of the multi-State credit society do not meet such norms within the period mentioned above, the Central Registrar shall have powers to issue such directions as it deems appropriate to such society to take relevant action:	
	Provided also that in the case of multi-State co-operative bank, the aggregate value of the paid-up capital and provision of reserves along with liquidity norms provided in the bye laws shall be such as may be laid down by the Reserve Bank from time to time.	

	(3) The application for registration shall be disposed of by the Central Registrar within a period of three months from the date of receipt of such application by him:	
	Provided that the Central Registrar may, for rectification of mistakes, if any, in the application, extend the period of three months with such further period, for reasons to be recorded in writing, not exceeding two months on the request of the applicant.	
	(4) Where the Central Registrar refuses to register a multi-State co-operative society, he shall communicate the order of such refusal stating therein the reasons for such refusal, to the applicant within the period specified in sub-section (3):	
	Provided that no order of refusal shall be made, unless the applicant has been given an opportunity of being heard:	
	Provided further that if the application for registration is not disposed of within the period specified in sub-section (3) or the Central Registrar fails to communicate the order of refusal within the said 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.”.	
	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 e-mail address(***)” shall be substituted.	Amendment of section 10.

	<b>5.</b> In section 14 of the principal Act-	Amendment of section 14.
	(i) for the marginal heading “Change of address”, the marginal heading “Address” shall be substituted;	
	(ii) for the word “address”, the words “address, including e-mail address,” shall be substituted.	
	<b>6.</b> In section 17 of the principal Act, after sub-section (9), the following sub-section shall be inserted, namely:—	Amendment of section 17.
	“(10) Any co-operative society may, by a resolution passed by majority of not less than two-thirds of the members present and voting at a general meeting of such society, decide to merge into an existing multi-State co-operative society:	
	Provided that such resolution shall be subject to the provisions of the respective State Co-operative Societies Act for the time being in force under which such co-operative society is registered.”.	
	<b>7.</b> In section 19 of the principal Act, in the <i>Explanation</i> , in clause (a), -	Amendment of section 19.
	(i) in sub-clause (ii), the word “or” occurring at the end shall be omitted;	
	(ii) sub-clause (iii) shall be omitted.	
	<b>8.</b> 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.



	“(c) The co-operative society shall be deemed to have been de-registered under the law relating to such co-operative society for the time being in force in that State, from the date of the certificate as issued by the Central Registrar and forwarded to such co-operative society, along with a copy of the registered amendment under sub-section (3).”.	
	<b>9.</b> In section 26 of the principal Act,-	Amendment of section 26.
	(i) in the proviso, the words “be entitled to subscribe the shares of such society or” shall be omitted;	
	(ii) after the proviso, the following provisos shall be inserted, namely:-	
	“Provided further that nominal or associate member can be issued non-voting shares which may not confer any interest in the management of the multi-State co-operative society including right to vote, to be elected as a director of the board or participate in the general body meetings:	
	Provided also that in case of multi-State co-operative bank, such shares shall be issued in accordance with the instructions issued by the Reserve Bank from time to time.”.	
	<b>10.</b> In section 28 of the principal Act, for the words “to the society in respect of membership,” the words “of all dues to the multi-State co-operative society including the payment in respect of membership or has availed such minimum level of product or services as specified in the bye-laws,” shall be substituted.	Amendment of section 28.

	<b>11.</b> In section 29 of the principal Act, for clause (b), the following clause shall be substituted, namely:—	Amendment of section 29.
	“(b) he fails to use the minimum level of the products or services as specified in the bye-laws for two consecutive years; or”.	
	<b>12.</b> In section 30 of the principal Act, in sub-section (2), for the words “one year”, the words “three years” shall be substituted.	Amendment of section 30.
	<b>13.</b> For section 35 of the principal Act, the following section shall be substituted, namely:—	Substitution of new section for section 35.
	‘35 (1) The shares of the authorities referred to in clauses (c) and (d) of sub-section (1) of section 25, held in multi-State co-operative societies,—	Redemption of shares.
	(a) shall not be redeemed without the prior approval of such authorities; and	
	(b) may be redeemed in such manner as may be agreed upon between the multi-State co-operative society and such authorities.	
	(2) The shares held in a multi-State co-operative society by any of the authorities referred to in clauses (e) to (g) of sub-section (1) of section 25, shall be redeemed in accordance with the bye-laws of such multi-State co-operative society and in case, where the bye-laws do not contain any provision, in such manner as may be agreed upon between the multi-State co-operative society and such authorities.	

	(3) The redemption of shares referred to in sub-sections (1) and (2), shall be on the face value of shares.	
	<b>14.</b> In section 39 of the principal Act, in sub-section (1), after clause (o), the following clause shall be inserted, namely:—	Amendment of section 39.
	“(p) appointment of auditor.”.	
	<b>15.</b> In section 41 of the principal Act, for sub-section (3), the following sub-sections shall be substituted, namely:—	Amendment of section 41.
	‘(3) The board shall consist of such number of directors not exceeding twenty-one, as may be specified by bye-laws, out of which one Member shall be Scheduled Caste or Scheduled Tribe and two shall be women in the board of multi-State co-operative society consisting of individuals and having members from such class or category of persons:	
	Provided that the board may co-opt as Members of the board having experience in the field of banking, management, co-operative management and finance or specialisation in any other field relating to the objects and activities undertaken by such multi-State co-operative society:	
	Provided further that the number of such co-opted Members shall not exceed two in addition to twenty-one directors specified in this sub-section.	
	(4) The co-opted directors referred to in sub-section (3) shall not have the right to vote in any election of the office bearers or be eligible to be elected as office bearers of the board.	

	<p>(5) The functional directors in a multi-State co-operative society shall also be the members of the board and such directors shall be excluded for the purpose of counting the total number of directors specified in sub-section (3).</p>	
	<p>(6) 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 or his relative is directly or indirectly concerned or interested in such contract or arrangement and no relative of any of the sitting directors of the multi-State co-operative society shall be recruited as employee including the Chief Executive of that society.</p>	
	<p><i>Explanation.</i>—For the purposes of this sub-section, the term, “relative” with reference to an individual, includes—</p>	
	<ul style="list-style-type: none"> <li>(a) spouse;</li> <li>(b) father (including step father);</li> <li>(c) mother (including step mother);</li> <li>(d) son (including step son);</li> <li>(e) son's wife;</li> <li>(f) daughter (including step daughter);</li> <li>(g) daughter's husband;</li> <li>(h) father's father;</li> <li>(i) father's mother;</li> <li>(j) mother's father;</li> <li>(k) mother's mother;</li> <li>(l) son's son;</li> <li>(m) son's son's wife;</li> </ul>	

	<p>(n) son's daughter; (o) son's daughter's husband; (p) daughter's son;</p>	
	<p>(q) daughter's son's wife; (r) daughter's daughter; (s) daughter's daughter's husband; (t) brother (including step brother); (u) brother's wife; (v) sister (including step sister); (w) sister's husband; and (x) Hindu undivided family.</p>	
	<p>(7) Any director of the board who violates the provision of sub-section (6), shall be disqualified for being a member of the board and deemed to have vacated his office from the date of such meeting of the board as is referred to in the said sub-section and such proceedings shall be deemed to be void.’.</p>	
	<p><b>16.</b> In section 43 of the principal Act,—</p>	<p>Amendment of section 43.</p>
	<p>(i) in sub-section (1),—</p>	
	<p>(a) in clause (a), after the words “to be insolvent”, the words “or has been a director of an insolvent company” shall be inserted;</p>	
	<p>(b) in clause (h), after the words “under this Act”, the words “or under any other Act specified in the Third Schedule” shall be inserted;</p>	

	(c) after clause (n), the following clause shall be inserted, namely: —	
	“(o) has been disqualified under sub-section (7) of section 41.”;	
	(ii) after sub-section (1), the following sub-section shall be inserted, namely: —	
	“(1A) A member who has been a director of the board of any multi-State co-operative society or co-operative bank, where such board has been superseded, shall not be eligible to be elected as director of the board of another multi-State co-operative society or co-operative bank for a period of five years, from the date of such supersession:	
	Provided that no member shall be declared ineligible under this sub-section unless an opportunity of being heard has been given to such member by the Central Registrar and declaration for ineligibility shall be made only after ascertaining that the member concerned has been responsible by acts of omission or commission leading to such supersession.”;	
	(iii) in sub-section (2),—	
	(a) for clause (a), the following clause shall be substituted, namely:-	
	“(a) to provide information, documents, personnel, funds or expenses or any other assistance as required by the Co-operative Election Authority for conducting elections under this Act in such manner as may be prescribed; or”;	

	(b) in clause (c), for the words “general meeting” occurring at the end, the words “general meeting; or” shall be substituted;	
	(c) 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 the Co-operative Rehabilitation, Reconstruction and Development Fund established under section 63A; or	
	(e) to file annual return specified in section 120 within the time specified therein ; or	
	(f) to get the audit of the society conducted within six months of the close of the financial year to which such account relate:	
	Provided that before taking any action under this sub-section, he shall be given an opportunity of being heard by the Central Registrar.”.	
	17. For section 45 of the principal Act, the following sections shall be substituted, namely:—	Substitution of new section for section 45.
	“45. (1) The Central Government shall, by notification, establish an Authority to be known as the Co-operative Election Authority which shall consist of a Chairperson, a Vice-Chairperson and Members not exceeding three to be appointed by the Central Government on the recommendation of the Selection Committee consisting of such persons as may be prescribed.	Establishment of Co-operative Election Authority.

	(2) The head office of the Authority shall be at such place as may be notified by the Central Government.	
	(3) A person shall not be qualified for appointment as a,—	
	(i) Chairperson of the Authority unless he held the post of Additional Secretary to the Government of India or equivalent rank;	
	(ii) Vice-Chairperson of the Authority unless he held the post of Joint Secretary to the Government of India or equivalent rank; and	
	(iii) Member unless he fulfils such qualification and experience as may be prescribed.	
	(4) The Chairperson, Vice-Chairperson or Member of the Authority shall hold office for a period of three years from the date on which they enter upon their office or until they attain the age of sixty-five years, whichever is earlier and they shall be eligible for re-appointment:	
	Provided that in case of appointment of a Government servant as a Chairperson, Vice-Chairperson or a Member, he shall be treated as an <i>ex-officio</i> Member and he shall continue so long as he holds the office by virtue of which he is a Chairperson, Vice-Chairperson or Member.	
	(5) The salaries and allowances payable to, and the other terms and conditions of service of the Chairperson, Vice-Chairperson and Members of the Authority, other than the <i>ex-officio</i> Member, shall be such as may be prescribed.	



	45A. The Chairperson of the Authority shall have powers of general superintendence and directions in the conduct of the affairs of the Authority and he shall, in addition to presiding over the meetings of the Authority, exercise and discharge such other powers and functions as may be prescribed.	Power of Chairperson.
	45B. (1) The Central Government may, by order, remove from office the Chairperson, Vice-Chairperson or Member of the Authority, other than <i>ex-officio</i> Member, if the Chairperson, Vice-Chairperson or Member of the Authority, as the case may be,—	Removal and suspension of Chairperson, Vice-Chairperson and Members.
	(a) has been adjudged as an insolvent;	
	(b) has been convicted of an offence which, in the opinion of the Central Government involves moral turpitude;	
	(c) has been physically or mentally incapable of acting as a Chairperson, Vice-Chairperson or Member of the Authority;	
	(d) has acquired such financial or other interest/s, as is likely to affect prejudicially his function as a Chairperson, Vice-Chairperson or Member of the Authority;	
	(e) has so abused his position, as to render his continuance in office prejudicial to the public interest; or	
	(f) has engaged at any time during his term of office in any other employment.	
	(2) The Chairperson, Vice-Chairperson or Member of the Authority shall not be removed	

	<p>from his office except by an order of the Central Government on the ground of his proved misbehaviour or incapacity after the Central Government has, on an inquiry, held in accordance with the procedure prescribed in this behalf by it, come to the conclusion that the Chairperson, Vice-Chairperson or Member of the Authority ought on any such ground to be removed.</p>	
	<p>(3) The Central Government may suspend the Chairperson, Vice-Chairperson or Member of the Authority in respect of whom an inquiry under sub-section (2) is being initiated or pending until the Central Government has passed an order on receipt of the report of the inquiry.</p>	
	<p>45C. (1) Before appointing any person as Chairperson, Vice-Chairperson or Member, the Central Government shall satisfy itself that the person does not have any such financial or other interest as is likely to affect prejudicially his functions as such Chairperson, Vice-Chairperson or Member.</p>	<p>Disclosure and declaration of interest.</p>
	<p>(2) The Chairperson, Vice-Chairperson or Members shall immediately after entering office and every year thereafter, make a declaration as to the extent of their interest, whether direct or indirect and whether financial or otherwise, in any co-operative society.</p>	
	<p>(3) The declaration so made under sub-section (2) shall be placed in the public domain by the Authority.</p>	
	<p>45D. The Chairperson, Vice-Chairperson or Members, other than <i>ex-officio</i> Members, may, by notice in writing of not less than thirty days under their hand addressed to the Central Government, resign their office and on such resignation being</p>	<p>Resignation of Members.</p>

	accepted by that Government, shall be deemed to have vacated their office:	
	Provided that the Chairperson, Vice-Chairperson or Member shall, unless he is permitted by the Central Government to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest.	
	45E. If a casual vacancy occurs in the office of the Chairperson, Vice-Chairperson or Member of the Authority, whether by reason of his death, resignation or otherwise, such vacancy shall be filled within a period of ninety days by making a fresh appointment in accordance with the provisions of section 45 and the person so appointed shall hold office for the remainder of the term of office for which the Chairperson, Vice-Chairperson or Member of the Authority, as the case may be, in whose place he is so appointed.	Filling of casual vacancy.
	45F. The Chairperson, Vice-Chairperson and Member of the Authority, on ceasing to hold office shall not, for a period of two years, accept any employment (including as consultant or otherwise) in any co-operative society:	Restriction of re-employment.
18 of 2013.	Provided that nothing contained in this section shall apply to any employment under the Central Government or in any State Government or any Corporation established by or under any Central or State Act or a Government Company as defined under clause (45) of section 2 of the Companies Act, 2013.	

	45G. No act or proceeding of the Authority shall be invalid merely by reason of—	Vacancies etc. not to invalidate proceedings of Authority.
	(a) any vacancy in, or any defect in the constitution of, the Authority;	
	(b) any defect in the appointment of a person as Chairperson or Member of the Authority; or	
	(c) any irregularity in the procedure of the Authority not affecting the merits of the case.	
	45H. (1) The Authority shall meet at such places and times and shall observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at its meetings), as may be prescribed.	Meetings of Authority.
	(2) The Chairperson of the Authority shall preside at the meeting of the Authority and if for any reason the Chairperson of the Authority is unable to attend a meeting of the Authority, the Vice-Chairperson of the Authority shall preside at the meeting.	
	(3) All questions which come up before any meeting of the Authority shall be decided by a majority of votes of the members present and voting and, in the event of an equality of votes, the Chairperson or the Vice-Chairperson of the Authority presiding shall have the right to exercise a second or casting vote.	
	(4) Save as otherwise provided in sub-section (1), every Member shall have one vote.	
	45-I. The Authority shall discharge the following functions, namely:—	Functions of Authority.

	(i) conduct the elections of the multi-State co-operative society;	
	(ii) supervise, direct and control the matters relating to preparation of electoral rolls; and	
	(ii) such other functions as may be prescribed.	
	45J. (1) 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.	Elections of Members of board.
	<i>Explanation.</i> —For the purposes of this subsection, the term “active member” means any member—	—
	(i) availing minimum level of products or services of the society; or	
	(ii) attending not less than three consecutive general meetings,	
	as specified in section 29.	
	(2) 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.	
	(3) The election of members of board shall be held by secret ballot in such manner as may be prescribed.	
	(4) The election of the members of the board shall be held in the general meeting of the members of the multi-State co-operative society	

	and the elected members of the board shall, if the bye-laws of such society permit, be eligible for re-election.	
	(5) The term of office of elected members of the board and its office bearers shall be five years from the date of election and the term of office bearers shall be co-terminus with the term of the board:	
	Provided that the board may fill casual vacancies upto one-third of number of elected directors on 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:	
	Provided further that in case the number of such casual vacancies in the same term of the board exceeds one-third of number of elected directors, such vacancies shall be filled by elections.	
	(6) The expenses for holding elections by the Authority shall be borne by the multi-State co-operative society in such manner as may be prescribed.	
	(7) The Central Government may make rules to provide for the powers and the procedure to be followed by the Authority for conduct of election of members of the board.	
	(8) The Chairperson and the Chief Executive of the multi-State co-operative society shall inform the Authority, six months before the expiry of the term of the existing board, to conduct the elections within time.	

	(9) The <b>multi-State co-operative</b> society in respect of which the election is being held shall provide such infrastructure, personnel, information, documents or other assistance to the Authority as it may require.	
	45K. (1) The Authority may appoint a Returning Officer to conduct the election of the multi-State co-operative societies and discharge such functions, as directed by the Authority, in such manner as may be prescribed.	Appointment of Returning Officer and other officers.
	(2) The Central Government shall provide such staff and officers to the Authority as may be necessary for the efficient discharge of functions by the Authority under the Act.	
	(3) The Authority may appoint,—	
	(a) such observers as it may consider necessary to supervise the elections and discharge such other functions as may be prescribed; and	
	(b) such number of Assistant Returning Officers as it may consider necessary to assist the Returning Officer.	
	45L. The Authority may, by general or special order, issue such directions to the board, its members, Chief Executive and other staff of the <b>multi-State co-operative</b> society as may be necessary for the conduct of free and fair elections and the board, its members, Chief Executive and staff of the society shall comply with such directions.”.	Power to issue directions.
	18. In section 49 of the principal Act, in sub-section (2),—	Amendment of section 49.

	(i) after clause (a), the following clause shall be inserted, namely:—	
	“(aa) to elect the Chairperson and Vice-Chairperson or President and Vice-President of the multi-State co-operative society from amongst the elected members of the board in accordance with the directions of the Authority:	
	Provided that the certificate of election shall be issued by the Chief Executive of the multi-State co-operative society after conclusion of resolution by the board;	
	(ii) in clause (e), the following proviso shall be inserted, namely:-	
	“Provided that the recruitment of such employees shall be subject to such procedure as may be prescribed.”.	
	<b>19.</b> In section 50 of the principal Act,—	Amendment of section 50.
	(a) in sub-section (1), the following provisos shall be inserted, namely:—	
	“Provided that where such Chairperson or President fails to direct the Chief Executive to convene the meeting of the board within the quarter, such Chief Executive shall convene the meeting on the basis of requisition of the Vice-Chairperson or Vice-President or any other Member of the board:	
	Provided further that notwithstanding anything contained in the first proviso, the Chief Executive may also convene the meeting on the	



	basis of requisition from at least fifty per cent. of Members of the board;	
	(b) for sub-section (3), the following sub-sections shall be substituted, namely:—	
	“(3) The Chairperson or President, if for any reason, is unable to attend a meeting of the board, the Vice Chairperson or Vice President and in the absence of both, any other Member of the board chosen by the Members of the board present from amongst themselves at the meeting, shall preside over the meeting.	
	(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 number of elected directors.”.	
	<b>20.</b> In section 51 of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely:—	Amendment of section 51.
	“(1A) No multi-State co-operative society shall appoint or continue the employment of any person as the Chief Executive who—	
	(a) is below the age of twenty-one years or has attained the age of seventy years:	
	Provided that any person above the age of seventy years may be appointed by a special resolution passed by three fourth of the board members, in which case the explanatory statement annexed to the notice for such motion shall indicate the justification for appointing such person;	
	(b) is an undischarged insolvent or has any time been adjudged as an insolvent;	

	(c) has at any time been convicted by a court of an offence and sentenced for a period of more than six months; or	
	(d) does not meet the criteria for 'fit and proper', as determined by the Central Registrar in case of multi-State credit societies or in case of non-credit multi-State societies, does not meet the criteria as Central Government may prescribe in terms of education qualifications and relevant experience.	
	<b>21.</b> 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.
	<b>22.</b> In section 53 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely: —	Amendment of section 53.
	"(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:	
	Provided that the board shall constitute-	
	(a) an Audit and Ethics Committee;	
	(b) a Committee on prevention of sexual harassment at work place."	
	<b>23.</b> In section 63 of the principal Act, in sub-section (1), for clause (b), the following clause shall be substituted, namely:—	Amendment of section 63.
	"(b) credit annually one per cent. of net profit to co-operative education fund to be maintained by the Central Government in such manner as may be prescribed and the proceeds from such fund	

	shall be used for co-operative education and training through the National Co-operative Union of India and any other agency in such manner as may be determined by the Central Government;”.	
	<b>24.</b> After section 63 of the principal Act, the following sections shall be inserted, namely:—	Insertion of new sections 63A, 63B and 63C.
	‘63A. (1) The Central Government shall establish a Fund, to be called the Co-operative Rehabilitation, Reconstruction and Development Fund for revival of sick multi-State co-operative societies as referred to in section 63B and for development purposes in such manner as may be determined by it and there shall be credited to such Fund annually by multi-State co-operative societies which are in profit for the preceding three financial years one crore rupees or one per cent. of the net profits of such multi-State co-operative society, whichever is less.	Establishment of Co-operative Rehabilitation, Reconstruction and Development Fund.
	(2) The Central Government shall, by notification, constitute a Committee, consisting of such members as it may deem fit, to administer the Fund, and maintain separate accounts and other relevant records in relation to the Fund in such form as may be specified by the Central Government in consultation with the Comptroller and Auditor-General of India.	
	(3) The Committee shall spend the money out of the Fund for carrying out the objects for which such Fund has been established.	
	63B. (1) If, at any time, the Central Registrar, is of the opinion that a multi-State co-operative society has become sick, he may, by an order, declare such society as sick co-operative society.	Rehabilitation and reconstruction of sick societies.

	<p>(2) Where a multi-State co-operative society is declared as a sick co-operative society under sub-section (1), the Central Government or any person or agency authorised by it, may prepare a scheme for rehabilitation and reconstruction of the society and hand it over to the society for approval of the general body.</p>	
	<p>(3) The Central Government may, on the recommendation of the general body and to give effect to the scheme for rehabilitation and reconstruction referred to in sub-section (2), re-organise the board of such society with such persons, having experience in the field of co-operation, management, finance, accountancy and any other area relating to such societies as may be recommended by the general body:</p>	
	<p>Provided that in respect of a sick multi-State co-operative bank, any scheme for rehabilitation or reconstruction shall be done with the prior approval of the Reserve Bank.</p>	
	<p><i>Explanation.</i>—For the purposes of this section, the expression “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.</p>	
	<p>63C. (1) The Central Government may, on an application made by a multi-State co-operative society which has contributed to the Fund for continuous five preceding financial years, grant such financial assistance as it may consider appropriate to the society out of the Fund for</p>	<p>Financial assistance to multi-State co-operative societies for develop-</p>

	infrastructural requirement:	ment.
	Provided that at least fifty per cent. of the total requirement shall be borne by the multi-State co-operative society and the financial assistance from the Fund shall not exceed more than the fifty per cent. of such requirement.	
	(2) The Committee constituted under sub-section (2) of section 63A shall examine and recommend to the Central Government for providing the financial assistance to the multi-State co-operative society to such extent and on such terms and conditions as it may consider necessary. .	
	<b>25.</b> In section 64 of the principal Act,-	Amendment of section 64.
	(i) for clause (b), the following clause shall be substituted, namely:-	
	“(b) in any of the securities issued by the Central Government, State Government, Government Corporations, Government Companies, Authorities, Public Sector Undertakings or any other securities ensured by Government guarantees;”;	
	(ii) in clause (d), after the words “any other institution”, the words “in the same line of business as the multi-State co-operative society” shall be inserted;	
	(iii) for clauses (e) and (f), the following clauses shall be substituted, namely:-	
	“(e) with any other scheduled or nationalised bank.	

	<i>Explanation.</i> — For the purposes of this clause, the expression,-	
2 of 1934.	(i) “scheduled bank” shall have the same meaning as assigned to it in clause (e) of section 2 of the Reserve Bank of India Act, 1934; and	
5 of 1970. 40 of 1980.	(ii) “nationalised bank” means a corresponding new bank constituted under sub-section (1) of section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 and Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980; or	
	(f) in such other manner as may be determined by the Central Government.”.	
	<b>26.</b> In section 67 of the principal Act, in sub-section (1), in the first proviso, for the words “ten times”, the words “such multiples as may be determined by the Central Government” shall be substituted.	Amendment of section 67.
	<b>27.</b> In section 70 of the principal Act,—	Amendment of section 70.
	(a) in sub-section (2), for the proviso, the following provisos shall be substituted, namely:-	
	“Provided that such auditors or auditing firm shall be appointed from a panel approved by the Central Registrar:	
	Provided further that in case of multi-State co-operative banks, multi-State credit societies with deposits of above five hundred crore rupees and	

	multi-State non-credit societies with turnover of above five hundred crore rupees, the auditor shall be appointed from a panel of auditors approved for audit of such societies by the Central Registrar.	
	(b) after sub-section (3), the following sub-section shall be inserted, namely:—	
	“(3A) An auditor appointed under sub-section (2) shall submit the audit of accounts report to the multi-State co-operative society, within six months from the date of closing of the financial year, to which such accounts relate.”;	
	(c) 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 from the panel of auditors from which such auditor was appointed.”;	
	(d) after sub-section (9) and the <i>Explanation</i> thereunder, the following sub-section shall be inserted, namely:-	
	“(10) The audit report of the accounts of the national co-operative societies shall be laid before each House of Parliament.”.	
	<b>28.</b> After section 70 of the principal Act, the following section shall be inserted, namely:-	Insertion of new section 70A.
	“70A. In case of multi-State co-operative societies,—	Concurrent Audit.
	(i) having an annual turnover more than the amount as determined by the Central	

	Government; or	
	(ii) having deposit of more than the amount as determined by the Central Government,	
	the concurrent audit shall be carried out by an auditor appointed from a panel of auditors approved by the Central Registrar.	
	<b>29.</b> In section 73 of the principal Act, after sub-section (5), the following sub-section shall be inserted, namely:—	Amendment of section 73.
	“(6) the multi-State co-operative society or class of multi-State co-operative societies, as the case may be, shall adopt such standards of auditing and accounting as may be determined by the Central Government:	
38 of 1949.	Provided that until such standards of auditing and accounting are specified, the auditing and accounting standards specified by the Institute of Chartered Accountants of India constituted by sub-section (1) of section 3 of the Chartered Accountants Act, 1949 shall be deemed to be the standards of auditing and accounting:	
	Provided further that the multi-State co-operative banks shall adopt the standards of accounting and auditing, if any, laid down by the Reserve Bank.”.	
	<b>30.</b> In section 78 of the principal Act, after sub-section (1), the following sub-sections shall be inserted, namely:—	Amendment of section 78.
	“(1A) If the Central Registrar is satisfied on the basis of information available with him or furnished to him by a Government agency, 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, with the endorsement of the board of the society, on matters contained in such order within the time specified therein:	
	Provided that if the Central Registrar is not satisfied with the explanation of the society, he shall either himself or through an office or agency authorized by him, conduct inquiry into the constitution, working and financial condition of the society.	
	(1B) Notwithstanding anything contained in this Act, the Central Registrar shall, either <i>suo moto</i> or through an officer or agency authorised by him, conduct inquiry into the constitution, working and financial condition of any multi-State co-operative society, once in such period as may be determined by the Central Government.”.	
	<b>31.</b> After Chapter IX of the principal Act, the following Chapter shall be inserted, namely:—	Insertion of new Chapter IXA.
	“Chapter IXA Redressal of Complaints	
	85A. (1) The Central Government shall appoint, one or more Co-operative Ombudsman with territorial jurisdiction for inquiring into the complaints made by any member of the multi-State co-operative societies regarding their deposits, equitable benefits of society’s functioning or any other issue affecting the individual rights of the concerned member, in such manner, as may be prescribed.	Co-operative Ombudsman.

	(2) The Co-operative Ombudsman shall, on receipt of a complaint, complete the process of inquiry and adjudicate within a period of three months from the date of receipt of the complaint and may issue necessary directions to the society during the course of inquiry and the society shall be bound to comply with the same within a period of one month from the date of issuance of such directions.	
	(3) The multi-State co-operative society aggrieved by any directions of the Ombudsman may file an appeal in such manner as may be prescribed, within a period of one month before the Central Registrar who shall decide the appeal within a period of forty-five days and the decision of the Central Registrar shall be final and binding:	
	Provided that the Central Registrar may entertain the appeal after the expiry of said period of one month, if he is satisfied that the society was prevented by sufficient cause from preferring the appeal in time.	
	(4) The Ombudsman shall submit periodic reports to the Central Registrar of Co-operative Societies.	
05 of 1908.	(5) The Co-operative Ombudsman while conducting the inquiry under sub-section (1), shall exercise the same powers as are vested in a civil court under the Code of Civil Procedure, 1908,—	
	(a) for summoning and enforcing the attendance of persons;	
	(b) examining them on oath;	
	(c) discovery and production of books of account and other documents; and	

	(d) any other matter which may be prescribed.”.	
	<b>32.</b> In section 86 of the principal Act,—	Amendment of section 86.
	(a) in sub-section (1), after the words and figures “under section 79”, the words and figures “or section 108” shall be inserted;	
	(b) in sub-section (2),—	
	(i) for clause (a), the following clause shall be substituted, namely:—	
	“(a) where the number of members or the number of societies or the number of persons, as the case may be, has at any time reduced below the number of members or societies or persons as specified in sub-section (2) of section 6:	
	Provided that the multi-State <b>co-operative</b> society shall be given six months’ time to restore the number of members or societies or persons to the requisite number;”;	
	(ii) in clause (b), for the words “co-operative principles.”, the words “co-operative principles; or” shall be substituted;	
	(iii) after clause (b), the following clause shall be inserted, namely:—	
	“(c) where the Central Registrar has reasons to believe that the registration was obtained by misrepresentation of facts, submission of false or misleading information, suppression of material facts or fraud thereby compromising the spirit of cooperation.”.	

	(iv) for sub-section (5), the following sub-section shall be substituted, namely:—	
10 of 1949	“(5) Notwithstanding anything contained in this section, in case of winding up of multi-State co-operative banks, the provisions of the Banking Regulation Act, 1949 shall also apply.”.	
	(iv) in sub-section (6), the following proviso shall be inserted, namely:—	
	‘Provided that prior to winding up, ‘no objection’ from the institutional lenders, who have outstanding loans from the society, shall be required in writing.	
	<i>Explanation.</i> —For the purposes of this proviso, the expression “institutional lenders” includes banks, savings and loan association, trust company, insurance company, real estate investment trust, pension fund and the like.’.	
	<b>33.</b> In section 94 of the principal Act, in the opening paragraph, after the words and figures “section 83 or”, the words and figures “section 84 or” shall be inserted.	Amendment of section 94.
	<b>34.</b> In section 98 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—	Amendment of section 98.
	“(3) The Central Registrar shall also have the power to recover the following dues by attaching bank accounts of defaulting multi-State co-operative societies-	
	(a) the co-operative education fund referred to in clause (b) of sub-section (1) of section 63;	

	(b) the Co-operative Rehabilitation, Reconstruction and Development Fund established under section 63A; and	
	(c) the expenses incurred by the Co-operative Election Authority for conduct of elections.	
	<b>35.</b> After section 98 of the principal Act, the following section shall be inserted, namely:—	Insertion of new section 98A.
	“98A. The Central Registrar may, on an application received from any party, review his decision under clause (a) or clause (b) or clause (c) of sub-section (1) of section 94:	Review of decision.
	Provided that no application for review shall be entertained against the recovery certificate issued by the Central Registrar or by any person authorised by him in writing in this behalf, unless the applicant deposits with the concerned society, fifty per cent. of the amount of the recoverable dues:	
	Provided further that no application for review shall be entertained, if made after sixty days of the date of receipt of the decision or order:	
	Provided also that the Central Registrar may entertain any such application made after such period, if the applicant satisfies that he had sufficient cause for not making the application within such period.”.	
	<b>36.</b> In section 103 of the principal Act,—	Amendment of section 103.
	(a) in sub-section (1), the following provisos shall be inserted, namely:—	

	<p>“Provided that where all the successor States take necessary steps to divide or reorganise such deemed multi-State co-operative society into State co-operative societies in order to confine their objects, services and the members to respective States within a period of three years, such deemed multi-State co-operative society shall cease to be a multi-State co-operative society:</p>	
	<p>Provided further that the deemed multi-State co-operative society other than those mentioned in the first proviso shall submit an application for registration and obtain the certificate of registration from the Central Registrar.”.</p>	
	<p>37. In section 104 of the principal Act,—</p>	Amendment of section 104.
	<p>(a) in sub-section (1),—</p>	
	<p>(i) after the words “furnishing false information”, the words “or failing to file any return or information” shall be inserted;</p>	
	<p>(ii) for the words “two thousand rupees”, the words “five thousand rupees” shall be substituted;</p>	
	<p>(iii) for the words “ten thousand rupees”, the words “one lakh rupees” shall be substituted;</p>	
	<p>(b) in sub-section (2), for the words “five thousand rupees”, the words “ten thousand rupees” shall be substituted;</p>	
	<p>(c) in sub-section (3),—</p>	
	<p>(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;</p>	

	(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;	
	(d) in sub-section (4),—	
	(i) in clause (h), after the words “to any person”, the words “or receives such gift, promise or gratification” shall be inserted;	
	(ii) in the long line, occurring after sub-clause (iii) of clause (h), after the words “or with both”, the words “and shall also be debarred from contesting elections for a period of three years” shall be inserted;	
	(e) after sub-section (4), the following sub-section shall be inserted, namely :—	
	“(5) Where a multi-State co-operative society,—	
	(a) which is required to provide an explanation or make a statement during the course of inspection, inquiry or investigation, destroys, mutilates or falsifies, or conceals or tampers or unauthorisedly removes, or causes the destruction, mutilation or falsification or concealment or tampering or unauthorised removal of, any document relating to the property, assets or affairs of the society or makes or causes to make a false entry in any document concerning the society;	
	(b) makes any investment in contravention of the provision of section 64 or the bye-laws made under this Act;	

	(c) causes unlawful loss to the assets and property of the society; or	
	(d) causes unlawful loss to the depositor,	
	the board of directors or the responsible officers of the multi-State co-operative society shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to one year or with fine which shall not be less than five thousand rupees but may extend to one lakh rupees or with both.	
	(6) Where the board of directors or officers of the multi-State co-operative society receive any unlawful gains while transacting matters related to such society or utilise any assets of the society for personal unlawful gains, such directors or officers concerned shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to one year or with fine which shall not be less than five thousand rupees but may extend to one lakh rupees or with both and the proceeds of such unlawful gains shall be recovered from them and deposited in such manner as may be prescribed.”.	
	<b>38.</b> After section 105 of the principal Act, the following section shall be inserted, namely:—	Insertion of new section 105A.
	“105A. The provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force.”.	Provisions of this Act not in derogation of any other law.
	<b>39.</b> For section 106 of the principal Act, the following sections shall be substituted, namely:—	Substitution of new sections for section 106.



	<p>“106. (1) Every multi-State co-operative society shall appoint a Co-operative Information Officer to provide the information relating to affairs and management of the society to the members of the society and such information shall be confined to the information falling under the disclosure norms specified by the society in its bye-laws.</p>	Appointment of Co-operative Information Officer.
	<p>(2) Any member of multi-State co-operative society shall make an application, accompanying such fee as may be prescribed, to get information specified in sub-section (1).</p>	
	<p>(3) The Co-operative Information Officer shall, within thirty days from the date of receipt of application, either provide the information or reject the application specifying the reason to do so.</p>	
	<p>(4) Any member of the multi-State co-operative society whose application has been rejected may prefer an appeal to the Co-operative Ombudsman within a period of one month from the date of such rejection and his decision shall be final and binding.</p>	
	<p>106A. Every Chief Executive of 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 of charge at all reasonable times, at the registered address of the multi-State co-operative society.”.</p>	Copy of rules and bye-laws etc. for inspection.
	<p>40. 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, not below the rank of Assistant Commissioner or equivalent” shall be inserted.</p>	Amendment of section 108.

	<b><u>41. In section 109 of the principal Act, in clause (a), for the words “co-operative year”, the words “financial year” shall be substituted.</u></b>	<b><u>Amendment of section 109.</u></b>
	<b><u>42.</u></b> In section 116 of the principal Act,—	Amendment of section 116.
	(i) for the marginal heading, the following marginal heading shall be substituted, namely:—	
	“Power to amend Schedules”;	
	(ii) after sub-section (1), the following sub-section shall be inserted, namely:—	
	“(1A) If the Central Government is satisfied that it is necessary or expedient so to do, it may, by notification, amend the First Schedule and Third Schedule and thereupon such Schedules shall be deemed to have been amended accordingly:	
	Provided that in case of First Schedule, such notification shall be used only for adding to the co-operative principles in the list.”;	
	(iii) in sub-section (2), for the word, brackets and figure “sub-section (1), the words, brackets, figures and letter “sub-sections (1) and (1A) shall be substituted.	
	<b><u>43.</u></b> In section 120 of the principal Act,-	Amendment of section 120.
	(i) for clause (a), the following clause shall be substituted, namely:-	

	“(a) annual report of the activities including details of board decisions which were not unanimous;”,	
	(ii) for clause (f), the following clauses shall be substituted, namely:-	
	“(f) disclosure regarding employees who are relatives of Members of board;	
	(g) declaration of any related party transactions by the board of directors; and	
	(h) any other information required by the Central Registrar in pursuance of any of the provisions of this Act or the rules made thereunder.”.	
	<b>44.</b> After section 120 of the principal Act, the following sections shall be inserted, namely:—	Insertion of new sections 120A and 120B.
21 of 2000.	“120A. (1) Notwithstanding anything to the contrary contained in this Act, and without prejudice to the provisions of the Information Technology Act, 2000, the Central Government may, from such date as may be notified, require that—	Filing of applications, documents, inspections, etc. in electronic form.
	(a) such applications, returns, reports, statement of accounts, or any other particulars or document as may be required to be filed or delivered under this Act or the rules made thereunder, shall be filed in the electronic form and authenticated;	
	(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 in the electronic form and authenticated;	
	(c) such applications, returns, reports, statement of accounts, registers, bye-laws or any other particulars or documents and returns filed under this Act or the rules made thereunder shall be maintained by the Central Registrar in the electronic form and registered or authenticated, as the case may be;	
	(d) such inspection of the bye-laws, returns, reports, statement of accounts or any other particulars or documents maintained in the electronic form, as is otherwise available for inspection under this Act or the rules made thereunder, may be made by any person through the electronic form; and	
	(e) such fees, charges or other sums payable under this Act or the rules made thereunder shall be paid through the electronic form,	
	in such manner as may be prescribed.	
	(2) The Central Registrar shall—	
	(a) issue certificate of registration; (b) register the amendment of bye-laws; (c) register change of registered office; (d) register any document; (e) issue any certificate; (f) issue notice; and (g) 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 the rules made thereunder or perform duties or discharge functions or exercise	

	powers under this Act or the 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.	
	120B. The provisions of this Act shall apply to a multi-State co-operative society in respect of matters relating to incorporation, regulation and winding up:	Application of Banking Regulation Act, 1949.
10 of 1949.	Provided that in case of a multi-State co-operative society carrying on the business of banking, the provisions of the Banking Regulation Act, 1949 shall also apply.	
01 of 1956. 54 of 1969. 18 of 2013. 12 of 2003.	<b>45.</b> In section 121 of the principal Act, in sub-section (1), for the words and figures “the Companies Act, 1956” and “the Monopoly and Restrictive Trade Practices Act, 1969”, the words and figures “the Companies Act, 2013” and “the Competition Act, 2002” shall respectively be substituted.	Amendment of section 121.
	<b>46.</b> In section 123 of the principal Act,—	Amendment of section 123.
	(i) in sub-section (1),—	
	(a) for the portion beginning with “or has committed any act” and ending with “the aggregate period does not exceed one year”, the following shall be substituted, namely:—	
	“or has committed any act including fraud, misappropriation and the like which is prejudicial to the interests of the society or its members, or has omitted or failed to comply with any directions given to it under section 122 in public interest or that there is a stalemate in the constitution or functions of the	

	board or the Co-operative Election Authority has failed to conduct elections in accordance with the provisions of this Act, the Central Government may, after giving the board an opportunity to state its objections, if any, and considering the objections, if received, by order in writing, supersede or suspend the board and appoint one or more administrators, who need not be members of the society, to manage the affairs of the society for such period not exceeding six months, as may be specified in the order.”;	
	(b) for the proviso, the following proviso shall be substituted, namely:-	
	Provided that while taking a decision for supersession or suspension on grounds of failure to conduct election, such action shall only be taken if the Board had not given requisition to hold election to the Co-operative Election Authority within the time limit or not extended necessary assistance as per the provisions of section 45.	
	(ii) for the <i>Explanation</i> , the following <i>Explanation</i> shall be substituted, namely:—	
	“ <i>Explanation.</i> —For the purposes of section 122 and this section, the expression “specified multi-State co-operative society” means any multi-State co-operative society where there is Government shareholding or loan or financial assistance or any guarantee by the Government.”.	
	<u>47.</u> In section 124 of the principal Act,—	Amendment of section 124.
	(a) in sub-section (2),—	
	(i) after clause (a), the following clause shall	

	be inserted, namely:—	
	“(aa) the guidelines under sub-section (2) of section 7;”;	
	(ii) after clause (j), the following clause shall be inserted, namely:—	
	“(ja) the manner in which the board of a multi-State co-operative society shall provide information, documents, personnel, funds or expenses or any other assistance as sought by the Co-operative Election Authority for conducting elections under clause (a) of sub-section (2) of section 43;”;	
	(iii) for clause (k), the following clauses shall be substituted, namely:—	
	“(k) the composition of the Selection Committee for appointment of Chairperson, Vice-Chairperson and Members of the Co-operative Election Authority under sub-section (1) of section 45;	
	(ka) the qualification and experience for appointment of Member of the Authority under clause (iii) of sub-section (3) of section 45;	
	(kb) the salaries and allowances payable to, and other terms and conditions of service of the Chairperson, Vice-Chairperson and Members of the Authority under sub-section (5) of section 45;	
	(kc) the other powers and functions of Chairperson under section 45A;	

	(kd) the procedure of inquiry under sub-section (2) of section 45B;	
	(ke) time, places and the procedure to be observed by the Authority in regard to transaction of business at its meetings under sub-section (1) of section 45H;	
	(kf) other functions of the Authority under clause (iii) of section 45-I;	
	(kg) the manner of election of members of board by secret ballot under sub-section (3) of section 45J;	
	(kh) the manner of bearing the expenses for holding elections by the Authority under sub-section (6) of section 45J;	
	(ki) the manner of discharge of functions by the Returning Officers and observers under sub-section (1) and clause (a) of sub-section (3) of section 45K;”;	
	(kj) other functions of the observers under clause (a) of sub-section (3) of section 45K;	
	(iv) after clause (m), the following clause shall be inserted, namely:—	
	“(ma) the procedure for recruitment of employees under proviso to clause (e) of sub-section (2) of section 49 ”;	
	(v) clause (o) shall be omitted;	
	(vi) after clause (q), the following clause shall be inserted, namely:—	



	“(qa) the manner of maintenance of fund under clause (b) of sub-section (1) of section 63.	
	(vii) after clause (s), the following clauses shall be inserted, namely: —	
	(sa) the manner of appointment of Co-operative Ombudsman and submission of complaints to such Ombudsman under sub-section (1) of section 85A;	
	(sb) the manner of filing an appeal by society against directions of Ombudsman under sub-section (3) of section 85A;	
	(sc) other matters under clause (d) of sub-section (5) of section 85A”;	
	(viii) after clause (w), the following clauses shall be inserted, namely:—	
	(wa) the manner of recovery and deposit of proceeds of unlawful gains under sub-section (6) of section 104;	
	(wb) the manner to make an application with such fee for the purpose of getting information under sub-section (2) of section 106;”;	
	(ix) after clause (x), the following clause shall be inserted, namely:—	
	“(xa) the manner of powers being exercised by the Central Government in respect of matters relating to filing of applications, documents, inspections and the like in electronic form under sub-section (1) of section 120A;	

	(xb) the manner of discharging the functions or exercising powers with respect to matters mentioned therein by the Central Registrar in electronic form under sub-section (2) of section 120A;	
	(b) for sub-section (3), the following sub-section shall be substituted, namely:—	
	“(3) Every rule made under this section and any notification issued under section 116 shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree that the rules and any notification issued under section 116 should not be made, the rule and any notification issued under section 116 shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule and any notification issued under section 116.”.	
	<b>48.</b> In section 125 of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely:—	Amendment of section 125.
	(1A) Notwithstanding anything contained in sub-section (1), if any difficulty arises in giving effect to the provisions of this Act as amended by the Multi-State Co-operative Societies (Amendment) Act, 2023, the Central Government may, by order published in the Official Gazette, make such provisions not	

	inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty:	
	Provided that no such order shall be made under this section after the expiry of a period of two years from the date of commencement of the Multi-State Co-operative Societies (Amendment) Act, 2023.	
	<b>49.</b> After Second Schedule to the principal Act, the following Schedule shall be inserted, namely:—	Insertion of Third Schedule.
	“THE THIRD SCHEDULE [See clause (h) of sub-section (1) of section 43]	
Sl. No.	Name of the Act	Act Number
1.	The Indian Stamp Act, 1899;	02 of 1899.
2.	The Reserve Bank of India Act, 1934;	02 of 1934.
3.	The Central Excises Act, 1944;	01 of 1944.
4.	The Industries (Development and Regulation) Act, 1951;	65 of 1951.
5.	The Prevention of Food Adulteration Act, 1954;	37 of 1954.
6.	The Essential Commodities Act, 1955;	10 of 1955.
7.	The Securities Contracts (Regulation) Act, 1956;	42 of 1956.
8.	The Wealth-tax Act, 1957;	27 of 1957.
9.	The Customs Act, 1962;	52 of 1962.
10.	The Prize Chits and Money Circulation Scheme (Banning) Act, 1978;	43 of 1978.

11.	The Sick Industrial Companies (Special provisions) Act, 1985;	01 of 1986.
12.	The Securities and Exchange Board of India Act, 1992;	15 of 1992.
13.	The Foreign Trade (Development and Regulation) Act, 1992;	22 of 1992.
14.	The Foreign Exchange Management Act, 1999;	42 of 1999.
15.	The Competition Act, 2002;	12 of 2003.
16.	The Prevention of Money Laundering Act, 2002;	15 of 2003.
17.	The Companies Act, 2013	18 of 2013.”.