

Fourteenth Kerala Legislative Assembly

Bill No. 178

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

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A

BILL

further to amend the Kerala Co-operative Societies Act, 1969.

Preamble.—WHEREAS, it is expedient further to amend the Kerala Co-operative Societies Act, 1969 (21 of 1969), for the purposes hereinafter appearing;

BE it enacted in the Seventyth Year of the Republic of India, as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Co-operative Societies (Amendment) Act, 2019.

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

2. *Amendment of section 2.*—In section 2 of the Kerala Co-operative Societies Act, 1969 (21 of 1969) (hereinafter referred to as the principal Act),—

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

“(ia) “District Co-operative Bank” means a Central society having jurisdiction over one revenue district and having as its members Primary Agricultural Credit Societies, Urban Co-operative Banks and the principal object of which is to raise funds to be lent to its members, including nominal or associate members, which existed under this Act, immediately before the commencement of the Kerala Co-operative Societies (Amendment) Act, 2019 and which has ceased to exist after the commencement of the said Amendment Act.”;

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

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

(iii) clause (rb) shall be omitted;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“CHAPTER XC

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

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

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

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

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

(4) Notwithstanding anything contained in section 15 of this Act, on and from the date of amalgamation of the transferor Banks and the transferee Bank, the Registration Certificate of transferor Banks shall stand cancelled:

Provided that transferor Bank shall be deemed to have been dissolved and shall cease to exist as a Corporate Body:

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

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

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

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

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

(8) The Board of Directors of the Kerala State Co-operative Bank shall consist of not more than 21 members as may be prescribed in the rules.

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

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

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

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

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

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

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

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

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

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

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

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

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

(18) The provisions of this Chapter shall have overriding effect on all other provision of the Act.

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

(i) clause (b) shall be omitted.

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

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

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

“Each of the Circle Co-operative Unions, apex societies and Central societies shall elect a delegate in such manner as may be prescribed, and all such delegates, the employees’ representatives, the representative of the women members, the representatives of the members belonging to the Scheduled Castes or Scheduled Tribes, the ex-officio members and the Government nominees in the managing committee of the State Co-operative Union shall constitute the General Body of the State Co-operative Union.”

(ii) in sub-section (4),—

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

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

(b) clause (c) shall be substituted as follows, namely:—

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

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

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

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

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

STATEMENT OF OBJECTS AND REASONS

There have been significant structural changes in the rural co-operative credit structure worldwide in the recent past. Considering the changes in credit structure worldwide government have appoint a committee to conduct detailed study on the present short term credit structure in Kerala. The committee reported that the existence of two higher tiers viz., KSCB at apex level and DCBs at middle level adds to the cost on interest without offer any significant benefit to the lowest tier, viz., PACS. De-layering of one tier will help in unlocking these funds which can be put to more productive uses. It was also suggested that an entity formed after the merger will be able to deliver the modern banking products such as Mobile

Banking, Internet Banking, ATM facilities to general public at lesser rate than the rate being charged by new Generation banks. More over committee is optimistic that merged entity will be able to provide systematically sound technology driven modern banking products and services at much cheaper rates. Accordingly the committee suggested to delayer the present short term credit structure in the State from three tier to two tier by merging all the 14 DCBs with KSCB.

Based on the recommendation of the committee Government has decided to make a strong, vibrant, technology driven and professionally managed full service universal bank in the co-operative sector with proper governance structure, systems and business plan to carryout the mainstream banking activities catering to the needs of the people of Kerala by merging DCBs with KSCB. Accordingly Government had accorded sanction to convert the three tier structure in the short term credit structure into a two tier system, by transferring the assets and liabilities in whole of the DCBs with KSCB and transforming it into a full service universal bank.

As per section 14 of the Kerala Co-operative Societies Act, 1969 two third majority of the members is required for amalgamation and transfer of assets and liabilities of two or more Co-operative Societies. As far as District Co-operative Banks are concerned this creates difficulty in complying to the transfer of assets and liabilities. Therefore Government have decided to relax the condition of two third majority as simple majority in the case of District Co-operative Banks along with provisions for protecting the interests of members and depositors. Hence it was decided to incorporate a new provision as section 14A and a new chapter XC added after XB in the Principal Act giving authority to the Registrar by an Order of amalgamation 14 District Co-operative banks with State Co-operative bank on the basis of resolution passed by the General Body of the District Co-operative Banks.

As the Legislative Assembly of the State of Kerala was not in session and the said proposal regarding section 14 of the Act had to be given effect immediately, the Kerala Co-operative Societies (Amendment) Ordinance, 2019 was promulgated by the Governor of Kerala on 8th January, 2019 and the same was published as Ordinance No.7 of 2019 in the Kerala Gazette Extraordinary No.46 dated on the 8th day of January, 2019.

The Bill intended to replace the Kerala Co-operative Societies (amendment) Ordinance (7 of 2019) by an Act of the State Legislature alongwith certain consequential amendments in the Co-operative Societies Act, 1969.

The Bill seeks to achieve the above object.

FINANCIAL MEMORANDUM

The Bill, if enacted and brought into operation, would not involve any additional expenditure from the Consolidated Fund of the State.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Item (8) of sub-clause (74H) of clause 10 of the Bill empowers the Government to prescribe who shall be the members of Board of Directors of Kerala State Co-operative bank.

(2) Item (14) of sub-clause (74H) of clause 10 of the Bill empowers the Government to prescribe the service conditions of officers and employees of amalgamation of transferor banks and transferee bank.

(3) Item (10) of sub-clause (74H) of clause 10 of the Bill empowers the Kerala State Co-operative Bank to make bye-laws for prescribing powers, functions and structure of Board of Management.

(4) Proviso to item 13 of sub-clause 74H of clause 10 of the Bill empowers the Government to make a scheme for cadre integration, security, promotion and other matters of employees of transferor bank with transferee bank.

(5) The matter in respect of which notifications or orders may be issued or rules may be made are matter of procedure and are of routine and administrative in nature. Further, the rules to be made are subject to the scrutiny of the Legislative Assembly. The delegation of Legislative power is therefore, of a normal character.

KADAKAMPALLY SURENDRAN.

EXTRACT FROM THE RELEVANT PORTION OF THE CO-OPERATIVE
SOCIETIES ACT (21 OF 1969)

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2. *Definitions.* — In this Act, unless the context otherwise requires,—

** ** ** **

(ia) “District Co-operative Bank” means a Central society having jurisdiction over one revenue district and having as its members Primary Agricultural Credit Societies and Urban Co-operative Banks and the principal object of which is to raise funds to be lent to its members, including nominal or associate members;

** ** ** **

(k) “general body meeting” means a meeting of the members who are entitled to vote in the affairs of the society;

** ** ** **

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

** ** ** **

(s) “State Co-operative Union” means the State Co-operative Union established under section 89;

** ** ** **

14A. *Promotion of subsidiary institutions for the economic welfare of members.* — (1) A Co-operative Society may by a resolution passed at general body meeting by a majority of members present and voting, promote, one or more subsidiary institutions, which may be registered under any law for the time being in force, for the furtherance of its stated objects with the prior approval of Registrar.

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18. *Nominal or associate members.*—(1) A society may admit any individual as a nominal or associate member.

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Provided further that a District Co-operative bank may admit any individual depositor or any loanee residing within its area of operation as nominal or associate members:

Provided also that a District Co-operative bank may admit any co-operative society registered under the provisions of this Act, other than Primary Agricultural Credit Societies and Urban Co-operative banks, functioning within its area of operation as a nominal or associate member.

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28. *Appointment of Committee.*—(1) The general body of a society shall constitute a committee, for a period of five years, in accordance with the bye-laws and entrust the management of the affairs of the society to such committee.

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(IF) Notwithstanding anything contained in the bye-laws of the District Co-operative Bank, two seats in the committee of each District Co-operative bank shall be reserved for depositor member societies in the bank.

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(IH) Notwithstanding anything contained in the bye-laws of the District Co-operative bank, at least one seat in respect of each taluk shall be reserved for the representatives of Primary Agricultural Credit Societies in the Committee of the District Co-operative bank.

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36A.—*Charge on movable or immovable property of borrower by creating Gehan.*— Notwithstanding anything contained in any other provisions of this Act, charge on movable or immovable property of a borrower in favour of the State Co-operative bank or a District Co-operative bank or a Primary Agricultural Credit Society or a Primary Housing Society or an Urban Co-operative bank or any Primary Co-operative Societies dealing with credit activities may be created by Gehan in respect of which the provisions of sections 10 to 15 (both inclusive) of the Kerala State Co-operative Agricultural and Rural Development Banks Act, 1984 (20 of 1984), as amended from time to time, shall apply with the modification of substituting the words “State Co-operative Bank or District Co-operative Banks,” “Primary Agricultural Credit Society or Primary Housing Society” [“or an Urban Co-operative Bank or any Primary Co-operative Societies dealing with credit activities”], “Society” and “Said Bank or Society”, respectively, for the words “Agricultural and Rural Development Bank”, “Primary bank”, “bank” and “said banks” occurring in the said sections.

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56. *Disposal of net profit.*—(1) A society shall, out of its net profits in any year,

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(3) Notwithstanding anything contained in section 18 of this Act, in the case of District Co-operative banks the term ‘member’ shall include nominal and associate members, for the purpose of clause (a) of sub-section (2).

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59. *Restriction on loans.*—(1) A society shall not make a loan to any person or a society other than a member:

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

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CHAPTER XB

74B. *Opening of Branches.*—(1) The State Co-operative Bank, the State Co-operative Agricultural and Rural Development Bank and District Co-operative banks may open branches in the area of operation of their member credit societies if such member credit societies are weak and not functioning enough to provide service to the members or to the public.

(2) All primary credit societies including Primary Agricultural Credit Societies may open branches in their area of operation with the prior written permission of the Registrar.

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74G. *Library in Co-operative societies.*— Every Co-operative society shall establish a library:

Provided that nothing contained in this provision shall apply to a society which is working on loss for a continuous period of five years.

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

** ** ** **

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

** ** ** **

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

** ** ** **

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

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

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

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

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THE SCHEDULE 1

[See section 80 (3A)]

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16. The Thiruvananthapuram District Co-operative Bank Ltd. No.4312.
17. The Kollam District Co-operative Bank Ltd. No.4311.
18. The Pathanamthitta District Co-operative Bank Ltd. No.4365.
19. The Alappuzha District Co-operative Bank Ltd. No.4310.
20. Kottayam District Co-operative Bank Ltd. No.4309.
21. Idukki District Co-operative Bank Ltd. No.4334.
22. Ernakulam District Co-operative Bank Ltd. No.4325.

23. Thrissur District Co-operative Bank Ltd. No.60.
 24. Palakkad District Co-operative Bank Ltd. No.P. 521
 25. Malappuram District Co-operative Bank Ltd. No.4329.
 26. Kozhikode District Co-operative Bank Ltd. No.F. 1635.
 27. Wayand District Co-operative Bank Ltd. No.4357.
 28. Kannur District Co-operative Bank Ltd. No.C.266.
 29. Kasaragod District Co-operative Bank Ltd. No.4367.
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