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PART IV—Bills introduced in the West Bengal Legislative Assembly; Reports of Select Committees presented or to be presented to that Assembly; and Bills published before introduction in that Assembly.

GOVERNMENT OF WEST BENGAL

LAW DEPARTMENT

Legislative

NOTIFICATION

No. 1469-L.—19th December, 2011.—The Governor having been pleased to order, under rule 66 of the

Rules of Procedure and Conduct of Business in the West Bengal Legislative Assembly, the publication of the following Bill, together with the Statement of Objects and Reasons which accompanies it, in the *Kolkata Gazette*, the Bill and the Statement of Objects and Reasons are accordingly hereby published for general information:—

Bill No. 20 of 2011

**THE WEST BENGAL CO-OPERATIVE SOCIETIES
(AMENDMENT) BILL, 2011.**

**A
BILL**

to amend the West Bengal Co-operative Societies Act, 2006.

WHEREAS it is expedient to amend the West Bengal Co-operative Societies Act, 2006, for the purposes and in the manner hereinafter appearing;

West Ben. Act
XL of 2006.

It is hereby enacted in the Sixty-second Year of the Republic of India, by the Legislature of West Bengal, as follows:—

Short title and commencement.

1. (1) This Act may be called the West Bengal Co-operative Societies (Amendment) Act, 2011.

(2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

*The West Bengal Co-operative Societies
(Amendment) Bill, 2011.*

(*Clauses 2-8.*)

Amendment of
section 4 of West
Ben. Act XL of
2006.

2. In section 4 of the West Bengal Co-operative Societies Act, 2006 (hereinafter referred to as the principal Act), in clause (55), in the *Explanation*, for sub-clause (b), the following sub-clause shall be substituted:—

“(b) ‘medium-term’ shall mean a term exceeding one year but not exceeding five years; and”.

Amendment of
section 11.

3. In section 11 of the principal Act, in sub-section (1),—

(a) in the first proviso, the words “such opportunity or hearing has to be notified inviting objection, if any from interested persons” shall be omitted;

(b) for the second proviso, the following proviso shall be substituted:—

“Provided further that exemption under this section cannot be accorded in case of extension of the tenure of the Board of Directors of any Co-operative Society or class of Co-operative Societies, as the case may be, or for appointment of employees or officers in any Co-operative Society.”.

Amendment of
section 16.

4. To sub-section (5) of section 16 of the principal Act, after the third proviso, the following proviso shall be added:—

“Provided also that the Registrar shall, in case of a Co-operative Credit Structure Entity, dispose of the application within thirty days from the date of receipt of the application.”.

Amendment of
section 19.

5. In section 19 of the principal Act, for sub-section (1), the following sub-section shall be substituted:—

“(1) A Co-operative Society may by resolution in general meeting adopted by two-thirds of the members or delegates or representatives present but not less than one-third of the total number of members or delegates or representatives as on the register of members, or delegates or representatives on the date of issue of notice of such general meeting amend its by Laws.”.

Amendment of
section 25.

6. In section 25 of the principal Act, in sub-section (2), for the words “shall replace before the general meeting”, the words “shall be placed before the general meeting” shall be substituted.

Substitution of
new section for
section 26.

7. For section 26 of the principal Act, the following section shall be substituted:—

“Partnership of
Co-operative
Societies. 26. Any two or more Co-operative Societies may, by resolution passed at general meetings by a majority of members present and voting in each of such Co-operative Societies, enter into a contract of partnership for carrying on any specific business permissible under the bye-laws of such Co-operative Societies on such terms and conditions as may be mutually agreed upon. Such partnership of Co-operative Societies shall be governed by the provisions of the Indian Partnership Act, 1932.”.

Act 9 of 1932.

Amendment of
section 29.

8. In section 29 of the principal Act,—

(a) for sub-section (6), the following sub-section shall be substituted:—

“(6) On the failure of the board to call the annual general meeting within the period as mentioned in sub-section (1), the Registrar shall call or authorize any of his officers to call a annual general meeting to transact any business specified in sub-section (5) of this section.”;

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(Clauses 9-12.)

(b) for sub-section (7), the following sub-section shall be substituted:—

“(7) If the election as referred to in the second proviso to clause (b) of sub-section (1) of section 35 or in clause (cc) of section 36 cannot be held owing to an order of any court or for any other reasons or if the directors of the board elected in a general meeting cannot function owing to an order of any court or for any other reason, or if the elected directors of the board resign simultaneously, the Registrar may constitute a board of directors from amongst the members or delegates or representatives of the Co-operative Society in conformity with section 32 and the constituted board shall elect its office-bearers from amongst themselves:

Provided that the board, so constituted, shall function till the directors of the board elected under this section assume charge.

(c) in sub-section (8), for the words, figure and brackets “sub-sections (1) and”, the word “sub-section” shall be substituted.

Amendment of
section 31.

9. In section 31 of the principal Act, in sub-section (1), after clause (b), the following clause (c) shall be inserted:—

“(c) if Registrar decides to call a special general meeting to transact any specified business.”.

Amendment of
section 32.

10. In section 32 of the principal Act,—

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

“(c) The chief executive of a co-operative society shall be an ex-officio director of the society and where there is no chief executive, the manager or the highest designated employee of the Co-operative Society, by whatever name called shall be an ex-officio director.”;

(b) in sub-section (7) for the words “for being elected on the board” the words “for being elected and continued on the board” shall be substituted.

Amendment of
section 35.

11. In section 35 of the principal Act,—

(a) in sub-section (1), in clause (b), for the words “the State Government shall appoint one of its officers to manage the affairs of the co-operative society who shall be called the administrator”, the words “the State Government shall appoint one or more of its officers to manage the affairs of one or more co-operative societies who shall be called the administrator or administrators, as the case may be,” shall be substituted;

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

“(1A) if an elected Board cannot be reconstituted within the period of one year from the date of dissolution of the board, the administrator shall be removed from his office by the State Government and thereupon the provision contained in sub-section (7) of section 29 shall be followed.”.

Amendment of
section 36.

12. In section 36 of the principal Act,—

(a) in clause (a),—

(i) for the words “the board of directors, if any, of the Co-operative Societies mentioned in the Fifth Schedule”, the words “the board of directors of any of the Co-operative Societies” shall be substituted;

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(Clause 13.)

(ii) after the word and figure “section 29”, the following words shall be inserted:—

“or within a period of thirty six months from the date of their election under sub-section (8) of section 27 of the West Bengal Co-operative Societies Act, 1983”;

West Ben. Act
XLV of 1983.

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

“(c) upon dissolution of the board under clause (a), the State Government on report from the Registrar by notification, appoint a special officer from amongst its officers for managing the affairs of one or more co-operative societies for a period not exceeding six months and may also, by notification extend such period so, however, that the total period shall not exceed one year in any case.”;

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

“(cc) the Registrar shall reconstitute an elected board of directors of the Co-operative Society in a general meeting to be convened for the purpose in accordance with the Act, rules and by-laws within the tenure of the special officer as specified in the notification so that special officer may make over his charge to the newly elected board before expiry of his tenure;

(ccc) if an elected Board of directors cannot be reconstituted within one year from the date of dissolution of the Board, the special officer shall be removed from office by the State Government and thereupon the provision contained in sub-section (7) of section 29 shall be followed.”;

(d) the proviso to clause (d) shall be omitted.

Amendment of
section 37.

13. In section 37 of the principal Act, sub-section (1) shall be inserted and after sub-section (1) so inserted, the following sub-sections shall be inserted:—

“(2) The State Government may, by order for reasons to be recorded in writing, rescind or suspend for a period specified in the order, any proceeding or resolution of any annual general meeting of a co-operative society or of any other meeting of the board thereof which it considers to be not in conformity with the provisions of this Act or the rules framed under this Act or with any order validly issued by the State Government or the Registrar, and may do all things necessary to secure such conformity, or may rescind any proceeding or resolution which it considers likely to affect adversely the interest of any co-operative society or members thereof or of the co-operative movement in general.

(3) The Registrar may, after giving the co-operative society an opportunity of being heard, by order for reasons to be recorded in writing, suspend the execution of any resolution or order of the board or prohibit the doing of any act if, in his opinion, such resolution, order or the doing of any act, as the case may be, is in excess of the powers conferred by this Act, or the execution or order or the doing of such act is likely to prejudice the material interest of the co-operative society or the members thereof or of the co-operative movement in general.

(4) The Registrar shall while making an order under sub-section (3) simultaneously send a copy of his order to the State Government.

(5) On receipt of a copy of the order under sub-section (4), the State Government shall by order rescind, modify or confirm the order of the Registrar under sub-section (3) and shall send a copy of such order to the co-operative society which shall be bound by such order.”.

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(Clauses 14-18.)

Amendment of
section 89.

14. In section 89 of the principal Act, sub-section (3) shall be omitted.

Amendment of
section 94.

15. In section 94 of the principal Act, after sub-section (3), the following sub-section shall be inserted:—

“(3A) the State Government may remove the Chairman from his office on such grounds and in such manner as may be prescribed.”.

Amendment of
section 96.

16. In section 96 of the principal Act,—

(a) in sub-section (3), the words “and has served at least for two years either in Co-operative Department or in co-operative Directorate” shall be omitted;

(b) after sub-section (6), the following sub-section shall be inserted:—

“(6A) The State Government may remove the Co-operative Election Commissioner from his office on such grounds and in such manner as may be prescribed.”.

Amendment of
section 154.

17. In section 154 of the principal Act, for the marginal note, the following marginal note shall be substituted:—

“Overriding effect of the Act.”.

Substitution of
new section for
section 155.

18. For section 155 of the principal Act, the following section shall be substituted:—

“Co-operative
bank to get
insured.

155. (1) Every co-operative bank accepting deposits from non-members shall get itself insured under the Deposit Insurance and Credit Guarantee Corporation Act, 1961.

47 of 1961.

(2) Notwithstanding anything contained elsewhere in this Act, in respect of an insured co-operative bank (mentioned in this sub-section as the ‘said bank’),—

(i) an order for the winding up, or an order sanctioning a scheme of compromise or arrangement or of amalgamation or reconstruction, of the said bank may be made only with the previous sanction in writing of the Reserve Bank of India;

(ii) an order for the winding up of the said bank shall be made, if so required by the Reserve Bank of India in the circumstances referred to in section 13D of the Deposit Insurance and Credit Guarantee Corporation Act, 1961;

(iii) if so required by the Reserve Bank of India in the public interest or for preventing the affairs of the said bank being conducted in a manner detrimental to the interest of the depositors or for securing the proper management of the said bank, an order shall be made for the supersession of the Board of Directors of the said bank and the appointment of an administrator for such period or periods as may from time to time be specified by the Reserve Bank of India;

(iv) an order for the winding up of the said bank or an order sanctioning a scheme of compromise or arrangement or of amalgamation or reconstruction or an order for the supersession of the Board of Directors of the said bank and the appointment of an administrator thereof made with the previous sanction in writing or on the requisition of the Reserve Bank of India shall not be liable to be called in question in any manner; and

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(Clauses 19, 20.)

(v) the liquidator or the insured co-operative bank or the transferee bank as the case may be shall be under an obligation to repay the Deposit Insurance Corporation established under section 3 of the Deposit Insurance and Credit Guarantee Corporation Act, 1961, in circumstances, to the extent and in the manner referred to in section 21 of the said Act.

47 of 1961.

Explanation.—For the purpose of this section,—

- (i) ‘co-operative bank’ has the same meaning as in the Deposit Insurance and Credit Guarantee Corporation Act, 1961,
- (ii) ‘Insured Co-operative Bank’ shall mean a co-operative bank which is an insured bank within the meaning of clause (i) of section 2 of the Deposit Insurance and Credit Guarantee Corporation Act, 1961,
- (iii) ‘transferee bank’ in relation to an insured co-operative bank means co-operative bank—
 - (a) with which such insured co-operative bank is amalgamated, or
 - (b) to which the assets and liabilities of such insured co-operative bank are transferred, or
 - (c) into which such insured co-operative bank is divided or converted.”.

Insertion of new
section 155A
after section 155.

19. After section 155 of the principal Act, the following section shall be inserted:—

“Fees for supply of Certified copies etc. 155A. Certified copies of certain documents, as may be prescribed, be supplied on payment of prescribed fees:

Provided that the fees for filing disputes before the Registrar under section 102 of this Act shall be such as may be prescribed.”.

Amendment of
section 157.

20. In section 157 of the principal Act, in sub-section (4), the words “for not less than fourteen days” shall be omitted.

STATEMENT OF OBJECTS AND REASONS.

It has been considered necessary and expedient to amend the West Bengal Co-operative Societies Act, 2006 (West Ben. Act XL of 2006) with a view to making the said Act more effective.

2. The Bill, therefore, *inter alia*, contains the provisions—

- (a) for conducting election in Co-operative Societies in West Bengal more smoothly, regularly and in a free and fair manner;
- (b) relating to insurance of Co-operative Banks under the Deposit Insurance and Credit Guarantee Corporation Act, 1961 to remove certain difficulties in the matter of insurance of Co-operative Banks;
- (c) regarding clarification of certain ambiguities;
- (d) regarding Co-operative Service Commission and Co-operative Election Commission;

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3. The Bill has been framed with the above objects in view.
4. There is no financial implication involved in the Bill.

KOLKATA,
The 15th December, 2011.

HAIDER AZIZ SAFWI,
Member-in-charge.

By order of the Governor,

B. K. SRIVASTAVA,
*Secy.-in-charge to the Govt. of West Bengal,
Law Department.*