

**Tripura Cooperative Societies (Second Amendment) Act,
2009**

7 of 2009

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AN ACT TO FURTHER AMEND THE TRIPURA COOPERATIVE

SOCIETIES ACT, 1974'. WHEREAS it is felt expedient to amend the Tripura Cooperative Societies Act, 1974 with an objective to revive and restructure the short term rural credit structure and bring about more transparency in the cooperative credit structure societies; Be it enacted by the Tripura Legislative Assembly in the 60th year of the Republic of India as follows:-

1. Short Title And Commencement :-

- (i) This Act may be called The Tripura Cooperative Societies (Second amendment) Act, 2009.
- (ii) It extends to the whole of Tripura.
- (iii) It shall come into force from the date of publication in the Tripura Gazette.

2. Amendment Of Section 2 :-

Sub-section (8) of the Section 2 of the principal Act shall be substituted with the following;-

"co-operative credit structure society includes the State Cooperative Bank, the cooperative land development bank and a primary agricultural credit society."

Sub-section (9) of the Section 2 of the principal Act shall be substituted with the following:-

"State Cooperative Bank means an apex cooperative society doing the business of banking as defined in clause (b) of Section 5 of the Banking Regulation Act, 1949 and having jurisdiction over whole of Tripura State and declared as such by the State Government under clause (u) of Section 2 of the National Bank for Agriculture and Rural Development Act, 1981 (Central Act No. 61 of 1981)."

After Sub-section 34 of the Section 2 of the principal Act, the following Sub-sections shall be added:-

(35) "primary agricultural credit society means a cooperative society as defined under clause (cciv) of Section 5 of Banking Regulation Act, 1949 (Central Act 10 of 1949) and includes a multipurpose cooperative society."

(36) "primary society means a Co-operative society whose membership consists exclusively of individuals and self help groups."

(37) "Multipurpose Cooperative Society means a primary Society the object of which is to provide various services including services related to credit, business, industry, consumer durables to its members.

(38) "National Bank means the National Bank for Agriculture and Rural Development established under Section 3 of the National Bank for Agriculture and Rural Development Act, 1981 (Central Act No. 61 of 1981)."

(39) "Reserve Bank means the Reserve Bank of India established under section 3 of the Reserve Bank of India Act, 1934 (Central Act 2 of 1934)." -

(40) "Chartered Accountant means a member of the Institute of Chartered Accountants of India within the meaning of the Chartered Accountants Act, 1949 (XXXVIII of 1949)."

(41) "Apex Cooperative Society" means a Cooperative Society whose membership includes societies.

3. Amendment Of Section 9 :-

In sub-section (1) of Section 9 of the principal Act, the word "six months" shall be substituted with the word "one month".

Sub-section (3) of section 9 of the principal Act shall be substituted with the following:-

"Where the Registrar refuses to register a proposed society, he shall forthwith communicate his decision, with the reasons therefore, to the person who has signed first on the application, within one month from the date of receipt of the application for the registration of the society".

4. Insertion Of New Section 10A (Affiliation And Disaffiliation) :-

After Section 10 of the Principal Act, a new Section 10A (Affiliation and disaffiliation) shall be inserted as follows:-

"10A. A cooperative credit structure society may affiliate or disaffiliate with an apex cooperative society at its choice keeping in view the financial position of the apex cooperative society.

Provided that before disaffiliation, the society shall discharge its financial liability, if any, to the society from whom it is disaffiliating."

5. Amendment Of Section 13 :-

After subsection (3) of Section 13 of the principal Act the following sub-section shall be added namely-

"(4) The Registrar shall dispose of the proposal for amendment of bye-laws within one month from the date of receipt of the

proposal."

6. Amendment Of Section 14 :-

After sub-section (2) of section 14 of the principal Act, the following sub-section shall be added namely:-

"(3) The provisions of this section shall not apply to a cooperative credit structure society.

7. Amendment Of Section 20 :-

In sub-section (1) of section 20 of the principal Act, the following words - "with the prior approval of the Registrar," shall be deleted.

8. Insertion Of New Section 20A :-

After section 20 of the principal Act, the following new section 20A shall be inserted namely:-

"20A Notwithstanding anything contained in this Act, rules or bye-laws made there under or any other law for the time being in force, a cooperative credit structure society shall have autonomy in all financial and internal administrative matters including the following areas-.-

(a) Interest rates on deposits and loans,

Provided that in case of the State Cooperative Bank, the interest rates shall be in conformity with the guidelines issued by the Reserve Bank;

(b) Borrowing and Investments,

(c) Loan policies and individual loan decisions,

(d) Personnel policy, staffing, recruitment, posting and compensation to staff,

(e) Internal control systems, appointment of auditors and compensation for the audit.

9. Amendment Of Section 21 :-

Section 21 of the principal Act shall be treated as sub-section (1) of Section 21 and thereafter sub-section (2) shall be inserted as follows:-

"(2) No primary agricultural credit society or its federation or association (except those which are permitted to act as a bank under Banking Regulation Act, 1949 [Central Act No.10 of 1949]) shall be registered with the words bank or any other derivative of the word bank in its registered name or shall use the same as a

part of its name.

Provided that where any primary agricultural credit society or its federation or association [except those which are permitted to act as a bank under Banking Regulation Act, 1949 (Central Act No. 10 of 1949)] has been registered or using the same as a part of its name before the commencement of the Tripura Co-operative Societies (Amendment) Bill, 2009 with the word bank or any of its derivatives in its registered name, it shall, within three months from the date of such commencement, change its name so as to remove the word bank or its derivative, if any, from its name.

Provided further that where any such society fails to comply with the above provisions within the period specified therein, the Registrar shall order the winding up of such society forthwith."

10. Insertion Of New Section 21A :-

After Sec. 21 of the Principal Act, the following new section 21A shall be inserted namely-

"21A. Cooperative credit structure society shall have the freedom for its operation without mandatory restrictions of geographical boundaries."

11. Amendment Of Section 22 :-

After sub-section (1) (g) of section 22 of the Principal Act, the following new clause (h) shall be inserted namely:-

"(h) Self Help Group-

The ordinary residence of a person shall be within the area of operation of the society of which he wants to be a member.

Provided that this restrictions will not be applicable to a cooperative credit structure society and a cooperative credit structure society shall be entitled to admit as member even a person whose ordinary residence is outside its area of operation."

12. Amendment Of Section 27 :-

After sub-section (9) of Section 27 of the Principal Act, the following sub-section shall be inserted namely:-

"(10) Notwithstanding anything contained in sub-section (1), a self help group which is a member of a society, may, subject to rules, authorize one of its members to vote on its behalf in the affairs of that society."

13. Amendment Of Section 45 :-

Sub-section (2) of section 45 of the principal Act, shall be substituted with the following:-

"(2) Notwithstanding anything contained in sub-section (1), a cooperative credit structure society shall have freedom to raise loan from any bank or Reserve Bank regulated financial institution, refinance from National Bank or any other refinance agency directly or through any Reserve Bank regulated financial institution of its choice and not necessarily from the society to which it is affiliated."

After Sub section (2) of section 45 of the principal Act, the following new sub-section (3) shall be inserted:-

"(3) (a) Notwithstanding anything contained in sub-section (1), any person or group desirous of making a deposit in the cooperative land development bank or a primary agricultural credit society shall become a member of that society under sub-section (1) of section 22 and on admission as such, he shall be entitled to full membership voting rights.

(b) A borrower group shall become a member of the cooperative land development bank or a primary agricultural credit society under sub-section (1) of section 22,

14. Amendment Of Section 46 :-

In subsection (1) of section 46 of the principal Act, the following proviso shall be added namely;-

"Provided further that the cooperative credit structure society may take own decision regarding its loan policies including individual loan decision to its members, keeping in view the interests of the society and its members."

In subsection (2) of section 46 of the principal Act, the following proviso shall be added namely: -

"Provided that a depositor member of the cooperative land development bank or a primary agricultural credit society under sub-section (3) of Section 45 shall be eligible for loans on par with other members".

The subsection (3) of section 46 of the principal Act shall be deleted.

15. Insertion Of New Section 47A :-

After Section 47 of the principal Act, the following new section 47A shall be inserted namely:-

"47A. The co-operative land development bank and a primary

agricultural credit society shall abide by the prudential norms including Capital to Risk Weighted Assets Ratio prescribed by the Registrar in consultation with the National Bank."

16. Amendment Of Section 52 :-

Section 52 of the Principal Act, shall be treated as subsection (1) and thereafter the following subsection shall be inserted:-

(2) "Notwithstanding anything contained in sub-section(1), the share capital contribution by the Government in the case of cooperative credit structure society shall not exceed twenty five percent of the share capital and the Government or such society may reduce the Governments subscription further at its choice.

Provided that the State Government may contribute equity in excess of the aforesaid limit only if equity infusion is required in the State Cooperative Bank, to enable it to comply with section 11(1) of the Banking Regulation Act, 1949 (Central Act 10 of 1949).

17. Amendment Of Section 59 :-

Section 59 of the Principal Act shall be treated as subsection (1) of Section 59 and thereafter a new subsection (2) shall be inserted as follows:-

"(2) Notwithstanding anything contained in sub-section (1), a primary agricultural credit society shall pay a dividend to its members in accordance with the guidelines laid down by the Registrar in consultation with the National Bank."

18. Amendment Of Section 60 :-

After Sub-section (2) of Section 60 of the principal Act, the following new subsection (3) shall be inserted:-

"(3) Notwithstanding anything contained sub-section (1), there shall be no compulsion on a cooperative credit structure society for contribution to any funds other than those required for improving its net worth or its owned funds."

19. Amendment Of Section 61 :-

In section 61 of the Principal Act, in between the words a "society" and "may set" the following words shall be inserted:-

"other than a Cooperative Credit Structure Society,"

20. Amendment Of Section 62 :-

Clause (d) of sub-section (1) of section 62 of the principal Act shall be substituted with the following:-

"in any bank or Reserve Bank regulated financial institution of its choice, or

After clause (f) of sub-section (1) of section 62 of the principal Act, the following provisos shall be inserted; namely-

"Provided that clause (f) of sub section (1) will not be applicable to a cooperative credit structure society.

Provided further that and while making Investments, cooperative credit structure societies will follow guide lines, if any, issued by Reserve Bank.

Sub-section (2) of section 62 of the principal Act, shall be deleted.

21. Amendment Of Section 65 :-

After sub-section (2) of section 65 of the principal Act, the following new subsections shall be inserted namely-

"(3) The total elected members in a committee of a cooperative credit structure society shall not be exceeding 5 (five).

(4) The committee of a cooperative credit structure society shall, ninety days before the expiry of its term, make arrangements for the constitution of a new committee in accordance with the provisions of this Act and rules and byelaws made there-under failing which the Registrar shall arrange to hold such elections within a period of sixty days after the expiry of the term of the committee at the cost of the society.

(5) There shall be at least such number of professionals having special knowledge or experience in such fields as may be stipulated from time to time by the Reserve Bank on the committee of the State Co-operative Bank and in case such number of elected directors do not, in the opinion of Reserve Bank or National Bank, possess special knowledge or experience in such fields as may be stipulated by the Reserve Bank, the committee of the State Co-operative Bank, shall co-opt such number of professionals with full voting rights irrespective of: -

(i) the limit on the number of members of the committee under this Act or rules framed there under or its bye laws,

(ii) whether such professional is a member of the Society or not.

(6) If any person who, in the opinion of the Reserve Bank, has been co-opted as a member of the committee under sub-section (5) without having requisite knowledge or experience as stipulated

by the Reserve Bank, he shall, on being advised by the Reserve Bank or the National Bank, be removed from the office after giving him a reasonable opportunity of being heard.

22. Amendment Of Section 66 :-

After sub-section (2) of section 66 of the principal Act, the following new sub-section (3) shall be inserted namely:-

"(3) In addition to such criteria as may be specified in the bye-laws, all the members of committee shall incur disqualification for next 2 (two consecutive) years for being chosen as committee members and shall be ineligible to continue as committee member of any cooperative, if during their term as a committee member of a cooperative :-

(a) They did not conduct election within the time specified in the bye-laws and before the expiry of their term.

(b) They did not conduct their annual general body meeting within 4 (four) months of closure of the cooperatives accounting year.

(c) They did not place the audited accounts along with the reports of the statutory / or internal auditors before the general body for its approval."

23. Insertion Of New Section 66A :-

After section 66 of the principal Act, the following new section 66A shall be inserted namely:-

"66A. Notwithstanding anything contained in section 66, no person shall be elected, nominated or co-opted or allowed to continue as a member of the committee of a co-operative credit structure society, if he-

(i) is a person who represents a society other than a primary agricultural credit society on the committee of the State Co-operative Bank if such society he represents has committed a default towards the payments of such Bank for a period exceeding ninety days;

(ii) is a person who committed a default towards the payments to a primary agricultural credit society or the cooperative land development bank or represents a primary agricultural credit society on the committee of the State Co-operative Bank if such society he represents has committed a default towards the payments of such bank for a period exceeding one year unless the default is cleared;

(iii) is a person, who represents a society whose committee is

superseded or has ceased to be a member on the committee of his own society-"

24. Amendment Of Section 67 :-

In section 67 of the Principal Act the words "three years" shall be substituted with the words "five years".

25. Amendment Of Section 69 :-

Section 69 of the principal Act shall be treated as sub-section (1) of Section 69 and thereafter the following new sub-sections shall be inserted, namely:-

"(2) The Chief Executive Officer and the members of the committee of the State Cooperative Bank shall fulfill the criteria stipulated by the Reserve Bank for the time being in force and such person who, in the opinion of the Reserve Bank or in the opinion of the National Bank, does not fulfill the criteria stipulated by the Reserve Bank shall be removed on advice of the Reserve Bank or of the National Bank.

26. Amendment Of Section 70 :-

After section 70 of the Principal Act, the following proviso shall be inserted:-

"Provided that the provisions of this section shall not apply to a cooperative credit structure society."

27. Amendment Of Section 74 :-

In sub-section 1(a) (ii) of section 74 of the principal Act, the words "one year" shall be substituted by the words "two months" and the following words shall be deleted;-

"which period may at the discretion of the Registrar be extended from time to time so however that the total period does not exceed three years in aggregate".

In sub-section 4 of section 74 the following words shall be deleted, namely:

"or extended period".

After sub-section(6) of section 74 the following new sub-section shall be inserted, namely:-

(7) The committee of a State Cooperative Bank shall be superseded only with the prior approval of the Reserve Bank.

(8) The committee of a primary agricultural credit society shall be

superseded by the Registrar only under the following conditions:

- (i) that a society incurs losses for three consecutive years; or
- (ii) that serious financial irregularities or frauds have been identified; or
- (iii) that there are judicial directives to this effect; or
- (iv) there is a lack of quorum for 3(three) consecutive meetings.

Provided that members of the committee of a primary agriculture cooperative society which has been superseded will be disqualified to contest the election to any committee for a period of at least three consecutive years from the date of suppression."

28. Insertion Of New Section 75A :-

After section 75 of the principal Act, the following new section 75A shall be inserted:-

"75A (1) The Registrar shall ensure that Reserve Banks regulatory prescriptions in case of State Co-operative Bank including recommendation for super session of the committee and winding up of the State Co-operative Bank are implemented within one month of being so advised by the Reserve Bank.

(2) The Registrar shall ensure that the liquidator or the Administrator, as the case may be, is appointed within one month of being advised by the Reserve Bank for winding up or super session.

(3) If, in the opinion of the Reserve Bank or the National Bank, the Chief Executive Officer of the State Co-operative Bank does not fulfil eligibility criteria specified by the Reserve Bank, the Registrar shall ensure removal of the Chief Executive Officer within one month of being so advised by the Reserve Bank or the National Bank.

(4) If, in the opinion of the Reserve Bank or the National Bank, a person has been co-opted as a member of the committee under sub-section (5) of section 65 without having the requisite special knowledge or experience in such fields as may be stipulated by the Reserve Bank, the Registrar shall, on being advised by the Reserve Bank or the National Bank, ensure removal within one month of being so advised by the Reserve Bank or the National Bank.

29. Amendment Of Section 78 :-

Section 78 of the principal Act shall be treated as sub-section (1) of Section 78 and thereafter the following new sub-sections shall be inserted:-

"(2) Notwithstanding anything contained in sub-section (1), there shall be only one nominee of the State Government in the committee of the State Cooperative Bank, and the cooperative land development bank if the State Government has subscribed to its share capital.

(3) Notwithstanding anything contained in sub-section (1), there shall be no nominee of the Government in the committee of a primary agricultural credit society irrespective of Governments subscription to the share capital."

30. Amendment Of Section 79 :-

Sub-section (1) of section 79 of the principal Act shall be treated as sub-section (1) (i) of section 79 and thereafter the following new clauses shall be inserted namely:-

"(ii) A primary agricultural credit society shall get its accounts audited at least once in each year by the Registrar or the person authorized by him or a Chartered Accountant appointed by the committee.

(iii) Notwithstanding anything contained in clause (1), of this sub-section, the accounts of the State Co-operative Bank shall be audited and certified by Chartered Accountants appointed by its committee from the panel approved by the National Bank. (iv) The Registrar shall get conducted a special audit of the State Cooperative Bank on the request of the Reserve Bank in the manner and form stipulated by the Reserve Bank and shall endorse a copy of the report of such special audit to the Reserve Bank and National Bank within the time stipulated by the Reserve Bank.

In sub-section (3) of section 79 of the principal Act the following words shall be added after the word "authorized" and before the word "shall"; namely-

"by him under clause (i) of sub-section (1) or the auditor or the chartered accountant appointed by the committee of a cooperative credit structure society under clause (i) or (ii) of sub-section (1) to audit the accounts of a co-operative society."

In subsection (4) of section 79 of principal Act the followings words shall be added after the words "by him" and before the words "may require" namely-

"under clause (i) of sub-section (1) or the auditor or the chartered accountant appointed by the committee of a cooperative credit structure society under clause (ii) or (iii) to audit the accounts of a co-operative society".

In subsection (5) of Section 79 of the principal Act the following words shall be added after the words "under" and before the words "shall have" namely:-

"Clause (i) of sub-section (1) or the auditor or the chartered accountant appointed by the committee of a cooperative credit structure society under clause (ii) or (ii) of subsection (1) to audit the accounts of a cooperative society"

In subsection (7) of the section 79 of the principal Act the following words shall be added after the words "the society" and before the words "shall be" namely-"other than a cooperative credit structure society"

The subsection (9) of the section 79 of principal Act shall be substituted with the following:-

"If at the time of the audit, the accounts of a society are not found to be complete, the Registrar or the person authorized by him under clause (i) of sub-section (1) to audit or the auditor or the chartered accountant appointed by the committee of a cooperative credit structure society under clause (ii) or (iii) of sub-section (1), may cause the account to be written up at the expense of the society".

Explanation: For the purpose of this section audit shall include annual or periodical audit, running or continuous audit, test audit or super audit and re-audit.

31. Amendment Of Section 156 :-

Section 156 of the principal Act shall be treated as sub-section (1) of Section 156 and the following new subsection (2) shall be inserted:-

"(2) No Cooperative credit structure society shall be exempted by the Government from the application of the provisions of this Act without the prior approval of the Reserve Bank of India or a National Bank