

Gujarat Co-Operative Societies (Amendment) Act, 2015

12 OF 2015

[07 April 2015]

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Gujarat Co-Operative Societies (Amendment) Act, 2015

[07 April 2015]

(First published, after having received the assent of the Governor, in the "Gujarat Government Gazette", on the 7th April, 2015)

AN ACT

further to amend the Gujarat Co-operative Societies Act, 1961

It is hereby enacted in the Sixty-sixth Year of the Republic of India as follows :-

1. short title and commencement :-

(1) This Act may be called the Gujarat Co-operative Societies (Amendment) Act, 2015.

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

2. Amendment of section 2 of Guj. X of 1962 :-

In the Gujarat Co-operative Societies Act, 1961 (hereinafter referred to as "the principal Act"), in section 2, in clause (9), for the words "five members", the words "ten members" shall be substituted.

3. Amendment of section 6 of Guj. X of 1962 :-

In the principal Act, in section 6, in sub-section (3), for the words "five societies", the words "ten societies" shall be substituted.

4. Amendment of section 8 of Guj. X of 1962 :-

In the principal Act, in section 8, in sub-section (2), in clause (b), for the words "five societies", the words "ten societies" shall be substituted.

5. Amendment of section 22 of Guj. X of 1962 :-

In the principal Act, in section 22, after sub-section (2), the following sub-section shall be inserted, namely :-

"(2A) Any person aggrieved by the decision of a society under sub-section (2), may prefer an appeal to the Registrar within sixty days of the date of communication of the decision and such appeal shall be decided by the Registrar within a period of sixty days."

6. Amendment of section 27 of Guj. X of 1962 :-

In the principal Act, in section 27, -

(1) after sub-section-(2), the following sub-sections shall be inserted, namely:-

"(3) No person shall exercise the right to vote at an election of a member of a committee in a financial year unless he is a member of the society for the whole of the financial year preceding the financial year in which the election is being held:

Provided that no member society of a. federal society shall exercise the right to vote at an election of a member of a committee unless such society has its last accounts audited in class A, B or C.

(4) Nothing in sub-section (3) shall apply to the first election of a committee to be held immediately after the registration of a society;"

(2) in the marginal note, for the words "No right of membership to be exercised till due payments are made", the words "Right to vote" shall be substituted.

7. Amendment of section 28A of Guj. X of 1962 :-

In the principal Act, in section 28A, for the first proviso, the following proviso shall be substituted, namely:-

"Provided that a member -

(i) who does not attend atleast two meetings of the general body for a consecutive rJeriod of five years; or

(ii) who does not. utilize minimum level of services as prescribed in the bye-laws for a consecutive period of five years in. respect of such societies as the State Government may, by notification in the Official Gazette, declare;shall be liable to be removed by the Registrar as the member of the society;"

8. Amendment of section 33 of Guj. X of 1962 :-

In. the principal Act, in section 33, after sub-section (2), the following sub-section shall be added, namely:-

"(3) A society shall authorise any officer or officers as it deems fit, for the purpose of discharging the functions as provided under sub-sections (1) and (2).".

9. Amendment of section 41A of Guj. X of 1962 :-

In the principal Act, existing section 41A shall be renumbered as

sub-section (1) of that section and after sub-section (1) as so renumbered, the following sub-section shall be added, namely :-
"(2) A society shall authorise any officer as it deems fit, for the purpose of discharging the functions under sub-section (1).".

10. Amendment of section 51 of Guj. X of 1962 :-

In the principal Act, in section 51, for sub-section (2), the following sub-section shall be substituted, namely :-

"(2) The share capital subscribed by the State Government under sub-section (1) may be returned to the State Government by a society in such circumstances as may be prescribed by the State Government..

11. Amendment of section 67A of Guj. X of 1962 :-

In the principal Act, in section 67A, -

(i) in sub-section (1), for the word "transaction", the words "activities of credit and recovery" shall be substituted;

(ii) . in the proviso, the words "by a majority of total membership of the society and" shall be deleted;

(iii) after the existing proviso, the following proviso shall be inserted, namely :-

"Provided further that no such bad debt or loss shall be written off except obtaining the previous sanction of the State Government.".

12. Insertion of new section 70A in Guj. X of 1962 :-

In the principal Act, after section 70, the following section shall be inserted namely:-

"70A. Members Welfare Fund.

Every society, whether liable or not, for providing such fund as provided in sections 67, 67A, 68 and 69 or the contribution under section 70, shall set aside such sum from its net profit as prescribed by the State Government for the purpose of welfare activities of its members.".

13. Amendment of section 74 of Guj. X of 1962 :-

In the principal Act, in section 74, -

(i) for sub-section (1A) the following sub-section shall be substituted, namely:-

"(1A) (i) Except as otherwise provided herein, the managing committee of a society, which is not an apex society, shall consist

of, among others, such number of elected members not exceeding twenty-one;

(ii) only the elected members shall be entitled to be the office-bearers of the managing committee.".

(ii) for sub-section (1C), the following sub-section shall be substituted, namely :-

"(1C) (i) . The term of the elected members of the managing committee and its office bearers shall be five years from the date of election:

Provided that the term of office bearers shall be two and a half years from the date of election of managing Committee for the urban co-operative banks and federal societies ;

Provided further that the managing committee shall fill up a casual vacancy in the committee by nomination out of the same class or categories of members in respect of which the casual vacancy has arisen within sixty days from the date; of such vacancy, if the remaining term of office of the managing committee is less than half of its original term :

Provided also that in the case of the urban co-operative banks and the federal societies, the managing committee shall fill up a casual vacancy within sixty days from the date of such vacancy, failing which the State Government shall have the power to fill up such casual vacancy out of the same class or categories of members in respect of which the casual vacancy has arisen, if the remaining term of office of the managing committee is less than half of its original term.

(ii) The elected members of the managing committee and its office bearers shall cease to hold the office on the date of expiry of their term.

(iii) Notwithstanding anything contained in clause (i), the office bearers of the urban co-operative banks and federal societies who have completed two and a half years on the date of the commencement of the Gujarat Co-operative Societies (Amendment) Act, 2015, shall continue to be such office-bearer for the remainder term.

(iv) The office bearers of the managing committee of the urban co-operative banks and federal societies shall be eligible for re-election.

14. Amendment of section 74C of Guj. X of 1962 :-

In the principal Act, in section 74C, for sub-section (2), the

following sub-section shall be substituted, namely :-

"(2)(i) The term of the elected members of the managing committee shall be five years from the date of election.

(ii) The term of office bearers of the managing committee shall be two and a half years from the date of election :

(iii) The managing committee shall fill up a casual vacancy within a period of sixty days from the date of such vacancy, failing which the State Government shall have the power to fill up such casual vacancy out of the same class of categories of members in respect of which the casual vacancy has arisen if the remaining term of office of the managing committee is less than half of its original term.

(iv) The elected members of the managing committee, and its office bearers shall cease to hold the office on the date of expiry of their term.

(v) Notwithstanding anything contained in clause (ii), the office bearers of managing committee who have completed two and a half years on the date of the commencement of the Gujarat Co-operative Societies (Amendment) Act, 2015, shall continue to be such office-bearer for the remainder term.

(vi) Nothing in clause (i) shall be applicable to the managing committee existing on the date of coming into force of the Gujarat Co-operative Societies (Amendment) Act, 2015.

(vii) The office bearers of the managing committee shall be eligible for re-election."

15. Insertion of new sections 74D and 74E in Guj. X of 1962
:-

In the principal Act, after section 74CC, the following sections shall be inserted namely:-

"74D. Appointment of Custodian in certain circumstances.

(1) Where in respect of any society including a society Custodian in existing immediately before the commencement of the Gujarat Co-operative Societies (Amendment) Act, 2015, a new committee of management is, for any reason whatsoever, not elected before the expiry of the term of office of members of a committee of management of such society or having been elected not functioning within a period of three months (not being a committee referred to in section 80A), except for the reason of order of the competent court due to which such election could not be held or the managing committee could not start functioning, the registrar shall by an

order in writing, appoint a person or a committee of persons to be the Custodian of the society for a period of one year or until a new committee of management is elected or, as the case may be, starts functioning.

(2) The Custodian shall arrange to hold election of such society within a period of one year and the Committee shall be constituted before the expiration of that period.

(3) The Custodian so appointed shall, subject to the control of the Registrar and to Such instructions as he may from time to time give, have powers to exercise all or any of the functions of the committee and take all such actions as may be required in the interest of the society.

(4) All acts done or purported to be done by the Custodian during the period when the affairs of the society are carried on by such Custodian, shall be binding on the new committee of management.

74E. Motion of no confidence.

(1) A President, Vice-President, Chairman, Vice-Chairman, Secretary, Treasurer or any other officer by whatever designation called, who holds office by virtue of his election to that office, shall cease to be the President, Vice-President, Chairman, Vice-Chairman, Secretary, Treasurer or such officer, as the case may be, if a motion of no-confidence is carried at a meeting of the committee by the majority of not less than two-thirds of the total number of members present at the meeting and voting, and such office shall thereupon be deemed to be vacant.

(2) The requisition for such special meeting shall be signed by not less than one-third of the total number of members of the committee who are entitled to vote, shall be delivered to the State Government in respect of a committee of a society which has the Registrar as its member and in other cases to the Registrar:

Provided, that, no such requisition for a special meeting shall be made within a period of six months from the date on which any of the officers referred to in sub-section (1) has entered upon his office.

(3) The State Government or, as the case may be, the Registrar upon whom, the requisition has been made under sub-section (2) shall convene a special meeting of the committee within a period of thirty days from the date of receipt of such requisition.

(4) The meeting shall be presided over by such officer as authorized by the State Government or the Registrar, as the case may be. The officer shall, when presiding over such meeting, have the same powers as the President or Chairman when presiding over

such meeting, but shall not have the right to vote. The voting shall be by secret ballot of votes.

(5) The meeting called under this section shall not, for any reason, be adjourned.

(6) If such motion of no-confidence is rejected, no fresh motion of no-confidence shall be brought within a period of six months from the date of such rejection of the motion."

16. Amendment of section 76 of Guj. X of 1962 :-

In the principal Act, in section 76, for the portion beginning with the words "The qualification for appointment" and ending with "be prescribed", the following shall be substituted, namely :-

"The qualifications, conditions of service, staff schedule, procedure of recruitment for appointment of a Manager, Secretary, Accountant or any other officer or employee of all urban co-operative banks, federal societies and specified co-operative societies as referred to in section 74C but excluding the societies of the co-operative credit structure, shall be such as may from time to time be prescribed:".

17. Amendment of section 76B of Guj. X of 1962 :-

In the principal Act, in section 76B, in sub-section (2), for the words "four years", the words "six years" shall be substituted.

18. Amendment of section 77 of Guj. X of 1962 :-

In the principal Act, in section 77, -

(i) to sub-section (1), the following proviso shall be inserted, namely:-

"Provided that if such meetings is not called by the society within such period, the Registrar or any person authorized by him in that behalf may in the prescribed manner, call such meeting which shall be deemed to be a general meeting duly-called by the society.".

(ii) in sub-section (5), in clause (i),. for .the words "one hundred rupees", the words "one thousand rupees" shall be substituted.

19. Amendment of section 78 of Guj. X of 1962 :-

In the principal Act, in section 78, in sub-section (2), for the words "one hundred rupees", the words "one thousand rupees" shall be substituted.

20. Substitution of section 81 of Guj. X of 1962 :-

In the principal Act, for section 81, the following shall be substituted, namely:-

"81. Supersession of a committee and appointment of a Committee or Administrator.

(1) If in respect of a committee of a society having the Registrar as its member, the State Government and in respect of a committee of a society which does not have the Registrar as its member, the Registrar, is of the opinion that -

(i) the committee persistently makes default; or

(ii) the committee is negligent in the performance of its duties imposed on it by or under this Act or the rules made thereunder or the bye-laws; or

(iii) the committee has committed any act prejudicial to the interest of the society or its members;

the State Government or, as the case may be, the Registrar, after giving the committee an opportunity of being heard, within fifteen days from the date of issue of notice, by an order in writing, supersede the Committee and appoint-

(a) a Committee, consisting of one or more members of the society, not being the members of the committee superseded; under this sub-section, or

(b) an Administrator from amongst the officers of the Co-operation Department of the State Government -

to manage the affairs of the society for a period not exceeding one year as may be specified in the order, which period may, at the discretion of the State Government or the Registrar, as the case may be, be extended from time to time, so, however, the term of the Committee or the Administrator shall be, the remaining term of the committee in whose place he is appointed or two years in aggregate, whichever is less.

(2) Before passing an order under sub-section (1), the State Government or the Registrar, as the case may be, shall consult the co-operative financing institution if such society is indebted to it.

(3) The Committee or Administrator so appointed shall, subject to such instructions and control of the State Government or the Registrar, as the case may be, have power to exercise all or any of the functions of the committee or of any officer of the society and take all such action as may be required in the interests of the society.

(4) The Committee or the Administrator appointed under sub-

section (1) shall arrange to hold the election of the committee of the society at such time as directed by the State Government or the Registrar, as the case may be, but not later than the period as specified in sub-section (1):

Provided that the Committee or the Administrator shall arrange to hold election for constitution of a new committee of a society in the co-operative credit structure within a period of six months from the date of the order of supersession of the said Committee.

(5) All acts done or purported to be done by the Committee or Administrator during the period during which the affairs of the society are carried on by the Committee or Administrator appointed under sub-section (1), shall be binding on the new committee.

(6) The remuneration of members of the Committee or the Administrator appointed under sub-section (1) shall be such as may be prescribed and the same shall be paid from the fund of the society.

(7) The members of the committee which has been superseded under sub-section (1), shall not be eligible to become a member of the committee of the same society for a period of six years from the date of supersession of such committee."

21. Amendment of section 81 a or Guj. X of 1962 :-

In the principal Act, in section 81A, for sub-section (3), the following shall be substituted, namely :-

"(3) The members of the committee of a Primary Agriculture Credit Cooperative Society which has been removed under sub-section (2) shall not be eligible to become a member of the committee of the same society for a period of six years from the date of supersession of such committee."

22. Amendment of section 82 of Guj. X or 1962 :-

In the principal Act,, in section 82, in subsection (3), for the words "not exceeding fifteen rupees as the Registrar may think fit for each day", the words "not exceeding one hundred rupees for each day" shall be substituted.

23. Amendment of section 84 of Guj. X or 1962 :-

In the principal Act, in-section 84, -

(i) for sub-Sections (1) and (2), the following sub-section and the proviso thereunder shall be substituted, namely :-

"(1) The Registrar shall audit, or cause to be audited by a person possessing prescribed qualifications and authorized by the Registrar by general or special order in writing in this behalf, the accounts of every society at least once in each year. The person so authorized shall be an auditor for the purposes of this Act:

Provided that the audit of the Central Co-operative Banks and the State Co-operative Banks shall be conducted only by the Chartered Accountants from the panel approved by the National Bank."

(ii) after sub-section (5), the following new sub-section shall be inserted, namely:-

"(5A) The Registrar shall, by an order, provide for a special audit of any society on its own or on the basis of the recommendation of the Reserve Bank of India or, as the case may be, the National Bank. The provisions relating to audit of accounts of the society, made under this section shall also apply to such special audit."

(iii) after sub-section (8), the following sub-section shall be added, namely :-

"(9) The State Government may by rules, provide for the form and manner in which and the period within which the accounts of the society or the class of society shall be prepared and submitted for the purpose of online audit."

24. Substitution of section 85 of Guj. X of 1962 :-

In the principal Act, for section 85, the following shall be substituted; namely:- .

"85. Rectification of defects or irregularities in accounts and inspection report of the Society.

If the result of the audit held under section 84 and inspection held under sub-section (8) of section 84, section 87 and section 88 discloses any defects in the working of the society, the society shall within a period of two months from the date of the audit and inspection report, clarify to the Registrar as regards the defects or the irregularities so pointed out in audit and inspection report, and if clarification in respect of any defect or irregularity is not accepted, take steps to rectify the defects and remedy irregularities within such period as may be specified by the Registrar and shall report to the Registrar, failing which the Registrar shall have power to impose a penalty of such amount not exceeding rupees five thousand. Where society concerned is a member of a federal society, such order shall be made after consulting; the federal society."

25. Amendment or section 93 of Guj. X of 1962 :-

In the principal Act, in section 93, in sub-section (1), for the words commencing from "Where in the course of" and ending with the words "Liquidator under section 110", "the words "Where, in the course of or as a result of an audit under section 84, or an inspection under sub-section (8) of section 84. or an inquiry under section 86 or an inspection under section 87 or section 88, or the winding up of a society, the Registrar is satisfied on the basis of the report made by the auditor or the person authorised to make inquiry under section 86, or the person authorised to inspect the books under subsection (8) of section 84, 87 or 88 or the Liquidator under section 110," shall be substituted.

26. Amendment of section 107 of Guj. X of 1962 :-

In the principal Act, in section 107, in sub-section (1), for clause (a), the following clause shall be substituted, namely:-

"(a) after an inquiry has been held under section 86, or an inspection has been made under any of the provisions of sub-section (8) of section 84, section 87 or section 88 or on the report of the auditor auditing the accounts of the society; or".

27. Amendment of section 114 of Guj. X of 1962 :-

In the principal Act, in section 114, in sub-section (1), for the words "three years", "four years", and "seven years", the words "five years" "five years" and "ten years" shall be substituted, respectively.

28. Amendment of section 115E of Guj. X of 1962 :-

In the principal Act, in section 115E, in Explanation-I, for the words "consisting of three years commencing from the date of the first meeting of a committee", the words "of two and a half years, commencing from the date of the election of a committee" shall be substituted.

29. Deletion of section 115G of Guj. X of 1962 :-

(1) In the principal Act, section 115G shall be deleted.

Saving

(2) The amount resting in the Urban Bank Credit Equalization Fund on the date of the commencement of the Gujarat Co-operative

Societies (Amendment) Act, 2015 shall be paid back proportionally to those contributors to the fund who have contributed to the said fund.

30. Amendment of section 116 of Guj. X of 1962 :-

In the principal Act, in section 116,-

(i) for the words "advancing loans, other than short term loans," the words "advancing loans" shall be substituted;

(ii) in clause (vi), the word "or" occurring at the end shall be deleted;

(iii) in clause (vii), the word "or" shall be added at the end;

(iv) after clause (vii)," the following clause shall be inserted, namely:-

"(viii) short term loans, crop loans."

31. Amendment of section 145Z of Guj. X of 1962 :-

In the principal Act, in section 145Z, in sub-section (2), for the words "in its bye-laws, but"; the words, figures and letter "in sub-section (2) of section 74C, and" shall be substituted.

32. Amendment of section 147 of Guj. X of 1962 :-

In the principal Act, in section 147, in sub.-section (1), -

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

"(aa) if the officer or officers authorized under sub-section (3) of section 33 fail to discharge the functions as provided in the said section;

(aaa) if the officer authorized under sub-section (2) of section 41A fails to discharge the functions as provided in the said section;"

(ii) in clause (e), for the words "an Urban Co-operative Bank," the words, brackets and figures "in a Scheduled Co-operative Bank as defined, in clause (2) of the section 2 of the Reserve Bank of India Act, 1934 and having its registered office within the State or in any Nationalised Bank" shall be substituted.

33. Amendment of section 148 of Guj. X of 1962 :-

In the principal Act, in section 148, in sub-section (1), -

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

"(aa) if it is an offence under clause (aa) of that section, with, fine

which may extend to five thousand rupees;
(aaa) if it is an offence under clause (aaa) of that section, with fine which may extend to five thousand rupees";
(ii) in clauses (a), (b), (d), (e), (g), (g-i), (j), (k), (l), (o) and (p), for the words "five hundred rupees" the words "five thousand rupees" shall be substituted;
(iii) in clause (c), for the words "five thousand rupees", the words "fifty thousand rupees" shall be substituted;
(iv) in clause (h), for the words "two hundred and fifty rupees", the words "two thousand and five hundred rupees" shall be substituted;
(v) in clauses (i), (n) and (q), for the words "one thousand rupees" the words "ten thousand rupees" shall be substituted;
(vi) in clause (m), for the words "two thousand rupees", the words "twenty thousand rupees" shall, be substituted.

34. Insertion of new section 156A in Guj. X of 1962 :-

In the principal Act, after section 156, the following section shall be inserted, namely :-

"156A. Power of State Government to give directions for e-tender process.

The State Government may, by general or special order to be published in the Official Gazette, direct any society or any class of society not to render contract in relation to such matters concerning such society or the class of society and to make purchases for such amount except without following the e-tender process."

35. Insertion of new section 160A in Guj. X of 1962 :-

In the principal Act, after section 160, the following new section shall be inserted, namely :-

"160A. Power of state Government to give directions in case of financial stake of Government.

(1) If the State Government, on receipt of a report from the Registrar or otherwise, is of the opinion that, in respect of such society wherein the Government has financial stake in any manner, it is necessary to issue the directions to secure the proper management of the business of the society generally, or for the affairs of the society being conducted in a manner detrimental to the interest of the members of the depositors or the creditors thereof, the State Government may issue directions to it from time to time, and the society shall be bound to comply with such

directions.

(2) The State Government may modify or cancel any directions issued under sub-section (1), and in modifying or canceling such directions may impose such conditions as it may deem fit.

(3) Where the State Government is satisfied that any person responsible for complying with any directions or modified directions issued to a society under sub-sections (1) and (2) and he has failed, without any good reason or justification, to comply with the directions, the State Government may, by order, -

(a) if the person is a member of the committee of the society, remove the member from the committee and appoint any other person as a member of the committee for the remainder of the term of his office and declare him to be disqualified to be such member for a period of six years from the date of the order;

(b) if the person is an employee of the society, direct the committee to remove such person from employment of the society forthwith, and if any member or members of the committee, without any good reason or justification, fail to comply with this order, remove the members, appoint other persons as members and declare them disqualified as provided in clause (a) above:

"Provided that, before making any order under this sub-section, the State Government shall give a reasonable opportunity of being heard to the person or persons concerned and consult the federal society to which the society is affiliated.

(4) Nothing provided in sub-section (1) shall apply to the Urban Co-operative Banks, and the societies in the co-operative credit structure."