

Tamil Nadu Co-Operative Societies (Third Amendment) Act, 2008

62 of 2008

CONTENTS

1. Short Title And Commencement
2. Insertion Of New Chapter Xiv-A
3. Repeal And Saving

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62 of 2008

An Act further to amend the Tamil Nadu Co-operative Societies Act, 1983. Be it enacted by the Legislative Assembly of the State of Tamil Nadu in the Fifty-ninth Year of the Republic of India as follows: 1. Received the Assent of the Governor of Tamil Nadu on November 30, 2008 -- Published in Tamil Nadu Government Gazette, Extraordinary, Part IV, Section 2, Iss. No.364, page 269-273, dated December 2, 2008. 2. As published in T.N. Ordinance No.8/2008 -- Refer 2008 (2) CTAR 1.145 3. As published in T.N. Bill No.64/2008 -- Refer 2008 (2) CTAR 1.156

1. Short Title And Commencement :-

- (1) This Act may be called the Tamil Nadu Co-operative Societies (Third Amendment) Act, 2008.
- (2) It shall be deemed to have come into force on the 21st day of October 2008.

2. Insertion Of New Chapter Xiv-A :-

After Chapter XIV of the Tamil Nadu Co-operative Societies Act, 1983, the following Chapter shall be inserted, namely:--

"CHAPTER XIV-A

SPECIAL PROVISIONS APPLICABLE TO SHORT TERM CO-OPERATIVE CREDIT STRUCTURE SOCIETIES.

136-A. Application of Chapter-- This Chapter shall apply only to

short term co-operative credit structure societies.

136-B. Provisions of this Chapter to have overriding effect.--
Notwithstanding anything contrary or inconsistent contained in any other Chapter of this Act or Rules framed thereunder or bye-laws of any registered society or orders issued thereunder, the provisions of this Chapter shall have overriding effect in respect of short term co-operative credit structure society.

136-C. Definitions.--

(1) In this Chapter, unless the context otherwise requires,--

(a) "capital to risk weighted assets ratio" means the capital adequacy norms stipulated by the Reserve Bank from time to time;

(b) "central co-operative bank" means a central society engaged in the business of banking;

(c) "federal society" means an apex society to which central or primary societies of similar class or category are affiliated or a central society to which primary societies of similar class or category are affiliated;

(d) "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 61 of 1981);

(e) "primary agricultural credit society" means a co-operative society as defined under clause (cciv) of Section 5 read with Section 56 of the Banking Regulation Act, 1949 (Central Act X of 1949);

(f) "Reserve Bank" means the Reserve Bank of India constituted under Section 3 of the Reserve Bank Act, 1934 (Central Act II of 1934);

(g) "short term co-operative credit structure society" means the short term co-operative credit society at the apex level, central level or primary level and includes the State Apex Co-operative Bank, a Central Co-operative Bank and a primary agricultural credit society;

(h) "State Apex Co-operative Bank" means an apex society engaged in the business of banking.

136-D. Special provisions applicable to short term co-operative credit structure societies.--

(1) (a) A depositor holding a minimum deposit of rupees five thousand or such minimum sum as may be specified by the Government, from time to time, for a continuous period of minimum two years in a primary agricultural credit society shall become a member of the registered society under Section 21 by

subscribing the minimum share capital specified in the bye-laws and shall have full membership, voting rights and eligible for patronage rebate, bonus and dividend.

(b) An individual or group borrower shall have the right to become a member of the registered society under Section 21.

(c) Every group depositor or group borrower who has become a member under Section 21 shall be entitled to vote through one delegate nominated by the group.

(2) A short term co-operative credit structure society shall have autonomy in all financial and internal administrative matters including the following areas--

(i) interest rates on deposits and loans in conformity with the guidelines issued by the Reserve Bank;

(ii) borrowing and investments;

(iii) loan policies and decisions on individual loan;

(iv) personnel policy, staffing, recruitment, posting and remuneration to staff; and

(v) internal control systems, appointment of auditors and remuneration for the audit.

(3) The Governments subscription in the share capital of any short term cooperative credit structure society shall not exceed twenty-five per cent and the Government or short term co-operative credit structure society may reduce the Governments subscription further at its choice.

(4) (a) There shall be only one nominee of the Government in the Board of the State Apex Co-operative Bank or a Central Co-operative Bank If the Government has subscribed to its share capital.

(b) There shall be no nominee of the Government in the Board of a primary agricultural credit society irrespective of Governments subscription to the share capital.

(5) A short term co-operative credit structure society may affiliate or disaffiliate with a federal society at its choice subject to the condition that the said short term co-operative credit structure society which exits with the existing structure and affiliates with another federal society shall display this in the name board of the said short term co-operative credit structure society.

(6) A short term co-operative credit structure society shall have the freedom of entry and exit at any tier and there shall be no mandatory restrictions of geographical boundaries for its operations.

(7) A short term co-operative credit structure society may, subject

to the guidelines of the Reserve Bank, invest or deposit its funds in any Bank or financial institution regulated by the Reserve Bank and not necessarily in the federal society to which it is affiliated.

(8) A short term co-operative credit structure society may, obtain loans from any Bank or financial institution regulated by the Reserve Bank and refinance from the National Bank or any other financing institution directly or through any Reserve Bank regulated financial institutions and not necessarily from the federal society to which it is affiliated.

(9) A primary agricultural credit society may pay dividend in accordance with the guidelines framed by the Registrar in consultation with the National Bank.

(10) The Government or the Registrar shall have no powers to direct any short term co-operative credit structure society to contribute to any fund other than those required for improving its net worth or own funds.

(11) No person shall be elected, nominated or co-opted or allowed to continue as a member of the Board of a short term co-operative credit structure society, if he,--

(i) is a person who represents a society other than a primary agricultural credit society on the Board of a Central Co-operative Bank or the State Apex Co-operative Bank, if such society to whom 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 represents a primary agricultural credit society on the Board of a Central Co-operative Bank or the State Apex Co-operative Bank, if such society to whom 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 Board is superseded.

(12) (a) The supersession of the Board of the State Apex Co-operative Bank and the Central Co-operative Banks shall be done only with prior consultation of the Reserve Bank.

(b) The supersession of the Board of a primary agricultural credit society shall be done only on the following grounds:--

(i) if the primary agricultural credit society incurs losses for three consecutive years; or

(ii) if serious financial irregularities or frauds have been identified; or

- (iii) if there are judicial directives to this effect; or
- (iv) if there is lack of quorum for three consecutive meeting.

(13) (a) The Registrar shall conduct elections to a short term co-operative credit structure society before the expiry of the term of the existing Board.

(b) The Registrar shall conduct elections to a short term co-operative credit structure society within two months from the date of supersession:

Provided that in circumstances beyond control, the Government may allow holding of such elections within a period not exceeding six months from the date of supersession.

(c) A member of the Board of a primary agricultural credit society which has been superseded under this Act shall not be entitled to contest the election again for a period of three years from the date of supersession.

(14) (a) The bye-laws or any amendment to the bye-laws of a short term cooperative credit structure society shall be registered by the Registrar within thirty days from the date of receipt of the Application.

(b) If the Registrar is satisfied that the proposed bye-laws or the amendments to the bye-laws are contrary to the provisions of the Act and the Rules made thereunder, he shall reject the same duly recording his reasons thereon within thirty days from the date of receipt of the Application.

(15) The prudential norms including capital to risk weighted assets ratio shall be prescribed by the Registrar for all the primary agricultural credit societies in consultation with the National Bank.

(16) The Directors and Chief Executive Officers of the State Apex Cooperative Bank or the Central Co-operative Banks who do not fulfill the criteria stipulated by the Reserve Bank shall be removed by the Registrar or the Appointing Authority, as the case may be, at the recommendation of the Reserve Bank or the National Bank.

(17) (a) There shall be such number of professionals having special knowledge or experience in such fields as may be stipulated by the Reserve Bank, on the Board of the State Apex Co-operative Bank and Central Co-operative Banks and in case such number of elected directors, in the opinion of Reserve Bank or National Bank, do not possess special knowledge or experience as stipulated by Reserve Bank, the Board of such State Apex Co-operative Bank or the Central Co-operative Bank, as the case may be shall co-opt such number of professionals with full voting rights irrespective of,--

(i) the limit on the number of members of the Board under this Act

or Rules framed thereunder or in the bye-laws;

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

(b) If any person who, in the opinion of the Reserve Bank, has been co-opted as a member of the Board under clause (a) of this sub-section 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.

(18) The Registrar shall ensure conduct of audit and certification of accounts of the State Apex Co-operative Bank and the Central Co-operative Banks by Chartered Accountants appointed by such Bank from a panel approved by the National Bank.

(19) The Registrar shall ensure conduct of special audit of the State Apex Co-operative Bank or a Central Co-operative Bank if requested by the Reserve Bank in the manner and form stipulated by the Reserve Bank and also furnish the report to Reserve Bank within the time stipulated.

(20) (a) The Registrar shall ensure that Reserve Banks regulatory prescriptions in case of State Apex Co-operative Bank and Central Cooperative Banks including recommendation for supersession of the Board and winding up of the State Apex Co-operative Bank and Central Co-operative Banks are implemented within one month of being so advised by the Reserve Bank.

(b) The Registrar shall ensure that the liquidator or the Administrator, as the case may be, is appointed within two months of being so advised by the Reserve Bank for winding up or supersession.

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

(d) If in the opinion of the Reserve Bank or the National Bank, a person has been co-opted as a member of the Board 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 of that person co-opted within one month of being so advised by the Reserve Bank or the National Bank.

(21) No primary agricultural credit society or its federation or association, except those which are permitted to act as a Bank

under the Banking Regulation Act, 1949 (Central Act X 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 the Banking Regulation Act, 1949 (Central Act X of 1949), has been registered or using the same as a part of its name before the 21st day of October 2008 with the word Bank or any of its derivatives in its registered name, it shall within three months from that date, 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.

(22) Save as otherwise provided in this Section, the existing provisions of the Act, Rules and guidelines shall continue to be in force till the guidelines or stipulations are issued by the Reserve Bank or the National Bank wherever required for effective implementation of the provisions of this Section.

(23) There shall be no cadre system in short term co-operative credit structure society and cadre system in such society shall be abolished.

(24) No short term co-operative credit structure society shall be exempted by the Government from the application of the provisions of this Chapter without the prior approval of the Reserve Bank or the National Bank, as the case may be.

(25) The Government or the Registrar shall not do anything or take action or issue any order or direction which may have the effect of, curtailing any of the freedoms or powers given under this Chapter to any short term cooperative credit structure society or adversely affecting other provisions of this Chapter."

3. Repeal And Saving :-

(1) The Tamil Nadu Co-operative Societies (Third Amendment) Ordinance, 2008 (Tamil Nadu Ordinance 8 of 2008) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken 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.

