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FRIDAY, APRIL 26, 2013

[SAKA 1935

PART III—Acts of the West Bengal Legislature.

GOVERNMENT OF WEST BENGAL

LAW DEPARTMENT

Legislative

NOTIFICATION

No. 724-L.—26th April, 2013.—The following Act of the West Bengal Legislature, having been assented by the Governor, is hereby published for general information:—

West Bengal Act VII of 2013

THE WEST BENGAL CO-OPERATIVE SOCIETIES
(SECOND AMENDMENT) ACT, 2013.

[Passed by the West Bengal Legislature.]

[Assent of the Governor was first published in the *Kolkata Gazette*,
Extraordinary, of the 26th April, 2013.]

An Act 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-fourth 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 (Second Amendment) Act, 2013.

(2) It shall be deemed to have come into force with effect from the 19th day of February, 2013.

*The West Bengal Co-operative Societies (Second Amendment)
Act, 2013.*

(Sections 2-5.)

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),—

(1) after clause (6), the following clause (6A) shall be inserted:—

‘(6A) “authorized person” means a person referred to as such in the Fourth Schedule;’;

(2) for clause (8), the following clause shall be substituted:—

‘(8) “board” means the board of directors or the governing body of a Co-operative Society, by whatever name called, to which the direction and control of the management of the affairs of a society is entrusted to;’;

(3) in clause (13), after the words “a Central Co-operative Bank Ltd.”, the words “and also an Agricultural Co-operative Marketing Society Ltd. by whatever name called, whose primary object is to supply agricultural or non-agricultural products or inputs, or to facilitate procurement and marketing of agricultural products to augment the income of farmers, and to render such other services to its members and other customers as may be required in the interest of development.” shall be inserted;

(4) for clause (15), the following clause shall be substituted:—

‘(15) “Co-operative Society” means a society registered or deemed to have been registered under this Act;’;

(5) for clause (23), the following clause shall be substituted:—

(23) “Co-operative year” means the financial year commencing on the 1st day of April;’;

(6) for clause (46), the following clause shall be substituted:—

‘(46) “office bearer” means a President, Vice-President, Chairperson, Vice-Chairperson, Secretary or Treasurer of a Co-operative Society and includes any other person to be elected by the board of any Co-operative Society;’;

(7) after clause (64), the following clause shall be inserted:—

‘(64A) “special officer” means an officer appointed as a special officer under section 36;’.

Amendment of
section 16.

3. In section 16 of the principal Act, in sub-section (1), for the words “in Form as prescribed”, the words “in Form along with fees as may be prescribed” shall be substituted.

Amendment of
section 19.

4. In section 19 of the principal Act, in sub-section (2),—

(1) for the words “An application in prescribed form”, the words “An application in such form along with such fees as may be prescribed” shall be substituted;

(2) for the words “thirty days”, the words “sixty days” shall be substituted.

Amendment of
section 29.

5. In section 29 of the principal Act,—

(1) for sub-section (1), the following sub-section shall be substituted:—

“(1) Every Co-operative Society shall hold such number of general meetings of its members or delegates or representatives in a Co-operative year as may be prescribed to transact such business as may be considered

*The West Bengal Co-operative Societies (Second Amendment)
Act, 2013.*

(Sections 6, 7.)

necessary by the board and the annual general meeting of its members or delegates or representatives within a period of six months of close of the Co-operative year to transact such business as provided in this Act.”;

- (2) in sub-section (7), for the words, letters, figures and brackets “second proviso to clause (b) of sub-section (1) of section 35 or in clause (cc) of section 36”, the words, letters, figures and brackets “third proviso to sub-section (1A) of section 35 or in sub-section (2) of section 36” shall be substituted.

Amendment of
section 32.

6. In section 32 of the principal Act,—

- (1) in sub-section (1),—

(a) in clause (a),—

- (i) in the first proviso, for the word “fifteen”, the words “twenty-one” shall be substituted;
- (ii) after the second proviso, the following proviso shall be inserted:—

“provided also that one seat shall be reserved for the Scheduled Castes or the Scheduled Tribes and two seats for women on board of every Co-operative Society consisting of individuals as members and having members from such class or category of persons.”;

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

“(g) persons having experience in the field of banking, management, finance or specialization in any other field relating to the objects and activities undertaken by any Co-operative Society, may be co-opted by the board as the members of the board of that Co-operative Society:

Provided that the number of such co-opted members shall not exceed two in addition to twenty-one directors specified in the first proviso to clause (a):

Provided further that such co-opted members shall not have the right to vote in any election of the Co-operative Society in their capacity as such member or to be eligible to be elected as office bearers of the board.”;

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

“(1A) The functional directors of a Co-operative Society shall also be the members of the board and such members shall be excluded for the purpose of counting the total number of directors specified in the first proviso to clause (a) sub-section (1).”;

- (3) in sub-section (4), in clause (c), for the word, letters and brackets “(e) and (g)”, the word, letter and brackets “and (e)” shall be substituted;
- (4) in sub-section (5), in clause (a), to the third proviso, after the word “dissolved”, the words “or superseded” shall be inserted.

Amendment of
Section 35.

7. In section 35 of the principal Act,—

- (1) for the marginal heading, the following marginal heading shall be substituted:—

“Supersession and suspension of board and interim management.”

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Act, 2013.*

(Section 8.)

- (2) for sub-section (1), the following sub-section shall be substituted:—

‘(1) Notwithstanding anything contained in this Act or in any other law for the time being in force, no board shall be superseded or kept under suspension for a period exceeding six months:

Provided that in case of a Co-operative Society carrying on the business of banking, the provisions of this section shall have the effect as if for the words “six months”, the words “one year” had been substituted.’;

- (3) for sub-section (1A), the following sub-section shall be substituted:—

“(1A) If the State Government is of the opinion that—

- (a) any board –
 - (i) has made persistent default; or
 - (ii) is negligent in the performance of its duties; or
 - (iii) has committed any act prejudicial to the interests of the Co-operative Society or its members; or
- (b) the constitution or function of any Co-operative Society has come to a stalemate, or
- (c) the Co-operative Election Commission has failed to conduct election in accordance with the provisions of this Act,

the State Government may, by notification stating reasons therefor, supersede the board and the directors of such board shall forthwith vacate their offices and by the said notification the State Government shall appoint one of its officers to manage the affairs of the Co-operative Society who shall be called the administrator, for the period specified in sub-section (1):

Provided that the board of any such Co- operative Society shall not be superseded or kept under suspension where there is no Government shareholding or loan or financial assistance or any guarantee by the Government:

Provided further that in case of a Co-operative Society carrying on the business of banking, the provisions of the Banking Regulation Act, 1949 shall apply:

10 of 1949.

Provided also that the administrator appointed to manage the affairs of such Co-operative Society shall arrange for conduct of election in a general meeting to be convened for the purpose in accordance with the Act, rules and by-laws within the period specified in sub-section (1) and handover the management to the newly elected board:

Provided also that if an elected board can not be reconstituted within the period specified in sub-section (1), 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.”.

- (4) after sub-section (2), the following sub-section shall be inserted:—

“(3) The conditions of service of an administrator shall be such as may be prescribed.”.

Substitution of section 36.

- 8.** For section 36 of the principal Act, the following section shall be substituted:—

‘Expiry of term of board and appointment of special officer.

36. (1) Notwithstanding anything contained elsewhere in this Act or in any other law for the time being in force, where election of the board of directors of any Co-operative Society has not been held within a period of thirty-six months from the date of their election where such election was held before the date of commencement of this Act

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Act, 2013.*

(Sections 9, 10.)

or within a period of sixty months from the date of their election under sub-section (1) of section 29 of this Act, the directors of the board of such Co-operative Society shall be deemed to have vacated their offices immediately on expiry of the period of thirty-six months from the date of their election where such election was held before the date of commencement of this Act or sixty months from the date of their election under sub-section (1) of section 29 of this Act, as the case may be, and the State Government shall, thereupon by notification, appoint special officer from amongst its officers for managing the affairs of the Co-operative Society for a period not exceeding six months from the date of such expiry of the period:

Provided that in case of a Co-operative Society carrying on the business of banking, the provisions of this clause shall have the effect as if for the words "six months", the words "one year" had been substituted;

(2) The special officer appointed to manage the affairs of such Co-operative Society shall arrange for conduct of elections within the period specified in sub-section (1) and handover the management to the newly elected board;

(3) If an elected board of directors can not be reconstituted within the term of the special officer, he shall be removed from office by the State Government and thereupon the provision contained in sub-section (7) of section 29 shall be followed;

(4) With effect from the date of expiry of the term of the board under clause (a)—

(a) all properties of the Co-operative Society shall vest in the Registrar and shall remain vested till a new board assumes office; and

(b) subject to the control and direction of the Registrar and notwithstanding the preferring of an appeal under section 147, the special officer shall exercise all the powers and perform all the duties which may, under this Act or the rules or the by-laws, be exercised or performed by the board or any officer of the Co-operative Society.’.

Amendment of section 41.

9. In section 41 of the principal Act, after the word "books", the words "information and accounts of the Co-operative Society kept in regular transaction of its business with members" shall be inserted.

Insertion of new section after section 41.

10. After section 41 of the principal Act, the following section shall be inserted:—

"Participation etc. in management of Co-operative Society.

41A. (1) The members of a Co-operative Society shall participate in the management of the Co-operative Society by attending at least such number of meetings of the Co-operative Society as may be prescribed and utilize the minimum level of service.

(2) The State Government shall provide for the co-operative education and training to the members of a Co-operative Society in such manner as may be prescribed."

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Act, 2013.*

(Sections 11, 12.)

Amendment of
section 96.

11. In section 96 of the principal Act,—
- (1) in sub-section (1), for the words, “superintendence, direction and control of election of all registered co-operative societies”, the words “superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to a registered Co-operative Society” shall be substituted;
 - (2) in sub-section (5), for the word “appoint a Joint Registrar”, the word “appoint an officer not below the rank of Joint Registrar” shall be substituted.

Amendment of
section 97.

12. In section 97 of the principal Act,—
- (1) in sub-section (1),—
 - (a) for clause (a), the following clause shall be substituted:—

“(a) every Co-operative Society shall file return, within six months of the close of every co-operative year, to the Director of Co-operative Audit and to the Registrar including the following matters, namely:—

 - (i) annual report of its activities;
 - (ii) its audited statement of accounts;
 - (iii) its cash account, profit and loss account, balance sheet and trading account where applicable in the Form as may be prescribed;
 - (iv) plan for surplus disposal as approved by the general body of the Co-operative Society;
 - (v) list of amendments to the bye-laws of the Co-operative Society, if any;
 - (vi) declaration regarding date of holding of its general body meeting and conduct of elections when due; and
 - (vii) any other information required by the Registrar in pursuance of any of the provisions of this Act.”;
 - (b) for clause (b), the following clause shall be substituted:—

“(b) Accounts of every Co-operative Society shall, within six months of the close of the co-operative year to which such accounts relate, be audited at the expense of the Co-operative Society by an auditor to be appointed by the general body of the Co-operative Society from the panel of auditors to be prepared with the persons appointed or authorised by the State Government or by the Director of Co-operative Audit with the approval of the State Government to act as an auditor by general or special order in writing in this behalf from among the officers under its administrative control, or the members of the Institute of Cost and Works Accountant of India constituted under the Cost and Works Accountants Act, 1959 and members of the Institute of Chartered Accountants of India constituted under the Chartered Accountants Act, 1949, having such qualification, such experience, and in such manner as may be prescribed. Such panel of auditors shall remain valid for five years.”;

23 of 1959.

38 of 1949.

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(Sections 13-15.)

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

“(c) The auditor or auditing firm, as the case may be, referred to in clause (b) shall be appointed by the general body of the Co-operative Society.

(d) The audit report of the accounts of all apex and federal Co-operative Societies shall be laid before the State Legislature in such manner as may be prescribed.”;

(d) in sub-section (2), in clause (a), for the words “and issue appointment letters to the audit officer under intimation of such appointment to the Co-operative Societies”, the words “under intimation to the Co-operative Societies and thereupon the Co-operative Societies shall issue appointment letter to the auditor” shall be substituted.

Amendment of section 103.

13. In section 103 of the principal Act, for sub-section (2), the following sub-section shall be substituted:—

“(2) A dispute under section 102 relating to all apex Co-operative Societies and all federal Co-operative Societies shall be filed before the Registrar who shall after condoning the delay, if any found to be condonable, and admitting the dispute forthwith refer it for decision to the board of arbitrators as constituted under sub-section (a) of this section. The chief arbitrator of the board may dispose it himself or transfer it to any arbitrator or arbitrators for disposal.

Explanation.—For the purpose of this sub-section, the word “Registrar” means the Registrar of Co-operative Societies, West Bengal only.”.

Amendment of section 104.

14. For section 104 of the principal Act, the following section shall be substituted:—

“Payment of fees to arbitrators. 104. (1) The arbitrators, not being serving Government Officers, shall be eligible to get fees not exceeding rupees three hundred per sitting as the Registrar may sanction.

(2) The Plaintiff shall deposit in such institution as may be cited by the Registrar the probable fees of the arbitrators on advance as may be assessed having regard to the nature of the dispute raised within fifteen days from the date of Registrar’s decision to refer the dispute to an arbitrator or board of arbitrators. In default of payment within the time as specified the plaint shall stand rejected and the dispute lapse.

(3) No fee shall be payable to an arbitrator till the dispute is finally settled and awarded.”.

Amendment of Third Schedule.

15. In the Third Schedule of the principal Act, for serial No. 4 and the entries relating thereto, the following serial No. and the entries relating thereto shall be substituted:—

“4. An order of dissolution or supersession of a board and appointing administrator under section 35 or appointment of special officer on expiry of term of board under section 36.	Any director of the Board.	The Co-operative Tribunal.	Two months from the date on which the order is communicated or two months from the date of knowledge of such order.”.
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*The West Bengal Co-operative Societies (Second Amendment)
Act, 2013.*

(Sections 16, 17.)

Amendment of
Fourth Schedule.

16. In the Fourth Schedule of the principal Act,—

(1) for serial No. 2 and the entries relating thereto, the following serial No. and the entries relating thereto shall be substituted:—

“2. A Co-operative Society or an officer or member thereof wilfully makes a false return or furnishes false information, or any person wilfully not furnishes any information required from him by a person authorized in this behalf under the provisions of this Act.	Any person making such return or furnishing such information or any person so neglecting or refusing.	Imprisonment for a term which may extend to six months or fine which may extend to one thousand rupees or both.”;
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(2) for serial No. 6 and the entries relating thereto, the following serial No. and the entries relating thereto shall be substituted:—

“6. Any person wilfully or without any reasonable excuse disobeys any summons, requisition or lawful written order issued under the provisions of this Act.	Any person so disobeying.	Imprisonment for a term which may extend to six months or fine which may extend to one thousand rupees or both.”;
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(3) after serial No. 8 and the entries relating thereto, the following serial Nos. and the entries relating thereto shall be inserted:—

“9. Any employer who without sufficient cause, fails to pay to a Co-operative Society amount deducted by him from its employee within a period of fourteen days from the date on which such deduction is made.	The employer.	Imprisonment for a term which may extend to six months or fine which may extend to one thousand rupees or both.
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10. Any officer or custodian who wilfully fails to handover custody of books, accounts, documents, records, cash, security and other property belonging to a Co-operative Society of which he is an officer or custodian, to an authorized person.	The officer or custodian.	Imprisonment for a term which may extend to six months or fine which may extend to one thousand rupees or both.
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11. Adopting corrupt practice before, during or after the election of the members of the board or office bearers of a Co-operative Society.	Any person so adopting.	Imprisonment for a term which may extend to six months or fine which may extend to one thousand rupees or both.”.
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Amendment of
Fifth Schedule.

17. In the Fifth Schedule of the principal Act, serial No. 5 and the entry relating thereto shall be omitted.

*The West Bengal Co-operative Societies (Second Amendment)
Act, 2013.*

(Section 18.)

Repeal and
saving.

18. (1) The West Bengal Co-operative Societies (Second Amendment) Ordinance, 2013, is hereby repealed.

West Ben. Ord.
II of 2013.

(2) Notwithstanding such repeal, anything done or any action taken under the West Bengal Co-operative Societies Act, 2006, as amended by the said Ordinance, shall be deemed to have been validly done or taken under the principal Act, as amended by this Act.

West Ben. Act
XL of 2006.

By order of the Governor,

MALAY MARUT BANERJEE,
Secy. to the Govt. of West Bengal,
Law Department.