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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. 979-L.—24th June, 2010.—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. 17 of 2010

**THE WEST BENGAL CO-OPERATIVE SOCIETIES
(AMENDMENT) BILL, 2010.**

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-first 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, 2010.

*The West Bengal Co-operative Societies
(Amendment) Bill, 2010.*

(Clause 2.)

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

Insertion of new Chapter XIII A after Chapter XIII in West Ben. Act XL of 2006.

2. In the West Bengal Co-operative Societies Act, 2006, after Chapter XIII, the following Chapter shall be inserted :—

“CHAPTER XIII A

Special provisions applicable to the Co-operative Credit Structure Entities.

Overriding effect. 134A. Notwithstanding anything contrary or inconsistent contained in this Act or the rules framed thereunder or by-laws of any registered society or orders issued thereunder, the provisions of this Chapter shall have overriding effect.

Definitions. 134B. (1) In this Chapter unless the context otherwise requires,—

- (a) ‘Co-operative Credit Structure Entity’ includes the West Bengal State Co-operative Bank, a District Central Co-operative Bank, a Primary Agricultural Credit Co-operative Society, the West Bengal State Agricultural and Rural Development Bank, a Primary Co-operative Agricultural and Rural Development Bank ;
- (b) ‘National Bank’ means the National Bank for Agricultural and Rural Development established under section 3 of the National Bank for Agricultural and Rural Development Act, 1981; 61 of 1981.
- (c) ‘Primary Agricultural Credit Co-operative Society’ includes a Farmers’ Service Co-operative Society, a Large-sized Multi-purpose Co-operative Society and any other Co-operative Society primarily dealing with agricultural credit identified under revival package.

(2) All other words and expressions used in this Chapter but not defined shall have the same meaning respectively assigned to them in this Act.

Special provisions applicable to the Co-operative Credit Structure Entities. 134C. (1) The following provisions shall apply to the Co-operative Credit Structure Entities :—

- (a) a depositor holding a minimum deposit of rupees five thousand or such minimum sum as may be specified by the Government for a continuous period of minimum two years in the Primary Agricultural Credit Co-operative Society preceding the date of notification of election in a Primary Agricultural Credit Co-operative Society, shall become a member of the society under sub-section (1) of section 63 by subscribing at least the minimum share capital specified in the by-laws and shall have full voting rights ;

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(b) an individual or group borrower shall have the right to become a member of a Primary Agricultural Credit Co-operative Society or Primary Co-operative Agricultural and Rural Development Bank under sub-section (1) of section 63.

(2) A Co-operative Credit Structure Entity shall have autonomy in all financial and internal administrative matters including the following areas :—

- (a) interest rates on deposits and loans ;
- (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 :

Provided that in the case of Co-operative Credit Structure Entities other than the State Co-operative Agriculture and Rural Development Bank and Co-operative agriculture and rural development bank, the interest rates on deposits and loans shall be in conformity with the guidelines issued by the Reserve Bank of India :

Provided further that in the case of the state Co-operative agriculture and rural development bank and Co-operative agriculture and rural development banks, the interest rates on deposits and loans shall be in conformity with the guidelines issued by the National Bank.

(3) (a) The State Government's subscription to the equity share capital of a Co-operative Credit Structure Entity shall not exceed twenty-five *per cent* of its subscribed equity share capital and the State Government or the Co-operative Credit Structure Entity may reduce the State Government's subscription further at its choice.

(b) There shall be only one nominee of the State Government in the Board of the State Co-operative Bank or a Central Co-operative Bank or West Bengal State Co-operative Agricultural and Rural Development Bank if the Government has subscribed to its share capital.

(4) A Co-operative Credit Structure Entity may affiliate or disaffiliate with a Federal Co-operative Society of its choice.

(5) A Co-operative Credit Structure Entity shall have the freedom of entry and exit at any tier and there shall be no mandatory restrictions of geographical boundaries for its operations.

(6) A Co-operative Society covered under this section may invest or deposit its funds in any financial institutions regulated by the Reserve Bank of India of its choice with a minimum net worth and on any other criteria as may be prescribed by the National Bank and not necessarily in the federal Co-operative Society to which it is affiliated.

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(7) A Co-operative Society covered under this section may obtain loans from any financial institution regulated by the Reserve Bank of India and refinance from the National Bank or any other financing agency directly or through any Reserve Bank of India's regulated financial institutions of its choice and not necessarily from the Federal Co-operative Society to which it is affiliated.

(8) A Primary Agricultural Credit Co-operative Society or a Co-operative agriculture and rural development bank may pay dividend in accordance with the guidelines framed by the Registrar in consultation with the National Bank.

(9) There shall be no compulsion on contribution to any fund other than those required for improving the net worth or own funds of such societies covered under this section.

(10) No person shall be elected, nominated or co-opted or allowed to continue as a member of the Board of a Co-operative Credit Structure Entity, if he is —

- (a) a person who represents a society other than a Primary Agricultural Credit Co-operative Society or a Co-operative agriculture and rural development bank on the Board of a Central Co-operative Bank, the State Co-operative Bank or the State Co-operative agriculture and rural development bank, if such society he represents has committed a default towards the payments of such Bank for a period exceeding ninety days ;
- (b) a person who committed a default towards the payments to a Primary Agricultural Credit Co-operative Society or a Co-operative agriculture and rural development bank, as the case may be, or represents a Primary Agricultural Credit Co-operative Society or a Co-operative agriculture and rural development bank on the Board of a Central Co-operative Bank or the State Co-operative Bank or the State Co-operative Agriculture and Rural Development 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 ;
- (c) a person, who represents a society whose Board is superseded.

(11) (a) The Board of the State Co-operative Bank or a Central Co-operative Bank shall be superseded only with the prior approval of the Reserve Bank of India.

(b) The Board of the State Co-operative agriculture and rural development bank shall be superseded only with the prior approval of the National Bank.

(c) The Board of a Primary Agricultural Credit Co-operative Society or a Co-operative agriculture and rural development bank 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 perpetual lack of quorum.

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(12) (a) The elections to the Board of a Co-operative Credit Structure Entity shall be conducted before the expiry of the term of the Board.

(b) The elections to the Board of a Co-operative Credit Structure Entity which has been superseded shall be conducted within two months from the date of its supersession :

Provided that in circumstances beyond control, the State 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 Co-operative Society or a Co-operative agriculture and rural development bank which has been superseded under sub-clauses (i) and (ii) of clause (c) of sub-section (11) of this section shall not be entitled to contest in the election again for a period of five years after supersession.

(13) (a) The by-laws or any amendment to the by-laws of a Co-operative Credit Structure Entity 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 by-laws are contrary to the provisions of this 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.

(14) The prudential norms including Capital to Risk Weighted Assets Ratio shall be prescribed by the Registrar for all the Primary Agricultural Credit Co-operative Societies, the State Co-operative agriculture and rural development bank and Co-operative agriculture and rural development banks in consultation with the National Bank.

(15) (a) The Chief Executive Officer and the members of the Board of the State Co-operative Bank and Central Co-operative Banks shall fulfil the criteria stipulated by the Reserve Bank of India for the time being in force and such person who, in the opinion of the Reserve Bank of India or the National Bank does not fulfil the criteria stipulated by the Reserve Bank of India shall be removed on advice of the Reserve Bank of India or the National Bank.

(b) The Chief Executive Officer and the members of the Board of the State Co-operative agriculture and rural development Bank shall fulfil the criteria stipulated by the National Bank for the time being in force and such person who, in the opinion of the National Bank, does not fulfil the criteria stipulated by the National Bank shall be removed on advice of the National Bank.

(16) There shall be such number of professionals, having special knowledge or experience in such fields, as may be stipulated by the Reserve Bank of India on the Board of the State Co-operative Bank and Central Co-operative Banks and in case such number of professionals do not get elected, the Board of such State 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.

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(17) The accounts of the State Co-operative Bank, a Central Co-operative Bank and the State Co-operative agriculture and rural development bank shall be audited and certified by Chartered Accountants as defined in the Chartered Accountant Act, 1949 appointed by it from the panel approved by the National Bank. 38 of 1994.

(18) (a) The Director of Co-operative Audit shall ensure conduct of special audit of State Co-operative Bank or a Central Co-operative Bank or West Bengal State Co-operative Agricultural and Rural Development Bank if requested by the Reserve Bank of India in the manner and form stipulated by the Reserve Bank of India and also furnish the report to the Reserve Bank of India within the time stipulated.

(b) The Director of Co-operative Audit shall ensure conduct of special audit of the State Co-operative agriculture and rural development bank if requested by the National Bank in the manner and form stipulated by the National Bank and also furnish the report to the National Bank within the time stipulated.

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

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

(c) The Registrar shall, on his own motion or within one month of being so advised by the Reserve Bank of India or the National Bank, ensure removal of Chief Executive Officer of the State Co-operative Bank or a Central Co-operative Bank who does not fulfil eligibility criteria specified by the Reserve Bank of India.

(d) The Registrar shall, within one month on being advised so by the Reserve Bank of India or the National Bank, ensure removal of any person elected or co-opted as a member of the Board under sub-section (16) without having the requisite knowledge or experience as stipulated by the Reserve Bank of India.

(20) No Primary Agricultural Credit Co-operative Society or its federation or association except those which are permitted to act as a bank under the Banking Regulation Act, 1949 shall be registered with the word 'bank' or any other derivative of the word 'bank' in its registered name or shall use the same as a part of its name : 10 of 1949.

Provided that where any Primary Agricultural Credit Co-operative Society or its federation or association, except those which are permitted to act as a bank under the Banking Regulation Act, 1949 has been registered or using the same as a part of its name before the commencement of the West Bengal Co-operative Societies (Amendment) Act, 2010 with the word 'bank' or any of its derivatives in its registered name, the State Government will ensure that the

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change of name, so as to remove the word 'bank', is done in case of such societies in a phased manner.

(21) No Co-operative Credit Structure Entity shall be exempted by the State Government from the application of the provisions of this Chapter without the prior approval of the Reserve Bank of India or the National Bank.

(22) The State Government or the Registrar shall not do anything or take action or issue any order or directives which may have effect of undertaking any of the freedoms or powers given under this Chapter to any Co-operative Credit Structure Entity or adversely affect other provisions of this Chapter."

STATEMENT OF OBJECTS AND REASONS.

It has been considered necessary and expedient to amend the West Bengal Co-operative Societies Act, 2006 with a view to reviving the Short Term Rural Co-operative Credit Structure and making it a well managed and vibrant medium to serve the credit needs of rural populace especially the small and marginal farmers, and to bring the system to an acceptable level of health by way of introducing legal and institutional reforms necessary for their democratic, self-reliant and efficient functioning and also taking measures to improve the quality of management.

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

KOLKATA,
The 17th June, 2010.

RABINDRA GHOSH,
Member-in-charge.

By order of the Governor,

MITA BASU ROY,
Pr. Secy. to the Govt. of West Bengal,
Law Department.