

THE ORISSA CO-OPERATIVE SOCIETIES (AMENDMENT) ACT, 2008

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NOTIFICATION

The 20th March, 2008

No. 3605/Legis :—The following Act of the Orissa Legislative Assembly having been assented to by the Governor on the 19th March, 2008 is hereby published for general information.

ORISSA ACT 1 OF 2008

**THE ORISSA CO-OPERATIVE SOCIETIES (AMENDMENT)
ACT, 2008**

**AN ACT FURTHER TO AMEND THE ORISSA CO-OPERATIVE
SOCIETIES ACT, 1962.**

BE it enacted by the Legislature of the State of Orissa in the Fifty-ninth Year of the Republic of India as follows :—

Short title
and
commence-
ment.

1. (1) This Act may be called the Orissa Co-operative Societies (Amendment) Act, 2008.

(2) Clause (ii) of section 10 of this Act shall be deemed to have come into force on the 3rd day of July, 2007 clause (i) of section 10, clause (b) of section 21 and section 26 shall be deemed to have come into force on the 31st day of December, 2007 and the remaining provisions shall be deemed to have come into force on the 29th day of September, 2007.

Amendment
of section 2.

2. In the Orissa Co-operative Societies Act, 1962 (hereinafter referred to as the principal Act), in section 2,—

Orissa Act
2 of 1963.

(a) after clause (c-1), the following clause shall be inserted, namely :—

'(c-2) "Co-operative Credit Society" means the Orissa State Co-operative Bank, Central Co-operative Bank, Primary Agricultural Credit Co-operative Society, Large-sized Adivasi Multipurpose Co-operative Society, Service Co-operative Society and Farmers' Service Co-operative Society by whatever name they are called and registered under this Act';

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

(e) "Financing Bank" in relation to a Society means a Society engaged in Banking business under the Banking Regulation Act, 1949 or a Scheduled Bank as defined under the Reserve Bank of India Act, 1934 or the Reserve Bank of India, the National Bank for Agriculture and Rural Development, the Industrial Development Bank of India Limited or any similar Bank or any financial institutions regulated by the Reserve Bank of India and includes such financing institutions like the National Dairy Development Board and National Cooperative Development Corporation, to which the Society is indebted in cash or in kind; and

10 of 1949.
2 of 1934.

(c) after clause (f-2), the following clause shall be inserted, namely :—

(f-3) "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.

61 of 1981.

Amendment of section 7. 3. In the principal Act, in sub-section (3) of section 7, for the words, "three months" appearing after the words "within a period of" and before the words "from the date of", the words, "sixty days" shall be substituted.

Amendment of section 12. 4. In the principal Act, in sub-section (4-a) of section 12, for the words "three months" the words "sixty days" shall be substituted.

Amendment of section 16. 5. In the principal Act, in sub-section (1) of section 16,—
(i) in clause (a) for the third proviso, the following proviso shall be substituted, namely :—

"Provided also that nothing in this clause shall debar the Co-operative Societies to admit Self-Help Groups as member." ; and

(ii) in clause (b), after item (iv), the following item shall be inserted, namely :—

"(v) a Co-operative registered under the Orissa Self-Help Co-operatives Act, 2001."

Orissa Act 4
of 2002.

Amendment of section 17. 6. In the principal Act, in section 17, after the proviso the following proviso shall be inserted, namely:—

"Provided further that the Co-operative Credit Societies shall not be bound to affiliate themselves to and become members of the State Co-operative Union."

Amendment of section 18. 7. In the principal Act, in section 18, in sub-section (1), after the words "A society" and before the words "may admit any person" the words "other than Primary Agricultural Credit Co-operative Society, Large-sized Adivasi Multipurpose Co-operative Society, Service Co-operative Society and Farmers' Service Co-operative Society " shall be inserted.

Amendment
of section 19.

8. In the principal Act, section 19 shall be renumbered as sub-section (1) thereof and after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:—

“(2) Save as provided in sub-section (1), a member of a Primary Agricultural Credit Co-operative Society, Large-sized Adivasi Multipurpose Co-operative Society, Service Co-operative Society and Farmers' Service Co-operative Society shall not have the right to vote unless he has deposited such amount for such period as may be specified by the Registrar from time to time.”

Amendment
of section 21.

9. In the principal Act, in section 21, in the proviso to sub-section (1), after clause (c), the following clause shall be inserted, namely:—

“(d) where the member is a Self Help Group, through the head of such Group.”

Amendment
of section 28.

10. In the principal Act, in section 28,—

(i) in clause (a) of sub-section (1), after sub-clause (xiv), the following sub-clause and the proviso to clause (a) shall be inserted, namely :—

“(xv) decide its own internal control system such as internal inspection, delegation of authority, safe custody of valuables, fraud prevention measures depending upon its scale of business and appoint auditors for audit of the accounts of the Co-operative Credit Society and determine the payment to be made for such audit :

Provided that the Committee of a Co-operative Credit Society while taking action under sub-clauses (vii) and (viii) shall give due regard to the guidelines issued by the Registrar under sub-section (2) of section 33-A”;

(ii) in sub-clause (iv) of clause (g) of sub-section (2), for the words “sixty-six months” the words “seventy-five months” shall be substituted; and

(iii) in sub-section (3-b), after clause (2) the following clause shall be inserted, namely :—

“(3) Where a Chief Executive Officer appointed by the Committee of a State Co-operative Bank or Central Co-operative Bank, does not possess the requisite qualifications laid down in the proviso to clause (b) of sub-section (1) of section 33-A, the said Bank shall, at the request of National Bank or the Reserve Bank of India, remove the Chief Executive Officer after giving him a reasonable opportunity of being heard.”

Amendment
of
section 28-B.

11. In the principal Act, in the proviso to section 28-B, after the words “any Co-operative Society” the words “other than a Co-operative Credit Society” shall be inserted.

Amendment
of section 31.

12. In the principal Act, in sub-section (1) of section 31, after the proviso, the following proviso shall be inserted, namely:—

"Provided further that there shall be only one nominee of the State Government in the Committee of the State Co-operative Bank and the Central Co-operative Bank, if the State Government has any equity in the said institution, and there shall be no nominee of the State Government in the Committee of a Primary Agricultural Credit Co-operative Society, Large-sized Adivasi Multipurpose Co-operative Society, Service Co-operative Society and Farmers' Service Co-operative Society."

Amendment
of section 32.

13. In the principal Act, in section 32,—

(i) in sub-section (1),—

(a) for the words "after consulting the Financing Bank of the Society", the words and comma "after consulting, in case of a State Co-operative Bank or a Central Co-operative Bank, the Reserve Bank of India and in case of any other Society, the Financing Bank of such Society" shall be substituted;

(b) for the words 'two years' and 'four years', the words "two months" and "six months" shall, respectively, be substituted.

(ii) after sub-section (1), the following sub-section along with the explanation shall be inserted, namely:—

"(1-a) Notwithstanding anything contained in sub-section (1), the Committee of a Primary Agricultural Credit Co-operative Society, Large-sized Adivasi Multipurpose Co-operative Society, Service Co-operative Society and Farmers' Service Co-operative Society shall be superseded, only if the Society incurs loss for a consecutive period of three years or if serious financial irregularities in the functioning of the society have been detected or there is a judicial order to this effect or there is perpetual lack of quorum in the meetings of the Committee of the society.

Explanation.— "perpetual lack of quorum" means failure of holding three consecutive meetings for want of quorum."; and

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

"(9) The office-bearer of the superseded Committee referred to in sub-section (1-a) shall not be eligible for being chosen as office-bearer of any society until expiry of a period of three years from the date of such supersession."

Amendment
of
section 33-A.

14. In the principal Act, section 33-A shall be renumbered as sub-section (1) thereof,—

(i) in sub-section (1) as so renumbered, in clause (b), the following proviso shall be inserted, namely:—

"Provided that the qualification of the Chief Executive Officer of the State Co-operative Bank and Central Co-operative Banks shall be such as may be stipulated by the National Bank in consultation with the Reserve Bank of India"; and

(ii) after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:—

“(2) Notwithstanding anything contained in sub-section (1), the Registrar, in consultation with the National Bank may issue guidelines in the matter of personnel policy, staffing pattern, recruitment and fixation and revision of pay and allowances of the employees of the Co-operative Credit Society keeping in view the volume of business, viability and profitability of such society.”.

Amendment of section 41.

15. In the principal Act, in sub-section (1) of section 41, the following proviso along with the Explanations shall be inserted, namely:—

“Provided that in the case of a Co-operative Credit Society the State Government shall not subscribe directly to the share capital of the said society exceeding twenty-five per centum of the share capital of such society.

Explanation I. — Nothing in this sub-section shall prevent the State Government or a Co-operative Credit Society to reduce the share of the State Government in a Society in such manner as may be prescribed.

Explanation II. — In case of reduction of share capital of a Co-operative Credit Society, the decision of the Managing Committee of the Society shall be final.”.

Insertion of new section 47-A.

16. In the principal Act, after section 47, the following section shall be inserted, namely:—

Compliance of directions on prudential norms etc.

47-A. A Primary Agricultural Credit Co-operative Society, Large-sized Adivasi Multipurpose Co-operative Society, Service Co-operative Society and Farmers' Service Co-operative Society shall comply with such directions relating to prudential norms and Capital to Risk Weighted Asset Ratio as may be issued by the Registrar and the Auditor General in consultation with National Bank.”.

Amendment of section 56.

17. In the principal Act, in section 56, —

(a) in sub-section (1), in clause (b), the following proviso shall be inserted, namely:—

“Provided that nothing in this clause shall apply to a Co-operative Credit Society.”; and

(b) in sub-section (2),—

(i) in clause (a), the following proviso shall be inserted, namely:—

“Provided that the Primary Agricultural Credit Co-operative Society, Large-sized Adivasi Multipurpose Co-operative Society, Service Co-operative Society and Farmers' Service Co-operative Society shall pay such dividend to its members in accordance with the guidelines laid down by the Registrar in consultation with the National Bank;” and

(ii) clause (d) shall be omitted.

Amendment
of section 57.

18. In the principal Act, for section 57, the following section shall be substituted, namely:—

"57. A society may invest or deposit its funds, which are not utilized in its business operations,—

- (a) in any financing Bank as defined in clause (e) of section 2, or
- (b) in any other financial institution which shall be subject to such guidelines as may be prescribed by the Reserve Bank of India."

Amendment
of section 58.

19. In the principal Act, in section 58, in sub-section (1), the following provisos shall be inserted, namely:—

"Provided that no Primary Agricultural Credit Co-operative Society, Large-sized Adivasi Multipurpose Co-operative Society, Service Co-operative Society and Farmers' Service Co-operative Society shall accept deposits from any person other than its members :

Provided further that any Co-operative Credit Society may receive loan from any financing Bank."

Amendment
of section 59.

20. In the principal Act, in section 59, in sub-section (1), the following proviso shall be inserted, namely:—

"Provided that a Primary Agricultural Credit Co-operative Society, Large-sized Adivasi Multipurpose Co-operative Society, Service Co-operative Society and Farmers' Service Co-operative Society shall not advance any loan to any person other than a member."

Amendment
of section 62.

21. In the principal Act, in section 62, in sub-section (1), - -

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

"Provided further that the accounts of the Orissa State Co-operative Bank and the Central Co-operative Bank shall be audited by the Chartered Accountants from the panel approved by the National Bank." ;

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

"(v) save as otherwise provided in clause (ii), on the recommendation of the Reserve Bank of India, a special audit of the Orissa State Co-operative Bank and the Central Co-operative Bank shall be conducted in the manner and within the time stipulated by the Reserve Bank of India and a report thereof shall be submitted to the Reserve Bank of India and the National Bank."

Insertion of
new section
117-A.

22. In the principal Act, after section 117, the following section shall be inserted, namely:—

"Prohibition
against the
use of word
'Bank'.

117-A. (1) No Society other than a Co-operative Bank shall use the word "Bank", "Banker", "Banking" or any other derivative of the word "Bank" as part of its name.

(2) If, the Registrar is satisfied that any Society other than a Co-operative Bank has violated the provisions of sub-section (1), he may, after giving an opportunity of being heard to the Society, take steps to cancel the registration of the Society in accordance with the provisions of this Act .".

Amendment
of section
123.

23. In the principal Act, in section 123, after the words "or any class of Societies" and before the words "from any of the provisions", the words "other than a Co-operative Credit Society" shall be inserted.

Amendment
of section
133-A.

24. In the principal Act, in section 133-A, --

(a) for clause (ii), the following clause shall be substituted, namely:—

"(ii) if so required by the Reserve Bank of India in the circumstances mentioned in section 13-D of the Deposit Insurance and Credit Guarantee Corporation Act, 1961, the Registrar shall, within one month from the date of advice of the said Reserve Bank, make an order for winding up of the bank and for appointment of a liquidator" ; and

(b) in clause (iii), for the words "the Registrar shall pass an order" the words and commas "the Registrar shall, within one month from the date of receipt of such writing, shall pass an order" shall be substituted.

Insertion of
new section
133-B.

25. In the principal Act, after section 133-A, the following section shall be inserted, namely:—

"Inclusion of
professional
Directors.

133-B. (1) Notwithstanding anything contained in this Act, the State Co-operative Bank and Central Co-operative Banks shall have at least three Directors in their Committee who have special knowledge or experience in the field of accountancy, law, banking, management, agriculture or rural economy and if such category of persons do not get elected, the Committee of that Society may co-opt persons having special knowledge or experience in the field of accountancy, law, banking, management, agriculture or rural economy who shall have the voting rights.

(2) Where any person has been elected or nominated as Director under sub-section (1) without having the requisite qualification mentioned therein, he shall, in consultation with the National Bank, be removed from the office after giving him a reasonable opportunity of being heard. "

Insertion of new section 17-A. **26.** In the principal Act, after section 17, the following section shall be inserted, namely :

"Member-ship in Self-Help Co-operative. **17-A.** A Co-operative Credit Society registered under this Act which is not in receipt of any share capital, guarantee, loan from the Government may become a member of a Co-operative registered under the Orissa Self-Help Co-operatives Act, 2001 : **Orissa Act 4 of 2002.**

Provided that any Co-operative Society may affiliate to any Society in a federal structure of its choice or disaffiliate from any such society."

General amendment. **27.** In the principal Act, —
(i) for the expression "Deposit Insurance Corporation Act, 1961" wherever it occurs, the expression "Deposit Insurance and Credit Guarantee Corporation Act, 1961" shall be substituted; and

(ii) for the words "Chief Executive" wherever they occur the words "Chief Executive Officer" shall be substituted.

Savings of election to the committee. **28.** Nothing in the Orissa Co-operative Societies (Amendment) Act, 2008 shall, —

(a) affect the process of election already commenced for reconstitution of the Committees which were dissolved under sub-clause (i) of clause (g) of sub-section (2) of section 28;

(b) have effect of causing dissolution of the Committee which are constituted in accordance with the provisions of this Act immediately before the date of commencement of the said Amendment Act.

Repeal and savings. **29.** (1) The Orissa Co-operative Societies (Amendment) Second Ordinance, 2007 is hereby repealed. **Orissa Ordinance No.3 of 2007.**

(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.

By order of the Governor

DEBABRATA DASH
Special Secretary to Government.