



TAMIL NADU GOVERNMENT GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

No. 38]

CHENNAI, FRIDAY, FEBRUARY 8, 2013
Thai 26, Nandhana, Thiruvalluvar Aandu-2044

Part IV—Section 1

Tamil Nadu Bills

BILLS INTRODUCED IN THE LEGISLATIVE ASSEMBLY OF THE STATE OF TAMIL NADU

Under Rule 130 of the Tamil Nadu Legislative Assembly Rules, the following Bill which was introduced in the Legislative Assembly of the State of Tamil Nadu on 8th February 2013 is published together with Statement of Objects and Reasons for general information:—

L.A. Bill No. 4 of 2013

A Bill 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 Sixty-fourth Year of the Republic of India as follows:-

1. (1) This Act may be called the Tamil Nadu Co-operative Societies (Amendment) Act, 2013.

Short title and
commence-
ment.

(2) (a) All sections except sections 14 and 15 shall be deemed to have come into force on the 31st day of January 2013.

(b) Sections 14 and 15 shall be deemed to have come into force on the 9th day of February 2013.

Tamil Nadu Act
30 of 1983.

2. In the preamble to the Tamil Nadu Co-operative Societies Act, 1983 (hereinafter referred to as the principal Act), for the expression “WHEREAS”, the expression “WHEREAS it is expedient to promote voluntary formation, autonomous functioning, democratic control and professional management of co-operative societies in the State of Tamil Nadu;

Amendment of
preamble.

AND WHEREAS” shall be substituted.

Amendment of
section 2.

3. In section 2 of the principal Act,-

(1) clause (1) shall be renumbered as clause (1-A), and before clause (1-A) as so renumbered, the following clause shall be inserted, namely:-

“(1) “administrator” means a Government servant or an employee of any body corporate owned or controlled by the Government appointed under this Act in the place of the board;”;

(2) in clause (5), for the expression “a registered society”, the expression “a State level registered society” shall be substituted;

(3) in clause (7), for the expression “entrusted”, the expression “entrusted to” shall be substituted;

(4) for clause (18), the following clause shall be substituted, namely:-

“(18) “office bearer” means a president or a vice-president of the board by whatever name called such as chairperson or vice-chairperson and includes any other person to be elected by the board of any registered society as may be specified in the rules or the by-laws;”;

(5) in clause (22), for the expression “means a society”, the expression “means a co-operative society” shall be substituted.

Amendment of
section 13.

4. In section 13 of the principal Act,-

(1) in sub-section (1), in clause (d), in sub-clause (ii), for the expression “one year”, the expression “six months” shall be substituted;

(2) in sub-section (2), in clause (d), in sub-clause (ii), for the expression “one year”, the expression “six months” shall be substituted.

Insertion of
new section
20-A.

5. After section 20 of the principal Act, the following section shall be inserted, namely:-

“20-A. Co-operative education and training.- Every co-operative union established under section 19 shall undertake co-operative education and training to the members of registered societies in the State and shall allocate necessary funds for the purpose in its annual budget.”.

Amendment of
section 23.

6. In section 23 of the principal Act, in sub-section (2), for clause (g), the following clauses shall be substituted, namely:-

“(g) does not possess the qualification, with reference to the principal object of the society, prescribed in the rules or the by-laws; or

(h) has not used the services of the society up to the minimum level as specified in its by-laws; or

(i) absents himself from attending three consecutive general meetings of the society:”.

Amendment of
section 26.

7. In section 26 of the principal Act, for sub-section (4), the following sub-section shall be substituted, namely:-

“(4) Notwithstanding anything contained in this Act, the nominee of the Government or the nominee of the financing bank to the board of a registered society shall not be entitled to vote at, or contest for, any election in any registered society in his capacity as such member of that board.”.

Amendment of
section 27.

8. In section 27 of the principal Act, after the expression “inspect”, the expression “and shall have access to the books, information and” shall be inserted.

9. In section 32 of the principal Act, in sub-section (2), for the expression “shall be held in a co-operative year”, the expression “shall be held within a period of six months from the close of the financial year” shall be substituted.

Amendment of section 32.

10. In section 33 of the principal Act,-

Amendment of section 33.

(1) in sub-section (1),-

(i) in clause (a), for the first and second provisos, the following provisos shall be substituted, namely:-

“Provided that of the members to be elected to the board of every registered society, there shall be thirty per cent reservation for women and eighteen per cent reservation for Scheduled Castes and Scheduled Tribes:

Provided further that the members of the board may co-opt not exceeding two persons having experience in the field of banking, management, finance or specialisation in agriculture, sericulture, dairy, marketing, small or cottage industry or in any other field relating to the objects and activities undertaken by the registered society, as members of the board of the registered society:

Provided also that the board may also consist of such number of functional directors, not exceeding nine, as may be prescribed in the rules or in the by-laws of the registered society.

Explanation I.—For the purpose of this proviso and for clause (c) of sub-section (2), “functional director” means a paid officer of the society or an officer of Government department or representative of central or apex society or such other bodies like Reserve Bank of India or National Bank for Agriculture and Rural Development having relation with the functioning of the registered society.

Explanation II.—For the purpose of sub-sections (1) and (2), while calculating the eighteen percent or thirty percent of reservation, the fraction, if any, shall be ignored if it is less than half, or rounded off to the nearest whole number if it is equal to or more than half.”;

(ii) in the third proviso, the expression “and the second proviso” shall be omitted;

(iii) in the fourth proviso, for the expression “one year”, the expression “six months” shall be substituted;

(iv) clause (b) including the proviso thereto shall be omitted;

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

“(2) Notwithstanding anything contained in clause (a) of sub-section (1), but subject to sub-section (3), in the case of every Scheduled co-operative society the board shall consist of,-

(a) such number of members elected from such area or from such class or category of registered societies as may be prescribed, of whom eighteen per cent shall be elected from members of Scheduled Castes and Scheduled Tribes and thirty per cent shall be elected from women, as provided in the first proviso to sub-section (1);

(b) such number of co-opted members not exceeding two as may be prescribed; and

(c) such number of functional directors not exceeding nine, as may be prescribed in the rules:

Provided that nothing contained in clause (a) shall be deemed to prevent any woman or the members of the Scheduled Castes and Scheduled Tribes for whom reservation have been made thereunder in the board of any scheduled co-operative society from being elected to any of the seats in the board of such scheduled co-operative society.”;

(3) for sub-section (3), the following sub-section shall be substituted, namely:-

“(3) The board shall consist of,-

(a) in the case of an apex society and a central society, not less than eleven and not more than twenty-one members as may be prescribed in the rules or in the by-laws of the society; and

(b) in the case of primary society, not less than seven and not more than twenty-one members as may be prescribed in the rules or in the by-laws of the society.”;

(4) for sub-section (4), the following sub-section shall be substituted, namely :-

“(4) (a) The number of co-opted members and functional directors mentioned in sub-section (1) and sub-section (2) shall be excluded for the purpose of counting the total number of members specified in sub-section (3);

(b) Notwithstanding anything contained in this Act, the co-opted members and functional directors shall have the right to participate and vote at the meetings of the board but shall not be entitled to vote at, or contest for, any election in the registered society in their capacity as such members.”;

(5) sub-sections (5) and (6) shall be omitted;

(6) in sub-section (7), after the expression “managing director” in three places where it occurs, the expression “or chief executive officer” shall be inserted;

(7) in sub-section (8),-

(i) for the expression “member”, the expression “functional director” shall be substituted;

(ii) for the expression “members”, in two places where it occurs, the expression “functional directors” shall be substituted;

(iii) third proviso shall be omitted;

(8) for sub-section (9), the following sub-section shall be substituted, namely:-

“(9) Every functional director, who is a Government servant nominated to a board of a registered society shall refer to the Government in the case of an apex society, and to the Registrar in the case of any other registered society any resolution of the board of such apex society or other registered society, as the case may be, which is not in accordance with this Act, the rules or the by-laws of the society or which is against the interests of such apex society or other registered society, as the case may be. On receipt of such report, the Registrar or the Government, as the case may be, shall take such action as he or they may deem necessary.”;

(9) in sub-section (10),-

(i) in clause (a), for the expression "three years", the expression "five years" shall be substituted;

(ii) clauses (aa) and (aaa) shall be omitted;

(iii) for clause (b), the following clause shall be substituted, namely:-

"(b) Every co-opted member of the board shall hold office only for such period for which the members of the board who have co-opted the member would have been entitled to hold office.";

(iv) in clause (c), for the expression "any person or persons nominated and fill up the vacancy or vacancies by fresh nomination", the expression "any co-opted member or functional director if his or her action is detrimental to the interest of the society and fill up the vacancy or vacancies" shall be substituted;

(10) for sub-section (11), the following sub-section shall be substituted, namely:-

"(11) (a) Notwithstanding anything contained in this Act, election of members to the board of a registered co-operative society shall be conducted before the expiry of the term of office of the members of the board so as to ensure that the newly elected members of the board assume office immediately on the expiry of the term of office of members of the outgoing board;

(b) The superintendence, direction and control of the preparation of the electoral rolls for, and conduct of, all election to a co-operative society shall vest in the Tamil Nadu State Co-operative Societies Election Commission constituted under section 33-A;

(c) Save as otherwise provided in this Act or rules,-

(i) the member of the board of a registered society shall be elected by the members of the registered society by secret ballot in such manner as may be prescribed;

(ii) the office-bearers of a registered society shall be elected by the elected members of the board from among themselves by secret ballot in such manner as may be prescribed:

Provided that any casual vacancy in the office of a member of the board shall be filled up by the board by nomination out of the same class of members in respect of which the casual vacancy has arisen, if the remaining term of office of the board is less than half of its original term:

Provided further that any casual vacancy in the office of a member of the board, shall be filled up by election in such manner as may be prescribed, if the remaining term of office of the board is not less than half of its original term.";

(11) sub-section (12) shall be omitted;

(12) for sub-section (13), the following sub-section shall be substituted, namely:-

"(13) The ordinary meetings of a board shall be held at least once in every three months for which a notice of not less than three clear days shall be given. The managing director or the chief executive officer, in consultation with the president or chairperson and in his absence the vice-president or vice-chairperson, as the case may be, of such board or where there is no managing

director or chief executive officer, the president or the chairperson of such board, shall convene the meeting of such board.”;

(13) in sub-section (14),-

(a) after the expression “managing director” in two places where it occurs, the expression “or the chief executive officer” shall be inserted;

(b) after the expression “president” in two places where it occurs, the expression “or the chairperson” shall be inserted;

(c) after the expression “vice-president”, the expression “or the vice-chairperson” shall be inserted;

(14) in sub-section (15),-

(a) after the expression “managing director”, the expression “or the chief executive officer” shall be inserted;

(b) after the expression “president”, the expression “or the chairperson” shall be inserted;

(15) sub-sections (16) and (17) shall be omitted.

Amendment of
section 48.

11. In section 48 of the principal Act,-

(1) in sub-section (2), in clause (a), for the expression “within such time as may be prescribed”, the expression “within a period of fourteen days from the date on which such deduction is made” shall be substituted;

(2) in sub-section (6),-

(i) for the expression “five hundred rupees”, the expression “five thousand rupees” shall be substituted;

(ii) for the expression “fifty rupees”, the expression “five hundred rupees” shall be substituted;

(3) in sub-section (8), for the expression “within the prescribed time”, the expression “within a period of fourteen days on which such deduction is made” shall be substituted.

Amendment of
section 80.

12. In section 80 of the principal Act,-

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

“(1) (a) Every registered society shall maintain the accounts and such accounts shall cause to be audited at least once in each financial year by auditors of the Government, or by the auditing firms in respect of such class or classes or category or categories of registered societies as may be prescribed, within the time limit specified in clause (e);

(b) The minimum qualifications and the experience of auditors of the Government or auditing firms that shall be eligible for auditing accounts of the registered society shall be such as may be prescribed;

(c) In case of appointment of auditing firms, the general body of such class or classes or category or categories of registered societies shall appoint auditing firms from a panel approved by the Government or an authority authorised by the Government in this behalf;

(d) The registered society shall prepare the financial statements and other details required for the completion of audit within three months from the close of each financial year;

(e) The accounts of every registered society shall be audited within six months from the close of the financial year to which such accounts relate.”;

(2) in sub-section (3), for the expression “The Registrar or the persons authorised by him”, the expression “The auditor of the Government or the auditing firms appointed” shall be substituted;

(3) in sub-section (4), for the expression “as the Registrar or the person authorised by him”, the expression “as the auditors of the Government or auditing firms appointed under sub-section (1)” shall be substituted;

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

“(9) The audit report of the accounts of an apex society shall be laid before the Legislative Assembly of the State in such manner, as may be prescribed.”.

13. After section 84 of the principal Act, the following section shall be inserted, namely:-

Insertion of
new section
84-A.

“84-A. Returns to be filed to the Registrar.—Every registered society shall file returns, within six months from the close of every co-operative year, to the Registrar, including the following matters, namely:-

(a) annual report of its activities;

(b) its audited statement of accounts;

(c) plan for surplus disposal as approved by the general body of the co-operative society;

(d) list of amendments to the by-laws of the co-operative society, if any;

(e) declaration regarding date of holding of its general body meeting and conduct of elections when due; and

(f) any other information required by the Registrar in pursuance of any of the provisions of this Act or the rules.”.

14. In section 88 of the principal Act,-

Amendment of
section 88.

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

“(1) Where the board of any registered society,-

(i) is of persistent default in managing the affairs of the society in accordance with the provisions of this Act, the rules or the by-laws; or

(ii) is of negligence in the performance of its duties; or

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

(iv) there is stalemate in the constitution or functions of the board;

the Registrar may, after giving the board of the registered society an opportunity of making its representations, by order in writing, supersede the board and appoint a Government servant or an employee of any body corporate owned or controlled by the Government (hereinafter referred to as the administrator) to manage the affairs of the society for a specified period not exceeding six months:

Provided that an order under this sub-section shall be passed within a period of two months from the date of issue of notice of supersession:

Provided further that the board of any such registered society shall not be superseded where there is no Government shareholding or loan or financial assistance or any guarantee by the Government:

Provided also that in the case of a registered society carrying on business of banking the provisions of the Banking Regulation Act, 1949 shall also apply:

Central Act
X of 1949.

Provided also that in the case of a registered society carrying on business of banking, the provisions of this sub-section shall have the effect as if for the words 'six months', the words 'one year' had been substituted.”;

(2) in sub-section (2),-

(a) for the expression “a special officer”, the expression “an administrator” shall be substituted;

(b) for the expression “special officer”, the expression “administrator” shall be substituted;

(3) in sub-section (3), for the expression “special officer”, the expression “administrator” shall be substituted;

(4) in sub-section (4), for the expression “special officer”, the expression “administrator” shall be substituted;

(5) in sub-section (5), for the expression “special officer”, the expression “administrator” shall be substituted;

(6) in sub-section (8), for the expression “special officer”, the expression “administrator” shall be substituted.

Amendment of
section 89.

15. In section 89 of the principal Act,-

(1) in the marginal heading, for the expression “Special Officer”, the expression “administrator” shall be substituted;

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

“(1) Where,-

(i) the Tamil Nadu State Co-operative Societies Election Commission or any officer appointed by it under this Act or the rules made thereunder has failed to conduct elections in accordance with the provisions of this Act and the rules; or

(ii) the new board constituted fails to enter, or is prevented from entering upon office on the expiration of the term of office of the earlier board;

the Registrar may, of his own motion or on application of any member of the registered society and in the case of new board which has failed to enter, or prevented from entering upon office, after giving the members of the said board an opportunity of making their representations, by order appoint a Government servant or an employee of any body corporate owned or controlled by the Government (hereinafter referred to as the administrator) for a specified period, not exceeding six months, to manage the affairs of the registered society pending the constitution of a new board, or till the entering upon office by the new board, as the case may be.”;

(3) in sub-section (2), for the expression "a special officer", in two places where it occurs, the expression "an administrator" shall be substituted.

16. In section 91 of the principal Act, for the expression "five years", the expression "one year" shall be substituted.

Amendment of section 91.

17. In section 136-D of the principal Act,-

Amendment of section 136-D.

(1) in sub-section (12), clause (b) shall be omitted;

(2) in sub-section (13), clauses (a) and (b) including the proviso thereto shall be omitted;

(3) sub-section (17) shall be omitted.

18. In section 157 of the principal Act,-

Amendment of section 157.

(1) in sub-section (1), for the expression "five hundred rupees", the expression "five thousand rupees" shall be substituted;

(2) in sub-section (2), for the expression "five hundred rupees", the expression "five thousand rupees" shall be substituted.

19. In section 158 of the principal Act, for the expression "five hundred rupees", the expression "five thousand rupees" shall be substituted.

Amendment of section 158.

20. In section 159 of the principal Act, in sub-section (2),-

Amendment of section 159.

(1) for the expression "two hundred rupees", the expression "five thousand rupees" shall be substituted;

(2) for the expression "fifty rupees", the expression "five hundred rupees" shall be substituted.

21. In section 160 of the principal Act,-

Amendment of section 160.

(1) in clause (a), for the expression "five hundred rupees", the expression "five thousand rupees" shall be substituted;

(2) in clause (b), for the expression "five hundred rupees", the expression "five thousand rupees" shall be substituted.

22. In section 161 of the principal Act,-

Amendment of section 161.

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

"(1) Any officer or custodian who wilfully fails to handover custody of books, accounts, documents, records, cash, security or other property belonging to a registered society of which he is an officer or custodian, to an authorised person shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to ten thousand rupees or with both.";

(2) in sub-section (2),-

(a) for the expression "special officer", the expression "administrator" shall be substituted;

(b) for the expression "two thousand rupees", the expression "ten thousand rupees" shall be substituted;

(c) for the expression "one hundred rupees", the expression "five hundred rupees" shall be substituted.

Insertion of
new section
162.

23. After section 161 of the principal Act, the following section shall be inserted, namely:-

“162. Punishment for adopting corrupt practice in elections of members of the board or office bearers of the board.- Any person, before, during or after the election of members of the board or office bearers of the board,—

(a) fraudulently defaces or fraudulently destroys any nomination paper; or

(b) fraudulently defaces, destroys or removes any list, notice or other document affixed by or under the authority of an authorised person; or

(c) fraudulently defaces or fraudulently destroys any ballot paper or the official mark on any ballot paper or any declaration of identity; or

(d) without due authority supplies any ballot paper to any person or receives any ballot paper from any person or is in possession of any ballot paper; or

(e) fraudulently puts into any ballot box anything other than the ballot paper which he is authorised by law to put in; or

(f) without due authority destroys, takes, opens or otherwise interferes, with any ballot box or ballot papers then in use for the purposes of the elections; or

(g) fraudulently or without due authority, as the case may be, attempts to do any of the foregoing acts or wilfully aids or abets the doing of any such acts; and

(h) offers any gift or promises to offer any gratification to any person with the object, directly or indirectly, of including,-

(i) a person to stand or not to stand as, or to withdraw or not to withdraw from, being a candidate at an election; or

(ii) a member to vote or refrain from voting at an election, or as a reward to a person for having so stood or not stood or for having withdrawn or not having withdrawn his candidature; or

(iii) a member for having voted or refrained from voting, shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to ten thousand rupees or with both.”.

Amendment of
section 163.

24. In section 163 of the principal Act, for the expression “fifty rupees”, the expression “five thousand rupees” shall be substituted.

Amendment of
section 165.

25. In section 165 of the principal Act,-

(a) for the expression “a special officer”, the expression “an administrator” shall be substituted;

(b) for the expression “special officer” in three places where it occurs, the expression “administrator” shall be substituted.

Amendment of
section 169.

26. In section 169 of the principal Act, for the expression “clause (b) of sub-section (1) of section 33 or sub-section (8) thereof”, the expression “sub-section (8) of section 33” shall be substituted.

Amendment of
section 170.

27. In section 170 of the principal Act, the expression “clause (b) of” shall be omitted.

Tamil Nadu
Ordinance
1 of 2013.

28. (1) The Tamil Nadu Co-operative Societies (Sixth Amendment) Ordinance, 2012 is hereby repealed.

Repeal and
saving.

(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.

STATEMENT OF OBJECTS AND REASONS.

The Constitution (Ninety-seventh Amendment) Act, 2011 has come into force on the 15th day of February, 2012. By the said amendment a new Article 43-B has been inserted in Part IV of, and a new Part IX B has been inserted in, the Constitution. Article 43-B of the Constitution envisages that the State shall endeavour and promote voluntary formation, autonomous functioning, democratic control and professional management of Co-operative Societies. The Government have, therefore, decided to amend the Tamil Nadu Co-operative Societies Act, 1983 (Tamil Nadu Act 30 of 1983) in consonance with the provisions of the Constitution (Ninety-seventh Amendment) Act, 2011.

Accordingly, the Tamil Nadu Co-operative Societies (Sixth Amendment) Ordinance, 2012 (Tamil Nadu Ordinance 1 of 2013) was promulgated by the Governor on the 20th January 2013 and the same was published in the *Tamil Nadu Government Gazette* Extraordinary, dated the 21st January 2013.

2. The Bill seeks to replace the said Ordinance.

SELLUR K. RAJU,
Minister for Co-operation.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clauses 3(4), 10 and 12 of the Bill, which seek to amend sections 2(18), 33 and 80 of the Tamil Nadu Co-operative Societies Act, 1983 (Tamil Nadu Act 30 of 1983), respectively, authorise the Government to make rules to carryout the purposes specified therein.

2. The powers delegated are normal and not of an exceptional character.

SELLUR K. RAJU,
Minister for Co-operation.

A.M.P. JAMALUDEEN,
Secretary.