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Separate paging is given to this part in order that it may be filed as a separate compilation.

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**PART III**

**Laws, Regulations and Rules passed thereunder.**

**GOVERNMENT OF JAMMU AND KASHMIR  
CIVIL SECRETARIAT—LAW DEPARTMENT**

Jammu, the 21st April, 2010.

The following Act as passed by the Jammu and Kashmir State Legislature received the assent of the Governor on 20th April, 2010 and is hereby published for general information :—

**THE JAMMU AND KASHMIR CO-OPERATIVE  
SOCIETIES (AMENDMENT) ACT, 2010.**

(Act No. X of 2010)

[20th April, 2010].

An Act to amend the Jammu and Kashmir Co-operative Societies Act, 1989.

Be it enacted by the Jammu and Kashmir State Legislature in the Sixty-first Year of the Republic of India as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Jammu and Kashmir Co-operative Societies (Amendment) Act, 2010.

(2) It shall come into force from the date of its publication in the Government Gazette.

2. *Amendment of section 2, Act X of 1989.*—In section 2 of the Jammu and Kashmir Co-operative Societies Act, 1989 (hereinafter referred to as ‘the principal Act’),—

(i) clause (a) shall be renumbered as clause (aa) thereof and before the clause (aa) as so renumbered, the following clause shall be inserted, namely :—

“(a) ‘Apex Co-operative Bank’ means a Co-operative Federation at State level engaged in business of banking.” ;

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

“(bb) ‘Central Co-operative Bank’ means a central society engaged in business of banking.

(bba) ‘Chartered Accountant’ means a member of the Institute of Chartered Accountants of India within the meaning of Chartered Accountants Act, 1949 (38 of 1949).” ;

(iii) after clause (e), the following clause shall be inserted, namely :—

“(ee) ‘Co-operative Credit Structure Society’ includes the Apex Co-operative Bank, a Central Co-operative Bank and a Primary Agricultural Credit Society.” ;

(iv) after clause (n), the following clause shall be inserted, namely :—

“(nn) ‘Multipurpose Co-operative Society’ means a primary society, the object of which is to provide various services including services relating to savings, credit business, industry, consumer durables to its members.” ;

(v) clause (p) shall be substituted by the following clause, namely :—

“(p) ‘National Bank’ means the National Bank for Agriculture and Rural Development established under section 3 of National Bank for Agriculture and Rural Development Act, 1981 (Central Act No. 61 of 1981).” ; and

(vi) after clause (r), the following clause shall be inserted, namely :—

“(rr) ‘Primary Agricultural Co-operative Credit Society’ means a Co-operative Society, by whatever name called, as defined under clause (cciv) of section 5 of the Banking Regulation Act, 1949 (Central Act 10 of 1949) and includes a Multipurpose Co-operative Society.”.

3. *Amendment of section 6, Act X of 1989.*—In section 6 of the principal Act,—

(i) in sub-section (1), for the words “the Registrar shall register the society provisionally”, the words “the Registrar shall, within one month from the date of receipt of application, register the society provisionally” shall be substituted ; and

(ii) in sub-section (2), for the words “he shall communicate”, the words “he shall, within one month from the date of receipt of application, communicate” shall be substituted.

4. *Insertion of sections 8A in Act X of 1989.*—After section 8 of the principal Act, the following section shall be inserted, namely :—

“8A. **Conversion.**—(1) A Co-operative Credit Structure Society registered under this Act shall be eligible to become a member of a Central Level Co-operative registered under the provisions of the Jammu and Kashmir Self-Reliant Co-operatives Act, 1999.

(2) A Co-operative registered under Jammu and Kashmir Self-Reliant Co-operatives Act, 1999 may become the member of the Co-operative Federation registered under this Act.

(3) A Co-operative Credit Structure Society may affiliate with, or disaffiliate from a Co-operative Federation of its choice keeping in view the financial position of the Co-operative Federation :

Provided that before disaffiliation, the Co-operative or the Society shall discharge its financial liability, if any, to the Society from which it is disaffiliating.”

5. *Amendment in section 9, Act X of 1989.*—In section 9 of the principal Act,—

(i) in sub-section (2), for the words “he may register the amendment”, the words “he may register the amendment within one month from the date of receipt of the application” shall be substituted ; and

(ii) in sub-section (4), for the words “to the Society”, the words “to the Society within one month from the date of receipt of application” shall be substituted.

6. *Amendment of section 10, Act X of 1989.*—In section 10 of the principal Act, after sub-section (2), the full stop shall be substituted by colon and thereafter the following proviso shall be added, namely :—

“Provided that nothing in this sub-section shall apply to a Co-operative Credit Structure Society and the decision of General Body of such Society with regard to amendment of bye-laws shall be final.”.

7. *Amendment of section 11, Act X of 1989.*—In section 11 of the principal Act, after sub-section (3), the following sub-section shall be added, namely :—

“(4) No Primary Agricultural Co-operative Credit Society or its Federation or Association (except those which are permitted to act as a bank under Banking Regulation Act, 1949 (Central Act No. 10 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 is presently using the word ‘bank’ or any other derivative of this word, it shall within three months from the date of coming into force of the Jammu and Kashmir Co-operative Societies (Amendment) Act, 2010 remove the word ‘bank’ or its derivative, if any, from its name :

Provided further that in the event of failure on the part of the Society concerned to remove such word from its name, the Registrar shall, after affording a reasonable opportunity of being heard to such Society, order the winding up of such Society forthwith.”.

8. *Amendment of section 15, Act X of 1989.*—In section 15 of the principal Act, after sub-section (3), the following sub-section shall be added, namely :—

“(4) A Co-operative Credit Structure Society shall have the freedom of entry and exit at any tier without mandatory restrictions of geographical boundaries for its operation :

Provided that freedom shall be availed only after the outstanding amount, if any, existing against its name in the books of Federal Co-operative Society has been liquidated in full.”.

9. *Amendment of section 17, Act X of 1989.*—In section 17 of the principal Act,—

(i) in sub-section (1), after clause (c), the following clause and ‘Explanation’ thereto shall be inserted, namely :—

“(d) a Self-help group.

*Explanation* :—For purposes of clause (d), a self-help group means a homogeneous group of rural poor comprising of ten to twenty members, voluntarily formed to save small amounts out of their earnings and agreed upon to form a corpus or fund to be lent on loan to the members of such group.” ; and

(ii) after sub-section (7), the following sub-section shall be added, namely, :—

“(8) Notwithstanding anything contained in sub-section (1), any person desirous of making a deposit in Primary Agricultural Credit Society shall become a member of that Society by subscribing the minimum share capital specified

in the bye-laws and on admission as such, he shall be entitled to full membership voting rights.”.

10. *Amendment of section 19, Act X of 1989.*—In section 19 of the principal Act, after sub-section (2), the following sub-sections shall be added, namely :—

“(3) All depositors shall have the voting rights in the Primary Agriculture Co-operative Society provided they have also subscribed to at least one share.

(4) Where a self-help group is a member of a Society, a person nominated by such self-help group, may vote on its behalf, in the affairs of the Society.”.

11. *Amendment of section 29, Act X of 1989.*—In section 29 of the principal Act,—

(i) In sub-section (4), in the first proviso, for the words “six months”, the words “three months and, in circumstances beyond its control, six months” shall be substituted ;

(ii) sub-section (6) shall be substituted by the following sub-sections, namely :—

“(6) Where the Government have subscribed to the share capital of a Co-operative Society or has guaranteed the repayment of the principal and the payment of interest on debentures issued for loans raised by a Co-operative Society, the Government or any person authorized by it in this behalf shall have the right to nominate on the Committee such number of persons not exceeding three or one-third of the total number of members thereof, whichever is less, as the Government may determine :

Provided that in case of a Co-operative Society other than a Co-operative Credit Structure Society, in addition to members so appointed two seats shall be reserved for members belonging to Scheduled Castes and other Backward Classes and one seat shall be reserved for

women, which shall be filled by the Government in such manner as may be prescribed :

Provided further that in case of a Co-operative Credit Structure Society, two seats shall be reserved for members belonging to Scheduled Castes and other Backward Classes and one seat shall be reserved for women, which shall be filled by election and where a candidate from any such category is not available, then such seat shall be filled by election from unreserved candidates.

(6A) Notwithstanding anything contained in sub-section (6),—

- (a) there shall be only one nominee of the Government on the Committee of an 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 on the Committee of a Primary Agricultural Credit Society.”.

12. *Insertion of sections 29A and 29B in Act X of 1989.*—  
After section 29 of the principal Act, the following sections shall be inserted, namely :—

“29A. **Bar to election, nomination and continuance as member of Committees.**—No person shall be elected, nominated or co-opted or allowed to continue as a member of the Committee of a Co-operative Credit Structure Society, if he—

- (i) is a person who represents a Society other than a Primary Agricultural Credit Society on the Committee of a Central Co-operative Bank or an Apex Co-operative Bank and the Society he represents has committed a default towards the payments of such bank for a period exceeding ninety days ; or

- (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 Committee of a Central Co-operative Bank or an Apex Co-operative Bank and the Society he represents has committed a default towards the payments of such bank for a period exceeding one year, unless the default is cleared ; or
- (iii) is a person, who represents a Society whose committee is superseded or has ceased to be a member on the committee of his own Society.

**29B. Qualification for membership of the Committees.—**

(1) Notwithstanding anything contained in this Act, the Chief Executive Officer or the members of the Committee of an Apex Co-operative Bank or a Central Co-operative Bank shall fulfill such qualifications and criteria as prescribed by the Reserve Bank and are, for the time being, in force and such person who, in the opinion of the Reserve Bank or the National Bank, does not fulfill the prescribed qualifications or the criteria, shall be removed on advice of the Reserve Bank or the National Bank after giving him a reasonable opportunity of being heard.

(2) There shall be at least such number of professionals having special knowledge or experience, and in such fields as may be prescribed by the Reserve Bank on the Committee of an Apex Co-operative Bank or a Central Co-operative Bank and in case such number of elected directors do not, in the opinion of Reserve Bank or the National Bank, possess such special knowledge or experience, and in such fields, as prescribed by the Reserve Bank, the Committee of an Apex Co-operative Bank or a 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 committee under this Act or rules framed thereunder or its bye-laws ; and

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

(3) If any person has been co-opted as a member of the Committee under sub-section (2) who does not, in the opinion of the Reserve Bank, possess requisite qualification, knowledge or experience as prescribed 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.”.

13. *Amendment of section 30, Act X of 1989.*—In section 30 of the principal Act,—

For sub-section (1), the following sub-sections shall be substituted, namely :—

“(1) If in the opinion of the Government or Registrar, a Committee or Board, by whatever name called, of a Co-operative Society is persistently making a default or is negligent in the performance of duties imposed on it by this Act or the rules or bye-laws made thereunder or has committed any act which is prejudicial to the interests of the Society or its members, or has failed to comply with any direction given to it by the Government or the Registrar for the purpose of securing proper implementation of Co-operative production and other development programmes or that there is a failure in constituting or functioning of, the Committee or the Board, the Government or Registrar may, after giving the Committee or the Board, as the case may be, opportunity to state its objections, if any, within 15 days and after considering the objections, if received, by an order in writing remove the Committee or the Board and appoint one or more Administrators to manage the affairs of the Society for a period not exceeding two months and the elections shall be

held within such period for the reconstitution of the Committee or the Board, as the case may be :

Provided that the Government or the Registrar may, for the reasons to be recorded in writing, extend the period of such appointment for a further period but in any case such extension shall not exceed six months from the date of such appointment :

Provided further that the supersession of the Committee of an Apex Co-operative Bank or a Central Co-operative Bank shall be done only in consultation with the Reserve Bank.

(1A) Notwithstanding anything contained in sub-section (1), the Committee of a Primary Agricultural Credit Society shall be superseded by the Registrar only under the following circumstances, namely :—

- (a) that the Society has incurred losses for three consecutive years ; or
- (b) that serious financial irregularities or frauds have been identified ; or
- (c) that there are judicial directives to this effect ; or
- (d) there is perpetual lack of quorum for three consecutive meetings :

Provided that members of the Committee of a Primary Agricultural Credit Society which has been superseded shall be disqualified to contest the election to any Committee for a period of at least three consecutive years from the date of supersession.”.

14. *Insertion of section 32A in Act X of 1989.*—After section 32 of the principal Act, the following section shall be inserted, namely :—

**“32A. Autonomy in all financial and internal administrative matters.**—Subject to the provisions of this

Act, rules or bye-laws made thereunder or any other law for the time being in force, a Co-operative Credit Structure Society shall have autonomy in all financial and internal administrative matters including the following areas :—

- (a) interest rates on deposits and loans; provided that in case of the State Co-operative Bank and a Central Co-operative Bank, the interest rates shall be in conformity with the guidelines issued by the Reserve Bank ;
- (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.”.

15. *Amendment of section 43, Act X of 1989.*—In section 43 of the principal Act, after sub-section (2), the following sub-section shall be added, namely :—

“(3) Notwithstanding anything contained in sub-section (1), the share capital contribution by the Government in case of a Co-operative Credit Structure Society shall not exceed twenty five per cent of the share capital and the Government or such Society may reduce the Government’s subscription further at its choice.”.

16. *Amendment of section 59, Act X of 1989.*—In section 59 of the principal Act, after sub-section (3), the following sub-sections shall be added, namely :—

“(4) Notwithstanding anything contained in sub-sections (2) and (3), there shall be no compulsion on a Co-operative Credit

Structure Society for contribution to any fund other than that required for improving its net worth or its owned funds.

(5) Notwithstanding anything contained in sub-section (2), a Primary Agricultural Credit Society shall pay a dividend to its members in accordance with the guidelines laid down by the Registrar in consultation with the National Bank.”.

17. *Amendment of section 60, Act X of 1989.*—In section 60 of the principal Act,—

(i) in clause (d), for the words, “person carrying on the business of banking approved for this purpose by the Registrar”, the words “Reserve Bank regulated financial institution of its choice” shall be substituted ;

(ii) in clause (e), the full stop at the end shall be substituted by colon and thereafter the following proviso shall be inserted, namely :

“Provided that the provisions of clause (e) shall not apply to a Co-operative Credit Structure Society.”.

18. *Amendment of section 61, Act X of 1989.*—In section 61 of the principal Act,—

(i) in sub-section (1), for the proviso thereto the following provisos shall be substituted, namely :—

“Provided that a Co-operative Society may make loans to other Co-operative Societies :

Provided further that the Co-operative Credit Structure Society may take appropriate decision regarding its loan policies including individual loan decision keeping in view the interests of the Society and its members.”;

- (ii) in sub-section (2), the full stop at the end shall be substituted by colon and thereafter the following proviso shall be inserted, namely :

“Provided a person who has become a member of a Primary Agricultural Credit Society, in terms of sub-section (8) of section 17 of this Act shall be eligible for loan in the same manner as other members of such Society.” ;

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

“(3) A Primary Agricultural Credit Society shall abide by the prudential norms including capital to risk weighted assets ratio prescribed by the Registrar in consultation with the National Bank.”.

19. *Amendment of section 62, Act X of 1989.*—The existing section 62 of the principal Act, shall be numbered as sub-section (1) thereof and after sub-section (1) as so numbered, the following sub-section shall be added, namely :—

“(2) Notwithstanding anything contained in sub-section (1), a Co-operative Credit Structure Society shall have freedom to raise loan from any bank or Reserve Bank regulated financial institution, refinance from National Bank or any other refinance agencies directly or through any Reserve Bank regulated financial institution of its choice in addition to the loan raised from the Society to which it is affiliated.”.

20. *Amendment of section 63, Act X of 1989.*—In section 63 of the principal Act, full stop at the end shall be substituted by colon and thereafter the following proviso shall be inserted, namely :—

“Provided that in case of a Co-operative Credit Structure Society, the transactions with persons other than members shall be as decided by its committee.”.

21. *Amendment of section 64, Act X of 1989.*—In section 64 of the principal Act,—

- (i) after sub-section (1), the following sub-sections shall be inserted, namely :—

“(1A) A Primary Agricultural Credit Society shall get its accounts audited at least once in each year by the Registrar or by a person authorised by him, by general or special order in writing in this behalf, or a Chartered Accountant appointed by its Committee.

(1B) Notwithstanding anything contained in sub-section (1), the accounts of an Apex Co-operative Bank or a Central Co-operative Bank shall be audited and certified by Chartered Accountants appointed by its Committee from the panel approved by the National Bank.

(1C) The Registrar shall get conducted a special audit of an Apex Co-operative Bank or a Central Co-operative Bank on the request of the Reserve Bank in the manner and form stipulated by the Reserve Bank and shall endorse a copy of the report of such special audit to the Reserve Bank and the National Bank within the time stipulated by the Reserve Bank.” ;

- (ii) in sub-section (2), for the words “under sub-section (1)”, the words “under sub-sections (1), (1A), (1B), or (1C)” shall be substituted ;
- (iii) in sub-section (3), for the words “the Registrar or the authorised person”, the words “the Registrar or the authorised person or the Chartered Accountant appointed under sub-sections (1A), (1B) or (1C)” shall be substituted ;
- (iv) in sub-section (4), for the words “the Registrar or the person authorised by him”, the words “the Registrar or

the person authorised by him or the Chartered Accountant appointed under sub-sections (1A), (1B) or (1C)" shall be substituted ; and

- (v) in the Explanation thereunder, the full stop at the end shall be substituted by colon and thereafter the following proviso shall be inserted, namely :

"Provided that a Co-operative Credit Structure Society shall be free to decide the compensation for audit, recurring audit or re-audit."

22. *Insertion of section 73A, Act X of 1989.*—After section 73, the following section shall be inserted, namely :—

**"73A Registrar's obligations.**—(1) The Registrar shall issue directions to ensure that Reserve Bank's regulatory prescriptions in case of an Apex Co-operative Bank or a Central Co-operative Bank are implemented within one month from the date of receipt of the advise from the Reserve Bank.

(2) The Registrar shall, on being advised by the Reserve Bank for winding up or supersession, ensure that the liquidator or the Administrator, as the case may be, is appointed within one month from the date of receipt of the advice from the Reserve Bank.

(3) If, in the opinion of the Reserve Bank or the National Bank, the Chief Executive Officer of an Apex Co-operative Bank or a Central Co-operative Bank does not fulfill eligibility criteria prescribed by the Reserve Bank, the Registrar shall direct compliance of the orders of the Reserve Bank or the National Bank, as the case may be, within two months of being so advised by the Reserve Bank or the National Bank.

(4) If, in the opinion of the Reserve Bank or the National Bank, a person has been co-opted as a member of the Committee under sub-section (2) of section 29B without

having the requisite special knowledge or experience in such fields as may be prescribed by the Reserve Bank, the Registrar shall, on being advised by the Reserve Bank or the National Bank, direct compliance of the orders of the Reserve Bank or the National Bank, as the case may be, within two months of being so advised by the Reserve Bank or the National Bank.”.

23. *Amendment of section 176, Act X of 1989.*—In section 176 of the principal Act, in sub-section (2),—

- (i) in clause (xiv), after words “Co-operative societies”, the words “other than Co-operative Credit Structure Societies” shall be inserted ; and
- (ii) in clause (xv) after words “Co-operative societies”, the words, “other than Co-operative Credit Structure Societies” shall be inserted.

(Sd.) MOHAMMAD ASHRAF,

Additional Secretary to Government,  
Law Department.

