



LEGISLATIVE ASSEMBLY OF THE STATE OF GOA

**The Goa Co-operative Societies
(Amendment) Bill, 2004**

(Bill No.11 of 2004)

~~(To be~~ introduced in the Legislative Assembly State of Goa)

GOA LEGISLATURE SECRETARIAT
ASSEMBLY HALL, PORVORIM
FEBRUARY, 2004

The Goa Co-operative Societies (Amendment) Bill, 2004

(Bill No. 11 of 2004)

A

BILL

to amend the Goa Co-operative Societies Act,
2001.

5 Be it enacted by the Legislative Assembly of
Goa in the Fifty-fifth Year of the Republic of India
as follows:—

1. *Short title and commencement.*— (1) This
Act may be called the Goa Co-operative Societies
(Amendment) Act, 2004.

10 (2) It shall come into force from the date of
enforcement of the Goa Co-operative Societies
Act, 2001 (Goa Act 36 of 2001).

2. *Amendment of section 2.*— In section 2 of
the Goa Co-operative Societies Act, 2001 (Goa
Act 36 of 2001) (hereinafter referred to as the
15 “principal Act”), -

(i) after clause (2), the following clause shall
be inserted, namely:-

20 “(2a) “apex co-operative bank” means a
federal co-operative bank having jurisdiction
over the whole of the State of Goa and
recognized as such by the State Government
for the purpose; ”;

(ii) after clause (22), the following clause
shall be inserted, namely:—

“(22a) “general society” means a society not falling in any of the class of societies as defined in section 2 of the Act;”;

(iii) In clause (29), for the words, figures and brackets “Multi State Co-operative Societies Act, 1984 (Central Act 51 of 1984)”, the words, figures and brackets “Multi State Co-operative Societies Act, 2002 (Central Act 39 of 2002)” shall be substituted.

3. *Amendment of section 11.*— In section 11 of the principal Act,-

(i) in sub-section (1), after the words “forwarded to the Registrar”, the words “alongwith the prescribed fee” shall be inserted;

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

“(5) An appeal against a decision to refuse to register amendment of the bye-laws of a society which has been communicated to the society under sub-section (2) shall lie before the Co-operative Tribunal within a period of 60 days from the date of communication of such decision.”.

4. *Insertion of new section 20A.*— After section 20 of the principal Act, the following new section 20A shall be inserted, namely:-

“20 A. *Liability of a co-operative bank to the Deposit Insurance and Credit Guarantee Corporation.*— Notwithstanding anything contained in section 15 or any other provision

of this Act, where a co-operative bank, being an insured bank within the meaning of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (47 of 1961), is amalgamated or re-organised and the Deposit Insurance and Credit Guarantee Corporation has become liable to pay to the depositors of the insured bank under sub-section (2) of section 16 of that Act, the bank with which such insured bank is amalgamated or the new co-operative bank formed after such amalgamation, or, as the case may be, the insured bank or the transferee bank, shall be under an obligation to repay to the Deposit Insurance and Credit Guarantee Corporation in the circumstances, to the extent and in the manner referred to in section 21 of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (47 of 1961).”.

5. *Insertion of new sections 92 A and 92 B.*— After section 92 of the principal Act, the following new sections 92 A and 92 B shall be inserted, namely:—

“92 A. *Winding up of co-operative bank at the direction of the Reserve Bank:*—

(i) Notwithstanding anything to the contrary contained else where in this Act, the Registrar shall make an order for the winding up of a co-operative bank, if so required by the Reserve Bank in the circumstances mentioned in section 13D of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (47 of 1961).

92 B. *Reimbursement to the Deposit Insurance and Credit Guarantee Corporation by liquidator.*— where a co-operative bank,

being an insured bank within the meaning of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (47 of 1961), is wound up and the Deposit Insurance and Credit Guarantee Corporation has become liable to the depositors of the insured bank under sub-section (1) of section 16 of that Act, the Deposit Insurance and Credit Guarantee Corporation shall be reimbursed by the liquidator or such other person in the circumstances, to the extent and in the manner provided in section 21 of that Act."

6. *Amendment of section 93.*— In section 93 of the principal Act,—

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

"(1) When an interim order or a final order is passed under section 92 or an order is passed under section 92A, as the case may be, for the winding up of a society, the Registrar may, in accordance with the rules, appoint a person to be the liquidator of the society, and fix his remuneration;"

(ii) in sub-section (2), for the expression "On issue of the interim order," the expression "On issue of the interim order under section 92 or on the issue of an order under section 92 A, as the case may be," shall be substituted;

(iii) in sub-section (3), for the expression "When a final order is passed confirming the interim order," the expression "When a final order is passed confirming the interim order under section 92 or an order is passed under section 92 A, as the case may be," shall be substituted.

7. *Insertion of new section.*— After section 94 of the principal Act, the following new section 94A shall be inserted namely:—

"94A. *No appeal in certain cases.*— Notwithstanding anything contained in this Act, where, with the previous sanction in writing of, or on requisition by the Reserve Bank, a co-operative bank:—

(a) is being wound up; or

(b) in respect of which a scheme of amalgamation or re-organization is given effect to,

no appeal there against shall lie or be permissible, and the sanction or requisition of the Reserve Bank shall not be liable to be called in question".

8. *Amendment of section 96.*— In section 96 of the principal Act, for the expression "or where the appeal has been dismissed," the expression "or where the appeal has been dismissed or where an order has been passed under section 92A," shall be substituted.

9. *Amendment of section 99.*— In section 99 of the principal Act, for the expression "under sub-section (2) of section 92," the expression "under sub-section (2) of section 92 or from the date of the order under section 92A, as the case may be," shall be substituted.

10. *Amendment of section 107.*— In sub-section (1) of section 107 of the principal Act, for the words "may give its consent", the expression "may, subject to payment of prescribed non-occupancy fees to the society, give its consent" shall be substituted.

Statement of Objects, and Reasons

It is proposed to amend section 2 of the Goa, Co-operative Societies Act, 2001 (Act 36 of 2001) by inserting new clauses (2a) and (22a) therein so as to define "apex co-operative bank" and "general society". Amendment to clause (29) of section 2 of the Act, 2001, is proposed on account of repeal of the Multi State Co-operative Societies Act, 1984 (Central Act 51 of 1984) by the Multi State Co-operative Societies Act, 2002 (Central Act 39 of 2002). It is also proposed to amend section 11 of the said Act, 2001 by inserting new sub-section (5) therein so as to make provision for filing appeal against a decision to refuse to register an amendment of the byelaws of a society.

Further, on the advise of the Reserve Bank of India, it is proposed to insert new section 20A, 92A, 92 B and 94 A in the Act, 2001, so as to make co-operative banks eligible for insurance cover under the provisions of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (47 of 1961). Section 107 of the said Act, 2001, is also proposed to be amended so as to make provision for payment of non-occupancy fees in case of letting out of plot of land or dwelling unit.

This Bill seeks to achieve the above objects.

Financial Memorandum.

No financial implications are involved in this Bill.

Memorandum Regarding Delegated Legislation

No delegated legislation is envisaged in this Bill.

Panaji - Goa.
Dated : 9-2-2004.

VINAY TENDULKAR
Minister for Cooperation

Assembly Hall,
Porvorim-Goa,
Dated : 9-2-2004.

S. A. NARVEKAR
Secretary(Legislature)

ANNEXURE

**Extract from the Goa Co-operative Societies
Act, 2001 (Goa Act 36 of 2001)**

2. *Definitions.*— In this Act, unless the context otherwise requires:-

(1) "agricultural marketing society" means a society,—

- (a) the object of which is the marketing of agricultural produce and the supply of implements and other requisites for agricultural production and
- (b) not less than three-fourths of the members of which are agriculturists, or societies formed by agriculturists

(2) "agricultural service co-operative society" means an agricultural co-operative society, the primary object of which is to render assistance, financial or otherwise, to farmers, rural artisans and agricultural labourers;

(3) "apex society" means a society, the area of operation of which extends to the whole of the State of Goa, and the main object of which is to promote the principal objects of the societies affiliated to it as members and provide for the facilities and services to them and which has been classified as an apex society by the Registrar;

(4) "area of operation" means the area from which the membership is drawn or specified in the bye-laws;

(5) "auditor" means a person appointed by the Registrar or by a society, to audit the accounts of the society;

(6) "board of directors" means the governing body or the committee of management of a society, by whatever name called, in which the management of the affairs of a society is vested;

(7) "bye-laws" means bye-laws prescribed under the Rules and registered under this Act and include registered amendments of such bye-laws;

(8) "central bank" means a co-operative bank, the object of which includes the creation of funds to be loaned to other societies but does not include the urban co-operative bank;

(9) "chief executive" with whatever designation called, means an individual, who, subject to the superintendence, control and direction of the board of directors, has been entrusted by the board, with the management of the affairs of the society;

(10) "cooperative farming society" means a cooperative society the principal object of which is to organise cultivation of lands held by it or by its members, jointly or otherwise, with a view to increasing agricultural production and employment by proper utilization of land, labour and other resources;

(11) "consumers cooperative society" means a cooperative society the primary object of which is the procurement and distribution of goods to, or the performance of other services for its members as also other customers;

(12) "co-operative tribunal" means the Goa Co-operative Tribunal constituted under section 114 of this Act;

(13) "cooperative housing society" means a society as defined in section 102 of this Act.

(14) "cooperative bank" means a society registered under this Act and doing the business of banking as defined in clause (b) of section 5 of the Banking Regulation Act, 1949 (Central Act X of 1949);

(15) "cooperative credit society" means a cooperative society the primary object of which is to create funds for lending money to its members;

(16) "co-operative authority" means the authority constituted under section 84 of this Act to decide disputes referred to it under any of the provisions of this Act;

(17) "co-operative year" means a year or period ending on the thirty-first day of March;

(18) "director" means a member of the board of directors;

(19) "dividend" means the amount paid, out of the profits of a society, to a member in proportion to the shares held by him;

(20) "federal society" means a society,—

(a) not less than five members of which are themselves societies, and

(b) in which the voting rights are so regulated that the members which are societies have not less than four-fifths of the total number of votes in the general meetings of such society;

(21) "general body" in relation to a primary society, means all the members of the primary society and in relation to a federal society and apex society, means all the delegates of the member societies and includes a representative general body constituted under section 69 of this Act;

(22) "general meeting" means a meeting of the general body of a society;

(23) "Government" means the Government of Goa;

(24) "industrial cooperative society" means a cooperative society, the object of which includes manufacture, processing and marketing of goods by or with the help of its members and providing supplies and services to them;

(25) "joint member" means a member who holds jointly a share of a society with another but whose name does not stand first in the share certificate;

(26) "lift irrigation society" means a society, the object of which is to provide water supply by motive power or otherwise to its members for agriculture, horticulture and other purposes;

(27) "Liquidator" means a person appointed as liquidator under section 93 of the Act;

(28) "member" means an individual or entities mentioned in section 21 joining in the application for the registration of a co-operative society which is subsequently registered, or duly admitted to membership of a society after registration and includes a joint member;

(29) "multi State society" means a cooperative society which is registered or deemed to be registered under the Multi State Co-operative Societies Act, 1984 (Central Act 51 of 1984);

(30) "mutually aided society" means a society which does not have any share capital, loans or any financial assistance from the State or the Central Government except with a Memorandum of Understanding with the Government;

(31) "officer" means a person elected or appointed to any office of a society according to its bye-laws; and includes a chairman, vice-chairman, president, vice-president, secretary, treasurer, member of the board of directors, managing director, chief executive, manager and any other person elected or appointed under this Act, the rules or the bye-laws, to give directions in regard to the business of such society;

(32) "Official assignee" means a person appointed by the Registrar to Act as an Official assignee under section 20 of the Act;

(33) "Official gazette" means the Official Gazette of the Government;

(34) "patronage refund" means annual refund to members in proportion to their transactions with the society during the year;

(35) "prescribed" means prescribed by rules;

(36) "primary society" means a society whose membership is available only to individuals;

(37) "processing society" means a society the object of which is the processing of goods;

(38) "producers' society" means a society, the object of which is the production and disposal of goods or the collective disposal of the labour of the members thereof;

(39) "resource society" means a society, the object of which is the obtaining for its members of credit, goods or services required by them;

(40) "Registrar" means a person appointed under section 4 of this Act and includes any other person on whom all or any of the powers of the Registrar under this Act are conferred;

(41) "rules" means rules made under this Act;

(42) "State" means the state of Goa;

(43) "society" means a co-operative society registered or deemed to be registered under this Act;

(44) "society with limited liability" means a society having the liability of its members limited by its bye-laws;

(45) "state aided society" means a society which is not a mutually aided society;

(46) "surplus" means the net excess of income over the expenditure;

(47) "year" means a Co-operative year as defined in this Act;

11. *Amendment of bye-laws of society.*— (1) No amendment of the bye-laws of a society shall be valid until registered under this Act. For the purpose of registration of an amendment of the bye-laws, a copy of the amendment passed by a majority of not less than two third of the members entitled to vote who are present at a general meeting of the society shall be forwarded to the Registrar.

(2) Every application for registration of an amendment of the bye-laws shall be decided and communicated to the society by the Registrar within a period of forty five days from the date of its receipt.

(3) In case of refusal of amendment, if the decision is not communicated to the society, with the reasons therefor, within the said period of forty five days, the said amendment of the bye-laws shall be deemed to have been registered.

(4) Where the Registrar registers an amendment of the bye-laws of a society or where the amendment of the bye-laws is deemed to have been registered, he shall issue to the society a copy of the amendment certified by him which shall be conclusive evidence that the same is duly registered.

20. *De-registration of Societies.*— (1) If the Registrar is satisfied that any society is registered on misrepresentation made by applicants, or where the work of the society is completed or exhausted or the purposes for which the society has been registered are not served, he may, after giving an opportunity of being heard to the chief promoter, the Board of Directors and the members of the society, de-register the society:

Provided that, where the number of members of the society is so large and it is not possible to ascertain the correct addresses of all such members from the records in the office of the Registrar and, in the opinion of the Registrar it is not practicable to serve a notice of hearing on each such individual member, a public notice of the

proceedings of de-registration shall be given in the prescribed manner and such notice shall be deemed to be notice to all the members of the society including the chief promoter and the members of the Board of Directors of the society, and no proceedings in respect of the de-registration of the society shall be called in question in any court merely on the ground that individual notice is not served on any such member.

(2) When a society is de-registered under the provisions of sub-section (1), the Registrar may, notwithstanding any thing contained in this Act or any other law for the time being in force, make such incidental and consequential orders including appointment of Official assignee as the circumstances may require.

(3) The official assignee shall realize the assets and liquidate the liabilities within a period of one year from the date he takes over the charge of the property, assets, books, records and other documents, which period may, at the discretion of the Registrar, be extended from time to time, so however, that the total period does not exceed three years in the aggregate.

(4) The Official assignee shall be paid such remuneration and allowances as may be prescribed, and he shall not be entitled to any remuneration whatever beyond the prescribed remuneration or allowance.

(5) The powers of the Registrar under sub-sections (1) and (2) shall not be exercised by any person or persons on whom all or any of the powers of the Registrar are conferred under section 4.

92. *Winding up.*— (1) If the Registrar,-

- (a) after an inquiry has been held under section 77 or on the report of the auditor auditing the accounts of the society, or
- (b) on receipt of an application made upon a resolution carried by three-fourths of the

members of a society present at a special meeting called for the purpose, or

- (c) of his own motion, in the case of a society which—
 - (i) has not commenced working, or
 - (ii) has ceased working, or
 - (iii) possesses shares or members' deposits not exceeding five hundred rupees, or
 - (iv) has ceased to comply with any conditions as to registration and management in this Act or the rules or the bye-laws, is of the opinion that a society ought to be wound up, he may issue an interim order directing it to be wound up.

(2) A copy of such order made under sub-section (1) shall be communicated in the prescribed manner, to the society calling upon it to submit its explanation to the Registrar within a month from the date of issue of such order, and the Registrar, on giving an opportunity to the society of being heard, may issue a final order, vacating or confirming the interim order. The final order shall be published in the Official Gazette.

93. *Appointment of Liquidator.*— (1) when an interim order is passed under the last preceding section or a final order is passed under that section, for the winding up of a society, the Registrar may, in accordance with the rules, appoint a person to be the Liquidator of the society, and fix his remuneration.

(2) On issue of the interim order, the officers of the society shall hand over to the Liquidator the custody and control of all the property, effects and actionable claims to which the society is or appears to be entitled, and of all books, records and other documents pertaining to the business of the society, and shall have no access to any of them.

(3) When a final order is passed confirming the interim order, the officers of the society shall vacate their offices, and while the winding up order remains in force, the general body of the society shall not exercise any powers.

(4) The person appointed under this section as Liquidator shall, subject to the general control of the Registrar, exercise all or any of the powers mentioned in section 95. The Registrar may remove such person and appoint another in his place, without assigning any reason.

(5) The whole of the assets of the society shall on the appointment of Liquidator under this section, vest in such Liquidator, and notwithstanding anything contained in any law for the time being in force, if any immovable property is held by a Liquidator on behalf of the society, the title over the land shall be complete as soon as the mutation of the name of his office is effected, and no Court shall question the title on the ground of dispossession, want of possession or physical delivery of possession.

(6) In the event of the interim order being vacated, the person appointed as Liquidator shall hand over the property, effects and actionable claims and books, records and other documents of the society to the officers who had delivered the same to him. The acts done, and the proceedings taken by the Liquidator, shall be binding on the society, and such proceedings shall, after the interim order has been cancelled under the preceding section, be continued by the officers of the society.

94. *Appeal against order of winding up.*— (1) The board of directors or any member of the society ordered to be wound up, may, within two months from the date of the issue of the final order made under section 92, appeal to the Cooperative tribunal.

(2) No appeal from a member under this section shall be entertained unless it is accompanied by such sum as security for the costs of hearing the appeal, as may be prescribed.

96. *Effect of order of winding up.*— After expiry of the period for appeal against the order made under section 92 or where the appeal has been dismissed, the order for winding up shall be effective and shall operate in favour of all the creditors and of all the contributories of the society as if it had been made on the joint petition of creditors and contributories. When a winding up order becomes effective, the Liquidator shall proceed to realize the assets of the society by sale or otherwise, and no dispute shall be commenced or, if pending at the date of the winding up order, shall be proceeded with, against the society, except by leave of the Registrar and subject to such terms as the Registrar may impose.

99. *Termination of liquidation proceedings.*— (1) The winding up proceedings of a society shall be closed as soon as practicable within six years from the date of the final order under sub-section (2) of section 92, unless the period is extended by the Registrar:

Provided that, the Registrar shall not grant any extension for a period exceeding one year at a time and four years in the aggregate, and shall, immediately after the expiry of ten years from the date aforesaid, deem that the liquidation proceedings have been terminated, and pass an order terminating the liquidation proceedings.

Explanation.— In the case of a society which is under liquidation at the commencement of this Act, an order for the winding up of the society shall be deemed for the purpose of this section to have been passed on the date of such commencement.

(2) Notwithstanding anything contained in the foregoing sub-section, the Registrar shall terminate the liquidation proceedings on receipt of the final report from the Liquidator. The final report of the Liquidator shall state that the liquidation proceedings of the society have been closed, and how the winding up has been conducted and the property of and the claims of the society have been disposed of and shall include a

statement showing a summary of the account of the winding up including the cost of liquidation, the amount (if any) standing to the credit of the society in liquidation, after paying off its liabilities including the share or interest of members, and suggest how the surplus should be utilised.

(3) The Registrar, on receipt of the final report from the Liquidator, shall direct the Liquidator to convene a general meeting of the members of the society for recording his final report.

107. *Restriction on letting out.*— (1) Notwithstanding anything contained in any other law for the time being in force, no member of a cooperative housing society who has been allotted a plot of land or dwelling unit in a building over a period of three months shall part with the possession of such plot or dwelling unit, as the case may be, without the written consent of the board of directors of the society. On an application made in this behalf by the member concerned, the board of directions may give its consent or refuse such consent for reasons to be recorded in writing and communicate its decision to the members within thirty days from the date of receipt of his application.

(2) If the board of directors fails to take decision on the application within thirty days from the date of its receipt or refuses such consent, the member shall have a right to appeal to the cooperative authority.

Assembly Hall,
Porvorim-Goa.
9th February 2004.

S. A. NARVEKAR
Secretary (Legislature).