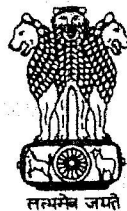


MANIPUR



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GOVERNMENT OF MANIPUR
SECRETARIAT: LAW & LEGISLATIVE AFFAIRS DEPARTMENT

NOTIFICATION

Imphal, the 28th October, 2010

No. 2/32/2010-Leg/L.- The following Act of the Legislature, Manipur which recieved assent of the Governor of Manipur on 19-10-2010 is hereby published in the Manipur Gazette.

THE MANIPUR CO-OPERATIVE SOCIETIES (FOURTH AMENDMENT) ACT, 2010 (Manipur Act No. 10 of 2010)

An

Act

further to amend the Manipur Co-operative Societies Act, 1976 (Manipur Act No. 14 of 1976).

Be it enacted by the Legislature of Manipur in the Sixty-first Year of the Republic of India as follows:

1. Short title and Commencement.-(1) This Act may be called the Manipur Co-operative Societies (Fourth Amendment) Act, 2010.

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

2. Amendment of section 2. - In section 2 of the Manipur Co-operative Societies Act, 1976 (hereinafter referred to as the Principal Act), -

(i) after clause (1), the following new clause (1a) shall be inserted, namely,-

‘(1a) “Apex Society” means a co-operative society whose area of operation extends to the whole of the State of Manipur and which has, as its principal object, the promotion of the principal objects of, and the provision of facilities for the operation of other co-operative societies affiliated to it and classified as an apex society by the Registrar;’ ;

(ii) after clause (5), the following new clause (5a) shall be inserted, namely,-

“(5a) “Capital to Risk Weighted Assets Ratio” means the capital adequacy norms stipulated by the National Bank from time to time;”;

(iii) after clause (6), the following new clause (6a) shall be inserted, namely,-

“(6a) “Chartered Accountant” means a member of the Institute of Chartered Accountants of India within the meaning of the Chartered Accountants Act, 1949 (38 of 1949);”;

(iv) in clause (11), for the words “30th day of June”, the words “31st day of March” shall be substituted;

(v) after clause (19), the following new clause (19a) shall be inserted, namely,-

“(19a) “Long Term Co-operative Credit Structure Society” means the Co-operative Credit Institutions (Land Development Banks) advancing loans other than short term loans comprising of State Co-operative Land Development Bank and Primary Co-operative Land Development Banks, State Co-operative Bank and any other Co-operative Bank permitted by the Registrar to function as a Land Development Bank under section 142;”;

(vi) after clause (20), the following new clauses (20a) and (20b) shall be inserted, namely,-

“(20a) “Multipurpose Co-operative Society” means a primary co-operative society the object of which is to provide various services including services related to credit, business, industry, consumer durables to its members;

(20b) “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 (61 of 1981);”;

(vii) after clause (22), the following new clauses (22a) and (22b) shall be inserted, namely,-

“(22a) “Primary Agricultural Credit Society” means a Primary Agricultural Co-operative Credit Society as defined under clause (cciv) of section 5 of Banking Regulation Act, 1949 (10 of 1949) and includes a Multipurpose Co-operative Society;

(22b) “Primary Society” means a co-operative society whose membership consists exclusively of individuals and self help groups;”;

(viii) after clause (25), the following new clause (25a) shall be inserted, namely,-

“(25a) “Reserve Bank” means Reserve Bank of India constituted under section 3 of the Reserve Bank of India Act, 1934 (2 of 1934);”;

(ix) after clause (27), the following new clause (27a) shall be inserted, namely,-

‘(27a) “Short Term Co-operative Credit Structure Society” means the Short-Term Co-operative Credit Structure Society at the apex level and the primary level and includes the State Co-operative Bank and a Primary Agricultural Co-operative Credit Society;’;

(x) after clause 30, the following new clause (30a) shall be inserted, namely,-

‘(30a) “State Co-operative Bank” means an Apex Society engaged in the business of banking;’;

(xi) after clause (32), the following new clause (32a) shall be inserted, namely,-

‘(32a) “The Urban Co-operative Bank” means a co-operative society other than a Primary Agricultural Co-operative Credit Society which is licensed by the Reserve Bank of India under section 22 of the Banking Regulation Act, 1949;’.

3. Amendment of section 9.- In sub-section (1) of section 9 of the Principal Act,-

- (i) in clause (a), for the words “six months”, the words “one month” shall be substituted;
- (ii) in clause (c), after the words “first thereon”, the following words “within one month from the date of the receipt of the application” shall be inserted.

4. Amendment of section 13.- In section 13 of the Principal Act,-

- (i) in sub-section (2), in between the words “the society” and “a copy”, the following words “within one month from the date of the receipt of the application” shall be inserted;
- (ii) in sub-section (3), after the words “to the society”, the following words “within one month from the date of the receipt of the application” shall be inserted.

5. Amendment of section 14.- After sub-section (2) of section 14 of the Principal Act, the following new sub-section (3) shall be inserted, namely,-

“(3) Nothing in this section shall apply to a Short Term Co-operative Credit Structure Society.”.

6. Amendment of section 18.- After sub-section (5) of section 18 of the Principal Act, the following new sub-section (6) shall be inserted, namely,-

“(6) Nothing in this section shall apply to a Short Term Co-operative Credit Structure Society.”.

7. Insertion of new sections 21A, 21B, 21C and 21D. - After section 21 of the Principal Act, the following new sections 21A, 21B, 21C and 21D shall be inserted, namely,-

21A. Condition of registration.- No Primary Agricultural Co-operative Credit Society or its federation or its association, except those which are permitted to act as a Bank under the Banking Regulation Act, 1949 (10 of 1949) shall be registered with the words "Bank", "Banker", "Banking" 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 Co-operative Credit Society or its federation or association, except those which are permitted to act as a Bank under the Banking Regulation Act, 1949 (10 of 1949), has been registered or using the same as a part of its name before the commencement of the Manipur Co-operative Societies (Fourth Amendment) Act, 2010 with the word "Bank" or any of its derivatives in its registered name, it shall, within three months from the date of such commencement, change its name so as to remove the word "Bank" or its derivative, if any, from its name:

Provided further that where any such society fails to comply with the above provisions within the period specified therein, the Registrar shall de-register such society forthwith.

21B. Autonomy in all financial and internal administrative matters.- Notwithstanding anything contained in this Act, a Short Term Co-operative Credit Structure Society shall have autonomy in all financial and internal administrative matters including the following areas:-

(i) Interest rates on deposits and loans:

Provided that in the case of the State Co-operative Bank the interest rates shall be in conformity with the guidelines issued by the Reserve Bank;

(ii) borrowing and investments;

(iii) loan policies and decisions on individual loan;

(iv) personnel policies, staffing, recruitment, posting and compensation to staff; and

(v) internal control systems, appointment of auditors from the panel of auditors or chartered accountants approved by the Registrar and levy of fees for the audit.

21C. Choice of affiliation.- Notwithstanding anything contained in this Act, a Short Term Co-operative Credit Structure Society may affiliate or may not affiliate with federal society at its choice.

21D. No restriction of geographical boundaries.- Notwithstanding anything contained in this Act, a Short Term Co-operative Credit Structure Society shall have the freedom of entry and exit at any tier and there shall be no mandatory restrictions of geographical boundaries for its operations except the area of membership.

8. Amendment of section 22.-For the colon “(:)” after the end of clause (f) of section 22 of the Principal Act, a semi colon “(;)” shall be substituted and thereafter the following new clause (g) shall be inserted, namely,-

“(g) a Self Help Group;”.

9. Amendment of section 43.- The existing section 43 of the Principal Act shall be renumbered as “43(1)” and thereafter the following new sub-sections (2) and (3) shall be inserted, namely,-

“(2) Notwithstanding anything contained in sub-section (1), a Short Term Co-operative Credit Structure Society may obtain loans from any Bank or financial institution regulated by the Reserve Bank and refinance from the National Bank or any other refinancing agency directly or through any Reserve Bank regulated financial institution and not necessarily from the federal society to which it is affiliated.

(3)(a) Notwithstanding anything contained in sub-section (1), every or group holding a minimum deposit of rupees one thousand for a continuous period of minimum two years or such other amount or time as may be prescribed in the bye-laws or the rules framed thereunder of a Primary Agricultural Co-operative Credit Society shall become a member of the society by subscribing the minimum share capital specified in the bye-laws and shall have full membership and voting rights;

(b) A group borrower shall become a member of a Primary Agricultural Co-operative Credit Society by subscribing the minimum share capital specified in the bye-laws and shall have full voting rights;

(c) Every group depositor or group borrower admitted as a member shall be entitled to vote through one delegate nominated by the group.”.

10. Amendment of section 44.- After sub-section (2) of section 44 of the Principal Act, the following new sub-section (3) shall be inserted, namely, -

“(3) Notwithstanding anything contained in this sub-section (1), a Short Term Co-operative Credit Structure Society or a Long Term Co-operative Credit Structure Society or an Urban Co-operative Bank may take appropriate decisions regarding its loan policies including individual loan policies to its members, keeping in view the interests of the Society and its members:

Provided that a depositor member of a Primary Agricultural Co-operative Credit Society under sub-section (3) of section 43 shall be eligible on par with other members.”.

11. Amendment of section 45.- For the full stop at the end of section 45 of the Principal Act, a colon shall be substituted and thereafter the following new proviso shall be inserted, namely,-

"Provided that in case of a Short Term Co-operative Credit Structure Society, the decision to transact with persons other than members shall be taken by the Society keeping in view the interests of the Society and its members."

12. Insertion of a new section 45A.- After section 45 of the Principal Act, a new section 45A shall be inserted, namely,-

"45A. Manner of prudential norms.- The prudential norms including Capital to Risk Weighted Assets Ratio shall be prescribed by the Registrar for all the Primary Agricultural Co-operative Credit Societies in consultation with the National Bank."

13. Amendment of section 50.- The existing section 50 of the Principal Act shall be renumbered "50(1)" and thereafter a new sub-section (2) shall be inserted, namely, -

"(2) Notwithstanding anything contained in sub-section (1), the State Government's subscription to the share capital of any Short Term Co-operative Credit Structure Society or Long Term Co-operative Credit Structure Society or Urban Co-operative Banks shall not exceed twenty five percent of the total paid-up share capital of such society:

Provided that the State Government or such Society have option to further reduce the State Government equity and the Society shall not be prevented from doing so by the State Government:

Provided further that the State Government may contribute equity in excess of the aforesaid limit only if equity infusion is required in the State Co-operative Bank, to enable it to comply with section 11 of the Banking Regulation Act, 1949 (10 of 1949)."

14. Insertion of new section 64A. - After section 64 of the Principal Act, the following new section 64A shall be inserted, namely, -

"64A. Binding of directions and financial norms.- A primary level Short Term Co-operative Credit Structure or Long Term Co-operative Credit Structure Society shall abide by all directions and financial norms as may be prescribed by the Registrar in consultation with the National Bank and in case of Urban Co-operative Banks all directions and financial norms prescribed by the Registrar of Co-operative Societies in consultation with the Reserve Bank of India."

15. Insertion of new section 69A. - After section 69 of the Principal Act, the following new section 69A shall be inserted, namely, -

"69A. Contribution of funds and of dividend.- (1) Notwithstanding anything contained in the Act, the Government or the Registrar shall have no powers to direct any Short Term Co-operative Credit Structure Society to contribute to any fund other than those required for improving the net worth or own funds.

(2) Notwithstanding anything contained in the Act, a Primary Agricultural Co-operative Credit Society may pay dividend in accordance with the guidelines framed by the Registrar in consultation with the National Bank.”

16. Amendment of section 70.- For the full stop “(.)” at the end of clause (e) of section 70 of the Principal Act, a colon “(:)” shall be substituted and thereafter the following proviso and new clause (f) shall be inserted, namely,-

“Provided that this clause shall not be applicable to the Short Term Co-operative Credit Structure Societies;

(f) in the matter of Short Term Co-operative Credit Structure Society, in any Bank or financial institution of its choice, regulated by the Reserve Bank.”

17. Amendment of section 73.- In section 73 of the Principal Act,-

(i) in sub-section (2), for the words “will not apply in the case of Government Nominees”, the words “shall apply to elected Board only” shall be substituted;

(ii) after sub-section (4), the following new sub-section (5) shall be inserted, namely,-

“(5) Notwithstanding anything contained in sub-section (4), the term of the Board of a Short Term Co-operative Credit Structure Society nominated under sub-section (4) shall not exceed two months from the date of expiry of the term of the existing Board:

Provided that in circumstances beyond control, the Government may allow the Board to function upto six months from the date of expiry of the term of the existing Board.”

18. Amendment of section 73A. - In section 73A of the Principal Act,-

(I) after sub-section (1), the following new sub-sections (1A) and (1B) shall be inserted, namely,-

“(1A) (a) Notwithstanding anything contained in sub-section (1), the members of the Board and the Chief Executive Officer of the State Co-operative Bank shall fulfill the criteria stipulated by the Reserve Bank for the time being in force.

(b) A member of the Board of the State Co-operative Bank or a person holding the post of Chief Executive Officer who does not fulfill the criteria stipulated by the Reserve Bank shall be treated as ineligible for such post and if such person is holding the post, he shall be removed by the Registrar or the appointing authority, as the case may be, within two months of being so advised by the Reserve Bank or the National Bank or the State Government.

(1B) (a) Notwithstanding anything contained in sub-section (1) there shall be such number of professionals having special or experience in such fields as may be stipulated by the Reserve Bank, on the Board of the State Co-operative Bank and in case such number of elected directors, in the opinion of the Reserve Bank or the National Bank, do not possess special knowledge or experience as stipulated by the Reserve Bank, the Board of such State Co-operative Bank shall co-opt such number of professionals with full voting rights irrespective of -

(i) the limit on the number of members of the Board under this Act or Rules framed thereunder or in the Bye-laws of such State Co-operative Bank,

(ii) whether such professional is a member of the State Co-operative Bank or not;

(b) if any person who in the opinion of the Reserve Bank, has been co-opted as a member of the Board under clause (a) of this sub-section without having requisite knowledge or experience as stipulated by the Reserve Bank, he shall, on being advised by the State Government or the Reserve Bank or the National Bank, be removed from the office after giving him a reasonable opportunity of being heard.”;

(II) after sub-section (4), the following new sub-section (5) shall be inserted, namely,-

“(5) Notwithstanding anything contained in sub-section (4), no person shall be elected, nominated or co-opted or allowed to continue as a member of the Board of a Short Term Co-operative Credit Structure Society, if he:-

(i) is a person who represents a Society other than a Primary Agricultural Co-operative Credit Society on the Board of the State Co-operative Bank, if such Society to whom he represents has committed a default towards the payments of such Bank for a period exceeding ninety days,

(ii) is a person who committed a default towards the payments to a Primary Agricultural Co-operative Credit Society or represents a Primary Agricultural Co-operative Credit Society on the Board of the State Co-operative Bank, if such Society whom he represents has committed a default towards the payments of such Bank for a period exceeding one year,

(iii) is a person who represents a Society whose Board is superseded.”.

19. Amendment of section 74. - In section 74 of the Principal Act,-

(i) after sub-section (2), the following new sub-section (2A) shall be inserted, namely,-

“(2A) (a) Nothing contained in sub-section (2) shall apply to a Short Term Co-operative Credit Structure Society and the Chief Executive Officer of such Society shall be appointed by its Board;

(b) Notwithstanding anything contained in this Act, there shall be only one nominee of the Government in the Board of the State Co-operative Bank or the State Land Development Co-operative Bank, if the Government has subscribed to its share capital and there shall be no nominee of the Government in the Board of a Primary Agricultural Co-operative Credit Society irrespective of Government's subscription to the share capital.”;

(ii) after sub-section (3), the following new sub-section (4) shall be inserted, namely,-

“(4) Notwithstanding anything contained in sub-section (3), there shall be no cadre system in Short Term Co-operative Credit Structure Society and Long Term Co-operative Credit Structure Society and cadre system in such Society shall be abolished forthwith.”.

20. Amendment of section 78. - In section 78 of the Principal Act, -

(I) in sub-section (1), in between the words “not functioning properly” and “the Registrar may”, the words “or in the case of State Co-operative Bank or the State Land Development Co-operative Bank does not comply with the regulatory prescriptions of the National Bank or the Reserve Bank of India, or does not fulfill the fit and proper criteria stipulated by the National Bank for Agriculture and Rural Development or the Reserve Bank of India and a request has been received from the National Bank or the Reserve Bank of India to this effect,” shall be inserted;

(II) after sub-section (1), the following new sub-sections (IA), (IB), (IC) and (ID) shall be inserted, namely,-

“(IA) The supersession of the Board of the State Co-operative Bank shall be done by the State Government with prior consultation of the Reserve Bank only.

(IB) Notwithstanding anything contained in sub-section (1), the supersession of the Board of a Primary Agricultural Co-operative Credit Society shall be done by the Registrar on the following grounds:-

- (i) if the Primary Agricultural Co-operative Credit Society incurs losses for three consecutive years, or
- (ii) if serious financial irregularities or frauds have been identified, or
- (iii) if there are judicial directives to this effect, or
- (iv) if there is lack of quorum for three consecutive meetings.

(1C) Notwithstanding anything contained in sub-section (1), the Registrar shall ensure conduct elections to a Short Term Co-operative Credit Structure Society, Long Term Co-operative Credit Structure Society and Urban Co-operative Banks within two months from the date of supersession:

Provided that in circumstances beyond control, the Government may allow holding of such elections within a period not exceeding six months from the date of supersession.

(1D) A member of the Board of a Primary Agricultural Co-operative Credit Society which has been superseded under clauses (i) and (ii) of sub-section (1B) of this section shall not be entitled to contest the election again for a period of three consecutive years from the date of supersession."

21. Amendment of section 78A.- In section 78A of the Principal Act,-

(i) for the proviso, the following provisos shall be substituted, namely,-

"Provided that when the Board is suspended or dissolved, or where term of such a Board becomes expired, the State Government may appoint a Board of Administrators, who need not be member of the Society but who should have background knowledge and expertise related to the Society and having such qualifications as are not debarred from becoming a member of the Board or any Committee under the provisions of the Act and the Rules. In case of State Co-operative Bank or Urban Co-operative Banks there shall be at least 2 (two) professionals in the Board or Committee. The composition of the Board shall not be less than three but not more than five to exercise and perform the powers and function of the Board subject to the control of the State Government as may be required in the interest of the Society during the period of suspension or till a new Board is constituted, as the case may be, but the total period of suspension or dissolution should not exceed three years:

Provided further that suspension or dissolution of the Committee of the State Co-operative Bank or a Central Co-operative Bank or the State Land Development Co-operative Bank or the Urban Co-operative Banks under this section shall be done in consultation with the National Bank or the Reserve Bank of India, as the case may be:

Provided also that at anytime the Registrar may in consultation with the State Government shall constitute a regular Board before the expiry of the term of the Board of Administrator under this section and thereby, the State Government shall terminate the term of the Board to enable the Society to carry its functions as enjoined by law.";

- (ii) the existing section 78A shall be renumbered as "78A(1)" and thereafter a new sub-section (2) shall be inserted, namely,-

"(2) Nothing in sub-section (1) shall apply to a Short Term Co-operative Credit Structure Society."

22. Insertion of new section 80A.- After section 80 of the Principal Act, a new section 80A shall be inserted, namely,-

"80A. Registrar to act within specified period in matters of winding up etc. (1) The Registrar shall ensure that the Reserve Bank's regulatory prescriptions in case of the State Apex Co-operative Bank including recommendation for supersession of the Board and winding up of the State Co-operative Bank are implemented within one month of being so advised by the Reserve Bank or the State Government.

(2) The Registrar shall ensure that the Liquidator or the Board of Administrators, as the case may be, is appointed within one month of being advised by the Reserve Bank or the State Government for winding up or supersession.

(3) If, in the opinion of the Reserve Bank or the National Bank, the Chief Executive Officer of the State Co-operative Bank does not fulfill eligibility criteria specified by the Reserve Bank, the Registrar shall ensure removal of the Chief Executive Officer within two months of being so advised by the Reserve Bank or the National Bank or the State Government.

(4) If, in the opinion of the Reserve Bank or the National Bank, a person has been co-opted as a member of the Board of the State Co-operative Bank without having requisite special knowledge or experience in such fields as may be stipulated by the Reserve Bank, the Registrar shall, on being advised by the Reserve Bank or the National Bank or the State Government, ensure removal of that co-opted person(s) within two months of being so advised by the Reserve Bank or the National Bank or the State Government."

23. Amendment of section 81, - In section 81 of the Principal Act,-

- (i) after sub-section (1), the following new sub-sections (1A), (1B) and (1C) shall be inserted, namely,-

"(1A) A Primary Agricultural Co-operative Credit Society shall get its accounts audited at least once in each year by an auditor or a Chartered Accountant appointed by its Committee from the panel approved by the Registrar.

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

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

- (ii) in sub-section (2), in between the words “The audit” and “under the forgoing”, the words “or special audit” shall be inserted;
- (iii) in sub-section (3), in between the words “or the person” and “authorized shall”, the words “or the Chartered Accountant” shall be inserted;
- (iv) in sub-section (4), in between the words “or the person” and “authorize by him”, the words “or the Chartered Accountant” shall be inserted;
- (v) in sub-section (5), in between the words “The auditor appointed und sub-section (1)” and “shall have the right”, the figures and words “or sub-sections (1A), (1B) and (1C)” shall be inserted.

24. Amendment of section 157.- For the existing section 157 of the Principal Act shall be renumbered as “157(1)” and thereafter a new sub-section (2) shall be inserted, namely.-

“(2) No Short Term Co-operative Credit Structure Society or Long Term Co-operative Credit Structure Society or Urban Co-operative Banks shall be exempted by the Government from the application of the provisions of this Act, without the prior approval of the Reserve Bank or the National Bank, as the case may be.”.

TH. KAMINI KUMAR SINGH,
Deputy Secretary (Law),
Government of Manipur.