

Memorandum Regarding Delegated
Legislation

No delegated legislation is involved in this Bill.

Porvorim-Goa. MICHAEL LOBO
Dated: 16-07-2021. Minister for Science,
Technology
and Waste Management

Assembly Hall, NAMRATA ULMAN
Porvorim-Goa. Secretary to the Legislative
Dated: 16-07-2021. Assembly of Goa.

ANNEXURE

Extract of section 1 (1) and section 2(e) of the
Goa Waste Management Corporation Act, 2016

1. *Short title, extent and commencement.*— (1) This Act may be called “The Goa Waste Management Corporation Bill, 2016”.

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

(e) “Corporation” means the Goa Waste Management Corporation established under section 3 of the companies Act.

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LA/LEGN/2021/855

The following bill which was introduced in the Legislative Assembly of the State of Goa on 29th July, 2021 is hereby published for general information in pursuance of Rule-138 of the Rules of Procedure and Conduct of Business of the Goa Legislative Assembly.

THE GOA CO-OPERATIVE SOCIETIES
(AMENDMENT) BILL, 2021

(Bill No. 45 of 2021)

A

BILL

further to amend the Goa Co-operative Societies Act, 2001 (Goa Act 36 of 2001).

BE it enacted by the Legislative Assembly of Goa in the Seventy-second Year of Republic of India as follows:—

1. *Short title and commencement.*— (1) This Act may be called the Goa Co-operative Societies (Amendment) Act, 2021.

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

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 “principal Act”),—

(i) clause (1) shall be re-numbered as clause (1A) and before clause (1A) as so re-numbered, the following clause shall be inserted, namely:—

“(1) “Administrative Secretary” means Secretary Co-operation to the Government of Goa;”;

(ii) clause (38a) shall be re-numbered as clause (38b) and before clause (38b) as so re-numbered, the following clause shall be inserted, namely:—

“(38a) “Reconciliator” means a Reconciliator appointed by the Registrar under sub-section (1) of section 113A on the panel of Reconciliators;”.

3. *Amendment of section 4.*— In section 4 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) The Registrar may, with prior approval of the Government, appoint a person having experience in the field of

banking, management, finance, accounts, audit, human resource or specialization in any other field relating to the objects and activities undertaken by the Co-operative societies, to assist him in deciding the matters, on such terms and conditions as may be decided by the Government.”.

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

“20B. *Deposit Protection Scheme.*— (1) The Government may, by notification in the Official Gazette, frame Scheme called Deposit Protection Scheme.

(2) Every co-operative credit society and other co-operative societies having credit business, shall register themselves under such Deposit Protection Scheme and pay such contributions, so as to secure deposits of its depositors and members and take such other measures, as specified in the Scheme.

(3) The Co-operative societies referred in sub-section (2) shall renew the registration under such deposit protection scheme by making payment of annual renewal fees as specified in such scheme.

(4) All sums received towards registration fees, annual renewal fee and contributions shall form part of a fund to be called Deposit Protection Fund as may be constituted under the Deposit Protection Scheme.

(5) The Government shall appoint an authority to be the custodian of such Deposit Protection Fund who shall be vested with such powers as may be specified in the Deposit Protection scheme.

(6) The co-operative societies referred in sub-section (2) shall appoint Chief Executive who shall ensure that the registration of such co-operative societies under deposit protection scheme is timely done and renewed. Failure to renew the registration on the part of Chief Executive shall constitute an offence under section 118 of this Act.

Provided that a co-operative credit society may also formulate an additional deposit protection scheme of its own with prior approval of the Registrar, for securing the deposits of its depositors.

5. *Amendment of section 32.*— In section 32 of the principal Act,—

(i) in sub section (2) for the words “A Society” the words “The chief executive or any one of the office bearer” shall be substituted;

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

“(3) In the event of failure on the part of the Chief Executive or the office bearer to provide the information under sub-section (2), the aggrieved member may file an appeal before the Assistant Registrar. The Assistant Registrar after hearing both the parties shall pass an order within 30 days from the date of filing such appeal.

(4) Any member who, does not receive any order within the time specified in sub-section (3) or is aggrieved by an order of the Assistant Registrar, may within a period of sixty days from the date of request under sub-section (2) or within a period of thirty days from the date of order, prefer a second appeal to the Deputy Registrar.

(5) Where the Deputy Registrar at the time of deciding such appeal is of the opinion that the chief executive or office bearer, as the case may be has, without any reasonable cause, refused to receive an application for information or has not furnished information within the time specified under sub-section (2) or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, shall impose on the Chief Executive or the office bearer, as the case may be, a penalty of rupees two hundred and fifty

for each day of delay from the date of expiry of a period of 30 days from the date of application seeking information till the information is provided or such amount of penalty as may be decided by the Deputy Registrar in case of destruction of information, so however, the total amount of such penalty shall not exceed rupees twenty-five thousand.”.

6. *Substitution of section 41.*— For section 41 of the principal Act, the following sections shall be substituted, namely:—

“*Restriction on borrowings.*— (1) A society shall receive deposits and loans from members and other persons, only to such extent, and under such conditions, as may be prescribed:

(2) The total amount of deposits received and/or loans raised during any financial year shall not exceed ten times of the paid up share capital, reserve fund, building fund and accumulated profit less accumulated loss, if any, of the society:

Provided that, with prior written approval of the Registrar, the society may enhance the limit of borrowings upto twenty-five times of it's paid-up share capital, reserve fund, building fund and accumulated profit less accumulated loss, if any further subject to the condition that the society fulfils all the financial parameters of a healthy co-operative credit society as provided under section 76 C.

(3) A mutually aided society shall not accept share capital from the Government but may accept other funds or guarantee from the Government on such terms and conditions as are mutually agreed upon through a memorandum of understanding.

(4) A society may accept funds from the Government or other financing institution on such terms and conditions as are mutually contracted upon. Such conditions may include the right of the Government or other financier to nominate its representative on the board of directors of

the society, subject, however, to the restriction that such representative shall have the right to vote in the meetings of the society. Such right to vote of nominated director shall however be restricted only on the subject matter of advice and on any financial matters going against society. Such nominated director shall also have the right to put dissent which shall be duly recorded in the minutes of the meeting of the Board of Directors.”

7. *Omission of section 51.*— Section 51 of the principal Act, shall be omitted.

8. *Amendment of section 52.*— In section 52 of the principal Act, in sub-section (2),—

(i) for clause (c), the following clause shall be substituted, namely:—

“(c) Not less than 2% with a maximum limit of rupees fifty thousand towards contribution to the Co-operative Development Fund which shall be transferred to the Co-operative Development Fund as maintained by the Registrar of Co-operative Societies within three months after the close of the co-operative year;”

(ii) after clause (c), the following proviso shall be inserted, namely:-

“Provided that the Registrar may with the prior approval of the Government transfer such Co-operative Development Fund or part thereof to the Goa State Co-operative Union or any other Institution for the purpose of providing education and training in the Co-operation.”.

9. *Amendment of section 58.*— In section 58 of the principal Act, in sub-section (3),—

(i) the existing clause (k) shall be re-numbered as clause (m);

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

“(k) acquisition of an immovable property involving an amount of rupees twenty lakhs and above by following the codal formalities and the guidelines issued by the Registrar, subject to the funds being provisioned in the building

fund, and, or by way of funds raised by voluntary contribution received from share holders without expecting any returns;

(l) disposal of immovable property involving an amount of rupees twenty lakhs and above as per the guidelines issued by the Registrar from time to time.”.

10. *Amendment of section 59.*— In section 59 of the principal Act, in sub-section (4), the following provisos shall be inserted, namely:—

“Provided that till the seats of reserved categories are not filled such reserved seats shall not be counted as members of Board of directors or for quorum of its meeting;

Provided further that if for any reason, a full-fledged board could not be constituted, it shall be competent for the Registrar to appoint remaining directors on the board by granting relaxation to the eligibility criteria and such appointment shall be co-terminous with the elected board.”.

11. *Amendment of section 59A.*— In section 59A of the principal Act, in sub-section (6), after the existing proviso, the following proviso shall be inserted, namely:—

“Provided further that when there is an equality of votes, the motion shall be deemed to have lapsed.”.

12. *Substitution of section 61.*— For section 61 of the principal Act, the following section shall be substituted, namely:—

“61. *Disqualification of all directors of the Board.*— Notwithstanding anything contained in the foregoing section, all the directors of the board shall incur disqualification not exceeding six years as may be decided by the Registrar after giving an opportunity of being heard, if during their term as directors of the society,—

(a) they did not conduct the annual general meeting within six months of closure of the society's accounting year;

(b) they did not conduct a requisitioned general meeting within the specified time;

(c) they did not place the audited accounts for the preceding co-operative year before the general body at its annual general meeting;

(d) they willfully allow any of the disqualified directors to continue on the board;

(e) they did not file the returns within stipulated time as provided under section 81;

(f) they are held responsible for not providing the information as required under section 32 of the Act:

Provided that if it is proved that the aforesaid omission or commission was with the consent or connivance of or is attributed to any gross negligence on the part of any Auditor, director, Chief Executive, Managing Director or any other officer of the society, such Auditor, Director, Chief Executive, Managing Director or any other officer of the society shall be guilty and shall be liable for disqualification or misconduct, as the case may be and for penalty which shall not be less than rupees one hundred but not exceeding rupees twenty-five thousand.”.

13. *Amendment of section 62.*— In section 62 of the principal Act, in sub-section (1), for clause (i) the following clause shall be substituted, namely:—

“(i) acquire or dispose of immovable property of value not exceeding rupees twenty lakhs;”;

14. *Amendment of section 66.*— In section 66 of the principal Act, in sub-section (5),—

(i) the expression “and office bearers” shall be omitted;

(ii) after sub-section (5), the following proviso shall be inserted, namely:—

“Provided that, in case of co-operative housing society and Self Help Group

members not exceeding two hundred and in the case of panivatap societies, primary dairy co-operative societies and resource societies having working capital less than Rupees fifty lakhs, the elections of the Board or committee shall be conducted by such societies in the General Body before the expiry of the term of office of the members of the outgoing board, in accordance with the rules as prescribed”.

(iii) for sub section (6), the following sub-section shall be substituted, namely:—

“(6) The election of the office bearers, except in case of co-operative housing societies and self help groups having not more than two hundred members and panivatap societies, primary dairy co-operative societies and the resource societies having working capital less than rupees fifty lakhs, shall be conducted by the authorized person/authority/body within thirty days from the date of declaration of the result of the election to the board:

Provided that the election of office bearers of co-operative housing societies and self help group not more than two hundred members may be conducted in the first board meeting of the newly elected board as per the rules as prescribed:

Provided further that subsequent vacancy or vacancies on the board caused due to retirement, resignation, death etc. shall be filled by election of new office bearer by remaining directors as per provisions of bye-laws of the societies:

Provided also that in all such cases where the elections are held by the society and not by the authorized person appointed by the Registrar a copy of the proceeding of the meeting conducting of such elections shall be mandatorily required to be submitted to the Assistant Registrar.”.

15. *Amendment of section 67.*— In section 67 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) Where there is a vacancy or vacancies on the board of directors, the remaining directors may exercise all the powers of the board or may fill the vacancies on the board by co-option for the remainder of the term from eligible persons out of the same class of members in respect of which the casual vacancy has arisen, if such vacancies are not more than one-third of the total number of directors of the board and the term of office of the board is less than half of its original term.”.

16. *Amendment of section 67A.*— In section 67A of the principal Act, after sub-section (3), the following sub-section shall be inserted, namely:—

“(4) The Registrar may fix the remuneration payable to the administrator which shall be paid from the funds of the society”.

17. *Amendment of section 68.*— In section 68 of the principal Act, sub-sections (3) and (4) shall be omitted.

18. *Amendment of section 69.*— For section 69 of the principal Act, the following section shall be substituted, namely:—

“69. *Directions by the Registrar for successful conduct of business.*— (1) The Registrar may, from time to time, issue such directions or directives to a co-operative society or a class of co-operative societies as he considers necessary for successful conduct of business, in the interest of shareholders and all matters incidental thereto and such directions or directives shall be binding on them.

(2) In case of failure to comply with direction issued under sub-section (1), the Registrar may, by order,—

(a) if such defaulter is a member of the committee of the society, remove the member from the committee and appoint any other person as a member of the

committee for the remainder of the term of his office and declare him to be disqualified to be such member for a period not exceeding six years from the date of the order;

(b) if such defaulter is an employee of the society, by order direct the committee to remove such person from employment of the society forthwith, and if any member or members of the committee, without any good reason or justification, fail to comply with such order, remove the member or members of the committee and appoint any other person as members and declare him disqualified as provided in clause (a):

Provided that, before making any such order under this sub-section, the Registrar shall give a reasonable opportunity of being heard to the person concerned.

(3) The Registrar may, on representation made to him or on his own motion, modify or cancel any direction issued under sub-section (1), and in so modifying or cancelling any direction may impose such conditions as he may think fit, subject to which the modification or cancellation shall have effect.

(4) Any person aggrieved by the decision of the Registrar, may prefer an appeal to the Secretary (Co-operation) to the Government within thirty days from such decision.”.

19. *Amendment of section 73.*— In section 73 of the principal Act, after sub-section (4), the following sub-section shall be inserted, namely:—

“(5) Where the society fails to comply with provision contained in sub-section (4), the society shall be liable for a fine which shall not exceed rupees five hundred per day till such society complies with the provisions of sub-section (4). The fine so imposed shall be paid by the offenders within 30 days from the date of passing of order. All such fine so imposed if not paid

within specified time, shall be recovered as arrears of land revenue.”.

20. *Amendment of section 74.*— In section 74 of the principal Act, in sub-section (2),—

(i) after the expression “or having working experience of at least ten years in co-operative Audit.” The expression “The panel of auditors so constituted by the Registrar shall be renewed after every three years with due consent of the concerned Chartered Accountants and certified auditors on payment of such renewal fees as may be prescribed.” shall be inserted.

(ii) for sub-section (2) the following proviso shall be inserted, namely:—

“Provided that before constituting the panel of auditors, the Registrar may call for the applications from the Chartered Accountant and Certified Auditors for being appointed on the Panel of Auditors.”;

(iii) in sub-section (4), for the existing proviso, the following provisos shall be substituted, namely:—

“Provided that the Registrar may in any particular case, extend the aforesaid period by such period as he may consider necessary where he is satisfied that such extension shall be in the interest of the society:

Provided further that in the event of pendency of audit, the Registrar shall appoint an auditor from the panel of auditors constituted under sub-section (2) and cause the audit.”;

(iv) for sub-section (5), the following sub-section shall be substituted, namely:—

“(5) The audit fees payable to the auditors enlisted on the panel of auditors shall be fixed by the Registrar with the approval of the Government.”.

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

“(9) Notwithstanding anything contained in this section and section 75

in case of housing co-operative society and self help group having membership not exceeding two hundred members and panivatap society, primary dairy co-operative society and service resource society having working capital less than Rupees fifty lakhs, the Chief executive of such society shall prepare the statement of accounts or audit report and submit to the Board. The Board shall discuss in its meeting the statement of accounts and the audit report so submitted by the Chief executive and record its approval and within six months from the close of the co-operative year place such statement of accounts and the audit report before the general body for its approval. The Chief executive while preparing the statement of accounts and audit report shall exercise all due diligence and exercise the powers and duties of the auditor as specified under section 75 of the Act:

Provided that in all such cases where the annual statement of accounts and audit report is prepared by the Chief executive, after due approval by the General Body, a copy of such audit report or the statement of accounts shall be submitted to the Assistant Registrar for scrutiny:

Provided further that any discrepancies or shortcomings pointed out by the Assistant Registrar on such statement of accounts or audit report shall be made good by the Board of Directors of such society. Any audit compliances in such statement of accounts or audit report shall be placed before the General Body and a copy of the action taken on such audit compliances shall be submitted to the Assistant Registrar.”.

21. *Amendment of section 75.*— In section 75 of the principal Act, for sub-section (8) the following sub-section shall be substituted, namely:—

“(8) In the event of mismanagement, misappropriation of society’s funds, the

auditor shall file special report to the Registrar, failing which, he shall be held responsible for willful omission or failure to report to the Registrar which shall constitute an offence under section 118 of this Act.”

22. *Amendment of section 76A.*— In section 76A of the principal Act, after sub-section (5), the following sub-section shall be inserted, namely:—

“(6) In case the complaint is found to be false or frivolous, the cost and expenses of the inquiry or inspection initiated under sub-section (2) of section 76 A shall be borne by such person on whose complaint such inquiry or inspection is conducted.”

23. *Insertion of new sections 76B to 76G.*— After section 76A of the principal Act, the following sections shall be inserted, namely:—

“76B. *Inspection and scrutiny of co-operative credit society and other co-operative societies engaged in credit business.*— (1) Notwithstanding anything to the contrary contained in section 76A of the Act, the Registrar shall at least once in a financial year, cause an inspection of books of accounts of co-operative credit society or other co-operative societies engaged in credit business, by an officer not below the rank of Co-operative Officer with the assistance of one or more Senior/Junior Inspector if required. The inspector shall provide to the society, a copy of its report on such inspection.

Explanation: For the purpose of this section,—

(i) “Co-operative officer” means a person appointed as Co-operative Officer by the Registrar.

(ii) “Senior/Junior auditor” means person appointed as Senior/Junior auditor by the Registrar.

(2) Notwithstanding anything to the contrary contained in any other State law for the time being in force and without

prejudice to the provisions of sub-section (1), the Registrar may at any time, cause a scrutiny to be made by an officer not below the rank of Co-operative Officer and if required with the assistance of one or more Senior/Junior Inspectors; of the affairs of any co-operative credit society or other society and its books of accounts. A copy of the report of the scrutiny shall be furnished to the co-operative credit society or other society, if such society makes a request for the same or if any adverse action is contemplated against such society on the basis of the scrutiny.

(3) It shall be the duty of every Director or other officer or employee of the co-operative credit society or other society, as the case may be, to produce before any officer making an inspection under sub-section (1) or a inquiry under sub-section (2), all such books of accounts and other documents in his custody or power and to furnish him with any statements and information relating to the affairs of such society as the said officer may require within such time as such officer may specify. Any person making an inspection under sub-section (1) or a inquiry under sub-section (2) may obtain written statement of any Director or other officer or employee of the co-operative credit society or other society in relation to its business.

(4) The Registrar, after considering the report if he is of the opinion that the affairs of such society are being conducted to the detriment of the interests of its depositors, he may,—

(a) prohibit the society from receiving fresh deposits;

(b) prohibit the society from advancing fresh loans or reduce the loan sanctioning limit;

(c) issue direction to reduce the administrative and capital cost;

(d) issue such other direction as he may deem fit in the interest of such

society in particular and members at large;

(e) if the Registrar is satisfied that the inspection report reveals serious financial or administrative irregularities or violation of the provisions of the Act, Rules, Bye-laws or any guidelines or notification or if he is satisfied that the financial or administrative affairs of the society are managed in a manner detrimental to the interest of the members, he shall recover such sum of money equivalent to the loss caused to the society from every person responsible for causing such loss and such act shall constitute offence in terms of section 118 of this Act.;

(f) direct to amalgamate, merge with other society or may order for liquidation for winding up of its affairs:

Provided that the Registrar after assessing the financial position of such society, may cancel or modify or relax any such order passed under clause (a), (b), (c) or (d) of sub-section (4) upon such terms and conditions as he may deem fit.

76C. *Ailing Co-operative Credit societies.*— (1) For the purposes of this section an Ailing Co-operative credit society shall mean a Co-operative credit society and such other co-operative societies engaged in the business of credit which does not fulfill any of the financial parameters specified in sub-section (2) to qualify to be a financially healthy co-operative society:—

(2) A financially healthy co-operative credit society means a co-operative credit society which fulfills the following financial parameters, namely:—

(A) Resources— The collective wealth of a society or its means of producing wealth or increasing its business. The collective wealth of the cooperative credit society is determined on the basis of the following financial parameters

(i) Share Capital: The funds raised by the Cooperative Credit Society against the shares allocated to its members. For a financially healthy cooperative credit society the share capital should be 5 % of the total liabilities in the annual balance sheet of such society.

(ii) Reserves and other funds: the funds created out by way of appropriation of the net surplus or profits earned. For a financially healthy cooperative credit society the total reserves and other such funds as are provided in section 52 of this Act shall be in the proportion of 6 % of the total liabilities in the annual balance sheet of such society.

(iii) Deposits and Borrowings: The total deposits and borrowings of a financially healthy cooperative credit society shall be 84 % of the total liabilities in the Annual Balance sheet of such society.

(iv) Other liabilities: A financially healthy cooperative credit society may have other liabilities resulting out of its business operations, which may be specified and the same shall be 3 % of the total liabilities on the annual balance sheet of such society.

(v) Net surplus: Net surplus or net Profit of the financially healthy cooperative credit society shall be 1 % to 2 % of total liabilities in the annual balance sheet of such society.

(vi) Non Performing Assets (N.P.A.): Net N.P.A. of a healthy co-operative society shall not exceed 10% of advances at any point of time.

Explanation: "Non Performing Assets" means assets which do not generate income. In case any loan account, which does not generate income for more than 180 days, it should be treated as non performing assets.

(b) Utilization: The practical and effective use of funds of the society as per the

directives of the Registrar or in accordance with the Bye Laws and the business of the society. The following financial parameters shall determine the Utilization of the cooperative credit society.

(i) Loans and Advances: The total Loans and Advances extended by the financially healthy Cooperative Credit society shall be 70 % of the liabilities in the balance sheet.

(ii) SLR: SLR or statutory liquidity ratio is the minimum percentage of deposits that a bank has to maintain in form of gold, cash or other approved securities. The Proportion of SLR for a financially healthy cooperative credit society shall be 20 % of the total deposits (i.e. 16.80 % of the total liabilities).

(iii) CRR: CRR or Cash Reserve Ratio refers to a certain percentage of total deposits of the cooperative credit society which is required to be maintained in the form of cash reserve with a central Bank. The Proportion of CRR for a financially healthy cooperative credit society shall be 5% of the total deposits (i.e. 4.2 % of the total liabilities)

(iv) Fixed Assets: Land, buildings, equipments or any assets which are purchased by the society for term use and are not likely to be converted quickly into cash. For a financially healthy cooperative credit society the total liability on account of Fixed assets shall be 4% of the total liabilities in the balance sheet.

(v) Other assets: Means miscellaneous assets that cannot be classified as current assets, fixed assets or intangible assets. For a financially healthy cooperative credit society the total liability on account of Fixed assets shall be 5 % of the total liabilities in the annual balance sheet.

(3) Where a Co-operative credit society does not fulfill the financial parameters as specified in sub-section 2, such

co-operative credit society shall be classified as ailing Co-operative credit society. The Registrar shall direct the Board of Directors of such ailing co-operative credit society to submit detailed action plan complying the requirements of financial parameters as contained in sub-section (2) above. The Registrar may suggest measures to streamline the functioning of such ailing societies and may also seek assistance of any person appointed under sub-section (3) of section 4 of this Act so that such co-operative credit societies fulfil the specified financial parameters confirming their financial health.

(2) The Registrar shall display on his website a list of such ailing co-operative credit societies for information of depositors and general public.

76D. *Inquiry into working of ailing co-operative credit societies.*— (1) The Registrar may make such inquiry as he may deem fit, to ascertain the financial condition of the ailing co-operative credit society, upon information received or upon his own knowledge about such ailing co-operative credit society.

(2) The Registrar may, if he deems necessary or expedient so to do require by order, the Deputy Registrar or any subordinate officer to enquire into the affairs of such ailing co-operative credit society and make a report with respect to matters as specified in the order.

(3) The Deputy Registrar or any subordinate officer so appointed under sub-section (2) above shall complete its inquiry as expeditiously as possible and submit its report to the Registrar within thirty days from the date of such order:

Provided that the Registrar may extend the said period upto fifteen days by recording the reasons in writing.

(4) The Registrar shall conclude its inquiry as expeditiously as possible and pass final order suggesting the action for such ailing co-operative credit society

within sixty days from the commencement of the inquiry:

Provided that the Registrar may extend the said period to ninety days with the approval of Government, by recording the reasons for such extension. An opportunity of hearing shall be granted to such ailing co-operative credit society and to present their cases so also to comply with the requirements of the financial parameters as contained in sub-section (2) of section 76 C.

76E. *Powers of the Registrar to make suitable order on completion of inquiry of an ailing Co-operative credit society.*— (1) The Registrar, after making an inquiry under section 76D, by an order in writing, decide whether it is practicable for the ailing credit co-operative society to achieve the financial parameters as contained in sub-section (2) of section 76C within reasonable time frame. The Registrar shall, subject to such restrictions or conditions as may be specified in the order, give such time to the ailing co-operative credit society to achieve the financial parameters.

(2) If the Registrar decides under sub-section (1) that it is not practicable for an ailing Co-operative Society to achieve the financial parameters as contained in sub-section 2 of section 76C, within a reasonable time and that it is necessary or expedient in the public interest to adopt all or any of the measures specified in section 76E in relation to the said ailing co-operative credit society, he may, as soon as may be, by order in writing, direct any of his subordinate officer under whose jurisdiction the society is functioning or apex society specified in the order to prepare such scheme as may be specified in the order providing for measures in relation to such ailing co-operative credit society.

(3) The Registrar may,- (a) if order made under sub-section (2) is not complied with by the ailing co-operative credit society concerned; or

(b) if the ailing co-operative credit society fails to revive in pursuance of the said order, pass a fresh order in respect of such ailing co-operative credit society.

(4) An appeal shall lie to the Secretary (Cooperation) to the Government upon any such order passed by the Registrar under section 76 D or section 76 E within a period of 30 days from the date of such order.

76F. *Preparation and sanction of schemes.*— Where an order is made under sub-section (3) of section 76D in relation to any ailing co-operative credit society, the subordinate officer under whose jurisdiction the society is functioning or Apex society specified in the order shall prepare as expeditiously as possible and ordinarily within a period of sixty days from the date of such order, a scheme in terms of said order with respect to such ailing co-operative credit society.

76G. *Reference to the Government by the Registrar.*— The Registrar shall make an annual report to the Government of ailing co-operative credit societies with particular reference to their activities and suggestions, if any, for the strengthening of such ailing co-operative credit societies.”.

24. *Amendment of section 79.*— For section 79 of the principal Act, the following section shall be substituted, namely:—

“79. *Action on special audit or inquiry report or inspection report.*— On communication of a special audit report under sub-section (5) of section 76 or an enquiry or inspection report under sub-section (5) of section 76A or an inquiry report under sub-section (5) of section 77 to the persons concerned, the Registrar may, where the special audit or inquiry report or inspection report reveals mismanagement on the part of any or all of the office bearers or directors, without prejudice to any civil or criminal proceedings to which they

may be liable, direct the board to convene a general meeting within such reasonable time as he may specify so as to enable him to bring to the notice of the general meeting, either directly or through his nominee, the findings of the special audit or inquiry report or inspection report, for necessary action.”.

25. *Amendment of section 82.*— In section 82 of the principal Act,—

(i) in sub-section (2),—

(a) for the expression “The Registrar or the person authorized by him”, the expression “The Registrar or Registrar’s Nominee or the person authorized by the Registrar” shall be substituted;

(b) in the proviso, for the expression “The Registrar shall not pass”, the expression “The Registrar or Registrar’s Nominee shall not pass” shall be substituted.

(c) after the existing proviso, the following provisos shall be inserted, namely:—

“Provided further that the Registrar or Registrar’s nominee shall not pass any order of recovery under this section unless the person against whom any such order is passed is given an opportunity of being heard;

Provided also that where any matter is referred for decision to the Registrar’s nominee or the person authorized by him, the Registrar may, at any time, withdraw such matter from such nominee or person authorized by him and may decide the matter himself, or refer it again, for decision to any other nominee or person to be authorized by him.”.

26. *Amendment of section 83.*— In section 83 of the principal Act,—

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

“(5) Where the Registrar is satisfied that, any person against whom the order has been passed under this section has failed to comply with the directions, he may impose a penalty of two hundred and fifty rupees for each day of delay, however, the total amount of such penalty shall not exceed fifty thousand rupees.”;

(ii) in the Explanation 1, for the expression “under the provisions of sub-section (1)”, the expression “under the provisions of sub-section (2)” shall be substituted.

27. *Amendment of section 86.*— In section 86 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) Notwithstanding anything contained in section 83, the Registrar may,—

(a) if he thinks fit, suspend proceedings in regard to any dispute, if the question at issue between a society and a claimant or between different claimants, is one involving complicated questions of law and fact, until the question has been tried by a regular suit instituted by one of the parties or by the society. If any such suit is not instituted within two months from the date of the Registrar’s order suspending proceedings, the Registrar shall take action as is provided in sub-section (1).

(b) on requisition from the society, and with the approval of the Government and subject to such conditions as he may think fit to impose, appoint any empanelled Registrar’s Nominee to decide the matter. After being satisfied that the matter referred to him or brought to his notice is a dispute within the meaning of section 83, shall subject to the rules, decide the dispute.

(c) With the approval of Government, by notification in the Official Gazette and subject to such conditions as it may think fit to impose, appoint a retired officer not below the rank of Assistant

Registrar of Co-operative Societies having working experience of at least five years, to decide the disputes as specified under section 83 of this Act and to exercise such powers as specified in the notification. The Officer so appointed shall work under the general guidance, supervision and control of the Registrar.”.

28. *Amendment of section 91C.*— In section 91C of the principal Act,—

(i) the word “resource”, shall be omitted;

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

“(4) The Collector shall exercise powers as vested under the Goa Land Revenue Code, 1968 (Act 9 of 1969) or any law for the time being in force, until the arrears due to the concerned society, together with interest and any incidental charges incurred in the recovery of such arrears, are paid, or security for payment of such arrears is furnished to the satisfaction of the Registrar.”.

29. *Amendment of section 91D.*— In section 91D of the principal Act, in sub-section (1), for the expression “an officer of a Federal Institution duly empowered by him in this behalf,” the expression “an officer of a Federal Institution or Chief Executive as defined under clause (9) of section 2, duly empowered by him by special order,” shall be substituted.

30. *Insertion of new sections 104A.*— After section 104 of the principal Act, the following section shall be inserted, namely:—

“104A. *Conversion of Co-partnership Co-operative Housing Society.*— (1) All the existing co-partnership Co-operative housing Societies shall be converted as co-ownership co-operative housing societies and shall be governed accordingly.

(2) All such co-partnership co-operative housing societies being converted to co-ownership co-operative housing society in view of sub-section (1) above, shall adopt the relevant byelaws of the Co-ownership co-operative housing society, within a

period of 30 days from the date of coming into force of the Goa Co-operative Societies (Amendment) Act, 2021:

Provided that, until such co-operative housing society adopts the bye laws of co-ownership co-operative housing society, such co-operative society shall be governed by existing bye laws.

(3) After conversion under sub-section (1) the rights of the co-partnership Co-operative housing societies shall stand transferred, along with encumbrances and liabilities, to the members of the Co-ownership co-operative housing society according to their proportionate shares.”.

104B. *Enforcement of transfer of title.*—
(1) Any existing member of such co-operative housing society converted under sub-section (1) of section 104A, may produce the agreement for sale executed with the promoter or the builder along with the document of subsequent sale, if any, or a share certificate issued by such cooperative housing society for authentication by the Registrar.

(2) The Registrar, on receiving such application, within reasonable time and in any case not later than 6 months after making such enquiry as deemed necessary, may authenticate either the sale agreement or share certificate and send a copy of such authentication certificate online to the registration officer appointed under the Registration Act, 1908.

Explanation 1: The Registrar shall do a limited inquiry to confirm the authenticity of the sale agreement or share certificate and in case of registered sale agreement only the fact of registration to be confirmed.

Explanation 2: Any dispute relating to title shall be dealt by the competent civil court.

(3) After the authentication by the Registrar, the document to be any member of such cooperative society shall present the document before the registration officer

appointed under the Registration Act, 1908, for registration as a document under the relevant provision of the Registration Act, 1908.”.

31. *Amendment of section 111.*— In section 111 of the principal Act, after sub section (2), the following sub-section shall be inserted, namely:-

“(3) Notwithstanding anything contained in any other law for time being in force, no complaint or dispute from any defaulting member shall be entertained until the default is made good.”.

32. *Insertion of new section 113A.*— After section 113 of the principal Act, the following section shall be inserted, namely:-

“113A. *Constitution of Panel of Reconciliators.*— (1) The Registrar shall with prior approval of the Government, constitute a panel of Reconciliators from amongst the persons having experience in the field of law, banking, management, finance, accounts, audit, human resource or specialization in any other field relating to the objects and activities undertaken by the Co-operative Societies, and having their office address within the State of Goa.

(2) Every Co-operative housing society having more than five members shall appoint in its General Body meeting a Reconciliator from the Panel of Reconciliators constituted under sub-section (1).

(3) Any dispute or difference of opinion arising amongst the members or any non compliance or delay in compliance affecting the members/society shall be referred to such Reconciliator for decision.

(4) The Reconciliator shall hear the matter referred to him under sub-section (3).

(5) The Reconciliator shall after giving an opportunity of being heard to all the affected parties, pass an award which shall be binding on all the parties to the dispute.

(6) The Reconciliator shall complete reconciliation proceedings as early as possible, within a period of three months.

(7) Person aggrieved with the decision of the Reconciliator may prefer appeal to such authority as prescribed.

(8) The Reconciliator shall keep all the records of the proceedings which shall form part of the records of the society.

(9) Co-operative housing society or member of such society or any person affected by such society or managing committee shall not approach the Registrar or any judicial forum without exhausting the remedy before the Reconciliator or the failure is reported by the Reconciliator to the board”.

(10) The fee of the Reconciliator shall be such as may be notified by the Registrar with prior approval of the Government and the same shall be paid equally by the parties to dispute or as may be ordered in the order for costs subject to maximum limits as notified.

33. *Amendment of section 118.*— In section 118 of the principal Act, after clause (g), the following clause shall be inserted, namely:-

“(h) Board or employee or any officer of co-operative societies fails to obey the direction or instructions issued by the Registrar in accordance with the Act.”.

34. *Amendment of section 120.*— In section 120 of the principal Act,

(i) in sub-section (3), for the expression “concerned,”, the figure “ : ” shall be substituted;

(ii) after sub-section (3), the following provisos shall be inserted, namely:-

“Provided that the Registrar may appoint an authority competent to compound any offence under the provisions of this Act.

Provided further that no prosecution shall be carried out against any offender under the provisions of this Act where such offence is compounded by imposition of penalty by such compounding authority appointed by the Registrar, on payment of such sum as provided under the provisions of this Act or as may be provided under section 119 of this Act to the Government, however, such sum shall not, in any case, exceed the maximum amount of the penalty prescribed.”.

35. *Amendment of section 122.*— In section 122 of the principal Act, in sub-section (1), for the expression “all sums due from a society or from an office bearer”, the expression “all sums and penalties due from directors or an office bearer” shall be substituted.

36. *Amendment of section 123B.*— In section 123B of the principle Act, sub-section (2) shall be omitted.

Statement of Objects and Reasons

The bill seeks to insert clause (1A) and clause (38a) to section 2 of the Goa Co-operative Societies Act, 2001 (Goa Act 36 of 2001) (hereinafter referred to as the said Act) whereby Administrative Secretary and Reconciliator have been defined.

The bill seeks to insert sub-section (3) to section 4 of the said Act. By inserting sub-section 3 to section 4 of the Act the Registrar with prior approval of Government is empowered to appoint experts on such terms and conditions as may be decided by the Government, to assist him in deciding certain matters.

The bill seeks to insert section 20B to the said Act. By inserting the said section, the Government is empowered to formulate a “deposit protection scheme” with such terms and conditions as he may deem fit, for providing relief to the depositors of resource societies against loss of their deposits arising from the society’s failure.

The bill seeks to insert sub-clause (3), (4) and (5) to section 32 of the said Act. By inserting said clauses, the Dy. Registrar is empowered to penalize the concern officer or the office bearers for not providing the information to the members as per the statutory entitlement.

The bill seeks to amend section 41 by merging provisions of section 51 and thereby deleting existing section 51 of the said Act, since these sections have similar effect.

The bill seeks to amend clause (c) of sub-section (2) of section 52 of the said Act. By amending clause (c) the expression "Co-operative Education Fund" has been substituted with the expression "Co-operative Development fund".

The bill seeks to insert clause (k) and (l) to sub-section (3) of section 58 of the said Act. By inserting said clauses, the general body has been given power to acquire or dispose of immovable property valued above Rs. 20.00 lakhs.

The bill seeks to insert provisos to sub-section (4) of section 59 of the said Act. By inserting two provisos, the impediments in constituting the full fledged board are removed.

The bill seeks to insert second proviso to sub-section (6) of section 59A of the said Act. By inserting the said proviso, the confusion arising on account of equality of votes has been done with.

The bill seeks to substitute section 61 of the said Act. By substituting said section an opportunity is provided to the erring board members of being heard before disqualifying them.

The bill seeks to insert new clause (c) to section 61 of the said Act. By this insertion, the provision of the said clause is brought in conformity with the provisions of section 58 and 72(2) of the principal Act.

The bill seeks to insert sub-clause (e) and (f) to section 61 of the said Act. By inserting said clauses, the board is made liable for disqualification if they do not comply with the requirement of section 81 and section 32.

The bill seeks to insert proviso to section 61 of the said Act. By inserting proviso to said section fair opportunity is provided to the board to put forth their say and at the same time the auditors, directors and the employees of the institution are also made responsible for their negligence.

The bill seeks to substitute clause (i) of sub-section (1) of section 62 of the said Act, since the powers to acquire or to dispose of immovable property are delegated to the general body.

The bill seeks to amend sub-section (5) of section 66 of the said Act. By amending the said sub-section, the expression "office bearers" have been deleted as consequential effect is given in sub-section (6) of section 66 of the said Act. Likewise, new proviso has been inserted to the said section whereby the housing societies and self help groups having less than or up to 200 members are empowered to conduct their election in the general body.

The bill seeks to amend sub-section (6) of section 66 of the said Act. By amending said section, housing societies and self help groups having less than or up to two hundred members are allowed to hold the elections of the office bearers in the first board meeting of the newly elected board. Likewise, by inserting new provisos, the elected directors are given liberty to fill the subsequent vacancies created due to retirement, resignation, death, etc.

The bill seeks to substitute section 67 of the said Act. By substituting said section, the requirements of the proviso to sub-section (2) of section (59) are suitably inserted in section 67 by carrying out the necessary modifications.

The bill seeks to insert sub-section (4) to section 67A of the principal Act. By inserting said sub-section, the Registrar is empowered to fix the remuneration payable to the administrator.

The bill seeks to omit sub-sections (3) and (4) of section 68 of the said Act, since the same are inserted under section 69.

The bill seeks to substitute section 69 of the said Act. By substituting the said section, the Registrar is empowered to have a regulatory control over the investment or utilization of funds by the societies.

The bill seeks to insert proviso to sub-section (4) of section 73 of the principal Act. By inserting new proviso to sub section (4) of section 73, the directors are made liable for fine if they fail to submit the statement of accounts within the stipulated time.

The bill seeks to amend sub-section (2), insert new proviso to sub-section (4) and substitute sub-section (5) of section 74 of the said Act. By amending the said sections Registrar is empowered to call for the applications from the Chartered Accountants and Certified auditors for being appointed on the panel of auditors and to renew the panel of Auditors so constituted after every three years with the due consent of the auditors on the panel and on payment such renewal as may be prescribed.

The bill seeks to insert sub-section 9 to section 74 of the said Act. By inserting sub-section (9) to section 74 of the said Act, procedure has been prescribed for conducting the audit of housing coop. societies and self help groups having less than two hundred and panivatap societies, primary dairy Coop. societies and service resource societies having working capital less than Rs. 50.00 lakhs.

The bill seeks to substitute sub-section (8) of section 75 of the said Act. By inserting said sub section it is made mandatory to the

auditors to file special report to the Registrar and on his willful omission or failure to report the same to the Registrar, he is liable for action.

The bill seeks to insert sub-section (6) to section 76A of the said Act. By inserting said sub-section the complainant at whose instance inquiry is conducted is made liable to bear the expenses of the inquiry, incase the complaint is found to be false or frivolous.

The bill seeks to insert new section 76B to the said Act. By inserting said sections the Registrar is empowered to conduct inspection/scrutiny and if warranted issue restrictions/directions on the conduct of the business of the society.

The bill seeks to insert new section 76C to the said Act. By inserting said section the Registrar is empowered to assess the financial stability of a credit co-operative society and declare it a Ailing co-operative credit society if it fails to fulfill the financial parameters prescribed to be a healthy co-operative credit society.

The bill seeks to insert new section 76D to the said Act. By inserting said section the Registrar is empowered to inquire into working of ailing co-operative credit society.

The bill seeks to insert new section 76E to the said Act. By inserting said section the Registrar is empowered to make suitable orders on completion of inquiry of an ailing co-operative credit society.

The bill seeks to insert new section 76F to the said Act. By inserting said section the registrar is empowered to prepare and sanction schemes for ailing co-operative credit society.

The bill seeks to insert new section 76G to the said Act. By inserting said section the registrar is empowered to make an annual report of working of ailing co-operative credit

society and submit to the government with particular reference to their activities and suggestions for the strengthening of such ailing co-operative credit societies.

The bill seeks to amend section 79 of the said Act. By amendment to the said section, section 76A is brought under the ambit of the said section.

The bill seeks to amend sub-section (2) of section 82 of the said Act. By amendment to the said section the expression "Registrars Nominee" is inserted and by inserting new proviso to the said section, the person against whom any such order is to be passed is given an opportunity of being heard. The amendments to said section also empower the Registrar to withdraw the matter referred by him to the Registrar's Nominee or authorized person.

The bill seeks to insert clause 5 to section 83 of the said Act. By inserting clause the Registrar is empowered to impose penalties on the person against whom the order has been passed under if he fails to comply with the directions.

The bill seeks to substitute sub-section (3) of section 86 of the principal Act. By substituting said section the Registrar is empowered to appoint any empanelled Registrar's Nominee to decide a dispute within the meaning of section 83 of the said Act, arising in the society.

The bill seeks to omit the word "resource" appearing in section 91C of the said Act. By omitting the word "resource" all type of societies are brought under the purview of the said section for the purpose of recovery of arrears.

The bill seeks to amend sub-section (1) of section 91D of the said Act. By amendment to the said section the registrar is empowered to appoint chief executive of a society amongst others to recover the dues of the society.

The bill seeks to insert sections 104A to the said Act. By inserting said sections all the existing co-partnership co-operative housing societies are converted as co-ownership co-operative housing societies.

The bill seeks to insert sections 104B to the said Act. By inserting said sections, provision has been made for enforcement of transfer of title in the name of the member.

The bill seeks to insert sub-section (3) to section 111 of the said Act. By inserting said sub section 3 it is made mandatory for a member to clear his due towards the society for being eligible to raise a dispute against the society.

The bill seeks to insert section 113A to the said Act. By inserting said section a provision is made to redress the grievances of the members of the housing societies through Reconciliator instead of resorting to a dispute under section 83 of the Act.

The bill seeks to insert sub-clause (h) to section 118 of the said Act. By inserting sub-clause (h), the Board, employees and any officer of the Co-operative Societies who fail to obey the directions or instructions issued by the Registrar, are brought under the purview of section 118 for offence.

The bill seeks to amend section 120 of the said Act. By amendment to the said section the Registrar is empowered to appoint authority competent to compound any offence under the provisions of the Act.

The bill seeks to amend section 122 of the principal Act. By amendment to the said section, for the expression "all sums due from a society or from an office bearer" the expression "all sums and penalties due from the directors or an office bearer" so as to make the directors and office bearers accountable for payment of penalties.

The bill seeks to omit sub-section (2) of section 123B of the said Act, since the same is inserted under section 86 of the Act.

Financial Memorandum

Financial implications are involved in the Bill and the same cannot be quantified at this stage. The proposal is concurred by Finance Department.

This proposal is vetted by the Law Department.

Memorandum regarding delegated legislation

Sub-section 3 of section 4 of the bill empowers the government to appoint a person having experience in the field of banking, finance, management, accounts, audit, human resource or specialisation in any other field relating to the objects and activities undertaken by the co-operative societies to assist the Registrar.

Section 20B of the bill empowers the Government to formulate the scheme to protect the interest of the depositors by issuing Notification in the Official Gazette.

Section 66 of the bill empowers the Government to prescribe Rules for conduct of elections of Board of Directors and Office Bearers of Co-operative Housing Societies and Self Help Groups with membership not exceeding 200 and panivatap societies, primary dairy co-operative and resource societies having working capital less than fifty lakhs.

Section 74 of the bill empowers the Government to prescribe fees for renewal of panel of Auditors.

Section 113A of the bill empowers the Government to constitute a Panel of Reconciliator and notify the fees payable to them.

This delegation is of normal character.

Porvorim Goa. (GOVIND GAUDE)
Dated: July, 2021. Minister for Co-operation.

Assembly Hall, Secretary to the Legislative
Porvorim Goa. Assembly of Goa.
Dated: July, 2021.

Governor's Recommendation under Article 207 of the Constitution of India

In pursuance of Article 207 of the Constitution of India, I, P. S. Sreedharan Pillai, Governor of Goa, hereby recommend the introduction and consideration of the Goa Co-operative Societies (Amendment) Bill, 2021 (Bill No. 45 of 2021) by the Legislative Assembly of Goa.

Place: Raj Bhavan, P. S. SREEDHARAN PILLAI
Dona Paula, Goa Governor of Goa
Date:

LA/LEGN/2021/856

The following bill which was introduced in the Legislative Assembly of the State of Goa on 29th July, 2021 is hereby published for general information in pursuance of Rule-138 of the Rules of Procedure and Conduct of Business of the Goa Legislative Assembly.

THE GOA PANCHAYAT RAJ
(AMENDMENT) BILL, 2021

(BILL No. 46 of 2021)

A

BILL

further to amend the Goa Panchayat Raj Act, 1994 (Goa Act No. 14 of 1994).

BE it enacted by the Legislative Assembly of Goa in the Seventy second Year of the Republic of India as follows:—

1. *Short title and commencement.*— (1) This Act may be called the Goa Panchayat Raj (Amendment) Act, 2021.

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

2. *Amendment of Section 2.*— In section 2 of the Goa Panchayat Raj Act, 1994 (Goa Act No. 14 of 1994) (hereinafter referred to as the "principal Act"),-