

[Jharkhand Act, 06, 2011]
The Jharkhand Co-operative Societies
(Amendment) Act, 2011

AN

ACT

TO AMEND THE JHARKHAND
COOPERATIVE SOCIETIES ACT, 1935
(ADDOPTED)(ACT VI OF 1935)

Be it enacted by Legislative Assembly in the Sixty two years
of the Republic of India as follows: -

Short title, extent and commencement :-

(i) This Act may be called the Jharkhand Co-operative Societies
(Amendment) Act, 2011.

(ii) It shall extend to the whole of the State of Jharkhand.

(iii) It shall come into force at once.

**Addition after section 2(J) of the Jharkhand Co-operative Societies Act,
1935 (Adopted) 1- The following shall be added after section 2(J) of the
Jharkhand Co-operative Societies Act, 1935 (Adopted) unless the
context otherwise requires, namely :-**

(k) " Affiliating Society" Means a registered Society of which another
registered Society is a member and an "affiliated society" means a

registered society which is a member of an affiliating society;

(l) "Apex Society" means

(i) A societies whose area of operation covers the whole of Jharkhand and which has any other Co-operative Society and if the bye-laws so provide, individuals as its members, or

(ii) Any other co-operative federation having in its area of operation the whole of Jharkhand and which has been declared as Apex society by the Registrar of Co-operative Societies;

(m) "Capital to risk weighted Assets Ratio" The capital Adequacy norms stipulated by the national bank from time to time;

(n) "Central Co-operative Bank" means a Central Society engaged in the business of banking;

(o) "Central Society" means

(i) A Co-operative Society which has any other Co-operative Society and, if the Bye-laws so provide, individuals as its members, provided that it does not come under the category of a primary society, an Apex Society or a State level society, or

(ii) A Co-operative Society which is declared as a central society by the Registrar of Co-operative Societies;

(p) "Chartered Accountant" means a member of Institute of Chartered Accountants of India within the meaning of the Chartered Accountants Act, 1949 (38 of 1949);

(q) "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);

(r) "Reserve Bank" means a Reserve Bank of India Constituted under section 3 of the Reserve Bank of India Act, 1934 (2 of 1934);

(s) "Short Term Co-operative Credit Structure Society" means and includes the State Co-operative Bank, Central Co-operative Bank and primary Agriculture Credit Societies, by whatever name they may be called;

(t) "State Co-operative Bank" means an Apex Society engaged in the business of banking.

3. Insertion of a new chapter after chapter VI B of the Jharkhand Co-operative Societies Act, 1935 (Adopted)- The following new chapter shall be inserted after chapter VI B of this Act, namely :-

Chapter - VI C

(For the special provision applicable to short term co-operation credit structure)

4. Insertion of new sections namely, 44 AT, 44AU and 44AV after section 44AS of the Jharkhand Co-operative Societies Act, 1935 (Adopted) - The following section 44AT, 44AU and 44AV shall be inserted 44AS in the Jharkhand Co-

operative Societies Act, 1935 (Adopted) namely:-

44AT- Provision to this chapter to apply to short term Co-operative Credit Structure Societies-The provision contained in this chapter shall apply to short terms Co-operative credit structure societies.

44AU- Overriding effect of chapter VIC- Not standing anything contrary or inconsistent with any provision contained in any other Act or Rules framed there under or bye-laws of any registered society or orders issued there under the provision of this chapter shall have overriding effect.

44 AV

- (1) (a) **Membership rights to depositors/borrowers:** Every person 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 of a primary agricultural 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 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.
- (2) **Autonomy to STCCS:** A Short Term Cooperative Credit Structure Society shall have freedom to decide its financial and internal administrative matters, especially :-
- (i) Interest rate on deposit and loans, in conformity with the RBI guideline ,
 - (ii) Borrowing and Investments,
 - (iii) Loan policies and individual loan decisions,
 - (iv) Personnel policy, staffing, recruitment, posting and compensation to staff, and
 - (v) Internal control system, appointment of auditors and fees for the audit.
- (3) **Restrictions on government equity:** The State Government's subscription to the share capital of any Short Term Cooperative Credit Structure Society 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.

- (4) (a) **Government nominee:** There shall be only one nominee of the Government in the managing committee of the State Co-operative Bank and Central Co-operative Banks only if the Government has subscribed to its share capital.
- (b) There shall be no Government nominee in the managing committee of a primary agriculture credit society irrespective of whether the Government has subscribed to the share capital of such society or not.
- (5) (a) **Transition and freedom to affiliation:** A short Term Co-operative Credit Structure Society may, if it so chooses, become a co-operative and get registered under Jharkhand Self Supporting Co-operative Society Act, 1996, after fulfilling the prescribed requirements.
- (b) A co-operative registered under Jharkhand Self Supporting Co-operative Societies Act, 1996 may become a member of an affiliating society registered under this Act.
- (c) A Short Term Co-operative Credit Structure society may become a member of an affiliating society of its choice or leave the membership of such society provided that before de-affiliation the society shall discharge its financial liability, if any, to the society from which it is de-affiliating.
- (6) **Freedom of area of operation:** 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 the conduct of its operations.
- (7) **Freedom of investment:** A Short Term Co-operative Credit Structure Society may, subject to the guidelines of the Reserve Bank, if any, invest or deposit its funds in any bank or financial institution regulated by the Reserve Bank and not necessarily in the federal society to which it is affiliated.
- (8) **Freedom in choosing financial institution:** A Short Term Co-operative Credit Structure Society may obtain loans from any bank or Reserve Bank regulated financial institution and refinance from National Bank or any other refinancing agency directly or through any Reserve Bank regulated financial institution of its choice and not necessarily from the affiliating society to which it is affiliated.
- (9) **Payment of dividend:** A primary agricultural credit society may pay dividend in accordance with the guidelines framed by the Registrar in consultation with the National Bank.

- (10) **Removal of compulsion from making contribution:** 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 its net worth or own funds.
- (11) **Dis-qualifications for occupying a post on the managing committee :** No person shall be elected, nominated, co-opted or allowed to continue as a member of the committee of a Short Term Co-operative Credit Structure society, if he.-
- (i) is a person who represents a society other than a primary agriculture credit society on the managing committee of a Central Co-operative Bank or the State Co-operative bank, if such society which he represents has committed a default towards the payments of such bank for more than ninety days on intimation of such defaults by the Chief Executive of the bank concerned;
 - (ii) Is a person who committed a default toward the payment to a primary agriculture credit society or represents a primary agriculture credit society on the managing committee of a central cooperative bank or the State Cooperative Bank, if such society which he represents has committed a default towards the payment of such bank for more than one year on intimation of such defaults by the Chief Executive of the bank concerned;
 - (iii) Is a person, who represents a society whose managing committee is superseded or has ceased to be a member on the managing committee of his own society.
- (12) (a) **Supersession:** The supersession of the managing committee of State Co-operative Bank or Central Co-operative Bank under section 41 of this Act shall be done by the Registrar in consultation with the Reserve Bank.
- (b) The supersession of the managing committee of a primary agricultural credit society under section 41 of this Act shall be done by the Registrar only under the following condition :-
- (i) If a 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, or
 - (v) If more than half of the members of the Managing Committee have resigned and communicated to the Registrar.
- (13) (a) **Election:** The election to the managing committee of a Short Term Co-

operative Credit Structure society shall be conducted before the expiry of the term of the existing managing committee and in case of supersession of the managing committee of such society, the election shall be conducted within two months from the date of supersession.

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

(b) A member of the managing committee of a primary agricultural credit society which has been superseded under the conditions mentioned in sub-clause (i) and (ii) of clause (b) of sub section (12) of Section 44AV shall not be eligible to be re-elected, reappointed, re-nominated or re-co-opted as a member of the committee for a period of five consecutive years from the date of supersession.

(14) (a) **Registration of bye-laws:** The bye laws or any amendment to the bye laws of a society under the Short Term Co-operative Credit Structure Society shall be registered by the Registrar within thirty days from the date of receipt of the application.

(b) If the Registrar is satisfied that the proposed bye laws or the amendments to the bye laws are contrary to the provisions of the Act and the Rules made there under, he shall reject the same duly recording his reasons thereon within thirty days from the date of the receipt of the application.

(15) **Prudential norms and CRAR:** The prudential norms including Capital Adequacy to Risk Weighted Assets Ratio for primary agriculture credit society shall be prescribed by the Registrar in consultation with the National Bank.

(16) (a) **Criteria for chief executive or member of the managing committee:** The members of the managing committee or chief executive officer of the State Co-operative Bank and central cooperative bank shall fulfill the criteria stipulated by the Reserve Bank for the time being in force.

(b) A member of the managing committee of the State Co-operative Bank or a central co-operative bank or a person holding the post of Chief Executive Officer who does not fulfill the fit and proper criteria stipulated by the Reserve Bank shall be treated as ineligible for such post and if such person

holding the post, he shall be removed by the Registrar or the appointing authority, as the case may be, forthwith on being so advised by the Reserve Bank or National Bank.

- (17) (a) **Professionals on the managing committee:** There shall be at least such number of professionals having special knowledge or experience in such fields as may be stipulated by the Reserve Bank in the managing committee of the State Co-operative Bank and central cooperative banks and in case such number of elected directors do not, in the opinion of Reserve Bank or National Bank, possess special knowledge or experience in such fields as may be stipulated by the reserve Bank, the managing committee of the State Co-operative Bank or the Central Co-operative Bank, as the case may be, shall co-opt such number of professionals with full voting rights irrespective of :-
- (i) the limit on the number of members of the managing committee under this Act or rules framed there under or its bye laws,
 - (ii) Whether such professional is a member of the Society or not.
- (b) If any person who, in the opinion of Reserve Bank or the National Bank, has been co-opted as a member of the managing committee under clause (a) of sub-section (17) of section 44 AV without having requisite knowledge or experience as stipulated by the Reserve Bank, he shall, on being so advised by the Reserve Bank or the National Bank, be removed from the office by the Registrar after giving him a reasonable opportunity of being heard.
- (18) **Audit:** The State Co-operative Bank and a Central Co-operative Bank shall cause audit and certification of its accounts by a Chartered Accountant selected by it from the panel approved by the National Bank.
- (19) **Special audit:** The Registrar shall get conducted a special audit of the State Cooperative Bank and central cooperative bank on the request of the Reserve Bank in the manner and form stipulated by the Reserve Bank and shall endorse a copy of the report of such special audit to the Reserve Bank and National Bank within the time stipulated by the Reserve Bank.
- (20) **Prohibition on use of the word "bank":** No primary agriculture credit society or its federation or association shall, except those permitted to act as a bank under the Banking Regulation Act 1949(Central Act 10 of 1949), be registered with the word '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 credit society or its federation or association, except those which are permitted to act as a bank under the Banking Regulation Act, 1949 (Central Act 10 of 1949), has been registered or using the same as part of its name before the commencement of the Jharkhand Co-operative Societies (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 removed 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 herein, the Registrar shall compulsorily amends its name as per provisions of the this Act.

(21) **Abolition of cadre system:** There shall not be any cadre system in society under Short Term Co-operative Credit Structure and the cadre system shall be abolished with effect from a date to be notified by the State Government.

(22) **Implementation of regulatory prescriptions:** (a) The Registrar shall ensure the implementation of regulatory prescription given by the Reserve Bank, including recommendation for supersession of the managing committee and winding up of the State Co-operative Bank and Central Co-operative Banks, within one month from the date of receipt of the advice from the Reserve Bank.

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

(c) If in the opinion of the Reserve Bank or the National Bank, the Chief Executive Officer of the State Co-operative Bank or a Central Co-operative Bank does not fulfill eligibility criteria specified by the Reserve Bank, the Registrar shall forthwith direct compliance of the orders of the Reserve Bank or the National Bank as the case may be, on being so advised by the Reserve Bank or the National Bank/ about the removal of the person from the post of CEO

(d) If in the opinion of the Reserve Bank or the National Bank, a person has been co-opted as a member of the managing committee of the State Co-operative Bank or a central cooperative bank without having the 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, forthwith direct compliance of the order of the Reserve Bank or, the National Bank as the case may be, about the removal of the person from the post of co-opted director.

(23) **Exemptions:** No Short Term Co-operative Credit Structure Society shall be exempted under sub section (2) of Section 62 of this Act in any manner from the application of the provision of this chapter without prior consultation with the Reserve Bank or the National Bank.

(24) **Repeal and savings :-**

- (i) The Jharkhand Co-operative Societies (amendment) Ordinance, 2010 (Jharkhand ordinance no 1, 2011) is hereby repealed.
- (ii) **Savings :-**Notwithstanding the repeal of above ordinance, order issued under the repealed ordinance or any other action taken under the repealed Act, before the commencement of present Act, so far as it is not inconsistent with the provisions of the Act, be deemed to have been duly issued and made under the corresponding provisions of these Act.

झारखण्ड राज्यपाल के आदेश से

पंकज श्रीवास्तव,

सरकार के सचिव-सह-विधि परामर्शी
विधि (विधान) विभाग, झारखण्ड ।