



LEGISLATIVE ASSEMBLY OF THE STATE OF GOA

**The Goa Co-operative Societies
(Amendment) Bill, 2010**

(Bill No. 5 of 2010)

~~As~~ ^{As} introduced in the Legislative Assembly of the State of Goa

GOA LEGISLATURE SECRETARIAT
ASSEMBLY HALL, PORVORIM, GOA
March, 2010.

The Goa Co-operative Societies (Amendment) Bill, 2010

(BILL No. 5 of 2010)

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BILL

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

5 BE it enacted by the Legislative Assembly of Goa in the Sixty-first Year of the Republic of India, as follows:-

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

(2) It shall come into force on such date as the Government

may, by notification in the Official Gazette, appoint.

15 **2. Amendment of section 20.**— In section 20 of the Goa Co-operative Societies Act, 2001 (Goa Act 36 of 2001) (hereinafter referred to as the "principal Act"), sub-section (5) shall be omitted.

20 **3. Insertion of new section 28A.**— After section 28 of the principal Act, the following section shall be inserted, namely:-

"28A. Restrictions on holding of shares.— In any society, no member other than the Government or any other society shall hold more

than such portion of the total share capital of the society (in no case exceeding one-fifth thereof) as may be prescribed:

5 Provided that the Government may, by notification in the Official Gazette, specify in respect of any class of societies, a higher or lower maximum than one-fifth of the share capital."

4. Amendment of section 52.— In section 52 of the principal Act, for clause (b), the following clause shall be substituted, namely:- 10

"(b) Not exceeding 20% shall be transferred to a deficit fund for meeting unforeseen deficits;"

5. Amendment of section 59.— In section 59 of the principal Act after sub-section (6), the following sub-section shall be inserted, namely:- 15

"(6A) The members of the committee set up by the board of directors or the board of directors, as the case may be, shall be jointly and severally responsible for the decisions taken by them during their term, relating to the business of the society. They shall be jointly and severally responsible for all the acts and omissions which are detrimental to the interest of the society. Every such member or director, shall execute a bond to that effect, within fifteen days of his assuming the office, in the form as specified by the Government by general or special order. The member or director who fails to execute such bond within specified period shall be deemed to have vacated his office: 20 25 30

5 Provided that before fixing any responsibility mentioned above, the Registrar shall inspect the records of the society and decide as to whether the losses incurred by the society are on account of acts or omissions on the part of the members of the committee or of directors or on account of any natural calamity, accident or any circumstances beyond the control of such members or directors:

10 Provided further that any member of the committee or director of board of directors who does not agree with any of the resolution or decision of the committee or of board of directors, may express his dissenting opinion which shall be recorded in the proceedings of the meeting and such member or director shall not be held responsible for the decision embodied in such resolution/decision and/or for such acts or omissions committed by the committee or board of directors as per such resolution/decision. Such dissenting member or director, if he so desires may also communicate in writing his dissenting opinion to the Registrar within seven days from the date of such resolution/ decision: 15 20 25

30 Provided also that any member or director who is not present for the meeting of the committee or board of directors in which the business of the society was transacted, and who has not subsequently confirmed the proceedings of that meeting, such member or director shall also not be held responsible for any of the business transacted in such meeting."

6. Amendment of section 76A.— In section 76A of the principal Act, in sub-section (1), for the expression "undertake inspection of a society and authorise any person, by order in writing, to make an inspection", the expression "or of his own motion, by himself, or by a person duly authorised by him in writing in this behalf, undertake inspection" shall be substituted. 5

7. Amendment of section 82.— In section 82 of the principal Act, in sub-section (2), for the expression "The Registrar shall state in writing", the expression "The Registrar or the person authorised by him shall state in writing" shall be substituted. 10

8. Amendment of section 114.— In section 114 of the principal Act,— 15

(a) for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) The Co-operative Tribunal shall consist of a President and an Additional President both of whom shall be appointed by the Government. Both, the President and the Additional President, shall have co-extensive powers and concurrent jurisdiction to deal with the cases filed in the Co-operative Tribunal. The Additional President shall decide such cases as are made over to him by the President."; 20 25

(b) in sub-section (3),—

(i) in clause (a), for the expression "the President of the Co-operative Tribunal", the 30

expression "The President or the Additional President of the Co-operative Tribunal" shall be substituted;

(ii) clause (b) shall be omitted;

5 (c) in sub-section (4), for the words "the President of the Co-operative Tribunal", the words "the President or the Additional President of the Co-operative Tribunal" shall be substituted.

Statements of Objects and Reasons

The Bill seeks to amend Section 20 of the Goa Cooperative Societies Act, 2001 (Goa Act 36 of 2001) (hereinafter referred to as the "said Act") so as to enable any person or persons on whom all or any of the powers of the Registrar are conferred under section 4, to exercise the powers of the Registrar under sub-sections (1) and (2) of section 20 of the said Act.

The Bill seeks to insert a new section 28A in the said Act so as to restrict holding of shares by members other than Government or any other society subject to relaxation to be granted by the Government with reference to class of societies as notified to the extent of one-fifth of the share capital.

The Bill seeks to amend section 52 of the said Act so as to provide that a sum not exceeding 20% of the net surplus shall be transferred to a deficit fund for meeting unforeseen deficits.

The Bill also seeks to amend section 59 of the said Act so as to hold members of the committee setup by the board of director or the board of directors as the case may be, responsible for the decision taken by them during their tenure.

The Bill also seeks to amend section 76A of the said Act so as to enable the Registrar to undertake inspection of a society on his own motion.

The Bill also seeks to amend section 114 of the said Act so as to provide for appointment of Additional President of the Cooperative Tribunal by the Government.

The Bill seeks to achieve the above objects.

Financial Memorandum

No financial implications are involved in this Bill

Memorandum regarding Delegated Legislation

Clause 1 (2) of the Bill empowers the Government to appoint a date by notification in the Official Gazette, for bringing the provisions of the Act into force.

Clause 3 of the Bill empowers the Government to prescribe the limit of the total share capital of the society beyond which a member other than the Government or any other society shall not hold.

Clause 3 of the Bill also empowers the Government to notify higher or lower maximum than one-fifth of the share capital in respect of any class of any societies.

Clause 5 of the Bill empowers the Government to issue order specifying the form in which the bond to be executed by the member of the committee setup by the board of directors or director of the Board of Directors, as the case may be.

These delegations are of normal character.

Porvorim-Goa
19th March, 2010.

Ravi S. Naik
Minister for Cooperation

Assembly Hall,
Porvorim - Goa.
19th March, 2010.

J. N. Braganza
Secretary to the Legislative
Assembly of Goa.

ANNEXURE

**Extract of section 20(5), 52(b), 76A (1), 82(2), 114(2)
(3(a)) (3(b)) (4) of the Goa Cooperative Societies
Act, 2001 as amended on 05/02/2009.**

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

28A. A New insertion.

52(b). At least 20% shall be transferred to a deficit fund for meeting unforeseen deficits;

59(6A). A New insertion.

76A. Enquiry and/or Inspection of societies.— (1) The Registrar may, on the request made by the creditor or federal institution or not less than one third of the total number of members of the board of directors or not less than one fifth of the total number of members, of a society, undertake inspection of a society and authorize any Person, by order in writing, to make an inspection and inquiry into the constitution, working and financial condition of such society and submit a report thereon.

82. Power of the Registrar to order recovery of losses— (2) The Registrar shall state in writing the reason for its decision in respect of every disallowance or surcharge and a copy of such decision shall be served on the person against whom it is made in the manner laid down for the service of summons in the Code of Civil Procedure, 1908 (V of 1908):

Provided that the Registrar shall not pass any order of recovery under this section unless the person against whom any such order is passed had an opportunity of making a representation either by himself or through a counsel.

114. Goa Cooperative Tribunal—

“(2) The Cooperative Tribunal shall consist of three members to be appointed by the Government, one among whom shall be appointed as the President”.

“(3)(a) the president of the Cooperative Tribunal shall be a person who is qualified to be appointed as a District Judge or is or has been a Judicial officer for a period of seven years or has held the post of the President of the Goa, Daman and Diu Cooperative Tribunal for a period of five years or is holding or has held the post of Registrar of Cooperative Societies for a period of not less than three years or has been a Secretary to the Government of Goa.

(b) Two other members of the cooperative Tribunal shall be persons of ability, integrity and standing, and having adequate educational qualifications, knowledge, experience of at least five years in dealing with the problems relating to Cooperatives and/or persons having served in the Cooperative Department for a minimum period of twenty years and holding or held the post at least in Group 'A' Junior grade in Goa Civil Service for minimum period of five years.

(iii) in sub-section (4), for the words “President of the Administrative Tribunal”, the words “ President or Additional President of the Administrative Tribunal” shall be substituted.

Assembly Hall,
Porvorim – Goa.
19th March, 2010.

J. N. Braganza
Secretary to the Legislative
Assembly of Goa.